

Digitized by the  
New Jersey State Library

P U B L I C     H E A R I N G

before

ASSEMBLY ENERGY AND NATURAL RESOURCES COMMITTEE

on

A-1825

(Dune and Shorefront Protection Act)

Held:

July 14, 1980

Ocean County Community College

Toms River, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert F. Hollenbeck, Chairman

Assemblyman Thomas F. Cowan, Vice-Chairman

Assemblyman Gerald R. Stockman

Assemblyman John O. Bennett

Assemblyman Robert D. Franks

ALSO:

Algis P. Matioska, Research Associate

Office of Legislative Services

Aide, Assembly Energy and Natural Resources Committee

Mark Connelly, Research Associate

Office of Legislative Services



P U B L I C     H E A R I N G

before

ASSEMBLY ENERGY AND NATURAL RESOURCES COMMITTEE

on

A-1825

(Dune and Shorefront Protection Act)

Held:

July 14, 1980

Ocean County Community College

Toms River, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert F. Hollenbeck, Chairman

Assemblyman Thomas F. Cowan, Vice-Chairman

Assemblyman Gerald R. Stockman

Assemblyman John O. Bennett

Assemblyman Robert D. Franks

ALSO:

Algis P. Matioska, Research Associate

Office of Legislative Services

Aide, Assembly Energy and Natural Resources Committee

Mark Connelly, Research Associate

Office of Legislative Services





(Index - continued)

	<u>Page</u>
Tom Rankin Deputy Mayor Dover Township	26
Rick Mc Donough Ocean County	27
Ralph J. Gorga Mayor Lavallette, New Jersey	29
Lou Weinstein Cherry Hill, New Jersey	30
Richard Kinney South Mantoloking Beach Association	32
Dave Fisher New Jersey Shore Builders Association	34
Ned Carrier Atlantic City and County Board of Realtors	36
Carmen Federici	39
Lorraine Hartnett	40
Robert Lattore	42
Larry Masi CLIC	45
Helen M. Bicher Resident, Normandy Beach	49
Regina Brancato	50
Clifford Brown Councilman, Seaside Park	50
John Carey Resident, Ocean City	51
Thomas Kennedy Representing Mayor George Tompkins, Seaside Heights	52



# I N D E X

	<u>Page</u>
John R. Weingart Chief, Bureau of Coastal Planning and Development Division of Coastal Resources Department of Environmental Protection	2
Senator Frank X. Graves, Jr. District #35	7
Senator John F. Russo District #9	8
Assemblyman John Paul Doyle District #9	10
Robert Morris Chairman Save Our Lives	13
Paul Dritsas American Littoral Society	15
Raymond E. Mc Kenna Federation of Beach Association, Bricktown	15
Arlyne Rehak Chairperson Ocean County Tourism Advisory Council	17
Barbara Schrieber Public Relations Co-Chairman Ocean County Board of Realtors	18
June Bruett Resident, Brick Township	19
John Rogge Mayor of Brigantine and Vice President New Jersey Conference of Mayors	19
Richard G. Palmer President New Jersey Association of Realtors	23



(Index-continued)

	<u>Page</u>
Joseph Citta Resident, Toms River	53
Edgar N. Diukelspiel Resident, Long Branch	54

ALSO:

Resolution from Robert N. Danskin Borough of Spring Lake	1x
---	----

Letter from Leonard Ipri Public Works Superintendent Borough of Seaside Heights	3x
---	----

1-20:I  
21-41:II  
42-56:IV







ASSEMBLY, No. 1825

---

STATE OF NEW JERSEY

---

INTRODUCED JUNE 9, 1980

By Assemblyman HOLLENBECK

Referred to Committee on Energy and Natural Resources

AN ACT providing for the protection of dune and shorefront areas through the adoption and enforcement of regulations on the use and development of these areas by the Department of Environmental Protection and municipalities, directing the establishment of a consolidated coastal permit process, and amending P. L. 1975, c. 232.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. (New section) This act shall be known and may be cited as the  
2 "Dune and Shorefront Protection Act".

1 2. (New section) a. The Legislature finds and declares that the  
2 ocean and bayfront beaches, dunes, and adjacent shorefront areas  
3 of New Jersey's coast are an irreplaceable physical feature of the  
4 natural environment possessing outstanding geological, recrea-  
5 tional, scenic, and protective value; that protection and preserva-  
6 tion in a natural state of beach, dune, and adjacent shorefront areas  
7 is vital to this and succeeding generations of citizens of the State  
8 and the Nation; that ocean and bayfront dunes are a dynamic,  
9 migrating natural phenomenon that help protect lives and property  
10 in adjacent landward areas, and buffer barrier islands and barrier  
11 beach spits from the effects of major natural coastal hazards such  
12 as hurricanes, storms, flooding, and erosion; that natural dune  
13 systems help promote wide sandy beaches; and that dunes provide  
14 important habitat for wildlife and vegetative species.

15 b. The Legislature further finds and declares that the beach,  
16 dune, and shorefront areas along the New Jersey coastal zone are  
17 strikingly diverse; that extensive destruction of dunes has taken  
18 place in this century along most of the coast; and that the resulting  
19 disruption of the natural processes of the beach-dune system has led  
20 to severe erosion of some beach areas, jeopardized the safety of  
21 some existing structures on and behind the remaining dunes and



22 upland of the beaches, increased the need to manage development in  
23 shorefront areas no longer protected by dunes, interfered with the  
24 sand balance that is so essential for recreational beaches and the  
25 coastal resort economy, necessitated increased public expenditures  
26 by citizens of the entire State for shore protection structures and  
27 programs, and increased the likelihood of major losses of life and  
28 property from flooding and storm surges. The Legislature further  
29 recognizes that all citizens of this and other states are entitled to  
30 access to the ocean and bay shorelines of the State.

31 c. The Legislature, therefore, determines it to be the policy of the  
32 State to encourage the natural functioning of the dune-beach  
33 system, including overwash, to encourage restoration of destroyed  
34 dunes, to protect and enhance coastal beach and dune areas and  
35 protect, shorefront areas of New Jersey and the coastal lands they  
36 shelter and protect, including both existing and potential dune  
37 areas, and adjacent landward areas, and to devote these precious  
38 areas to only those limited land uses which preserve, protect, and  
39 enhance the natural environment of the dynamic beach-dune system,  
40 protect public and private property, promote the public health,  
41 safety, and welfare, and further the public interest. The Legisla-  
42 ture further determines that it is in the best interest of the public  
43 welfare to protect the integrity of certain new structures built in  
44 the dune and shorefront area. The Legislature further declares  
45 that it is in the best short-term and long-term interest of the people  
46 of the State and Nation to manage New Jersey's coastal beaches,  
47 dunes, and shorefront areas, including potential dune areas, through  
48 a regulatory program administered by the Department of Environ-  
49 mental Protection, but with primary enforcement responsibilities  
50 vested in municipalities.

1 3. (New section) As used in this act:

2 a. "Commissioner" means the Commissioner of the Department  
3 of Environmental Protection, or his designated representative;

4 b. "Department" means the Department of Environmental Pro-  
5 tection;

6 c. "Governmental agencies" means the Government of the United  
7 States, the State of New Jersey, or any other states, their political  
8 subdivisions, agencies, or instrumentalities thereof, and interstate  
9 agencies;

10 d. "Beach" means gently sloping, unvegetated areas of sand or  
11 other unconsolidated material that extend landward from the ocean  
12 and bay waters to either: (1) the vegetation line, (2) a man-made  
13 feature generally parallel to the water body such as a retaining



14 structure, seawall, bulkhead, road, or boardwalk, provided that  
 15 sandy areas that extend fully under and landward of an elevated  
 16 boardwalk are considered to be beach areas, or (3) the seaward or  
 17 bayward foot of dunes, whichever is closest to the water;

18 e. "Dune" means a wind or wave deposited formation of vege-  
 19 tated or drifting sand between the inland limit of the sandy beach  
 20 and the foot of the most inland dune slope, including primary,  
 21 secondary, and tertiary dunes where they exist. Formations of  
 22 sand immediately adjacent to beaches that are stabilized by retain-  
 23 ing structures, snow fences, planting vegetation and other measures  
 24 are considered to be dunes regardless of the degree of modification  
 25 of the dune by wind or wave action or disturbance by development.  
 26 Overwash deposits, those sand lobes or fans created by storms and  
 27 which begin immediately adjacent to beaches and are extended  
 28 landward beyond the inland extent of dunes by overwash process,  
 29 become dunes;

30 f. "Dune and shorefront area" include those land areas along the  
 31 Atlantic Ocean from Cape May Point north to Sandy Hook, lying  
 32 between ocean waters and the first paved public road for motor  
 33 vehicles that is generally parallel and closest to the ocean waters,  
 34 as of the effective date of this act. "Dune and shorefront area" also  
 35 includes the land area at the tips of barrier islands and spits, at the  
 36 inlets between ocean and bay waters and where there is no parallel  
 37 paved public road for motor vehicles. "Dune and shorefront area"  
 38 further includes existing or future barrier islands without paved  
 39 public roads or connecting bridges for motor vehicles. "Dune and  
 40 shorefront area" includes existing and future beaches and dunes  
 41 that are along the Delaware Bay in Cape May County and Cumber-  
 42 land County, the Raritan Bay east of Cheesapeake Creek, Sandy  
 43 Hook Bay, and the back bays of barrier islands and spits. Beach  
 44 and dune areas are included within the geographic scope of dune and  
 45 shorefront areas. Dune and shorefront areas shall not include  
 46 coastal wetlands regulated pursuant to "The Wetlands Act of 1970"  
 47 (P. L. 1970, c. 272; C. 13:9A-1 et seq.).

1 4. (New section) a. The commissioner may, after scientific study,  
 2 propose and adopt, pursuant to the provisions of the "Administra-  
 3 tive Procedure Act", P. L. 1968, c. 410 (C. 52:14B-1 et seq.)  
 4 and after public hearing, modifications to the landward definition of  
 5 dune and shorefront areas, as defined in section 3.f. of this act.  
 6 Such modifications shall exclude built up areas distant from the  
 7 erosional forces of ocean and bay waters and may, in response  
 8 to naturally changing shoreline conditions, include post-storm

9 overwash areas, provided that the modifications are consistent  
 10 with the purposes and intent of this act. Any such modifications  
 11 may be made by written description of the areas or by graphic  
 12 changes on maps prepared pursuant to this section, or both, as  
 13 the case may be.

14 b. The commissioner may, pursuant to the provisions of the  
 15 "Administrative Procedure Act", P. L. 1968, c. 410 (C. 52:14B-1  
 16 et seq.), delineate beach, dune, and dune and shorefront areas  
 17 as defined in section 3 of this act or as modified pursuant to  
 18 this section, on suitable maps, to assist in the management of  
 19 these areas. The maps, which may use aerial photographs as  
 20 a base, shall be filed in the office of the county recording officer  
 21 of the county or counties in which the mapped beach, dune,  
 22 and dune and shorefront areas are located, and maintained avail-  
 23 able to the public in the offices of the department. To be entitled  
 24 to filing, no map prepared pursuant to this subsection need meet  
 25 the requirements of R. S. 47:1-6.

1 5. (New section) a. Subsequent to the effective date of this act,  
 2 the provisions of any other law to the contrary notwithstanding,  
 3 no person shall undertake, or cause to undertake, a regulated  
 4 activity in a dune and shorefront area until he has applied for and  
 5 received a permit issued by the department, unless the commis-  
 6 sioner, by rule, has excluded the minor activity from the permit  
 7 requirements of the act, or unless the commissioner has delegated  
 8 the enforcement of this act to the affected municipality pursuant  
 9 to section 10 of this act.

10 b. Regulated activities shall include, but not be limited to:

11 (1) The construction, relocation, reconstruction, major modi-  
 12 fication, major expansion, or demolition of any temporary,  
 13 mobile or permanent structure;

14 (2) The removal, excavation, filling or deposition of any  
 15 soil, mud, sand, gravel, or any material;

16 (3) The construction, reconstruction, or major repair of  
 17 any public facilities, including but not limited to roads, sewers,  
 18 bridges, electric power, telephone, gas, and water lines;

19 (4) The siting and construction of pipelines and other  
 20 linear development;

21 (5) The development of pedestrian paths and walkways;

22 (6) The large-scale planting of non-native vegetation or  
 23 removal of native vegetation on the dune and beach portion  
 24 of the dune and shorefront area.

25 c. Regulated activities shall not include:



26 (1) The operation of motor vehicles by governmental  
 27 agencies for public safety, beach maintenance, and emergency  
 28 purposes;

29 (2) The operation of motor vehicles outside of beach and  
 30 dune areas; and

31 (3) The construction of a facility regulated pursuant to the  
 32 "Coastal Area Facility Review Act", P. L. 1973, c. 185 (C.  
 33 13:19-1 et seq.) or a waterfront development pursuant to  
 34 R. S. 12:5-3.

35 d. Any person proposing to undertake a regulated activity in a  
 36 dune and shorefront area shall file an application for a permit with  
 37 the department, in such form and with such information as the  
 38 commissioner may prescribe, including information concerning the  
 39 environmental impact of the regulated activity.

1 6. (New section) The department shall review filed applications,  
 2 including any written comments from the public and any informa-  
 3 tion submitted at a public hearing, held at the discretion of the  
 4 commissioner, and shall approve and issue a permit only if it  
 5 finds that the proposed regulated activity:

6 a. Has no prudent or feasible alternative in an area other than  
 7 a dune or beach;

8 b. Will not cause significant adverse long-term impacts to the  
 9 natural functioning of the dune-beach and dune and shorefront  
 10 area system, either individually or in combination with other  
 11 existing or proposed structures or activities;

12 c. Conforms with the purpose and intent of this act or otherwise  
 13 promotes the public health, safety, and welfare; and

14 d. Complies with any rules and regulations adopted pursuant  
 15 to section 9 of this act.

1 7. (New section) Subsequent to the effective date of this act, the  
 2 provisions of any other law, ordinance, rule or regulation to the  
 3 contrary notwithstanding, the following activities are prohibited  
 4 in dune and shorefront areas:

5 a. The construction of any industrial commercial or residential  
 6 structures on existing beach and dune areas;

7 b. The reconstruction of any structure, with the exception of  
 8 publicly owned and maintained boardwalks, structures for public  
 9 safety, if the fair market value of the structure is reduced by more  
 10 than 50% as a result of water, wave, wind or other coastal storm-  
 11 related damage;

12 c. The operation of any motor vehicle in any portion of the  
 13 dune area except in designated access ways.

1 8. (New section) The commissioner may, at his discretion, issue  
 2 provisional permits necessary to authorize emergency work re-  
 3 quired in beach, dune, or dune and shorefront areas to protect the  
 4 public safety in response to major storms and disasters.

1 9. (New section) The commissioner shall, within 90 days of the  
 2 effective date of this act, prepare, promulgate, adopt, amend or  
 3 repeal rules and regulations, pursuant to the provisions of the  
 4 "Administrative Procedure Act", P. L. 1968, c. 410 (C. 52:14B-1  
 5 et seq.), to effectuate the purposes of this act. The commissioner  
 6 shall adopt rules and regulations that establish specific and  
 7 different development and resource protection regulations within  
 8 discrete types of areas, such as beach, dune and other areas  
 9 within the dune and shorefront area. The commissioner shall adopt  
 10 rules and regulations specifying structural standards designed  
 11 to insure the integrity of structures from storms.

1 10. (New section) a. The commissioner is hereby authorized to  
 2 delegate the responsibility for enforcement of this act to any  
 3 municipality which adopts an ordinance for the management of  
 4 dune and shorefront areas which the commissioner certifies meets  
 5 the standards adopted by him. Every municipality within the dune  
 6 and shorefront area is hereby authorized and directed to adopt  
 7 such an ordinance within 2 years of the effective date of this act.

8 b. The commissioner shall monitor the enforcement by munici-  
 9 palities of certified dune and shorefront area ordinances and may,  
 10 after public hearing, revoke any such certification if, in his  
 11 estimation, a municipality fails to enforce its ordinance in a  
 12 manner consistent with the department's enforcement of this act.

13 c. In any municipality where enforcement has been delegated  
 14 pursuant to this section, any interested person may appeal any  
 15 municipal decision under the certified ordinance to the commis-  
 16 sioner. The commissioner may, after all local administrative  
 17 appeals have been exhausted, accept the appeal and after public  
 18 hearing uphold, modify, or reverse the municipal decision. The  
 19 commissioner's decision on appeal shall be the final administrative  
 20 action.

1 11. (New section) The commissioner shall, by rule or regulation,  
 2 develop a single permit process for any State approval required  
 3 by this act, by the "Coastal Area Facility Review Act", P. L. 1973,  
 4 c. 185 (C. 13:9A-1 et seq.), and R. S. 12:5-3, concerning waterfront  
 5 development approvals. Subsequent to the effective date of this  
 6 act, the provision of any other law to the contrary notwithstand-  
 7 ing, this consolidated coastal permit process shall apply to any



8 activity which is regulated by any of the aforementioned statutes.

1 12. (New section) Any person who violates any of the provisions  
2 of this act or any rule or regulation adopted pursuant to this act  
3 shall be liable to the State for the full cost of restoration of the  
4 affected beach, dune, or dune and shorefront area to its condition  
5 prior to the violation and shall be subject to a penalty of not more  
6 than \$3,000.00 for each offense to be collected in a summary pro-  
7 ceeding under "the penalty enforcement law" (N. J. S. 2A:58-1  
8 et seq.), and the commissioner may institute a civil action in the  
9 Superior Court for injunctive relief to prohibit and prevent the  
10 violation and the court may proceed in a summary manner. If the  
11 violation is of a continuing nature, each day during which it con-  
12 tinues shall constitute an additional separate and distinct offense.  
13 The commissioner is hereby authorized to compromise and settle  
14 any claim for a penalty under this section in such amount, in the  
15 discretion of the commissioner, as may appear appropriate and  
16 equitable under the circumstances.

1 13. Section 1 of P. L. 1975, c. 232 (C. 13:1D-29) is amended to  
2 read as follows:

3 1. For the purposes of this act, unless the context clearly re-  
4 quires a different meaning, the following terms shall have the  
5 following meanings:

6 a. "Commissioner" means the State Commissioner of Environ-  
7 mental Protection.

8 b. "Construction permit" means and shall include:

9 (1) Approval of plans for the development of any waterfront  
10 upon any tidal waterway pursuant to R. S. 12:5-3.

11 (2) A permit for a regulated activity pursuant to "The Wet-  
12 lands Act of 1970," P. L. 1970, c. 272 (C. 13:9A-1 et seq.).

13 (3) A permit issued pursuant to the "Coastal Area Facility  
14 Review Act," P. L. 1973, c. 185 (C. 13:19-1 et seq.).

15 (4) Approval of a structure or alteration within the area which  
16 would be inundated by the 100 year design flood of any nondeline-  
17 ated stream or of a change in land use within any delineated flood-  
18 way or any State administered and delineated flood fringe area,  
19 all pursuant to the "Flood Hazard Area Control Act," P. L. 1962,  
20 c. 19 (C. 58:16A-50 et seq.) as amended and supplemented.

21 (5) Approval of plans and specifications for the construction,  
22 changes, improvements, extensions or alterations to any sewer  
23 system pursuant to R. S. 58:11-10.

24 (6) A permit for a regulated activity pursuant to the "Dune and  
25 Shorefront Protection Act," P. L. , c. (C. ).

26 "Construction permit" shall not, however, include any approval  
27 of or permit for an electric generating facility or for a petroleum  
28 processing or storage facility, including a liquefied natural gas  
29 facility, with a storage capacity of over 50,000 barrels.

30 c. "Department" means the Department of Environmental  
31 Protection.

1 14. This act shall take effect immediately.

---

#### STATEMENT

This bill protects and enhances the existing and potential dunes and shorefront areas of this State and the coastal lands that they protect through the delineation of dune and shorefront protection areas and the enforcement of regulations for the use and development of such areas by the Commissioner of Environmental Protection and municipalities. The act protects the lives and property of people in shorefront communities through proper management of dune and shorefront areas. The act provides for both regular and provisional permits.

The bill authorizes and requires the delegation to municipalities by the Commissioner of Environmental Protection of the administration of the program of dune and shorefront area management, through the review and certification of municipal dune and shorefront protection ordinances.

The bill further directs the Commissioner to establish a consolidated coastal permit process which will authorize any activity regulated pursuant to this Dune and Shorefront Protection Act, the Coastal Area Facility Review Act, the Wetlands Act of 1970, and R. S. 12:5-3, concerning waterfront development permits. The new permit authorized by this act comes under the provisions of the 90 day construction permits law.

---



ASSEMBLYMAN ROBERT P. HOLLENBECK (Chairman): Good morning, ladies and gentlemen. I am sorry we had to move, but logistically --- (Disruptive outburst by audience) Ladies and gentlemen, as long as you are talking, we are not going to have a public hearing. I am sorry that we had to move. The other place was not big enough for the crowd. I am sorry for the inconvenience. But I wanted to be sure that everybody could be seated who has taken the time to come here and testify or hear testimony on the bill.

Let me introduce the members of the Committee. On my left is Assemblyman Cowan, the Vice Chairman of the Committee; next to him are Assemblyman Bob Franks and Assemblyman John Bennett. On my right is Assemblyman Stockman and on his right is the legislative aide for the Energy and Natural Resources Committee, Algis Matioska. To his right is a legislative research assistant, Mark Connelly. (Outburst by audience.)

I thought we were here for the serious business of a public hearing on A 1825, which apparently is of major concern to you and a lot of other people.

Let me give you a little history about A 1825. I am Assemblyman Hollenbeck, the prime sponsor and only sponsor. This particular bill was drafted from the report done by Rutgers University. There are deviations, of course, in this bill from the Rutgers Report. The draft legislation had public hearings. It was the first time I ever knew of any draft bill having public hearings. But there were, I believe, two or possibly three public hearing on the draft bill.

I agreed as Chairman of the Committee to sponsor this bill only with the proviso that I could bring it down to the shore for public hearings. There were commitments to hold three public hearings before the bill was even introduced. That was done so that the members of this Committee could get your input on the controversial sections of this particular bill because that is most important. That is why we are here.

There are areas of this bill that the members of the Committee don't like and I am not completely happy with. I, myself, find five areas of the bill I am not particularly happy with. You might only have heard about the 50 percent clause, but there are other areas. This is what we want to hear testimony on, areas of the bill about which there is concern. I have problems with regard to the deliniation of the area, the width of the area and the extent of it. I have questions dealing with the rules and regulations written by the department. I have questions about the definitions of "major" and "minor" within the bill. I have questions dealing with locations, actually what is considered a barrier island and what is not, in the bill.

For these reasons, this public hearing is very important. As a result of your testimony and that of your elected representatives, the Committee can try to come up with amendatory language that will satisfy your concerns. If the major objective is that the sand dune is the first line of protection that you have against a coastal storm, then we should think about preserving and conserving that sand dune. If you read the reports, we know that sand dunes do move. But we also know that we can control the growth of a sand dune in a specific area. People in the shore area do it all the time. You put up a snow fence over the winter and you develop a dune where you have put that snow fence - and that is good. The problem, of course, is in the spring when the bulldozer comes and pushes that dune away all the protection is gone for every home behind that dune because that is your prime protection against a storm.

We all know what happened in 1962 and the breachings that occurred from the ocean across the areas of the barrier islands and the shorefronts. Some of the municipalities adopted ordinances to address those specific problems by higher construction standards, primarily the construction on piles ten feet above the ground. That particular type of construction is made, of course, to last the hundred-year storm.

Now, we have to start thinking about the hundred year storm because it has been a hundred years and we haven't had it. What you had in '62 was not a hundred-year storm - it was a northeastern - and that is all it was. This is why we want to have hearings to try to preserve the dunes. I have not talked to a single person who does not realize that those dunes are very important to protect your property. (Outburst by audience.) What we are talking about is protection of property.

Excuse me, ladies and gentlemen, do you want to have a hearing?

MEMBER OF AUDIENCE: That is what you came here for.

ASSEMBLYMAN HOLLENBECK: This is why we are going to have hearings and hear testimony, so that the Committee can make up its mind.

There are various areas of the bill. I am going to ask the Committee Aide to give us a rundown of the bill. Then we will start receiving testimony.

My aide advises me that we do have a representative of the DEP who will run down the bill and give their interpretation of it and what they are trying to accomplish. We have John Weingart, Chief, Bureau of Coastal Planning and Development, Division of Coastal Resources, Department of Environmental Protection.

MEMBER OF AUDIENCE: Before the gentleman starts speaking, could he tell us his qualifications so we know where he stands?

ASSEMBLYMAN HOLLENBECK: I read his title - what he is.

MEMBER OF AUDIENCE: Ms. Betty Wilson, who is a Deputy Commissioner of Environmental Protection was an elementary school teacher. I do not think that she has the qualifications to be Deputy Commissioner of Environmental Protection.

MEMBER OF AUDIENCE: I think it is fair to have the man give his educational background and the number of years he ---

ASSEMBLYMAN HOLLENBECK: Excuse me, sir. We are not going to ask every witness here about their educational background, etc. (Outburst by audience.) I think what we are going to have is a man testifying about the bill.

Ladies and gentlemen, do we want a public hearing or don't we? We are going to have one, but it is not going to be with individuals yelling out different things. That is not a public hearing.

J O H N     R.     W E I N G A R T: Assemblyman Hollenbeck, members of the Assembly Committee on Energy and Environment, and ladies and gentlemen, I am John Weingart, Chief of the Bureau of Coastal Planning and Development in the Division of Coastal Resources. I am here this morning to testify on behalf of the Department of Environmental Protection in favor of A 1825, the proposed Dune and Shorefront Protection Act. With me here today is Skip Weiner, who is a planner and landscape architect in the Department of Environmental Protection.

I have worked in the Coastal Planning part of the Department of Environmental Protection for the past five years.

This legislative hearing is an important step in the process of public debate that I hope will quickly lead to increased protection for New Jersey's beach and dune areas from inappropriate development.

The bill has already aroused considerable public interest and debate, as

witnessed here this morning. Similar debates are now taking place at the national level as well, as Congress considers barrier island legislation this year and next year takes up the reauthorization of the Federal Flood Insurance Program.

Before explaining the scientific background of the bill, I will describe briefly its key provisions.

First, the bill establishes a permit program to regulate development in a very narrow strip of land along the shore. On beach and dune areas, the most sensitive and risky locations for development, the bill would sharply restrict, if not prohibit most development. In areas behind beaches and dunes up to the first paved road, the bill would allow development subject to a special building code designed to protect structures from the hazards of a coastal location.

Let me stress that the DEP believes that development on barrier islands is acceptable, provided that it is not on a beach or dune, that it allows dunes to be created, maintained and to function naturally, and that it is built properly.

Second, the bill directs DEP to delegate to municipalities the enforcement and implementation of this permit program within two years, so that development decisions will continue to be made by local planning boards and building inspectors, but so that they will be made under the strong, clear guidelines to be established by the bill. DEP will review and certify local dune and shorefront protection ordinances and provide continuing assistance and oversight to help carry out this program.

Third, the bill prohibits the reconstruction of structures so severely damaged in a coastal storm that their location makes it likely that they would be destroyed or damaged again in the next severe coastal storm. This has to date been the most controversial section of the bill. It is vital, however, for the protection of life and property and for the wise use of government funds that the historic cycle of building and rebuilding publicly subsidized structures at publicly subsidized hazardous locations be broken. It is important to remember that this section of the bill will only take effect when a major coastal storm causes major damage to structures.

Some of you may ask why this bill is necessary in 1980, given New Jersey's existing coastal laws. I will give you some specific examples.

First, the bill plugs a loophole in the Coastal Area Facilities Review Act, also known as CAFRA, which requires a DEP permit for residential projects of 25 dwelling units or more. Dunes have been destroyed here in Ocean County because of that loophole. (Audience complains that they cannot hear.)

I was speaking about why this bill is necessary in 1980 and I will give you some specific examples of what this bill would do that existing legislation in New Jersey does not do.

First, the bill plugs the loophole in the Coastal Area Facilities Review Act, which is also known as CAFRA, which requires a DEP permit for residential projects of 25 dwelling units or more. Dunes have been destroyed here in Ocean County because of that loophole. When DEP rejected a 40-unit project on an oceanfront site with dunes at Ortley Beach, the developer then revised the plans, obtained local variances, destroyed dunes, and built the 24-unit project. This was and continues to be legal under existing New Jersey laws.

Second, the quality of local dune protection is uneven up and down the coast. In the aftermath of the 1962 storm, the Army Corps of Engineers struck a static dune or building line seaward of which no development was to take place.



Although the line was determined by scientific research, it neglected to recognize the fact that dunes migrate due to natural forces. Now, in 1980, the line in most cases exists in the middle of the dunes that have developed since 1962. Pressure to develop these areas closest to the ocean is overwhelming. Some towns have struggled valiantly to protect their dunes through zoning board appeals and litigation. DEP has helped their efforts by providing testimony and advice to local governments and to citizens committed to dune protection.

This bill will lend the full support of State law to these local efforts and will also affect other municipalities which have been less sensitive to the need to protect dunes.

Finally, the proposed legislation supplements efforts already underway in DEP, particularly in the Division of Coastal Resources, to properly manage our shoreline. The bill, therefore, should not be considered in a vacuum, rather look at the bill as a regulatory component of a program involving financial assistance, technical assistance, public awareness and advocacy in addition to regulation. For example, DEP shares the cost of beach nourishment and dune creation and maintenance with municipalities and counties under the State Shore Protection Aid Program. More than \$2 million in State Beaches Bond Funds have been spent in just the past year to protect the shoreline, in cooperation with local governments. Much more will be spent in carrying out the Shore Protection Master Plan expected to be released later this summer in draft form for public hearings and comments.

We must not lose sight of the reason for this important legislation. Four facts about New Jersey barrier islands, headlands and bay shores are indisputable and are central to understanding the need for this Act.

First, the coast is always moving and changing.

Second, extensive efforts at all levels of government and by the private sector to control or restrict the natural movement of the coast have met with only limited success.

Third, the most effective shore-protection structures are sand dunes in natural configurations.

And, fourth, we in New Jersey are long overdue for a hurricane or other major storm. (Outburst by audience.)

I will elaborate on each of these points.

As to the first point that the coast is changing, the coastline is created through a complex series of natural interactions between wind, water and sand. On the day-to-day basis, we see this as the ocean waves sweep in toward the shore and then move out, slightly toward the north or toward the south, but never straight in and out at a 90-degree angle. Thus each wave is carrying sand from one spot on the shore to another. On a year-by-year basis, we see this as particular beaches gain or lose width; and, over a longer time, we see this as the sea level rises. The Atlantic Ocean is rising at a rate of six inches per century. Those numbers sound very small. But that rise of six inches per century translates into a significant lateral distance. In other words, the ocean waves will continue to break further and further inland.

I turn now to the second fact, that is, that well intentioned and often expensive efforts by the State, the U. S. Army Corps of Engineers and a number of municipal agencies, as well as studies by federal agencies and academic institutions have largely failed to provide satisfactory methods to either stop the shoreline from moving or to control that movement over the long term. Seawalls, bulkheads, groins, jetties and beach nourishment are each effective in certain situations and

sometimes they serve their purpose for a season, several years or even longer. But eventually a storm comes which is stronger than those man-made structures. The result is destroyed property and the need to rebuild or redesign the structure which has failed.

The third fact is that sand dunes are generally more effective over the long term than the construction of the various shore protection devices at accommodating the moving shoreline while protecting the upland development. The dunes are the visible part of a sand supply network and sharing system linked with sand deposits in offshore sand bars. The creation and maintenance of sand dunes enables the sand to remain in the system and also provides the flexibility to accept the rising sea level.

In order for the barrier islands to maintain themselves, nature has created this system which deposits sand across barrier islands, thus allowing them to compensate for the rise in sea level. Beside the natural rise in sea level, coastal storms also cause the barrier islands to be washed by the ocean. The increased wave action during this time often causes the ocean to carry sand across the island. The storm process during which sand is transported across the barrier island is called overwash. It is one of the primary causes of barrier island migration. If development occurs in commonly overwashed areas, then each succeeding storm will result in the destruction of this development.

The proposed Dune and Shorefront Protection Act is based on an acceptance of these natural processes and an attempt to then determine how they can coexist with the considerable economic, residential and recreational activity already on the shore and likely to be attracted to it in the future. The proposed Act, therefore, would apply not only to beaches and dunes, but to dune and shorefront areas which are defined as extending inland from the ocean to the first parallel paved road. A new development in a dune and shorefront area would require a permit from the Department of Environmental Protection, however, while most new development on beaches and dunes would be prohibited. There is a distinction between those activities which would be regulated - that is to say, they would need a permit - and those activities which would be prohibited.

The reason for regulating development in the dune and shorefront area would be to insure that as much sand as possible stays within the natural system.

The fourth and final point I wish to make this morning is that New Jersey will experience future major coastal storms and hurricanes. We are lucky that we have not had a truly serious hurricane in 36 years, nor have we had a catastrophic coastal storm since March of 1962. But our luck will run out. Right now, the New Jersey shore is much more densely populated and developed than it was before the 1962 storm sliced through Long Beach Island in several spots and destroyed millions of dollars of property and cost several lives.

Some people recognize this situation and say, in effect, let the buyer beware. If an individual wants to destroy a dune and build a house and is willing to accept the risk of a future storm, then that should be his or her decision alone and the government should simply not meddle. (Applause.) I am glad that you applaud my testimony.

Unfortunately, all the taxpayers of the state and of the nation are already involved in this process --- (Outburst by audience.)

ASSEMBLYMAN HOLLENBECK: Let the testimony please continue.

MR. WEINGART: --- and we are all affected by these individuals' decisions.

Taxpayers already provide the subsidies for Federal Flood Insurance. Taxpayers pay for the shore protection devices which help for a short while to protect the buildings and to maintain the beaches. Taxpayers support the roads, sewers and other infrastructures.

MEMBER OF AUDIENCE: We pay for it. We are all taxpayers.

ASSEMBLYMAN HOLLENBECK: Excuse me. Let him proceed with his testimony. You might disagree with it, but there are other people going to testify.

MEMBER OF AUDIENCE: Is his the only testimony that will be on record? Will you hear counter testimony?

ASSEMBLYMAN HOLLENBECK: There is going to be full testimony. There is going to be testimony taken all day.

MEMBER OF AUDIENCE: This is a filibuster here. He is taking up all the time. (Applause)

MR. WEINGART: When I am speaking about taxpayers, I am speaking about taxpayers of the entire State.

Taxpayers provide the subsidies for federal funds. Taxpayers pay for the shore protection devices which help for a short while to protect the buildings and to maintain the beaches. (Outburst of audience.)

MEMBER OF AUDIENCE: If you want to make a point, we are all going to have time to come up here and speak.

ASSEMBLYMAN HOLLENBECK: Will you continue with your testimony, please. I want to hear the end of it.

MEMBER OF AUDIENCE: I rise to a point of order. Everybody knows the State's position. They have had it for a long time. You have a hearing scheduled for ten o'clock that started at 10:40. Why not reverse the situation and let's hear the objectors first and then the State. (Applause.)

ASSEMBLYMAN HOLLENBECK: Would you finish, Mr. Weingart, please.

MR. WEINGART: The taxpayers support the evacuation program, the health care facilities and the other emergency measures which must be activated in the case of a major storm.

We are a densely populated society. One person's action in building on the beachfront does affect all the people of New Jersey and is a legitimate subject for concern by the Legislature. (Outburst by audience.)

On April 18th, 1962 ---

MEMBER OF AUDIENCE: You guys are taking over. We are the taxpayers. We are the middle-class people who are paying for everything else in this State and we want to be heard. (Applause.) First of all, a person should be limited to so much time up there and then we should have equal time. And, Mr. Hollenbeck, you ain't going to leave ---

ASSEMBLYMAN HOLLENBECK: Excuse me. We are trying to hold a public hearing. I prefaced it by calling you ladies and gentlemen. Please listen to the testimony. We would like to hear the testimony.

MR. WEINGART: On April 18th, 1962, shortly after our last major coastal storm, Governor Hughes chaired a conference of Atlantic Coast governors and federal officials on long-range shore protection. The conference was held in Atlantic City and I want to conclude my remarks with some quoting of Governor Hughes' remarks at that conference.

Governor Hughes said in 1962, "I think it is certain that we will recover from the latest disaster and we will make a good recovery. But unless we consider future activity only in terms of lasting protection against future disaster, we



stand to suffer again and again the loss of life and property."

I think all of us here today sense the developing tide of public opinion - I know it exists in New Jersey - which calls for a truly long-range comprehensive program of shoreline protection. There seems to me to be ample economic and social justification for continued development of our great seashore and for long-range protective measures to preserve it.

The primary justification, of course, is the Atlantic coastline's value as a recreation resource, for which there is really no available substitute. It is a resource that is subject to more development pressure than perhaps all others. Proposed solutions of our shoreline protection problem have ranged from the extreme that we return the entire shore area to the state of nature which prevailed until man arrived with his developments --- (Outburst by audience) They have ranged from that extreme to the equally untenable notion at the other end of the extreme that we do nothing. We have got to learn other answers leading to other solutions. We must learn that nature has provided its own means of accommodating high waters, high tides, and other combinations of natural forces, which periodically destroy what man has created.

We have learned once again through the sobering experience in March of 1962 that nature will exact a heavy toll from those who insist upon encroaching on areas which are intended as natural shock absorbers for nature's tremendous destructive forces. If we were to develop such areas with a true sense of caution and respect for the oddities of nature, we would then have substantially lessened the risk of the kind of destruction that we have just experienced.

What actions can we take while rehabilitating the Atlantic seashore to promote the development of a lasting long-range protection program?

I think first we must control the mounting flood hazard areas. We should plan to guide development in such areas towards uses compatible with the risk involved. That was Governor Hughes' message in 1962 immediately after a major coastal storm. Our memories of that storm may be fading. But it will be far more responsible and effective to plan for the next major storm now rather than after it occurs.

I suggest that New Jersey missed this opportunity in 1962. The proposed Dune and Shorefront Protection Act provides a new opportunity in 1980. I hope it is not missed again. Thank you very much. (Boos by audience.)

ASSEMBLYMAN HOLLENBECK: Are there any questions? (No questions.)  
Mr. Weingart, thank you very much.

MEMBER OF AUDIENCE: How about a speaker from the homeowners now? You know, you come across as being fair, Mr. Hollenbeck. How about calling somebody from our side.

MR. HOLLENBECK: You are going to have your wish.

Senator Graves has come down and asked to speak on this legislation.  
(Outburst by audience.)

MEMBER OF AUDIENCE: Mr. Hollenbeck, you know this is an absolute disgrace the way you are running this meeting. (Outburst by audience.)

MR. HOLLENBECK: Ladies and gentlemen, please.

The second speaker is Senator Frank Graves who has come down to testify on the bill to express what he feels is the interest of the people. Senator Graves.

S E N A T O R   F R A N K   X.   G R A V E S ,   J R. : Members of the Committee, my fellow Senator, Ocean County Senator Russo, and Assemblyman Doyle, my testimony

will take only two minutes.

MEMBER OF AUDIENCE: Where are you from?

SENATOR GRAVES: I am an elected Senator of the State of New Jersey. I am here to testify against the bill. (Applause.)

If you will only keep quiet for two minutes, then I will be able to give the microphone over to even more important people than myself by a long shot.

MEMBER OF AUDIENCE: I would like to ask him a question. I think his reply would help a lot of people here who have some misunderstanding.

MR. HOLLENBECK: We are not having a question and answer period. He is testifying for us.

MEMBER OF AUDIENCE: Before you begin, Senator Graves, would you tell us your definition of a public hearing?

SENATOR GRAVES: He is running the meeting. I am here to testify. I am here to testify because a minimum of 500 of my constituents have lobbied my office to make sure that I would be here to give this testimony today. As legislators, we know what 688 was and the impact, as registered by telephone polls of personal views, has been almost as great with this particular piece of legislation.

Briefly, in my two minutes, I want to say I think that the salient features of this legislation run smack against the basic fundamentals of the Constitution of the United States. (Applause.) Please do me a favor - because you are eroding my two minutes. I want to get this into the record and that is the important part. I say to those of us who are in municipal government or are attorneys, we are certainly well aware of eminent domain, the basic translation of which is that government has the right, if needed - if the public needs it - to seize property, but, most important, when government does exercise the right of eminent domain, it must give a fair return to the property owner.

This runs smack against that. If you lose part of your property, we see here that the government by seizure will forfeit your right to rebuild on your particular property and in no way reimburse you. This could wipe people out and I don't think that the Constitution ever meant that. That is one of the basic reasons that I am against this particular legislation or the salient features of this legislation.

I think in fairness to those of you who are here that you be given that opportunity.

As a northern legislator, I didn't travel down here just for this particular hearing. Last month, I sat in Monmouth County. I am Chairman of the Senate Committee on Law and Public Safety of the State of New Jersey. We met there on the problems of transportation as far as this area is concerned. So it is not an intrusion on all the things you have to say, but it is supportive of some of the things that you are about to say. I want you to know, specifically those who elected me to office in Passaic County, that is the reason I am here in opposition because it runs smack against the fundamental concept of the Constitution of the State of New Jersey. (Applause.)

MR. HOLLENBECK: We have Senator Russo from Ocean County. I am sorry, Senator, I didn't see you sitting there before. (Applause.)

SENATOR JOHN F. RUSSO: Thank you.

Mr. Chairman, members of the Committee, ladies and gentlemen, I don't know whether I am more apologetic for what I really consider one of the worst pieces of legislation to come down in a long time or - (Applause) - or whether I am more apologetic to the Committee, unfortunately, for the conduct of some of the

people here whose views I happen to agree with, but whose conduct really is just uncalled for. (Applause.)

I oppose the bill and my colleague, Assemblyman John Doyle, who will be following me shortly, joins in that viewpoint. We oppose the bill because we think the bill, number one, is unconstitutional, as my colleague Senator Graves has indicated.

Secondly, it is unfortunate and unnecessary for our district, by that I mean the property in our district which includes those who own property, though they don't live in this district. And it is overgovernment. It is too much regulation and it is beyond really anything we need. It follows up the Pinelands legislation, which followed up Wetlands legislation, which followed up the CAFRA program. Now, we have the Dunes Act. I thought of putting a bill in basically taking over the rest of the property of the State that was left over because there isn't too much after that. (Applause.)

I appreciated Mr. Weingart's testimony and particularly apologize to him because though I didn't agree with him --- Someone asked what a public hearing is. Having conducted many of them as a Chairman of the Senate Energy Committee and having been involved in many of them as a former Senate Majority Leader, I can tell you one thing it is is decorum and good conduct because it is a chance to hear both sides of a question. It doesn't mean we have to agree. I don't think a dozen of these public hearings could convince me to vote for this bill. But I do think I owe this Committee and you, if I disagree with you, the right to say what you want to say. That's America. We are not going to govern by rabble.

What I am concerned about and the reason I mention that to you is this: I am opposed to this bill strongly. I intend to fight it. I have already begun lobbying my fellow Senators and intend to vote against it. But you know there are a lot of legislators outside of the district that are affected, legislators who don't have, for example, the knowledge of Frank Graves who even though he is outside the area is well aware of the danger of this bill. A lot of them really don't know and don't particularly care. And they are going to be influenced on their vote by a number of things. I suspect some of them, if they were in this room today, would vote for the bill just out of spite.

Now, look, so much is at stake for you; you can beat this beat; and, in my judgment, you will beat this bill as of now. But you can help your cause so much by doing it like decent people and not shouting and screaming at somebody who doesn't agree with you. Let's convince those legislators outside of this area that we are right because it is going to hurt you, it is going to hurt the shore, and it is going to deprive so many people of their life savings. The way some act you almost wonder whether maybe they shouldn't be deprived. (Outburst by audience.) You are making my point again. You didn't agree with that statement - shout - scream. I am telling you if you are worried about what is at stake for you, do it the right way. Show people that it is because it is important to you and don't anger them. (Applause.) I think it is really only a very few in this room, but I think it is awfully important that you remember that. When you have rallies, when there are speakers, let the fellow from DEP get up there. Let him tell us about the six inches per century. I figure that will take 20,000 years before the 100-foot lot that is inland will be affected. I don't agree with him, but I don't think I ought to yell and mimic him and laugh at him and so forth. Let those who have a different viewpoint have their point.

The CAFRA problem that he mentioned in one part of this bill, he said it

was an oversight that it did not include anything less than 25 lots. That was no oversight. Not only was it not an oversight, but I have a bill pending now to increase it to 50 lots. It is just a different point of view. And I am just as concerned about the environment. I have lived at the shore all my life and I am just as concerned about the protection of the dunes. But I think everything has to be balanced. We have to protect perhaps even ourselves against our follies, but we have to do it in a balancing way.

I was particularly impressed by the meteorological knowledge of the speaker who talked about the fact we are due for a major hurricane. I am a pilot. I can't seem to find out what is going to happen the next day. But, in any event, I think those of us who have lived here all our lives can tell him that a 1962 storm, with perhaps 65 mile-an-hour winds, with a high pressure system blocking it for three days, is far more severe to us than a hurricane that passes in generally six hours. That is a historical fact or a meteorological fact. But, nevertheless, we ought to listen to those views.

This bill will be beaten, ladies and gentlemen. In my judgment, this bill does not have the support of the Legislature and won't have the support of the Legislature to pass. It doesn't mean we ought to slow down our efforts. But let's do it the right way.

I am very disappointed, Assemblyman Hollenbeck, not with regard to you, but with the fact that the administration, my own party, proposed legislation as important as this, without any consultation with the shore area legislators who represent the people that would be most affected. (Applause.) And, interestingly, that consultation hasn't been had to this day. That is not right. And the selection of yourself, sir, as a legislator from Bergen County, to sponsor a bill so drastically affecting the shore - I have no quarrel with the quality of the legislation they suggested - but I think a bill such as this should have the input and the participation, if it is right, of the legislators that are directly involved. I am very disappointed that the department did it in the manner that they did. I think what they have really done is that they set back any protection of the dunes for a long time to come. I certainly would agree with them that there should be protection. The drastic effects of this bill and the effect upon so many people who own property should there be a fire or what have you have created such a public outcry that now nothing will be accomplished because we are going to vote against this bill, I am confident, in the Legislature.

So, thank you, Mr. Chairman and members of the Committee, for allowing me to speak. (Applause.)

ASSEMBLYMAN HOLLENBECK: Next we will hear from Assemblyman John Doyle from District 9. (Applause.) John, I hope you can give us a little testimony on the bill.

A S S E M B L Y M A N J O H N P A U L D O Y L E: First of all, Chairman Hollenbeck and my colleagues in the Assembly, I appreciate the fact that this hearing, which could have been conducted in Trenton, is being conducted in Ocean County so those who feel so deeply about this bill can be heard to speak on the bill.

Let me say one other thing. I am sure all of us have been - and I have been in my seven years in the Legislature - through a number of hearings. And, through those public hearings, we have probably not heard the kind of outcries, yelling and catcalls that you have heard today. I don't excuse that behavior. I think it is wrong, as Senator Russo suggested. But I think it indicates the depth of the concern



and feeling that has risen to almost hysterical levels about this bill.

Let me say to those of you whom I represent, notwithstanding the fact that you might feel that depth of concern, that level of hysteria, you will in a democracy convince people more through the strength and force of your ideas, of the rightness of your views in opposing this bill, than by just yelling and shouting and screaming.

With respect to the bill, let me first of all respond to a couple of the comments of the DEP spokesman. And I appreciate his position, coming here. In the pyramid of government, he is not at the Commissioner level, he is not at the Deputy Commissioner level, he is not at the Director level, but he is at the office level, which means he was sent here pretty much by the higher-ups as a sacrificial lamb; and we appreciate your coming.

He indicated that the bill was to cure a loophole. When CAFRA was designed, it was designed specifically at 25 units because it was felt that the municipalities had a certain area of control, that it was only when development was of a certain size that the State should come in. And to move that control level that the State can react to one house - then why do you need municipalities? Why do we need local building departments? If they can build at the level of one house and if the State can regulate one house because it happens to be important to the shore, why not, Assemblyman Stockman, because it happens to be important to the State capital of Trenton or to the wetlands or to the meadowlands or to the Hudson County waterfront, or whatever other districts you represent? That wasn't a loophole. All that meant was that the State shouldn't be everywhere. Now they want to try to be everywhere.

You made the comment you wanted help for the municipalities. The municipalities haven't asked for that help. Municipalities through our institution of home rule and local ordinances can do pretty much a good job. I have spoken to department officials who have said, "There are a lot of towns doing a good job." Well, why should all of these people in all of those towns doing a good job be penalized because the department is dissatisfied with the job a couple of municipalities are doing? Go into those towns. Talk to them and try and convince them. Don't go to the other ones.

The speaker suggested that we need a regulatory process and he raised the spectre of some builder. I bet you out of this entire audience there aren't more than three or four builders and that more than 95 percent of these people, all they have built is the one home they live in, the one home that is their palace. (Applause.) And you know what? They are trying to take away their castle and that is why these people are so wrought up.

It was suggested that building will ruin the dunes. That isn't necessarily true. You can build consistent with dune protection and preservation. You don't have to say which one are we going to have and eliminate the other. Suggestion was made that one lot can turn around the shore. I will show you a municipality I represent that only has one vacant lot on the ocean. Now, if this bill were law, he couldn't build on that. What is so different about that one lot than those on which everyone else has built? Why should he pay the price?

The speaker suggested at the conclusion of his remarks we should go back to nature. Let me tell you about a town I represent, Brick Township, and I have asked the tax assessor this. The value of the ratables along the oceanfront area that would be regulated by this bill is in the range of \$7 to \$8 million. And that is in only one of the 50 shorefront municipalities. So the value of the property has got to approach a billion dollars. How do you eliminate that and not pay the people for it?

You asked me, Mr. Chairman, to be specific on the bill. Let me say I can point out the problems with the bill as I see them. But if you were to suggest to me, Well, John, if we cure those problems, then would the bill be good," I would say, "No, respectfully, though it is your bill, I suggest the bill is so bad it ought to be thrown out and started all over again." (Applause.)

But let me give you some specifics. Section 3 (f) defines the shorefront area as between the ocean and the first paved road. That means that there will be inconsistencies. The first paved road is not always as far from the ocean in one place as it is in another. So what is so consistent about a paved road that it should be embellished in legislation as a standard? But even if that were the standard, what makes it worse is Section 4, which gives the bureaucrats, the Department of Environmental Protection, the right without coming back to the Legislature to redefine that area. So, today, it might only go to the first paved road. Then again, they look at it and say, "Let's make it a little larger," or, "Let's make it a little smaller." It seems to me, if they don't come back to us, they can do whatever they feel like, and that is not right.

Section 5 (b) - and I don't mean to be ludicrous -- but Section 5 (b) will regulate "the removal, excavation, filling or deposition of any soil, mud, sand, gravel, or any material." Does that mean if one homeowner wants to change his front area from a lawn to gravel and brings in the gravel, the pebbles, the crushed stone, he has to go to the State for a permit? On the face of it, that is what it means. I think that ought to be clarified.

Section 5 (d) requires a State permit ---According to a recent study of the Urban Land Institute, in New Jersey, if you want to build a single house in some areas, you already have to get 38 separate individual permits. Now, I can't see why we have to make it 39.

Section 7 (b) would ban the reconstruction of any structure, with the exception of publicly owned and maintained boardwalks, otherwise known as the Atlantic City exception --- (Applause) --- and I think that is wrong --- structures for public safety, if the fair market value of the structure is reduced by more than 50% as a result of water, wave, wind or other coastal storm-related damage. You know what I envision from that section is somebody with a back-to-nature approach praying for a storm so that these poor people's homes can never be rebuilt. And that is wrong.

Let me give you one example. Let's assume that a person has a \$50,000 lot, not inconceivable along the shore, and a \$50,000 home built on that lot. With flood insurance, he can't insure the lot and perhaps can only get as much as half of the building insured. So he has a maximum of \$25,000 insurance and he is taking a chance. A storm comes and destroys the property. Now, he can't rebuild. He gets his \$25,000 for the house, but he can't rebuild and he has lost the other \$25,000. Now, you tell me what his lot is worth if he can't rebuild? You know as well as I do it is around zero. Who repays that family, not a builder - not that there is anything wrong with the builder - but a family which has bought the land, nurtured the land, protected the dune, raised their children, had their families there, looked at it with pride over generations --- what repays them? Not a thing. I there is anything that is so inconceivable to me, so unconstitutional, so just dead wrong, it is that section.

Let me conclude, because there are a number of other speakers, with a couple of other mistakes. There is nothing in here about an appropriation, nothing in here about compensation. The Township of Brick would lose with this bill

on depreciating vacant land, \$100 thousand in tax revenues. That means every other person in Brick has to pay a little more in their taxes to make up for that because we are doing the State a service. But the State isn't coming down with any bucks for our towns, are they?

There is no legislative oversight. We in the Legislature who care so much about reviewing what the bureaucrats do to us instead of for us --- there is nothing about oversight. But I don't want to dwell on the mistakes in the bill and suggest that the bill should be amended, modified, corrected or improved. It is a bad bill. It is a bill that ought to be defeated. I can tell you of all the hundreds of pieces of correspondence, calls and other communications I have received, I have yet to hear one person come to me saying they are for this bill. If it makes the people in the audience feel any better, I must tell you, other than the sponsor who is doing a tough job, I have yet to hear one other legislator come to me and say he is for the bill. (Applause.)

So, gentlemen, in conclusion, don't try and amend the bill. Dune protection is great. But I resist the environmentalists who come up with a good idea and then anybody who says they are not quite for it the way the environmentalists are, are somehow bad. We want to protect the dunes. These people all live in homes where they have to protect the dunes. This is a bad bill. Let's throw it out and start all over again on an even keel. Thank you. (Applause.)

ASSEMBLYMAN HOLLENBECK: Mr. Robert Morris, Chairman, "Save Our Homes."

ROBERT MORRIS: Mr. Chairman, members of the Committee and friends who have come here today.

My name is Robert Morris and I am Chairman of an organization called Save Our Homes. We are trying to organize in the 21 counties of the State. I, personally, have been a New York City judge. I have been counsel for three United States Senate Committees and President of two colleges, both of whom had programs, such as Marine Science, and we have travelled all over the world in connection with the inspection of beaches.

I have confined my remarks to two pages. I will make it brief and I have a copy for the Committee.

"The American home constitutes the strength, security and integrity of our government..." So spoke a former president of the United States. Yet the New Jersey Department of Environmental Protection has embarked on this legislative endeavor to deprive thousands of beach and bay residents of their homes and many thousands more from all over the state of their vacation or retirement abodes.

The DEP's report called the "Coastal Dunes, Their Function, Delineation, and Management" and its bill A 1825, spell out the specifics of this assault on a heretofore sacred foundation of American life. And, in the fashion of tyrants, it disguises its malign purpose of taking property without compensation by professing to act in order to protect our lives and our property. Listen to the language of the report on page 57: "One objective of barrier island management is to direct land holdings within the dune district into public ownership and to reduce the numbers of structures allowed on the barrier islands. The basis for land transfer involves either prevention of use for the reasons of safety and welfare using police power without compensation or purchase of property for the public good." A reading of A 1825 will clearly reveal that the DEP has chosen the former alternative.

The DEP and A 1825 seek to accomplish this transfer from the private sector to the public by a series of restrictive legislation that would render the targeted

land valueless and by what they call "disincentives" from remaining on one's property. The purpose of this effort is to divest the homeowner of his property and this purpose is clearly revealed by language that permeates the report and the Hollenbeck bill.

If you are unfortunate enough to live or have a home in the area targeted by this bill on the shore or bay front, you will not be able to build, renovate, modernize or reconstruct your home, rebuild it if it burns or perform scores of other acts without a certificate from the DEP Commissioner in Trenton with the presumptions for granting the certificate all against you. Worse still, there are outright prohibitions. If you own a lot, you can't build on it. If your home is damaged by 50 percent of its market value by storm, you are forbidden to rebuild it and are left with a valueless lot.

The profession of "protection" in the labelling of the bill is deceptive and cruel. The purpose is not protection but deprivation and even eventual confiscation. The whole philosophy of the effort is punitive, punitive of the homeowner. The report adopted by this legislation urges "disincentives" from remaining on one's property. That is page 58. Those expressly recommended are the "elimination of government subsidies for flood insurance" and for the "elimination of any form of government aid for erosion control." Isn't erosion control the professed purpose of this bill? Then the report reads- now, listen to this - "It is estimated that these two changes in federal and states policies would profoundly affect the perceived value of coastal property. . . If they were implemented a greater burden" - or all of it - "of the cost of the property protection and property loss would fall on the owner." That is what they are out to get - loss on the owner.

This whole approach to the serious problem of dune protection is riddled with inconsistencies:

1. The bill includes in its objectives the widening of public access to beaches. Public access may be sought for other reasons but not for dune protection for transients do not appreciate the fragility of the dunes and their protective network of dune grasses.

2. The creation of empty beach lots on the ocean which would result from this legislation would mean the levelling, not the protection of dunes. Any beach scientist will tell you once the barrier island has been breached by a vacant lot and by an opening, then when the water does come, it rushes through, pierces the barrier island and then attacks it from the rear.

3. Private homeowners whom the Act would drive from the shore are the best trustees of the dunes and the shorefront. They erect dune fences - we do this - plant grasses and keep off the trampling trespassers, and their houses shield the dunes from the west winds that blow away the protective sands.

4. The gambling casinos of Atlantic City are exempted while their huge structures belie any pretext of dune protection.

I leave to the officials of the many municipalities affected by this legislation to testify to the extent of the havoc that would be wrought by the loss of taxes and ratables as a result of rendering this whole vast area valueless.

Finally, the so-called scientific study that gave birth to this legislative monstrosity is replete with fallacious observations, faulty assumptions and irrelevant conclusions that time does not permit me to catalogue here. I have an analysis which has been sent to the Assembly. It has been sent to Assemblyman Doyle. I urge the members of this Committee to review the DEP study with a practical, experienced beach scientist who has studied New Jersey's beaches and lived through New Jersey's storms.



For these and many other reasons the organization Save Our Homes opposes the bill in its entirety. We don't want amendments because we think that the source that originated this bill, the DEP, has a philosophy that is inconsistent with fundamental American principles. Thank you very much. (Applause.)

ASSEMBLYMAN HOLLENBECK: Very good, Mr. Morris.

Mr. Paul Dritsas, American Littoral Society.

P A U L D R I T S A S: My comments will be very brief.

We at the Littoral Society support this bill. We don't think it should be killed, as Assemblyman Doyle feels it should and a lot of other people do. The reason we don't believe it should be killed - and we will have formal testimony and comments at the Brant Beach hearing - is because it is the natural, most logical way that development can be sited on a barrier island. It lets the ocean dictate where development goes and where it shouldn't. That is the way it should have been done in the first place.

We are not calling for every beach to look like Island Beach State Park, although that wouldn't be too bad in my view, but ---

MEMBER OF AUDIENCE: Where is your home at?

MR. DRITSAS: May I finish? Your own Assemblyman told you ---

ASSEMBLYMAN HOLLENBECK: Ladies and gentlemen, please. You may disagree with what he is saying, but listen to it, because you are going to have testimony that you agree with. You won't want to have that disturbed.

MR. DRITSAS: I am here just to tell you, Assemblyman Hollenbeck and the people on this Committee, that we support the bill. There are a few aspects of it that need to be addressed by your Committee. The first one is that of compensation. We have been working in the office, whether some of you people can believe it or not, trying to find ways of possible granting situations that can be worked out so that when properties are destroyed and people need to relocate, there is a compensation scheme for them.

The other part of the bill that we disagree with is that dealing with the exemption of boardwalks. Regardless of whether the casinos are sitting on them or whether it is the roller-coaster at Seaside Heights, we don't believe they should be reconstructed.

Those are the two points of the bill we feel need attention, that we feel the Committee needs to address, and we do not feel that the bill should be scrapped and killed. But if those aspects of the bill, along with a few others, are addressed, then we support it fully. Thank you. (Applause.)

ASSEMBLYMAN HOLLENBECK: Thank you, Mr. Dritsas.

Our next speaker will be Raymond E. McKenna, Federation of Beaches.

MEMBER OF AUDIENCE: As a taxpayer and homeowner who is involved in this, I would like the chair to ask these people, who they are, where they live and where they pay their taxes. I think we are owed that. (Applause.)

ASSEMBLYMAN HOLLENBECK: Please, sir, would you state your name and your address?

R A Y M O N D E. M c K E N N A: My name is Raymond E. McKenna. I represent the Federation of Beach Association of Bricktown. I am a local official of 23 years' standing in Northern New Jersey. I have my home down in Bricktown.

Chief Hearing Officer of this Committee, Assemblyman Hollenbeck, other members of this Committee, honored guests, ladies and gentlemen, after careful study of this proposed law, I can see some benefit of such an Act. But I believe the Act as presented does much more harm than good. Allow me to quote from this proposal on

page 2: "The Legislature further recognizes that all citizens of this and other states are entitled to access to the ocean and bay shorelines of the State." We all agree. But why at our expense?

I strongly oppose the ingress and egress standards to beaches. Although people may be able to get to the beaches through this method, the lack of sanitary facilities can only lead to the pollution of our ocean waters more than ever before.

If the legislators are really sincere that they recognize that all the citizens of this State and every other state are entitled to access to the ocean, then the State should, through a formula similar to Green Acres, acquire adequate land, a minimum of ten acres for public beach use, not to provide or allow alley or walkways or permit vest-pocket public beaches that do nothing but further blight and destroy our beautiful shorefront properties with tons of blacktop and parking lots. (Applause.)

Where adequate land is acquired in a municipality for public beach use, the State should compensate the municipality on a fair and equitable basis in lieu of taxes lost. A formula can be worked out by the Legislature, keeping in mind that compensation should be based on potential loss of ratables, rather than acreage. This will prevent the erosion of a town's tax base.

In regard to future development of shorefront and dune areas, I believe rules and regulations can be applied similar to the floodplains area of our interior where detention or retention basins are required on major subdivisions and are subject to local, county and state agencies' approval, including DEP. Therefore, if people in the interior are not deprived of their right to build or expand in a flood zone area if certain requirements are adhered to, why not establish rules and regulations so people can also build in a coastal area? These rules and regulations can guarantee the protection of the dune, beachfront and adjoining property owners.

Any portion of this Act which precludes persons their rights, which are permissible under similar circumstances in other parts of our State is discriminatory.

Again, allow me to refer to the bill - this time to page 5, paragraph b - which prohibits the reconstruction of any structure, if the fair market value of the structure is reduced by more than 50 percent as a result of water, wave, wind or other storm-related damage, with the exception of boardwalk structures located on or directly connected to boardwalks - the same sentence - and public structures for public safety. I would like to know what relation there is to boardwalks or structures on a boardwalk to public structures for public safety?

I will address myself to the other part of this section in relation to prohibiting the reconstruction of construction reduced more than 50 percent. There is no question that this section is confiscation of private property and has to be deleted in its entirety.

Our Association is deeply concerned and we are joining forces with other concerned groups not only to fight this, if necessary, in Trenton and the courts, but the ballot box as well, and rightfully so. (Applause.)

The largest investment the average person makes in his lifetime is his own home and to think our legislators would even consider a proposed law such as this, a bill that will erode the tax base of a municipality; stymie the growth of communities; disrupt the family life of homeowners; deprive families of their homes; if damaged more than 50 percent by wind, wave or storm, all homes become nonconforming and, therefore, reflect a tremendous loss in value. It has an adverse effect upon the banking industry, the insurance and real estate business, tourism, retail stores and every other business so vital to the shore area. But one thing the Act does

provide is the non-interruption or non-interference of the gambling and casino business located on boardwalks destroyed by fire, wave, wind or storm. I believe it would have been said much better and saved a lot of words if they had simply said, "Come hell or high water, the casinos will prevail."

Ladies and gentlemen, whatever happened to government of the people, for the people and by the people? Thank you very much. (Applause.)

ASSEMBLYMAN HOLLENBECK: The next speaker will be Arlyne Rehak, Chairperson, Ocean County Tourism Advisory Council. Would you please come up and give your name and address.

A R L Y N E R E H A K: Can you hear me? (Audience indicates they cannot hear the speaker.) I am not used to this microphone. I speak at meetings, but I am not a speaker. So if you will bear with me, I would appreciate it.

I come from Jackson Township. My name is Arlyne Rehak. I am Chairperson of the Ocean County Tourism Advisory Council.

I would like to point out at the beginning of my comments that we feel that tourism is a support industry for the enjoyment of New Jersey beaches and that in 1978, the Tourism Advisory Council enlisted the aid of Rutgers, the State University, for a survey of the State on how the people spent their time. It was a very comprehensive study - 2 full volumes. What it said was that New Jerseyites play in New Jersey. There was a recent poll taken from the 9th to the 12th of June that substantiated what this study said.

The State Legislature is supposed to represent the State and they are prefacing it by saying, "We are the homeowners of Ocean County and Cape May County and it is our major concern that they are confiscating our properties." If we didn't have those properties and support services, those cottages, hotels and motels, you wouldn't have too many people visiting our beautiful shore.

We are talking about life styles and enjoying your environment. I believe 65 percent of those polled are here in New Jersey because of the environment. So they see that we have a beautiful state. I am speaking about people who live here and work here. Over 90 percent of the people who live here work here.

If you don't mind I would like to give you some statistics from this poll that we thought was very interesting and we have been guided by since our inception in 1977. The Eagleton Institute of Rutgers University was commissioned by the Ocean County Tourism Advisory Council. This study was published in 1979. The purpose of this study was to ascertain the nature and distribution of New Jersey residents, their opinions, knowledge and behavior related to vacations and general tourism. The data showed the shore attractions were the primary activities enjoyed by the greatest percentage of New Jersey people of all activities asked about. That included going to the beach and swimming.

In terms of concrete activities, the water and the setting, the ambience, are what decided where people would go, the vacation locale. It isn't just that ocean beach out there. It is the people surrounding that beach.

Thirty-nine percent said the ocean and beach were the deciding point. Twenty-five percent mentioned specifics, such as strolling the boardwalk, relaxing, or the general mood or feeling of the shore community they visited. Fifty percent of those who enjoy shore vacations come to Ocean County. Table 20, page 42, goes into depth concerning what vacationers like best about the shore. This specific table is important.

About half of New Jersey shore vacationers stay in cottages. This area is on the Barrier Islands. One-third stay at hotels or motels.

Those who vacationed at the shore were asked about some 14 different activities that they do while at the shore. Seventy-nine percent went to the beach or swimming daily. Walking evenings comprised 63 percent.

One of these 14 activities listed was "going to Island Beach State Park." That is the epitome of a protected dune area. I know, as a mother, that one of the first things I did with my children was to take them down there. But I am a local, okay? The number of people knowing what Island Beach State Park is in relation to the shore and the other communities --- I think that is a beautiful part of Long Beach Island. But it is a part of it. If we took away all the support services that are there for the residents of New Jersey, then you would have only that 1 percent of the State of New Jersey visiting the shore, instead of 65 percent over the period of a season, who have spent either a day or longer at the shore. That is a tremendous number of people that are enjoying their stay and the environment at the shore.

The respondents to this survey done by the University consisted of 35 percent city dwellers; 52 percent, suburb; and 13 percent, rural. As you know, our city dwellers and our inner-city people represent the northeastern part of the State. Those are the people who answered this poll who said the shore was important to them.

We can't turn back time to a hundred years ago. We believe in planned management of the shore. But we believe it has to be planned from today and not to regress to a hundred years ago because it is just not possible.

At a time when the nation's economy is faltering with unemployment and inflation hitting our residents in an economic crossfire, the Department of Environmental Protection has failed to offer a reasonable, prudent, and workable solution to dune/shoreline management.

This Act, as proposed, makes no attempt to deal with the realities as they exist today. Tourism is the cleanest, most non-polluting industry which the shoreline areas could responsibly attract. This protection Act would result in a methodical elimination of the tourism industry as well as private property ownership.

I would like to point out that we have been working since our inception with the new Office of Tourism in the State. They find that we are an important part of them and we find that they are an important part of us. We represent Ocean County as the Tourism Advisory Council, but a larger board is the representation of the whole State, the people in the State. We want to preserve what we have got. Thank you. (Applause.)

I will leave with you a copy of my statement and the report.

ASSEMBLYMAN HOLLENBECK: Thank you very much.

The next speaker will be Barbara Schrieber, a private citizen. Will you give us your name and address, please.

B A R B A R A S C H R I E B E R: My name is Barbara Schrieber and I am a resident of Point Pleasant. I am also a member of the Ocean County Tourism Advisory Council and Public Relations Co-chairman for the Ocean County Board of Realtors. I am a real estate broker and appraiser.

I am here today as a private citizen who is concerned about the proposed Assembly Bill 1825. As this Dunes and Shorefront Protection Act presently reads, I feel that it is very dangerous.

To highlight just a few of the objectionable points - and I know there are a lot of people to speak here and a lot of input has already been given - I feel



that giving our shorefront over to the forces of nature - water, wind, and waves - will not serve to protect them. To the contrary, these forces will eventually destroy our shorefront if they are left totally unchecked.

Section 4 of the bill tells us that the proposed restricted areas are subject to change as the Commissioner sees fit to delineate new areas and to redefine dune and shorefront areas. This seems to me that it will only serve to keep adjacent properties not yet affected in a state of uncertainty.

In its present form, this bill has a devastatingly adverse influence on private property values and public property values. Valuable oceanfront lots and other vacant lands will become useless immediately. The billions of dollars of lost tax ratables that will be involved are still being calculated. To prohibit the rebuilding of more than 50 percent of a damaged structure is to me very, very unthinkable.

To put this rebuilding into a little different perspective, I am certain, Mr. Hollenbeck, that you know how your Bergen County voters would react if they were told to walk away and abandon their homes every time the Saddle or Passaic River flood caused damage to their homes. (Applause.)

The homing instinct is one of the strongest of all instincts. No able human person will give up a home without a struggle. I believe it is impossible to legislate people out of their homes. Furthermore, I believe it is unconstitutional to attempt to do so without compensation.

I urge Mr. Hollenbeck and this Committee to listen seriously to the objections voiced here today and at the next two public hearings. Rewrite Assembly Bill 1825 in order to protect both our coastline and the rights of the people who inhabit it. Thank you very much. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you very much.

Francis Cannon. (Not present.)

June Bruett, Secretary, Federation of Beach Association.

J U N E B R U E T T: I am a private citizen. I live in Brick Township on the ocean. I am speaking as a private citizen. (Audience can't hear.)

I live in Brick Township on the ocean and I have been taxed on my home there for 25 years. I would like to ask you gentlemen if you recall the Beach Study Commission that the Governor appointed two years ago, or perhaps three? I believe the consensus of their opinion was that of the 129 miles of ocean front in New Jersey, only 23 are privately owned, and they suggested that the status quo be retained. (Applause.)

Mayor John Rogge, representing the Conference of Mayors.

J O H N R O G G E: I am John Rogge, Mayor of the City of Brigantine, which is a resort barrier island just north of Atlantic City. I am also a Vice-President and member of the Board of Directors of the New Jersey Conference of Mayors and was requested to submit this testimony at the beginning for the New Jersey Conference of Mayors.

The New Jersey Conference of Mayors - incidentally there are approximately 572 mayors in the State of New Jersey - is opposed to the enactment of A 1825 in its present form. The erosion of home rule is predominately but not entirely our sole reason for opposition. The bill as written causes us great concern.

The immediate implications of this bill, whether intentional or not, is that local officials have not been capable of preservation and protection of their own "back yard." This is not only erroneous but extremely unfair.

The ability of the local elected officials to work closely with their ever scrutinizing constituency, as witnessed here today, to achieve the same ends as this legislation strives to achieve, has not been proven incompetent, yet the presumption of local incompetency is the foundation of A 1825.

And if one argues that a state agency should oversee the local control, an argument that would be hard to gain support for, other than within the bureaucratic machinery, then the bill should be reversed in its present delegation of responsibilities.

A 1825, as written, renders the municipal governing body as useless in the formation of any regulations since local input is not called for in the bill, and degrades the locality to the point where it is nothing more than an enforcer of Trenton bureaucratic doctrine. Why should an employee of the DEP who has lived all his life surrounded by grass and tress and not by sand, whose education has been general and not selective, be assumed to be more able to handle the affairs of our local municipalities in the area of dune and shorefront matter than the local residents? (Applause)

The Conference of Mayors has argued repeatedly that the omission of local control, input, home rule is the single most devastating aspect of all legislative or administrative rules of this type. We strongly urge that A 1825 be held in committee until such time as an agreement can be reached between the local elected officials and the sponsor on more adequate means of shorefront protection incorporating local control, input, and self-destiny as its prime premise.

The above comments have been quite broad in scope and cover only those general aspects of home rule and local elected officials' inherent capabilities. We have asked several mayors to appear at the hearings as they will be held about the State.

I just would add a few comments from the point of view of my own City of Brigantine. In the first place, I think the title of this Act is wrong because when you look into it a little further --- At the beginning, for example, I assumed that it was just along the oceanfront because it says Oceanfront Protection Act. On that basis, I had the Brigantine tax assessor check; and, in Brigantine, we took just along the oceanfront, the properties between the high-water line of the beach and the first road, which are covered by the bill, and there were 330 properties, representing \$39,834,500 worth of assessments - nearly \$40 million worth of assessments. This is 15 percent of our whole city. So I agree with the previous testimony that was given. If this bill were passed, in my opinion, the value of that \$40 million would immediately depreciate to half that, at least. And if the 50 percent rule held, it would eventually go down to zero. Then 15 percent of our assessment and our taxes would have to be picked up by the rest of the taxpayers in Brigantine. That is something that all the other people, not only those along the shorefront, have to think about as this progresses. (Applause.)

On page 3, line 43 of the bill, in addition to talking about the oceanfront area, there is a little hooker, which most people I think have missed. It certainly is not clear. It talks about the ocean and the dunes and everything. Then it says, ". . . and the back bays of barrier islands and spits." And I almost had to throw out all my figures because this means that in Brigantine and all along the shore --- it covers all the back-water areas, all the bayfront property. I assure you that in that case, there would be another 15 percent in the City of Brigantine and probably more than that if it took the whole Jersey shore.

In the first place, this bill should be retitled. It is not properly

done. On some specific land--- I will try not to duplicate the other testimony. I think the basic premise of this whole bill is wrong. They are arguing for dunes, for natural forces of sand, et cetera. I have been a city official since 1958 in Brigantine, so I have lived through the '62 storm and all the other storms, and I can assure you that the dunes are not the major way to protect our seashore and to protect the inland areas. Structures are very, very important, and this bill does not address that.

For example, in the '62 storm, the Brigantine Hotel which is on 110 foot pilings, a major masonry structure, that was the best protection. That was the best protected part of our coast, and I think you will find that up and down the coast. We need existing buildings; we need foundations; we need structures. Where are structures in this bill? We think we need jetties and groins to build up our beaches, and after the '62 storm we started to do that in Brigantine. We have done a magnificent job. Now, it is not true that the beach situation is worsening, certainly not all over the State, and not in Brigantine. Our beaches at the south end have brought out more than--- We have a wide, wide beach now. So, I don't think it is a deteriorating situation all over the State, which you would certainly assume if you read this bill.

It does admit on lines 17 and 18 that the coastal zone is strikingly diverse. I agree with that, but certainly this bill doesn't address this diverse situation. It treats it all the same.

Line 22 of the bill states, "...increased the need to manage development..." We say, by whom? We don't think it should be by Trenton. We think it should be by local communities. After the '62 storm in Brigantine we had what we called "Don't Touch the Dunes Ordinance" and it has worked beautifully. I know many other towns and cities along the coast have done that. I think we are the ones that know how to protect our beaches, and what beaches should be protected, and what waterfront areas --- (Applause)

Lines 28 to 30 in the bill say the public is entitled to access to the ocean and bay shorelines. If so, then we think that the State should pay the property owners for that right of the public access to the waterways. Should the access be every ten feet, every fifty feet, every five feet, how much access? That is not specified in the bill. That could be a very important thing.

The bill is much too general and we will have to address that. It should address specifics like that. I know one piece of waterway down our way there was 1300 or 1400 feet along the water and CAFRA would not allow anyone to go in there until that private property owner gave public access on part of the property with no compensation. We don't think it should be that way.

I am trying to cut out some of these items that were just talked about. On line 26, this is a very serious point, especially from the point of view of a city official. What is overwash? I tried to describe it, but it is a technical, bureaucratic definition, I assure you. We have a Main Street, and in one area it runs right along the ocean at the north end. What about sand, which happens all the time, that blows from the beach over the bulkhead which is then on our road. By reading the bill, would we in the city or the county have the right to clean up that road every time some of the sand blows? We feel we have to do that. That road provides the access to three miles of the north beach at Brigantine which is open to the public. Questions like that will have to be addressed.

Lines 30 to 34, this bill covers lands lying between the ocean waters and the first paved public road. In Brigantine in the north end, the road is right next to the beach and on the south end it is more than half a mile from the beach. Do you mean to say that in this bill it would cover all the way, half a mile in from the beach at the south end, and only a few feet at the north end? That is not properly drawn either.

Page 4, line 20, it says any such maps should be filed in the county seat. In Atlantic County that would be Mays Landing, which is 20 miles away from the City of Brigantine. I would think that any such map should also be filed in the local municipality, so the local citizens would know the areas that are covered in the act. If it did get passed, I don't think it should have to go all the way to the county seat.

Page 4, lines 11 to 13, what is a major modification? This is the 50% rule where the property is 50% destroyed, you can't rebuild, and it says specifically major modifications. Would a screen porch be a major modification? Could you add a room? Could you repair a garage? There is a whole ball of wax there which I don't think this law as proposed properly covers.

Page 5, Section 6, lines 1 to 5 concerns after you make an application if you want to build on your land that you own and pay taxes on for years, you will have to go to the State for a permit. There are no time limits that I can see in the bill as to when the DEP can answer that and give you a decision, and even when they have a ninety day bill, which says they are to act within ninety days, that is a lot of hogwash. They do not give you an answer in ninety days. We had a decision just recently in Brigantine from the DEP, and we had a public hearing a year ago April, and the public hearing examiner rendered his decision last August. We didn't hear a word about it until three years ago when the head of the DEP, Mrs. English, overruled the hearing examiner. So it took over a year for us to get an answer to our hearing that was held in April, 1979. This is the type of decision you will get on this, believe me.

Throughout the act, it seems to me we are setting up a dicatator here in the Commissioner of the DEP. Page 6, Section 8, line 1, "The commissioner may, at his discretion," and you find throughout the bill references to all the things that the Commissioner of the DEP can do at his discretion. That is not the way we should run things in New Jersey--- (Applause) We should not be controlled by rules and regulations put out by a Commissioner who is not elected, over whom the citizens have no control whatsoever, and the legislature has no control. We need legislative oversight of action such as this. We also, I think, need local oversight all the way through. I would like to remove throughout the bill the references to "the Commissioner may at his discretion." That doesn't tell you what discretion or standards are to be used, et cetera.

In Section 10, lines 13 to 20, also, if you want to appeal this decision, which you may finally get from the head of the DEP on appeal, you can't. It says the Commissioner's decision is final on appeal. This seems to me, it is like giving the fox the final say on what happens in the chicken coop. (Applause)

As a South Jersey Mayor, I will say that we will address in more detail the aspects of this, once you come down our way. I am pleased that all you people have come here today.

ASSEMBLYMAN HOLLENBECK: The third hearing is going to be down in

your area. The testimony that you gave is very similar to the five areas that I have deep concern with in this legislation. I would like you to look into those particular areas in more detail, because those are the five areas that I have the deepest concerns and I think members of the Committee have.

We are getting down to the root of the problem now, so that we can see the language problems of the bill. This is why we are here. I want to thank you very much for your testimony. (Applause)

We now have Mr. Richard Palmer, New Jersey Association of Realtors.

R I C H A R D G. P A L M E R: Good afternoon, I am Richard G. Palmer, a licensed Real Estate Broker with offices at 1200 Hooper Avenue, Toms River, New Jersey. I am President of the 17,000 member New Jersey Association of Realtors.

The New Jersey Association of Realtors is comprised of licensed real estate brokers and salesmen who are identified by the registered trademark, "Realtor" or "Realtor-Associate."

I appear before you today to speak in opposition to Assembly Bill 1825, the Dunes and Shorefront Protection Act. At the outset, let me make the record clear, the New Jersey Association of Realtors would support responsible legislation which would protect the shorefront and individual property rights in a critical area. However, Assembly Bill 1825 does not meet this criteria. Today you will hear from experts who will challenge the validity in several sections of the report which the Department of Environmental Protection had researched and prepared by Rutgers the State University, entitled "Coastal Dunes, Their Function, Delineations and Management" which I have been advised has served as the foundation for A-1825. At various open forums held on A-1825, there have been statements to the effect there are major contradictions and inconsistencies in the Rutgers study. If, in fact, testimony bears out these charges, then the entire bill may have been developed from a questionable base. (Applause)

For example, the statement which appears on page 8 starts out by elaborating how A-1825 "protects and enhances the existing and potential dunes and shorefront areas" and in the same paragraph continues, "The act protects the lives and property of people in shorefront communities." Gentlemen, if confiscation of real property, peoples' homes and businesses, without just compensation is how the State of New Jersey intends to "protect the lives and property" of thousands of families, then truly state government has lost all touch with reality. (Applause)

The faceless bureaucrats in Trenton who developed this "property grab" are in for a rude awakening. People will not sit idly by; they will fight back in the legislature and, if necessary, in the courts.

NJAR supports the concept that the barrier islands that have not been developed should remain in their natural state; however, in those areas where development has previously been permitted, those remaining vacant dunes deemed critical to our environment should also remain in their natural state and New Jersey secure title from the owners through negotiations or the power of eminent domain.

The most important issue, and the one NJAR feels is not negotiable, deals with those areas of the dunes and shorefront where development has been permitted.

Preliminary research by the Ocean County Board of Realtors indicates that from Long Beach Island to the Manasquan inlet in the Point Pleasant Beach, there are 8478 properties that would be impacted if A-1825 becomes law. This



figure illustrates the magnitude of the problem.

The definition of "dune and shorefront area" contained on page 3, Section 3(F) is unrealistic when in lines 32 and 33 the boundary to be used is the "first paved road for motor vehicles that generally parallels the ocean waters." NJAR recommends that the boundary be re-defined as the "first cultural barrier", not the first paved road.

NJAR feels this request would afford the small homeowner that same protection that the bill provides to the gambling industry in Atlantic City where the boardwalk, the "first cultural barrier" would be permitted to be rebuilt without a permit.

Page 4, section 5, dealing with "regulated activities" in a dune or shorefront area without securing a permit borders on the ridiculous and should be removed.

For instance, if an owner desires to build a patio or a dog kennel on his property in the dune or shorefront area, he would have to apply for a permit from the Department of Environmental Protection before he could proceed. If he did not apply for a permit and the DEP "eye in the sky" satellite discovered the activity, the owner could be subjected to a \$3,000 fine.

The same procedure and penalty would also apply if the owner attempted to clear sand blown onto his property into his home after a storm, which we feel would be utterly ridiculous, but this is in fact what A-1825 advocates.

The section of the bill which makes a mockery out of the constitutional guarantee that, "private property shall not be taken for public use without just compensation" can be found on page 5, section 7 "b". This is the key feature of the "great property grab" of 1980 which NJAR feels is the most onerous aspect of A-1825.

Property owners in the dunes and shorefront area would be prohibited from rebuilding if the fair market value of the structure is reduced by more than 50% as a result of water, wave, wind or other coastal related damage without first securing a permit from the Department of Environmental Protection. Under the guidelines set forth in Section 6, an owner could easily be denied a permit to rebuild due to the wide latitude given DEP. You would then have the situation where an owner would have his equity in his home or business wiped out, yet, he would still be expected to pay his mortgage, taxes, and, in addition, pay to demolish the remainder of the property.

The personal and financial losses these owners would suffer would be tragic. Yet A-1825 is mute on the question of compensation to the owner.

There is another aspect of Section 7b which is equally as devastating, and that is the cloud of uncertainty that hangs over all property in the "dunes and shorefront" areas - not just those that may suffer over 50% damage.

Owners of real property in the area will not be able to sell their property because of the threat that section 7b presents.

Assembly Bill 1825 in effect "red lines" thousands of shore area properties from Cape May to Sandy Hook. No one will buy property in the area. Lenders will not grant loans in the area. Insurers will not write policies. Values will be depressed and local tax rateables reduced.

If this is not a classic example of "red lining" then I would like the sponsor to tell the thousands of concerned property owners what it is.

Assembly Bill 1825 is only in the hearing stage, yet realtors in the shore communities are already receiving calls from owners who are concerned that the equity in their real estate will be eroded. Let's face it. Today, with the high rate of inflation, equity in one's home is about all that the average family has --- And A-1825 will destroy it.

Those of us who have been active in the New Jersey Association of Realtors were not surprised by the language or intent of section 7b. We have seen almost identical language come out of the Department of Environmental Protection in their original rules and regulations concerning the construction, repair and reconstruction of structures within a floodway.

The cry of outrage from owners in the populous areas of Bergen and Passaic Counties to the floodway regulations was so great that on May 23, 1977 Governor Byrne requested the DEP to review the regulations. The regulations were revised and the Governor indicated in his news release that "I believe this revision is a fine example of how the press, the public and the bureaucracy can work together to change government policies that make little sense."

Why is it that the voices of property owners in North Jersey were heard while the same cry on the same basic issue falls upon deaf ears?

Rest assured NJAR and its members will continue to alert and encourage property owners to cry out. We want equal treatment for the shorefront property owners.

The proponents of A-1825 should have learned a lesson from the floodway regulations fiasco and provide that if a property suffers more than 50% damage it could be rebuilt providing the rebuilding conforms to reasonable standards and specifications to minimize future damage. The administration of any reconstruction should be at the local level where it is best monitored --- not in Trenton.

Section 8 of the bill should be removed. Why should a local municipality or a county have to wait for the Commissioner of DEP to issue a provisional permit to allow a clean up after a major storm?

Section 8 gives the Commissioner of DEP discretionary power in that the necessary permit may be given or not depending upon what DEP is attempting to create in the specific area.

What happens if lines of communication are down and the Commissioner cannot be contacted? Do the local officials sit around and do nothing while the public suffers?

This section is aptly named.

Finally, NJAR feels that the latitude given DEP to adopt rules and regulations and delineate or re-delineate the dunes area on a continuing basis after study and public hearing is entirely too much power for a Department of State Government to have, particularly when there is no legislative oversight law in New Jersey.

In conclusion, I would like to repeat that A-1825 is bad legislation and should be defeated in Committee. The cloud of uncertainty hanging over tens of thousand of New Jersey residents should be removed at once.

However, we should not allow the responsible regulation of activity in the dunes and shorefront area to die because of one poorly conceived piece of legislation. NJAR is willing to work with the sponsor and other concerned groups to prepare legislation to protect the dune and shorefront areas while

at the same time protecting the rights of property owners.

Reasonable people working together can produce responsible legislation.  
Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Mr. Palmer, we on the Committee are concerned with the 50% clause. In your testimony you referred to this. Am I right in saying that you feel there should be an eminent domain clause?

MR. PALMER: No.

ASSEMBLYMAN HOLLENBECK: Do you feel that if the home is over 50% destroyed, it should be rebuilt, but at a structural standard that could withstand the storms?

MR. PALMER: What we are attempting to advocate is an amendment to this.

ASSEMBLYMAN HOLLENBECK: Well, that is what I am talking about. I am talking about very specifically 7b, which will have an impact in this area, and it is the one part of the bill that is the most concern to the people. What do you feel should be done when you have a coastal storm damage that has destroyed over 50% of a home in a specific area?

MR. PALMER: Assemblyman Hollenbeck, I am not in a position to give you a specific answer on that today. I have given you what our views are in general and I think this is something; if given an opportunity to sit down with the members of the Committee, and discuss it, we will be happy to give them an alternative. (Applause)

ASSEMBLYMAN HOLLENBECK: Many municipalities now have ordinances which say they will reconstruct on pilings 10 feet off the ground, et cetera. Do you agree that is the proper way to do, that those homes should be constructed in that manner? Say a house was knocked on its foundation, it was on a slant construction, and it moved, and there was some extensive damage done to the house, over 50%, do you think the house should be put back on the slab, or should it be reconstructed---

MR. PALMER: I don't care to answer this question.

ASSEMBLYMAN HOLLENBECK: All right.

(Outburst by Audience)

ASSEMBLYMAN HOLLENBECK: Next we will have Mr. Tom Rankin. (Applause)

T O M R A N K I N: Thank you. My name is Tom Rankin. I am the Deputy Mayor of Dover Township. I live in Toms River. Gentlemen, as a local official, you might think I am here today to discuss the question of taxes and rateables and those things. But, basically, many of those areas were covered by previous speakers. What I would like to talk about is the effect of this proposed legislation on the people in my township.

Toms River or Dover Township, if you will, is geographically spread between inland areas all the way to the coast, including areas that will be affected by the bill. We have a population of 70,000 people, and although only a small section of our township would be affected, there is concern on the part of all the people of the township, because they see the writing on the wall, and they understand the intent of what is going on.

Gentlemen, let me say that my constituents tell me there is no acceptable compromise. (Applause) You are talking about possible changes in this bill, but there is no compromise. (Applause)

These people are not here to ask for compensation. They are not interested in compensation. (Applause) What they are concerned about, gentlemen, is that the State through the Assembly is forcing people to surrender to government. Dover Township has its own shore protection ordinance which was designed to meet local needs and local priorities, and I emphasize that word local. We have private beach associations which spend large sums of money to restore and protect the shore and dunes each year. They spend their own sums. They don't ask for government help. (Applause)

The DEP talks about the common good at the expense of the individual. Well, we have had the Wetlands Act; we have had the Pinelands Act, and now the dunes, and one has to wonder with all these things that have passed, will there be any private property left. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Mr. Rick Mc Donough.

R I C K M C D O N O U G H: My name is Rick Mc Donough. I live in Oak Ridge in Monmouth County. I own property here in Ocean County that would be affected by this proposed legislation. I would like to say first that the dunes bill represents to me another example of government efforts to correct a problem by the quickest means without regard for the people who would be hurt in the process. We saw a similar attempt made in 1976 when former State Senator Herbert Beuhler sponsored the so-called Beach Access bill, a bill he subsequently withdrew when it became apparent there was no popular support for it, not only along the coast, but in north Jersey as well.

I can recall and maybe you can recall sitting in a hearing on that bill and one of the things I remember most vividly is the impression that I received that some of the people who wanted that bill passed seemed to regard it as an issue devoid of the human element, and they acted as though the persons who would suffer the most from this bill didn't exist, or didn't count. Some things never change. I for one am completely astonished by the attitude of Dr. David Kinsey of the Department of Environmental Protection, and I am so sorry he is not here today.

For example, his quote that was taken from the Newark Star Ledger June 25th of this year, and I quote, "Land speculation is sort of like the stock market. There is no guarantee it will meet one's expectations." Now, Dr. Kinsey, wherever you are, I hope you hear this, such a statement from a public employee would be ludicrous if the implementation of this bill weren't so frighteningly possible. I wonder, Dr. Kinsey, if you would stop and consider what your feelings would be if your home was destroyed by a storm. How would you react, Dr. Kinsey, if you were then told that you could not rebuild your home, and the land which was once occupied by your home was for all intents and purposes now owned by the State. Would you then be as callous as your land speculation quote portrays you to be?

The concept of private ownership has evolved out of centuries of the English feudal system where the King owned everything and the people owned nothing. This bill would establish a new King and a new aristocracy - the Commissioner of DEP and the bureaucrats, and once again the people will own nothing. (Applause)

It is our concept of private ownership to distinguish, it is our society from the totalitarian regimes. It is the right of the individual to be free from unwarranted government seizures that have made this nation the greatest on earth. (Applause)

Members of the Committee, the right of private ownership is the cornerstone of our freedom, and God help us if we ever forget it. (Applause) Some persons now claim that because a municipality or an individual accepts state or federal aid, the rights of use and ownership of the property are correspondingly diminished. I do not accept this. If extended to its logical conclusion, any person or entity receiving state or federal funds would forfeit the right of private ownership as defined by law. Now, if this bill becomes law, who is going to be next on the list? Once the precedent has been set, not one home owner in our state will be safe from having his home taken in the same manner. Well, this is all for the public good, of course, should the state decide that another area needs protection. But, what about the other rights of the state to use the police powers with respect to zoning ordinances? But our laws provide the state with a method for obtaining land it deems necessary for the public welfare. The principle is eminent domain, and the process is called condemnation. But, condemnation carries with it the the burden of compensation and in this case that burden is a heavy one.

You have heard the estimates before of the various values of the properties that will be involved. You can tell right now it is going to approach almost one million dollars. Can the taxpayers of this state afford that kind of price tag? (Outburst by audience)

Yet, A-1825 mentions nothing about such compensation. Instead it speaks grandiosly of the outstanding geological, recreational, and scenic value of the shorefront area. Ladies and gentlemen, members of the Committee, we know about those values. That is why we bought the land that we live on. (Outburst by audience)

We also know about the risk involved in owning shorefront properties, and in that respect, at least, Dr. Kinsey's analogy between land ownership and the stockmarket is somewhat true. A storm could destroy our homes. But, as Assemblyman Bill Dowd said, "If we all lose our homes, let's lose then to Mother Nature and not to a group of politicians and bureaucrats." (Applause)

Now, I note another exception to this bill. Boardwalks and structures on or connected to boardwalks are not covered by A-1825. You could read that to mean casinos, which of course contribute a large portion of the tax revenues to Trenton. Now, let me back track for just a moment. One of the stated purposes of this bill, according to Section 2A, is to protect lives and property and landward areas adjacent to the shorefront. Does this mean the casino hotels are believed to be invulnerable to hurricanes? If you believe they are, you are incredibly naive. Someone in favor of this bill once said, think about lives, rather than dollars and cents. Shall you take his advice? Gentlemen, lest we be regarded as hypocrites, let's include the boardwalks, casinos and all as part of this bill. (Applause)

Also excepted from this legislation are electric generating facilities, petroleum processing or storage facilities, and liquefied natural gas facilities. Now, you know, I may be a cynic, but somehow I can see the day when the beautiful shorefront and dunes are covered by not bathers, but nuclear power plants, and storage tanks. Now, I ask you, isn't that just the kind of scenery that will promote tourism for the shore? (Outburst by audience)

Now, I am not at all happy with giving the Commissioner of DEP such broad powers as described in A-1825. He would become a virtual monarch, vis-a-vis



the shorefront. It would be bad enough if his position were and elected one, but as an appointee of the Governor answerable only to him, it is intolerable. In my opinion, A-1825 is ill-conceived, poorly written, and most importantly unconstitutional. The problems it addresses do exist, but this legislation is not the way to correct it. I am opposed to a government ramming down the collective throats of its citizens laws to protect them, even when the citizens have clearly indicated they have no need or want of the supposed protection. (Applause)

I do not question the right of government to enact laws for the public welfare, but when the public says "enough", government must listen. (Applause)

Now, the more I read this bill and others like them that are conceived for our own good, of course, the more I can appreciate the feelings of the Confederacy before the Civil War. Stop and think about it. We feel that we are being used here, and if it doesn't stop soon, that ripple of secessionism over the weekend may turn into a torrent. (Applause)

In closing, let me say that I am opposed to A-1825 and its basic premise; no amendment of which I could conceive could persuade me to support it. This legislation is designed to protect the dunes and the shorefront. Gentlemen of the Committee, let me ask you one last question, isn't it time you stopped protecting the burgeoning bureaucracy and started protecting the rights of the people? Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you. Next we have Mayor Gorga, Lavallette Borough. (Applause)

R A L P H J. G O R G A: Mr. Chairman, ladies and gentlemen, let me preface my statement by saying this past week I was really appalled and offended by not even being personally notified of this meeting as a public official. (Applause) I had to hear about it through hearsay, and naturally I made some inquiries and I had to come.

I object to the fact that the Commissioner of DEP is not here personally. (Applause) I have attended many meetings with the Commissioner of Community Affairs and he presented himself to the little Borough of Lavallette, and we appreciated that. When we had a problem with gas at the shore, Commissioner Jacobsen presented himself. I don't see Commissioner--- What's his name?

(Outburst by Audience)

Oh, it is a female. Well, sorry about that. I tried to get her on the phone for the past couple of months, and I am still waiting for a response. I will let that go for the moment. I understand the act, and to me, I started to delete some of the items that I thought were not necessary, and I came up with three blank pages. I am concerned with the protection of the beachfront. I live at the beach front. In fact, last year, in 1979 I have a copy of the application sent to the DEP. It is for the protection of our beach front. Let me read you some of the lines on this. This is the Borough of Lavallette for planning and study of the ocean front to prevent further beach erosion and establish primary sand dunes, maintenance programs for the groins, jetties and the boardwalk and the beach. It was a study for the construction of artificial dunes. Our representatives for the DEP - and I would like to construct artificial dunes on our beachfront, as a primary means of protecting our community, and we decided how it would be done by local zones and the DEP says this was not necessary. It is not going to help you whatsoever. When I presented this

to the Deputy Commissioner, he said, "Why don't you put it in again; they will probably accept it this time." I mean, it wasn't important last time, so why is it important now? Most of the speakers have said basically what I am here to say, but, again, we see so much power for the Commissioner in this bill. It is like being God. (Applause)

The Governor himself does not have this power. The Commissioner will, or the Commissioner may, or the Commissioner shall, the Commissioner will negotiate the fines, and then the Administrative Code. You know, she or he can do whatever they would like. Where will it stop? At the bays? This includes the bays. No one has mentioned the bays, except one of the Mayors of Dover Township. It includes the bays, and it includes our whole community, our whole beach fronts, our whole bay front, our whole property front; it would include everything.

Just let me read into the record a couple of items directly from the study made by Rutgers, paid for by your money, and I quote. I call your attention to the Rutgers study on page 57, 4.5.1, "Activity Mechanisms for Control, one objective of the barrier island management is to direct land holdings within the dune district into public ownership and to reduce the numbers of structures allowed on the barrier islands." That is one of their basic objectives.

"The basis for land transfer involves either prevention of use for the reasons of safety and welfare using police power without compensation of purchase of property for the public good." I don't know who did that for the people.

Then, on page 58 of the Rutgers report, "These incentives to move are not likely to be as successful in controlling development as economic 'disincentives'." These include: elimination of government subsidies for flood insurance; elimination of any form of government aid for erosion control. It is estimated that these two changes in federal and state policy (particularly point two) would profoundly affect the perceived value of coastal property." The latter will reduce the compensation required by managed or condemned structures.

The possibility of passing this proposed legislation is very real. The elimination of national flood insurance, for example, would have a disastrous impact on all property, since no new institution can loan money for the purchase of property without it. I think this is ludicrous to even assume that this bill would help protect the lives and property of our people of this State. I think that they will be committing political suicide in my estimation. You must represent the people that are your constituents. I think I have had that position, and I think you gentlemen up here should really consider this bill, and not even think of amending it. I think it should be thrown out, and I would like to propose some sort of alternative. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you, Mayor. Lou Weinstein, Burlington County.

LOU WEINSTEIN: My name is Lou Weinstein and I am from Cherry Hill. I am a candidate for the United States Congress from the Sixth District, and I am here to speak against this bill. (Applause) I welcome the opportunity to speak here, and I thank Assemblyman Hollenbeck for scheduling me. I also want to thank Assemblyman John Paul Doyle for inviting me to participate here. In preparation for this hearing, I have, of course, read Assembly Bill 1825. I have also spoken to Dr. David Kinsey, Director of Coastal Resources for the New Jersey Department of Environmental Protection, the author of the bill. I

have read Mr. Kinsey's background paper of April, 1979 and the Rutgers Study of Coastal Dunes dated December, 1979. This research has made me familiar with the nature of the problem, and the suggested solutions, but it falls far short of qualifying me as any sort of expert on dunes, and I am not speaking as such here today.

I do, however, know something about government, and I have some opinions about how government should or should not function that are based on fifteen years of rather intensive experience in local government. I do not like the approach to government that is taken by Assembly Bill 1825. It is an approach that has been tried and found wanting in every level of government. It is an approach that means growing bureaucracy, increasingly stifling regulations, and more tax expenditures to support the unwelcome and unnecessary intrusion of big government into too many aspects of our lives. These comments do not mean that I consider the problem which Assembly Bill 1825 addresses as trivial or in any way unworthy of attention. The concern for the protection and enhancement of our coastal dunes is certainly a legitimate one, for all the reasons so clearly articulated in the materials that I have read. However, the solution proposed by this bill is, in my opinion, the wrong approach.

I would like to indicate what I think are the major shortcomings of Assembly Bill 1825 and then offer some suggestions that may prove helpful in dealing with the problem in what I would consider a more appropriate way.

First, what is wrong with Assembly Bill 1825? I would cite the following: One, Assembly Bill 1825 assumes that the only solution is to "manage coastal beaches, dunes and shorefront areas through a regulatory program administered by the Department of Environmental Protection." I disagree completely. I think it is appropriate for the State to identify and study this problem, encompassing as it does, parts of five counties and numerous municipalities.

I further think it is appropriate for the State to suggest solutions and to communicate its findings and recommendations to the various local governments and their citizens. I have no objection to the State establishing incentives for local government to pursue such solutions, but I do object to a heavy handed imposition of state authority into what should be, in my opinion, a matter for primarily municipal and county action. (Applause)

I have much more confidence in the response of local initiative than I do to that of a relatively remote state bureaucracy. (Applause) And, if the local governments choose not to act in the ways suggested by the State and if the local citizens approve that choice, then perhaps it is because there are other factors involved, legitimate concerns beyond the purview of those considered in Assembly Bill 1825. Complex problems such as this one can often yeild to a diversity of approaches and solutions, whereas imposition of a uniform, and perhaps stultifying thought process may well cause more unforeseen difficulties than it resolves.

Two, there may or may not have been adequate technical engineering supportive research behind this Assembly bill. I don't know enough to comment on that. However, it is totally clear to me that there has been inadequate financial research and analysis. The bill is intended in part, "To protect the property, the people in the shorefront communities." Which people? Which property? How many properties are involved? What is their value? What will be their value in the future, both with and without this bill? How much does

it cost which taxpayers for flood insurance and disaster relief? How would these costs be changed by this bill? What new costs would be incurred if this bill were adopted? There are many more questions of this type which could and should be asked. This does not mean that financial considerations should necessarily override environmental considerations. But, just as we are often asked to evaluate the environmental impact of various proposals, I believe we should also evaluate the financial impact of environmental proposals.

I don't see how the legislature, or the local governments, or the citizens can even begin to intelligently review this particular proposal without a financial impact analysis, and none exists.

Three, the issue of the taking of private property has been commented on extensively here and even by the press. I share the concerns expressed by many others on this point. I believe it is absolutely wrong to even consider such severe restrictions on the use of shorefront land without simultaneously, and in the same legislation, providing the means for compensation. If it is eventually deemed an appropriate public purpose, and I don't support this particular public purpose, but it has been suggested that the shorefront be cleared of all permanent structures designed for human habitation. If that becomes a public purpose and a majority of the citizens want to carry it out, again, then it is my position that the course of that public policy must be calculated and considered in the budget competition against any other supposedly worthwhile public expenditures not all of which we can, unfortunately, afford. But, to enact legislation and then at some future time worry about the cost is totally irresponsible, and all of us as taxpayers must oppose that kind of legislative approach. (Applause)

These three areas, then, the overly bureaucratic approach, lack of any financial analysis and the taking of private property without compensation are the major shortcomings that I see in Assembly Bill 1825. (Applause)

I expect to learn more about this subject and it is likely that my view will be broadened as a result of my education, but for now these are my conclusions. What do I suggest? Obviously, I do not believe this bill should be passed, but more than that it should not simply be returned for further DEP review in what has become the traditional regulatory approach. I would like to see this bill become the focal point around which a fundamental re-thinking of the appropriate interaction between state and local residents could be accomplished. (Applause)

Let the legislative challenge be to call the more innovative needs to stimulate local problem solving initiatives. Let the State encourage sound and workable policies at the local level without superimposing an expensive and often unresponsive regulatory process insensitive to the complexity of legitimate local concern. (Applause) This is not an easy task, but there is an opportunity here to achieve a significant measure of problems, not only with the important issue of coastal districts, but with the even more comprehensive issue which in turn goes to the heart of our ability to conduct effective government in this country. I urge the Legislature to recognize and to take advantage of that opportunity. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Mr. Richard Kinney, South Mantoloking Beach Association.

R I C H A R D K I N N E Y: Mr. Chairman, fellow property owners and taxpayers, I live on the ocean front. I live about the same distance from the edge of

the ocean, I guess, as the Governor's house in Island Beach State Park. I lived on the ocean front for about thirty-eight years, and year-round for about ten. So, what we are talking about, gentlemen, is someone's year-round home. I have a couple of daughters, and two cats, a wife, and we are very happy to live here. Being a beachfront resident, I think I can speak about some misconceptions that the DEP has built into their study.

One point that they brought up was about human growth and migration. Any of you who have lived on the ocean front have seen the dunes destroyed by storms, but you also have seen them regenerate, and it is the DEP's position that dunes regenerate from the west. Well, I disagree with that. I think the dunes regenerate best from the east, partially because of human efforts, sand fencing and the like, and partially because of natural effects; dune grass spreads best east, because it is always receiving fresh nutriment from the windblown sand from the east, and given enough time, without the interference of man, dunes will regenerate to their former height and stature.

I think we need to look at Gateway National Park where there is public access and take a look at what happened to the dunes there. They no longer exist. They have been trampled by the public's feet.

Let's talk about just compensation for a minute. How can you duplicate someone's beachfront home? I mean, what is just compensation? I am looking out here at a lot of people who I think have made an awful lot of sacrifices financially, perhaps even emotionally, to live at the shore, and to live at the beachfront. I don't think there really is any just compensation. If you are talking just money, it doesn't work that way.

My property has been in my family since 1925. It has withstood storms and we have taken pretty good care of it. We have safeguarded our dunes, our vegetation, and our beaches for the good of all. Yet, the beaches are public domain, and if there are enough access ways, I think the public can get there, so I think we really should be compensated by the State for our efforts as individual homeowners. (Applause)

I don't know why we are being singled out here. Granted, the shorefront is important environmentally, but why are woodlands, meadowlands, swamps, et cetera less ecologically important than the shore? What is the difference between --- Although I know I don't support it, but what is the difference between plodding down a dune, and plodding down a vacant lot? Where are you destroying more plant life, more life, et cetera? I don't understand the parallel.

Sometimes I get the impression in the back of my head that perhaps this bill was created subconsciously out of jealousy, and if this is the case, let me read a letter which I didn't have an opportunity to send, but I will be glad to give you a copy of. "This is my year-round home for my wife, two children and cats, not some tar paper shack on the dunes. Let me try to explain what living here year-round is like. Sure, it is private and beautiful, but it is not all cocktails and sunning ourselves. Try to picture this happening to you and your family in your backyard, which you of course have the deed to and pay taxes on; a group trespasses through your yard, and throws profanity at you and you try to explain to them that they are trespassing on your property. (Applause) Another group builds a fire and uses some of your dead branches for firewood, while the smoke goes into your windows. Another group



was found in the morning in the midst of the garbage and trash from their party the night before and they proceed to urinate and defecate in front of my daughters. (Applause) If you are lucky, they won't rip up too much vegetation. They will break bottles against your house, when and if they decide to leave. But, this doesn't happen every day, but at the height of the season it happens often enough. This is the thanks we get from the public for trying to maintain our property as close to a natural state as possible.

If it was the intention of this bill to eventually allow barriers used to revert back to nature and allow the public to use and misuse them, someone is making a very big mistake. Again, I refer to Gateway. It is really destroyed through overuse. Island Beach is fine, because they only allow people in small areas.

In closing, let me point out that if my property is taken without just compensation, which I really can't see, then it is only a major step toward government control to take over all private citizen's rights. If a government can take over private property, then, gentlemen, I think the reverse is also inevitable. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you. Donald Mahoney, Federation of Beaches, Ocean County. (No response)

Robert Danskin, Councilman, Borough of Spring Lake.

ASSEMBLYMAN BENNETT: He had to leave also, Mr. Chairman. He left some papers and said he would like to make them part of the record, if he could. He left a resolution from his Borough.

ASSEMBLYMAN HOLLENBECK: We will distribute that among the Committee members.

Michael Gross, New Jersey Shore Builders Association.

D A V E F I S H E R: I am not Mr. Gross. I am representing the Shore Builders, but my name is Dave Fisher. I am the Environmental Coordinator with the New Jersey Builders Association in Woodbridge, and we are the parent association for nine local builders' associations throughout the State, the Shore Builders in Monmouth and Ocean, and the Atlantic County Builders Association and Cape May County.

The New Jersey Builders Association has over 2300 members who are builders, subcontractors, contractors, and other associated professionals. We welcome the opportunity to testify before the Committee regarding Assembly Bill 1825, otherwise known as the Dune and Shorefront Protection Act. We have been advised previously by the Division of Coastal Resources of the imminence of introduction of this legislation and have been provided prior to drafts of the legislation for comment. Unfortunately, the bulk of our comments were not incorporated into A-1825.

We recognize the furor generated by Section 7b which prohibits the reconstruction of any structure if the fair market value of the structure is reduced by more than 50% as a result of storm-related damage. Of course, we join the groups that protest this provision as an unconstitutional taking of private property without compensation. We note that such a regulation, when proposed by the Department of Environmental Protection, with respect to its flood plain regulations, was withdrawn after legislative action and are surprised that the Legislature would even consider such a measure with respect to dune and shorefront protection. It is suspected, however, that this provision, because of its inherent

unreasonableness, was purposely placed in this legislation to be removed in order to satisfy the public outcry against it. In effect, this provision has overshadowed some of the other oppressive and unnecessary provisions in this legislation.

Initially, it is our position that no new legislative programs involving a permitting process should be placed within the jurisdiction of the Division of Coastal Resources until that Division has sufficient experienced personnel to process these permits. It is our experience that even with the existing permitting programs, the Division does not have the staff to properly process these permit applications in a timely fashion. Until this situation is remedied, we will be unalterably opposed to any added burden on the Division staff.

It is our position that no building should be allowed on primary dunes to serve a protective function. It is also our position that there should be certain building restrictions immediately behind the dunes in order to allow those dunes to migrate to some limited extent. Where we disagree with the administration bill is in the regulation of the "shorefront" area, which is defined as the area between ocean waters and the first paved public road. No person may undertake a regulated activity, including the building of a home within this dune and shorefront area, until a permit is issued by the Department. We do not object to the permit provision for any "shorefront" area, which we define as the area from the dune to the first paved public road. We question whether the first criterion for issuance of a permit which states: "...has no prudent or feasible alternative in an area other than a dune or beach," would even apply to a permit to construct a house in the shorefront area. We also feel that the criteria for issuance of a permit are so broad and vague that any permit could be approved or disapproved depending upon the whim of the administrator involved.

Allegedly, the reason for inclusion of the "shorefront" area in this legislation is to protect the structural integrity of buildings in this area. We agree that the structural integrity of buildings should be protected by this legislation, but view the permit process as too restrictive and too cumbersome. Another way of accomplishing the same goal would be to require a certification for any construction in the shorefront area, such that structures conform with certain construction requirements as set forth in the State Uniform Construction Code. Therefore, we would strongly urge that the shorefront area not come within the purview of the permit process, but instead be subject to a certification with respect to construction specifications.

We also believe that the built-up areas of the New Jersey coast should be excluded from the purview of the Dune and Shorefront Protection Act. It makes no sense when there is only one vacant beachfront lot contained in a large municipality to have that beachfront lot come within the purview of this legislation and, therefore, all the developed portions of Ocean County, Atlantic County, and other more populous oceanfront municipalities should be excluded from this legislation. The power to change the landward definition of the dune and shorefront areas in Section 4a should be eliminated. The initial boundary is being set by the Legislature and only the Legislature should be able to change that boundary. We have no objection to a provision in Section 4a allowing the Department to remove certain areas from the jurisdiction of the legislation, but we would certainly object to any addition of other areas.

The definition of regulated activities in Section 5b is much too broad. Would taking a bucketful of sand from a beach be in violation of Section 5b (2)? If so, then this regulation is much too restrictive and is unreasonable. We also question what is "large-scale planting" in Section 5b (6). How is this to be determined?

We oppose the broad delegation of authority in Section 9 of the legislation to the Commissioner of DEP to promulgate all necessary rules and regulations. We recognize that this generally is the methodology the Legislature has utilized in previous environmental statutes, but we think it is about time that the Legislature not abrogate its power and at least provide for legislative review of any proposed rules and regulations. We note that our suggestion with respect to the adoption of specific structural standards to insure integrity of structures from storms has been included in Section 9. This suggestion was made only in conjunction with eliminating a permit process for the shorefront area. Therefore, we would oppose any rules and regulations specifying structural standards which are in excess of the statewide Uniform Construction Code standards, unless in fact the permit process is eliminated in the shorefront area. If in fact the permit process is eliminated for shorefront areas, we would question the wording of the last sentence in Section 9 because the standards to "insure" integrity of structures may be so severe as to be economically unfeasible. There should be a recognition that the standards must be economically reasonable.

We also feel that most shorefront municipalities do have reasonable and sufficiently protective dune and shorefront protection ordinances so that this overbearing of state legislation is really unnecessary. We would be more than willing to answer questions with respect to our testimony and hope that we can initiate some dialogue in order to assure reasonable regulation of the legitimate economic aspirations of citizens of the State of New Jersey to live at the shorefront. (Applause)

ASSEMBLYMAN HOLLENBECK: Ned Carrier, Atlantic City and County Board of Realtors.

N E D C A R R I E R: Assemblyman Hollenbeck, members of the Committee, ladies and gentlemen, let me explain why I am here. I am from Atlantic County. There are not many of us here from Atlantic County today. The Committee will see a great many of us when they visit us, and I can assure them there will be a great many from Cape May County, far more than you have in this room.

I am a resident of Brigantine, New Jersey. I am the appointed representative of the Atlantic City and County Board of Realtors to this hearing. I have personally lived in Brigantine for thirty years. I am raising a family of seven healthy children, the youngest of whom is going into the Marines next month, in his own words, to defend the right of Americans, their right to vote and hold private property. (Applause)

I hope he represents the wave of the future. He is a much more conservative young man than apparently the young men are in DEP who have written this bill, and this legislation. (Applause)

Thirty years ago, if I had said to you, the owners of two hundred acres of bayfront marshland here in south Jersey, that the day would come when you couldn't put a bucketful of sand on that land - and you might have had that land in your family for generations - you would have said I was crazy. When

I was in college, I read George Orwell's 1984, and most thinking people in that day said Orwell was an unreasonable alarmist and greatly exaggerated the incipient trends of the day. Fifteen years ago - or even five years ago - if I had said a time would come in the near future when you couldn't build on your ocean block lot, a lot that you just invested the major portion of your family's assets in, or one that had been held by your family for many years with dreams of tomorrow, you would have said I was crazy. Today we are debating your right to build on that lot, to make use of that real property investment that may well represent years of your productive life. For what reason? What statistical survey by the State of New Jersey proves that it is safer to live in cancer alley in north Jersey than the oceanfront? (Applause)

Will the DEP have us all pushed into a cancer alley, and regimented, a la 1984? There are other more pressing environmental problems endangering the life of New Jersey citizens every day, problems that can occupy the energies of the DEP bureaucrats for years - for example, the Sayreville air pollution, the spontaneous fires in old chemical dumps all over the state (Applause) and the groundwater pollution all over the State of New Jersey, and I could go on.

Ladies and gentlemen, government has encouraged the development of the barrier islands since the days of the American Revolution. Why is this legislation proposed now? I know that President Carter has called it the year of the coast. Is it therefore for political advantage for someone, or for some persons, that personal property rights are being attacked here in New Jersey? (Applause)

This legislation is no less a personal attack on our individual rights to live and use our own properties than the attack of the Japanese at Pearl Harbor. (Applause)

The only difference is that that was a military attack, and this is a legislative attack by Americans who are supposed to be representing the citizens of the State of New Jersey. Please note: This legislation has been proposed by and is apparently being pushed by elected representatives from areas of the state who would seem to care little, if at all, for the residents of the State and for the southern part of the State. Two hundred years ago the people in this country fought a civil war against taxation without representation. Do we have to fight a civil war against regulation without representation? (Applause)

The legislation purports to have as its goal giving the people access to the beaches. Has anyone in this audience or on the Committee ever visited the beaches at Seaside Heights, Beach Haven, Brigantine, Atlantic City, Margate, Ocean City, Wildwood or Cape May on a hot day in the summer? (Outburst by audience)

Having seen those beaches on a hot summer day, would anyone in their right minds say that the people of New Jersey didn't have access to the beaches? A motel or summer cottage 60% destroyed by flood, as some were during 1962, cannot be rebuilt tomorrow, and will therefore restrict the access of the citizens of New Jersey to New Jersey's beaches forever. If this legislation is truly to prevent the effects of a natural disaster upon property or people, it certainly implies that more legislation with the same philosophical basis will be forthcoming. If that is its true purpose, it will have to be followed by statewide regulation of the entire State of New Jersey to prevent people from building or rebuilding in the polluted air and groundwater areas of north Jersey--- (Applause)

in the areas of north Jersey subject to water shortages and drought; in the areas of south Jersey subject to tornadoes. I mean, where do we stop? The point is, do we accept George Orwell's 1984 with its government control of every aspect of our lives, or can we be permitted as intelligent citizens of the State to accept the reasonable risk of every day living, like crossing the street, driving to work, or living on a barrier island for part of our lifetimes. (Applause) Personally, I would rather take the risk of breathing the fresh, clean air of an oceanfront environment, than breathing the polluted air of a metropolitan area, or living in one of its crime plagued cities. (Applause)

I am sure that my chance, and the chance of my children of living a healthy life to a rather long or advanced age is much better at the shore. I don't think anyone here can argue that point. If this legislation were enacted, what bank or savings and loan in its right mind would ever provide a mortgage for property subject to this legislation that prevents rebuilding in the event of a partial loss. The result is obvious. Beachfront properties will have to be sold for cash only. That would eliminate 95% of today's purchasers and result in lower sales prices, lower tax assessments, and less and less maintenance that is always characteristic of declining property values. In other words, it would mean economic depression. The whole nation is suffering today from an economic recession which some feel may become a depression, because of government policies. Are we in south Jersey to become the victims of a localized real estate depression because of the ill conceived and poorly thought-out policies of the state DEP bureaucracy? (Outburst by audience)

If this legislation passes, every one of us will feel the effects in their pockets, whether they own beachfront property or not. If you live in Newark, you will feel it. Beach block motel rates will go up. Summer rental cottage rates will go up. Merchants prices in every seashore community will go up. Every investor will have to count on recovering his complete investment in property, plus a reasonable profit not in the twenty or thirty years we have become used to, but in the number of years he thinks he has until the next storm destroys his building by 60%.

Even the State of New Jersey itself will suffer in general revenues with lower sales prices, lower profits, and lower real estate commissions - that affects me personally - and the state tax on our income will be reduced proportionately. We, the people in this room, and throughout the State of New Jersey - and I would commend you, ladies and gentlemen, because the tide and the temper of the remarks today have been so violently anti-legislation, don't take it for granted that we won, or that we are going to win. (Applause)

We have to keep up the letter writing campaign, and you have to keep up the personal telephone calls, particularly if you as an individual know an elected representative who is going to vote on this legislation. You have to, because many of them look at that title "Dune and Shorefront Protection Act" and it looks and sounds like God and mother. How can you be against it? So, you know, please, please, after this meeting keep up the pressure. Take excerpts from what you have heard today and write to the representatives. Thank God we still live in a democracy.

But, we the people in this room, and throughout the State of New Jersey, have failed three times. We failed to stop the confiscation without compensation

for the wetlands, because we thought we were not affected. We thought, oh, well. And, frankly, those of us in the real estate business are most at fault, because we felt we didn't own any of those wetlands. They were held primarily by families that held them for generations, that were held by big corporations, so we didn't fight when that ground was taken without compensation by state law.

We failed to stop CAFRA, and thereby increased the size and the strength of the bureaucracy, that will be the only group benefitted by this legislation.

We failed to stop the Pinelands, a 325,000 acre federal program that grew under the State's Department of Environmental Protection to one million acres. Today, we must stop the "Dunes and Shorefront Protection Act" which should be more appropriately labeled the "Great DEP Land Grab of 1980." (Applause)

The Atlantic City and County Board of Realtors agrees with Mr. Rankin who spoke earlier who said no compromise; no compromise. The philosophy of this legislation permits no compromise. (Applause)

I urge the members of this Committee to kill this bill in Committee, so it is never even reported to the Assembly floor. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Carmen Federici.

C A R M E N F E D E R I C I: Let's investigate exactly what this bill is going to do. It would make the shore area one big slum area, not allowing the reconstruction or repair of properties.

Two, the north Jersey residents who come by the thousands to the Jersey shore area, as evidenced by the bumper to bumper traffic on the Parkway, and other major highways all during the summer would no longer have places to rent or visit.

Three, the thousands of people that make the Jersey shore the second largest industry in the State will not come just to sit near mosquito infested dunes. Most of these beach areas maintain their own beaches. The state government would not be able to afford to maintain and staff with lifeguards and clean-up crews the entire Jersey coastline, leaving then most of the bathing areas unprotected. Where was the government 50 or 60 years ago when all these communities were being built. You cannot take away from the people what they already have. If this bill passes, I think then it should apply to all the lake areas in north Jersey. (Applause)

This bill has been introduced by an individual who apparently is not knowledgeable of the Jersey shore and is violating the rights of these people who reside here, and is also violating the rights of his constituents who have supported him in the past. We will not accept any compromise. I am appalled that anyone would think that they should compromise. (Applause)

No game plan will do. We want it killed. We don't need any protection here. We protect ourselves. Why isn't the DEP concerned about the pollution of our ocean waters along the coast? Why is sewage and garbage still allowed to be dumped in our waters after all these years? Why aren't they concerned with these matters instead of some little dunes? Why is Atlantic City excluded from the bill? I will tell you why, everybody is saying why, because it is Governor Byrne's pet project. That is why. (Outburst by audience)

Let me bring to your attention one more thing, gentlemen. The majority of the people in south Jersey live inland. Who do you think own the thousands



and thousands of homes in the beach areas? The people from north Jersey and all the other parts of Jersey, where we vote, gentlemen. We vote in many other counties, and let me tell you gentlemen one thing: We are going to look very closely at who votes for this bill, and then on election day, we will know how we have to vote. (Applause) This is not a threat. It is a promise. (Outburst by audience)

ASSEMBLYMAN HOLLENBECK: I want to thank you for the briefness of your remarks. However, our court reporter had a little difficulty. Please remember that we are trying to have a record kept of this.

MS. FEDERICI: I will give her a copy.

ASSEMBLYMAN HOLLENBECK: Lorraine Hartnett.

L O R R A I N E     H A R T N E T T: I am Lorraine Hartnett, and I live at 1906 Ocean Front in Lavallette. Assemblyman Villane in a recent article in the Asbury Park Press called this bill the original dunes act, the product of a bureaucracy done wild. I would like to congratulate Dr. Villane on his accurate summary of that bill. It is surely a total disregard of private property rights, and that must be unconstitutional. Certainly it is immoral.

I first want to talk about people and then about money. I live in an affected area, one strip from the oceanfront to the first paved street, 175 feet wide. It affects everything that 28 families own. Many of them are senior citizens who planned for years to retire to our small shorefront community, and now they face laws at this time in their lives, of everything they have worked for and dreamed of leaving to their family.

I went to the beach in Mahwah yesterday. In four blocks, about 20% of the beach, there were more people there than there are in the entire community year-round. I talked to about 100 of them, and they came from Mercer County and Bergen County and Union County and Essex County, and I made a list and they were from Hamilton Township and Lawrence Township and Trenton, Bergenfield, Fort Lee, Hackensack, Saddle Brook, and they told me they were enjoying themselves and they were having a wonderful time. Many said they have been coming to the shore for years to spend their vacations or renting houses by the beach. When I told them that the State wanted to take these houses away, or leave them as abandoned eyesores, they couldn't believe me. They couldn't understand why. They asked me why they should have to travel three or four hours to go to the beach or stay blocks or miles away from it. Why was the State doing this to them? What kind of rest room facilities were there going to be for them? Why did their children have to cross Route 35 to get to the beach? They were angry. I told them to go home and talk to their Assemblymen. (Applause)

If you don't care about people and I believe you do then think about money. What effect will it have on state revenues, as shore property becomes worthless. The mayors have talked about the effect on the individual property owners and the individual municipalities due to loss of assessment. But, let's look at the picture statewide. Assets of significant value bring tremendous revenues to the state as they change hands. Certainly, state taxes, realty transfer taxes, and capital gains, and state income taxes will suffer. Undoubtedly, state income taxes from rental income will suffer. Business taxes will suffer. Businesses in Lavallette are in jeopardy. This will mean losses of corporate income taxes, business personal property taxes, and sales taxes. The bill is not yet even out of the Committee, and it has already done damage

to the people of this State. I asked to be a witness, because I have personal testimony. I have an oceanfront house on which I had an offer two days before the publicity for this bill. My client and a subsequent one withdrew to await the outcome of the bill. I don't blame them. If the sale had taken place, there would have been approximately \$1200 in realty transfer taxes and approximately \$3000 in state capital gains taxes, and that is over \$4000. The house that I was proposing to purchase was also subject to realty transfer taxes, capital gains taxes, and since it was for an estate, estate taxes. That is estimated to be \$2000. That means \$6000 was lost already and I am just one person. That \$6000 could have brought more aide in an institution for handicapped children somewhere in this State, and that \$6000 could have bought a bus for 56 kindergarten children who are walking along Route 22 and 23 and 35 and 46, because this government does not have the money to subsidize buses. I urge you, before this matter goes any further, do not let this bill survive your Committee. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Ladies and gentlemen, as you are aware, we are going right through the lunch hour hearing testimony. However, I would like at this time to call for a fifteen minute recess, and we will then continue taking testimony.

(WHEREUPON THERE WAS A SHORT RECESS TAKEN.)

ASSEMBLYMAN HOLLENBECK: Larry Masi, President for the Citizens for Local Intelligent Control?

MR. MASI: What happened to the other members of the Committee? I would like to address them also, Mr. Chairman.

ASSEMBLYMAN HOLLENBECK: I am sure they are here, maybe out in the hall. However there is a transcript being made and everything is being put on tape.

MR. MASI: Mr. Chairman, if you would like to bypass me for this other speaker until your committee members come back, that's okay.

MEMBER OF AUDIENCE: I'll take his place.

MR. MASI: I would reserve the right to go next.

ASSEMBLYMAN HOLLENBECK: This is Mr. Lattore, I believe. Could we have your name and address, please, sir?

ROBERT LATTORE: I'm sorry, but my ethnic background does not permit to speak with a microphone in my hand. My name is Robert Lattore. I'm going to give you all of my credentials because I'm not afraid to as some of our speakers were. I have two degrees, one in science and one in art. I'm a teacher here at Ocean County College and at Middlesex County College and the reason that I am anxious is because I have to run off and teach a class at Middlesex County College. I wish to God it was a class in ecology.

There have been a lot of apologies made today and I would like to begin by making a couple of apologies. I apologize, Mr. Chairman, because my fellow citizens and I are so emotionally worked up over an issue which just happens to deal with their lives and their homes.

Now, there is an atmosphere and attitude here in this country today that says if you have three college degrees and if you have a beard--excuse me, sir--and if you belong to such a thing as the American Littoral Society or the Department of Environmental Protection that, somehow, you are immune, totally, from any human failing and I would like to attack the problem of this piece of legislation from its most fundamental part.

I do not care to restate what has been stated so well already about the unconstitutionality of this Act and it surprises me that in a country where it takes only 12 members of a jury to condemn you and find you guilty of murder that the testimony of 500 people to the unconstitutionality of this Act is not enough to have ended these hearings totally the moment that was first deemed possible. (Applause) It astounds me that we can come this far with such a monstrosity called a piece of legislation simply because it is worded in legal terms. Does that mean that we have to take seriously such garbage as has been presented and if I were a member of your committee, I would be insulted to even have to consider it, to spend your time and time of these people here. (Applause)

Now, let me attack the fundamental weakness of the Act, of the proposed bill and it is because we've been conned by the guys that feel that they are the intellects of the world and that the rest of us are too stupid to understand reality. Let me tell you the reality. The man from the Department of Environmental Protection spoke of the money which is spent and I'm going to take up as my first issue, that very money. A \$30 million issue is passed by all the good citizens of this State of New Jersey for the protection of the dunes, of the shorefront and the only dime of that money that has been spent so far was \$2 million, which was given to an engineering firm called Dames and Moore. Has the committee been informed of that? Dames and Moore

is a very large, international engineering firm. It happens to be located, God bless them, right here in the sovereign State of New Jersey. I had a great deal of input into that engineering study because one of the things they did not leave out was the human aspect and in my job as public relations director for Seaside Heights, they came to me to get some statistics to the fact that we entertained 5 million people on one mile of beach in a 100 day season and I'll tell you, we're going to play hell doing that without our bath-houses and toilet facilities. Anyway, this Act should never have been written. Dames and Moore was contracted using \$2 million of our money and have said emphatically, "It is not the sand dunes which protect the beach." It is their considered, enlightened study that says that it is the slope of the beach which dissipates the wave energy and not the sand dunes. If you don't have the beach, you can have a sand dune 1,000 feet high and it will be washed away just as easily as our bungalows and our cottages will.

Now, to reinforce that, those of us who have lived here, and I live on a bayfront lot, which is included in this Act, and I don't know how a dune will ever be formed on my lot. But, it is included in this Act and I go to sleep every night to the gentle thunder of the surf on the beach and those of us who live here have stood storm after storm at the end of the street and watched the sea, in its infinite fury, take away sand dunes as easily as anything. Yet, we're here to discuss an Act which is titled, a Dunes Preservation Act. If you're going to protect the dunes, you're first going to have to create the slope of the beach. You will hear conflicting testimony as to the best way to do that. We've got a man here who, every summer, bulldozes the sand dunes down and in his town he has never, ever had the ocean wash over the street in 65 years of maintaining those beaches. You're going to hear other people say that Island Beach State Park, in its natural best, has waves wash over and remove its sand dunes just as easily. So, my question is: What the hell are we here for anyway?

I would like to ask a question. This is a public hearing. We, the public, did not come here to talk to each other. We've been mumbling to each other for months now. We've had rallies; we've had talks; we've had meetings. We know what we have to say. I want to know why this committee didn't subpoena the Commissioner of Environmental Protection, God bless her, to sit in that front seat and listen to what the hell the people have to say and maybe, for ever and again, we would avoid such a blistering waste of time and money, the taxpayers money, to be here and of our time and money to be here and defend ourselves against something that is insanity.

But, let's go on. The young man said that the reason that the State has a vested interest in this property is because it was taxpayers' money, all of the taxpayers' money that made it possible, to begin with, and I haven't heard a mayor or an elected official say how much money he's ever gotten from the State because the truth is there has not been the first single penny received by any municipality from this state government for anything, for protection, for repair, for reconstruction or anything else. So, we could say, where is the money. We did get, in 1962, these municipalities received some small federal aid, which, God bless us, we've probably paid back a million times.

But, let's go a step further. Yes, it was the taxpayers' money which makes it possible for us all to go and sleep in our homes at night. Now, I might point out that if this Act goes through, the next logical step then is that we've

got to tear down five thousand miles of levys constructed on both sides of the Mississippi by the Army Engineers using our money to protect that land from nature's wrath. Then, we've got to turn around and we've got to destroy the entire Tennessee Valley Project built with taxpayers' money and not give it out of the Northeastern United States because that goes against the forces of nature. Then, we've got to go to Colorado and we've got to tear down Boulder Dam and let the interior valley of California go back to being the swamp that it was because it was built with our money. I might point out, sir, that wherever you live in Bergenfield, to get there, you have to drive on a municipal or a county or a state funded highway to get to your home. I do not believe that gives me the privilege of picnicing on your front lawn. (Applause)

I think it is time to cut through the upper echelon. I think it is time to be a little emotional.

The Dames and Moore study is so blatantly in contradiction to what has been proposed and the fact that this committee has not yet heard from Dames and Moore is inconceivable to me because you should have heard from them the day you received this Act and the fact that, not only has it not been shown to you, but it hasn't been shown to the people who paid for it. That is inconceivable to me. But, we're not surprised. You see, if we seem a little impatient with you this morning, it is because we've been through this before. On this very college campus, I've been here to testify ten times in what are "public hearings", only to be not listened to, to be heard only by the audience or to be rebutted by the members of the Department of Environmental Protection. I think what you people don't realize is the untenable position that citizens are placed in. We have experts in every field here, who would, for free, do a better job than the Department of Environmental Protection, which the Legislature created and which is now stated by one of the members of the Legislature as being "a bureaucracy run wild". Well, if five elected officials of the New Jersey State Legislature can say that our bureaucracy has run wild, then where the hell is our court of last resort? Who do we go to? The Assemblyman pointed out to me, "Oh, it hasn't completely run wild because, after all, we have control over this," and that brings me to the point. If the dunes don't protect the beach and if this Act is an insanity, engineering-wise, ecologically, geologically and financially, then why was it ever proposed to begin with. It would be unfair of me to be critical of it without offering you one reason why it was proposed. I want you to listen carefully because it will show you how your bureaucracy has run wild. The reason that this legislation was created is that resting in the Treasury in Washington right now are tens of millions of dollars--in fact, I think it is \$9.5 million--ready to be given to the State of New Jersey's Department of Environmental Protection. They cannot get that money unless they pass this legislation or some compromise legislation, which will show the federal government that, indeed, the DEP is in control of the New Jersey coast. I want to point out to you gentlemen that you do not vote on that money being given to an agency that you created. With that \$9.5 million, they can run over us for two or three years before you ever get a chance to stop them.

If there is an issue here, the issue is this. I would like to propose to one of you that you submit a bill dismantling the Department of Environmental Protection. (Applause) You came to hear us and we want you to hear this carefully. You are being conned if you think there is some way that this bill can be compromised into being acceptable. Not only that, but since the very basis of the Act, the

protection of the shorefront, is in error, based on engineering studies paid for by very department that created this. When you kill this bill, don't just kill this bill. Kill the system which put it here before you and I waste all of our time. That's the real job we want you to do. (Applause) We are crying out to you. We want you to go back to the Legislature, to every committee, and tell them that you came to Ocean County to listen to input on a bill and that you found out that there is a far more insidious cancer eating at our guts. We want you to go back and tell the Legislature to take this apart, to dismantle this monster. If ever there was an epitome of a living Frankenstein monster, this is it. They are insensitive. They refuse to listen. They cannot be petitioned. They cannot be appointed. We cannot get appointments with them. They will not come here. I asked one of our men, "Has Dr. David Kinsey ever been on our beach?" He said, "No, every time he comes here, we give him such a bad time that he doesn't come back." Those are the people that are creating the legislation that you are being asked to act on.

Now, I don't want to get emotional, but I do want to say one more thing. In fact, I think I will get emotional. Get the Department of Environmental Protection off our back and off our beaches and then send somebody down here and we will show them how they can best help us and preserve the beaches for the 7 million people who live in New Jersey. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Mr. Masi, would you like to testify now?

MR. MASI: Yes, I would. Thank you.

L A R R Y M A S I: Mr. Chairman and members of the Committee, my name is Larry Masi. I'm from Ocean City, New Jersey, which is in the northern sector of Cape May County, a good distance south of here. My background is that I'm a resident of Ocean City and I've been a resident there for 23 years. I'm very familiar with the local environment and so forth. I'm past District Director of the New Jersey Association of Realtors. I'm President and Founder of an organization called, CLIC, Citizens for Local, Intelligent Control. We've only been in existence--and I'm not boasting. I'm just pointing this out as a point of interest to show you that in addition to what has appeared here in this room, the number of people, in 33 days of existence, we have garnered support from as far south as Cape May point and as far north as Normandy Beach. There have been thousands of people who have joined in our effort to voice their opinion as a public citizen and private property owner to get their message to our legislators. I am just absolutely delighted to see that there are so many legislators here today so that we can stand up and speak and speak out in opposition to this bill.

I think the bill itself has been hammered to death, point by point by point. I think that those points have all been well taken and I think you gentlemen understand what we're saying about the inequities within this legislation.

I want to also commend legislators in general. I think you gentlemen are doing a job and your motives, I surely hope your motives are in the best interests of the health, safety and welfare of the general public. But, I have a concern. The gentleman who spoke just prior to me expressed a concern that you are being had. Not in a way to offend you or alienate you, I just want to point out a few things from my experience that might enlighten you as the Chairman of this committee and as members of this committee. Personally, I have had the opportunity to testify at public hearings, one in Ocean City--it wasn't necessarily a hearing. It was



testimony setting the stage for a court case in which David Kinsey was invited to Ocean City to testify against beachfront construction. I was one of the witnesses from Ocean City to also join forces with Mr. Kinsey to oppose this construction on the dune area. We were successful in enforcing our own local dune and bulkhead ordinance. We have these. Most of the communities do. There may be a few that are lacking in enforcement, but ours is very, very strong and I know that from Brigantine on south we have strict regulations and we have good home rule. We call on the State frequently for help, for expertise and so forth. But, what I'm getting at, you gentlemen, as legislators for the people of New Jersey, rely heavily on the expertise of the environmental consultants, David Kinsey, specifically.

Mr. Hollenbeck, you expressed that you had serious reservations about the contents of this bill. Everybody here does and I can see why you do. My question is: If you have those serious concerns--and I'm not putting you down, I'm really not, I'm sincere--why was the bill even introduced? I know that if you have these concerns, you gentlemen didn't write this bill. It was written by the bureaucrats. Since I have been involved in this coalition, Citizens for Local Intelligent Control, people have approached me. I've been speaking up and down the coast. I haven't worked at my own line of business for 33 days because I've been working 18 hours a day at this. (Applause) Thank you, but that's not why I'm doing it. But, I appreciate the support. I've been working diligently at this and people are bringing things to my attention. I'm getting letters and phone calls and people are bringing books to me. An environmental consultant in Atlantic City called me up and said, "Mr. Masi, I have a book that you must read," and he said, "I'll have my secretary deliver it to you this afternoon," and within 20 minutes, I had that book. The book is entitled, "The Environmental Protection Hustle", published by M.I.T. University and it is written by one of the environmental professors, professors of environmental science at M.I.T. University, a very, very credible source of information. After reading only a few chapters in this book, I could see what the point was. The point was that this gentlemen, this professor of environmental studies from M.I.T. University, who was in California studying land use regulations and environmental regulations found so many inequities in the legislation that was being passed that he felt compelled to write a book. He felt that he must expose the motives for this legislation. He outlines three in his book, that I've come up with, and I haven't finished the book yet. It is that detailed. I suggest that maybe I could lend you my copy which could be of assistance to this committee. One, exclusionary zoning in some areas was made legal under the guise of environmental protection, supposedly being the best interests of the public and the general safety and well being of the people and of the environment. Number two, special interest groups were gaining tremendous benefits from certain legislation that was supposedly founded on environmental studies. Number three, political power was either maintained or controlled by limiting population groups in certain areas. I felt, my goodness, this is really frightening. It is absolutely frightening that we are getting hustled. Now, this man didn't just dream this up and he is not saying that this is just happening in California. He is saying, "Here is a specific example of which I am thoroughly aware of the details. I've studied these regulations; I've been involved in the promulgation of these regulations and this is what is happening. Let's get it out in the open."

Another gentlemen brought to my attention some other things that are really, really incredible. It seems to me--and not only me--in our country--you know, I

start out fighting a little dune ordinance and have found out that the inequities exist all over our country. There are federal regulations, federal guidelines, the Dune Shorefront Protection Act, which is another example. It stems from federal guidelines pertaining to the coast, coastal regions, coastal communities. But, I'm talking about interior states, ladies and gentlemen, and members of the committee, interior states such as Indiana, Montana, where federal land use controls are being implemented and property is being devalued. The example was pointed out to me and is pretty well documented, although I haven't had the time to go to Indiana and thoroughly research it myself, but it has been represented to me, documented, that vast quantities of acreage, previously valued at \$500 per acre, have been devalued by federal land use regulations that were implemented by the states under the guise of environmental protection, devalued from \$500 per acre to \$100 per acre. Now, agents are going in, approaching the individual property owners, buying up this property. The State has worked out, apparently, a method of compensation whereby the taxpayers make up the difference in the \$400 an acre so that the property owner is getting his \$500. The agents who were buying up this property are representing huge, national, multi-million dollar corporations. The theory behind the land acquisition is that whoever controls the land controls the people. It is frightening. I'm going to try not to get emotional, but it really upsets me. I came home from work or from the meeting that I had after learning of this and I thought, my goodness. I was really discouraged and depressed. I said to my wife, "My goodness, I'm fighting a dune act and I'm finding out that our whole country is having problems and there are covert efforts within our country and they are stemming from Washington and we're victims." Our legislators are victims, innocently. They don't realize it. This bill doesn't associate itself or designate itself to the safety of the people. It doesn't designate itself or pertain itself to the dunes. It is a control of property. It is a control that lays the groundwork for the total control of the barrier island, which is not in the pinelands. If you color in the map of the islands, the pinelands, CAFRA, the super agency, my God, it is a total police state. It has to stop here in our backyard before it is too late. (Applause)

In all honesty, I really didn't think I would be able to muster the courage to stand here and elaborate on all these things to you, but I just feel compelled, regardless of the consequences or criticism that may fall upon me. I really don't care at this point, but I did promise you, when I first addressed you, that I would try to enlighten you as to my personal background on the Dune and Shorefront Protection Act and some personal contact that I had with David Kinsey. I alluded to the fact that I've testified with Mr. Kinsey in successfully stopping construction on a dune area in Ocean City. Now, at this hearing, just for your information, I want to explain what happened. There were a lot of local residents who came out and opposed the proposed construction and we had aerial photographs and so forth and Mr. Kinsey was introduced as an expert witness. I sat there for three or four or maybe even five minutes to hear the attorney representing our side introduce Mr. Kinsey with all his credentials, all the committees that he has worked on previously and the powers and authority that he has right now. He has a long list of credentials. The attorney who was representing the property owner, given the opportunity to cross-examine Mr. Kinsey said to the Chairman of this hearing, he said, "I have one question in cross-examination of Mr. Kinsey." He said, "Mr. Kinsey, do we need your permit or your authority." The answer was, "no." His personal ego was totally deflated in front of a crowd. I'm not saying that this whole bill comes from him. I don't

know where it comes from. I don't know what the total of it is. I'm trying to point out to you and enlighten you gentlemen as to where they may lie.

Mr. Kinsey's argument, thereafter, when he left the meeting, he did say in the hallway that things will change. He didn't explain this legislation although it was only three weeks later, approximately three weeks later, that he hosted a meeting in Ocean City on June 5 to explain this A-1825. He then promised that our comments would be taken into consideration at that meeting. That was Thursday night, June 5. He said that our comments would be taken into consideration and this bill be watered down, tossed around, remodified and later introduced into committee at the end of the month of June. Now, that was Thursday night, June 5. June 6, Friday night, there was a similar public hearing in Toms River and Monday morning, the bill was introduced and it wasn't modified. There were a few words changed, one pertaining to boardwalk structures. It may be a typographical error; I don't know. But, boardwalk structures had been exempt in the proposal that David Kinsey reviewed with us. In this piece of legislation, as introduced, they are not exempt, and I'm talking about structures that are permanently attached to a major boardwalk. We realized, at that point, Mr. Chairman, that we were being hustled. It was represented that our comments would be taken into consideration, that the bill would, in fact, be watered down. It was not.

I want to address myself to Mr. Kinsey's primary reason in justifying this legislation. Now, this can be validated because it so happens that a major TV network taped the conversation with Mr. Kinsey. It is not widely known, but nevertheless, David Kinsey explained to me that his primary reason in justifying this legislation is that public monies are spent on beach programs and therefore, the State should have control. Gentlemen, Mr. Kinsey is appointed. He is a bureaucrat. He is not elected by us; he is not elected by the people out here. You are elected by us, whether you be from North Jersey or South Jersey or any part of the State. You are elected. You are the ones who determine where our money should be spent. A bureaucrat should not even attempt to address that issue of where public dollars are spent. (Applause)

Now, I want to reiterate--

ASSEMBLYMAN HOLLENBECK: Larry, could we kind of get going.

MR. MASI: I'm not going back. I'm going forward and I'll be done in just a minute. The interview with Mr. Kinsey was termed by the woman who interviewed Mr. Kinsey as being the most horrendous interview she had ever had in all of her years in journalism. I'm sure she would be willing to come in here and testify at any time before this committee. The reason she made that statement, and this is a major TV network, was because he justified this strictly by revenues, by where our tax monies are spent. We can't control what he is doing. We can't vote him out; we can't sue him. He is legally immune from civil action under the shield of the State. We really have no recourse against a bureaucrat. With you guys, we can at least express our input by votes. We have some control. He did not even address the issue of the environment. He didn't give this woman, in thirty minutes of conversation, one reason, in being the safety or health or welfare of the public, as to why this legislation was required. It is because public monies are spent on the beaches and therefore they should have control. He wants control; DEP wants control. Now, the example that he gave to me, personally and in front of two hundred people in Ocean City, was that the State of New Jersey spent \$473,000 to dredge out an inlet in Cape May County and put the sand back up on the beach. "That's a lot of money," he said.

My goodness, that's ludicrous. For the State of New Jersey to spend \$473,000 is nothing. They spent nearly that much in the Rutgers Report.

I want to say that tourism, we know that tourism is the number two industry in this entire state, second only to petro-chemicals. Now, tourism lies where? It lies on our barrier islands, from Cape May to Sandy Hook. Tourism, the number two industry in this state; tourism, a tremendous revenue producer for the state; tourism, it could be killed by Assembly Bill 1825. It is cutting off the State's nose to spite the face. The revenues that are coming out of the islands are going into Trenton and they are not coming back. The State of New Jersey should be spending millions upon millions in progressive, positive approaches to beach reclamation, tidal reclamation. They are expensive, but we are generating the revenues to put money back into your investment so that more money comes out. A positive approach, not the idea of retreat from the beaches, get everybody off the island and kill tourism, is what we need. It is insane. By spurring this type of legislation and encouraging it, you are definitely improving the chances of secession. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you very much. Ladies and gentlemen, Larry had a fairly good testimony, but under the contract of the renting of the hall by the State, we must vacate by 3:30. I'm trying to have everybody testify who I can within that period of time. So, try to keep your comments brief. Thank you very much. We now have Helen Bicher.

HELEN M. BICHER: Thank you. I am Helen Bicher and I live seven months of the year at Normandy Beach, which is on a barrier island. Five months of the year, I live at Hackensack in Bergen County. The Bichers built their home in Normandy Beach fifty years ago and have experienced severe and mild storms, water surges and so forth. By what authority does a bureaucratic arm of the State government have the power or seek the power to assault human rights, disregard private property rights and tread on constitutional rights, as is done in the proposed Dune and Shorefront Protection Act? God created the barrier islands and God gave the early settlers the courage and endurance to build communities that people from New Jersey, Pennsylvania, New York and other states enjoy. On the barrier island, from Bay Head to Island Beach State Park, there are approximately 11 churches where people worship and praise God and serve Him. Their faith in God and His powers is greater than their faith or respect for our State government. (Applause) The Lord gives and the Lord takes. Residents of these islands accept this and accomodate their homes to nature's whims.

To advocate that the Dune and Shorefront Protection Act is "for the protection of lives and property of people in shorefront communities" is absolutely ridiculous. This Act takes away private property and home rule where people who live in the area and experience the storms are in tune with the area and nature. Life, in any form, is constantly in jeopardy. You can be killed crossing the street. Will the bureaucrats outlaw cars? You can be killed by lightning and tornadoes. Will the bureaucrats decree that our homes should be caves, for protection? Mobile homes are frequently demolished by severe winds. Will the bureaucrats outlaw mobile homes to protect lives? Let us be realistic and use some common sense. The barrier islands are heavily populated and most building space is filled with homes, churches, schools and thriving communities, which, actually, had a stabilizing effect on the area. If we must have a shorefront protection act, wouldn't the humane objective be to provide protection for the people with established procedures for safety rather than force them to abandon their homes and property?

It is true, some dunes have been abused. Sometimes, man only learns by mistakes. The people who accepted the risk of building on the barrier islands and have suffered storm damage have paid for their own repairs and their mistakes. Why deprive them of their right? But, if you really scrutinize the situation, you will find that the government has had something to do with the abuse of the sand dunes either by omission or commission. I question the ability of the Department of Environmental Protection when it approves mammoth sewer lines on barrier islands and now wants to vacate the same islands. (Applause) I strongly recommend the withdrawal of the proposed legislation, A-1825, and a more realistic appraisal of a method to save the dunes, the people and the homes of the people on the barrier islands. This appraisal should include consultation with people on these islands and not be dictatorial acts of northern legislators nor college--especially Rutgers--students or staff. People on barrier islands believe in God and in God do they trust. (Applause)

ASSEMBLYMAN HOLLENBECK: Regina Brancato?

R E G I N A B R A N C A T O: I am a homeowner from North Jersey. My name is Mrs. Regina Brancato and I live in Clifton, New Jersey.

I have read this bill and I wonder if our assemblymen have read this bill. I have spoken to two or three of them and they are nowhere near aware of what is in this bill and the deceptive wording annoys me. They name the Chesapeake Bay; they name the Raritan Bay; they name Sandy Hook Bay and when they got to Barnegat Bay, they call it the "back bay of the barrier islands". Is that, perhaps, because there are so many people who live on the Barnegat Bay? (Applause)

You have heard these people speak about their homes. I would like to speak about the economic impact on the entire state. What are we going to do with four depressed counties, when you take away what is their industry? It is like Ford taking away Mahwah. What about the job impact down here? I would like the question answered: Who decides whether my home is 50% destroyed? I would like to know: Perhaps my home escapes this damage and it takes my neighbor a year and a half to get an impact study to put in his application for repair and then I must wait for the commissioner to make up his mind to hold a public hearing to decide and my home is now going through more storms and is now totally destroyed. Are you trying to force us to abandon our homes? The only alternative I would have, because my home might not be damaged, but the electric is down. The electric company is not allowed to repair that until they get a permit. If the sewer collapses, they are not allowed to repair that. This is my local government. This is according to my bill or my understanding of this bill. Therefore, I can live in my home, but I can't have electricity and I can't flush my toilet, and they're going to protect me. This same Department of Environmental Protection allowed the Passaic County Sewerage Commission to dump five hundred million gallons of sewerage into the lower Passaic River, which we have spent hundreds of thousands of dollars to clean up and that is a direct result of why the Newark Bay is closed. I don't think these people have the ability to legislate or to govern these bills and I think you should look at them and find out what their special interests are. Thank you.

ASSEMBLYMAN HOLLENBECK: Councilman Brown from Seaside Park?

C L I F F O R D B R O W N: My name is Clifford Brown and I am the councilman from Seaside Park, New Jersey. I live three doors from the ocean. I won't take very much of your time. I'm just here today on behalf of my community to condemn this bill

and those who support it, as it is unconstitutional, as has been said, as it goes against the basic rights of individual homeowners and as it possibly could disrupt the entire economic situation in the shore area. Thank you very much. (Applause)

ASSEMBLYMAN HOLLENBECK: We now have Mr. John Carey.

J O H N C A R E Y: My name is John Carey and I'm from Ocean City. I'm 69 and I grew up on the ocean. I was national lifeguard champion in 1934 and 1935. This qualifies me a little bit on the natural forces of the ocean, particularly the surf.

One of the things that is very important, they used an "apple pie and mom" title in the Act, with no understanding of what kind of mom or what kind of apple pie. I've talked to a lot of these experts. Incidentally, I've written articles on the subject way back in 1954, which had definite, positive reactions from top people, like the President of National Geographics and all of the bigtime beach and shore outfits. I put it in very simple, plain language. Natural forces are the main thing and I'll go from there.

First of all, barrier islands are nothing more than sand bars that have developed. But, don't compare an undeveloped sand bar or barrier island with one that has been developed. They are different. In fact, most of the time, when I go up and down the coast, your developed islands are bigger and wider now, and safer, than the undeveloped islands ever thought of being. Don't compare a lemon with a watermelon. How many people go to an uninhabited island in the summertime? A dozen? How many go to a developed island in the summertime? Hundreds of thousands and millions. Here in New Jersey, we cannot doom our beautiful and valuable seashore towns and cities, which have developed over the past hundred years on b-a-r-r-i-e-r, barrier islands, into b-a-r-r-e-n, barren islands. There is that difference and yet this bill says that, to vacate and abandon. Thus is why there is such opposition to vacate and abandon the seashore and that is what this is all about. If this bill becomes law, it will lead to a depression along the entire seacoast, which will have its reaction inland far from the beaches. Not only will there be a depression in the monetary value sense, but also a depression in the needs of man. Years ago, when the environmentalists were talking about ecology and all this business, I wrote--a full page of it--"The Living Needs of Man in Rapport with the Need for Living Things." Now, here they are attempting to take living things and make this the total issue and ignore the living needs of man and I don't think man is going to stand for it. (Applause)

Barren islands will guarantee a depression over the coming years, regardless of beautiful paintings and words. Now, this is the important thing and it was touched on by this gentleman. The key or crux to the beach stabilization problem is not a simple word, "dune", and quite frankly, I'm one of the biggest exponents of dunes that has been on the Jersey coast for over twenty years and I vote more than some of these clowns that are out of college and are talking about dunes. A dune is "a child of the surf." They are created or destroyed by the surf, slowly or swiftly and I've observed and analyzed many, many in my 69 years, watching these phenomena of nature.

The surf puts the sand on the upper beach. A wave outside is merely an undulation, just the same as you take a piece of hose and go like this, but not a piece of hose moves. But, the minute it approaches that upward slope of the beach, the top part of that wave starts to travel faster than the bottom and now you have a breaker or a surf. Now, it is like a big scoop. The water itself is moving. If



it is at an angle, it moves at an angle. It picks up the sand and carries it in suspension, just as the same as you serve sugar in a cup of tea.

The surf is the neglected key to beach erosion and gentlemen, this is an important factor. If the surf does not deliver sand up onto the beach, then no dunes can develop, regardless of grass, snow fence, christmas trees, natural debris. If there is no sand, no dunes.

Now, here is something that I've been arguing for thirteen years and in Ocean City, we've approached a lot of these things. We have our own dredge and we've done wonders with it. Now, a powerful suggestion: Should not more emphasis be placed on means and methods of guiding the natural forces of waves and surf zone? Why not develop a positive overall approach to the stabilization of our beaches, inlets and bays, not band-aid, emergency treatments?

Now, I have a closing remark. A favorite cliché of mine, which may explain some motives of some people is, "A liberal is one who is free and easy with something that belongs to someone else", property, freedom and so forth. Don't let them get away with it. (Applause)

I have two pictures here, documenting them if you wish. They are worth a million words. This is a block in Ocean City, probably the most expensive, per square foot, resort in the country. There was a ten foot dune in front of this whole block in 1962, before the storm. It was ten feet high. A house moved from the beach all the way back two streets, a house I helped design. I insisted on a bulkhead in front of it. The bulkhead saved that house. Now, for them to say that a dune is going to be the total protection, hogwash. Now, here is the same house, with this whole block worth well over \$10 million, this is built ten years after with private money, with pride of ownership, not a damn cent from the government. (Applause) Don't rely on the dunes. They are beautiful, yes. They are the first line and no one is going to argue more than I am. I've been at it a damn site longer than these kids. (Applause)

ASSEMBLYMAN HOLLENBECK: Thank you, Mr. Carey. We now have Mayor Tompkins from Seaside Heights.

T H O M A S K E N N E D Y: Obviously, I'm not Mayor Tompkins from Seaside Heights, but Friday afternoon, about a quarter to four, George said that he felt that this is important enough that I should go. Any of you who know George Tompkins, the Mayor of Seaside Heights, know that he speaks and speaks out well, not only for the Borough of Seaside Heights, but for all of South Jersey.

Before I left, George said, "I have four or five points I would like you to bring out." Because of the time element, I'm only going to touch upon one. The first thing he wanted was to make sure that his apology for not being here was extended. It is not like the Mayor, but even the Mayor, on occasion, has other duties, like earning a living to raise a family, and believe me, as all the mayors know, they put an awful lot of time in and at an awful lot of their own expense.

The question that I think we should touch on today, and it is one of those points that George said, "Please, address yourself to," other than the fact that he feels that this is the most horrendous piece of legislation ever offered. What he is concerned with, however, is local elected officials, and when I say local, I mean the local, the county and state level, who have to face the voters every year and do not, unfortunately, have the liberties of those who, apparantly, have representatives to fill. Now, I hope you gentlemen who are sitting here this afternoon, and I'm sure

you have, came here to listen, and believe me, I came at ten o'clock this morning, like many of the rest of you and believe me, you deserve a lot of credit, with no lunch and it is ten to three. I'm not going to hold you much longer, but I think it is important to point out that we sat here today and listened to Assemblyman Hollenbeck, who in his own bill has reservations. We listened to Frank Graves, Senator Graves, who thinks that the bill is unconstitutional. We've been assured by our own Senator Russo that there are not enough votes to get this bill through and we've been told by our own Assemblyman Doyle that it is so bad, don't even take it back and try to do something with it. Now, if you listened to the rest of the people here, you heard experts of 39, 40, 50 years of dune preservation. You heard a young lady speak about 11 churches between Lavallette and Seaside Park and maybe we should put a little faith in God and a little less to Jerry English. (Applause) But, the fact of the matter is that I don't think the Legislature realizes what power is being lost. You wonder every year why there are less and less people that vote. I think this piece of legislation, which has obviously been prepared by the DEP, is a prime example of why people don't go out and vote, and believe me, I think it is time that you assemblymen, our county freeholders, and I can speak for my mayor, we're concerned, and I think it is about time we took a good, long, hard look at the DEP and wonder about that room at the top of the building and what the devil goes on up there. Thank you.

ASSEMBLYMAN HOLLENBECK: Joe Citta?

J O S E P H C I T T A: My name is Joe Citta. I live in Toms River. I'm a lawyer; I'm interested in real estate and I'm interested in the United States government and good government in the State of New Jersey. I want to say, and I'm not going to be long because everything that has been said here today I concur with with the exception of your original speaker and one other. Other than that, I can just say it is true and I think that the Legislature and the State needs to back up a little bit. We need to get away from bureaucracy because bureaucracy is going to ruin the entire state and take away from the people the liberty that they have.

I also want you to know that I represent 1200 feet of ocean front down south of Seaside Park and I can tell you from personal experience that that beach with the dunes and everything else has been built up by individuals by putting fences and putting barriers and they built it up. We're all in favor of sand dunes, but this bill is way, way out. The biggest thing that I see that is wrong in this bill is, number one, it does not help the beach whatsoever. Sand dunes can be controlled and should be controlled by local legislation, not by someone in Trenton or some other group that is going to give you permission as to what you should do and when you should do it and how. I'm particularly steamed up at the idea that this proposal is on such a basis that if the house is partially destroyed, the individual cannot take his property and rebuild it. Why did they do this? They did it for the wetlands, they did it for the pine barrens and now they're going into something else and where are they going to stop? I say to you that the best government, as Jefferson said, is the least so that the people can run their own. (Applause) I know that you are trying to shorten the meeting and I'm going to be real short. There is no need to talk any further. I don't think this needs to go back to the committee for work. I think this bill should be thrown out and forgotten and any part of it. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Edgar Diukelspiel from Long Branch?

E D G A R N. D I U K E L S P I E L: My name is Edgar N. Diukelspiel from Long Branch, New Jersey. I'm a former City Councilman and a former City Commissioner.

First of all, I was very disappointed that the proponents of this bill were not here to discuss the bill in detail. They were giving you sort of a sluff-over. They didn't tell you about all the problems that the bill creates.

Second of all, I would like to know why Monmouth County has been completely omitted from any hearings. Monmouth County has one of the most valuable coastlines in the State. In Long Branch alone, in the shore area, we have \$50 million worth of condominiums and apartment houses on the beach and that has been completely eliminated from these hearings and I think it is very unfair for you legislators to have done that. There is a lot of money invested there.

Now, Assembly Bill 1825, more commonly known as the Dunes Act, sponsored by North Jersey Assemblyman Hollenbeck, is completely out of touch with reality. This is a little summary because most of these points have been touched. It is beyond me how a North Jersey man, who knows very little about the problems of the shore areas, can introduce such a bill, as well as many others in the DEP department. They come down maybe for a few minutes or a few hours and study it for maybe a few days during the summer and they think they are great professors on the shore area and the dunes and jetties and bulkheads. That's the unfortunate part that goes on in this State. We have people who have absolutely no expertise or no natural experience about what the conditions are.

Now, I have lived on the beach all of my life. My family acquired our homestead in 1911 and that is 69 years. I've watched storms and I've watched the surf and I've watched the beach build up and tear down and build up. In fact, right now, when I left this morning, we had a big beach there. Other times, the wind and tide tears it down.

Now, this bill, if passed in its present form, most of the shore area properties will become worthless, as you've been told today and that means that there will have to be a massive tax abatement, which will break this state. There will loss of revenues to the counties, the municipalities, as well as everything down the line, as well as employment, so forth and so on. There has been a misconception, as has been pointed out here. Because the road goes past your house, that doesn't entitle people to go and camp on your front lawn or have a cookout there. Now, these beachworks, or bulkheads and jetties were put there to protect ratables, as well as protect everything else. They protect the highways behind the homes and protect the ratables, and the people along the shore are entitled to that as much as you are entitled to a highway in front of your house or all the other stuff that's been pointed out today.

Now, this bill is highly socialistic in nature, highly confiscatory and, as has been pointed out, strikes at the very heart of the U.S. Constitution by depriving citizens of private property rights and ownership. The bill, if passed, will be the first step in wiping out private property rights in the State of New Jersey. There is nothing to stop the state from coming in and taking over homes anywhere in a flooded area, such as Bound Brook and other places in North Jersey, because some disgruntled governor or politician feels like doing it.

Some municipalities are exempt for the purpose of reconstruction of boardwalks and this too is a discriminatory measure, such as Atlantic City. If it is good for private property and municipal property, it certainly should be good for Atlantic City.

Public access to private property would result in many negative beaches, which has not been pointed out here today, such as broken glass on the beach, noise, garbage and the ensuing rats, lack of privacy, and perhaps the worst of all, rapes, robberies, with all strangers trespassing on peoples' private properties. There will be lawsuits and injuries, which hasn't been considered here today, and drownings, which we will also have to be liable to defend. Being on the beach and having to put up with all of these things and having my wife being daily abused by trespassers, I know what it means and this is what you want to open everything up to. After all, you have to realize that beachfront properties are the front yards of property owners and you are trying to take away their front yards with this bill.

No one disputes the fact that existing dunes should be protected from money hungry developers who would destroy them, but to ban reconstruction of existing structures is a very dangerous step in our free society and to wipe out private property rights smacks of totalitarian state, where the government is all-powerful and the individual is nothing but a mere slave. (Applause) This bill, like so many others, drawn by our good Legislature, is nothing but a waste of taxpayers money. I get the Legislative Digest and I see the hundreds of bills drawn each year to please one little individual or that individual and it costs the taxpayers thousands of dollars year, which is ridiculous. This bill, also, is being drawn to curry favor from our good Governor, who is a lame duck. You can forget about him. (Applause) It was the biggest mistake the people of New Jersey ever made, to elect him in the first place. He has helped to destroy our state. This bill has got to be completely scrapped and rewritten and I say this, taxation without representation is tyranny.

Once again, I want to press the point that if you are going to continue these hearings, which I think is a mockery--they ought to be abandoned--you've seen the tenor of the people, you've seen representatives of the people, mayors and so forth, senators, who have declared that this bill is unconstitutional and I firmly believe it is. I think it is a waste of time to continue with these hearings. But, if you are going to continue the hearings, I urge you to include my county in your hearing list. Thank you. (Applause)

ASSEMBLYMAN HOLLENBECK: Ladies and gentlemen, we are finished with the list of public speakers, people who wish to give testimony on A-1825 today. I was rather disappointed, myself, with some of the testimony because I had hoped that we would have some more addressing to the language of the bill. I see areas where people testified and legitimately so. However, there are areas that got very little addressing. I thought Mr. Latorre was a very valid witness in dealing with the report. I thought Mr. Carey, and I guess he is recognized as an expert on the dunes, brought some very valid testimony. These are the types of things we look for for informational purposes.

Now, I just want to let you know some things, which I prefaced this hearing with. There is the bill, which I am not happy with. I think there are questions, though, that have to be addressed. There are abuses along the shoreline. There is a rape of the dunes. There are many municipalities in this State who have acted very responsibly and if I didn't say that, I would be wrong. However, there are other things we must look at also. I also read about the rumblings in Washington dealing with the National Flood Insurance and I know what they have said down there, that they are not going to continue subsidizing the National Flood Insurance if you don't do something to try and protect it. What I'm telling you is that these kind of threats, not from me, but from some bureaucrat in Washington, we're concerned about that.

If we can do that without intruding on your home rule, without stepping on peoples' property rights, and still give you the protection that you deserve, I think it is something we can try to achieve.

The next public hearing is scheduled for next Monday down at Long Beach Island. Thank you.

(Hearing Concluded)

Resolution

WHEREAS, the Mayor and Council of the Borough of Spring Lake are profoundly concerned with the condition of the Coast of the State of New Jersey; and

WHEREAS, Assemblyman Hollenbeck of the County of Bergen has introduced Assembly Bill No. 1825 known as the "Dune and Shorefront Protection Act" to the Committee on Energy and Natural Resources of the General Assembly of the State of New Jersey and has requested passage of the same by that body and the Senate of the State of New Jersey.

WHEREAS, the Mayor and Council of the Borough of Spring Lake have taken upon themselves to review A1825 for the protection of the residents of Spring Lake and other oceanfront communities.

NOW THEREFORE:

BE IT RESOLVED by the Mayor and Council of the Borough of Spring Lake that after careful study and review of A1825 that they are alarmed at the arbitrary and capricious intrusion of the state government into its citizens private lives and failure of the Department of Environmental Protection to deal with the problem of management of our coastal resources and believe firmly and resolutely in the inalienable right of private citizens to own property and find this bill for the reasons outlined an outrage and an affront to individual rights and liberties as provided for



in the Constitution of the United States of America and the  
State of New Jersey and do vigorously oppose its passage.

Proposed by: Robert N. Danskin  
Date: July 14, 1980

# Borough of Seaside Heights



MUNICIPAL BUILDING  
901 BOULEVARD  
SEASIDE HEIGHTS, N.J. 08751  
201-793-9100-01

July 14, 1980

DUNE and SHOREFRONT PROTECTION ACT  
DEPT. OF ENVIRONMENTAL PROTECTION

Attn: Assemblyman John O. Bennett III  
Monmouth County

Dear Assemblyman Bennett:

I am Superintendent of Public Works and C/D Director for the Borough of Seaside Heights, N.J. I have been employed by the Borough for the past thirty five (35) years and have served as Superintendent for a period of over twenty (20) years. I have resided in the Borough of Seaside Heights along the beach front for the past fifty five (55) years. I have experienced almost every major storm during this period of time with the exception of time spent in the military service and a period of higher education. I consider myself very knowledgeable in coastal flood conditions.

Seaside Heights has no sand dunes; however, we do erect snow fences near the water line during the off-season months.

We have a boardwalk along the entire length of our Borough. Most of the building along the boardwalk are built on piling and steel re-inforced concrete basement walls. No ocean water by-passes these buildings since they have been constructed. We have lost some boardwalk several years ago but, most destruction was due to poor construction. It has been properly rebuilt since. The boardwalk and the sand packed under the boardwalk has successfully served as a barrier for the past several years. We have one of the widest and highest beaches along the Jersey Coast.

100% of our damages is a direct result of high winds and heavy rain causing flood conditions, not from ocean waters. I have never requested State aid for our community for items such as jetties, groins, beach fill etc. despite the recommendations of the Coastal experts. It has finally been determined it was a waste of money.



SUN AND FUN RESORT

(2)

Ortley Beach, our next door community had two or three Ocean water breakthroughs. In the area of the untouched sand dunes, the balance of the beach area had major problems - no sand dunes but also had a built up area.

Seaside Park again our next door community - no sand dunes - no breakthroughs. They do have a sand packed boardwalk along the entire length of the boardwalk.

Island Beach State Park experienced many many ocean break - through. For the past 55 years Island Beach has no construction what so-ever along the sand dunes with the exception of the Governor's mansion. Island Beach consists of 100% sand dunes - why so many Ocean breakthrough?

I urge the legislators to concentrate and use all their resources to engineer, construct and to maintain better storm drainage systems. In our community and neighboring communities the danger lies away from the coastline but in the center of the communities. Heavy flooding conditions exist from the heavy rains and winds and poor or no drainage to carry the water away. No this is not ocean water.

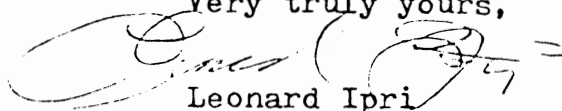
We need better highways running along our beach communities. As C/D Director I have made numerous requests to correct this situation. Roads leading north through Manaloking consists of one lane a constant traffic jam for cars traveling north through busy rush hours. Can you imagine if an emergency should arise. The State highway department advised me they have no money to correct the situation.

Again during heavy rains and wind causing floods on Pelican Island an island one mile towards the mainland west, our ocean beachfront is almost completely under water making it impossible for road travel to move out of the shore community. Again the dunes could not prevent this situation, it's high wind, rain and poor drainage. Road leading north along the beach area, underwater during heavy rain storms; impossible for road travel. No the dunes are not the problems they have them. It's drainage again with no corrective measures on the drawing board.

Should we have any loss of life it will not be due because of lack of dunes it's the floods from the rain blocks away from the beach front.

I strongly urge a panel of experienced personnel (mostly people with experience from the beach area) to make a complete study of the situation. I would happily volunteer my services. For such a project I beg you Assemblyman Bennett reject this poorly prepared legislation - any part of it enacted will eventually require huge sums of money and time producing no results but hardships for the people. Millions of people visit our beaches and communities every year, they enjoy are safe and clean beaches, boardwalk, shops and amusement rides - don't take this away from the people.

Very truly yours,



Leonard Ipri  
Public Works Supt.  
C/D Director

[illegible]

