P U B L I C H E A R I N G

BEFORE

ASSEMBLY COMMITTEE ON EDUCATION

ON

ASSEMBLY BILL NO. 34 (PERMITS BOARDS OF EDUCATION TO ADVERTISE AND RECEIVE BIDS FOR ALL WORK TO BE INCLUDED IN A SINGLE CONTRACT WHERE THE ENTIRE COST WILL EXCEED $2,000 OR SEPARATE BIDS FOR PLUMBING, HEATING, ETC.)

Held:
Assembly Chamber
State House
Trenton, New Jersey
March 4, 1957

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Clifton T. Barkalow (Chairman)
Assemblyman Leo J. Mosch
Assemblyman William E. Ozzard
Assemblywoman Lettie E. Savage

ALSO PRESENT:

Senator Thomas J. Hillery
Assemblyman Donald J. Fitz Maurice (Sponsor of A 34)

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INDEX OF SPEAKERS

MORNING SESSION

ASSEMBLYMAN CLIFTON T. BARKALOW (THE CHAIRMAN): May I have your attention, please.

This is a public hearing by the Education Committee of the Assembly on Assembly Bill No. 34. This bill is sponsored by Assemblyman Ozzard, who sits on my immediate right, Assemblyman FitzMaurice and Assemblyman Franklin. I should like to introduce the members of the Education Committee: Mrs. Savage, Assemblywoman from Ocean County, Assemblyman Leo Mosch from Essex County, and I am Assemblyman Barkalow from Monmouth County.

I shall ask Mr. Ozzard to make a statement on the record as to the Bill, A-34, what it proposes to do. Mr. Ozzard.

ASSEMBLYMAN OZZARD: A-34 is a brief bill, one that many people have asked for copies of in the past few days, and I understand one that many of you have not yet read although you do understand the contents of it. Since it is just a one-paragraph bill, I would like to read it and then make just a few statements on it. The section of the statutes with which it deals is one under which the present procedure for the construction, alteration and repair of a school building where the cost will exceed $2,000 provides for multiple bidding and multiple contracting. The bill reads as follows:

> "In the erection, construction, alteration or repair of a public school building, when the entire cost of the work will exceed $2,000.000 in amount, the board of education shall, in the manner provided by law,

advertise for and receive either (a) separate bids for the plumbing and gas fitting, and all work kindred thereto, the steam and hot water heating and ventilating apparatus, steam power plants and all work kindred thereto, and electrical work, structural steel and ornamental iron work, or (b) bids for all of the work to be included in a single over-all contract. The board shall award a contract for all such work or separate contracts for such work to the lowest responsible bidder, or for each of such branches respectively, as the case may be."

To clear up just a couple of questions on the bill and its introduction, I have heard many statements and received many communications in the past five or six months since the bill was first introduced. Most of these contacts, or many of them, have dealt with who might be behind this bill, and I would like to clear that up right now.

This bill was first introduced last fall and it was the result of conferences that I held with the State Federation of the District Boards of Education. They had had this matter under consideration for some time and they contacted me as one of the members of the Assembly, and last year on the sub-committee for Higher Education, to consider the possibility of revising this section of the statutes. A bill was prepared, it was considered, and it was introduced. The plan of introduction was one which the Federation and I worked out so that there could be no criticism of the handling of the bill and so that there would be an opportunity for persons who might be interested in the State of New Jersey to understand it and be heard. It was introduced last year with no intention of moving it, no intention of getting it out of committee, and the record shows that that is exactly what took place. It was in for informational purposes so that everyone might know exactly what the suggested

suggested change would be. The further plan was to re-introduce it in the 1957 session, which also has been done and, as you know, is now Assembly Bill 34. A further plan was to do nothing with it, so far as committee activity was concerned, until such time as a public hearing, this hearing today, could be held, so that all viewpoints could be made available to the Committee and the members of both Houses of the Legislature. That's the status as of today.

We are very happy that there is such a full representation of the many organizations and individuals who are interested.

ASSEMBLYMAN BARKALOW: I would appreciate, if there are any speakers here with prepared statements, if they would furnish the stenographer a copy of that statement. When you come forward, if you have a copy, will you please hand it to the stenographer at that time.

Now, I should like to ask the gentleman sitting in this seat if he would mind taking another seat and then, as each one of the speakers appears before the Committee, if he would take that seat and speak into the microphone, after first stating his name, I believe it will help the hearing to proceed. I also will ask that the proponents of the bill speak first.

We will now proceed with the first speaker for the bill. As you have signed in, I have no way of knowing whether you are for or against the bill on this list I have before me, so if we may proceed I call the names from the list, and the first proponent for the bill will please come before the Committee and speak.

Louis P. Marciante, Irving Bookstaber, Kenneth L. Estabrook, Martin J. Fox, James T. Owens. Well, then, let's call for volunteers for the first speaker on the bill.

C L Y D E J E F F E R S O N: Mr. Chairman and Members of the Committee: My name is Clyde Jefferson and I am a lawyer of Flemington, New Jersey. I represent, and have for many years, five school districts in Hunterdon County and I appear here today in support of the bill.

During the time I have represented these districts, we have gone through many school building projects, two of them in the million dollar category and the others consisting of additions to existing buildings at an overall cost of a quarter of a million dollars or less. It is my very definite feeling and I believe the feeling of every member of every board I represent, although I did not consult them individually before coming down here, that Assembly Bill No. 34 is highly desirable and is essential legislation that should be enacted into law.

The disadvantages of the present requirement of five separate prime contracts, especially where the project is small, are,

First, the Board has no responsible head to deal with, but five separate contractors, each one of which operates completely independent of the others. There is little or no coordination of the work. Even where a superintendent is retained on behalf of the Board his efforts are often ineffective and the cost is high. Individual contractors always find

it a convenient and hard to disprove excuse in the failure of the other contractors, when they're called to account for delay. The job always suffers.

Secondly, on small jobs the size of contracts other than the general building contract, is often so small that responsible contractors in the other fields are not attracted to bid. People who put in bids are often not properly equipped and staffed to execute the work with dispatch, and lengthy delays result.

Thirdly, the multiple contract method of bidding results in greater expense to the small district, for two reasons:

(a) by reason of resultant delays of the building operation, and

(b) actually higher bids.

As to the first the work progresses only as fast as the slowest of the five contractors. If he happens to be, say the steel contractor, the entire project may remain at a stand-still for weeks or months. If you take him to task he presents all sorts of excuses. In one case I have personal knowledge of, it was discovered, after six months' delay that the steel contractor had never even placed an order with the steel mills, but was vainly trying to put his needs together by picking up pieces here and there from fabricators supplies. And when his bonding company was finally called in it took another three months to get new contracts let and the job moving. Result -- one year's delay. The school, in question, will be occupied in September of 1957 instead of September, 1956, as was originally contemplated.

Other contractors work only when it suits their convenience rather than when their particular part of the job should be done in order to avoid holding up the general building contractor,

I do not especially blame contractors for this situation. I blame the law which requires multiple bidding. An individual contractor can not schedule his work with any accuracy for the reason that the prosecution of his part of the job depends on how and when the other contractors function, over whom he has no control. A single contract would avoid this.

Delays equal expense.

First, the unavailability of class rooms necessitates the rental of outside and usually unsuitable quarters, with extra hazard to children and dissatisfaction among parents and staff.

Secondly, in a time of rising building costs contractors find it necessary to pay extra for labor and materials, with consequent loss of profits.

Thirdly, insurance must be continued over longer periods of time, with extra premium expense and many other fixed charges have to be paid over longer periods of time, with resultant extra expense.

I contend that multiple bidding actually results in substantially higher bids. I believe bids ten and fifteen percent lower would result if School Boards could legally accept one over-all contract. From contractors I learn that under the

system of multiple bidding there are so many uncertainties and unknown quantities that it is necessary for them to substantially pad their bids in order to fortify themselves against possible unfavorable developments and contingencies they have no way of anticipating. They will tell you that, in order to stay in business, they have to do this.

When a general contractor puts in a bid he has to consider the possibility that he may get a stinker of a plumbing or steel or some other contractor. He has no way of knowing whether the others will cooperate or not. So, in order to arrive at a safe figure he has to asume they won't cooperate. Another ten or fifteen percent gets added to his figure and each of the five contractors does the same thing.

If it were possible for one general contractor to put together an over-all bid he would be able to choose reliable sub-contractors from among people he had had previous experience with and people he knows he can depend on. Having control of the whole job he can set up a work schedule right from the beginning, and what is more important he can keep the work to schedule, by anticipating and solving in advance the problems of delivery, fabrication, etc. Substantial savings would certainly result.

Now, gentlemen and ladies, I would like to call your attention to a short editorial which appeared in the Hunterdon County Democrat on January 21st. It was written by Mr. D.Howard Moreau, the editor and publisher of that leading country weekly.

Mr. Moreau has been keenly interested in problems of education for many years. He served on our local Board of Education and the State Board of Education, and on many other Boards and committees in the field of education. This editorial comments on another Bill introduced by our Senator, Senator Lanz, which, I believe, to be substantially the same as Assembly - 34, he said:

> "That Senator Lanz' Bill which would give the Board of Education the option of receiving bids on new construction in a lump sum, or, as at present, five separate contracts, is a good Bill and should be enacted into Law. Whether this Bill will receive favor in the Legislature depends as in all cases upon the organized opposition. Whether labor will go along or whether the Contractors' Association will like it, is a question. The Bill will have particular interest for the smaller Boards of Education. Under the present Law every building job, unless very small, has to be let in five parts,--general construction, steel construction, plumbing, heating and ventilation, and electrical work. This means five contractors to check for financial responsibility to supervise, coordinate and otherwise work into a united force for the completion of the job. The Flemington-Raritan Board of Education is now depending upon a Bonding Company to make good on steel construction because the contractor who had the steel job on the

new elementary school defaulted. The school will be completed a full year late because of this snarl, and all the other contractors stand to lose because of the failure of one individual. The local district is paying dearly for this defalcation which could have been avoided, certainly to a large degree, if there had been one person or building firm responsible for performance. The real sufferers are the children who had to go through another year of double sessions for this reason.

Laws do not require that Counties and Municipalities let their building work in five contracts, there seems to be no good reason why school work should be split up. Certainly there is no very convincing reason why a Board of Education should not have the option of deciding whether to take one bid or five."

In conclusion, I want to urge that this Bill be adopted into our school law, without delay. It is highly desirable legislation, especially from the point of view of the small district, in a rapidly growing community. It would, in my opinion, serve the interests of all agencies which have a part in the production of a school building.

I suppose there will be opposition to this Bill. From my own experience as a member of this legislative body, many years ago, I seem to remember that few bills became law without opposition. In this case I have wondered from what quarter the

opposition might come.

The State Department ought to favor it. The people in the Department are, I know, interested in furnishing the best possible school facilities, at the least possible expense to the tax-payer and in the shortest possible time. This bill, if enacted into law, would do just that. The Department is also keenly interested in anything which would tend toward better teacher working conditions. This bill would enable school boards to produce additional, much needed facilities, more rapidly, and thus avoid long periods of double sessions, in unsuitable rented quarters.

School Boards favor it. It takes nothing away from their present authority, being permissive in nature. It will enable them to do a better job, by making it possible for them to avoid multiple contracts where, in their judgment, it is in the best interests of their districts to do so.

Labor should favor it, for it would be a stabilizing influence in the entire building field.

And lastly, this bill is highly desirable from the point of view of the tax-payer, as it would influence building costs downward, and from the stand point of the parent of the school age children, for it would certainly provide much needed class room facilities at an earlier time.

ASSEMBLYMAN BARKALOW: Mr. Jefferson, if you would wait a moment, there might be some questions by members of the Committee.

I would first like to know in the construction work

which you referred to in your remarks, whether or not there was a Clerk of the Works in attendance?

MR. JFFERSON: Well, sir, I have to say that there was but, in my opinion, he didn't function. Whether he could or not, I don't know, but he simply was unable to get the co-operation of the five contractors so as to coordinate the work.

ASSEMBLYMAN BARKALOW: I believe you stated that in your opinion you thought the cost of construction under the single bid contract would be cheaper to the taxpayer. Could you enlighten us a little further on that, whether or not you have any concrete evidence of that, or whether that is just an opinion.

MR. JEFFERSON: It is an opinion, yes, sir, but I think it is based on rather sound consideration because I think it is fairly well conceded that a contractor, in putting together a bid, must take into consideration and be on his guard against things that he can't anticipate, one of which is the sort of people that he will have to work with, and it is my opinion, and I feel so strongly that this happens, that in order to stay in business and not get ahold of a situation where he is going to likely run into insurmountable difficulties, he has to put in an extra amount in his bid in order to cover that.

ASSEMBLYMAN BARKALOW: At this time, I would like to introduce one of the other co-sponsors. Thank you, Mr. Jefferson. Wait, there may be some other members of the Committee who would like to ask a question. I just want to introduce Assemblyman FitzMaurice from Essex County, and

Senator Hillery from Morris County. I believe the Senator is interested in a similar bill over in the Senate. We are very pleased to have him with us.

Now, are there any questions from Members of the Committee of Mr. Jefferson?

BY ASSEMBLYMAN MOSCH:

Q Mr. Clyde, the particular school that you mentioned that was delayed for one year in construction, could you give me the total cost of construction involved there?

A Yes, I can. In the first place, my name is Jefferson.

Q I'm sorry. A The school involved is an elementary school situated in Flemington, New Jersey. The cost is approximately $1,000,000. I think it ran one million one to two hundred thousand; I have forgotten the exact figures.

Q Well, for a million dollar construction, do you have a sufficient number of contractors in Flemington who are capable of handling construction of that size? A Sir, we have no contractors in Flemington capable of handling that size job. None of the contractors are from that area.

Q Particularly what was running through my mind was the question of who could qualify for a performance bond for a job of that size. A There is no one in that area.

ASSEMBLYMAN BARKALOW: May I ask, is everyone able to hear the speakers?

(THE AUDIENCE: No.)

I was afraid of that. I will ask each speaker if they will please speak into the microphone and as close to it as possible. I think it will be better, so that we all can hear.

I will also ask the members of the Committee if they will make sure that they have the microphone by them when they speak. I guess you can hear me; my voice carries pretty well.

BY ASSEMBLYMAN OZZARD:

Q Mr. Jefferson, you referred to outside costs that had been experienced or you believe could be experienced in the construction of a school where delays were encountered. One of those outside costs that you mentioned was the rental of schoolrooms during a period of delay in the principal school construction. Have you had any instances of that in Hunterdon County or in connection with the boards that you represent and, if so, can you give me an approximation of what those costs might have been? A Yes, sir. We do have in this school that I mentioned, that situation. It arose out of another happening there, and that was the loss by fire of the old school. We have at the present time, if I am not mistaken, classes in three outside facilities - I think, Redmen's Hall and a couple of churches, and so on. The rent is not high but there are extra expenses of insurance. The facilities are woefully inadequate and, in my opinion, dangerous to the children, and highly undesirable all the way around.

ASSEMBLYMAN BARKALOW: Any other questions by the Committee?

Just one last question, Mr. Jefferson. You say the bill is permissive. Is it your understanding that it permits the Board of Education to receive bids either under the five branches as the law is at the present time, or

under a single contract bid?

MR. JEFFERSON: That is my understanding. Is that correct?

ASSEMBLYMAN BARKALOW: That is my understanding, but it does not mean both ways. In following through that thinking, I would be pleased to have you give us your ideas as to how a Board of Education would know whether or not it had received the lowest bid if it did not take bids both ways.

MR. JEFFERSON: I am not sure I understand your thinking, and I have to confess that I haven't considered that angle too much, but if you are questioning whether or not they could take single bids and multiple bids as an alternate, I think not. I don't know whether I'm right or not on that.

ASSEMBLYMAN BARKALOW: That's right. I wanted to have your thinking for the benefit of the Committee and the record on that particular point.

MR. JEFFERSON: I don't think mechanically it could be worked that way. I think the Board would have to decide before they invited bids which way they would ask for them.

ASSEMBLYMAN BARKALOW: So that in the final analysis, there is always that element of doubt with respect to the other type of bid or bidding.

MR. JEFFERSON: Oh, yes, that's right. They never could be sure they were right. So far as that goes, they would have to exercise their best judgment, I presume.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Jefferson.

Will the next speaker please come forward?

MRS. S H I R L E Y L. M E N A K E R: Mr. Chairman, members of the Education Committee: I am Mrs. Shirley Menaker, speaking for the State Federation of District Boards of Education. On behalf of Mrs. Ruth H. Page, President of the State Federation of District Boards of Education, and Mr. Leonard E. Best, Legislation Chairman of the Federation, neither of whom could be present today, I should like to express the position of the State Federation of District Boards of Education regarding Assembly Bill 34 on building contracts.

Mr. Jefferson has just stated the case for one Board of Education. I should like to show that many other boards have found themselves with the same problem.

During the last two years, we have received many resolutions and/or letters protesting the provisions of 18:11-10, "Separate Bids and Contracts for Various Types of Work." These resolutions and letters have come from the following boards of education: The Morris Hills Regional District Board of Morris County; the Bridgewater Township Board of Education, Somerset County; Princeton Township Board of education, Mercer County; Bogota Board of Education, Bergen County; the Teaneck Board of Education, Bergen County; River Edge Borough Board of Education, Bergen; Westwood Consolidated Board of Education, Bergen; Mahwah Township Board of Education, Bergen; Tenafly Board of Education, in Bergen; Saddle River Township Board and the Saddle Brook Township Board, both in Bergen County; the Emerson Board of Bergen County; the Hanover Park Regional Board of Education

of Morris County, and the Keyport Board of Education, Monmouth County.

In general, they have been worded as follows:

> "Whereas, at present the laws of the State of New Jersey require School Boards to take bids on five separate contracts in the construction of a school building (general construction, plumbing, electrical, heating and ventilating, and structural steel); and,
>
> "Whereas, there is reason to believe that this practice adds greatly to the cost of construction; now,
>
> "BE IT RESOLVED, that the.....Board of Education request the Governor of the State of New Jersey, the Senator from..... County, the Commissioner of Education, the members of the Education Committee of the Assembly, the..... county delegation to the House of Assembly, the Legislative Committee and the Secretary of the State Federation of District Boards of Education, the County Superintendent of Schools, and the Boards of Education of..... County to investigate and study the practice now being used versus the possibility of permitting Boards of Education to advertise for, accept, and award a single contract for the construction of a building."

Since the Federation received notice of this public hearing on A 34, we have sent out notices to all district boards of education asking them to either send a representative to the hearing or send us their views on the bill.

We have received telegrams or letters in the last few days from the following boards of education giving their position on this legislation: A telegram dated March 2 from the Hanover Park Regional Board, Morris County; a telegram dated March 1 from the Teaneck Board of Education, Bergen; a telegram dated March 1 from the Saddle Brook Board of Education, Bergen; a letter dated March 1 from the Morris Hills Regional Board, Morris County; a letter dated March 1 from the Somerville Board, Somerset County; a letter dated February 28 from the

Ramapo Regional High School District, Bergen; a letter dated March 1 from Watchung Hills Regional High School District, Somerset County; a letter dated March 1 from the Keyport Board of Education, Monmouth County; a letter dated February 24 from the Newton Board of Education, Sussex County; one dated March 1 from the Ramsey Board of Education, Bergen County; another dated March 1 from Franklin Township Board in Somerset County; a letter dated March 1 from the Edison Township Board of Middlesex County; a letter dated March 1 from the Somerdale Board of Camden County; a telephone call just this morning from the Superintendent of the Flemington-Raritan Regional High School Board, Hunterdon County; a letter dated March 1 from the Cranford Board in Union County; and a letter dated March 4 from the Woodbridge Township Board in Middlesex County.

These represent boards in eleven of New Jersey's 21 counties. We received notice of this hearing only recently, and most of our replies have come in just this morning. WE expect to receive comments from many more boards on this matter in the near future. The recent school board elections have made it difficult for some boards to formulate a resolution on this immediately, though they have previously expressed their support of such legislation.

In view of the above correspondence, the State Federation of District Boards of Education would like to express its approval and support of the proposed legislation on building contracts. Being permissive legislation, allowing either separate contracts or an overall contract for the

erection of new schools or additions, the Federation feels that the proposed legislation would be advantageous to those school boards now inconvenienced by the multiple-contract law as shown; and again, as it is permissive legislation, the Federation feels that it would not harm those boards now operating satisfactorily under the present legislation.

I thank you.

ASSEMBLYMAN BARKALOW: Thank you, Mrs. Menaker. May I ask you whether or not the boards of education that have contacted the State Federation on this bill were of the understanding that this bill would permit bidding either under the five branches or under the single contract, but would not permit both?

MRS. MENAKER: They were of the understanding that it would permit either - the five contract or the single contract.

ASSEMBLYMAN BARKALOW: But not both at the same bid opening?

MRS. MENAKER: I do not believe so.

ASSEMBLYMAN BARKALOW: And would you care to express an opinion--

MRS. MENAKER: Mr. Chairman, I am here merely to deliver a statement from Mr. Best. I do not feel that I have the authority to answer any further questions on this matter.

ASSEMBLYMAN BARKALOW: I appreciate your position and we will certainly extend that courtesy to you and not propound any further questions.

Thank you very much for appearing.

The next speaker for the bill.

H A R O L D F. H O F F M A N: My name is Harold F. Hoffman and I am Superintendent of Schools in Livingston, New Jersey. I will speak only from the experience which leads us to support this bill. Assemblyman FitzMaurice lives in our community and saw some of the problems that we have had in the last few years. He realizes that this coming fall 88 per cent of the schoolrooms that we are using will have been built since 1949. It is a rapidly-growing community in which we have built a new High School, four elementary schools, and we are now coming up for our Junior High School. Our experience has been that all of the problems that were cited by the gentleman from Flemington were duplicated in Livingston. We have had numerous delays because of the fact that it seemed impossible to coordinate the various contractors, and one holding up the others made our opening of schools late. We had two elementary schools to be finished this past September, in one we had to be on double sessions until Thanksgiving and the other one until Christmastime.

We believe that it would be advantageous for districts to be able to take one single bid for all of the construction. We do employ a Clerk of the Works and we would continue to do so. But we feel that our experience in our High School especially, and in our athletic grounds, where we had a long delay because of this one contractor holding up the other, certainly makes it necessary for boards to have this privilege. We like the fact that it is a permissive

legislation that will allow those who are now operating best in their judgment with five separate contracts to do so, but we would like the privilege of taking one single bid from one general contractor who is responsible for the sub-contractors that he gets to work with him for maximum expedition of the contract.

ASSEMBLYMAN BARKALOW: Thank you, Mr. Hoffman.

Would you care to elaborate just a little further on one point which you mentioned; that is, that at the present time under the five branches of bidding, you say that one contractor many times holds up the other part of the work. Would you tell us how the single contract would eliminate that situation if there were sub-contractors, even though it were under a single contract bid?

MR. HOFFMAN: Well, one of the best examples we have is with our plumbing contractor. The person who has this bid in our schools for the last two we have built apparently has bid in many other school districts and has been successful. There's little coordination or little planning at the time the contract is taken that the work will be finished when it is needed so that he doesn't hold up other contractors. Now, my thinking is that they would be a little more likely, and I realize that the amount of labor available and many other things enter into this, but it seems to be it would be a bit more likely that a general contractor, knowing the amount of work that his sub-contractors have already committed themselves for, might be able to obtain sub-contractors, with a definite promise at least from them

that when their part of the work was ready they would perform it.

ASSEMBLYMAN BARKALOW: Just one other point: Do you have any information which would throw any light on which method would result in the most saving to the taxpayer?

MR. HOFFMAN: Not very much. I think that this bill would be especially good when you have small jobs to be done, like a new team room to be built where it would run, say, three or four thousand dollars. I think there that the five different contractors with all of their separate planning would be wasteful in the way of expense in preparing a small job of that type. I can see both sides also. I can see that if the general contractor is going to be responsible for the whole job, he naturally is going to have to be paid for this extra risk as well as extra amount of work that he does in securing the contractors, but I honestly feel that by having separate ones, each one having to put in their extra amounts in order to take these same risks, probably would even out in the end. I doubt if there would be too much money saved by it.

ASSEMBLYMAN BARKALOW: Are there any questions by any members of the Committee?

ASSEMBLYMAN MOSCH: I have a question.

BY ASSEMBLYMAN MOSCH:

Q Mr. Hoffman, in your initial statement you refer to the fact that in recent times you had built one High School and four elementary schools. Is that correct?

A That is correct.

Q Could you give me an idea of the total cost of that? Was that within the last two years? A Yes. As I said, since 1949 eight schools have been built, or will have been built. In these four to which I refer, the High School was about $1,700,000, and two additions to elementary schools were each about $400,000, and two elementary schools each about $600,000.

Q Well, the reason I asked you that question was that in the latter part of your statement you referred to particular advantages in the three to four thousand dollar contract jobs. Now, I live quite close to Livingston, and I take it that there are probably no contractors in Livingston who could handle a $1,700,000 job and, since you cannot get costs both ways, by separate bidding as against the complete contract bid, would you agree with, for example, Mr. Jefferson's thought that you never really would be sure that you are getting the most for your money if you are getting the lowest dollar bid on these contracts?

A Well, any question of that kind is always a calculated guess or risk. It's quite true that any time that you have to take one of two alternatives, you are never sure whether the other one was more expensive or not.

Q Well, I was just thinking here of the effect on the contractor in Livingston who is interested in doing these jobs. Conceivably, if this is the case, that you don't have a contractor who could handle a half-million or a million dollar job and could not necessarily get the performance bond, would it be likely that none of the

contractors in Livingston would be doing any of this construction if the contract was issued to a single contractor who can handle that type of job? A The contractors for our schools would not be in Livingston. We are in Essex County which has about as many really large contractors as any area, I believe, in the State. In my opinion, the top contractors who are doing two and three million dollar jobs, I would hope would be willing to take on this added responsibility just as readily as they would to try to go through the innumerable delays that they are working with under the present system.

Q May I ask you just one more question: In the construction of these four schools, or five schools - the High School and four elementary schools - was it characteristic of each construction that there were unusual delays?

A We never have had in our five buildings a building go through without considerable delay from some sub-contractor. IT has been common, I think, to all construction in the past five to eight years because of strikes and things of that type, and shortage of materials. We have had worse trouble with some than others. The larger the job, the greater the delay in general.

ASSEMBLYMAN BARKALOW: Do any other members of the Committee desire to ask Mr. Hoffman any questions?

ASSEMBLYMAN OZZARD: Mr. Hoffman, on this matter of delays and in view of your last statement, have there been any instances, since you spoke of shortage of materials and other things-- have there been any instances of delays in the construction of school buildings which you found to

be the fault of any one of the particular contractors in getting on the job and taking care of their work in due course?

MR. HOFFMAN: Actually, most of the delays-- we have had some cases. I mentioned one in connection with the plumbing. In general, a great many of our delays have come from sub-contractors of the general contractor rather than from the separate ones of the five.

ASSEMBLYMAN OZZARD: Well, then, if it was subs under the general, how do you feel that this legislation would improve the situation if you broaden the base for the generals to deal with subs?

MR. HOFFMAN: Well, I don't feel that this legislation is going to solve all of our headaches by any means. I think you are going to have them that you have mentioned just the same as we have had before. I just feel that it's a good idea to unify under one head and try that way to cut down the delays as far as possible. I think it would lend itself to some improvement in coordination, but it won't answer all of our questions.

ASSEMBLYMAN FITZ MAURICE: Mr. Chairman, I just want to clarify the record here: In questioning Dr. Hoffman before, Assemblyman Mosch referred to the fact that this general contractor may not live in Livingston. I want everyone here in the Assembly Chamber to know that it makes no difference where the contractor does live, whether he lives in Livingston or not, even under the existing laws today. It wasn't our intent in drawing up this legislation either to help or to hinder Union people

living in the town or outside of the town. It was solely our intent to accomplish what we have set forth in the bill, and I don't think that questions of that nature have any effect on this hearing.

ASSEMBLYMAN BARKALOW: Mr. Hoffman, I am quite interested in your thinking when you stated that your main trouble was with the sub-contractors under the general contractor. Now, if this were a construction job where the general contractor had all of the five branches, might it not have been worse?

MR. HOFFMAN: No, I don't think it would have been worse. These were things - for example, one was the case of a building which was held up because of installation of metal railings around blackboards. It would seem that that wouldn't hold up construction. Actually it did because all plastering had to be done after this particular thing was installed. That particular trade was on strike. So I don't see how that would be affected, whether it was under one plan or the other.

ASSEMBLYMAN BARKALOW: Then I take it from your testimony thatyour main reason for supporting this legislation is that it would expedite construction and permit it to be coordinated better without emphasis on the cost to the taxpayer?

MR. HOFFMAN: That's correct.

ASSEMBLYMAN BARKALOW: Thank you very much.

The next speaker for the bill.

B U R T O N L E W I S: I am Burton Lewis, Secretary of the Roselle Board of Education. Within the past four years the Roselle Board of Education has passed bond issues to the amount of $2,767,000 for school construction. They feel that this is permissive legislation and, as such, would be constructive both from the taxpayers' point of view and from the point of view of expediting construction if any new construction is to take place. We, however, are in a position where new construction is almost finished. However, we do have renovations and repairs, and we have had an illustration of that in the past two years. We installed an oil burner in the High School for a cost of approximately $33,000. At the time the bill called for advertising for anything in an amount of over $1,000. At that time we had to advertise for the trades. If we had had one contractor, we are of the opinion that we would have saved money. The electrical contract for that job was in the amount of $895 and we had to advertise for it. We did not know how much it would come to at the time we were constructing it. The remainder was heating and ventilating and, therefore, had there been one contract, it could have been taken care of at that time.

Our Board of Education is definitely of the opinion that it is permissive legislation and as such would give the Board latitude to work as they see fit. If they felt that additional time was necessary, then they would have it.

I also am a member of the Business Officials of Union County and at their meeting on Thursday of last week, they

passed a resolution which was to have been sent to your Committee, approving this legislation.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Lewis.

I am interested in this permissive legislation angle. It is permissive in one respect but at the same time it eliminates the right of a Board of Education to request bids under the five branches, so it is not permissive so far as that's concerned, is it?

MR. LEWIS: The Board has the right to choose either the single contract, as I understand it, or the multiple contract. Is that correct?

ASSEMBLYMAN BARKALOW: That is my understanding, but the permissive angle is, when the Board takes bids under a single contract, their right has been taken away to take bids under the five branches. So I think it is slightly misleading to say it is permissive, because they are giving up something that they now have. Am I correct?

MR. LEWIS: I don't think so, because in the first place they are permitted five contractors to start with. They may choose between either of these two methods.

ASSEMBLYMAN BARKALOW: That's right, but when they choose the single, they have given up on the five branches.

MR. LEWIS: That is true.

ASSEMBLYMAN BARKALOW: So how do you ever know what would have been the lowest cost to the taxpayer?

MR. LEWIS: Well, may I ask this question: Assuming--now this is an assumption; assuming that the Board on the recommendation of its architect asks for bids from a single

contractor. Then if they are not satisfied with those bids, they may throw those bids out. Is that correct?

ASSEMBLYMAN BARKALOW: It is my understanding they have the right to reserve the privilege to reject any or all bids.

MR. LEWIS: At that time, may they readvertise under five separate contracts?

ASSEMBLYMAN BARKALOW: That's correct.

MR. LEWIS: Therefore, that gives them a choice there.

ASSEMBLYMAN BARKALOW: What about the time element?

MR. LEWIS: The time element? Within ten days, as I understand it.

ASSEMBLYMAN BARKALOW: Do you see any objection to taking alternative bids under the five branches and the single contract?

MR. LEWIS: You mean, alternatives of the general construction? No.

ASSEMBLYMAN BARKALOW: You see no objection to that.

Do any members of the Committee have any questions at this time?

ASSEMBLYMAN MOSCH: Just one question, Mr. Lewis. You made a statement that you felt that under this piece of legislation you would actually save on the cost of construction. Could you be specific in so far as that statement is concerned?

MR. LEWIS: Yes. It is hearsay. Let me say before I give the illustration that it was reported at the Union County School Business Officials of a case which is hearsay so far as my knowledge is concerned.

ASSEMBLYMAN MOSCH: I didn't ask that question, Mr. Lewis. I asked if you had any specific information that this would save actual dollars in construction. I am pointing out again what Assemblyman Barkalow pointed out, that if you exercise a single contract you are not simultaneously exercising the five branches of bidding so that you have no comparison at that stage of the two types of bidding so far as the total dollars of one as against the total dollars of any single individual contract.

MR. LEWIS: We have had no chance to take bids under the single contract as of this date. We assume - now, that may be an assumption on our part - that it will be cheaper.

ASSEMBLYMAN BARKALOW: One further question: What has been your experience in bidding under the five branches with regard to the electric, plumbing, heating and ventilating? Have the local contractors bid?

MR. LEWIS: No. We have had additions to two schools and two new schools and an addition to the High School, and we have had no bids from local contractors. They are all bigger outfits than our local men.

ASSEMBLYMAN BARKALOW: Is that because there are no contractors in the area or because they did not bid?

MR. LEWIS: No, it is because the jobs are too big for the local contractors.

ASSEMBLYMAN BARKALOW: Even the electrical?

MR. LEWIS: That is correct.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Lewis.

L O U I S V. B O S S E R T: Mr. Chairman, ladies and gentlemen: I am a proponent for the bill. My name is Louis V. Bossert and I am President of the New Jersey State Home Builders Association. I would like to give a little bit of a preamble, if I may, as to my own qualifications so that people here who might like to ask questions will feel that I am qualified to answer them.

I am a third generation builder. I was last year Regional Vice-President of the National Association of Home Builders, and was on the Community Facilities Committee for National, as well as Chairman for the State, and the largest problem throughout the country was the cost of schools, and the fact that schools were in greater demand, shifting population, and so on.

I would like to attack this problem, if I may, as a proponent of the bill, from the cost angle, which some of the men who preceded me did not touch on. Now, this is factual information. There are many who obviously are opposed to my thinking, but I am a builder and have built over seven and a half million dollars worth of houses in the Trenton area, and we have been in the building business for three generations and I feel we are qualified to discuss building as builders. And without beating around the bush at all, let's get down to cases: We feel, after much discussion and much study during the past year and the present year particularly, that if one contractor were able to bid a school job and give you the same construction that you are asking for in your present specifications, no matter where

it may be, that the minimum saving to the taxpayer would be between 11 and 13 per cent and in some cases as high as 20.

Now, in other words, ladies and gentlemen, on a million dollar building, this could mean a saving of, shall we say, $200,000 maximum, but a minimum saving of $100,000, and I think that all of us realize that our rural communities as they are now expanding are really pressed for money and they need any saving they can get.

Now, so far as the builders' point of view on one or five people bidding on the job, it's good business in any business, if you are a businessman, to have one man in charge - one man the School Board can deal with. Remember now, the Schools Boards in most cases are not builders and have had no building experience and they must rely on the people who take these bids, whether they be the low bidder or whatever the case may be. So I feel that one man should be the man they do the business with. The question was brought up as to whether or not one general contractor could furnish a bond for a sizeable building. There is no question about it. In my direct knowledge, we have four contractors in the Trenton area, right in Trenton, who could easily furnish a bond for a two or three or four million dollar job if it was that big. There's no question about it. So as far as general contractors, responsible ones, putting up a bond is concerned, there is no problem. If they are reputable people and have good credit, they can get a bond. So that part, I think, could be forgotten.

So far as labor is concerned, all of the buildings will be built with organized labor. That's a known fact throughout the trade. There's no fear for labor in this deal at all, whether it's one or five. They still will have organized labor on the job and that's understood and there is no attempt to skirt anybody in this particular procedure.

I think that the savings for the subs, on a sub bid, if he is one of five and he bids on a job, he may be the tile man, as an example; let's say the heating man might hold him up; he doesn't know for sure; somebody might hold him up. In his figures he has got to figure more in the event that somebody is going to come along and hold up the parade for him, and he has to furnish watchman service overhead, and so on, and it's going to raise his cost. If you are a general contractor, and I am a general contractor in my own individual housing business; we don't build schools in our Association. We have 1650 members. We have nothing to gain here except take the burden off the community. But if you have one general contractor and he has a bum subcontractor, all he does is kick him out. That's what we do in our business. You have to do it. But you can't do it without a great deal of red tape if you've got five separate bids on your job. One general contractor can and will control his job without a great deal of red tape if you've got five separate bids on your job. One general contractor can and will control his job and those who are in this business know these facts to be self-evident.

There's no argument on that. It's a fact that the job will be done if they are responsible people and if they can put up a bond on a two or three million dollar job, you can take it for granted they are responsible.

I think that the situation that we have today of communities being overburdened financially, anything we can do not only with regard to delay in construction and getting their new buildings open so they don't have to rent, I think is one of the things we must consider. We must facilitate and speed up our construction, and I think it can be done and I'm convinced and know it can be done under one man.

Now, as a summary, or rather before getting into a summary, I would like to say this, Mr. Chairman, if I may: I think the bill, obviously from my remarks, is an excellent bill, but I would like the Legislature possibly to consider and your Committee an amendment to the bill allowing the School Boards to accept bids from one or from five, and that would answer the question as to whether or not they would get the low bid, which is a question in some people's minds. As I understand this now, they can take one or the other but they can't take both. Am I correct, sir?

ASSEMBLYMAN BARKALOW: Yes.

MR. BOSSERT: I think if that were possible and it could be worked without too much detail, it might make it a lot easier for them and convince them in their own minds that they were getting the best price.

Now, Mr. Emil Schmidland, who is a big architect in the State of New Jersey, positively stated that in his

calculations as a big architect in this type of work, the savings would be a minimum of 11 to 13 per cent. I quote him. There are three prime general contractors who do heavy construction work, this type of work, that we could furnish. I am not prepared to give you their names now, but we could furnish, the Association that is, the names of these men who positively state there is a minimum of 15 per cent, and it is conceivable 20 per cent, savings if one man could bid the job. They know that and when they figure their plans, if they could take it as one contractor rather than five, they could do the job for considerably less - as high as 20, with a minimum of 11. That's the lowest figure I have had so far as saving is concerned.

Now, not to take any more of your time, but I would like to summarize in this respect: No. 1, if we can save anything for our local school boards who are not builders, I certainly feel that it is the responsibility of your body to do it for them. I am sure you feel that way. I know we do. I have been close to the school picture; we don't build them, but we as builders go into a community and the minute we walk in, the communities say, "Our hands are up; we don't know what the school is going to cost; the cost is very high; we want to save everything we can, and if we can come within our budget, within our borrowing power, we will all be very happy to have you in." I tell you frankly that it's a situation where we must save money for them. I feel that this can possibly be one method of doing it for them and they will have one man to deal with, which is the

most important factor. All of these school board members, as you know, have other jobs. They can't chase these men down all over the area to find them. One man to deal with would make it a lot easier for them and I am convinced would save them a great deal of money.

ASSEMBLYMAN BARKALOW: Mr. Bossert, your suggestion follows up my thinking when I directed several questions as to taking bids both ways. Do you see any objection to that angle - taking bids under the five branches and also under the single contract - one and the same bidding?

MR. BOSSERT: I frankly, sir, feel that they would be better to take it under one but there are probably those who feel it would be better to take it both ways. I think if general contractors are out to bid a job, they are going to do the best they can on a job and I am actually just throwing it out for your consideration. I personnaly feel that the one general contractor deal, where you have one firm's bid on your job, is the best situation, but some school boards or some groups may feel they would rather have it both ways. So far as I'm concerned, I would rather see it on a one-bid basis and, providing all things are equal, give it to the low man.

ASSEMBLYMAN BARKALOW: Will you state your opinion as to the quality of work that might be achieved under the single contract or under the five branches? Is there any guide to go by or do you have any way of knowing which way might bring about better quality of work?

MR. BOSSERT: Well, I would say this, sir,- I think it's basic. It is to me anyway. If you had one general contractor who is responsible for the whole job and he's got a bid up for that job, he is going to see that that job is done properly. Now, there may be other people who say, "Well, each of these five fellows will put up a bond too, and they'll look out for their work too." Perhaps they will, but I think that one overall supervisor of the whole job who is familiar with the trades will be a better situation so far as giving you good workmanship and prompt workmanship is concerned.

ASSEMBLYMAN BARKALOW: Now, the 11 or 13 per cent savings which you have mentioned, that is based upon opinion on construction work other than schools?

MR. BOSSERT: No, schools.

ASSEMBLYMAN BARKALOW: Actually on schools?

MR. BOSSERT: On school work. Of course, today in the State of New Jersey we have the five contract arrangement, or the five bid arrangement shall we say. But I am talking about architects and general contractors who, if they took the job themselves- there is one contract. And architects who design schools could design them and know they would cost at least 11 to 13 per cent less if one man did the job.

ASSEMBLYMAN BARKALOW: But that is an opinion.

MR. BOSSERT: That's the opinion of men who are in the business, yes, sir. It couldn't be a fact because they haven't been allowed to do it.

ASSEMBLYMAN BARKALOW: I thought perhaps you were

referring to some other State which permitted single-bidding contracts.

MR. BOSSERT: I might touch on that if I may. There are many states in the union that don't have this five contract arrangement, this five bid arrangement, and being in close association with builders much larger than I am, they can't believe that in some of the state areas-- you see, as Regional Vice-President we have to do a lot of traveling, and last year I had from the Atlantic Ocean to the Mississippi to cover, and you talk to these groups all over and the big problem has always been the cost to the community with the ever-expanding rural areas. When I told them that we had a five setup arrangement here where you had to have five separate bids to build a school building, some of the areas couldn't believe it, because immediately they said, "My Lord, this is a waste of money. These men have to protect themselves. They have to bid higher to be sure in case there is a delay by one of the other contractors that they are not going to be caught, whereas, if just one man had it you wouldn't have that happen.

ASSEMBLYMAN BARKALOW: Would you care to mention any of those states by name?

MR. BOSSERT: Well, I think Ohio was one of them, sir, because one of the Regional Vice Presidents had Ohio and Michigan, and he was one of the men who told me that he thought it was a very poor arrangement and very costly to the school boards.

ASSEMBLYMAN BARKALOW: Do any members of the Committee want to ask any questions?

BY ASSEMBLYMAN OZZARD:

Q Mr. Bossert, you made the statement that there should be no fear as to the proper use of organized labor, and tying that in with your statement that you know of many contractors who could post bonds and be responsible on jobs running up to several million dollars, do you know what percentage of the general contractors who would be equipped to take on million dollar projects and above are unionized contractors?

A I don't know what the percentage is, sir, but I tell you this: Of course, anybody can take a man like John McShane, who is tremendously known throughout the country and who does this type of work. Right here in Trenton, I am sure that the Belli Company would have no problem in posting a bond. They are responsible people and do a great deal of this work. There are many others. I couldn't tell you what percentage there are, but I certainly feel that a general contractor who goes after a bid of this type would be a man of substance, otherwise he wouldn't even bid on it. He couldn't.

Q Mr. Bossert, in the matter of the overall bid, that is, the overall contract, and the savings that you allege would be the result of that type of bidding, would you care to comment on the situation which I understand could exist under the single contract bid; that is, giving the job to a single contractor, and the allegation that he would go in for bid shopping in order to beat the prices down of the various sub-contractors that he wanted to incorporate in his

overall bid. A In other words, what the hazard would be if it was on a one-contract basis?

Q That's correct. What the hazard would be to the sub-contractors. A Well, let me point out this, sir: You may not know these people but, for instance, in New York City, which obviously we know is the largest in the world, I would say that every job that I know anything about and I have friends in New York who are in this business, like the Turner Construction Company, they are general contractors on the job. Now, as to whether or not the men would have to be competitive under a general contract, yes. I think they should be and I think they are prepared to be. I feel that under a general contract, the general contractor is certainly going to try to get the best price he can. It's not that he is going to make any more money than he is making taking a part of the contract which he may now on a percentage basis; it's just the fact that he certainly would make it competitive, but on a deal where you have five separate bids the men have got to bid higher. There is no possible argument against it. Otherwise, they might not get the job if they were going into a general contract. There is a saving completely under the one contract basis.

Q Well, Mr. Bossert, I wasn't particularly directing my inquiry as to whether or not there would or would not be competition or competitive bidding. What I am curious about is the reported activity of some general in bid shopping, whereby they allegedly obtain the bid of one sub-contractor, go to a second and quote a lower price as having been bid, and then return to the first; in other words, attempting to

beat the price down for the sub-contractor. Do you think that condition is a prevalent one and, if so, is there any method whereby protection could be afforded sub-contractors in overall bidding? A I do not think that's a prevalent situation. I doubt very much if any of the leading general contractors in the State will take a man's price and then go to another--

(Outburst by audience)

MR. OZZARD: May I ask those in attendance to recognize that this is a public hearing. It's a formal public hearing and outbursts will not be permitted or recognized. There will be statements by both opponents and proponents in this Chamber that may not meet with your agreement. If you desire to be heard, you may do so by formally asking to come to the floor so that you may speak.

ASSEMBLYMAN BARKALOW: On the bill, gentlemen - on the bill. I am presiding at the hearing.

BY ASSEMBLYMAN OZZARD:

Q Would you continue, Mr. Bossert? A Possibly I misinterpreted your question, and maybe that caused the outburst. Was the question such that the general contractor would take the price of a low man and go to another man and say, "If you can match this price you can have the job," or "If you can beat this price, you can have the job"?

Q That is what I understand bid shopping to be, yes. A Is that what you mean, sir?

Q Yes. A I assumed that was what you meant. I don't do it myself and never have and never would, and I think

that leading contractors do not do that kind of thing. Now, others may disagree, but that's perfectly all right. That's why we're in America, I guess.

Q Now, another question, Mr. Bossert: On the matter of your answer to the question which was directed by the Chairman of the Committee, I believe you stated that it might be practical for the law to provide for accepting bids either way so that there might be a comparison of costs available to the Board of Education. If that were done, would it, in your opinion, not follow that the sub-contractor bidding to the general and the same sub-contractor bidding under the individual bid would come up with the same figure, so there would be no cost differential anyway? A In my opinion, sir, if the same contractor bid both ways, as an individual or like we have it now, in other words, one of five, or if he bid to a general contractor with his price, there will be many who disagree, but in my opinion, if he wanted the job, he would bid closer with a general contractor because he would be less likely to suffer delays than under the system we have now.

Q Then you think there would be a variation in the bidding? A I think there would be a material difference.

ASSEMBLYMAN OZZARD: Thank you very much.

BY ASSEMBLYMAN BARKALOW:

Q Mr. Bossert, do you have any way of knowing approximately how many contractors there would be in New Jersey able to bid on a school construction job running over two to three million dollars? A I don't know but I can

find out for you, sir.

Q Well, for our present purposes, would there be many or is it restricted to a rather small group? A I don't know. Well, it all depends on what you call many. Would you call 20 contractors many or a few?

Q In the State? I would call it a few. So, for purposes of discussion here at the moment, if there were 20 and this bill should become law, could that have a tendency to create a monopoly? A Well, if you have 20 general contractors of that stature, sir, I don't see how it could become a monopoly. I really don't. You have 21 counties--

Q You don't think there is enough school construction in New Jersey at the present time-- A Yes, but not--

Q Let me complete my question. A Excuse me.

Q -- to keep 20 contractors so busy that they wouldn't have to worry about the competitive angle? A Not two to three million dollars apiece, sir, not that many going on, sir. I think you have a great deal of construction but I doubt if--

Q How long does it take to build a two or three million dollar school? A Oh, I don't know. I have never done it and I would have to guess at it, but I imagine a good contractor could do it in a season.

Q A season, you call how many months? A A calendar year.

Q So you only need 20 schools like that to take all of the time? A That's right, sir. I don't know how many regional high schools, for example, are planned, which would probably be in that category. You take 20 as a figure--

I don't know, sir; I'm not acquainted with that. Mr. Marciante is here. Maybe he knows better than I how many there are that could do that.

Q But you would be in favor of affording an opportunity to the electrical contractor, the plumber, and heating and ventilating in each local school district. If that contractor were able to bid, you would be in favor of giving him an opportunity to do it? A I would give everybody a chance to bid on the jobs.

ASSEMBLYMAN BARKALOW: Thank you, Mr. Bossert.

The next speaker for the bill.

E D W A R D T. C U R R Y: My name is Edward T. Curry and I am from Camden County. I represent several school districts in Camden County. I have no prepared statement, by the way, and some of the matters that I had considered have been covered by some of the previous speakers, and I will not delay this hearing except to mention the items of which I approve. I believe in supporting the bill. In the first place, I think the gentleman from Hunterdon County spoke of the fact that with five contracts there is no responsible head and you are dealing with five different groups, and there are very many times when contractors bid there is a very slight difference but it is known that one would probably be much better to have on your work than another, but under the school law we must take the lowest responsible bidder and we have no choice.

The second point is in connection with the date of completion. You have usually, with five contracts, different times for completion of different portions of the work. Now,

it would be much easier to handle if we had one person with whom to deal and have him select those persons who he knew could do the work and perform it within the time allotted and also to tie in with the other contractors on that job. In the event that you have multiple contracts, sometimes the question arises on one, they are irregular and one contract has to be thrown out entirely, you have to rebid that particular contract, and sometimes it's hard to hold the other four while you are so doing, and you may have to rebid five contracts instead of one.

They spoke about this permissive matter here and I approve very much of the idea of having it both ways, both to take multiple contracts and a single contract, and it seems to me that would answer the question as to whether or not there would be a saving. I have dealt with school matters for a number of years, representing school districts, and on some occasions where we have more than one building, we have had proposals put up - Proposal A for Building A, Proposal B for Building B, and then Proposal C for Buildings A and B, with the idea of finding whether the individual bid on one school and the individual bid on the other school, the total of those, was greater than the bid on the two schools together. And I think the same theory would apply to the choice of having both multiple and individual contracts.

There is one other feature that hasn't been discussed too much this morning and, representing these boards of education, I think the boards are what you might call the

innocent third party. We take bids on a multiple contract basis and we have to take, under the state law, the lowest responsible bidder. We get a bidder who has a union shop entirely for the general contract and then we get someone on the electrical or the heating who is not. We have no choice; we must take them, and it oftentimes leads to difficulties in the building of the school and delays. That has happened in my experience.

I think that covers the points, gentlemen, on which I wanted to speak this morning.

ASSEMBLYMAN BARKALOW: Do any members of the Committee have any questions?

Thank you very much, Mr. Curry. The next speaker for the bill, please.

P A U L J. B R I E N Z A: Gentlemen, I am Paul J. Brienza, Managing Director of the Building Contractors Association of New Jersey.

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

The members of our Association are vitally interested in the objective of Assembly Bill 34. Since the composition

of our Association includes both general and sub-contractor members, there has been much discussion concerning the relative merits and the effect this bill will have on these two particular classifications of contractors in the industry.

The major objective of this bill is to focus responsibility on the general contractor who will have complete control over the entire coordination of the job, relative to the scheduling of work, performance of work and delivery of materials to the job site, thus insuring the expeditious completion of the school job within the time limitation usually prescribed by the Boards of Education. It is for this reason that the overwhelming majority of general contractors are in favor of that part of the bill. Some sub-contractors of the class covered in this bill (mechanical, plumbing, electrical, structural steel and ornamental iron work) are Associate members of our Association and have expressed the desire that the present statute remain intact so as to permit them to bid separately and to exclude the general from presenting an over-all bid.

We are presently polling our voting members in order to ascertain their position in this matter. We will be happy to furnish this Committee with the result of that survey.

ASSEMBLYMAN BARKALOW: Mr. Brienza, do you have any idea of the number of contractors in New Jersey who would be able to bid on school construction running over two million dollars?

MR. BRIENZA: In the membership of our Association and the few who may not be members of our Association, in a quick

breakdown that we made and in listening to the questioning here, we estimate that between 40 and 50 per cent of the contractors in the State of New Jersey would be able to do such a job.

ASSEMBLYMAN BARKALOW: Do the members of the Committee have any questions?

BY ASSEMBLYMAN OZZARD:

Q Mr. Brienza, in actual figures, what does this 40 or 50 per cent amount to? In other words, how many contractors? A I would say well over 100 - 150 contractors, general contractors this is, now.

Q And do I gather from your statement, copies of which have been given to the Committee and which you have just read, that because of the fact that your membership covers both generals and subs, your Association at this time is taking no position? A At the moment, sir. For this reason: that in the categorical breakdown of our Association, we have the generals and the sub-contractors that are listed in this bill. There is also a group of contractors who are also known as sub-contractors who directly work for the generals on these jobs, such as the lathers, the roofers, the tile, the acoustical, the flooring, the painting, the glass, the excavating, the woodwork, the hardware, sidewalk and paving, plastering and lumber. These sub-contractors, these other categories, work directly for the general contractor on the school project.

Q Mr. Brienza, I presume in your capacity with the Association that you have some working knowledge of the operations of the generals and the subs. A I reckon that.

Q Did you hear my question directed to Mr. Bossert before, relative to this problem of bid shopping? A I did.

Q Those sub-contractors who presently do bid under the general, the list of which you just read,- does that condition exist among those sub-contractors? If so, what has been your experience and to what degree has it caused difficulty? A Bid shopping has been a prevalent complaint by many sub-contractors for many, many years. I don't think it's as prevalent as some of the certain categories believe it is. Bid shopping, I would say, exists between contractors and sub-contractors in their anxiety to perhaps present the lowest bid possible. I would say bid shopping is in the minimum.

Q Mr. Brienza, in your statement you state that the generals in your organization are in favor of the bill. If this bill were amended in such a manner that it would give some guarantee and possibly eliminate the possibility of bid shopping, would the generals still be in favor of the bill? That's rather a difficult question but I realize you haven't quoted them on that and I just wondered if you had gotten any feeling from the men you have talked to as to whether or not they would be in favor of such an amendment. A I am sure that anything that would be in the public interest, the general contractors would be in favor of.

BY ASSEMBLYMAN MOSCH:

Q Mr. Brienza, do you have any idea of how many schools were built in the last few years in New Jersey? A I do not, sir.

Q Would you have any idea as to how many of these schools were delayed as a result of the present law, which I

think you realize has been in existence for the past 40 years?

A I don't have any exact figures, no.

Q Now, from your statement I get the impression that you are simultaneously representing the opinion of a certain number of general contractors who are in favor of this law, and at the same time you are offering us somewhere in the near future an opinion of the group of sub-contractors who may not favor this single bid or single contract provision. Would you care to state your opinion as to the thought expressed by one of the previous speakers that perhaps it would be wise to have both the five branch bidding simultaneously with the single contract? You realize, of course, that once the school board decides on a single contract, it cannot simultaneously have the five branch bidding. So I am asking you what your opinion is on the simultaneous use of both methods of bidding?

A I personally believe that where the board would be permitted to accept the bids in both manners simultaneously, it would obviously create the situation where you, as the general, would be seeking sub-contractors to bid for you, to present your bid. Now, Sub-contractor A may give you a bid of, let's say, $10,000, then he decides to bid the job himself in his own particular category and perhaps will put in a bid of $9,500, let's say.

Q Well, we all have, as I see it, one objective here. We want to build the best for the least amount of money and as quickly as possible; we want to eliminate delays, we want to save dollars; we want to get a high value of construction for our dollars. I still raise this very question, whether

you feel that we would be getting a safe picture if we didn't get the summation of the five branch biddings as a comparison against the single contract, whether we would know whether we were getting the most for our money. You presumably don't have any facts as to whatdelays have existed in recent years on schools or how many schools have been built, and I am curious as to whether there would be any possible way for the school board to know whether they are getting the most for their money if they only exercise the single contract and have no comparison with the five branch bids? A I could answer that from the actual presentation this morning.

ASSEMBLYMAN BARKALOW: Mr. Brienza, do you have any knowledge as to other states having single contract bidding?

MR. BRIENZA: I do not.

ASSEMBLYMAN BARKALOW: Will you submit to this Committee the results of your further investigation of the topic?

MR. BRIENZA: Yes, sir.

BY ASSEMBLYMAN FITZ MAURICE:

Q Mr. Brienza, it has been mentioned before about the bonding of a single contractor over the bonding of five contractors today. Don't you believe, or do you believe that if this law is enacted that the bonding procedure as of today would be changed? In other words, if the law would be that there would be one general contractor, that the bonding houses and companies that today do the bonding would change their procedure, would you say, so that no general contractor need worry about securing a bond if he were an established and recognized company? A I think, sir, that the bonding

company would make sure that you would get a very responsible builder to complete your building.

Q Well, what I am getting at, Mr. Brienza, is this: You say there are 150 contractors. Say you are 150 short; say there are 300 who may want to qualify under this law. Wouldn't you say that the bonding companies as such would be better judges of these people's qualifications than any board of education might be? A I would assume a bonding company would never bond a company if it wasn't reliable.

Q Then, wouldn't you be assuming that the bonding company would check into their qualifications and find out if they could do this work? A Yes, sir.

Q Well then, wouldn't you assume that if a person came to you, as a member of the board of education, and he were a bonded contractor, that he would be a qualified contractor? A He certainly would be.

BY ASSEMBLYMAN BARKALOW:

Q I don't want to pursue this any further with regard to the responsibility of contractors. I think there are many things that go along to make up the element of responsibility when it comes to contractors.

Do you have anything further, Mr. Brienza?

The next speaker, please.

May I ask how many more speakers do we have for the bill? Have we concluded the list of speakers for the bill? I understand that there is one speaker who desires to present a neutral argument. I would be pleased to hear that.

D A N H O P P E R: Mr. Chairman, I like that "neutral argument." Mr. Chairman and members of the Committee: I am Dan Hopper, President of the New Jersey Society of Architects, New Jersey Chapter of the American Institute of Architects. I am speaking for the actions of the Board of Directors for the New Jersey Society of Architects and the New Jersey Chapter. At their meeting on December 13th this year, or last year rather, they adopted a resolution endorsing Assembly Bill No. 34, which permits boards of education in the State of New Jersey to receive either separate bids for the five major trades as presently provided or bids for all of the work to be included in a single overall contract. However, the Board of Directors of the New Jersey Society of Architects and the New Jersey Chapter of the American Institute of Architects endorse this bill, provided, and I repeat, provided the following suggested amendment be included to stipulate that, "in the event that a Board of Education elects to advertise and receive bids for all work in a single overall contract, that each general contractor shall list in his proposal the name of each sub-contractor and the amount allowed in his bid for each of the four major sub-divisions; namely, 1, plumbing and gas fitting and all work kindred thereto; 2. the heating and ventilating and all work kindred thereto; 3. the electrical work and 4. the structural steel work."

And then there are is some explanation in our report that has been talked about this morning, and in closing I'll say, may we again point out that we endorse this bill contingent upon the inclusion of the provision making it

necessary for the general contractor to list the names and amount of the other four major sub-contractors. We believe that this will afford protection against bid shopping after contracts are awarded and will further assure that the elimination of this undesirable practice will be beneficial to sub-contractors and the general public alike.

BY ASSEMBLYMAN BARKALOW:

Q Mr. Hopper, with that suggestion that you have made as to the bill, you would be in favor of A-34, as I understand it - with the amendment that the sub-contractors be named and their respective bids set forth under the bid of the general contractor. Is that correct? A Yes, that's correct.

Q Would you care to express yourself with regards to also taking bids at the same time under the law as it is at the present time? A You mean, taking them both together?

Q Yes. A Personally, I do not think it's favorable, Mr. Chairman. I think that if the two manners of bids were to be provided for one job, we would be lacking somewhere along the line, either in the general contract or in the sub-contractor submitting bids for the job.

Q How would the taxpayer ever know whether or not the bids received under your plan were more advantageous than had you bid under the five branches? A Well, not speaking for the Association but speaking for myself now, I think that if, we will say, General Contractor A should come in with a bid and his plumbing bid should be $105,000, we'll say, and he is the low man; Contractor B comes in with a price slightly higher and he has a plumbing bid for $95,000; somebody is

going to be very much embarrassed and some body is going to wonder where the money is going.

Q Of course, the taxpayer doesn't care as long as it's the low dollar, isn't that right? A Yes, but if you see a bid, say, for a million dollars, and another one for a million ten thousand dollars, and if you find out that the plumbing bid on the first man is $10,000 higher, they will figure why in the world they couldn't get the thing for $990,000.

Q This is what concerns me with respect to your thinking. Suppose in a school district in my home town, we asked for bids under the single contract method, and we require the bid to set forth the names of the sub-contractors and their respective bids, and we award the contract, and Bill Smith down Main Street, who runs a plumbing business, after this is all over and we have awarded the bid, comes and says, "Boys, I would have given you a bid on that job of five thousand dollars less," what happens in so far as public relations are concerned, remembering that I have to live with the people, which I am glad to do. A I think the best answer to that is, yes. I think in a terrific position like that, Mr. Chairman, the public relations would be just blasted to pieces, in spite of the fact that Mr. Plumber did not present his bid in the original bidding. I think public relations would be very bad.

BY ASSEMBLYMAN MOSCH:

Q Mr. Hopper, I would just like to have a little more enlightenment on your thought of having the general contractor

list, I think you said five major contracts by name and by dollar amount that they were bidding. A Yes. There would be John Brown, General Contractor, $300,000; Mr. Jones, Plumber, a hundred-- or whatever it happens to be, and right on down the line that way.

Q And I take it there you are definitely trying to control any possibility of manipulation, shall we say, of the dollar amounts of these sub-contracts? Is that the thought? A Yes, sir.

Q In other words, you are attempting to modify the bill and arrive at some happy medium that is a little bit different from getting the five branch bids and adding them up to see how they compare with a single contractor. I think that is the thought on the matter. A Yes, sir. I personally think that if you receive individual bids you will find out that they might be somewhat less than the bid listed under the general contractor.

BY ASSEMBLYMAN OZZARD:

Q Mr. Hopper, on your amendment, you undoubtedly heard my question directed to Mr. Brienza which, incidentally was predicated on this form of amendment; I have a question which I would like you to answer for the Society, at least in their position taken on this proposed amendment, and that is this, that if the amendment simply calls for the submission by the general contractor bidding of the names and the amount of the bid of the five subs, does the Society also feel that the legislation should provide that those sub-contractors must be the ones that will perform on the job so that there

can't be switches after the bid is accepted by the general? A Yes, sir. They feel as though the bid as submitted should stand, with the contractors enumerated in that bid.

Q What would be the situation then if the sub-contractor, if one of the sub-contractors, having made a bid to the general which has been incorporated in the principal bid to the school board, after that principal bid has been accepted, said sub-contractor declines to go through with his further contract with the principal? What sort of legislation could be devised that could reach beyond the general and make that sub-contractor, once he has bid, participate? Or is it possible for the general to tie him up under contract before he submits his principal bid? A I don't know whether this would apply to the contractors or not, but when a board of education or any other public body asks for bids, there is a bid bond furnished with the bid that the contractor receiving the contract would produce and perform, and if a general contractor could tie up his sub-contractor with the same type of bid bond, I mean it would be perfectly all right; there wouldn't be any trouble.

Q Do I assume correctly from the recommended amendment of your Society that they recognize there is an evil that exists in the field today of bid shopping, one that is of sufficient import that this Committee and the House of Assembly should recognize it and seek to offer some protection under any change in legislation? A We do, no matter how large or how little it may be. We do not know just how much bid shopping is going on.

BY ASSEMBLYMAN BARKALOW:

Q Mr. Hopper, at the present time, as I understand it, most boards of education and architects place in the conditions or the special conditions when they request bids that the sub-contractors must meet with the approval of the board and the architect. A That's right.

Q Under your plan as suggested, if the general contractor submitted a bid and the sub-contractors' names were contained in that bid, would the board still have the right to reject one of those sub-contractors? A Well, to safeguard that, may I say that we would exercise the use of a qualifications form prior to any contractor using sub-contractors. I might say that this bill, whether it is passed or rejected, is not the whole answer to the thing, and there are other municipalities and other towns where they have a very fine setup for insuring a board of education or any other public body a fair value for their dollar and the lowest bid through the bid depository system, which is aside from this bill altogether.

Q Would the work involved from an architect's angle be increased if there were alternate bidding - single contract and five branches? A You mean, under the bill with the amendment? It would be just about the same.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Hopper. If there are no other speakers for the bill, I would like to state that we have received a request from Norman H. Baker of the New Jersey Taxpayers Association that he be given an

opportunity to be heard. He could not be here this morning, and I will give him that opportunity when we convene after lunch or at some later time during the afternoon, whenever he arrives.

So we will conclude this morning's portion of the hearing. We will adjourn for lunch, and the hearing will reconvene promptly at one-thirty and we will proceed to hear persons who wish to speak against the bill.

(R E C E S S)

AFTERNOON SESSION

AFTER RECESS:

ASSEMBLYMAN BARKALOW (THE CHAIRMAN): For the information of those persons who were not here this morning, witnesses were heard for Assembly Bill A 34. All of the witnesses for the bill were heard with the exception of Mr. Baker of the New Jersey Taxpayers Association, and we would be pleased to have Mr. Baker testify at this time.

N O R M A N B A K E R: Mr. Chairman and gentlemen of the Committee, my name is Norman Baker of the New Jersey Taxpayers Association. I am very sorry that Colonel Fasoli, who was going to give the statement, hasn't arrived. Not only is he Vice-Chairman of our Education Committee, which has given a great deal of consideration to this bill, but he personally has had a lot of experience in this problem as the Board Chairman in a school district which has a great deal of building problems. Now, the statement follows:

This bill would amend section 19:11-10 of the Revised Statutes to permit all construction on a school building project to be included in a single contract, as opposed to the present method which requires that the work be divided into five separate contracts.

The basic question raised by this proposed legislation is one of public policy. Cost studies or specific cases demonstrating that the single bid system is more economical, or less economical, than that provided by existing law are beside the point. The principal question is: Who is in better position to outline the specifications of a building contract. The Legislature,

which under existing law has pre-determined the question? Or local school boards with their knowledge of local conditions and contracting services?

There undoubtedly are circumstances under which multiple contracts would be more advantageous to a school board and hence to taxpayers. It is equally true that under other circumstances overall contracts might be preferable. Which of these methods is more advantageous under a given set of circumstances is obviously best answered by the persons negotiating the contract. Thus the existing law contravenes the principle of home rule. Through it the State has projected itself into issues in which it is wholly incapable of dealing wisely in advance.

The proposed legislation would remove this straight-jacket by permitting school boards to decide for themselves whether single bidding or multiple bidding is more advantageous. As a matter of fact, this bill may not go far enough. It seems to provide only that boards of education would be permitted to accept bids <u>either</u> on a single basis <u>or</u> on a multiple contract basis. It should go further to provide that boards of education could accept simultaneous bids on a single contract basis <u>and/or</u> on a multiple contract basis, thus enabling boards to take full advantage of competition in obtaining the most favorable contracts that can be obtained.

Today the State Government faces grave budgetary difficulties. No small part of these difficulties arises from the fact that is has increased enormously the amount of aid which it extends to local school districts. Since part of this aid goes

directly or indirectly into school buildings, it is in the State's interest that such outlays be spent as prudently as possible. The existing mandate runs contrary to this interest.

During fiscal 1957 an estimated $110 million will have been authorized for new school construction. The 1956 total was over $100 million, and the aggregate in the 1947-57 period will approximate $525 million. There is no way of knowing how much of this tremendous outlay could have been saved by permitting school boards to determine the nature of their contracts for new school buildings.

Record budgets at state and local levels, coupled with shocking federal expenditures, ought to provide the State Legislature with ample incentive for removing every possible impediment to economical expenditure. Inquiries from school boards, municipal officials and taxpayers reflect dissatisfaction with the existing law and leave no doubt as to the need for remedial legislation. People on the local scene are alive to the necessity for the abolition of this impediment. The Legislature should respond by removing an uneconomical requirement that has existed all too long.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Baker.

Are there any questions from members of the Committee?

Mr. Baker, do you have any experience with respect to this question in other states outside of New Jersey?

MR. BAKER: No. We have not collected any such experience. I will say that we have an Education Committee of 15 men and they studied this bill last year, when I think it was A 607, and a number of those men are, or all of them are men of experience, and a number of them, I think six or seven, are board of education members, and they have gone at this thing from the standpoint of their own experience and what they think from the standpoint of good legislation, moving these problems down to where the local people can handle them best, and in this case they feel that the economy of the thing indicates this thing also, from their own experience. We have not tried to settle this question through research. It has been through the committee procedure and through the experience of these men who dealt with the problem.

ASSEMBLYMAN BARKALOW: Are there any further questions?

Thank you very much, Mr. Baker.

Am I correct that that concludes the speakers for the bill?

We will now proceed to hear from those speakers who are opposing the bill.

L O U I S P. M A R C I A N T E; My name is Louis P. Mariciante, and I am President of the New Jersey State Federation of Labor. However, I am delegated also to speak for the State Building and Construction Trades Council which is represented here this afternoon by a great many people.

I would like to say at the outset that we were informed that our submission must be in writing, and consequently I hastily drew a statement here that I certainly wouldn't want to let go as it is without filling it in; knowing the nature of committee hearings, I tried to keep it down to a minimum, and that I did and I will submit that prepared statement. But first I would like to offer some comments:

I have been certainly amazed here this morning to hear the statements made by people on the most complex question, I believe, that any committee ever had to listen to. I heard members of boards of education, or those speaking for boards of education; I've heard lawyers who know nothing about building; I've heard secretaries of associations, who certainly didn't speak for the general contractor; I heard a very nice lady who said was merely submitting what some boards of education told her to submit; I heard one building contractor who never built a school, and there is no similarity between a school and a home,

none whatsoever; I heard one man who knew something about building. I hope that you took particular note of his testimony. He wasn't too hot for either one of these bills.

May I, in all due modesty, say to this committee: I think I'm qualified to speak on this bill. First of all, I served my apprenticeship as an electrical worker, served four years and supposedly learned my trade. I worked at the construction business for 14 years, supervising work mainly, during that time, and then I quit the supervision for one of the largest firms in the East to become chief electrician for the Trenton Board of Education, where I was for 13 years. After I left the Board of Education I became a member of the Board of Education. I was on the Board of Education for ten years and I served as its President for two years, which I think qualifies me a little bit better than some of the people who testified this morning to speak on this question of schools.

Now, maybe if I read my prepared statement and then commented as I went along, it might help. I believe this Committee is trying to do a sincere job and find out the truth of the matter. I don't think, however, if this Committee held hearings for three months it would really get the real feel of building construction, the problems you run into on

a building. Let me give you just one little illustration to point out what I mean: We hear a great deal about delays. When they built the Lincoln School here in Trenton, I superintended the electrical work. We had some heating units, called univents, which stood before windows to either bring fresh air or hot air from the radiator, depending on which shutter was closed or not, into the classroom. Our plans told us, as they usually do on building construction plans, that these measurements are not deep enough. We must confirm the measurements with the architect. Before I could put my electrical conduits in, rigid conduits, and once you put them in concrete if you tear them out, you tear the building up. I tried to get specific locations from the architect or the contractor. The contractor referred me to the engineer, the engineer referred me to the architect, the architect referred me to the electrical engineer, and when I got to him, he said, "You'll have to check with the steamfitter to find out where the radiators are going to go so that you won't get in his way." Now, all told, I think that took maybe four or five months to get that information.

I am just pointing out this one little illustration as the kind of thing that happens on building construction, and then I would like to tie it in with this talk about contractors, general contractors who were able to take a lump-sum job.

There isn't a contractor in New Jersey who is equipped to take a lump-sum job. He might take it but he's not equipped. Mr. Bossert, who spoke so glibly here this morning, will agree with me that there's not a general contractor in New Jersey equipped to handle electrical engineering, to handle heating engineering, to handle plumbing engineering, to handle sheet metal work. It sounds well on paper; it's just like Prohibition. It sounds perfect, one contractor- why, it eliminates all these holdups - one man is responsible. What they said here, that isn't true. He has to hire an electrical engineer if he's going to do the whole job; he has to hire a heating engineer if he's going to estimate and lay out the job; he has to hire an engineer for every category of work, and what becomes of this saving? The fact that he is not a specialist provides the possibility that his costs will be higher rather than lower. A specialist knows what he's doing. He has material stockpiles. He is able, because of his large buying capacity and the fact that he buys a great deal of wire, we will say for instance, to get wire; he is able to get steel if he wants it if he's in steel construction, but a general contractor doesn't have those contacts, not in the same way that a specialist does. He couldn't begin to compete with a specialist in his own line.

So much for this business of one contract. It's the most furious thing I ever heard and I sat

over here today fuming, listening to the testimony of school superintendents who wouldn't know any more about building construction than the man in the moon. The only man who did know what he was talking about in the place certainly made known his feelings about the problematical savings you might get from a lump-sum contract.

In the first place, we might ask: Why are these things separated? It certainly must have been as the result of experience. Certainly, the Legislature of the State of New Jersey forty years ago didn't enact this bill because it was detrimental to the school systems of the State. They certainly did not. I think in those days there were just as good Legislatures as we have today, and to attempt to destroy something that was enacted forty years ago and has worked-- there may be an instance or two where it may not have, and that's due mainly to human failings; it has been due mainly in recent years, I would say, to the shortage of materials. Try to buy steel today and see how successful you are. Can a general contractor stockpile steel? He can't stockpile steel. The only thing he can stockpile is equipment. He has his equipment, and that's all, and most of them don't have that. They have to depend on the specialist when it's all said and done.

Now, the general contractor, of course, is in

business for just one reason - not to build monuments. He isn't in business to build monuments. He's not in business to leave his name to posterity. His business is to make money and all he can make. You can either make a lot of money in the construction of a building or you can go broke. You have seen contractors do that time and again.

The suggestion was offered by my friend who represents the architects, Mr. Hopper, that maybe they could overcome this difficulty by specifying the contractor as a sub-contractor. You can't. It's certainly a fact that the general contractor, if he were to get a bid from a specialist, would have to get that bid several days before so that he himself could make up his own bid, and in the course of three or four days there's a gadget known as the telephone that does a terrific job. Well, I think my credulity was murdered this morning when I heard this man representing the contractors say that these bids are very rarely peddled. Well, for his information, I might say to him that the exception is the rule when they are not peddled, that it's an absolute fact that if a bid is not peddled it is the exception.

Now, what's the usual practice in a general contract. It's a million dollar building, we will say, and the electrical work runs probably $100,000, rough figures, or round figures, whatever you want to

call it. I come to you, Assemblyman Ozzard - you're an electrical contractor - and I say to you-- I've had some estimator make the estimate up for me, understand-- I say, "Mr. Contractor, I have a bid of $90,000 for this electrical work. If you can sharpen your pencil, there might be a future in this job. The extras may do all right, you might do all right. Now, you have an organization, you want to keep them working, you don't want to lay your men off because when they're once gone, they may not come back, and they're good men. Your supervision may not want to come back, somebody else had got them." So you sharpen your pencil and you submit a bill of $85,000. He goes to someone else and he says, "Joe, I have a bid of $85,000. If you can top that, you've got yourself a job." So Joe sharpens his pencil and he gives him a price of $80,000, hoping that with the extras he can pull himself out.

Now, what's the result? If that contractor at the price he originally submitted is able to get that job, he has made $20,000 off that one contractor without turning-- without handling a wrench, without handling a tool, and he repeats that with the other sub-contractors. I have known instances where they have made plenty of money before they have ever

touched a building or stuck a stave in the ground.

Peddling of bids results in just this. I know because I had the problem to deal with after somebody mangled the job up. There's a school up here on Princeton Avenue known as Junior High School No. 1. In the electrical bid on that, there was pretty fierce competition, very fierce in those days, and a contractor from Philadelphia got the job. Well, unfortunately, for 13 years or so I had the duty of trying to straighten that job out. His price was so bad that he had to do all the cheating he possibly could do, inferior materials, short cuts, lousy workmanship, the world's worst. The Trenton Board of Education every year is paying the price for that cut-rate job they got. They are paying the price and they will continue to pay it until the building either falls down or is taken down. And that isn't the only one.

A contractor who receives a price for his work, a fair price, is going to do a fair job. Most men are honest. Sure, once in a while you'll find a fellow who will try to sneak something by, but I say that most men, I think, are reasonably honest, whether they are contractors or whatever they may be. And if he gets a fair price, he's not compelled to do that kind of cheating; he's not compelled to beat the brains out of his labor he's not compelled to cheat

by using cheap material; he's not compelled to use all the million tricks that are known in the building business, and if I had time to tell you some of them, you men would be amazed. You would have to work on buildings a lifetime to know what they are.

The school board may save a couple of thousand dollars when they had the building built. After it is built, it's a different proposition. Your maintenance comes in. That was my job, a maintenance man for all those years. And I can testify that it would have been more economical to pay that contractor twice the price he got and have the thing done right and you would have had no problem of continual maintenance costs, year in and year out, that mount up.

Recently, Senator Hillery - and I'm sure he won't mind my recalling it - said to me, "I'm not on fire about this bill." He said, "I have no deep personal feeling about it, but you will have to explain one thing to me: Why is it that parochial schools can build for one-third less?" I think those are approximately the words. And I said, "Senator, there's no such thing." I know school building like nobody knows it. Parochial schools or no other institution can build any differently from anyone else. The same contractors, the same workmen do the job. But here's the difference:

I'll take you into the junior schools and the high schools in the City of Trenton here - fine institutions - and I'm for what they have, every bit of it. I have put some of it there, I advocated it, I worked for it, I wanted it - dental clinics, nurses' quarters, rest rooms for teachers, beautiful auditoriums that no theater in Trenton could probably better, swimming pools that are out of this world, showers that are really remarkable, hair dryers, which I invented, in fact; they are in all the Trenton systems, I installed them. I want to brag about that a minute.

ASSEMBLYMAN BARKALOW: There will be a charge for this commercial.

MR. MARCIANTE: Well, I didn't sell them, Assemblyman.

Now, that's what you find in the public schools, and we want those things. We want our kids protected physically, we want them to have every facility. That old business about the little red schoolhouse never appealed to me. I know they stunk. Now, the parochial school, however, has to depend on contributions. They can't dip into the public till and get all the money they want. They say, "Well, we have to have a million dollars to build a school," and if the school is needed you come up with the million. The parochial school has to depend on contributions from its people. And what do you find

in most cases? You don't find elaborate swimming pools, you don't find nurses' quarters, rest rooms for children who may not just feel right for a moment; you don't find dental and medical clinics, and the auditorium usually is a combination gymnasium and auditorium with movable seats. There's your one-third difference in the cost of construction. They don't bring people from another world in to build these buildings. They are the same mechanics, the same contractors, and how could they possibly build any cheaper?

I have noted two things with respect to the arguments of the proponents of this bill, and that is, cost and the speed, lack of delay if one general contractor had the building, and of course the thing injected by the taxpayers - home rule. The State Taxpayers Association said something about home rule. What a pious mouthful that is. Who puts up the money for these schools? Does the local community put it all up? What is it that the Appropriations Committee is working on downstairs? Does the State contribute to these schools or not? And shouldn't the State have some say as to how they should be built, that they be built in a sanitary, decent manner, that they fulfill the requirements that decency demands, or should the State simply disregard the whole thing and let this great thing known as home rule prevail?

Well, I think that answers itself. I won't belabor that point.

So far as cost goes, I think I've tried to prove that, whether I'm wrong or not, this business of saving is a pretty visionary thing. It's problematical that anything will be saved in the construction. Certainly, I know that in the maintenance there will be a loss. So, with regard to cost, I won't belabor that point either.

Now, with relation to speed. What makes a subcontractor any speedier getting his work done whether he's working directly for the School Board or whether he's working for a general contractor? And what is it that makes him get the job done faster? There isn't anything in the world to make him do it any faster, and that is purely a figment of the imagination. Not one thing will make him produce any faster. So far as the labor end is concerned, let me say this to you: You will have more labor trouble with a general contractor than you will have with a specialist. The point was raised this morning that maybe one non-union contractor. Board members have the right to specify that a responsible bidder take the job, and obviously if this man can't furnish men on the job and the workmen won't work for him, he certainly is not responsible, not the kind of man you want on your job, and usually he's not able to perform the work.

I think that every point that I can think of has been pretty well covered. I don't know whether I have missed anything, and I don't want to bore the Committee, except let me emphasize one point: Where there's chopping of prices, there has to be a chopping of quality. That is just as true as anything can possibly be. That follows just as close as day follows night. You get inferior craftsmanship, you get inferior material, and you get a higher maintenance cost.

Now, that ends what I have to say, except I want this Committee to ask me every possible question they can. I would be glad to answer them.

SENATOR HILLERY: Through you, Mr. Chairman, I would like to address a few questions to Mr. Marciante. In the first place, I would like to say that I have heard of a lot of gadgets in schools but I never heard of hair dryers before, Lou.

MR. MARCIANTE: I'll take you around and show them to you.

SENATOR HILLERY: I have been a member of the State School Aid Commission for quite a few years and I worked with the Commission when we made our recommendations to the Legislature for school aid, and those recommendations have been pretty closely followed in many respects. I have heard a great deal of testimony here today about expediting school jobs and things of that nature, and I suppose they do help

they do help the argument, but really, ladies and gentlemen, I am beginning to think that this whole problem gets back to the point of money. We had 12 school budgets turned down in New Jersey within the last week, I believe, and I think that trend shows that the people are beginning to stiffen their backs in these growing communities and they are not going along with the recommendations for the large expenditure programs that have been advocated.

The Newark News carried an article along those lines yesterday in an editorial, which stated that some of the boards of education had shown a great deal of arrogance in putting up a school budget, having it knocked down by a big majority, and then turning around and putting it up again within a few weeks or so. This showed a trend to me that this whole problem, in my mind at least, is a matter of money. I know that in Morris County our tax rates are running very high and people are frightened about their tax bills, and there doesn't seem to be any end to it. People in the school field tell us that it's a problem that will be with us for another 20 years. Well, if it's increasing at the rate it is increasing today, we are wondering what is going to happen at the end of the 20-year period. So I would say, for my own part, my own thinking, that with me it's a matter of money.

Now, the reason I am here today is the fact that I was instrumental in creating a commission to study the cost of school buildings in New Jersey. That

Commission hasn't started its work yet, and Senator Lance introduced a similar bill in the Senate and asked me if I would co-sponsor it since it came, he felt, under the jurisdiction of that Study Commission. The bill over there is out of committee and ready to be voted on, and it was at that point that Mr. Marciante approached me.

Now, Mr. Marciante, do you believe that the bill should be discarded entirely, or do you think that it should be amended to provide for both types of bidding?

MR. MARCIANTE: I think it should be discarded entirely. I see nothing that can be gained by the bill.

SENATOR HILLERY: We were discussing parochial schools. How many, or what percentage would you say of the parochial schools in New Jersey have been built by one contractor, one general contractor?

MR. MARCIANTE: Oh, I wouldn't have any information about that.

SENATOR HILLERY: Well, you must have some idea. You are in the building trade and in the union field. Do you think it is around 75 or what?

MR. MARCIANTE: I wouldn't give you a figure because it would just be out of thin air and I wouldn't be truthful. I would say this, that I think there are cases where parochial schools do submit individual contracts. Am I right or wrong about that?

SENATOR HILLERY: Well, I know that a lot of

the sentiment for this type of legislation has come directly from the voting public, and when you talk to them about increased costs and increased taxes they get up on the floor and speak and say, "Well, how is it that parochial schools can," and they are not members of the parochial parish or anything of that nature, they are paying the bill for the public schools, and they say to us, "Well, how is it that they can do this sort of thing at a lesser cost?" And that's the reason why I spoke to you about it.

Now, you people are in the field and every day working in it, and I would like to let you give me an estimate. I just want to find out something in my own mind: What would you say that it would oost--and this is not tying you within twenty thousand or thirty thousand dollars. What would you say that it would cost to build a school with an average sized gymnasium to be used for athletic purposes, also with a stage, with maybe three or four offsets, a good-sized kitchen, fire equipment, lavatories, four class-rooms and a basement finished off for cafeteria purposes. The building has no steel in it; it has laminated arches, and a thick red-wood ceiling on the building, and it's cinder block and it's faced on the outside with yellow brick construction, and a mission type school. What would you say that would cost?

MR. MARCIANTE: Senator, if I could answer that question right off the bat, every contractor in here would kidnap me and keep me.

SENATOR HILLERY: Well, I was talking about it at lunch today and you'd be astounded at what it would cost.

MR. MARCIANTE: Well, I wouldn't have any idea, honest. I used to at one time know the cubic or the square foot cost of buildings, but I have even forgotten that. You must realize that it's been quite some years since I actually worked on a building.

SENATOR HILLERY: Well, what would you say,- a hundred thousand, a hundred and fifty or two hundred thousand? You know our Commission, when it studied this five years ago, found that the minimum average was $30,000 average for a schoolroom in New Jersey. We are paying about $50,000 in Morris County today in some of our schools.

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

SENATOR HILLERY: Well, what would you say that school would cost?

MR. MARCIANTE: I'm not going to give you a figure because I certainly would be sticking my neck out.

SENATOR HILLERY: Is there anybody here who would like to give an estimate on it?

ASSEMBLYMAN BARKALOW: Hearing none, I suggest that we proceed. I want to try to finish up today, Senator. If we get into a question and answer period, we're going to have quite a bit of difficulty.

SENATOR HILLERY: Well, we're being asked questions here too today, so I don't know why we can't get some answers. That school cost $92,000 in case you're interested.

Mr. Marciante, what would you recommend, considering the fact that the resistance is building up against these school budgets, what would you recommend to cut the cost of schools in New Jersey? That's our problem today.

MR. MARCIANTE: Well, I wouldn't recommend trying to cut the cost of school buildings. That's a problem. We have a practical problem. We have to face it. I think if you had the experience with school boards that I have had, you will run into this: Following every war there's a big increase in population, children of school age, plus the fact that New Jersey seems to be becoming an industrial center. For some reason, everybody's moving into the Delaware Valley or into New Jersey, because it's close to the big market, I suppose. That's a condition we have to face. The cost of schools isn't to blame for that - rather it's the other way around, it's the influx of people.

ASSEMBLYMAN BARKALOW: Mr. Marciante, I don't like to interrupt you. We all understand the problem. I believe the question was, what could you suggest which would help in decreasing the cost of school construction.

MR. MARCIANTE: Well, of course, the only way you can decrease the cost of schools is to build cheaper schools. And if you want those, they turn out to be more expensive in the end.

I will say this about the Trenton school system, which I think has the finest type of school structure: They cost a lot of money when they were built, but they will be standing when the other schools are falling down. No building in America receives the amount of abuse that a school building gets. Kids give a school building a terrific beating. I can show you schools where they have a slace fence and inside of three years, there's a groove worn that deep in them, but fortunately the architect, who was a good school architect, provided for mosaic tile walls, terraza floors, and indestructible material, but the kids pull the telephones off the walls and they can use the receiver to make a radio set with, they knock your clock system cross-eyed, they pull your fire alarm systems and everything else--

ASSEMBLYMAN BARKALOW: Well, let's get back. I don't want to go too far afield or we will be too many days discussing this. May I ask you this, Mr. Marciante: At the present time, our procedure

in taking bids for the construction of public schools is that we go to the voters and receive authority from those voters to spend so many dollars. So at the time bids are received, it is public knowledge what the amount of money available is. Can you give us an opinion as to whether or not that knowledge of the money available in that school district affects the bidding?

MR. MARCIANTE: No, I don't think so. I think every contractor is competitive. He wants the job; he has to keep his organization working; he wants to keep them in business, and he makes an honest effort to get the job, at a profit, of course. And I want to say this: There is less profit made on a school building than any building I know of. More reputable contractors have gone broke bidding on school work, and I'll tell you why, too. It's slow work. It's usually pretty sturdy construction and it's slow work. You may have half a dozen men or a dozen men on the job at one time when the building is open and they are rushing to get things done. Suddenly you're stopped. You can't go any further until the building progresses, until the concrete is poured, or the walls are run up, or whatever may be necessary. What do you do with the 12 men? Do you lay them off? If you do you may have a problem getting them back when the time comes to put them on. And so the only man who could really make a dollar on a school job, in my opinion, is a local contractor who can

move the men from one job to another in his own community. He must, if he is an out-of-town man, an out-of-town contractor-- he has to keep a supervisor there watching to see that he doesn't get covered up and be ruined. He could be ruined very easily by not keeping up with the job.

Very frankly, I say this to you: If I were an electrical contractor I wouldn't bid a school job. You have too many factors to contend with, let alone the slowness of the construction; you've got an architect to fight with; you've got a board of education to worry you; you've got an engineer, an electrical engineer, who laid the job out; you've got the other trades to contend with. So far as I'm concerned, and I think some of these sub-contractors here agree with me. If I were a contractor, I would not bid a school job.

ASSEMBLYMAN BARKALOW: May I ask you just one more question? What is your objection of having the law permit a board of education to receive bids under the five branches and, at the same bidding, receive a bid under the single contract?

MR. MARCIANTE: If they were to accept the option of taking a lump-sum bid for all five, the very things I talked about would occur - inferior workmanship and chiseling. They would have to. Contractors, as I said, don't build monuments. They are out to make money.

ASSEMBLYMAN BARKALOW: I'm not sure that you understand my question.

MR. MARCIANTE: Yes, I do. I understand. I understand your question. What would be objectionable to the law saying that they could adopt either method, is that right?

ASSEMBLYMAN BARKALOW: That is correct. And at the same time receive bids under the five branches, and at the same bidding receive a bid under the single contract, so the board of education, at the conclusion of the receipt of bids, would add up the five bids and get a total and compare that total with the bid submitted under a single contract.

MR. MARCIANTE: You would get what Mr. Hopper of the Architects Association told you this morning. You would get an entirely untrue picture. It's very possible that you might have saved money through the single system. You wouldn't know in a general contractor's lump sum bid what the individual prices were. You would have no way of knowing. All that you would have would be the whole over-all cost.

MR. BARKALOW: Well, where's the disadvantage? The taxpayer would know which way he was going to get it the cheapest, isn't that correct?

MR. MARCIANTE: Assemblyman, I see what you

are trying to get at but in answering your question I'd like to ask you the question as to what would be the advantage?

MR. BARKALOW: The advantage to me, as I see it, would be this, that I as a board of education member would be able to say to the public that I had done everything within my power to receive as low a bid from responsible bidders as possible and then, upon considering those bids, I would be getting the lowest bid for the taxpayers for that plan and those specifications.

MR. MARCIANTE: I see what you mean now. I see what you mean, but I would say this: I again repeat what I said, you would still have the problem of chiseling; you couldn't get away from it. You would still get inferior workmanship.

MR. BARKALOW: Well, don't you have the problem of chiseling today?

MR. MARCIANTE: No, not where a man gets a decent price. He has no reason to. And understand this, that a specialty contractor has a reputation at stake. He has a reputation, whereas if the general contractor-- if something goes wrong on a specialty end of it; for instance, the electrical or plumbing, all he would say would be, "Well, that's the fellow I hired to do the plumbing and heating," or the fellow I hired to do the iron work. "it wasn't me, it was him."

MR. BARKALOW: So that you don't think increased competitive bidding would be a benefit to the taxpayer?

MR. MARCIANTE: I think our present system is the result of an evolution in the building business, an evolution in experience. It's very highly possible-- of course, 40 years ago, I was a rather young man then; I won't claim that I was an infant, but I was a young man -- 40 years ago when they adopted this legislation, they certainly must have adopted it for a specific reason.

MR. BARKALOW: Would you want to elaborate on that?

MR. MARCIANTE: Well, they must have had some bad experiences with general contractors taking a whole building. It's more than probable that it was the boards of education who came in and wanted this setup.

ASSEMBLYMAN OZZARD: Mr. Marciante, on this matter of the law 40 years ago and the situation today, I merely want to point out that many of our laws have been on the books a long time and it's been found necessary through subsequent developments to at least re-examine them, and that's what we are doing here today - re-examine a 40-year old law to see whether or not it is still a practical and working proposition. Now, you spoke of the Lincoln School and certain difficulties you had at the Lincoln School.

MR. MARCIANTE: That was Junior 1.

MR. OZZARD: Junior 1, was it? I'm sorry. When was that school built?

MR. MARCIANTE: It started in 1916, I believe- or 1917, 1918, around that time.

MR. OZZARD: And since that's borderline there, was that under multiple contract bid or a single contract bid?

MR. MARCIANTE: Well, the electrical work at least was an individual contract.

MR. OZZARD: So it was a multiple contract?

MR. MARCIANTE: As far as I can recall, it was.

MR. OZZARD: And under the multiple contract system used on that particular school, it took you four to five months to get a question answered because you were shunted from one to the other?

MR. MARCIANTE: That was the Lincoln School that I was talking about.

MR. OZZARD: Will you tell me when that was built?

MR. MARCIANTE: Yes. 1923.

MR. OZZARD: And that was definitely under the multiple contract plan?

MR. MARCIANTE: Yes, it was.

MR. OZZARD: And it was in that school where it took you four to five months to get the answer to a question, a simple question as to the location of

certain electrical fixtures? Is that correct?

MR. MARCIANTE: That's right.

MR. OZZARD: If there were a principal contractor on that job who was responsible for the operation, would it not be possible for that question to have been answered and that problem solved without your being pushed around?

MR. MARCIANTE: No. You see, because it is a matter of engineering. The engineer, who was a New York engineer- you have to, first of all, hire an architect to design your building. The architect hires engineers who lay out the various types of work. He himself is not an electrical engineer; he is not a plumbing engineer, so he hires men to engineer that work and, regardless of whether it was a general contractor or who it might be, he would have been faced with the same problem I was faced with.

MR. OZZARD: Well, Mr. Marciante, going on to some of your other statements, you stated that no general contractor in New Jersey is equipped to take on a total job and that he, therefore, couldn't compete with the specialists, whom I presume are the subs that you refer to.

MR. MARCIANTE: That's right.

MR. OZZARD: Now, in his obtaining of bids, would he not obtain the services of these

specialist sub-contractors and thus make use of their knowledge in the carrying out of his duties?

MR. MARCIANTE: How do you mean?

MR. OZZARD: Well, when you speak of specialists, I presume you mean the men who are presently bidding on separate contracts. Now, aren't those the same men who would be bidding to the general and becoming part of the overall school construction project?

MR. MARCIANTE: Well, he wouldn't be a general contractor in that case; he would be a broker. That's what the average general contractor will be if this law goes through. He becomes a broker. As a result of his peddling these bids, he's not a contractor; he has nothing to do with the engineering, he has nothing to do with the supervision even; he wouldn't know how to supervise that kind of work, so he would have to go to one of these sub-contractors and hire them and in that case he's nothing but a broker. He's made a profit for doing nothing.

MR. OZZARD: Mr. Marciante, isn't that the program generally on general contracting anyway; otherwise, when we are talking about bid peddling we are talking about something that wouldn't exist because bid peddling could only exist where he is seeking the services of various sub-contractors; isn't that correct?

MR. MARCIANTE: Well, you would be right back

where you are now, wouldn't you?

MR. OZZARD: Well, I am asking the question at the moment. Isn't that the situation? Isn't that the way a general works, to obtain bids from reputable sub-contractors?

MR. MARCIANTE: Yes, he does - reputable or disreputable; he cares damn little about whether they are reputable or disreputable, so long as he can get a lower price, and don't let anybody tell you any different. I think you would be deluding yourself and doing a disservice to the public of New Jersey if you let anybody walk in here and tell you that they're idealists who are in here for the public good or are going to do the public good.

MR. OZZARD: We realize that, Mr. Marciante.

MR. MARCIANTE: They are in there strictly to make money and nothing else.

MR. OZZARD: The question I am trying to get answered, Mr. Marciante, is this, that when you speak of the need for specialists, the men who are presently carrying on these separate contracts which, for purposes of this discussion, will be called subs - sub-contractors. Wouldn't they also be the men who would be participating under a single general contract, if they did?

MR. MARCIANTE: Not necessarily. He might try to hire non-union labor. Nine times out of ten non-union labor is inferior labor, men who have not

learned their trade. If they were men who had served an apprenticeship and became craftsmen, their natural pride and desire to benefit from their work would want them to get the same scale of wages and so forth. So that he couldn't hire union men direct. The contractor would be the biggest sucker in the world to say, "I know you are doing this job and I'll lend you my men while you do it."

MR. OZZARD: Perhaps you can answer a question I directed to one of the men this morning: Do you know what the percentage of general contractors is in the State of New Jersey who are union contractors?

MR. MARCIANTE: Well, I would say that on commercial work probably- commercial and industrial work- probably 95 per cent, at least.

MR. OZZARD: About 95 per cent are union?

MR. MARCIANTE: Yes. On home building there might be a much higher percentage of non-union.

MR. OZZARD: On the matter of bid shopping, you felt that the Architects Society's suggestion this morning of specifying the subs and the amount of their bid in the general bid wouldn't work? You said that they would shop after the bid had been accepted.

MR. MARCIANTE: Well, I think it is pretty obvious, isn't it?

MR. OZZARD: I can see the possibility, yes, sir. Now, the question is this; and it's predicated on the question I asked the gentleman this morning: If the amendment could be so worded to protect against that, so that the subs who are included or named in the general bid would have to be the subs who perform work on the job, Would you then still object?

MR. MARCIANTE: Well, you have that now. That's what you are working under now. That is the present law. I don't see what that would accomplish. That's what you have at the present time.

MR. OZZARD: I don't think we have quite that at the present time, or else we're wasting the time of all you gentlemen here today. My question was this: If, following through the suggestion of the architects society, when the principal contractor bids, and he was speaking, or at least he and some of the other gentlemen spoke on the matter of responsibility principally-- if in the general bid he suggested that the sub-contractors be named by the general as the ones he intends to use on that job, and if such an amendment could be worded to protect against their substituting, after the bid has been accepted, would your organization still be opposed?

MR. MARCIANTE: Well, that will do what you are talking about, but it won't protect the contractor. It certainly won't protect him. How can it possibly be?

If he only has half an hour or an hour, he knows the contractors, these specialty contractors, have these plans, they have figured the job; it only needs half an hour on the telephone. He can say, "Look, I've got a price of eighty-five, if you can chop that down to eighty, you're in, brother." And the natural cupidity of the human being tempts him to want to get in there and grab that. I think Mr. Hopper, if he thinks the thing over carefully, will agree that there isn't too much protection there. I don't know whether Mr. Hopper is here now or not, but I would welcome your asking him that question.

MR. OZZARD: On this matter of bid shopping, how prevalent is that, Mr. Marciante, on general contracts on schools.

MR. MARCIANTE: Well, I said a while ago that when it does not take place is the exception. I sincerely mean that and I think every sub-contractor in this room will bear me out. Why wouldn't they? It's natural. It's the most natural thing in the world. If I'm a general contractor and I can make myself a hundred thousand dollars without raising a finger, except to lift the telephone receiver, and I didn't do it, I wouldn't be too much of a businessman.

MR. OZZARD: Mr. Marciante, on your experience in the organization you represent, would you care to make a representation as to whether you believe, or

whether it's your opinion that multiple bidding as presently carried out is more economical than single bidding?

MR. MARCIANTE: It positively is not, neither in its original conception nor from a maintenance standpoint.

MR. BOOKSTABER (in the audience): He misunderstood the question.

MR. OZZARD: Let me repeat the question then: I asked you whether it is your opinion that multiple bidding is more economical than it would be under a single contract.

MR. MARCIANTE: Oh! I'll reverse my answer. Yes.

MR. OZZARD: You feel that it is more economical?

MR. MARCIANTE: That's right.

MR. OZZARD: And what are the reasons for thinking it is more economical?

MR. MARCIANTE: For this reason: The contractors who bid the job are certainly competitive. They get in there and their percentage of profit in most cases is not very high and, particularly, when work is scarce. They really compete among themselves. Whereas, a general contractor has no competition. He gets an estimate from an estimator, and then he begins to shop around. Nobody has any way of knowing whether

his price is lower or whether it's higher, because you have the multiple bids; you've got the bids from all these various contractors, and you lump them together and they total so much. But the other way, I don't see how you could possibly get an answer.

MR. OZZARD: You spoke before of some question of a non-union contract being bid under the multiple bidding system with a mixture of union contracts; you made some reference to it at least. Do you know whether there have been schools built in New Jersey in which bids accepted included both union and non-union contracts?

MR. MARCIANTE: Yes, I do, and I think everybody in New Jersey must know about that case down in South Jersey where a school was tied up for months. I tried myself to get the thing settled. It was down around Bridgeton somewhere, and I think it was Mr. Seabrook called me about it.

MR. OZZARD: If that is so, then, Mr. Marciante, and since you stated before that approximately 95 per cent of the generals in the State of New Jersey are union, wouldn't the single bidding proposition encompassed in this bill practically eliminate that possibility of tying up a job due to union and non-union activities on the same works?

MR. MARCIANTE: Well, I don't know that it would. He certainly has a right to hire, if he's a general contractor, whomever he pleases. He might

possibly hire a non-union contractor because his price was lower.

MR. OZZARD: You mean a union general would hire a non-union sub?

MR. MARCIANTE: It's possible

MR. OZZARD: Is that done? Not possible- but is it done?

MR. MARCIANTE: I have known it to be tried, I believe. During times of stress, and I think during the depression we saw some examples of that, but I won't say that it occurs where there is plenty of work around.

MR. OZZARD: It's a minimal question then of that happening, is that correct?

MR. MARCIANTE: Yes, I don't think that is an important item. I don't think it's too important. I think the possibilities of trouble would be more imminent if it was a lump-sum bid.

MR. OZZARD: You mean on this union - non-union setup?

MR. MARCIANTE: A contractor is going to try to make money and he'll take a gamble and think maybe I can get by.

MR. OZZARD: No further questions.

MR. BARKALOW: Mr. Marciante, you have referred to rrather elaborate school construction in New Jersey--

MR. MARCIANTE: Will you allow me to correct you? I didn't say "elaborate." I don't mean that in the sense of its being derogatory. I mean they really are top-notch so far as the requirements of our children are concerned. As I said before, I'm for that sort of thing.

MR. BARKALOW: I see. Well, may I ask you this: Are you familiar with the state building code in so far as schools are concerned?

MR. MARCIANTE: I used to be rather familiar with the requirements some years back when it was necessary for me to know, but I couldn't say that I would be very good at it right now.

MR. BARKALOW: Well, then, I won't pursue the matter further.

Are there any other questions?

Thank you very much.

MR. MARCIANTE: You're quite welcome.

MR. BARKALOW: We will proceed with the next speaker.

I R V I N G B O O K S T A B E R: My name is Irving Bookstaber, and I represent the Structural Steel and Ornamental Iron Association of New Jersey, which is an association of steel fabricators and erectors, comprising the bulk of the steel industry in the State. I also represent the southern group of fabricators who are not organized in an association. Now, before I begin this presentation, in all fairness, I wish to inform the Committee, Mr. Chairman, that I have met with attorneys for the three other mechanical trades before this meeting, and this meeting was held in order to save the time of your Committee in the presentation because, obviously, my remarks in most part represent the argument and the views of the other mechanical trades, so that I am going to proceed with the general presentation not only on behalf of structural steel and ornamental iron association of New Jersey, but also on behalf of the heating and piping contractors, electricians, and the plumbers, and then the various attorneys representing these separate trades will, on their own part, in a shorter period of time present facts which pertain peculiarly to their own specialty. I hope that when we are through with this presentation-- I am going to leave it to you people on the Committee to determine whether you care to ask questions at the conclusion of the remarks of each of us, or whether you would prefer, and we are prepared to sit as a panel and answer questions at the conclusion of the remarks of myself, Mr. Estabrook who represents the heating and piping contractors, Judge Owens who represents the electricians, and Martin Fox who represents the plumbers.

At the conclusion of my remarks, you may indicate which way you would prefer to have it and we will go along with your wishes on that.

Now, when Mr. Marciante completed his remarks, I was wondering whether I had any arguments left to present, but I think I have a few, and they are contained in this presentation. I have a copy for the stenographer.

Forty years ago the New Jersey State Legislature enacted separate bid laws covering state construction, county construction and municipal construction and construction of public schools by boards of education. All public construction, from the State level down to the smallest political sub-division of this State for forty years, has been built under the provisions of these laws. Section 18:11-10 of the Revised Statutes applies to school construction and requires boards of education, where the entire cost of the work exceeds $2,000., to advertise for and receive separate bids for plumbing, steam and hot water heating and ventilating, electrical work and structural steel and ornamental iron work. The board is then required to award contracts for such work to the lowest bidder for each of such branches of the work. The farseeing legislature forty years ago intended by these laws to provide a means for all of the primary separate trades to deal directly with the awarding authorities so that it would not be necessary for them to deal through brokers or the general contractors. The intent of this legislature was to increase competition and to have public work built at the lowest possible cost.

Since this statute was enacted, all school building in

the State of New Jersey has been awarded on separate contracts. A tremendous volume of school building has been built under this law and a splendid record of school construction has been achieved by the boards of education in the State of New Jersey.

During the past five years, with the accelerated home building program and the tremendous growth in the population of many school distrcits, school buildings have been planned and built under pressure of population growth and restricted budget and bond limits. In order to build the necessary schools, boards of education must and do carefully plan these projects so that they receive as much for their money as they possibly can. The cost of school construction has gone up, as has the cost of all other construction. The separate bid law, by increasing the competition in bidding by the separate trades and by saving the school boards the profit which the general contractor would normally add to the separate contracts, helps the board to keep the cost down.

The tremendous upsurge in school construction in the past five years has been reviewed statistically within the industry I represent and the information received from members of the Structural Steel & Ornamental Iron Association of New Jersey, Inc. and other fabricators of steel in the southern part of New Jersey whom I also represent, shows that by and large these schools were constructed and delivered on or about the scheduled completion date. In a few cases where school construction has been delayed, delays were due to shortage of raw material, primarily steel, or the default of the general contractor.

Now, I have this material here and this is only part of it, and in briefly going over some of these questionnaires I find, for example, in the case of this particular fabricator, who is a member of our association, he shows that in the past five years, he has completed nine structural steel jobs, and in this particular questionaire, there has been no delay of any school job listed. I have one here with 29 jobs and no delays whatsoever. I have another one here with 15 and no delays whatsoever, and I have one here with 7 and I have one delay-this delay was caused by the bankruptcy of the general contractor; I have his name here. Here is one with 20 jobs with one delay and this delay was a result of the Bethlehem Steel strike in which steel was held up for two months and so on. I have other questionnaires which show delays as a result of shortage of steel, but they are very infrequent on these statistics. And I have one here with 75 jobs in which there have been just two delays, one as a result of shortage of steel and the other as a result of default of the general contractor. Now this material is going to be collated and set up on a statistical basis and on that basis it will be available to the committee.

Now you have heard some of the proponents of this Bill indicate delays in their own school districts, and you will note that all of these delays, by and large, occurred in the past two years.

Now, gentlemen, during the past two years, there has been one of the worst shortages of steel, structural shapes, that we have ever experienced outside of war-time. Schools were not

the only jobs that were delayed; it is a wonder that more of them were not delayed in view of the necessary speed which is required for the building of these schools. There have been many industrial projects delayed; there have been many government projects delayed, and during the past two years, these delays have all been due to this shortage of steel and a few other prime raw materials. As a matter of fact we have even had meetings down at Washington in which we were told that some of the basic steel plants, companies, were increasing facilities for structural steel because of this tremendous shortage; and these plants are now apparently about to begin on the basis of a projected plan of expansion.

In reviewing the record of performance by the separate trades in the completion of their contracts, an impressive record has been established by the separate trades in fulfilling their contractural commitments on school jobs in the State of New Jersey. If the record of performance by the general contractors was as good as the performance of the separate trades, practically no delays would have occurred, outside of the delays due to the shortage of materials. But delays in construction are very infrequent and such delays would only be made more acute and more widespread if the general contractor was given the overall job. And let's face it, bonding companies base their premium rates on the experienced backers which they show in the various trades. The premium rate for general contractors is $10.00 per $1,000, and in the case of structural steel the premium rate is exactly one-half of that, which is $5.00 per $1,000. And, incidentally, we have heard some of the proponents refer

to the fact that the coordination would be better under the general contract. This is not true.

The architect who conceives, plans and designs public schools does, in practically all cases, supervise the construction of these schools. Boards of education invariably look to the architect for such supervision and coordination and they pay the architect a fee for this service. The architects in the State of New Jersey who are primarily responsible for the design and planning of public schools, by and large, have done a creditable job in planning, designing and in supervising the construction of these public buildings. Of all people concerned with the construction of the school, the architect is the only one who has no ax to grind and who is completely impartial. His sole desire and motivation is to see that the product of his drawing board is translated into the completed building within the scheduled completion date and that the quality of the job is maintained in accordance with the standards which he has set up for the project. The architect, by job conferences and direct supervision, has proven that coordination and the efficiency of the job is of a high order. We must remember that the motivation of the general contractor is to complete the job within his bid figures so that he ultimately winds up with the projected profit figure in the job at the time he bid it and this is a legitimate motivation. However, if you were a school board, who would you rely on to supervise the job, - the man who is interested in making as much profit as he can out of the job or the architect who, once the job has been planned and awarded, has only one interest in mind and that is to see that the building is built in conformity with his plans and specifications

within the prescribed time determined at the time it was planned?

Now we come to the question of costs, and I was impressed by the question propounded by Senator Hillery. He said he is interested in costs and I think you have a right to know, by the sheer force of logic alone, why, under the present bid law, costs must be lower, they just must be. Now, by the nature of the business, the general contractor must, if he wants to stay in business, add a profit to every sub-contract; this is immutable. If a general contractor undertakes the bid on the overall job, by the nature of his business, he can only do but a small percentage of the work himself, and I think that has been borne out by the proponents themselves. He must sub-contract and does sub-contract the electrical work, the plumbing work, the heating and piping work, the air-conditioning, the structural steel and miscellaneous iron work. Now, these are the four more highly specialized and more technical branches of the work and these four primary branches of the work represent anywhere from 40% to 60% and 70% of the total cost of a school project. The general contractor, in sub-contracting to these specialized trades, if he handles the overall job, must, if he is going to stay in business, add a profit to each sub-contract in computing his overall bid. This is an accepted business practice in the construction trades, and, in addition to the four branches of the work referred to in the statute, many general contractors sub-contract other parts of their work such as masonry work, carpentry work and you have heard some of the specifications of work which is sub-contracted by the general contractor in Mr. Marciante's presentation. When he sub-contracts these other phases of the work, he must also, if he wants to stay in [illegible] a profit [illegible]

in business, add a profit to each of these sub-contracts. This is a legitimate function of the general contractor - there's nothing wrong with this - and we do not say that this is bad practice or that it is wrong. But the Legislature 40 years ago and all fair-minded people agree that this is not good for the taxpayer. If there is a school project of two million dollars, the four separate trades represent one million dollars of the work. If the general contractor has the overall job and adds a profit to each of these separate contracts, the taxpayer pays this profit, which may cost the taxpayer an additional $100,000. In commenting on the presentation of the representative of the home builders, I think it is only fair to point out that not only do the home builders by and large, possibly to the extent of over 50 or 60%, operate non-union, but the home building program - and this I get by hearsay - is folding up. As a matter of fact, I have heard it said by people in the home building industry that they would like to now start building public schools and, let's face it, the only way they can get into this business is to be able to bid on a general contract. If they can get the overall job, they're in business. I don't think that the presentation of the representative of the home builders is exactly on the same plane as the presentation of these conscientious people who are with the boards of education and represent school districts.

Now, in the period of July 1, 1951 through June 30, 1956, and these figures come from the New Jersey State Board of Education, $248,605,000 was spent on new public school construction. In the same period, $321,391,000 was spent for capital improvements. In this period over one-half billion

dollars has been expended in public school construction and improvements. If, during this period, this work was done on an overall general contract basis, it would have cost the taxpayer about twenty-five million dollars more to build the same schools. And, let's face it, if we use the figure of $30,000, there's approximately 1000 additional school room units; if we use the $50,000 figure, you can figure that out for yourself, there's an awful lot of rooms involved.

Now, if, in addition to the profit paid by the taxpayer, cost of supervision is superimposed on the general contract bid, the taxpayer not only pays the profits on the sub-contracts and the general contractor's charge for supervision, but the taxpayer also pays for the architect's fee for supervision. The fee the architect receives for supervision cannot be avoided because the architect ultimately must certify to the board of education all of the various phases of the work as they are completed. The board of education relies on the architect to tell them when the job is satisfactorily completed before they pay $1. to the general contractor. I think it should be noted that the thinking of the legislature forty years ago and the thinking of most people involved in public construction today representing the interests of the taxpayer is the same as the thinking of the primary industrial firms in the United States today who invariably, where a major project is involved, will deal directly with the primary separate trades, rather than with a general contractor on an overall basis, and this will be elaborated on, gentlemen, by one of the attorneys representing the mechanical trades in the subsequent presenta-

tion, who has the names of the firms involved. Now, it is not only good business for firms who depend on public building; it apparently is also good business for firms who depend on free enterprise.

Now, we come to this question of bid shopping and I prefer to refer to it as bid chiselling , because that's what it is. Now, I have heard it represented here that this is not too prevalent, but I can tell you now, that we have in this room, I think that most of the people in this room, are sub-tractors. I think I am safe in saying so. I think if you ask at random any sub-contractor in this room, how recently he has been subjected to bid chiselling, he will give you an answer which will convince you that not only is it prevalent but that Mr. Marciante's characterization, that is, the exception is unusual, is probably correct. You don't have to go too far on this bid chiseling, the New York Construction News, not too long ago, ran some articles on bid chiseling and as a result of these articles many, many letters by contractors and sub-contractors were sent to the paper, and the contractors deplored the bid chiseling, although they recognized that it existed, and the sub-contractors complained about it. And these issues are a matter of public record and I would be very glad to secure these issues for you gentlemen and the lady. Public bid laws on the books have corrected the old abuse by many general contractors in the case of bid chiseling. When a sub-contractor deals directly with the owner, and in this case the owner is the board of

education, he has a prime contract, he is going to submit his lowest bid and he's not going to worry about adding something on because he knows he is going to be tapped by the contractor if he happens to be a man he knows, who is going to come in and say, "look, if you will knock off $5,000 (which is the bid of somebody else) you can have it, and this is strictly between and I". So that the bid he submits to the board of education is the true and the lowest bid. He has one opportunity to bid, that's all he wants, that's all he expects,

If a general contractor bids the overall job, he will not necessarily seek out the sub-contractor who is both most reliable and can do the work at the lowest cost. Experience proves that the general contractor will often shop between sub-contractors and bid down the sub-contractor he wants by dangling the bid of someone else before him. Sub-contractors who are chiseled into taking work at prices that are too low cannot produce the quality job which a fair bid produces under competitive conditions. If a general contractor is successful in chiseling the bids by bid shopping, the taxpayer doesn't get the benefit of $1. of this saving,- it falls into the pockets of the general contractor and the taxpayer may very well get an inferior job as a result of it. So that, in addition to the profit which general contractors will legitimately add to the bids of the sub-contractors, he will also, in many cases, bid shop to fatten up the profit on the whole job at the expense of the board of education and the taxpayer. If the question has ever crossed your mind who is behind many of the attempts to destroy

the separate bid laws in the State of New Jersey, I don't think that you need look much further for a motive.

Now the small and medium size contractor doesn't want this bid law changed. They are very happy to bid the general contract portion of the work and they do competitively bid for it. Now, let's face it, the average general contractor whose pattern of operation is that he bids jobs in the neighborhood of $500,000, and remember that a school that costs a million dollars to build is within the pattern of his ability to bid that job, under the separate bid law. If that contractor suddenly finds himself in the position where he must either bid the whole job or not at all, he is not going to get the bond that is required on that million dollar job, he's out, and only the big contractor, the man who is a position to get the big bond is going to get it, and the smaller contractor (when I say small, he is not so small, but they are smaller than the coterie of the biggest contractors in the State) they know very well that this attempt to amend this bid law is going to put them in a position where they are not going to be able to bid much of this school work, now they do it and do a pretty job of it.

Now some of the large general contractors will not bid school construction under the present separate bid law - this is too small for them, because obviously they can't have the whole job, but if the bill is amended they will bid them, and the reason for this is, that if they can take the overall job they can make more money, but they can't make enough money merely handling the general contract part of the work without enjoying the profits on the sub-contracts. Now, it has been mentioned here and indeed I have noted the question is relating to the number of general contractors who are able

mentioned here, and incidentally I have noted the questions relating to the number of general contractors who are able to bid and to secure bonds on very substantial jobs ranging into two to five million dollars. I have before me a clipping from the Newark Evening News, dated February 28, just about a week ago, in which one of our prominent school architects, if not the most prominent, in testifying on the proposed construction of schools in the City of Clifton, made this statement:
The architect told the board only three contractors in the State would be financially able to bid on the one building plan which aggregated somewhere in the neighborhood of six million dollars, but that a dozen or more could compete for contracts on the two building proposal, in other words, on the basis of the impartial testimony of a man testifying before a school board, this man, who, in my opinion, is considered one of the foremost school architects in the State of New Jersey, made the unqualified statement that on a job of six million dollars which represents actually three million dollars in general contract work, there were three contractors in the State of New Jersey who were financially able to handle it and get a bond for it. I am just wondering about the 120 contractors referred to by Mr. Brienza representing the general contractors. However, when you break it down to two schools ranging three million dollars each, and this represents a general contract for one million five hundred thousand, are there one hundred and twenty-five contractors able to bid on this? Not in the opinion of this architect; he says that a dozen or more could compete for contracts on the two building proposal. I think that the testimony of this architect, completely impartial, with no ax to grind, certainly can be stacked against the testimony of people who, obviously,

have a different kind of interest in this bill.

Now, I come to one of the important reasons for separately bidding the mechanical trade work which has nothing to do with the cost of the project, but indirectly has a great bearing on it, and that is,that this work which includes plumbing and electrical work, the heating, piping and structural steel and miscellaneous iron work, is highly specialized work. These trades are becoming more and more complex, and the highly specialized engineering skill which is required in the design and in the supervision of the installation, cannot possibly be provided by the general contractor. Now this is going to be elaborated upon by one of the gentlemen who follow me who represent some of the more complex mechanical trades, but I mention this as one of the points that we intend to explore more fully. The general contractor, if he is given the overall job, must sub-contract the highly mechanical work, I think that has been conceded here. There is no dispute about this and it is generally conceded that this type of work is a subject of sub-contract. The work involved in the separate trades generally represents between 40% and 60% of the cost of the school. These separate contracts are important dollar-wise and as a factor in the construction in the building. The general contractor if he takes the overall job and sub-contracts his work, can hardly represent that he is qualified to supervise the mechanical trades. Only the architect who is the creator of the design of this building, and who has the technical and engineering assistance which went into the planning of the project, can adequately supervise the mechanical trades.

Now I want to touch on another type of proponent to this bill. I know that this is a lengthy presentation, gentlemen; however, this is a very complex subject, and all I can tell you is, that is only a small part of what I am prepared to tell you, and which is why I am following this prepared text very closely, because if I could throw this away, I could talk for four hours on this subject and I don't want to take any more than twenty-five minutes.

Now, among the people who are interested in destroying the separate bid law in this State, are a number of promotors, and investment people, who operate through so-called pre-fabricated school firms, who represent that they can deliver a pre-fabricated school building at lower costs. Aside from the question of maintenance of standards of school construction which must be adherred to, in order to provide a safe and healthful building for school children, it has been proven in the one instance where such a total bid was secured in this State from one of these firms, that the cost of the school which they offered to supply was higher than the cost of the school that was separately bid under the public bid law. Now mind you, here is a firm ranging the country trying to break into the school building program on this basis, they finally have an opportunity in the State to bid the whole contract and you would think that they would cut this thing to the bone in order to break into the situation in New Jersey, and what happens - they are higher than the total of the separate bids, in spite of everything that they could do; why it would almost

be worth it as a promotional expense to cut the thing in half and they couldn't do it. Now these firms are from out of the State and they are also offering, on this emergency school program, purchase and lease arrangements and other methods to avoid bond limits and budget requirements. Now the only trouble with such schemes is that the municipality buying such a deal pays an excessive cost to the detriment of the taxpayer, and on a long range basis to the detriment of the financial structure of the municipality involved. I do not believe that it is hard to see where such firms stand on this bill, because, obviously they can only accomplish their business purpose if they can bid the whole project and add the profit to each sub-contract so the deal is worth-while. Apparently the profit on the investment phase of the deal is not attractive enough to these promotors. Now I represent the Structural Steel and Ornamental iron Association of New Jersey, Inc. which comprises forty-three steel firms, the bulk of the fabricated steel industry in this State; I also represent the rest of the significant fabricators in the southern part of the State, namely; the Industrial Engineering Works, Trenton, New Jersey; General Iron Works, Camden, New Jersey; Camden Iron Works, in Camden; Vernon Fab Co., in Trenton; Peter Stewart, in Atlantic City; Fab-Con, Inc., in Trenton and the Keystone Structural Steel Corporation of Trenton, New Jersey. Now, all of these firms, including the members of the association, represent a capitalization in excess of fifty million dollars in plant and equipment; they bear substantial tax obligations in this State; they employ overall in excess of six to eight

thousand employees, and I use that range because there are outside iron-workers in this situation, the employment of whom fluctuates. All of these are residents of State of New Jersey. The sales of all of these firms exceed forty million dollars a year and this industry has become a significant factor in the economy of the State of New Jersey. Open competitive bidding on public work has, in a significant degree, contributed to the growth of the industry and no steel fabricator wants to go back to the laws of the jungle which existed prior to the enactment of the separate bid laws. The industry in the State of New Jersey stands on an equal footing with Bethlehem Steel, U.S. Steel, and the other big national fabricators in the United States, in their ability to bid directly with the owner, - the board of education for steel work, and it is in the interest of the taxpayer that they be kept on an equal plane to permit open bidding and the lowest possible prices.

Now, Mr. Chairman, and the committee, we all of the mechanical trades appreciate the opportunity to present these reasons to you, - why this amendment is a bad bill. There has been a tendency by those who would profitably doing away with separate bidding in public work to repeatedly snipe at these laws. I am convinced that with this opportunity to present the facts and to reiterate the lessons learned over the past forty years that there will be less of a tendency to attempt to delude people - well-meaning people, who are conscientiously trying to do a good job in the building of public works and schools in this State. The doing away of this law is the answer

to their problems in connection with budgets, bond limits, population influx, shortage of steel and other problems, which occasionally arise to vex and plague these public servants on boards of education, who are struggling to provide the necessary facilities in their municipalities.

ASSEMBLYMAN BARKALOW: Mr. Bookstaber would you care to elaborate at all on legislation which would provide for the taking of bids both ways, the five branches in the single contract?

MR. BOOKSTABER: Well, we have heard this question a number of times today, Mr. Chairman, and it is going to be elaborated on by others among this group, however, I want you to know that, in my opinion, after talking to my members, that this would be a completely impractical thing, and I think it is not too difficult to point out to you some of the possibilities which would make it impractical. Now, first of all, if you get one bid for the general contract and you take separate bids under the separate bid portion of it, the people who bid to the general contractor are going to think twice about bidding to him knowing full well that their bid is disclosed, it has to be. They have to give it to him some appreciable time before he presents his bid. And when I say appreciable I am talking in terms not of hours, but of days, because the general contractor has to know what he is doing - he has to arrange for his bond, he has to put his bid in a presentable fashion.

ASSEMBLYMAN BARKALOW: Excuse me, I am not sure that you understand me. I am referring to the situation where a board of education may request a bid under the five branches or five separate bids and then a bid under single contract.

MR. BOOKSTABER: I understand Mr. Chairman and what I am

telling you now is precisely one of the answers to that; in other words, if you have it on both, the sub-contractor is not going to be inclined to bid for the general contract except on an inflated basis, because he knows there is going to be bid shopping. He certainly isn't going to give him a bid which is going to be disclosed and then also bid separately directly for the board.

ASSEMBLYMAN BARKALOW: Well it doesn't necessarily mean that a sub-contractor has to disclose his bid It may be some local contractor that would only bid direct to the board and not give a bid to the general contractor.

MR. BOOKSTABER: Well, that is true, but let's face it. The man who submits his bid to the general contractor doesn't have the protection of all the apparatus for bid openings which have been available to him under this law. The bid is not disclosed until the time set for opening those bids - this is his protection, he knows he has to submit his one bid, he has one shot at it, that's it. There is another problem, and believe me I forsee many problems in connection with this, and I want to tell you, Mr. Chairman, about a week or two ago when this was first mentioned to me, at first flush it seemed to be a possible answer until I started to talk to people who are involved with this problem. Suppose there is a separate bid, or bids on the general contract, and there are also a few separate bids on the plumbing, electrical work and structural steel, and there is no bid on heating and piping, and there is no bid on the general contract portion of the work in the separate situation; what happens to those bids? Does the whole thing fall or are they going to have these people bid for nothing? Obviously if you have incomplete bids of the

separate trades, how are you going to be able to tell whether the separate bid for plumbing, for example, is lower than the separate bids submitted to the contractor on the general bid; and suppose an arrangement is made under Mr. Hopper's suggestion that the separate bids be disclosed; what apparatus are you going to use for the board to avail themselves of the low bid in the general contractor's overall bid as against a separate bid? There are many of these problems. To me I think it confuses the issue and I think it is practically unworkable, if for that reason alone.

ASSEMBLYMAN BARKALOW: Am I correct in saying that it is not uncommon today in bidding on schools, that at a bid opening you may receive anywhere from three to five to ten bids on the general portion of the work? Would you say that is a correct statement?

MR. BOOKSTABER: You're talking now about the general contract portion of the work?

ASSEMBLYMAN BARKALOW: Yes.

MR. BOOKSTABER: I would like to correct your statement. In my experience at least within recent months I have found there are much fewer bids on the general contract portion of the work than there are on the steel, for example. I have been told that in a few of the recent jobs there were three, four and five general contract bids and a dozen structural steel bids, and this applies to the other mechanical trades also. You will find, except in a situation where the shortage of steel is so acute that the completion date is so unrealistic, they can't bid at all, and this only happened once in our whole history.

ASSEMBLYMAN BARKALOW: I don't mean to cut you off but I am just talking now about the general basic portion of the work.

MR. BOOKSTABER: Well, there have been fewer bids on the general construction than there have been on the separate trades.

ASSEMBLYMAN BARKALOW: Now, under a single contract method, would the tendency be to increase the number of bidders or to decrease them? A Well, in my opinion, it would decrease them tremendously because, if you have a bid on the overall job, obviously the cost of the contract increases at least double, and it immediately cuts down the number of bidders because, let's face it, not too many of them can qualify for a million dollar job or a two million dollar job where many of them can qualify for a half million dollar job.

Q Now, am I correct that it is the most opportune time of the year to receive bids, say, right after the holidays--during the winter months? A I wouldn't know that, sir.

Q I have always understood that. A I wouldn't know that, sir.

Q I have always understood that. A It may be. I'll tell you the things I know, Mr. Chairman, but I don't know.

Q Just one more question and then I'm through. Under the single contract method, can you foresee a situation where there might be bids asked for and none received at the most advantageous time of the year to receive bids? A You are now talking about the general contractor bidding on the overall job?

Q Yes. Is it reasonable to foresee that? A Well, the answer would be yes, because, obviously, if you are limited to general contractors and there is a heavy burden of work in a particular season of the year, it cuts down the field for bidding. It has to.

ASSEMBLYMAN OZZARD: Mr. Bookstaber, following up on the questions directed to you by Mr. Barkalow, you said it was the intent of the present statute enacted forty years ago to increase competition in bidding. Do you believe that by broadening the bill, not as it is presently written, but looking at it on the basis on which Mr. Barkalow questioned you to provide for single and multiple bids being made at the same time, that that would not further increase competition in bidding which, I assume, you indicated was advantageous to the taxpayer and the school board? A. No, it would create such a confusing situation that you would probably have a situation where many mechanical trades wouldn't bid school work at all, because many, many of these mechanical trades' contractors who have been in business for many, many years, right now are only bidding school work because they know they are going to collect their money, and if they have to start bidding to a general contractor they probably wouldn't even bid it - they have a lot of other work, too.

Q You said, Mr. Bookstaber, that separate bids help the board of education to keep costs down, I believe I noted that correctly, do you have any figures or facts on which to base that statement? A You mean comparative figures of schools under the separate bid law and those under a general contract?

Q Yes. A No, I do not, except the one I mentioned where the Structo Corporation bid and couldn't build it for anywhere near the figure the separate bids could.

Q That was in Franklin Township? A That is right.

Q You stated that the architects, referring to the

gentleman who spoke this morning, are the only ones who have no ax to grind and are wholly impartial. Now, on the basis of that statement, do you feel that the recommendations of the architects to provide for the naming of bidders and amounts of bids, as an amendment to this present bill, would be practical and acceptable to the organizations you represent?

A No, I do not. I have great respect for the architects, I think that they are creative people, but I think when they make this proposal, I think they are deluded. I don't think they quite realize what they are suggesting here, because if the general contractor is going to bid on the overall job and submit the bid figures and the names of the contractors, all that is happening is - that he is going to bid chisel before the bid rather than after, that is all. As Mr. Marciante said, "the telephone is a good gadget."

Q On this matter of bid chiselling which you mentioned again, I am interested in that, having discussed this in some detail long before this hearing with men in the organizations you represent, and I have gained the impression here today that general contractors, as a group, are akin to odorous or something of that sort. I realize that from statements made they are seeking to make profits and additional if they can make them. Now, I would like to ask you this direct question as to the - let me call them sub-contractors (that is probably not a fair designation but at least it isolates them from these generals we are speaking of) - this matter of the legislation that you are speaking on and the present law that you wish to retain, and looking upon that and applying it to this question of bid shopping, or bid

chiseling, isn't what you are saying this: that such legislation is necessary to protect sub-contractors from sub-contractors? A I'm sorry. Maybe I didn't understand your question. You mean, the present bid law as we have it today?

Q Let me rephrase it and cut it down a little bit: You state that a change in this law would permit chiseling, bid shopping. The corollary of that must be that the present law protects against bid shopping and bid chiseling. Do I understand, then, that your representation is this, that this law as it presently stands is necessary to protect sub-contractors against themselves? A Well, let me put it this way, Assemblyman: The present bid law is necessary in order to provide as broad a base for competitive bidding on the separate trades as possible at the lowest possible cost. When a structural steel contractor receives an invitation to bid on a school job, he puts his detailers to work and goes to great expense to detail that job and produce the lowest possible bid he can, because he knows that he is bidding against a large number of other steel contractors who want that job, and he is going to bid the lowest possible price. This is not a question of protecting one against the other. This is dealing with the owner. He is dealing with the owner, the fellow who is going to pay him, and he knows his money is good, and he wants that work. Now, you might say, "Well, this must be terribly attractive." The fact remains that out of the 50 firms in the structural steel industry, not all of them bid school work, because, as attractive as it is, it retains percentages of 15% and other

hazards. And the length of time it takes to collect their money still means that a firm must be pretty well heeled to be able to finance the job, but if you are indicating by your question, "Do we need this law to protect us from each other?" the answer is no.

Q I would follow that with this question, Mr. Bookstaber: If, from what you state-- we'll deal with the structural steel men; I'll not burden you with the others who will follow,-- if the structural steel men in their bids are bidding the lowest possible price because they realize it is competitive, how is it possible for a general contractor to get one of those reputable steel men, who have bid the lowest possible price, to cut their price even further to the point where he might lose money?

A Because you have a different situation there. I think, if you will evaluate this fairly, Assemblyman, and I know you will, you must recognize that there is a little difference between dealing with the owner on a bid basis, where the bids are closed until two o'clock of a Thursday afternoon, and once they are opened and those prices affirmed, and dealing with a general contractor. And don't get me wrong: many of these people deal with general contractors and many of them are reputable and a lot of them do a lot of work for them. A general contractor is a necessary ingredient of our economic setup here, but in public work, where you have the public interest involved, this bill which has been in effect for 40 years does provide the lowest possible price. If they bid to a general contractor, very often they deal with a general contractor on the basis of something else besides the lowest bid. Maybe

they have worked with them for some years and they like him, or maybe the general contractor likes him - that doesn't necessarily mean that the fellow he likes is the best contractor or that his bid is the lowest, but if it isn't the lowest he is going to shop him and chisel him, even his friends, and you can ask anyone of these sub-contractors who chiselled him. It's all their friends, the general contractors with whom they deal constantly, they are their friends but they chisel them just the same, - that's the difference.

Q Then I understand your answer, generally is, that where it is a matter of coming under a general contract the people you represent would cut their prices further than they might if they bid directly to the school board? A Oh, no, on the contrary - if anything, their prices would have to be a little higher, because when they deal with a general contractor, let's face it - we have seen in the press there are at least a half a dozen very substantial general contractors who have gone broke in the past few months. These men have all gotten bonds for their work and the field of responsible general contractors is narrowing day by day so that the steel man who is faced with giving a job that may total hundreds of thousands of dollars is going to think twice about dealing with a general contractor where he has to deal with a man who can't assure him of his money, so that if he has any doubts at all, he may even put in a little overage to take care of the possible contingency that he may have a bad debt to collect. The price bid to the owner is always less, always.

Q As a result of that, since you say that the bid to

the contractor would always be higher.....? A Not always, but there might be that reason for it, certainly it can't be less.

Q If there would be this bid shopping, it still wouldn't put the steel sub-contractor in this case in any worse position than he was in the initial bid.? A Yes, but you are dealing with another problem there, you see bid chiselling is the appeal to a sub-contractor who has an organization which costs him money to maintain and to the cupidity of the average human being. He almost has a job but he is low. You see it's not a one-shot deal so the contract or is going back to this man and giving him another chance to take it, provided he shaves off a little more. Now, let's face it, if a man has given a bid which he considers his lowest bid and then he has another chance to shave a few dollars to meet it, this is tantamount to dealing on an open bid basis, and certainly doesn't benefit anyone, least of all the taxpayer, because he doesn't get the benefit of any of that money. What's happening is, he is going to get shoddy work, the sub-contractor who is chiselled into taking a job at less money than he should, isn't going to be able to produce the job, secondly, the money that is chiselled goes into the pockets of the contractor. The taxpayer and the board of education doesn't get it, you see?

Q I think your inference there is that there may be subs who are chisellers and you use the word "shoddy work"- isn't there a real possibility now without direct control from the board of education or placing the responsibility on a single contractor, they might wind up through the bid system of

getting one of these chisellers who would do shoddy work.

A Well, there is far less possibility of it because let me point out to you, Assemblyman. I'll wager if you ask anyone of these contractors, and there are plenty of them here, if they were asked by the architect to extend themselves, even over and above their contractual commitments in order to take care of a situation that may not have been foreseen, they will do it for the architect but they won't do it for the contractor.

Q One more question, Mr. Bookstaber, on a different point. You said that under a single bid that general contractors must add a profit (their profit) to each of the bids of the subs. Do I quote you correctly? Since, under the present system that we have what we term a general contractor who takes a large portion of the work, and in handling that work, he has certain sub-contractors that he calls upon, I am thinking of tile-work and roofing and things of that nature, is it a situation that exists even under the present law that we are paying additional profits for those sub-contractors which now come under the general, and this law instead of being restricted should be broken to where we would take ten or fifteen bids?

A Well, all I can tell you is this, I didn't say that the general contractor adding profit to sub-contracts is wrong I just say that it is expensive to the taxpayer. In the case of the mechanical trades the Legislature of this State saw fit to segregate the mechanical trades, the complex part of the work and the very expensive part about one-half of the cost of the school in the separate trades and separate contracts. In the wisdom of the Legislature, as far as I'm concerned

I am satisfied that the general contractor lets sub-contracts to the lathe man and to the brick man and the masonry man if he wants to, if he is not equipped to do it himself. If this Legislature in its wisdom wants to increase the number of the separate trades, that is something that possibly could be explored. I am not prepared to take a position on that one way or another.

Thank you very much.

ASSEMBLYMAN BARKALOW:

Q Mr. Bookstaber, do you feel that if A-34 became law, it would reduce the profits of the companies in the steel industry in New Jersey? A Reduce the profits?

Q Insofar as school construction is concerned. A Well, what it would do is this:

Q Well, you can answer that in a very brief way. A I think it would destroy their interest in school construction.

Q No, let's confine the answer to the question if we may. Would it reduce their profits on school construction?

A Individually, on the individual job, I don't suppose it would. But if you are talking about the overall profit, as a result of the fact that there may not be as much structural work done on schools locally because of this situation, very possibly.

Q Well, I am assuming the same work would be done. It would just be a change in the method. A No, no, it's more than that. You must remember that even though the general conditions of specifications of steel work require that the prevailing rates and prevailing working conditions prevail, many of these general contractors will attempt to

go out of the State and have a bid elsewhere.

Q Your industry would not refuse to give a bid on a school to a general contractor, would it? A No, no, except that some might. Some might change their mode of operation, and some structural steel contractors may feel that since their money isn't secure, maybe they don't want that particular type of work.

Q I am trying to seek your opinion on the profit side of it, whether or not a change in the law would decrease the profits in the steel industry. A I think the margin of profit won't be affected particularly.

Q You think it would? A I don't think it would particularly, no. I am talking about the margin of profit.

Q At the present time, certainly a board of education is not in a position to go out and cont act bidders and shop around and try to cut them down or chisel, so to speak, and you feel that a general contractor, doing that very thing, that that would not inure to the benefit of the school district? A It would not.

Q Who would get hurt? A The taxpayer.

Q In what way? A Well, first of all, if the general contractor chisels; after he has the job he starts making the rounds of the sub-contractors, not only the structural steel people, but the other mechanical trades, and proceeds to dangle these bids to cut down and chisel someone else, he may not get the most reliable contractor. He will only get the contractor who is willing to take a very severe risk of coming out.

Q So it affects the quality of the work? A It's got to.

Q So am I to understand that we must admit defeat in New Jersey in that we are not presently equipped, either on the local level of the school board, or on the state level of the State Department of Education, to see that a contractor, when he once signs a contract and a performance bond is filed,- that we are not able to force that contractor to do his job? A When you say, "force that contractor to do his job"--

Q That is correct - according to the plans and specifications. A Well, obviously you have the same avenues open to you then as you have now in the case of the general contract to have him do his job. The architect is going to certify to the work and you are not going to pay him unless the job is done.

Q You understood my question? A No. The question is not easy to understand.

Q Well, may I put it another way? A If you would.

Q At the present time, do you admit or will you state or deny that school boards in New Jersey are not in a position to force the general contractor to live up to his contract and do the work according to the plans and specifications? A Within the limits of the bonding arrangements, I think that a school board has as much force and can apply as much force to the performance of his contract as he can to any other contract.

Q Well, the reason I bring this out: You have stated to this Committee, at least as I gather, that if this

law is changed it will bring about chiseling on a greater scale than it is at the present time. A That's right.

Q And where there's chiseling, the work is going to be cut and the quality of the work decreased. A That's right.

Q Now, I would like to know: Are we in such a position in New Jersey that we can't force these contractors to live up to their contracts? A All I can say is that Mr. Marciante, I think made plain that this is an avenue that you could explore only after a lifetime of work with building.

Q Maybe we need some law along those lines. A Very possibly. There is not only a need for legislation in connection with that, but there is also a need for legislation so that the boards of education of the State don't preempt their obligation under this provision in the present act which says that a sole responsible bidder shall take the job to determine the responsibility of that bidder and not depend on the bonding company, and there are avenues open for that which have not even been explored.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Bookstaber, unless there are other questions.

ASSEMBLYMAN FITZ MAURICE: I have one, Mr. Chairman.

MR. MARCIANTE: May I answer that question?

ASSEMBLYMAN BARKALOW: I'll remember the question, and may we conclude with this witness.

BY ASSEMBLYMAN FITZ MAURICE:

Q Mr. Bookstaber, you had an article there from the Newark Evening News? A Yes, sir.

Q Do you want to get that article? A Sure.

Q You made mention that some prominent architect has said that there are only three qualified contractors in the State that could take this one job, and 12 that could take the two jobs? Is that right? A Twelve or more, yes.

Q Did you say that this architect said there are only three in the State, or did you just say that he said there are only three? A The architect told the board and I quote; the architect told the board that only three contractors in the State would be financially able to bid on the one building plan.

Q And what do you think he meant when he said they would be financially able, Mr. Bookstaber? A Well, I think it's plain, sir, that what he meant was that there are only three in his opinion and, seeing who it is, I respect his opinion-- that there are only three contractors, in his opinion, in this State that they would consider financially and capable of handling that job from the point of view of bonding and ability to handle the job from the technical point of view.

ASSEMBLYMAN FITZ MAURICE: Mr. Chairman, I have no knowledge who this architect is and I think for the record that unless we do know, this type of evidence not be written into the transcript. We have here testimony from one Paul Brienza, who is willing to substantiate his background as far as the number of contractors that he said could do this type of work, and I think, although I don't know Mr. Brienza, out of respect to his testimony here today we do owe him that bit of courtesy. I can't understand how any architect can say that he knows there are only three contractors in the

State who can do that type of work, and I ask that that be stricken from the record.

MR. BOOKSTABER: Well, may I, Mr. Chairman, before you act on that request: This is a matter of public record. It is in the Newark Evening News of February 28, and I will be very glad to forward it to you.

ASSEMBLYMAN BARKALOW: Well, may I say that I think we have listened today to a great many opinions offered and I will treat this, I think, in the same category as being an opinion, and the Committee will weigh the particular evidence which is coming before it. However, I think the Committee would be willing to receive a communication from this particular architect if he cares to reduce it to writing for the education of the Committee.

MR. BOOKSTABER: I would be glad to contact him based on this article and see if I can get such a statement.

ASSEMBLYMAN BARKALOW: Thank you very much, Mr. Bookstaber.

Now, I think Mr. Marciante wanted to answer the question. I am going to limit this, Mr. Marciante, because we want to finish and we would like you to be as brief as possible. I think you remember the question.

MR. MARCIANTE: Yes, I do. The question was: Do you mean to say that it's impossible for the school boards to exact from the contractors an honest job. That's substantially what you meant?

ASSEMBLYMAN BARKALOW: Well, I didn't put it quite in that way. I don't want to be on record as questioning

the honesty o f the contractors. My question was: Are we in a situation in New Jersey where a school board is not able to force a contractor to perform the work according to the plans and specifications.

MR. MARCIANTE: All right. Now, let me answer. You've got a big structure being built that may extend for a block or two blocks. It covers a lot of space and a lot of work and a lot of detail. I have never met any one man yet who was an expert in all lines of building construction and who would know whether a contractor were cheating in every case. A man may know heating, he may know brick work, he may know structural steel, he may know plumbing, he may know sheet metal work, he may know tile, but certainly the man who knows every detail about a building certainly doesn't live. I never met him. The school board could do this: What they usually do is employ one inspector. He's paid by the board. Despite the fact that the architect, while it seems to be his responsibility and the engineer's responsibility to see that the work is installed properly-- school boards will usually protect themselves by putting what's known as an inspector on the job.

ASSEMBLYMAN BARKALOW: Is that a Clerk of the Works, as they usually call him?

MR. MARCIANTE: Well, they may call him a Clerk of the Works but usually it's an inspector. He is supposed to see that the work is done according to plan and specification. Now, everyone I have ever met was a specialist in one line. He might have been a carpenter; he may be experienced in

carpentry work; he might have been an iron worker, or something else, but he never was an electrical worker, nor was he a heating or plumbing man. He didn't know anything about sheet metal. They couldn't conceivably hire a specialist in every category that I have just mentioned. Put him on the job and let him follow the men around, and then I doubt sometimes whether they would catch him cutting a corner here and there. It's very tough to keep an eye on men and concrete covers up a lot of sins. The building of a partition will cover up a few sins sometimes, and once it's installed improperly it costs an awful lot of money, and not only that, you deface the building by tearing it apart and trying to correct it.

I think that's your answer when you ask, "Is it impossible?" It's not impossible but the cost of preventing it would be tremendous.

Does that answer your question?

ASSEMBLYMAN BARKALOW: Yes. Thank you very much.

May we have the next speaker? May I ask how many more speakers there are after this gentlemen? Do each of you gentlemen feel that it will not be duplicitous what you have to say? I don't want to foreclose anyone but I am just trying to get an idea here as to the time. Then I understand we have just two more after this gentleman. Let's proceed.

K E N N E T H L. E S T A B R O O K: Mr. Chairman and members of the Education Committee of the General Assembly, I appear as attorney for the Mechanical Contractors Assocation of New Jersey in opposition to Assembly Bill 34.

The Mechanical Contractors Association of New Jersey is an incorporated association composed of contracting firms throughout the State which are engaged in heating, piping and air conditioning work.

The following facts, I believe, are worthy of your consideration so far as that organization is concerned:

Its members are 50 in number and comprise the great majority of resident New Jersey concerns engaged in public school work. They collectively do business in excess of $35,000,000, which was done in the year 1956. They employ more than 3,000 persons in their construction work. These are New Jersey residents and working on New Jersey jobs. Members of this Association are actively engaged in public school construction work and are personally familiar with its problems and practices, and I believe qualified to present the testimony in opposition to the bill today.

First let me say that we want to congratulate the several boards of education throughout this State who give so unstintingly of their time in the public service and in trying to do their best in conquering this extreme problem of accelerated school construction which has been required since the war. We are aware of their problems. The mechanical contractors live with them daily in the construction of these buildings. We sympathize with those problems and want to do everything that we can to correct them. However, I think that the persons who spoke today, if I understand their testimony, may have faultily attributed to the existing separate bid law the ailments and problems

that are totally unrelated to it. They look to it as a solution to problems which, if anything, it reduces and doesn't increase. Mention has been made as to the existence of this statute which has been in being for 40 years along with companion statutes.

Now, I would like to correct Mr. Jefferson, if I may: Not only school buildings but other public work in this State are required to employ the separate bid practice. It's uniformly done in state work, county and municipal work. These statutes arose back in 1915, as was well pointed out by the Supreme Court of this State in the case of Weinacht v. The Board of Chosen Freeholders, in 3 N.J. 332. The courts has the companion statute under consideration and this was what caused the enactment of the statute then, and which rule still applies today.

The City of Newark let bids on single contract construction for the old market building. Those awards on bids came in and they also let bids for five separate branches. The difference in those bids was $16,000. I submit it would be the same today. Based upon that practical finding, the Legislature then adopted these statutes which have been followed sinceand to the saving of the taxpayers of this State.

I wish also to briefly point out that a splendid record of school construction has been achieved in employing the very statute in question. And we submit that a large measure of this success is due to the statute, as I will try to explain briefly, supplementing the remarks of Mr. Bookstaber, which remarks we first wish to concur in. We

We conducted a like survey of the members of our Association to determine what has been the practice and the experience in the construction of schools under the separate bid law. In the main they have been completed on or about the scheduled date.

Now, I will submit to you at this time for your examination a list of such schools so completed. They are in excess of 100 in number since 1950. Unfortunately, this list is only partial, due to the shortness of time in which we had to compile it.

We have heard from the representative of the State Federation of 17 districts which thought the statute should be examined more fully. I would like to bring to the Committee's attention that this is 17 out of 665 districts, if I count them correctly, in this State. I think, too, some of the problems which have arisen are well pointed out by Mr. Jefferson when he says that in his town 88 per cent of the existing floor space has been constructed since 1949. That's a phenomenal record and rather typical of the entire State. With such expanded school development, difficulties are doubtlessly going to occur and delays come about, although they have been minimized by the existence of this statute.

I think a key to this question is that of supervision and coordination. If I understand the position of the proponents, it is their theory that the job, in the course of its progress, can be better supervised than coordinated by the general contractor. I submit to you, gentlemen, that that is the function not of the general contractor but of the architect. It is the architect and his staff in this

regard that the specialty contractors will yield to, follow and comply with. This is particularly important in the case of my people's work, that is, the heating work. It is highly technical with new school design now, there have been many changes in the heating systems, in combustion and forced air system and the safety features involved. General contractors are not qualified to supervise this work, they do not have the technical training nor the manpower able to do it. We are also looking on the eve of an era where air-conditioning is becoming ever more and more important. This also, if anything, is even more technical, and should not be supervised by a general contractor not familiar with it, not skilled and able to direct it, rather by architects and their specially trained engineers. Industry, I submit, recognizes this fact as is evidenced by a statement by Mr. C.P. Pesek, Vice President of Minnesota Mining and Manufacturing Co., which is entered in the Congressional record of the hearings of the Committee on the Judiciary, House of Representatives, 84th Congress with reference to the proposed Federal Construction Act. His statement reads, in part:

> "In no case do we have the general contractor negotiate bids with the so called mechanical contractors, such as plumbing, heating, ventilating, air conditioning, electrical, etc., as his knowledge of these subjects is limited and because the mechanical elements of our plants are much more important than the brick and mortar. We insist on selecting our own mechanical contractor and guiding his activities throughout with out own Engineering Department or outside engineers who we have employed to represent us..."

To require the Mechanical Contractor to work as a sub-contractor of the General on the theory that the General Contractor can thereby most efficiently supervise and coordinate the specialty

work is indeed ill-founded.

Most of the major industrial concerns throughout the United States entertain bids directly with the primary separate trades. They are not compelled by any statute to use a prescribed building contract procedure but nevertheless have quite uniformly recognized the inherent evils and shortcomings of awarding just one general contract for all work to be done.

The Committee on the Judiciary of the United States Senate in recently investigating procedures used by the Federal Government Agencies in construction contracts, conducted an extensive survey of the practices of some of the nation's largest companies. The replies indicated that none of these companies used the straight lump sum contract procedure here sought in A-34. The following industries were among those found to use the separate bid practice:

Chrysler Corporation
Westinghouse Electric Corporation
Montgomery Ward
Bethlehem Steel Corp.
United States Steel Corp.
Sears Roebuck and Co.
Consolidated Edison Co. of New York
Monsanto Chemical Co.
Minnesota Mining & Manufacturing

The Mechanical Contractors Association of New Jersey, in addition, polled its members as to the building contract practices of local private companies on jobs recently completed in our own state of New Jersey. I submit the list of these contracts to you to show that many, if not most of these companies, employ the separate bid practice. Unfortunately, this list is not complete and we request the opportunity

to supplement it as our data further comes in from the several individual members. I would like also, I think, to clarify the record in the question of Parochial Schools and their practices. We conducted a survey of such schools built since 1950 from our members. I have a report here of 58 such school projects, 56 of which were under separate bidding practices, in the same manner and method as is used in public shool construction, but two used a single contract procedure. We submit, then, that based upon the sound business practices used by such prudent private enterprise, that these stand as an excellent indication of the most efficient and economical manner of building construction.

Not only does private industry employ the separate bid practice, Our sister states of New York, Pennsylvania, Ohio, Massachusetts, West Virginia, North Carolina and Arkansas each have separate bidding statutes similar to those in force in New Jersey, and which have operated successfully in the interest of the public.

I might point out here that Mr. Bossert's example of Ohio with low school cost construction as he has contended, was perhaps ill chosen or maybe it was chosen insofar as I am concerned, since they there, too, require, separate bidding and separate contracts as is done here.

Many General Contractors also, we submit, will not be able to secure performance and materialmen's bonds required in the event the statute is amended as proposed, inasmuch as the mechanical trades work today comprises anywhere from 40 to 60% of the total school cost. The amount of such bond

and the resulting exposure of the bonding company, which is all they're concerned with, would be greatly increased, and, as was so well stated by Mr. Frank J. Rooney, President of The Associated General Contractors of America, Inc., in his testimony before the Committee on the Judiciary in the House of Representatives, on March 7, 1956 where he stated:

> "General Contractors in the United States are the poorest risk of any business you can name. I am quoting bankers on this point. We have the highest bankruptcy rate of any industry we can name."

In the face of such an admission and established fact, it is certainly unlikely that bonding companies will willingly go about issuing bonds to all contractors who may now be bidding in double the present amounts to include all mechanical work in one general contract. The natural result is the reduction of competiton and the increase in the construction cost, which is primarily what we are concerned with. This also, in the face of such an admission and facts, looking at it from the point of view of the mechanical contractor, you would, by such a change, expose him to this increased financial risk. He is going to react to this exposure. The result certainly is not going to be a lessening of the cost of any school to the Board of Education. And I might add that the general contractor's bond is little answer, insofar as the sub would be concerned, for there is a great deal of trouble insofar as any delay and the present availability of money for work done. A bonding company is not the fastest to take care of the completion of the job. Any sub-contractor has to take that into consideration when quoting and bidding.

To award one general contract for all work would create the abuse and evil of bid shopping. I don't want to labor this point unduly but just to bring in more facts which I don't believe have been directly touched on. This technique, known well to persons in the construction industry, was again described by Mr. Rooney from his position as President of the Associated General Contractors at the hearing before the Committee on the Judiciary of the House of Representatives, which I previously referred to. Mr. Rooney, a General Contractor, reported that it is the practice to incorporate what he denominated a "compromise figure" for sub-contract work in his general bid. This he put in after getting figures from several subs - he took what he liked and submitted it as the figure to be incorporated in his final bid. Upon the award of the general contract then, the successful general calls in the subs to get the lowest possible price. No part of any savings is passed on to the owner, that contract has already been awarded, it goes to the general. Insofar as the sub-contractor is concerned, he may incorporate an extra amount in his original figure anticipating this action or, if not, be subjected either to losing the job or taking it at an unsafe figure. In any event, the practice leads only to a very indefinite, dangerous situation jeopardizing the accurate figuring of the job and computation of the costs. In the same Congressional Committee hearing, John J. Foley, representing Charles H. Tompkins Co., a Washington D.C. General Contractor, explained further another aspect of bid shopping such as the enactment of A-34 would engender.

He, a General Contractor, testified that although the use of the "compromise bid" and subsequent bid shopping meant an additional profit to the general contractor in many cases, it was possible that the original "compromise bid" figure guessed by the general contractor was too low. In that case, the General Contractor could not get a sub to do the work for such price, a higher figure would have to be paid by him and the government would benefit. The General Contractor might win on his guess on one job and the government on another. He testified that, in the long run, they should even out. I submit, gentlemen, that to expose this practice is to condemn it. The several boards of education should never be subjected to the vagaries of such a guessing game.

The Mechanical Contractors Association of New Jersey and its members believe that N.J.S.A. 18:11-10 , the present statute, provides the best guarantee of open and free competitive bidding, allows for the best method of supervision and coordination of the job progress, by the architect and his skilled capable representatives, and insures the lowest cost construction of public school buildings in New Jersey. Enactment of A-34 can only destroy these results. We accordingly oppose its enactment and request at this time the right to produce further documentation as our surveys are completed in support of our position.

Thank you very much.

BY ASSEMBLYMAN OZZARD:

Q Mr. Estabrook, you referred to the method used by the Minnesota Mining and Manufacturing Company, under which they let separate contracts-- A Separate bids.

Q Separate bids, I'm sorry. And I note in the statement of Mr. Pesek, the Vice President, he says, "We insist on selecting our own mechanical contractor and guiding his activities throughout with our own engineering department or outside engineers whom we have employed to represent us." Wouldn't you say that their situation, with their own engineering department and their desire and ability, so far as cash and intent are concerned, is somewhat different from the school board which does not have available to it those engineering services nor can the board justify the hiring of three or four or five outside engineers to supervise the job? A The Board of Education does have such supervision available to it and they are paying for it. They are paying for it in retaining the architect, not only originally to prepare plans and specifications but they are paying him a fee because he is an expert and to supervise the job, and to give his certificate as to stage of completion and to attest as to the compliance with the plans and specifications as the job progresses. It is that one head, that supervisory capacity in the architect, to which all the trades should look. He is the one unbiased man who the trades recognize as being skilled and educated and without an axe to grind, whom they will comply with and will do the best possible job in the

interest of completion and get the products which the school board wants.

Q I recognize that, Mr. Estabrook. My question was, isn't there a difference between their procedure and the procedure either under multiple or single bid contracts that a school board would have to follow, since the Minnesota Mining & Manufacturing does state very clearly that they have the whole engineering staff and even go to the extent of employing additional outside engineers for supervisory purposes.

A There is that difference that they already have the resident staff, but here we have and are paying - I say "we," - the boards of education have such talent available. True, it is retained on a fee basis rather than paid for on a weekly salary, but it is nevertheless there. It is up to the boards to see that their architect performs this function, and doesn't advocate it or seek to advocate it to a general contractor who is unqualified and unable to supervise one-half of the work that he does not now have and should not have.

Q One last point, Mr. Estabrook: You referred to this being the practice, and the practice I spoke of here was Minnesota Mining-- being the practice in many large industries. I read a very brief quote from the Ford Motor Company, the quote of Henry Ford II, President, in which he states:

> "All of our lump sum contracts are bid by general contractors who must specify the sub-contractors they intend to use, together with the amount included in their proposal for each of the individual trades."

I find that similar statements were made at the Congressional hearings by representatives of Colgate-Palm Olive Company, Republic Aviation, Youngstown Sheet and Tube Company,

General Motors, Public Service Electric and Gas, R. H. Macy, Illinois Bell Telephone Company. Now, I lay that groundwork for this question: Since Ford and these other companies do use a single bid by their own statement, but require that the subs and the amount of the subs' bids be stated to them at the time of the general bid, would the organization you represent accept a change in legislation if the change encompassed an amendment as proposed by the Architects' Society this morning?

A My answer to that is, no, sir, because that is at best a second best to the existing system, which we believe, and I believe we can substantiate, offers and provides the school boards with the lowest cost and the best construction. It is inferior to the separate bid method and separate contract method now used, and we would urge and stand firm in our encouragement and support for the existing legislation.

Q Well, then, if I understand correctly, when you state that this method-- and you base part of your argument on the statement that this method is used by industries, you mean that you are in agreement with those industries that use the separate bids but you are in disagreement with these other industries I have cited who use the single bid with the naming of subs and the naming of the sums that they have bid? Is that correct? A I looked to and cited the industries which I did in my original presentation as examples to put the school construction program in context and not to treat it as an isolated thing or some peculiar bird where this is the only place we use five separate contracts, as if this was something that 40 years ago we had inherited and there is

nothing we can do about it. I wanted to show as best I was able that this practice had been adopted and used by many very large and well-recognized concerns, by parochial schools generally, and by other States, because I think we must see that there is much merit in it, and we contend it is the best method in our own experience.

BY ASSEMBLYMAN MOSCH:

Q Mr. Estabrook, unfortunately this question for the moment which I am going to address to you was brought about through Assemblyman Ozzard's questioning. I would like to point out that in my opinion - correct me if I am wrong - the use by industry of single contracts is a totally different picture than the use of a single contract by a school board. I have had considerable experience industrially in construction, and it is a little different picture where you have a complete, able engineering staff to review these contracts and to handle them and judge the quality of the work, the efficiency, and whether you are getting your money's worth. I am particularly interested in your thought that there is, so far as expediting construction is concerned, a lack of supervision on the part of the architect, and I was informed earlier during this hearing that there are many contracts that the architects have that are written for the architects that give only responsibility to the architect of periodical supervision to determine the completion of the work with respect to the payments being made; in other words, is it the fact that the contracts issued to the architects are issued in such a manner that there is limited responsibility, that the school boards are paying a

minimum cost to the architects in order to keep their costs down and thereby are not buying as much supervision as they should be buying, and that the architects also are content to accept a contract of that type and merely supervise the thing from time to time to determine the completion of the project so that they can judge how frequent these payments are to be made. Is that correct that there is that variation in the architects' contracts as far as you know? A I can't personally answer that. It may well be the fact. I believe it is. I want to urge this strongly though: I feel that boards of education should definitely look to that problem as a much better answer than trying to destroy, if they are--and there only seem to be a few who have indicated a desire for this to be studied, but if there are any who look to this statute, or the abolition of this statute as an answer, they should instead look to the contracts which they have with their architects and to, if necessary, correct the fee situation to see that the architect does supervise the job fully. He is the man logically and properly to do it, not the general. I will try to get the factual information you ask and submit it to the Committee later, if I may have leave to do so. I don't personally know the answer.

ASSEMBLYMAN BARKALOW: Thank you very much. Next?

M A R T I N S. F O X: Mr. Chairman and members of the Committee, my name is Martin S. Fox. I appear before you as Counsel to the New Jersey Assocation of Plumbing Contractors. I want to thank you for the opportunity afforded to the New Jersey Association of Plumbing Contractors to make

known its views on Assembly Bill No. 34. The Association was established in 1902. It has a current membership of 900 plumbing contractors representing every county of the State. The average number of employees of the member contractors is in excess of four persons. The views which are being presented to you today represent the unanimous position of the membership of the association so that it is fair to state that I am presenting to you the thinking of in excess of 3600 residents of the State of New Jersey.

Incidentally, the members of the New Jersey Association of Plumbing Contractors do approximately 70 per cent of the plumbing work done in the State and approximately 90 per cent of the plumbing work installed in public buildings in the State.

The Association is an affiliate of the National Association of Plumbing Contractors with over 12,000 members of 47 states.

I will not take your time by repeating at length the competent and inclusive remarks made by Mr. Bookstaber and Mr. Estabrook. There are, however, certain aspects of Assembly Bill 34 which have special meaning to the members of the plumbing trade in this State.

There can be little doubt that the separate bid law has worked remarkably well during the period of over 40 years that it has been in force. Our schools have been built with dispatch and at low cost, largely due to this law. The management of school construction jobs has been simplified due to the direct responsibility of each

contractor to the Boards of Education involved. Throughout the northeastern portion of this country, similar statutes have been adopted due to the obvious advantages in school construction, Mr. Bossert's horrified Ohioian notwithstanding.

We wish to call to your attention the fact that on February 19, 1957, the Plumbing Inspectors Association of New Jersey communicated to the members of the Senate and Assembly their opposition to the proposed legislation on the grounds that a clear effect of the pending bill would be bid shopping and the resultant lower calibre of plumbing installations. The plumbing inspectors have no special axe to grind. Their views must be given special weight in the light of their responsibility for the health of the citizens of the State.

The plumbing trade is subject to considerable regulation by the State and the municipalities of the State due to the obvious health implications involved in all plumbing installations. Special emphasis need not be given to the fact that nowhere are health factors of more concern than in school construction. Where separate bids for plumbing work are received by Boards of Education, these authorities have an opportunity to determine the qualifications and responsibility of the bidder and to ascertain that his work standards will satisfy the high requirements called for in school construction. Were general contractors allowed to include in their over-all bids the plumbing installation, there would be a far greater risk that the work would be done by persons without the proper experience or facilities to protect the health of the children.

In fact, it is entirely possible that general contractors might employ persons not at all qualified to do the plumbing installation. R.S.18:11-11, the section of the statute immediately following the separate bids provision,--

ASSEMBLYMAN BARKALOW: Mr. Fox, I don't want to interrupt you and I don't want to foreclose you, but we are getting into duplicity here and, in order to save as much time as possible for the other speaker, I would appreciate it if you would hurry along if you can.

MR. FOX: Mr. Chairman, I have been here for approximately three minutes, and I don't expect to be here for more than two more.

ASSEMBLYMAN BARKALOW: Very good. Thank you.

MR. FOX: I was referring to R.S. 18:11-11, which provides that approval of plans and specifications and building permits need not be required in school construction work. This makes it not only possible, but probable, that were the separate bid law to be amended as proposed, general contractors, in order to cut construction costs, would use unlicensed or unqualified persons to do plumbing work.

One of the factors which draws a considerable number of contractors into the field of public work is the knowledge that in this field of endeavor, payment for services rendered is certain. Where a contractor is obliged to submit a bid to another private entrepreneur, there are obvious credit factors which enter into the situation. Thus, should a school board determine to entrust a school project solely to one general contractor, there will be fewer bids with the

attendant lessening of competition and increasing of costs.

Today, nearly all of the plumbing work done on public buildings in the State is performed by New Jersey businessmen and their employees. Under the proposed legislation, it would be possible for giant out-of-state corporations to take over a large percentage of the school work, causing loss of income to New Jersey businessmen and loss of jobs to New Jersey workers. Furthermore, the chances are that out-of-state contractors will purchase their supplies from out-of-state supply houses, again causing substantial loss of income to New Jersey businessmen.

Now, some mention has been made of the question as to the number of general contractors bidding on jobs in the State today. I have in front of me reports on two bids which were opened within the last few weeks. These were not specially-chosen reports. These just happened to be the last two which came into the office of our Assocation. On the Mount Pleasant Avenue School in West Orange, there were two bids by general contractors, seven by structural steel men, ten by heating contractors, four by plumbing contractors, and four by electrical contractors. The total job was a little under a million dollars. Over $700,000 of this job was on the general contract and there were only two bids. In the Woodbridge School, there were four bids by General contractors, seven steel, five heating, eight plumbing, and six electrical. Now, this shows that today the one area where we get the fewest bids is the area of the general contract, and certainly this pending legislation can do nothing but to restrict the

number of people who will be able to bid on the resultant larger size jobs.

Now, the question has been raised about the amendment, possible amendment, which would allow the school boards to submit or ask for both types of bids, the all-inclusive bid and the separate bids. There is one argument on this subject which I do not think has been presented, which appears to me to be rather important, and it may be especially important for the plumbers, because we are generally a trade with more individual firms and less giant operations. We are generally a group of small businessmen. Now, if we are going to bid for a general contractor, we can't bid at the same time against that general contractor for the board of education. It seems obvious, a man isn't going to do business with us if we are trying to take the job away from him at the same time by bidding against him for the board. The result of this is that immediately there will be fewer bids under the separate bid portion of the law. Now, if there are fewer plumbing bids and if, let us say, temporarily the more substantial men and the men who are better heeled are able to bid for the general contractors, eventually there will be fewer and fewer plumbers who will be able to bid on school work. The result of that will be that the work will be in the hands of the general contractor and there will be lessening of competition and the effect of monopoly will eventually be felt. Now, it may take a couple of years before this happens, but I think that it pretty clearly would mean that a number of smaller contractors, who do today rely on a portion of

their income from school work, would lose this kind of work and as a result would be forced out of business or out of that phase of the plumbing business;- larger companies taking over school work, lessening of competition, and the resultant much higher prices due to this effect alone.

So I think it can safely be said that in both the short run and the long run, this pending bill would have an adverse effect on the speed with which school jobs can be completed, the cost of school construction, the health facilities in the public schools, and the business and employment of New Jersey residents.

The New Jersey Assocation of Plumbing Contractors urgently requests that your Committee find Assembly Bill No. 34 to be against the best interests of the people of this State.

Thank you, gentlemen.

ASSEMBLYMAN BARKALOW: Thank you, Mr. Fox.

Are there any questions? (No questions).

The next gentlemen?

J A M E S T. O W E N S: Mr. Chairman and members of the Committee, my name is James T. Owens and I speak for the New Jersey Chapter of the National Electrical Contractors Assocation, whose membership comprises the electrical contractors who perform perhaps more than three-quarters of the electrical installation work in this State pertinent to commerical, industrial and public building, and so forth. We employ between five and ten thousand persons throughout the course of a year.

At the outset, I might state that since Mr. Marciante is out of the electrical industry, he has covered much of the

prepared subject that I intended to cover and for that reason I will cut much of my preparation short to expedite this hearing. There are a couple of items I would like to comment on, however.

Number 1, I would like to address and objection or a point to the form of Assembly Bill 34 as it is now constituted. The wording of the amendment is, in my opinion, both ambiguous and confusing and it would seem to me that the court interpretation would be inevitable if it were adopted with its present reading, and I refer particularly to the last sentence of that particular bill. Now, to proceed as to the purpose of our principal objection to this bill, it is our contention that with very few exceptions, a general contractor is not qualified to supervise electrical installations. While we are living in an electronic age, electricity is only in its infancy, although right now electrical goods and services represent twelve per cent of our national economy. In the next ten years, it is expected that this figure will be doubled. As the services of electricity expand with each new innovation, the electrical engineering problem becomes more complex. Increased technical skill is required; electrical installation in the hands of anyone but the most qualified is dangerous. This is especially true of school construction, where the safety factor is imperative, where any deviation may endanger the lives of school children. Only a qualified electrical contractor should be charged with the responsibility of wiring a school.

We have no quarrel with the school board's obtaining the lowest price for school construction. We wholeheartedly

subscribe to that objective. However, the bill before us in fact reduces competition. The law as it now stands stimulates competition. It should be remembered that the present bid law came into being some 40 years ago and has worked to good advantage, as you have heard many times here today. A single bid would lead to bid shopping. Bid shopping leads to cutting corners, which may reduce safety factors, thereby increasing the fire potential and life hazard.

I think we are all agreed that a school building is one which requires maximum safety. Bid shopping by a general contractor must result in cutting corners and reducing safety factors. We join with the opponents of the bill in reasserting all points of their objections heretofore presented. We have no valid assurance that this amendment will reduce construction costs or expedite completion dates. It would more likely increase construction costs and delay completion dates. The law as it now stands has served the best interests of the public of this State for more than 40 years. I have heard no convincing argument as to why it should now be changed.

In conclusion, and speaking particularly for the electrical contracting industry, this is an age where engineering and construction are becoming more and more complex, when specialized skill is called for more than ever in the building industry. Should we at this time take a step backward and invite inferior workmanship. Such a step is neither progressive nor economic. There is nothing wrong with the present statute and it should not be disturbed.

Thank you very much.

ASSEMBLYMAN BARKALOW: Thank you, Mr. Owens.

Are there any questions by the Committee? If not, does that conclude the witnesses?

C H A R L E S H. K O S T E R: Thank you, Mr. Chairman for allowing me to address this gathering. My name is Charles H. Koster. I am Legislative Chairman of the New Jersey State League of Master Plumbers, a similar organization as is also represented here, with about the same membership, in the neighborhood of 1,000.

It would seem that some attempt is being made to eliminate the small man; in other words, the small contractors wouldn't get a chance to bid on these jobs if they didn't have a contact with some general contractor. Also, it makes for better distribution of the work. Even our Federal Government has stated several times and made efforts to help the small contractors. If a board of education chose to give their contract to a general contractor this would defeat one of the main purposes of our Federal Government.

I can't understand why people don't like to buy direct. If you bought direct you certainly would be buying cheaper because you would be eliminating the middleman. I personally know of a nationally known organization who does a great deal of work and hires sub-contractors who pay them, or charge the customer, rather, fifteen percent more than the sub-contractor charges them, so it is very obvious that to deal through a general contractor for services which he does not personally perform, you certainly are going to pay him for handling that work for you, because I don't know of anyone that does things

for nothing.

As far as the proponents of the bill are concerned regarding the method of advertising for bids, there seems to be a great deal of confusion there. The way I look at it, if they chose to advertise both ways, separate bids and general contract, you have no means of knowing whether the lowest general contract bid had a higher plumbing figure in it than the individual plumbing bid would be, and I feel that a great many other trades would not bid on school work if they knew that the general contractor would be permitted to take in all of the trades. Now, I don't know about all this trouble with sub-contractors in several towns. I come from South Bergen County and I haven't heard of any trouble in South Bergen County along that line. I have submitted to the secretary a copy of a memorandum which I have written to all the Assemblymen and Senators on A 34 and S 102, which are similar bills and I would like to read what I have to say.

> "A 34 and S 102 are similar bills which would permit Boards of Education to give out contracts for work OVER $2,000. without requiring separate bids for Plumbing, Heating, Electrical work, etc.
>
> These 2 proposed bills would wipe out the law of 1915 known as the separate bidding law, which requires contracts for work on or in Public Buildings over $1,000. to be given out separately to the trades.
>
> Nothing is saved and jobs will not be done any quicker if the present law is changed. Certainly it will cost more, as a General Contractor would most likely charge a commission for handling and supervising any subcontractors.
>
> The present law now eliminates the Middleman. It is also safer for the subcontractor to deal directly with Boards of Education, Municipalities, etc. than through some General Contractors.

Assembly Bill A 34 and Senate Bill S 102 are not in the Public Interest and should not be passed and we earnestly ask you to vote against them.

Thanking you for your cooperation."

ASSEMBLYMAN BARKALOW: Thank you, Mr. Koster.

Are there any questions? I guess not.

Do I understand that this gentleman is the last speaker?

JOHN RUFFINO: Thank you, Mr. Chairman, for an opportunity to be heard. I will be as brief as possible because the capable attorney from the Iron Workers.....

ASSEMBLYMAN BARKALOW: Let's not advertise the lawyers.

MR. RUFFINO: He has ripped my statement to pieces. However I represent the Board of Health in East Rutherford; I am Executive Officer, Plumbing Inspector and Sanitary Inspector.

ASSEMBLYMAN BARKALOW: Your name?

J O H N R U F F I N O: I was asked to come down here to protest this Bill A 34. One of the things that it does, as you have heard, is that it takes the supervision away from the Plumbing Inspector of the Town. We have a fear that there is a condition may arise in this Bill by the contractors taking the whole contract and therefore hiring anyone they would like to hire to do plumbing work.

I have one other thing, Mr. Chairman: This Bill, in our opinion, would create and give the contractors, the larger contractors, a field day to create a monopoly in the near future. It would cut down the competition, which we so tremendously enjoy right now. You've heard remarks about bids that

were accepted recently where nine or ten plumbing contractors have bid, and five or six heating contractors, Under this law it would restrict the amount of persons available to bid, and therefore, we in East Rutherford are opposed to this bill.

ASSEMBLYMAN BARKALOW: Thank you.

Any further questions?

ASSEMBLYMAN OZZARD: Mr. Ruffino, you said that A 34 would take supervision away from the plumbing inspectors of the town, how do you arrive at that conclusion?

MR. RUFFINO: Well, you heard stated that under the present law in some cases no permits are required; no fees are required to be paid; it does not state that a licensed plumber must do the job, as provided in the State Plumbing Code, no one must do any plumbing work or represent themselves to be a master plumber unless he carries a license to so do. He is a trained personnel. There are visions of master plumbers going out of the picture, such as has developed in the developments after World War 11; developers have set themselves up in business with no experience, hired sub-contractors to work for them and there was some terrific work done, terrible work done. The State Board of Health had to go into some towns and have it corrected for health reasons, and therefore, we could very likely have this same condition come in under this bill.

ASSEMBLYMAN OZZARD: You mean, that you understand, if I understand you correctly, that merely because the principal contractor would assume the responsibility for the entire job instead of having multiple contracts awarded that the local

Board of Health, the local plumbing inspector, would have no authority over the work done by the plumber employed?

MR. RUFFINO: That is right. There is nothing in this bill that says the general contractor must hire licensed personnel as provided for in the local codes and also in the State code.

ASSEMBLYMAN OZZARD: You realize that what you are saying isn't in the present law either?

MR. RUFFINO: I understand sir, it is.

ASSEMBLYMAN OZZARD: I mean in the section we are amending. This bill is not attempting to amend other than one section.

MR. RUFFINO: That's right, sir.

ASSEMBLYMAN BARKALOW: Mr. Ruffino, I think I shall have to interrupt here, It is my understanding that the bill under discussion here at this hearing, would not, in any way, change the situation which you are discussing. Do the other members of the Committee agree with me on that?

That's right.

So if that's the situation I think, perhaps, that we should just confine our remarks to the bill.

Thank you.

ASSEMBLYMAN OZZARD: Mr. Ruffino, I wanted to refer to a circularized letter which came from your association, from the Plumbers' Inspectors Association, Inc. dated February 19, 1957, and in the closing paragraph it states the work of the local health departments and plumbing inspectors would become difficult and when trouble resulted from the conditions mentioned who could be found responsible? I wonder if you could tell me

very briefly what your organization means, since it seems to predicate its position on that statement?

MR. RUFFINO: Well, sir, I was trying to be as brief as possible in order not to prolong the hearing. Through complications that may arise in a general contract - now, understand that we say master plumbers, for instance, sub-contractors, are quite reliable. They take pride in doing their work - and the general contractor would be the responsible agent under this bill. We would have to go after the general contractor. A lot of difficulty arises, the time element sometimes, in changing things. Pressure may be used by school boards in expediting jobs, to get the job done before a certain date. We have, perhaps, lots of problems under the plumbing. To be correct, pressure will be used on the outside eventually to overlook some of these matters to get the job done in a limited time. So therefore we don't have the control that we should have over the independent master plumber. Thank you.

ASSEMBLYMAN BARKALOW: Gentlemen, I believe that concludes the hearing. May I, on behalf of the Committee, thank all of you for your remarks. You were very sincere. It was most enlightening. We appreciate the courtesy extended to us. I am sure that we of the Committee will continue to look into this matter in an effort to develop all the angles and arrive at what is the proper answer if that is possible.

I would also like to thank the stenographer who has been with us all day without any recesses, and I understand she also worked over the weekend trying to get the record ready on another hearing. I think that should be mentioned.

This hearing is concluded.

(HEARING CONCLUDED)

NEW JERSEY STATE LEAGUE OF MUNICIPALITIES

TRENTON TRUST BUILDING — TRENTON 8, N. J. PHONE OWen 5-3481

MADELEINE S. FROST, EXECUTIVE DIRECTOR — ROBERT H. FUST, ASST. EXECUTIVE DIRECTOR

1915-1957

January 30, 1957

Hon. William E. Ozzard
Assemblyman, Somerset County
27 N. Bridge Street
Somerville, N. J.

Dear Mr. Ozzard:

Assembly 34

The League Legislative Committee approves of Assembly 34, which would authorize school boards to enter into either separate contracts or one over-all contract for the erection of new schools.

We feel it is a proper amendment to the statute and urge its enactment into law.

Very truly yours,

Madeleine S. Frost

Mrs. Madeleine S. Frost
Executive Director

MSF:T

BOARD OF EDUCATION
SOMERVILLE, NEW JERSEY

C. R. WITTERS, SR.
SECRETARY

OFFICE OF THE SECRETARY
51 WEST CLIFF STREET
TELEPHONE: RANDOLPH 5-1857

February 21, 1957

Honorable William E. Ozzard
27 North Bridge Street
Somerville, New Jersey

Dear Mr. Ozzard:

At the regular meeting of the Somerville Board of Education held February 18, 1957, Assembly Bill 34 was discussed. It was the general consensus of the Board that they endorse this bill. It will probably be of no value to us here in Somerville inasmuch as there is no future building contemplated, however in light of our current construction program, we know from experience that a single contract for this type of job would certainly be more desirable.

Mr. FitzMaurice and you are to be complimented on your views and action in this regard for I am sure that any Board of Education having gone through a building program of any kind would have recommended such a provision for their contract negotiations.

We hope that this bill with its great help for future school construction will be successful in its passage through the Legislature.

Very truly yours,

Irving Schwartz

IRVING SCHWARTZ
President

CRW:mw

105A

Board of Education

Township of Chatham

New Jersey

Thomas A. Purbis
District Clerk
217 Watchung Avenue
Chatham, N.J.

December 18, 1956

The Honorable William E. Ozzard
27 North Bridge Street
Somerville, New Jersey

Dear Mr. Ozzard:

We wish to thank you for sponsoring Assembly Bill 607, in connection with which the enclosed resolution was adopted by our Board of Education at a special session on December 18.

We have requested our Morris County representatives in the Legislature to support the passage of this bill.

Very truly yours,

George A. Diehl

George A. Diehl
President

Whereas N.J.S.A. 18:11-10 requires that in the creation, construction, alteration or repair of a public school building, when the entire cost of the work will exceed two thousand dollars, the board of education shall, in the manner provided by law, advertise for and receive separate bids for the plumbing, heating and ventilating, structural steel and electrical work and

Whereas the decentralization of control imposed by these requirements presents difficulties in the establishment of responsibility for the expeditious functioning of the overall construction organization as well as the timely completion of the work and

Whereas there is reason to believe that more favorable bids would be received under a single bid basis and

Whereas Assembly bill A-607 has been introduced in the assembly to modify N. J. S.A. 18:11-10 so that either the present separate bidding or a single bid may be used, whichever appears the most advantageous in the local boards discretion. Now therefore be it

Resolved that the Chatham Township Board of Education go on record as favoring the adoption of this bill and that be it further resolved that a copy of this resolution be sent to the sponsors of the bill and to the Morris County Legislators, Senator Thomas J.Hillery and Assembly men Benjamin Franklin III and Elden Mills and that we urge the Morris County Legislators to support and actively work for the passage of this legislation.

THE BOARD OF EDUCATION OF KEYPORT, NEW JERSEY
CHARLES S. HOPLA, SECRETARY
BOROUGH HALL, KEYPORT, N. J.
KEYPORT 7-1321

December 18, 1956

Honorable William E. Ozzard
27 N. Bridge Street
Somerville, New Jersey.

Dear Sir:

The Board of Education of Keyport wishes to go on record as being wholeheartedly in favor of the bill which you and Assemblyman Fitzmaurice have introduced, which would permit Boards of Education to use a single contract in the erection of school buildings.

We also wish to thank you for sponsoring this bill and assure you that it will receive our support.

Your advice from time to time, on the status of this bill will be appreciated.

Very truly yours,

Charles S. Hopla

CHARLES S. HOPLA,
Secretary

CSH/gms

Board of Education
North Caldwell, N. J.

December 6, 1956

Assemblyman Donald J. Fitz Maurice
41 Spring Road
Livingston, New Jersey

Dear Sir:

The North Caldwell Board of Education is very interested in your Bill A-607 pertaining to permission to place single or multiple contracts for school construction.

It has been the Board's experience during the construction of our two recent school additions that much taxpayer's money can be saved and a reduction in building time can be obtained by making one contractor responsible for the entire construction. Our new school addition was completed last January and we still have three of the contractors who have not finished up their work. This certainly is a distressing situation and is entirely due to the fact that none of these three contractors have taken the interest nor have the financial liability in this project.

Anything that you can do to obtain passage of this legislation will certainly be appreciated.

Sincerely yours,

BOARD OF EDUCATION

Sidney P. Herbert
Vice President

SPH:las

NEW JERSEY STATE CARPENTERS NON-PARTISAN POLITICAL EDUCATION COMMITTEE

295 LAKE STREET
NEWARK 4, N. J.
Telephone: HUmboldt 4-1901

March 2, 1957

The Hon. Donald J. FitzMaurice
State House
Trenton, New Jersey

My dear Mr. FitzMaurice:

The Carpenters Non-Partisan Political Education Committee of the State of New Jersey hereby presents a resolution to amend Bill A 34.

Whereas Bill A 34, of which you are co-sponsor, should in our opinion be revised.

Whereas the portion "where the entire cost will exceed "$2,000." should be revised to "not more than $1,000." or less if the present existing law reads as such.

Whereas we are of the opinion that contracts let out on bid are for the best interests of the citizenry of the State of New Jersey. The cost of advertising would be well off-set by competitive bidding.

Whereas we are in accord with Bill A 34 except for the above mentioned clause.

Therefore we hope you will give the utmost consideration to this resolution.

Very truly yours,

Edward Oleksiak

Edward Oleksiak
Financial Secretary

eso

TELEGRAM

WEST ORANGE, NEW JERSEY
ASSEMBLYMAN OZZARD AND FITZ MAURICE
ASSEMBLY CHAMBER STATE HOUSE TRENTON

WHILE SHORT NOTICE MAKES IT IMPOSSIBLE WEST ORANGE BOARD OF EDUCATION SEND REPRESENTATIVE TODAY'S HEARING ON ASSEMBLY NUMBER 34 I EARNESTLY RECOMMEND FAVORABLE REPORT ON IT MEMBERS OF OUR BUILDING COMMITTEE TELL ME THEY PROPOSE TO ASK OUR BOARD TO GO ON RECORD IN FAVOR OF IT AT SPECIAL MEETING MARCH 7TH WITH MORE THAN TWO AND ONE HALF MILLION DOLLARS IN CONSTRUCTION ALREADY AUTHORIZED, BUILDING COMMITTEE FEELS STRONGLY THAT PROPOSED BILL WOULD PROVIDE MORE UNIFIED AND RESPONSIBLE CONTROL NEEDED TO EXPEDITE AND ECONOMIZE ON NEARLY SIX MILLION ADDITIONAL CONSTRUCTION ESTIMATED AS STILL NEEDED FOR OUR SYSTEM. THEY HOPE BILL CAN BE PASSED IN TIME TO APPLY TO NEW CONTRACTS.

PAUL CHRISTIANSEN PRESIDENT

TELEGRAM

WESTFIELD, NEW JERSEY
ASSEMBLYMAN WILLIAM OZZARD
ASSEMBLY CHAMBER, TRENTON, NEW JERSEY

REGARDING ASSEMBLY BILL 34 I HAVE CONTACTED A MAJORITY OF THE MEMBERS OF THE BOARD OF EDUCATION OF WESTFIELD, NEW JERSEY, AND EVERYONE FAVORS THIS LEGISLATION. I THEREFORE PERSONALLY AND IN THEIR BEHALF URGE ITS SUPPORT. IT WILL ECONOMIZE THE BUILDING PROGRAM NOW FACED BY SCHOOL BOARDS AND INSURE RESPONSIBILITY BY ONE CONTRACTOR WILL FULL POWER TO COORDINATE ALL SUBS FOR PROMPT COMPLETION OF PROJECTS.

LOUIS J. DUGHI