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PUBLIC HEARING

before

SENATE COMMITTEE ON LAW, PUBLIC SAFETY
AND DEFENSE

ON

Senate Bills Nos. 897, 802 and 803
(Eavesdropping and Department of Criminal Justice)

Held:
September 18, 1968
Assembly Chamber
State House
Trenton, New Jersey

Members of Committee present:

Senator Joseph C. Woodcock, Jr. [Chairman]

Senator Frank C. Italiano

Senator Hugh Kelly

Senator Sido L. Ridolfi

Eliot H. Lombard, Esq., [Counsel to
Committee]

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SENATOR JOSEPH C. WOODCOCK, JR. [Chairman]: I think we are ten minutes past the appointed hour and I think we will call this meeting of the Law, Public Safety and Defense Committee of the Senate to order.

Our first witness today will be Joel Jacobson.

J O E L R. J A C O B S O N, called as a witness,
being duly sworn, testified as follows:

Thank you, Senator.

Mr. Lumbard, Senator Woodcock, Senator Italiano, and Senator Kelly: I am here once again to testify on behalf of the United Automobile Workers and I must at the first sentence express my appreciation to you for your patience and courtesy in listening to our testimony. As my reward for your courtesy, I hope to be very brief and I will try to avoid any repetition of things that you may have already heard.

I must say that, as in considering S 897 and reiterating my opposition to the principle of wiretapping as an invasion of privacy, we regard S 802 as a continuation of this rather repressive, alarming trend. And if I were compelled to give you a synopsis statement of my reaction to S 802, I would regard it as a cradle-to-grave, police-state concept, totally repugnant to anybody who believes in democracy.

If I may be candid, I know Senators Forsythe, McDermott and Bateman, the sponsors of this bill. I know each of them to be a gentleman. I know two of them, Senator Forsythe and Senator Bateman, as intelligent, sincere legislators who are well grounded in the principles of democracy and who believe in democracy. And I find it hard to believe that they do not,

themselves, share with me my concept of this bill as creating a police state. So I am so bold as to suggest that in spite of these beliefs, when they introduce a bill like this, there must be some other motivation. Being cynical, I noticed that the bill was introduced on May 27, 1968, and calls for an effective date of October 1, 1968, which you indicated obviously cannot be met now, and holding forth as the objective of the legislation the deploring of fragmentation and urging a strengthened leadership. It didn't seem conceivable that these goals could be met. I offer the suggestion that perhaps the bill was offered more as a political than substantive course of combating crime.

I also offer the opinion that the bill was set forth as the majority party's solution for urban strife. Now the citizenry of this State and other states have been justifiably upset by racial disorders and, of course, I share this concern. However, I would humbly offer the judgment that the philosophy of getting tough and producing more cops and making more arrests and making more indictments and offering more repression, more so-called law and order, may possibly ingratiate some voters, but will not solve crime.

It may be a correct political judgment, but I would suggest that the distinction between statesmen and politicians sometimes is the ability to resist the roar of the crowd and not to succumb to demagoguery, but to think and act responsively.

May I be subjective for a moment. I have been on many picket lines in my life for what I considered to be good, sufficient and noble causes. I have been subjected to arrest

by police for what I considered to be unsubstantiated reasons. My reaction upon the appearance of a policeman and more policemen was not to succumb, not to go away, not to wither, but to stiffen my opposition. And I found my tendency was to challenge more than to succumb in the presence of a policeman. I was utterly convinced I was right and I had a perfect right to do what I was doing and my reaction was in this vein. I suppose it could be considered today to be a violation of law and order. I suggest that the police-state mentality that treats symptoms and not causes cannot succeed in solving crime.

I just want to be specific about that section of the bill, Article 4, dealing with the youth, where you create a new department which has the authority to incarcerate youth, not for a crime, not for anything they have done, but for holding an opinion or appearing to be potentially criminal. This bill says that a duly-authorized association may request jail for a youth who is not delinquent and has had no hearing. He can be locked up in what some would consider concentration-camp-like surroundings and if he should leave, he can be arrested. As I read the definition of a duly-authorized association under Section 14 A lines 10 to 13, my reading of this would make eligible as a duly-authorized agency such institutions as the Police Benevolent Association, the Fraternal Order of Police, the John Birch Society and, heaven help us, George Wallace's American Independent Party, because they say they are interested in the objectives which are stated in the legislation.

Now I hold no brief for the way-out dissenters. I mentioned to the Senator earlier that I am deeply grateful for

this opportunity to offer my dissent in a manner in which I think responsible dissent should be offered. You listen to me courteously, for which I am deeply grateful, and I present my opinion to you as candidly and honestly as I can. Yet I do regard this bill as an unconstitutional and thinly-veiled threat to some young Black militants who have committed no crime, but are rather vocal and enthusiastic in their rejection of what they consider to be police brutality, racism and other aspects of second-class citizenship, and under this bill such militants who are doing nothing more than having an opinion could be hauled into this concentration camp where they would be unable to foment trouble.

Now being of the older generation, I would concede that the youth of our Nation could produce substantial evidence to justify their alienation from some of our institutions and some of our values, and to place the Division of Youth in a law enforcement agency is in my opinion a plain callous, false contention that all youth are criminal or potentially criminal. To the youth who is not a criminal, this is a venal libel. To the youth who is potentially delinquent, I would suggest his rehabilitation can more readily be achieved by making him part of the community where he can share and enjoy the benefits of our affluent society rather than jailing him in concentration-camp-like surroundings where his alienation and isolation are compounded.

I would like to make one last point, if I may, sir. We had a slugger here at the hearing last Monday by the name

of Ruth, and he was truly a sultan of swat. Unlike Heywood Broun's description of "Babe" that, "The Ruth is mighty and shall prevail," this Ruth looked more like a McCarthy - Joe - not Gene - and I certainly hope he won't prevail. I followed him on Monday and on the inspiration of the moment indicated my objection to the blanket, indiscriminate, buck-shot charges he hurled at this hearing and mainly because of uttering charges that are bound to gain headlines, but offer no substance of documented proof or evidence at all.

SENATOR WOODCOCK: Mr. Jacobson, I'll have to say that I'll take the responsibility for that for this reason, that the statements made by Professor Ruth and made by Professor Blakey were in answer to a question that I asked them with reference to the need for wiretap legislation, because certainly one of your big objections to wiretap legislation and one of the serious concerns of the Senate and the Legislature generally is that wiretapping and eavesdropping is an invasion of privacy. Now certainly, if we are going to have it, there has to be some compelling reason for the adoption of such legislation. Professor Ruth, in response to that question, indicated that there was organized crime or, let's say, number one, that the wiretap was the effective weapon against organized crime and that, number two, we did have a problem of organized crime here in the State of New Jersey.

Now we did not permit nor did we ask Professor Ruth to continue simply because of what you are alluding to. If we had gone into that and he had named one name, we would have, number one, been into a McCarthy type of situation where the name is

out and the man has not been formally charged with anything. His name is in the newspapers and serious charges of an informal nature have been made.

Now let me say - and I have spoken to Senator Italiano and Senator Kelly and their feeling and I must say my feeling too is that the statements made by Professor Ruth and Professor Blakey from this Committee's standpoint, and we would so recommend strongly, be one of the first projects of the new Commission of Investigations which has just been signed into law by the Governor. In other words, I think that the fact that there is, or is alleged to be, - I'll even use that because it has been alleged in Life Magazine and elsewhere - an organized crime problem here in the State of New Jersey, that this new Investigating Commission take this as their first job. This will be one of the recommendations of this Commission.

I don't think that it is fair to Professor Ruth to imply that he was doing a disservice to any member of the Legislature or to public officials generally. I think this was in answer to a question concerning his service here in the Justice Department of the Federal government, in response to that.

MR. JACOBSON: Well, I certainly hope he would appear before the proper authorities to present whatever evidence he has.

I must say I took particular umbrage because in the smearing that he gave, in addition to the Legislature, for he said "government at all levels," he specifically mentioned labor racketeers in New Jersey. Now I am very much interested

in getting rid of labor racketeers and if he can name one or two or twenty or have any information about that, we would love to have it so that we can do our part. The labor movement has made great efforts to eradicate from our ranks all of those who violate their trusts as representatives of workers. For this reason, I do mention what he had to say.

I would like to put it in the context of what we are discussing now, if I may, Senator, in terms of the two bills we are considering. Professor Ruth comes here and says that there are labor racketeers in the State.

MR. LUMBARD: Do you doubt that?

MR. JACOBSON: If I knew of any, I would be the first one to do everything I could to get rid of them.

SENATOR ITALIANO: I don't think anybody questions that, Mr. Jacobson. I think the question is: Do you doubt it, that there are labor racketeers?

MR. JACOBSON: I have no evidence to present to anybody that there are labor racketeers.

MR. LUMBARD: That still isn't whether you doubt there are any.

MR. JACOBSON: I know that, but I have no evidence and I am not about to make charges that I can't substantiate.

SENATOR ITALIANO: Let me say something here. I think the implication that was left here by Professor Ruth is of grave concern to all of us. As a matter of fact perhaps if this situation didn't exist, we would not even be here today with these bills.

MR. JACOBSON: Well, if I may make my last point concerning

this type of charge because it did touch me in my professional capacity, he comes before you, in response to a question, granted, says that there is labor racketeering - you had the bill for wiretapping - I would suppose then that labor racketeering is an offense which can be indictable for more than a year's incarceration, that I could expect if I were suspicioned that my phone would be tapped, my office might be bugged, a dossier would be compiled on me, on everything I have or own. If we happened to have anybody in our union who was under 18 who would fit the description of the youth section of this bill, he would be thrown in this concentration camp, all because one guy made a charge with no proof, no evidence or documentation.

MR. LUMBARD: Mr. Jacobson, I really don't think that is a real set of circumstances.

MR. JACOBSON: If you pursue to its logical conclusion, Mr. Lumbard, what is trying to be done here, I can conceive of this happening.

SENATOR ITALIANO: Excuse me. I didn't hear that last statement. You can't conceive of what?

MR. JACOBSON: I said if you pursue to its logical conclusion the authority asked for in these two pieces of legislation, I can conceive of this happening.

My final statement in summary is that this is something which is not typical of our country, but you could expect to find in the Soviet Union, in Red China, in Nazi Germany and Fascist Italy and all these other places we all deplore. So I hope it can't happen here and I would urge that these two bills

be defeated.

SENATOR KELLY: I just would like to say I think you are to be commended for coming in and expressing your views. They may be different from mine incidentally, but I think you are to be commended that you are here.

I would like to represent to you this: When these proceedings are over, I am going to suggest that the statements that have been made here be forwarded, if this bill be adopted, to the Commissioner, and if the bill not be adopted, that the Senate or somebody therein conduct a full investigation to drive out corruption in this State wherever it exists, including if it exists in the Senate. Wherever it is, it should be driven out. I think the people have had enough of corruption and I think it is our responsibility to see that something is done about it and we are going to do something about it.

MR. JACOBSON: Senator, I would agree completely with the objective you set forth and my only argument with regard to both bills has been that I don't want to see the innocent and those who are not corrupt have their rights and privacy invaded in this attempt to get the guilty.

SENATOR ITALIANO: This is the real purpose of the hearing, to balance the equities so to speak. Directing myself to your statement, I think in the very, very beginning your major premise was that this was the Republican Party's solution to the city problems. I think this is in error. I don't think the package here as proposed was designed specifically as a solution to city problems, but I think it was a step forward, not a solution to anything really, but a step forward in fighting

crime, wherever it exists. It is not a solution to any city problems in particular. I think this is a misapprehension.

MR. JACOBSON: I would hope that is right.

MR. LUMBARD: Thank you.

SENATOR WOODCOCK: Thank you very much, Mr. Jacobson.

Mr. Calissi.

G U Y W. C A L I S S I, called as a witness, being
duly sworn, testified as follows:

First, I would like to express my appreciation to the Committee for inviting me to testify with respect to Bill 802 and also for the purpose of testifying with respect to the wiretapping bill.

MR. LUMBARD: Mr. Calissi, also 803, which affects prosecutors. It is really very similar; it is allied to 802.

MR. CALISSI: Yes, it is.

MR. LUMBARD: We want you to testify as to both.

MR. CALISSI: As a matter of fact 802 with respect to the Prosecutors just couldn't operate without the passage of 803.

MR. LUMBARD: Right.

MR. CALISSI: So they are intertwined and dependent on each other.

Specifically referring to Bill 802, I don't think anyone can quarrel with the objectives or the purposes of the bill. If anybody did, they would be against motherhood and for sin.

MR. LUMBARD: Well, you just heard a witness who did.

MR. CALISSI: This is my opinion.

SENATOR WOODCOCK: But not with the objects.

MR. CALISSI: For example, the first article states that the Legislature finds and declares that the steady increase in crime is a serious threat to the peace and security of the people of the State. Everybody, I think, will agree with that, not only in New Jersey, but it seems it is spreading throughout the United States.

The second paragraph, which is (b), states, "Increased crime continues in spite of the many efforts which have been taken to strengthen crime control programs, and the massive expenditure of public funds for this purpose." Well, systems in my opinion - and this bill, 802, is setting up a system - aren't going to cure what that purpose intends to cure. You are dealing with people and you can't cure the ills of people with systems in my opinion. We are in an era of evolution, revolution, permissiveness; the values that were followed in yesteryear are twisted and distorted. I come from the one-a-cat, two-a-cat, three-a-cat, ring-a-levio era and perhaps I don't understand some of the modern trends and philosophies. All I know is that the values of yesterday were pretty good and this country prospered and grew.

So what is happening is a complete change in the value system. And, as I say, there is a great deal of permissiveness and tolerance of way-out ideas. You are not going to solve that by passing a bill. This is a matter of education. This is a matter of culture. It is a matter of religion. It is a matter of obeying the basic rules of life. A Rube Goldberg bill isn't going to do that and the expenditure of the money that is talked about. As far as I am concerned whatever money

is necessary to implement this bill could very well be used in our present system which has been in existence a long time. The fact that it has been in existence a long time doesn't mean that it can't be improved. But it is my opinion that 802 does not improve. 802 makes a czar out of the Commissioner. You can't find anyone - you'd have to dig up Solomon and bring him back to life - to handle all the responsibilities and the powers which would be vested in the Commissioner under Bill 802 and there isn't such individual alive.

The third thing, which is (c) in the purposing part of the bill: "The trend toward further fragmentation, including overlapping and duplication of services, within the criminal justice system should be reversed." I agree with that and if this Senate Committee finds that there is overlapping and duplication, that should be eliminated. You don't have to adopt a bill which destroys in my opinion the concept -- and what I probably am concerned with more than anything else is the fact that this bill diffuses - this bill takes away from the very important principle that the closer government is to the people, the more efficient and more honest that particular system is going to be.

In this system, the Commissioner actually could make a marionette out of a Prosecutor. And I am not saying this for myself because I am getting to the end of the road so it will be the next person who is going to have to suffer under this kind of a relationship.

MR. LUMBARD: We want to get on the record whether you

are speaking for the Prosecutors' Association or as an individual Prosecutor.

MR. CALISSI: No, sir, I am speaking for myself.

MR. LUMBARD: For yourself only.

MR. CALISSI: Yes, and I speak emphatically even though I don't probably come out the way I want. People might think I am angry. I'm not angry. I am just being emphatic about my own opinion as far as this bill is concerned.

MR. LUMBARD: I just wanted that for the record. That's all.

MR. CALISSI: After over 14 years in this particular business, I have learned a few things, not because I am smart, but through brute repetition, I suppose.

Now (d) is a very long paragraph and I would say with respect to that paragraph --

SENATOR ITALIANO: You are referring to 1 (d)?

MR. CALISSI: Yes. [Reading] "There is a need for strengthened State leadership in the control of crime and the administration of criminal justice, as well as improvement in the quality of action by which individual and organized crime is investigated. . . ." I have said it before the Senate Committee, I say it again, and it is not a profound statement, it's a very simple statement: You don't fight organized crime with a bill or with a system - a bill that sets up a system. Organized crime only exists because you have corruption, law enforcement and governmental corruption. You show me where there is organized crime and you can be sure there is somebody being paid. This is the problem with organized crime - money -

and no kind of a system is going to eradicate organized crime. The only way it can be eliminated is by people, the kind of people that are in office. And I don't see anything wrong with the present system that we have now. All we have to be sure of is that the people who are part of the system are doing their job honestly and efficiently.

MR. LUMBARD: On the point of efficiency, do you think the Prosecutors should be full-time public officials?

MR. CALISSI: I am full time.

MR. LUMBARD: I am not talking about just you.

MR. CALISSI: And most of the Prosecutors are full time.

MR. LUMBARD: Well, don't you think all of them should be full time?

MR. CALISSI: I don't know the situation with respect to a county like Cape May. I don't know how many cases they would have down there that would require the full-time attendance of a Prosecutor. I know that in my county it requires more than full time.

MR. LUMBARD: Well, then, what would be the objection to passing a statute that says Prosecutors henceforth shall be full time and not have any countervailing interests or practice or anything else?

MR. CALISSI: I have no objection to the passage of such a statute, provided you just don't make a Prosecutor full time and give him no tenure of any kind because if a man is frozen in a job for five years and he is a lawyer and after the five-year period he is out, he has nothing. He has no business; he has nothing. As in the case of a Judge, if you use the same

rules with respect to Prosecutors as you do in the Judiciary, I would have no objection to that. I wouldn't take it, but my term is getting near the end. I don't see any great harm in making a Prosecutor full time, providing you pay him enough money and you have to pay him more money than you are paying the Judges because he puts in more time.

MR. LUMBARD: Mr. Calissi, 803 has this sentence in it: "Every county prosecutor hereafter appointed shall be selected without regard to political affiliation, shall devote full time to the duties of his office and shall not while in office be entitled to engage in the practice of law or active participation in any other gainful pursuit, and shall not engage in partisan political activity. Every county prosecutor required to devote full time to his office shall receive an annual salary in the same amount as that payable to a judge of a County Court." Are you for that provision?

MR. CALISSI: I think there is one part in there that is very naive.

MR. LUMBARD: What part?

MR. CALISSI: That's the part that says he is to be chosen without any reference to political affiliations. I mean, I wasn't born yesterday.

MR. LUMBARD: Would you approve this without that provision?

MR. CALISSI: Yes, I certainly would approve it, except you are not paying the Prosecutors enough and I am not speaking for myself now because, as I say, I am getting to the end of my term. I'm in the twilight zone.

MR. LUMBARD: I understand. What we are trying to do is to get your opinion as to what should be the law because 803 makes a specific proposal.

MR. CALISSI: I have no objection to that.

MR. LUMBARD: Well, if you would not have him paid at the level of a Judge of a County Court, then at what level would you have him paid?

MR. CALISSI: I think you would have to pay a Prosecutor who spends full time - and a Prosecutor spending full time means 14 hours a day and I am not exaggerating that time - in my opinion you would have to pay him \$40,000. That would be fair - per year.

MR. LUMBARD: \$40,000.

MR. CALISSI: \$40,000 per year.

MR. LUMBARD: For every Prosecutor in the State?

MR. CALISSI: No, the Prosecutors who are full time in first-class and second-class counties and then you would have to make some kind of a provision for those who don't need to spend that kind of time even though you make them full time. He would be sitting at his desk, but he won't have a sufficient number of cases to be full time and that would be only in a few of our counties.

SENATOR ITALIANO: And with a provision for tenure of some sort?

MR. CALISSI: There should be some provision for tenure. It seems to me that would only be fair. Otherwise you would be freezing a person in a job where you would be prohibiting that person from practicing law. Then when his term is up, he would

go out on the street and he would have nothing and I don't think that would be fair.

To get back to Bill 802 --

MR. LUMBARD: Well, that is an interesting observation because next to Judges the people as a class, it has been my experience, who have the least problem getting along in life are ex-Prosecutors and ex-District Attorneys. They somehow or other manage to do very well. But anyhow, you are for \$40,000 and a five-year tenure.

MR. CALISSI: I don't know of too many Judges who have spent five years in a job, which would be the term of a Prosecutor, and then had to leave and didn't have trouble picking up his practice. It takes a little time to pick up your practice. I don't think that would be fair. That is my own opinion anyhow.

With respect to 802, I said before, what it does is create a czar in the State and I think that is wrong. I think that anything that is going to complicate government is always wrong. Increased bureaucracy is wrong. We should simplify matters and not complicate them.

SENATOR WOODCOCK: Mr. Prosecutor, do you think that you are complicating matters or simplifying matters when you take the criminal and treat him in one system rather than take the criminal and treat him through a law enforcement and prosecution system in one department and then treat him in another department by way of rehabilitation, parole, probation and the like? Do you think that you simplify it by dividing that?

MR. CALISSI: Yes, I do. I think that some of those

responsibilities are incompatible. I think that the prosecution should have a certain attitude and responsibility should be pinpointed and they should perform the functions that are delegated to the prosecution. Then you have the rehabilitation system which in our State is not very good. I was going to use a stronger word, but I'd better not. It is not good. It is not good, not because of the people involved in the system, but because we haven't spent enough money in the system. You don't pay the people who work in the system enough money. You don't have enough trained people in our system in my opinion. And I think the kind of money that you are going to be spending under 802, under an entirely different system, the system you just talked about, could better be used in our present system in the Department of Institutions and Agencies. If you gave that Department the kind of money that you are going to require to implement this bill and to make this bill work, they would do a better job because of their experience and training over a period of years.

SENATOR WOODCOCK: If I may just ask you this, Mr. Calissi: What is the principal object of a Prosecutor and someone involved in rehabilitation? You say they are absolutely incompatible, the objectives?

MR. CALISSI: I think the philosophy there is incompatible. A Prosecutor could be just as generous, have the same deep feeling about rehabilitation as anyone else. But his primary responsibility is the prevention of crime and the trial of cases involving the commission of crime.

SENATOR WOODCOCK: Now with respect to the first that

you mentioned, which is prevention of crime, you don't see any connection between rehabilitation and prevention of crime?

MR. CALISSI: There certainly is a connection. There is a connection in all areas - a connection there, in the church and the schools and every place else.

SENATOR WOODCOCK: I am talking about within these two spheres that we are speaking about now which have to do with law enforcement, prosecution and the institutions with rehabilitation.

MR. CALISSI: Yes, of course, there is a connection. There has to be a connection in the prevention and the rehabilitation and I say that our rehabilitation system needs some help, financial help, institutional help; by that, I mean physical facilities. This can be done without 802. It should have been done long ago.

SENATOR WOODCOCK: It hasn't been though.

MR. CALISSI: It has not been done.

SENATOR WOODCOCK: Just staying for a moment with the idea, isn't this similar really -- for instance, the object of both the Prosecutor and the person dealing with rehabilitation is the prevention of crime ultimately. This is what they are attempting to do.

MR. CALISSI: I would think so.

SENATOR WOODCOCK: And isn't it the same situation that we have with respect to a captain and an engineer on a ship or the navigator. The engineer is primarily interested with the machinery under the ship that has to do with moving the ship on a course and the navigator has a job that is different

than the engineer's, but nevertheless making sure that it stays on course while it is moving. Isn't that it?

MR. CALISSI: That's it. But we are talking about the Prosecutor's Office, we are talking about rehabilitation centers, we are talking about the Department of Institutions and Agencies, and I believe that the part that has to do with the prosecution of persons accused of crime, the prevention in the sense that the Prosecutor is involved in prevention, is somewhat different from the kind of prevention that we are talking about in rehabilitation. There you need experts who know something about psychopathic personalities and nobody knows anything about that yet, as I understand it.

MR. LUMBARD: Mr. Calissi, you may have to have different levels of technical competence to do different jobs. It doesn't necessarily mean that they have an inconsistent over-all objective. I still don't understand why you feel or why it is necessarily so that what a Prosecutor does and his philosophy and outlook are inconsistent with those who are concerned with the rehabilitation.

MR. CALISSI: That's not my point.

MR. LUMBARD: Well, what is it then?

MR. CALISSI: That is not my point at all. I think that anyone who is involved in law enforcement of any kind should have exactly the same attitude and viewpoint as anyone who is engaged in rehabilitation. Otherwise, you are not thinking right.

MR. LUMBARD: Well, what is the incompatibility then?

MR. CALISSI: You have a responsibility for the

prevention of crime and the investigating of crime and the Grand Juries and everything else that is involved in the Prosecutor's Office or in the District Attorney's Office, one and the same thing, and I don't see how any department that has that very important responsibility can also be involved in the rehabilitation factor. That is a separate field completely. You need different kinds of experts in there. I don't think that you should set up a department with all the great powers and Commissioners and Assistant Commissioners and all of the people that are going to be involved in here. It is not necessary.

MR. LUMBARD: Well, Mr. Calissi, let me come back to that. We understand your conclusion. We have been searching for the specific reasons why. But now when you say they are necessarily incompatible, I want to return to a phrase that you used before, namely, that if the Prosecutors were put in this department, they would wind up just being some kind of marionette. I think that was the phrase you used.

MR. CALISSI: That's correct.

MR. LUMBARD: Do you think the United States Attorneys in this country are just marionettes?

MR. CALISSI: I have no idea of how they may operate.

MR. LUMBARD: Well, 803 sets up almost identical processes for the prosecution end as the United States Attorneys within the Department of Justice, with the one exception, that the selection process, it is stated, must be political. Otherwise, the other aspect of the political statement in 803 is the same as in the Federal Hatch Act in effect.

So generally what is suggested here for New Jersey is a system such as is now in effect for the United States Attorneys. Now how is it that the United States Attorneys are marionettes?

MR. CALISSI: I am not calling the United States Attorneys marionettes; you are. I am not. I am just saying that if you have a commissioner who is going to appoint the Assistant Prosecutors who are going to work for the Prosecutor, that those Assistant Prosecutors are going to be subordinate to and subservient to the commissioner and not the Prosecutor, and that, in itself, is in error because you have to have loyalty to the person who is the head of the office. The Prosecutor is a constitutional officer. Unless you change the Constitution, you can't get rid of him. So in order to dilute his powers and his authority this Commissioner now is going to appoint an Assistant Commissioner and this Commissioner is going to appoint his assistants. He may take a Prosecutor from Essex and send him to Cape May under Bill 803.

MR. LUMBARD: Oh, yes, and indeed this is exactly the same system as is the chain of command in the United States Department of Justice which runs from the U. S. Attorney upward to the Assistant Attorney General in charge of the Criminal Division, upward to the Deputy Attorney General and upward to the United States Attorney General and I really am unaware of any criticism of that process which has been in effect for a very long time and seems to work well.

MR. CALISSI: I am not criticizing that process. I am trying to give you my opinion with respect to the situation as I know it and I project it.

MR. LUMBARD: Right. By asking questions, I am only trying to bring out for the record --

MR. CALISSI: I realize that.

MR. LUMBARD: [Continuing] -- as clearly as I can exactly what all the facts and opinions are. Don't misinterpret me. I am not trying to say you are anything.

MR. CALISSI: No, but the State v. Winne Case made the Prosecutor of the county primarily responsible for the enforcement of the criminal laws in his county.

MR. LUMBARD: Right.

MR. CALISSI: Are you going to make the Commissioner now the person primarily responsible for the enforcement of the laws of that county when the Commissioner has the right to transfer the Prosecutor from Bergen County to Cape May or some place else? I think that is wrong.

MR. LUMBARD: Mr. Calissi, you know the very day you testified to that effect last spring, there also came on the program the Sheriffs' Association who vehemently denied your interpretation and mine of State v. Winne, and said the Sheriffs are the chief law enforcement officers in the counties. You see many of the things that you are operating on, namely that there is clarity, that the system is understood, just aren't the case. The Sheriffs dispute that very proposition you just stated. And your reply to that on that occasion was - well, you have a good understanding with your particular Sheriff. And that may work in one county, but in another county unless the system is clear, it doesn't work. So what is made here is an attempt to clarify that sort of relationship throughout. That

is all I am trying to say.

MR. CALISSI: You don't do anything with the Sheriff in this bill, 803 or 802.

MR. LUMBARD: We don't do anything with the Sheriff in this bill, but the bill makes it very clear that the Sheriff certainly isn't running the Criminal Justice system.

MR. CALISSI: I don't want to belabor this point about who is the chief law enforcement officer. But if two and two make four - and I think it does - then State v. Winne says that the Prosecutor is the chief law enforcement officer and makes him responsible for the enforcement of the laws.

MR. LUMBARD: Right. But the Sheriffs came here and testified that two and two make five.

MR. CALISSI: Houdini can come in here and say the same thing. It doesn't make it right.

SENATOR WOODCOCK: He is not scheduled today.

SENATOR KELLY: -- as far as we know.

MR. CALISSI: I think that part with respect to the Commissioner appointing the Assistant Prosecutors is unrealistic, it is impractical and unrealistic. The loyalty and everything else that takes place in a District Attorney's Office has to be as between the Prosecutor and his assistants and you can't have a situation where you are going to be shifting a fellow from here to there or around and the Prosecutor won't know whether the Commissioner is going to supersede him tomorrow or the next day if it suits the Commissioner's fancy. This is why I call the man a czar because he has too much power and in this

State, we don't have the kind of a setup.

SENATOR WOODCOCK: Can the Governor supersede the Prosecutor?

MR. CALISSI: Yes, the Governor can supersede. He can supersede by the system that we have today which I say is a perfectly legal, practical, efficient system, and he can supersede any Prosecutor by merely asking the Attorney General to take over.

MR. LUMBARD: But the question is - does it happen often enough and on those occasions when it should happen as a practical fact under the present system?

MR. CALISSI: Well, how do you know it would happen as a practical fact when it should happen under the Commissioner system, this Rube Goldberg system?

MR. LUMBARD: Unless it happens, no one will ever know.

MR. CALISSI: I know, but you are asking a question that is very difficult to answer.

MR. LUMBARD: Right.

MR. CALISSI: It happened in my county - it happened in my county which brought about that famous case of State v. Winne. Nelson Stamler, now Judge Stamler, at that time came to Bergen County and was there for a few years. So it has happened and it can happen. And if it doesn't happen often enough, the Legislature and the people should be screaming about it, not setting up a completely new system which in my opinion is repugnant to the entire philosophy of our government. We are, I think, very partial to home rule. The closer government is to the people, the better it will be.

SENATOR KELLY: Depending on who those people are.

MR. CALISSI: Well now, that's a very good statement because we are talking about people. You have to elect - you have to appoint good people or the system won't work. No system will work. So what we should be doing is concentrating on the kind of people who represent the taxpayer, who represent the citizens of this State. That is the important factor.

SENATOR KELLY: Prosecutor, the difficulty is some people are too close to some people they shouldn't be close to, apparently.

MR. CALISSI: I don't understand what that means.

SENATOR KELLY: Well, the organized crime situation that is going on in the State. There have been allegations made of corruption. You know, I have a high regard for you and I don't mean this for you. What I am saying is that there have been allegations made here that there is corruption in all forms of government and what have you.

MR. CALISSI: That is because all the prostitutes are not in the boarding houses - that's the reason for that - not because you have to change the system and set up a system which will cost -- I took my pencil and tried to figure how much this would cost a year. I think it would cost at least an extra \$10 million. You spend the \$10 million. But if you put that \$10 million in our present system, you will find it will work much more efficiently than this kind of a system.

SENATOR KELLY: Would it be a good investment if it did away with organized crime?

MR. CALISSI: Pardon?

SENATOR KELLY: Would \$10 million in this State be a good investment if it did away with organized crime?

MR. CALISSI: Absolutely. Absolutely, no question about that.

SENATOR ITALIANO: Do you think we would not have the crime problem we have today if that money had been put into the present system?

MR. CALISSI: It would have helped. But again I would have to say to you that you could spend \$4 billion, but organized crime can still flourish if you don't have the right kind of people who are in government, whether it be law enforcement or some place else.

SENATOR WOODCOCK: Prosecutor, we have been criticized here, not this Committee but other witnesses have, for implying that there is something wrong with the public officials in the State and with law enforcement in the State and I think that that is implicit in your remark when you say that it doesn't matter how much money we spend, it depends upon the kind of people that we have. I think that that is as serious indictment as the statement made by Professor Ruth and others. Frankly, I would ask you to expand upon that so we have clarification.

MR. CALISSI: I will expand on anything you ask me. All I am saying is I am taking your word, this Committee's. Senator Kelly said that we have organized crime in New Jersey. Assuming that we have organized crime in New Jersey, I am saying that you cannot have organized crime without corruption. This is what I am saying and I will not change that statement.

SENATOR ITALIANO: Well, do you think we have organized crime, Prosecutor, in New Jersey?

MR. CALISSI: I don't have organized crime in Bergen County. That's all I can tell you. I am responsible for Bergen County.

SENATOR KELLY: You are fortunate.

MR. CALISSI: In the years I have been there, we have made over 600 arrests in the area of gambling. We have had 85 per cent success in that area.

SENATOR ITALIANO: May I ask you this: Are you in favor of the electronic surveillance bill?

MR. CALISSI: I sure am, with proper safeguards, however.

SENATOR ITALIANO: Would you need it in your county?

MR. CALISSI: Pardon?

SENATOR ITALIANO: You don't have organized crime in your county. Why would you need electronic surveillance?

MR. CALISSI: Well, electronic surveillance ---

SENATOR ITALIANO: Because apparently this is the main purpose of this bill, to combat organized crime.

MR. CALISSI: It may not be there now, but organized crime in my opinion is always looking for the soft part in governmental fabric in order to punch a hole through it.

SENATOR ITALIANO: In other words, you have been successful in combating this without an electronic surveillance bill.

MR. CALISSI: I don't say there is nobody in Bergen County making book right now. I am not going to say that.

SENATOR ITALIANO: But I am saying you have been successful without wiretapping.

MR. CALISSI: Yes, I have been, but I would have been more successful with the device, no question about that.

SENATOR ITALIANO: I am not trying to press you, but I am getting back to what you said originally - there has been a complete change in values. I think you made that statement. I think we have witnessed that in these hearings too because I think of all the witnesses, there has only been one witness who came in and testified against wiretapping and I think if you brought this up maybe three, four or five years ago, it would have been overwhelmingly against wiretapping. I think there has been a complete change in values in that respect also.

MR. CALISSI: No, I think people were just scared that their privacy was going to be invaded.

SENATOR ITALIANO: Well, isn't that a change in value? The value of privacy has now been switched.

MR. CALISSI: I don't think it is the value; I think people are beginning to realize that crime is such a disease that it has to be coped with with all devices and vehicles that are possible. This is what I think has happened here.

I can see a situation with Bill 802, a Prosecutor being a constitutional officer and the members of the Legislature being of the same political persuasion, that there would probably be sufficient moneys appropriated for the Commissioner and his far-flung responsibilities in this bill and then if you turn around and you have a change in the Legislature where the members of the Legislature are of a different political

inclination than the Prosecutor that they will appropriate very little money for this department. I can see that it will become that kind of a situation. I am guessing at that, but I have been around and I have seen politics long enough to recognize that that is a very good possibility.

SENATOR KELLY: It doesn't always work that way though, Prosecutor, does it? It doesn't always work that way. You have a Republican Legislature and we just gave the Prosecutors a raise. They were all Democrats incidentally.

MR. CALISSI: That is true. But you see, the Prosecutor must be given sufficient moneys to run his department under the law and that too is in State v. Winne. The Freeholders of the county are obligated - it's a mandate by the Supreme Court that whatever moneys are reasonably needed by the Prosecutor to discharge his duties must be appropriated.

Now as far as 802 and the Commissioner and the Assistant Commissioners and all the other people who are going to be in this department, if the Legislature doesn't want to appropriate any money for that particular department, it just won't do it and that is the end of the department or will appropriate not enough money for that department to be efficient. So I think that that is a situation that this Committee should study.

In one case you have a mandatory requirement that the money be given to the Prosecutor. In this particular case, this whole system under 802 depends upon whether the particular Legislature at the time is going to appropriate the money to have this Commissioner and his department function.

MR. LUMBARD: Mr. Calissi, I am not trying to cut you

off, but there is a tremendous backup growing up here.

MR. CALISSI: I'll get right off.

MR. LUMBARD: No, I am not trying to suggest you get off. Could you hit the points you have remaining very quickly, please?

MR. CALISSI: I think I have hit the points. I didn't realize that I was taking too much time.

I have nothing further unless the Committee has any other questions. Again I want to thank the Committee for allowing me to testify as loudly as I did.

SENATOR WOODCOCK: Thank you very much, Mr. Calissi, for coming down.

MR. LUMBARD: Would you identify yourself for the record, sir?

REV. HEDGEBETH: I am Reverend William E. Hedgebeth.

SENATOR WOODCOCK: Reverend, we have been swearing the witnesses in so if you would raise your right hand ---

REV. HEDGEBETH: I will affirm; I don't swear. I will affirm that I am telling the truth.

W I L L I A M E. H E D G E B E T H, called as a witness, having affirmed that he will tell the truth, testified as follows.

MR. LUMBARD: Reverend, would you say your name again so we could get it down.

REV. HEDGEBETH: H-e-d-g-e-b-e-t-h. It sounds like German, but it is English. William E.

MR. LUMBARD: And your address?

REV. HEDGEBETH: My address is 80 Murray Street, Newark.

MR. LUMBARD: And with what religion and church are you affiliated?

REV. HEDGEBETH: I am Pastor of the Mount Olive Church of Christ - the Disciples - and Chairman of Focus on Newark and the President of the Pastors' Study, Rehabilitation and Aid Society of New Jersey.

MR. LUMBARD: Would you give us your statement then, please.

REV. HEDGEBETH: Thank you.

SENATOR WOODCOCK: If I may just interrupt for one moment, Reverend. I think the record should indicate that Senator Ridolfi has joined the Committee here this morning.

REV. HEDGEBETH: I am very sorry that we have to rush, but we are having a block fair and I am due in Newark at 12 o'clock. I hope I don't get a speeding ticket.

I am here as an individual. I do not represent any group as to what I am going to say here. I have come, of course, to speak against Bill 802, which is now pending before your Committee, and I trust that it will not be passed.

If we as a Nation are to maintain the most important element in today's society, the element upon which we were founded, the element which has sustained us in the present time and that has brought us over, then I think we should place more emphasis upon family living and Bill 802 would only be a bad dream.

In the last few months we have heard so much about law and order. In fact I had an opportunity to attend Mr. Kennedy's Conference on National Crime and Criminal Justice - I think it was in 1963 - in Washington. But we haven't heard enough about justice and equality. And I wonder - can we have one without

the other?

Bill 802 may be a part of the answer to law and order and then again it may not be. But let me make one thing absolutely clear to you - Bill 802 will not give you justice and equality, without which we cannot have democracy.

In my campaigning this year for a peaceful Newark, I emphasized the fact that in Newark and Essex County there shall be no Black power, no White power, no White Citizens' Committee, no Klu Klux Klan or no other power shall prevail in Newark. The only power that shall prevail in Newark will be the power of democracy and the power of the Spirit of God. We have worked toward that end and we have had a peaceful summer.

Ghetto residents feel that the writers of this bill were taking direct aim at them since the bill mentions illegitimacy and specifically mentions illegitimacy. The idea of picking up children because there is only one parent to care for them or because someone has a preconceived notion that some child might get into trouble, I think is outrageous and reflects on, instead of helping, those of the ghetto. Without a trial, you are sending them away. Without a trial, they become a criminal. That is not the answer.

And I wonder sometimes - I often wonder - have you had an experience of frustration? Do you know what it is like to sleep on the floor or sleep on springs without mattresses or look through the roof and you will see the sunlight, as we used to say in the South where I came from, "To let it rain inside and leak outside"? I wonder - have you experienced that? One month alone this year, we carted away 300 truck loads

of garbage out of our ghetto. You weren't there. You don't live there.

Sending a child away isn't going to help. I say to you, let us save the child at home. Now let us take a realistic look and see who this bill is designed to hit the hardest. I seriously doubt that the White suburbanites will have any problems whatever, but I can assure you that within two months after this bill has gone into effect, if it goes into effect, 90 to 99 per cent of those picked up will be Black. And I wonder if you think - I wonder seriously if you think youth camps for youngsters is really the answer. I wonder do you think that. I don't think you think so. I feel they have no place in a democracy. And when you talk about camps such as this being able to benefit a child, who benefits? Who benefits? Does the child? Does the community? Or does the State? Nobody!

I have had an opportunity to work with the Juvenile Courts in Newark and Essex County over a period of about 15 years and I found that the child is worse off when he comes home than he was the day he left home. I have also found that you cannot move the child out of the area and save him without some type of supervision and guidance. For instance, if we changed the ghetto and say we are going to move Sally Jane out of Bruce Street onto Wheatley Avenue, I think first we should save Sally Jane, we should rehabilitate Sally Jane and then move her on the hill. But the camps are not the place. I say, end the frustration and you will have solved 90 per cent of the crime.

I don't want you to give us anything; that is, I don't

want you to give me \$100,000 a year to be quiet. I want you to give me a job. I like to use the part of the Bible that says if you don't work, you don't eat. Quite often we work with the Welfare. I will do my own investigation of those who refuse to work and say, "Don't give them a dime. If they cannot work, feed them."

We are not asking for manna from heaven. We are asking for opportunities and don't crush it with Bill 802.

We have a plan to save Newark by 1969. We are buying property. We are rehabilitating homes. We are cleaning the streets. In fact, today we are starting a four-day block fair as a Thanksgiving for a peaceful summer. But that is not the answer. The hearts of individuals will have to be changed. For instance, I often preach, you can lock a drunkard up. Unless somebody carries him whiskey, he'll stay sober. But a liar, you can lock him up, and he'll lie through the keyhole unless his heart is changed. And I wonder will Bill 802 change the hearts of people? No.

What about the \$3 million you are going to spend? I told Mr. Lazaro a few months ago, "You are the cause of so much trouble in Essex County - you with your Essex County Welfare Department."

MR. LUMBARD: Who is Mr. Lazaro?

REV. HEDGEBETH: He is the Director of the Welfare Department.

MR. LUMBARD: In Essex County?

REV. HEDGEBETH: Yes. Now I didn't mean him as an individual, I meant the County Welfare. They will allow a woman

to leave her husband, press charges against her husband, take the husband to court. The judge says, "You will pay so much and the welfare will take care of the rest." Then another man moves in. That helps to break up homes. I say, "Do it differently." Of course, we have one judge there I think needs to see a psychiatrist - he needs to see a doctor or somebody - because he will make them pay more than they make. Those are some of the problems.

Now what about the \$3 million? - one-half to go for - let me get it right -- one-half of \$3 million for the Youth and Narcotic Division, the other half especially for just another - my girl calls it here - "bureaucratic agency." So don't be fooled - it isn't going to work. But if you would take that \$3 million and use it, as the Prosecutor just said, in the present agencies that you have, I think we will accomplish a great deal. It is not a new agency we need. It is not a new religion we need nor is it a new Senate, Assembly, a government or President. But what we actually need is a new look - a new look into our present governmental system, our present religious system, to see if there isn't something we can do with the present tools we have.

Now for the benefit of the people of Newark and Essex County, don't pass Bill 802. It would do more harm than good. And I certainly thank you for listening to me. I wish we had time to talk about some of the things we are doing and I would like to meet with you sometime in the near future to discuss the programs we are using in Newark and beginning December we hope to spread it out as we are leaving October 8th on a goodwill

tour, a 10,000-mile goodwill tour, to try to save not only Newark, Essex County and the State of New Jersey, but we want to bring the Black and the White, the rich and the poor, the Protestants, Catholics and Jews into one unit where we shall have peace in our world. Thank you.

SENATOR WOODCOCK: Reverend, I know that you have to leave. I don't know whether there are any questions by any members of the Committee. Senator Ridolfi? Senator Kelly? [No questions.]

REV. HEDGEBETH: Ask - I'm ready to answer if I know the answer.

SENATOR WOODCOCK: Thank you very much for coming down from Newark. A lot of success with the fair!

We will have a five-minute break.

[Five-Minute Recess]

SENATOR WOODCOCK: I think we can reconvene the hearing at this time and I would call Mrs. Fenwick.

M I L L I C E N T F E N W I C K, called as a witness, being duly sworn, testified as follows:

My name is Millicent Fenwick and I am President of Morrow Association on Correction, which is a citizens' group concerned with correction in the State of New Jersey, a Statewide group.

I would like to read, if I may, Mr. Chairman, the statement of the Board of Directors. We had a special meeting to consider whether we should take a stand on this.

The Act to establish a new Department of Criminal Justice has such grave implications in the field of correction that the Morrow Association on Correction, for the first time,

feels it necessary to comment on a piece of pending legislation. The Board of Directors has accordingly authorized the following statement.

Three separate agencies are involved in handling crime in our view: the police and prosecutors; the courts; and the correctional, or rehabilitational institutions. The courts are not primarily involved in the proposed Act, but the Morrow Association is deeply concerned about the proposed merging of the police and correctional functions under one Department.

The primary purpose of the police is to detect the crime and apprehend the offender. They are necessarily "crime oriented." The primary purpose of correction is to re-orient and rehabilitate the prisoner, thus protecting society from further offenses. This demands concentration on the needs and weaknesses of the offender and is necessarily "offender oriented," in other words, treating the offender as an individual, apart from his crime almost, although that naturally is the purpose of it.

The most serious objection of the Morrow Association to this Act is based on the proposed merging of these two very different functions, as set forth in Article 7, in which it is suggested that the present Division of Correction and Parole be transferred to the Division of Rehabilitation in the new Department of Criminal Justice. We earnestly recommend that the Division of Correction remain where it is in the Department of Institutions and Agencies. We favor the provisions of Section 55 in Article 7 looking towards the integration of county

penitentiaries in the State system, thus bringing all convicted offenders under the jurisdiction of the State. This in our opinion would be a great step forward in the administration of correction.

But there is a further grave question, added to the merging of conflicting functions at the department level, which is raised by Articles 4 and 6 - the Division for Youth and the Division for Narcotic Control. Here it is proposed to bring together within each of these divisions both prevention and correction. There is little doubt that certain social conditions give rise to crime and that certain psychological weaknesses may lead to addiction, but it is a long and unwise step in our view to make the social worker and the clinical technician agents of the Department of Criminal Justice, together with the prosecutors and the police.

Proposed Article 4, establishing the Division for Youth, would bring into the Department of Criminal Justice the adoption agencies for infants and children, the Job Corps, at least in our reading of it, and other youths convicted of no crime "whose behavior indicates that they might benefit" from such programs as conservation, disaster relief and civil defense. And with them would be the convicted offender on probation and those charged with juvenile delinquency. The proposal for youth centers, camps and residences, if established as arms of the Department of Institutions and Agencies, is in our view an excellent one. We urgently recommend that all such agencies and facilities be added to the present Department of Institutions and Agencies to serve young people who have exhibited aberrant behavior

patterns and have committed no crime. In this way, all the resources of a department which includes mental health and welfare services could be brought to the solution of their problems. Retention of the Division of Correction in the same department would allow the responsible authorities to bring these same resources to the more severely damaged youths, without involving the Criminal Justice Department whose primary responsibility is crime and the detection of crime rather than the offender.

Proposed Article 6, establishing the Division for Narcotic Control, brings together the convicted narcotic offender and the addict who, of his own free will, comes forward to ask help of the State. The prevention and relief of narcotic addiction - as distinct from the traffic in narcotics - have come to be recognized as not primarily a criminal problem. The Morrow Association urges that the conduct of medical research, the operation of clinics and all the other services for addicts described in Section 34 of Article 6, be made the responsibility of the Department of Institutions and Agencies as now constituted.

These are the major objections of the Morrow Association on Correction to the proposed bill, S 802 - A 828, to establish a Department of Criminal Justice. In addition, we foresee great difficulty in the joint promulgation by two separate departments of government "of rules and regulations. . . to be followed in transferring inmates or patients from the institutions. . . of one department. . . to the other." It is hard to believe, for example, that the excellent program through which 700 of our prisoners are now working in our State hospitals

and other institutions could be successfully and smoothly developed with as much benefit to the prisoners and to the institutions and to the people of our State if responsibility for the prisoners and the hospitals were in separate jurisdictions.

In view of the many grave objections to this Act, the Morrow Association recommends that it not be passed in its present form, and that the subject be further studied.

That is the end of the authorized statement.

MR. LUMBARD: Mrs. Fenwick, first of all you mentioned that adoption agencies were within the Youth provision; wherein in the bill do you find that?

MRS. FENWICK: Could I have a copy of the bill. [Copy of bill handed Mrs. Fenwick.] Article 4, establishing the Division for Youth, as we read it -- It seems incredible, doesn't it? But that is what we understood.

MR. LUMBARD: I am asking you now about adoption agencies.

MRS. FENWICK: I know. I am creeping up on it. [Reading] "For the purposes of this act," line 6 --

MR. LUMBARD: What page are you on?

MRS. FENWICK: Page 7, line 6 of Article 4 -- wait a minute, there are two -- line 6 of Article 4, Section 14. [Reading] "For the purposes of this act, 'authorized agency' means and includes an agency approved by law to place children for adoption duly incorporated under the laws of this State. . ."

MR. LUMBARD: I think there is a misunderstanding there. That is a triggering provision as to those who could in some way be part of the proceedings by which a child could go into one of

the camps. It in no way does or is intended, as I read the act, empower this division or the department to run adoption agencies.

MRS. FENWICK: It says clearly, "The Division for Youth shall have the following functions, powers and duties: (a) To establish, operate, and maintain, or to contract with authorized agencies for the operation and maintenance of youth centers. . ." Then it goes on specifically to include in line 6, "'authorized agency' means and includes an agency approved by law to place children for adoption duly incorporated under the laws of this State. . .", and we have such agencies, of course.

MR. LUMBARD: If there is any such intent, you would recommend it be made clearer that it is not to have such power.

MRS. FENWICK: I would certainly. I think all of these things you are dealing with - there is need -- you are not a Senator, are you?

MR. LUMBARD: No, I am not.

MRS. FENWICK: [Continuing] Mr. Lumbard -- there is need in this State for further services for youth. In my opinion, and I am now not speaking officially because our statement is ended, the main shortcomings in our Department of Institutions and Agencies are insufficient funds. It is perfectly clear that the will exists and the imagination to conceive the program, but there simply isn't enough money to do the job. We certainly need services. There are children from families who are troubled. They have not yet committed any crime. We need not in the Department of Criminal Justice with all the

stigma that would be attached to it, but in the Department of Rehabilitation or Institutions and Agencies -- The beauty of the Department of Institutions and Agencies is that it includes the whole gamut. It would enable a family to turn to this department with a child who is beginning to be difficult and is certainly not yet criminal and this department would have and has in much too rudimentary form because of inadequate funds - it would have all the gamut of services that are open to the rich. We need this for our middle class, for people who are on small salaries, for the poor. We need a department that is not hunting down people, not in that business at all, but in building up. This is what correction should be. It should turn its face to the strength of the prisoner and develop it - turn its face to the weaknesses and try to counteract them. It is this kind of a whole gamut of services that are needed in this State, not just for the child, although that is one of our specific objectives, but for the addict, for the youthful offender. We are very anxious to see the provisions of this bill that look toward the incorporation of every convicted offender being under the jurisdiction of the State. We are very anxious to see that passed.

I think that would be one of the great forward steps because we are 21 counties and the disparity from one county to another is often very great. I think it would be of enormous benefit and a forward step in correction if these people, all convicted offenders, could be under the jurisdiction of the State.

MR. LUMBARD: Just so it is clear then, your Association

is for that provision in Section 55 which would mean the State would take over the county institutions --

MRS. FENWICK: Absolutely.

MR. LUMBARD: [Continuing] -- the workhouses and penitentiaries.

MRS. FENWICK: In other words, I would like to refer back to my statement because that is part of the directive, and I wouldn't want to deviate from it. [Reading] We favor the provisions of Section 55 in Article 7 looking towards the integration of county penitentiaries in the State system, thus bringing all convicted offenders under the jurisdiction of the State. This would be a great step forward in the administration of correction.[Ends reading] And I don't think there is anybody who knows anything about correction that wouldn't agree with that statement.

MR. LUMBARD: Would it be a fair summary that your Association, as I tried to get what you are for and what you are against --

MRS. FENWICK: Yes.

MR. LUMBARD: [Continuing] -- you are for the program statements in the bill about youth and narcotics, but you wish them to be in a different government structure?

MRS. FENWICK: Yes.

MR. LUMBARD: You do not oppose the programs, but you oppose the government framework?

MRS. FENWICK: Exactly. I think, in other words, for instance, people with money can send their children to a camp in Vermont in the summer.

MR. LUMBARD: Very few.

MRS. FENWICK: You know those camps are very well run. Where can somebody without very much money send a child who needs to get out of the city in the summer if he has been behaving a little bit badly?

MR. LUMBARD: Well, there is nothing in this bill that would run summer camps for a great mass of people. I want to be very clear about that.

MRS. FENWICK: Well, I would hope that we could get to that because we are going to find if we look at juvenile crime, that is where the increase is, isn't it? The phenomenal rise in crime in this Nation is in the juvenile category and what we need to do is have a wider gamut of services for youth. I think everybody feels that way. And when a child begins, before they do something terrible, that is when we must begin to restructure their thinking.

SENATOR WOODCOCK: Senator Ridolfi, do you have any questions?

SENATOR RIDOLFI: No questions.

SENATOR WOODCOCK: Senator Kelly?

SENATOR KELLY: I don't have anything.

SENATOR WOODCOCK: Senator Italiano?

SENATOR ITALIANO: No questions.

SENATOR WOODCOCK: Thank you very much, Mrs. Fenwick, for taking time out to come before the Committee today.

Commissioner McCorkle, if you would be kind enough to come forward.

L L O Y D W. M C C O R K L E, called as a witness,
being duly sworn, testified as follows:

Senator, I do not have a prepared statement because I was not certain until yesterday that I was going to be asked to testify.

If I were to have a prepared statement, I would merely repeat what Mr. Wescott said in his letter to Senator Forsythe when the bill was first passed and that enumerates the objections of the State Board of Control and, therefore, the Department of Institutions and Agencies to 802 and 803.

Do you want me to read it?

SENATOR WOODCOCK: No. You can incorporate that by reference into the record, sir. If you want to expand upon that in any fashion ---

MR. LUMBARD: Is that the letter of June 3?

COMM'R MC CORKLE: That's the letter of June 3.

SENATOR ITALIANO: You are adopting the contents of that letter?

COMM'R MC CORKLE: Yes. I would say if I were going to make a statement, this would be the statement I would make.

[Letter written by Mr. Wescott to Senator Forsythe, dated June 3, 1968, can be found in the Appendix, Vol. IV.]

The only think I can do is to reiterate what was stated here yesterday by individual members of Boards of Managers of both correctional and charitable institutions, that if 802 is enacted, we will create an administrative structure in New Jersey that will make it impossible for the continuance of some of the finest programs in correction in the United States and

I think that would be regrettable. I think in addition to being very, very costly, it would be a step in the wrong direction for correction in New Jersey to make.

Other than emphasizing those two points, Senator, I don't know what else I can say.

SENATOR WOODCOCK: If I may ask you this, Commissioner McCorkle: It was stated by, I suppose, almost every witness that came before us yesterday that if Senate Bill 802 is adopted and becomes law, programs of the nature where the inmates from Bordentown go over to the State Colony at New Lisbon and maintain the grounds and render other services to that institution - that if this were to be adopted, if 802 were to be adopted, that program would then be impossible. Would you agree with that, sir?

COMM'R MC CORKLE: I think administratively it could not function. It would soon go.

SENATOR WOODCOCK: Why?

COMM'R MC CORKLE: Well, the machinery that the bill suggests is going to solve the problem is that rules and regulations would be issued jointly by the Commissioner of I and A and the Commissioner of the new proposed department. I don't know what you know about the operation, let us say, of the laundry. Just let's take one simple thing, laundry.

SENATOR WOODCOCK: That would be fine.

COMM'R MC CORKLE: How you could imagine that two cabinet officials would get mixed up with the supply of socks at New Lisbon and the inventory at Greystone and the many, many detailed operational problems that are involved, I don't know. I don't

profess to be an expert on government. But I just simply know that this will not work. At the present time it works primarily because the problems of these operational characters are solved by people who have departmentwide responsibilities and they move as freely in a charitable institution as they move in a correctional institution and they move between the two institutions and they immediately and responsively solve this kind of problem. I don't think two cabinet officers could solve it. And when you talk about the laundry program, let's forget about the beneficial aspects of this for inmates in terms of providing them ways to get back into the community. I think Mrs. Fenwick did that very well and very amply for me. But in terms of dollars alone, you are talking about five or six million dollars.

SENATOR WOODCOCK: Well, that assumes, of course, that it would be impossible if we were to incorporate the rehabilitation function of your department into the department under 802.

COMM'R MC CORKLE: Right.

SENATOR WOODCOCK: But my problem with this, Commissioner, and I'll have to be honest, is that if Bordentown exists today and will exist whether this bill is passed or not, and let's assume that it is passed, and the institution at New Lisbon is there, frankly I would say that this Legislature whether the departments or even the Governor of the State of New Jersey would allow this thing not to occur - I am sure that this Legislature would insist upon it. Because as you know - and

it has been expressed here by people interested in your department - that one of your great problems is money and I can't in my own mind envisage the Joint Appropriations Committee of the State of New Jersey entertaining a situation where it would cost the State of New Jersey five million dollars to handle these services currently handled in this fashion. Frankly, sir, I just don't believe it could happen.

COMM'R MC CORKLE: Senator, based on my knowledge of government, I will predict that within three years, it will happen. How do you conceive there is going to be an operational solution that relates to problems of food service at New Lisbon that ultimately is tied into the classification policies of the Bordentown Reformatory? You know, this is not unusual.

SENATOR WOODCOCK: In other words, what you are telling me is that interdepartmental cooperation, at least in this State, is impossible.

COMM'R MC CORKLE: I am not saying that interdepartmental cooperation is impossible. I am saying that the kind of operations that you anticipate will be achieved by interdepartmental cooperation at the level that is proposed here simply will not function to maintain the structure that has carefully been built up in New Jersey since 1918 and I think to lose it for -- I am not sure what great gains are going to be achieved by the proposed transfer. Nobody has formulated those, except presumably you are going to have everything that is involved in the administration of criminal justice under one roof. Beyond that, I haven't heard any gains. But to tamper with a system that has served New Jersey citizens so well, and

in this particular area, I think New Jersey is incomparable --

SENATOR WOODCOCK: So that is your considered opinion.

COMM'R MC CORKLE: And to me to tamper with that for dubious goals seems - well, I think it deserves and merits the most careful consideration. I simply don't think it will work. I have been in every aspect of this kind of programming in the department at a variety of levels and I will flatly predict that within three years this program has had it. It simply would not work. I know. I worked to get it started. I know the kind of problems you run into.

SENATOR WOODCOCK: Senator Ridolfi?

SENATOR RIDOLFI: No questions.

SENATOR WOODCOCK: Senator Kelly?

SENATOR KELLY: Just one question. Yesterday a question came up on State Use Industries. Is there any reason why - and I am not being critical of that department - I am just wondering why they can't realize some benefit from the other State agencies. For example, there was some testimony as to stop street signs that are made by State Use, that possibly or conceivably the State Highway Department would make their purchases from State Use instead of some other source. Is there any reason why some of our State agencies aren't purchasing from the State Use Industries at a saving possibly?

COMM'R MC CORKLE: Well, I think the moment you added "at a saving," that is where you get into one of our major problems. Our problem in State Use Industries is to be competitive pricewise. That is part of the problem. Another part of the problem relates very specifically to a policy that requires diversification so you don't have an adverse impact on one small

isolated industry in the State. And the State Use Industries in this State - it is true we have a long way to go in making them better. But I think the fact of the matter is that we have better discipline in the industries in New Jersey than a good many states I could enumerate here and we have tried to improve our sales, not only to other State agencies, but also to county and municipal governments.

If I might, I would like to say not as a Commissioner of Institutions and Agencies because the department in the letter to Senator Forsythe does not indicate a departmental position on that aspect pertaining to civil commitment, but I do think it should be pointed out about civil commitment that the New York program I think in its first year of operation cost about \$80 million - \$40 million for operations and roughly \$40 million for capital construction. And I think last year it was in excess of \$35 million. Now New Jersey has spent on its program - we are spending, I think, less than three-quarters of a million dollars a year. I think that if we are going to move in the area of drug addiction in this State, irrespective of all other considerations, I think what is needed is improvement in the present existing statute in New Jersey, which in my view is far preferable to civil commitment.

We have, as they do not have in some other jurisdictions, if you are under the influence of narcotics, you are a disorderly person and you can have mandatory removal with alternative ways of handling the case.

SENATOR ITALIANO: Commissioner, I am certain you fully realize that the purposes of the proposed legislation are to

prevent crime and this essentially is the purpose of the public hearing. And one of the aspects in the prevention of crime is the ultimate rehabilitation of the offender. Do you think in New Jersey thus far our methods have been successful in rehabilitating the offender?

COMM'R MC CORKLE: Well, let me answer that by saying, in the first place, our methods in New Jersey have been as successful as any jurisdiction I know anything about in the United States. In fact, I would say in some areas we have done much better than most places I know. Again, if you are going to talk about rehabilitation, you are going to talk about limitations in, one, knowledge about the problem and, two, techniques to come to grips with whatever you know, if you are going to talk about it seriously.

SENATOR ITALIANO: I think we have to talk about every phase of fighting crime seriously.

COMM'R MC CORKLE: That's correct.

SENATOR ITALIANO: I think we must approach this matter seriously also and I think we are trying to conduct these hearings in a serious vein. I want you to understand that the question I threw out was a serious question.

COMM'R MC CORKLE: I wasn't making that point. The point I was trying to make is that if we are going to talk about rehabilitation and make comparisons or try to make comparisons as to what is better than something else, you have to, it seems to me, pose two question to yourself - and I repeat if you are going to really get into this thing in depth - one, why do people commit crimes? How you structure

treatment programs without having some kind of an answer to the diagnostic question is a little hard for me to understand. Having come out with some explanation for criminal behavior, either as a generic thing or in a given individual, at that point you have to fashion some sort of program to come to grips with whatever you perceive to be the presenting problem of the individual.

SENATOR ITALIANO: Well, the ultimate problem we are faced with now is: Does our present system fulfil the function that we desire or are we to go into another system? In other words, has it been successful in so far as the rehabilitation of the offender, the impact of it on the prevention of crime? Have we been successful in New Jersey?

COMM'R MC CORKLE: I don't think anybody has been as successful as they would like to be and I would repeat I think New Jersey has been as successful or more successful than most other places I know anything about.

MR. LUMBARD: Mr. McCorkle, the bill, of course, does not purport to set out what causes crime or get into that area at all. You and I understand that.

COMM'R MC CORKLE: Oh, yes.

MR. LUMBARD: It merely tries to start with the fact that a crime has occurred and then go from there.

COMM'R MC CORKLE: Right.

MR. LUMBARD: -- whatever road might be selected. And the bill, broadly speaking, addresses itself to structure, government structure. On the other hand there are programs discussed in the bill, particularly in the area of narcotics

and youth. What is your recommendation to the Legislature as to the particular program areas in the bill, aside from the structure? Are those program suggestions valuable or not, which could mean, for example, that those program areas, as Mrs. Fenwick suggested, should be broken out of the bill, adopted and put into Institutions and Agencies. So we are not just talking about structure, but content as well.

COMM'R MC CORKLE: Right. I made one observation about the civil commitment aspect. I think in New Jersey we would be better off making some changes in our present law, S 210, whatever public law that is.

SENATOR ITALIANO: This is exactly what I was trying to get at when I asked you the question whether we had been successful presently as we are operating and I think you said, "Yes, we have." There was no suggestion made then of any changes.

COMM'R MC CORKLE: I don't follow that. I thought we were discussing whether or not we were doing as good a job in rehabilitation as the other states.

SENATOR ITALIANO: All right. Continue.

COMM'r MC CORKLE: Now the matter of all convicted offenders under one agency --

MR. LUMBARD: Could we stay with narcotics for just a minute. In other words, you are not for a civil commitment program for narcotic addicts?

COMM'R MC CORKLE: No, I would be for modification of our present law.

MR. LUMBARD: What does modification mean? What do you understand the present law to be and how would you modify it?

COMM'R MC CORKLE: The present law in New Jersey provides that when you have been adjudged a disorderly person, you can either go to treatment or to correction. I would modify that and I would say, make it a requirement that you volunteer for treatment for a period of at least six months.

MR. LUMBARD: You must stay in six months?

COMM'R MC CORKLE: Right.

MR. LUMBARD: You have in effect committed him then for six months whether you put the label "voluntary" on the program or not, have you not?

COMM'R MC CORKLE: Well, he would commit himself as a condition of probation.

SENATOR ITALIANO: It is a mandatory commitment then.

COMM'R MC CORKLE: He could select correctional handling and go to a county correctional facility.

MR. LUMBARD: What I am getting at - maybe it is a semantic difficulty - you are using the word "voluntary" for a program that he volunteers for in the first instance, but once he gets in, he can't get out until six months are up, right?

COMM'R MC CORKLE: Right.

MR. LUMBARD: You are calling that voluntary.

COMM'R MC CORKLE: Yes. He has a choice. I would say in addition I would extend the time he is on probation in the community after he left.

MR. LUMBARD: Would you give under any circumstance narcotic addicts the option of getting out of the program once in? That is a second area of voluntary choice.

COMM'R MC CORKLE: Right.

MR. LUMBARD: Would you give them that choice?

COMM'R MC CORKLE: Right. But then they would have to go back to the Magistrate.

MR. LUMBARD: And what would happen then?

COMM'R MC CORKLE: He could do whatever he wished.

MR. LUMBARD: What would be the purpose of sending him back to the Magistrate if he opts to get out during the six months?

COMM'R MC CORKLE: Then he has violated the condition of his probation because one of the conditions of his probation would be that he would agree to stay in a treatment setting for a period not to exceed six months.

MR. LUMBARD: Then he would go to jail in effect. The ultimate outcome would probably be that, is that correct?

COMM'R MC CORKLE: If he wanted to go back as a probation violator, then it would be up to the Magistrate to dispose of the case.

MR. LUMBARD: Who could and probably would send him to jail.

COMM'R MC CORKLE: I would think so and I would think wisely should.

MR. LUMBARD: There has been testimony here during the hearings about different viewpoints on narcotics, there being two sort of broad streams, one set of people who believe in the voluntary approach and those who believe that the voluntary approach doesn't work, you have to go commitment. I am not telling you anything new about that I am sure, but I say that since you haven't been here. Would it be fair to say that you

are sort of in between these two broad positions and that you would give an option at the beginning, but you would hold for six months?

COMM'R MC CORKLE: Right.

MR. LUMBARD: But you do not believe the civil commitment program as proposed in the article in bill 802 you would recommend.

COMM'R MC CORKLE: I would recommend this: I think it is more -- you know, it is consistent with what we have been doing in New Jersey and I think there would be gains.

SENATOR ITALIANO: 802 as it is, did you say?

COMM'R MC CORKLE: No, I said the modifications I suggested.

MR. LUMBARD: What have been the results of the present narcotic addiction program of the government of New Jersey? That is a voluntary program, is it not?

COMM'R MC CORKLE: Yes.

MR. LUMBARD: How would you describe the consequences and results?

COMM'R MC CORKLE: Well, it is voluntary in a sense, but they go up to the residential unit as a condition of probation and if they leave, we notify the court. No program I know of in this area is very successful and this has had plenty of problems.

MR. LUMBARD: Commissioner, I am not trying to say you haven't had problems. I am merely asking you to assess for the Committee the results of your current narcotic program.

COMM'R MC CORKLE: I think we have stated repeatedly that it has two major defects. One, there is a waiting list to

get into the residential unit. Number two, the length of time they can stay is too short. We have taken that position consistently.

MR. LUMBARD: In the civil commitment proposal that is in 802, aside from the general philosophy of that approach, there is a provision that allows a parent that has an addict child, a girl or a boy, to insist that that child get treatment in those circumstance where the addict, the child, almost invariably decides he doesn't want treatment. Do you think parents should have such a remedy for their children who are addicts, who have become addicted, and let's assume there is disaster and unhappiness all around? Do you think parents should have such a remedy?

COMM'R MC CORKLE: Well, under New Jersey present law, they do. They can go and request commitment, but then he has to go along.

MR. LUMBARD: The child has to agree, doesn't he?

COMM'R MC CORKLE: Yes.

MR. LUMBARD: And do they agree very often?

COMM'R MC CORKLE: Sometimes - sometimes not. And then they agree and they come and they want out immediately.

MR. LUMBARD: Do you think an addict child is really in a position to make the right judgment at that point, particularly when his parents wish him to be treated? Should the law leave in effect the option with the addict child? That is what it adds up to.

COMM'R MC CORKLE: Again I agree with you there is a problem here that in New Jersey they would have to go through -

you know, be picked up by the police and so on. I recognize this problem and, as you say, I stand somewhere in between. I think that this should get a great deal of attention and we should think about what we can do about this specific problem.

MR. LUMBARD: Well, we are trying to think about it. What we are trying to do is get your recommendation. Let's forget the whole other aspect, as I said, of the article on narcotics addiction. Should the Legislature consider that aspect of 802 which provides a parent with an addicted child the right to insure treatment will be given the addicted child whether or not the child agrees and avoiding thereby the police, criminal-court route, which, of course, the parent doesn't wish to put the child into?

COMM'R MC CORKLE: I certainly wouldn't resist that.

MR. LUMBARD: I didn't understand. You certainly wouldn't resist it?

COMM'R MC CORKLE: Yes.

MR. LUMBARD: Would you be for it?

COMM'R MC CORKLE: Well, I'd have to see it in some kind of context.

MR. LUMBARD: It is in the bill now.

COMM'R MC CORKLE: It is part of a whole civil commitment package.

MR. LUMBARD: But it can be broken out in one paragraph.

COMM'R MC CORKLE: Well, I am saying - depending, after I had a look at it, I might very well be enthusiastic about it.

SENATOR ITALIANO: My concern is, if we recognize as the

authorities have said, an addict is an ill person, then if I understood you correctly presently they can voluntarily commit themselves and if they decide not to, then at some period of time they go back to the municipal court and the only option then from my experience with the municipal court judge is to put him in jail - put a person in jail.

COMM'R MC CORKLE: Well, in New Jersey it is possible if I am a drug addict for me to go up and say, "I'd like to be committed and I need help," and you go in. That has nothing to do with the courts. However, if you are picked up under the disorderly persons act, you are taken before a magistrate and the law requires that the magistrate give you an opportunity to elect to go for treatment. Then if you leave the treatment situation against medical advice, we notify the courts.

SENATOR ITALIANO: Then the only other option left is the street.

COMM'R MC CORKLE: The street, probation or put them in a correctional institution. Those are the three.

SENATOR ITALIANO: But the probation has been violated now.

COMM'R MC CORKLE: Right.

SENATOR ITALIANO: So then the options are either jail or complete release because if you are going to "street" him, you are eliminating probation in effect.

COMM'R MC CORKLE: Right.

SENATOR ITALIANO: Because the probation has been violated by failure to remain at the treatment center.

COMM'R MC CORKLE: Or conceivably he could be picked up and sent back to the treatment unit.

MR. LUMBARD: One of the pieces of information that has been brought to the attention of the Legislature is information from the police departments in and around Newark - we stated this, but you weren't here yesterday - to the effect that the strength of the New York law is leading, as they see it, to addicts beginning to live in New Jersey, quickly driving across the bridge or in the tunnel to make their purchases, leave their source of supply in other words, but live in New Jersey and operate in effect in New Jersey, which means the burden of the burglaries, the thefts that they commit to support their habit is in New Jersey because of the weaker New Jersey situation, the addicts regarding the New York law - as the tough law. Now if that is true, perhaps that would be a powerful reason in and of itself for New Jersey to consider a civil commitment program.

COMM'R MC CORKLE: That's a big "if."

MR. LUMBARD: Well, it is an "if."

COMM'R MC CORKLE: If it is true - I don't know if this is correct.

MR. LUMBARD: If it is, would you think that is an important consideration?

COMM'R MC CORKLE: Oh, I would think it is a very important consideration and I am not saying that New Jersey will not at some time decide, and I may very well decide, that civil commitment is the answer. I think this is a real tough problem. I am not impressed with the civil commitment programs

I have looked at. I would like to see New Jersey do something a little different, but, you know, I never have said, this is it for all times, Mr. Lumbard. So if this is true and if it was related to the civil commitment program in New York and if a civil commitment program in New Jersey would correct this, certainly this would be a very persuasive argument.

MR. LUMBARD: Only time would be able to tell us that as experience is gained.

COMM'R MC CORKLE: Right.

MR. LUMBARD: The amount of money that is provided in the bill, one million dollars for this program, obviously isn't going to start any kind of program beyond something to gather a staff and begin to get a program for those parents who have addict children, for which there really is now no remedy in the present New Jersey system. The children opt to go home.

COMM'R MC CORKLE: I am not going to suggest that we don't need a lot of improvements, but, you know, there are places they can go. You are correct - if he says, "No, I am not having anything to do with it," then you have another problem.

MR. LUMBARD: We had the New York Commissioner, Mr. Pierce, here yesterday and he has expressed the opinion here and elsewhere that leaving the voluntary choice to an addict, especially a young addict, as to whether or not he will submit himself to the discipline of treatment almost invariably leads to the choice by the addict to leave.

COMM'R MC CORKLE: Right. I agree. I think the New Jersey experience and the proposals that we have made to make

modifications and corrections in our program bear this out also.

SENATOR ITALIANO: Along the same line, if I may, we recognize there has been an increase in the traffic of narcotics and illicit drugs and it is now becoming a real curse on the youth of our Nation. There was expressed here yesterday that perhaps the regional approach to control of this by bordering states with similar laws and tighter laws would in a sense put a lid on it to a certain extent. Do you agree with that?

COMM'R MC CORKLE: Certainly anything that you can do to provide a unified front in coming to grips with this problem is going to improve it.

MR. LUMBARD: It was Mr. Pierce who made that comment. He mentioned both Connecticut and New Jersey. New York having the problem it does and the geography it does and the general populous being as mobile as it is today, maybe he is beginning to see it as a matter of need beyond the scope of a strong state next to a weak state.

COMM'R MC CORKLE: Of course, most drugs that are used in New Jersey are purchased in New York.

SENATOR ITALIANO: This is what has been stated here.

MR. LUMBARD: But that is no comfort if the addicts are living in New Jersey and engaging in crime in New Jersey to get the money to go to New York to purchase the drugs.

COMM'R MC CORKLE: In my view it is no comfort no matter where they are.

SENATOR ITALIANO: In addition to the fact they commit a crime, the fact they are using a drug and destroying themselves

and not becoming a useful part of society - over and above the fact they do commit crimes, that they are then disturbing themselves individually and their families and everybody else connected with them. Yet they have the opportunity of going into New York, purchasing, and coming back here for the use of it because perhaps - I don't know - it has been stated that maybe we are a little looser on them than, say, New York or some other state.

COMM'R MC CORKLE: I can't speak about this. I simply don't know. This is a law enforcement problem really.

SENATOR ITALIANO: Would you say our law is looser or easier for the narcotic addict than New York?

COMM'R MC CORKLE: I am no expert in this area, but I don't think so.

SENATOR ITALIANO: You don't think so?

COMM'R MC CORKLE: I don't think our laws are any easier. Now if you are talking about -- we're not going back to the civil commitment bit?

SENATOR ITALIANO: I mean the present New York law, if you are familiar with it - I don't know - is it any tighter, more restrictive on a narcotic addict and user than the present New Jersey law?

MR. LUMBARD: Civil commitment alone is a tighter --

COMM'R MC CORKLE: Well, the civil commitment aspect that we have gone over -- I think if you strengthen the New Jersey statute, you can make ours, in my view, just as strict and hopefully more meaningful.

MR. LUMBARD: Commissioner, could the Legislature receive

from you a specific proposal as to how that might be done?

COMM'R MC CORKLE: Sure.

MR. LUMBARD: Would you supply that?

COMM'R MC CORKLE: I'd be delighted to.

SENATOR ITALIANO: We certainly would appreciate that.

COMM'R MC CORKLE: I'd be delighted to.

MR. LUMBARD: Another article in Senate 802 is a program measure as well, aside from structure, and that concerns youth. I believe you were here yesterday when Commissioner Luger from New York testified about the act and the programs under the act that he operates for the New York State Division for Youth and, as I am sure you are now aware because he said it, it is also a fact that section of 802 again closely follows the act which is set up for the New York Division for Youth. Would you comment on the program substance of the Division for Youth as proposed here and with the possibility, of course, that it could be broken out and set up as a program if it would be desirable for New Jersey as Mrs. Fenwick seemed to suggest?

COMM'R MC CORKLE: What I would do would be extend the Highfields type program we have in New Jersey. That, I might add, was rather influential in some of the things in the Division for Youth. And that would keep the people in the program identifiable in terms of being processed by the juvenile court or the criminal court.

MR. LUMBARD: Of course, this division tries to work quite substantially ahead of the criminal process. In that sense, as Commissioner Luger said, would you be for that?

COMM'R MC CORKLE: Would you repeat that please?

MR. LUMBARD: Would you be for a proposal such as the Division for Youth concept that would work ahead of the actual involvement of the child in the delinquent process, the formal delinquent process? Because the New York State program has camps which do work with children that have begun to get into trouble and are brought to the attention of various authorities, but they have not yet been formally declared delinquent and they try to forestall that.

COMM'R MC CORKLE: Right. I think in our department that should be done through the Bureau of Children's Services and again my recommendation would be to expand the Highfields type program in New Jersey.

MR. LUMBARD: I am merely trying now to find out if, as drafted, the Division for Youth provision on a program basis, not a structure basis, is acceptable or whether you recommend it or not.

COMM'R MC CORKLE: With that one change.

MR. LUMBARD: The one change being?

COMM'R MC CORKLE: That agencies can have people admitted to these youth centers.

MR. LUMBARD: You would not allow that?

COMM'R MC CORKLE: No.

MR. LUMBARD: Even though you heard Mr. Luger say that that has caused no problem in operating the New York statute?

COMM'R MC CORKLE: Right.

MR. LUMBARD: Why do you oppose it?

COMM'R MC CORKLE: I think they should be handled by a Bureau of Children's Services, which is a social welfare agency

and they shouldn't be mixed up with a correctional process.

MR. LUMBARD: Well, the point was to not mix them up with the correctional process. That is the whole thrust of what the New York Division for Youth does, to try to avoid with the class we are now talking about the correctional process.

COMM'R MC CORKLE: Oh, you are not going to have anyone here who has been adjudicated a delinquent from the courts.

MR. LUMBARD: I thought Mr. Luger made it quite clear. He testified yesterday that - we are now talking about this class - that some of the persons in their camps are children who have not yet been adjudicated delinquent. They are trying to avoid that.

COMM'R MC CORKLE: Right.

MR. LUMBARD: And they have facilities of various grades of security and involvement where children can go and be so treated and serviced.

COMM'R MC CORKLE: I stated that my position is that the Highfields program in New Jersey which requires adjudication by the court should be expanded. That other group of children you are talking about should be handled by the Bureau of Children's Services.

MR. LUMBARD: But there should be such a program. I am not trying to say who should do it at this point.

COMM'R MC CORKLE: I certainly have no quarrel with improving services for youngsters.

MR. LUMBARD: And, lastly, Mrs. Fenwick made a suggestion that there be broken out of the bill in one way or another and adopted Paragraph 55, which is a concept by which the State

would take over and handle in a unified way short-term prisoners as well as long-term prisoners, thereby the State taking over the county penitentiaries and workhouses.

COMM'R MC CORKLE: I would agree.

MR. LUMBARD: You agree with that?

COMM'R MC CORKLE: Yes.

MR. LUMBARD: Would you please just say why, so it is on the record?

COMM'R MC CORKLE: Well, I think, one, for uniformity, for upgrading the services, for regionalization of county jails. Those would be my primary reasons.

MR. LUMBARD: You would be for that portion of 802?

COMM'R MC CORKLE: Right.

SENATOR WOODCOCK: Any questions? [No response.]

Thank you very much, Commissioner McCorkle, for taking time out to come here.

H U G H E . L A N G C A S K E Y , called as a witness, being duly sworn, testified as follows.

SENATOR WOODCOCK: Would you give your name to the stenographer?

MR. LANGCASKEY: Hugh Langcaskey.

SENATOR WOODCOCK: Would you explain to the Committee what your position is?

MR. LANGCASKEY: I am the Vice President of the New Jersey State PBA, Patrolmen' Benevolent Association, and I want to thank the members of the Committee for allowing us to come in here and express our views.

I am going to be rather short. It is only going to be repetitious of possibly what the Attorney General has said and the Superintendent of State Police has said. We concur with their feelings on sections of this bill, 802, primarily the law enforcement section. We feel that we do not need a commissioner for local law enforcement. We feel the chiefs of police and the county prosecutors can administer law enforcement in their particular counties and municipalities.

Again I must reiterate what the Superintendent of State Police said, if he were given money, he could establish a larger laboratory up here in West Trenton. There is no place within this State that is more than two hours distance from West Trenton and if he had the men and facilities up there, he could process the evidence, the technical evidence, being sent into him.

Consolidation of police departments - we can't see where one man would have the power to be over certain municipalities in this State or certain townships in this State that do not have a large police department at the present time. We would suggest something similar to what they have in California and New York State. They have county police departments in the municipalities that cannot afford to maintain a full-time police department, detective bureaus and so forth. That can be established in this State.

There are a good many municipalities in this State who are not paying or providing for a police department and the urban centers are providing it for them at their expense.

If money were granted to law enforcement -- unfortunately

the Legislature last week knocked down a bill where law enforcement would have received some more money. I think we could do a much better job if we had the money. Money is the key to everything, especially in law enforcement, narcotics, and the juvenile problems. If we had the money and trained personnel, we could control some of it.

MR. LUMBARD: Mr. Langcaskey, there is no provision in here that gives the Commissioner the power to consolidate local police departments to my knowledge.

MR. LANGCASKEY: There is a provision in there for consolidation of police departments.

MR. LUMBARD: No. If you have a copy of the bill, perhaps you could look at it.

MR. LANGCASKEY: No, I haven't one right here.

MR. LUMBARD: There is one over there, I think, on the end. In S 802 on page 6 is Article 3 - Division of Local Police Services. These are the only provisions in the bill that have to do with local police departments and the intent was to set up, and I think the language provides, four areas of State services to local departments and that is all. They would just be supplementary, such as, help with training, they would provide a free management consultant service, they would establish police standards only as may be established by law, separate law, such as personnel. There are no such standards in this bill and the Commissioner would have no power independently to establish these things.

MR. LANGCASKEY: I understand. But on page 7, section (c), "Provide a general management consulting service to municipal

officials and police forces, including assistance in planning joint or consolidated local police service."

MR. LUMBARD: Optional, not mandatory - definitely not mandatory. In other words, if two small departments wanted to combine, there are technical questions involving radio frequencies, personnel, pensions, all that sort of business in getting together and if they wanted help in resolving those questions, they could get the free service out of this unit, which would assist them, but in no sense has power to mandate anything.

MR. LANGCASKEY: It hasn't got power, but it suggests here that it could be done.

MR. LUMBARD: It is a service.

MR. LANGCASKEY: It is a service that could be done and the seed would be planted and the idea would grow and they would be consolidating these police departments.

SENATOR ITALIANO: As I understand it, you presently can ask State Police for assistance in any situation now and that is what I understand this to suggest, a similar situation where a local police department can ask for the State Police to give them some assistance in any field whatsoever. Presently --

MR. LANGCASKEY: At the present time we do ask for State Police assistance.

SENATOR ITALIANO: That's right and this is similar in content, I think, and in intention.

MR. LANGCASKEY: Of course, (d), the Police Training Commission -- I don't know if you gentlemen are aware of it, but New Jersey is one of the pioneers in mandatory police training and there are numerous states that are sending in here for

inquiries about our police training commission and our police training schools.

MR. LUMBARD: This continues that.

MR. LANGCASKEY: It is mandatory?

MR. LUMBARD: It doesn't change it.

MR. LANGCASKEY: We are particularly in favor of that. We want the training of policemen mandatory and we would like to have more training, in-training. There again, the bill makes no provisions for the financing of these in-training programs and there isn't a chief of police in this state who would not go along with in-training for his men, providing he had the money and the manpower to release these men to go to these schools.

MR. LUMBARD: The bill is not a budgetary, financial bill.

MR. LANGCASKEY: I understand that, sir. I am making some suggestions.

MR. LUMBARD: In other words, you wish it would.

MR. LANGCASKEY: We wish it would.

MR. LUMBARD: I see. I have been confused then. What would you want the bill to do that it does not now do?

MR. LANGCASKEY: We would want the bill to give municipalities money so they could hire adequate personnel, trained personnel, and further their education in law enforcement, such as scholarships to local county colleges or the State colleges that are now currently giving courses in criminal administration -- criminal and police administration. There are no provisions in the bill for that. One of the biggest problems that the chiefs of police will come up with is: Where are they going

to get the men? Where are they going to get the trained personnel? Where are they going to get the salaries for these men? The Legislature is making no provisions for this.

May I offer a suggestion? I wish somebody would get the Policemen's Act of Great Britain and see how the government in Great Britain subsidizes police departments and it is not a national police department. Each local municipality has its own autonomy. But they must meet certain standards and certain requirements. The federal government subsidizes them by as much as 50 per cent. We have copied everything else from Great Britain. Why not copy something good?

MR. LUMBARD: Do you recommend the British system?

MR. LANGCASKEY: I recommend the British system where police departments are subsidized and yet they don't have a national police department.

MR. LUMBARD: Are you speaking as an individual or for the State PBA?

MR. LANGCASKEY: The State PBA has also gone on record for that, but I don't know why someone hasn't approached anyone on that.

MR. LUMBARD: The British system is 50 per cent that they also have a certain measure of control out of the home office.

MR. LANGCASKEY: Well, very little control. Certain things must be reported within so many hours.

SENATOR ITALIANO: Well, let's direct ourselves to the present bill. What are your specific objections to it?

MR. LANGCASKEY: We have objected to the commissioner for local police services. We think the Attorney General, who is the chief law enforcement officer in the State -- and I don't know whether I am right or wrong after hearing some of the testimony, but I always assumed that the prosecutor was the chief law enforcement in the county, but I understand some sheriffs claim they are -- are adequate at the present time rather than have one commissioner controlling every police department in the State or rendering assistance there.

SENATOR ITALIANO: It has been stated that this program, structurally anyway, is similar to the Federal setup now with the Attorney General.

MR. LANGCASKEY: In this particular bill the Attorney General would lose all his criminal powers.

SENATOR ITALIANO: Aside from nomenclature --

SENATOR WOODCOCK: If you are talking about a change in name --

SENATOR ITALIANO: Forget the name that we call it, but it is supposed to be similar to the Federal setup. We have a Solicitor General with civil matters and the Attorney General with criminal matters. Presently in New Jersey our Attorney General handles everything, civil and criminal. The Federal system has it divided and this is an attempt to duplicate the Federal system.

MR. LANGCASKEY: Well, I spoke to the objections that I was delegated to come down here and speak to for the members of the Association and that was all the objections that we had to it. We are not getting into the narcotic section of it because

we are not primarily concerned with what happens to them after they are convicted. That is the problem of the Department of Institutions and Agencies. We have our own problems to apprehend and turn our evidence over to the prosecutor, prosecute them, and either send them to prison or have somebody try to rehabilitate them. That is their particular problem and I assume most of those people are experts in that line. We are not experts in the line of correcting people once they are in prison or trying to rehabilitate them. All we have to do is apprehend them or detect them on the streets and then apprehend them and present our evidence to the prosecutor, etc.

SENATOR WOODCOCK: Is there anything else, gentlemen?

[No questions.]

I want to thank you very much and I want to apologize for not having been able to get you on yesterday, but you could see that the program backed up very severely in the late afternoon. I want to thank you for returning.

MR. LANGCASKEY: Thank you, Senator.

SENATOR WOODCOCK: Mr. Bates, do you want to come forward?

S A N F O R D B A T E S, being duly sworn,
testified as follows:

Mr. Chairman, Senators, Gentlemen, I appreciate the opportunity to put in my word in connection with this legislation. As you know, I served as the Commissioner of the Department of Institutions and Agencies here for nine years, and my principal object in coming this morning is to testify an approval to what I think is the form of organization which has existed in the Department of Institutions and Agencies for fifty years.

I don't want to take too much of your time but I am not prepared to take your time to comment upon the crime situation here but the main objective of this 26-page bill which is before us. I do feel that this is a time of importance because a substantial change is likely to be made in the operation of certain parts of what has heretofore been an over-all welfare program for the State of New Jersey.

As you know, the governing body in the State of New Jersey for the Institutions and Welfare Department is a board of citizens, not an individual, no matter how competent and how experienced he is. The policy of New Jersey is to invite into the operation of these important objectives the people of New Jersey. This to some extent has been a unique situation here. From the very beginning, when the

Department of Institutions was first proposed, the Board of Control was defined and is still defined in Chapter 30 of our statutes as an organization which shall determine all matters of policy and have powers to regulate the administration of any of the institutions and the non-institutional agencies within its jurisdiction, correct and adjust the same so that such institutions and agencies shall perform its proper function as an integral part of the general system. That policy has existed, as I said, for fifty years and during that time many people, many agencies, and many other States have studied the operation of the department and it has received general approval.

I can't again take the time but I have quotes here from half a dozen investigatory operations which have in no uncertain terms commended the type of operation and the type of administration. As far back as 1931, after this Department had been operated for some years, the Princeton University Survey said, "The ends of efficient administration have been fully attained in the Department of Institutions and Agencies." In 1935 the Brookings Institute, in a publication entitled "Public Welfare Organization," stated "The Public Welfare Law of New Jersey, the basic portions of which were enacted in 1918, present an integrating effort which is practical rather than theoretical, constructive rather than destructive, conservative rather than abolitionary, and natural rather than forced. Specific verbiage was employed repeatedly in the law for the purpose of locating responsibility and defining authority."

Again, some years later, a group of certified accountants studied the operation of the Department and came to the conclusion that it compared most favorably in organization, efficiency and standards to the most efficient type of commercial organization.

Again, in 1930 the Abell Commission Report found it to be not a mere theory or visionary. "It has been tried, tested and run through for more than a decade."

Again, a writer on penology, in 1939, stated. "The New Jersey System provides an organization that is as nearly non-political as is possible within the framework of popular or representative government."

And again, a noted authority on administration, Clyde White of the University of Chicago, said, "The New Jersey Plan furnishes an example of complete elimination of political interference."

As recently as 1945, the Governmental Research Institute came to the same conclusion in describing the New Jersey Department as an outstanding example of efficient administration.

As was stated here at this hearing, the mere fact that visitors have come here - and I recall the fact that during the nine years that I had the honor of being connected with this Department there were visitors from no less than thirty countries who came, referred to New Jersey either by the Children's Bureau or the United Nations, to study and examine the particular system.

Now what, in brief words, are the advantages of this particular system? They have been stated as: (a) there is a definite philosophy and policy of achieving the utmost integration in welfare services running through all divisions of the welfare work by reason of the over-all supervision of the State Board of Control of the Department of Institutions and Agencies, of which the Governor is an ex officio member.

(b) Under such general statewide policy, no one department of welfare can outstep or outbid the others," and history shows that at the time that organization was being proposed by the late Senator Morrow there was considerable objection to the competition between various types of welfare. Whichever had the most popular representative or the most popular work could get appropriations when others went without. That's what that reference is to.

(c) The resources of all institutions and agencies are at the command of each.

Next, economies would inevitably result under an integrated form of service available in all welfare institutions.

(e) The transfer of personnel is made more easy and convenient from one agency to another.- the transfer of inmates and beneficiaries and the greater facilities and services possible between institutions and agencies.

I could give, Mr. Chairman, specific examples of how this over-all united consistent policy of operation operates

to the benefit not only of the unfortunate people with whom the Department has to deal but with the several thousand employees, all of them working under civil service on a career basis but also to the benefit of the taxpayers.

There have been some intimations at this hearing that youth, for example, have changed, that certain policies which were consistent in the old days have become of secondary importance. Well, the Department of Institutions and Agencies has always held to the policy that its duty was to the people who by circumstance or otherwise were obliged to get help and support. None of us, and I am sure nobody in the Department of Institutions and Agencies, is complacent or satisfied with the crime situation today.

There are two, maybe three, important points that I would like to make. Then if you have questions, I am at your service.

The first problem has to do with the use of the committee system or the board system rather than what might even be called a more efficient system. I dealt as Commissioner with something like 20 or 22 boards. That, I must admit, doesn't make the duty of the Commissioner any easier, but at least it provides a bulwark and a resource to the people of this State who pay the bill and who are primarily interested in the people who go there or might go there. The advantage of a single Commissioner might be said to be one of prompt decisions, quick adoption of policies, but there is more to this question of welfare than just quick action.

With a board made up of distinguished people in the community, we have the opinion not of one person, no matter how able and how wise he is, but we do have the consensus of people of various types of belief and conditions. In fact, I believe the fifty years of the operation of this Department has resulted in favor of the board. In addition to the State Board of Control, there are boards for most of the institutions and agencies. In turn, those are made up of responsible citizens who, it must be admitted, have no concern but for the welfare of the people for whom they work.

It is easy to believe that a single Commissioner might have to convince people that his particular view of a situation was the correct one. Where there is a board in each of the institutions and an over-all citizen board in charge of the Department, we don't have to meet that situation. The Commissioner not only receives the support of his board but the public themselves can take comfort in the fact that that very important department, a department which has been referred to as the most important in many ways of any of our State departments, is properly carried on.

I recall specifically in the matter of our bond issues, on one occasion we were engaged in a bond issue and we lost it. We lost it because the people did not have confidence in part of the beneficiaries. We tried a second issue again, and at that time we called on the citizen boards to convince and reassure the public that this Department was properly handled, and the bond issue was passed two to one.

Three years later, after the Department had operated under the first one, a second bond issue was raised and I can remember personally making the point to the people of this State that you are not giving this money to an individual, you are not buying service, you are buying support for the institutions. And that bond issue, with the help of these board members, was passed four to one.

Now, gentlemen, I have no particular comment on the bill. I do think that the tendencies in our work today are directly toward citizen participation. This whole idea of work relief which passed the Senate the other day in one form is an example of the fact that the problem of correction can be solved better if the people understand it and cooperate with it. That is the New Jersey system and has been from the very beginning. The citizen boards and the Board of Control have exemplified the fact that citizens maintain a responsibility. Other evidences of that are being found in correction generally.

Now, there is just one more thing and that is the reason why the rehabilitation effort of the State should be in the hands of people who are trained in and who believe in and who have had successful operations in rehabilitation. As I see the matter of crime, there are two important points. The first is to find a man guilty and the second to do something about it. This has to be remembered: The police department, the criminal justice department and the department of law enforcement find and mean to find only one thing - discover the criminal and find him guilty. In finding him

guilty, the laws of evidence provide that he shall know only - Did this defendant commit the crime?

When it is determined by legal and by police methods that a crime was committed, it is an entirely different proposal, an entirely different job, to find out how to prevent recidivism in this case. How perhaps to arrange the rehabilitation system so that we can restore the individual. That takes a different type of individual. It takes a different type of experience.

The third point I wanted to make was as to whether there is a difference between young people and older people. It is true and it's hard to deny today that much of the crime is being committed by youngsters. It is also true that the attitudes and the convictions in the minds of law enforcement people, as well as people who call themselves penologists, is that if something is to be done about it, a different kind of treatment is required for those of immature age and those who are steeped in crime.

If that is true, and I believe it has been testified to in the courts, because beginning with the Juvenile Court Act of over half a century ago, the courts have maintained and have approved the distinction in treatment of children or young people with those of mature age. Now, as to where it stops and where it begins is a question of particular difficulty. I feel certain that the people of this country, not only in this State but others, are still confident of the fact that you cannot treat youngsters and boys and kids with the same kind of rigid treatment that is given in the

case of the experienced criminal. That's the reason, it seems to me, why this work with youth should be kept under the shadow of a department that believes in rehabilitation and not be made a part of the crime activity of the State. I don't think that the time has yet come when we can change this long-established belief in the courts that a person under a certain age cannot be guilty of a crime. This act perhaps could define a little more accurately what youth is. In one part, youth is from 15 to 17 and in another part from 17 to 21, but whatever the age is, I thought it was permanently established that once the adjudication is made, the treatment of youngsters should be different from those of accomplished criminals.

I have worked with the Boards of Managers. I know them to be conscientious, hardworking men devoted only to one purpose; namely, the success of the institutions of which they are a part.

Whether there is to be this division of the Department into one part which is remotely connected with crime, and the other part which is not, is for you to decide. In my judgment, it would be a bad mistake to destroy the philosophy, the experience which has been built up here in this State in fifty years and at the same time take any chances as to whether the same policies of rehabilitation may exist in the future.

I, therefore, plead that whatever is done in the quest of crime prevention, crime arrest, and termination of crime, the experience that has been tried and tested and found useful and that has been approved by all the agencies who studied it

it, be not disturbed, but New Jersey shall continue to be proud of its great Department of Institutions and Agencies which is, after all, the people's department, for the people, by the people, and with the people of New Jersey.

Thank you very much, gentlemen.

SENATOR WOODCOCK: Are there any questions by the members of the Committee?

[No questions].

Thank you very much, Commissioner Bates, for coming down here and giving the Committee the benefit of your observations, facts and opinions. Thank you, sir.

I think we can now recess for lunch, and we will be back at two o'clock sharp.

[R E C E S S]

SENATOR WOODCOCK: We will call Commissioner Ylvisaker.

P A U L N. Y L V I S A K E R, being sworn as a witness, testified as follows:

Thank you very much, Mr. Chairman and Members of the Committee. If I may, I would like to start by reading a very short statement and I would be very happy, after reading that, to answer whatever questions you might have.

First, thank you for inviting me to present the views of the Department of Community Affairs on Senate Bill No. 802, a bill which would create a Department of Criminal Justice. I would like to direct my testimony today primarily to two provisions of the bill: first, the creation of the Division for Youth and, second, the Division of Narcotics Addiction control.

Let me refer first to the proposal for a Division for Youth which is modeled on an agency created by New York State. At the outset, I would like to correct an erroneous impression that has appeared in print, namely, that we oppose this legislation because it would transfer the Division on Youth from the Department of Community Affairs to the proposed Department of Criminal Justice. This is incorrect. As you know, no such transfer is included in this legislation. In fact, Senate 802 states that the new Division for Youth would work in cooperation with other agencies, including the Division on Youth, which would remain in the Community Affairs Department. We intend in the Department, as I know you intend, that we continue to work constructively and aggressively with the

younger people of this State to make certain that their energies and their idealism find expression in the growth and wellbeing of our communities.

Our major objection to the proposal at hand is that it is based on a concept that is new and alien to American jurisprudence and that is that a person, in this case a child, can be committed to an institution and treated for all intents and purposes like a criminal without ever having been tried. The bill is based on the notion of preventive detention, and it sets no clear standard for determining when a young person is subject to such detention. The Commissioner of the proposed Department of Criminal Justice would be given discretion to refuse to admit a child at a "youth center" when he feels that that child would not benefit from the programs conducted by the Department. Using this discretion, it is conceivable that a Commissioner could operate the law equitably, but he could also do just the opposite.

A child would become subject to this new system when he is referred by what the legislation calls an "authorized agency." The child need not have committed any crime, broken any law, or violated any social standard except those established by the "authorized agency." Thus, the identity of these authorized agencies becomes very critical. The definition of the bill is very broad. It includes legally-approved adoption agencies; institutions supported or controlled by the State, counties, or municipalities; and civic organizations which consent to inspection and supervision by the Division of Welfare in the Department of Institutions and

Agencies. This is a wide range of public and private bureaucracies now granted the power to involve young people in the coils of a procedure that may determine their fate for the rest of their lives. And the only rescue point in that process depends on a determination by the new Commissioner that the child would not benefit from the proposed program.

It is true that the consent of a parent is also necessary to initiate the procedure, if indeed a parent is alive. This is not as much a protection as first glance might indicate. When an "authorized agency" decides it would like to have a child sent to a youth center, it could extract consent by confronting the parents with juvenile court proceedings as their alternative choice. In many cases, the child's parents may be even less interested in safeguarding the child than is the authorized agency.

The bill also presents some grave difficulties from a constitutional standpoint, because of the decision of the United States Supreme Court, In Re Gault, 387, U.S. 1 (1967).

The proposed legislation does not spell out the kind of procedural safeguards the Supreme Court seemed to demand in the Gault decision. Its definitions are vague to the point of unconstitutionality. It permits a parent to waive his child's rights without judicial supervision. It would permit a child fifteen to eighteen years old to be detained in a residential center for up to two years without the necessity of a finding of fact by the juvenile court judge. There are other defects, some more easily reparable than

others. Our Office of Legal Services has prepared a lengthy analysis of these features of Senate 802 and a copy can be supplied to you if you should like it.

Even if all the technical and constitutional deficiencies were cured, the question remains: Would the program outlined in Senate 802 work? Would it prevent young people from violating the law? The answer could well be "no."

First, the bill commits the State to a prophecy that would be self-fulfilling. By labeling a young person a potential delinquent, we increase the probability he will become one. The Task Force on Juvenile Delinquency of the President's Commission on Law Enforcement and Administration of Justice reported: "The evidence suggests that official response to the behavior in question may initiate processes that push the misbehaving juveniles toward further delinquent conduct and at least make it more difficult for them to re-enter the conventional world."

Second, there is no showing that the proposed youth centers would be any more successful in preventing future delinquency than are our present reformatories. The legislation tells us that young people at these centers will be trained and offered services in "conservation, civil defense, disaster relief and other similar projects." We are not given evidence that these skills would prepare these young people for the day they will return to the streets of the cities where most of them live.

Third, the bill promises more than it may be able to deliver, even under the most favorable circumstances. A good

institutional program which deals with a specially selected group of children, that is, those who are first offenders without serious psychological problems, costs about \$3,500 per year per inmate. A residential youth training program, which prepares a young person with some skills and some education for urban living, costs approximately \$6,500 per year per inmate. Even using the minimum cost figure, the \$500,000 provided by Senate 802 would take care of less than 150 children. When you consider that in Essex County alone, more than 6,000 children a year come before the juvenile courts and almost 500 of them are sent to reformatories and State homes, you can see that Senate 802 could start us down a very expensive path if it were to become a widely-used alternative to our present system. These heavy costs may be justified. But they have to be justified and they have to be stated before the taxpayer can fairly be asked to pay them.

Summing up then in the first part: Though wrapped in benevolent concern, the bill commits us to another form of juvenile detention - a most expensive and still unproven method of combating delinquency. It does this on the dubious premise that the delinquents of the future can be spotted early and subjects them to a procedure that is constitutionally defective.

Now let me turn to the proposal for a Division of Narcotics Addiction Control. Our position on this provision is similar in some respects to the view presented on the Division for Youth. In many respects, however, Senate 802's

approach to the problem of narcotics control is less objectionable. It certainly is sensible to ask that the various programs being conducted by the State be properly related and coordinated. However, I do have serious doubts that a Department of Criminal Justice is the best place for such a coordinated effort. Let me add quickly that I don't think the Department of Community Affairs is the right place for such an effort, either. While little is known for certain about how to stop addiction, we have a considerable body of knowledge about what will not work. Much of our traditional thinking just does not stand up under close scrutiny.

It may be that narcotics addiction could be more effectively combated if it were treated as an illness instead of as a crime. Given the lack of certain knowledge, we should keep our options open. We should not commit the State too heavily to one strategy of treatment and rehabilitation, as Senate 802 does. By placing primary emphasis on institutionalization, which can range from one to two or more years in prisons or hospitals, the proposed legislation would seem to preclude the potential benefits of other medical rehabilitative approaches which have gained the support of many leading experts.

By removing the addict from the community where he must eventually return, the institutional approach - if that is really all that's contemplated here - renders him less capable of coping with the problems of living in his own environment. Several studies, including one conducted at the Federal Hospital in Lexington, Kentucky, have failed to show any positive effects for long-term institutionalization.

It is a simple fact that the cost of institutionalized treatment is considerably higher than approaches which rely on community-based treatment. This is especially true when a statute tries to comply with the requirements of procedural due process. The present version of Senate 802 is based on New York legislation, parts of which were held unconstitutional by Mr. Justice Keating of the New York Court of Appeals in recent weeks.

Incidentally, Senator, I would like to say at this point that in a letter to you earlier, I regret an error in that letter that I would like to state here and make it clear. That letter actually was to Senator Forsythe acting as Chairman of the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. I there stated incorrectly that an addict could be committed solely "on reasonable grounds to believe." This I now find is inaccurate, and I am happy to find that it is inaccurate because if it were the other way around, I think my original anger might have been justified. The standard of evidence applies only to referral of the alleged addict to a medical officer for a medical examination. It does not, however, go on to the soundness of other constitutional questions such as those raised by Mr. Justice Keating in his recent decision.

We would be, and have been, well advised to await further results from the whole New York experiment before committing New Jersey so heavily to the pattern they are just now testing - and not yet with dramatic or unmixed results.

While the courts are, for the moment, allowing States to proceed with compulsory civil commitment, they have raised two caveats which must be watched. First, there are procedural restrictions. The lack of a hearing before a judge and subsequent to arrest was the basis of that recent New York decision. No doubt these and other procedural difficulties can be overcome by amendments to the proposed bill. Among such "remedial" defects are the failure of the bill to define who or what a narcotics addict is, to provide a determinate sentence, and to provide hearings at the right points. There is, however, a large hidden cost, and that is a considerable increase in the need for assigned counsel which will be reflected in the budget of the public defender, along with increased expenses in the judiciary. These costs cannot remain hidden. They may, in fact, turn out to be substantial enough to force a reappraisal of the legislation and the approach now before you.

The courts' second caveat, however, is not so easily met, especially in a Department of Criminal Justice. The approach of civil commitment is being used basically to circumvent a Supreme Court decision of 1962, which held that it was cruel and unusual punishment to convict a narcotics addict of a crime, simply because of his status as an addict. As a result, a legal reason was added to the medical and sociological reasons for dealing with addiction as an illness and not as a crime, and for using the device of civil commitment - a device also used with the mentally ill. However, In Re Gault and in other cases, the courts have begun to look behind the label.

The purpose of the Department of Criminal Justice is to control crime, not to treat illness. Its facilities will almost certainly reflect that purpose, and, as a consequence, the constitutionality of this program may well be called into question.

The courts have also begun to ask whether treatment facilities are indeed made available following commitment - facilities which would justify these extraordinary and exceptional procedures. If medical and psychological facilities are not in fact available to the addict when incarcerated, then the courts may simply decide the program is an attempt to jail addicts and not to treat them. For this reason, I would strongly urge that it is neither prudent nor effective to place this division in a Department of Criminal Justice, nor is it honest to all parties concerned not to appropriate sufficient funds to carry out a meaningful program of rehabilitation and treatment.

I would like to add at this point that when I was with the Ford Foundation, we worked very closely with the leaders of New York State, Governor Rockefeller and his staff, in working out the Division of Youth and its program at that time. I want to say for the record that I am extremely impressed with the way New York State has moved in these fields - a lot of imagination, a lot of determination, good staff - and I think the results are going to be worth watching. I say that constructively.

I think, however, that we in New Jersey have to be careful about borrowing too quickly or without the controls

suggested here some of the devices that they are experimenting with.

Number 1, the State of New York has placed its Division of Youth directly underneath the Governor so that he is now within the Division or Department of Law Enforcement.

Second, the State of New York has made extraordinary efforts financially and otherwise working in the youth field to support the kind of experiments they are trying with these detention camps, these special youth centers. They regard this still as an experiment. They are encouraged and I am encouraged by some of the results that are flowing from these camps. But I think that in New Jersey we have got to recognize that we have not provided either the setting yet nor the financial outlays nor the staff so that one could quickly borrow this and place it in our situation. I tried to indicate here that the costs are considerable. I, as a parent of four, including some rather rambunctious young kids, would be quite reluctant now to agree to this proposal unless I were certain that those camps were adequately financed and the procedural safeguards were there, So I am trying to talk to you as a parent as well as a responsible State official.

In summary then, Senator, on both major provisions of the bill, the legislation would take us into new ground where the constitutional safeguards are exceedingly flimsy, where effectiveness is doubtful and costs are high.

One looks in vain for the careful definitions, the procedural cautions, and the evidences of constructive concern that would convince a judge, a taxpayer, a parent, and our

younger citizens that the purpose here really is to help and to heal, not simply to punish and put away.

Thank you very much.

SENATOR WOODCOCK: Mr. Lumbard, do you have any questions?

MR. LUMBARD: Commissioner, thank you for your statement.

How would S-802 run afoul of the Supreme Court's decision In Re Gault which you discuss on page 3 of your statement, if the parents have consented, if the child consents, and if there is no labeling of delinquency and the whole thing doesn't go through the criminal processes of police and prosecutor?

MR. YLVISAKER: Will it be all right if I ask Mr. . Bing of our legal services to provide the background here.

MR. LUMBARD: That is up to the Senator.

SENATOR WOODCOCK: Go right ahead.

MR. LUMBARD: Since you are doing that, Commissioner, the purpose of my question -- I recall now that you are not a lawyer - but the purpose of my question is that Mr. Justice Fortas' decision In Re Gault was concerned with the delinquency, court and context, and concerned itself with (1) the right of counsel which is present in New Jersey anyway, and (2) with whether a child under those circumstances had the right to claim the privilege against self-incrimination, which by definition is not involved in this kind of child.

Would you like to swear Mr. Bing?

SENATOR WOODCOCK: Yes.

S T E P H E N B I N G, being duly sworn,
testified as follows:

Senator, Mr. Lumbard, I am sure you didn't mean to omit another requirement that Gault placed on juvenile proceedings.

MR. LUMBARD: Mr. Bing, people can't hear you.

MR. BING: The Gault case also indicated that fair notice had to be given to both child and parent before such child's liberty would be deprived.

MR. LUMBARD: Of course.

MR. BING: I know you were correct in stating that Mr. Justice Fortas carefully limited his decision to delinquency proceedings in which institutional commitment is likely. The clear intent of that opinion in the context in which that opinion was rendered leads me to believe and leads, as apparently the testimony indicated yesterday, the Attorney General to believe that certain provisions of the referral mechanism in this bill were unconstitutional. Number 1, there is a provision that allows the Superior Court, the County Court, and the Juvenile and Domestic Relations Court, upon the request of an authorized agency, upon such notice as the court shall in its discretion prescribe, to refer a youngster to one of the centers. It seems to me that this is very similar to an ersatz delinquency proceeding and none of the rights that were attendant or demanded in Gault applied.

Now you may again respond, well, this isn't a delinquency proceeding, but I would urge you to look not only

to the bare holding of that case but also to the language which Mr. Justice Fortas used. That case - cases raising the issues of constitutionality of commitment of mentally ill people - as Professor Archibald Cox, former Solicitor General, indicates, the court has now begun what is called the functional analysis, and they will no longer be satisfied with merely looking at what label the Legislature decides to put on a particular proceeding, but indeed they will look to the consequences of that proceeding, they will look at the cost to society of any particular right which they will give, and the function of that right in any particular hearing.

Now, you have said what difference does it make if the parents consent. There is no clear indication from Gault other than Mr. Justice Fortas indicated that complex questions of waiver, I believe was his language, -

MR. LUMBARD: Yes, but he -

MR. BING: When a parent consents, in this particular mechanism, it seems to me that this is a waiver of his child's rights. If you will accept that the court is beginning its functional analysis, and indeed they will look to the fact that this bill allows for two years of deprivation of liberty. If you are not persuaded, we might draw your attention to Duncan vs. Louisiana, which requires that when it was possible for a 2-year prison sentence for simple battery, the right to jury trial simply must be given. And, in fact, that case induced our Legislature to amend our disorderly persons statute to reduce the sentence there from one year to six months.

Now it is by no means clear, of course, until this case comes before the court, whether the consent provisions will stand. I think not. Proceeding on that line, this bill calls for - if a person is adjudicated a person in need of supervision by the juvenile court, he may be referred to one of these youth centers. As I am sure you are aware, no such statutory mechanism exists in New Jersey. It does exist in New York, and it exists by virtue of statute in the New York Family Court Act. New York Family Courts have jurisdiction to adjudicate people in need of supervision, and the New Jersey Juvenile and Domestic Relations Court does not. And again it is unconstitutional not only under Gault but under previous cases which have stated what kind of standards and what kind of notice have to be given before one's liberty is deprived.

Now Gault, if I may, Mr. Lumbard, very clearly rejected three theories of juvenile proceedings.

MR. LUMBARD: Juvenile Court proceedings.

MR. BING: Yes, sir. The first one is the parent's patriae theory, on which this bill proceeds, I believe.

MR. LUMBARD: What theory?

MR. BING: The parent's patriae theory.

MR. LUMBARD: And you say this bill is based on that?

MR. BING: It apparently proceeds on that in that it looks to the best interests of the child, and it states that his behavior should indicate that he would benefit. That is the kind of language that has been found in many juvenile court statutes, and so I am led to think that this is the theory that the Legislature wishes to follow. If not, if the Legislature

is using its inherent belief power, then I think the bill would be even more suspect.

MR. LUMBARD: Well, there are other alternatives. But in any event, you are expressing your legal opinion to this effect.

MR. BING: Yes, sir, and also the -

LUMBARD: Commissioner, do you adopt that on behalf of the Department as a departmental position?

MR. YLVISAKER: Mr. Chairman, as well as Mr. Counsel, I think we could engage here for a long time in legal repartee. I am satisfied that there are enough legal questions, constitutional questions, that can be raised about the procedure as presently set up and drafted strongly to recommend to the Legislature that you put the best counsel possible on to this to make certain that the language is tight and that the procedures are fair.

Now I want to go beyond that.

MR. LUMBARD: I was going to suggest that we go beyond the constitutional opinion to the substance of the programs, because that is really what the issue before the Legislature is, now that you have pointed out the constitutional position which you hold. Because if there is no merit to the proposal, then we don't have to worry about the constitutional provision. If there is merit, then we can clean up the constitutional provision. So what counts is the program.

MR. LYVISAKER: Then let me go back to that. It is interesting that the framers of the New York proposal for youth centers borrowed from New Jersey. They have taken the

idea from Essex Fields and High Fields. Actually at the Ford Foundation, we found that the High Fields experiment which was innovated here by Commissioner McCorkle to be one of the best breakthroughs we had seen anywhere in the nation. As a matter of fact, people came in and asked me to look at High Fields and Essex Fields.

One of the sad things that happens is that you get a good experimental program and then nobody makes it more than experimental. It often happens too that, as in this case, another State borrows an idea that one State developed but did not carry on.

Now the Essex Fields and High Fields approach has now been built into the New York thing - very good. It makes another point that I was making before. New York has gone far beyond what New Jersey has done in working with its youth preventively and also in terms of detention and correction.

I would argue as a parent and as a public official that the State Legislature now has to begin making the commitment to provide the kind of funds that are necessary for quality programs. As it presently stands, I think the counsel will agree with me, if we should immediately put this in with only a five hundred thousand dollar appropriation, then we are in the position of having a process which be given the public's feelings right now - a judge, a lawyer, an authorized agency will be compelled, almost compelled to use, whether or not the facilities to which you send these kids are really adequate.

MR. LUMBARD: Well, Commissioner -

MR. YLVISAKER: If I may continue, it is entirely possible to carry on a quality experiment of this kind administratively now without a piece of legislation, and I would argue it is very important to do this out of the context of law enforcement and all that goes with it right now.

This is what New York State did. It started really as a constructive executive experiment removed from the immediate context of the law enforcement agencies.

SENATOR WOODCOCK: Commissioner, assuming that we were to remove the law enforcement section, let's talk about this program of youth. The problems of money, we are all familiar with that, both from your end and our end. But I think that what we would like to hear from you is the concept of treating children in a preventive or from a preventive standpoint rather than waiting until we get them before the Juvenile Court.

MR. YLVISAKER: Well, I think the basic idea here makes a considerable amount of sense. Here is one of the things that I would watch - the self-fulfilling prophecy. We ought to have very close controls and, when you refer a kid - a kid may be just going through the kind of pranks that you forgive him for and he comes out the other end, and communities can get awfully nervous about a kid who does something and send him too quickly to one of these camps.

Let's assume, however, we are dealing with a legitimate

case, with a kid who hasn't got a record, hasn't been up before the Juvenile Court, who has pulled one or two things that the local police and some of the community think really ought to be watched and this fellow could gain - maybe he's got a broken home or whatever.

MR. LUMBARD: That's the boy for this program.

MR. YLVISAKER: This is the point we are making: You haven't drawn it tightly enough to make certain this is the boy. You could ring in a lot of others. But may I go on. Now, let's say we are going to have a facility to which this kid can go. I know that New York State went through a certain lot of agonies here. First they segregated those kids who were judged delinquent; that is, adjudication - some of them who were referred by other agencies, who were the mere cases of delinquency or truancy. More recently, I understand, they have put them together without some of the problems that I would fear abstractly; that is, that you are identifying the kid who isn't judged with the fellow who is. They have been able to get this kind of a mix, and I would trust their experience so far that maybe you can get away with that. The important thing is that when the kid does arrive at one of these camps or one of these centers, that you've got the kind of personnel that are likely to bring them out the other end constructively, rather than, you know, they get into it and start becoming rescidivists.

This means also, looking at the programs, we too easily - I come from the agricultural Mid-West where the CCC was a great thing during the nineteen thirties. A lot

of my friends went into it and came out much the better for it. There is also a kind of agrarian tone in much of our thinking. We kind of figure that if the guy on the street gets into trouble, he is going to be all right if he goes out on the farm, and that if we put him out in the woods or whatever, nature takes care of what you can't handle.

Remember, this kid has got to come back to those streets and he has got also to be equipped with skills that are going to get him jobs, not just in factories but in service industries, clerical jobs, and all the rest of it. We ought not to just get him out of our sight, out to the woods where he is very far removed, without making certain that when he is there he is learning something that when he comes back really makes sense. We ought also to have something else which we are developing here in Trenton and in other places. I begin to wonder whether we ought always to send these kids away. Yes, pull them out of their peer group which is hanging out on the street corner, but these kids sometimes can be handled much better in their own communities. The Trenton program this summer, where we had the kids working up here along the canal, and I invite you all to go up and take a look at what those kids really did - 14 and 15-year olds, many of whom were involved in the disturbances last spring - they walked from home to this job and from the job back to home. Eighty per cent of them stayed on that job; they walked sometimes 30 minutes back and forth for a relatively low rate of pay. They got a community morale up there. People

from the community up there began saying, "Look, those kids are really doing something worth while," and they began to see those kids in the context of another form of behavior. Now if that kid just disappears for two years and then comes back to the street, he is still a marked kid and probably even more marked. I would, therefore, argue that this experiment or this kind of program - and it would be much cheaper to do this - ought also to be working right in the community where the kid is, where he's got the support of the family and other known associations around him.

SENATOR WOODCOCK: Well, is there anything in this bill that would prevent that kind of a program being developed in this Department of Youth?

MR. YLVISAKER: No, I think not. I was nervous that we were pointing too quickly to the New York experience without relating it here. But I would also suggest, Senator, that maybe some of us ought to do some cost figuring for you to say that if you launch an experiment like this, this is what you will need to do the job.

SENATOR WOODCOCK: Well, assuming that that be so, the real question is, should we do it?

MR. LUMBARD: Commissioner, most of what you say is a series of very well-taken cautions that if you do this, you must watch out for this and watch out for that, all of which I am sure we would agree, but the Legislature, I am sure, is not in any event setting up the program on the assumption it will not be well done. So if the future administrator, let's say, is now properly cautioned by you, what is the judgment as

to whether or not the program should be done? That is still the essential question.

MR. YLVISAKER: Some version of this program makes an awful lot of sense. I would make the point over and over again, though, that yesterday we talked about the Maffia and today we talk about kids, who may or may not be delinquent kids. We are putting it into the umbrella of thinking, and the whole arrangement where you are stamping the kids you are going to work with on a pre-delinquency basis as though they were part of the Maffia, the whole operation; they are part of a department which has got to be much tougher than many of us have been, and law breakers - that's going to be the whole tone of it. But you're in business here with kids on a pre-delinquency basis. So I would say why don't we have hearings maybe next week or two weeks from now on this, while you also go to work on the other problems that you have.

MR. LUMBARD: If we are assuming you think there is validity that is expressed in the Youth Article of Senate Bill 802 but you would prefer that the program be somewhere else, then the question is where else should it be?

MR. YLVISAKER: There are a number of facets to this. You've got now the kid who was judged delinquent and probably is a rescidivist.

MR. LUMBARD: You have several different screens of children.

MR. YLVISAKER: That's right. With those kids, I don't think my department ought to be directly affected. We are presently, however, working in our Division of Youth and other

activities precisely along some of these lines. We can use some of the procedures perhaps and the safeguards suggested. But I would think that the Department of Community Affairs with its emphasis on the kids would be a much more appropriate place than the Department of Criminal Law Enforcement.

MR. LUMBARD: Operating physical facilities?

MR. YLVISAKER: Yes, and I have no great ambition to take on some of that work. It may well be that Commissioner McCorkle, Commissioner Male, Commissioner Roe might underneath their programs be the more appropriate persons to handle the physical facilities, but I would certainly want our group to be effective with the whole program as it develops.

MR. LUMBARD: Well, essentially on youth - and would this be a fair statement - that you believe there is merit to the program with procedural safeguards, and the aspects of it which do not deal with the found juvenile delinquents should be in your department, and those aspects which deal with found juvenile delinquents should be in Dr. McCorkle's Department? Is that a fair summary?

MR. YLVISAKER: Let's start with the program and back up the administrative arrangements. If you see my point, I don't think that here we ought to make snap judgment about who ought to be running what. I would like to talk about the nature of the program, the safeguards, make the point that it ought to be removed from the context of law enforcement and the present way it is being associated, and then I think we can work out the administrative arrangements afterward.

SENATOR WOODCOCK: Commissioner, we have had some testimony here that it would be quite difficult to work out that kind of administrative setup if you have to go from one department of government to another, that there would not be this inter-departmental cooperation that this would seem to require.

MR. YLVISAKER: No, I don't think you need to do the programs you are talking about. You don't need a Department of Criminal Law. We can do all this under present arrangements and, as a matter of fact, are doing it under present arrangements.

MR. LUMBARD: You mean without statutory changes of any kind?

MR. YLVISAKER: We could presently take these kids right now from authorized agencies.

MR. LUMBARD: In physical facilities?

MR. YLVISAKER: With parental consent.

MR. LUMBARD: You don't need any statutory authority to operate physical facilities for youth?

MR. YLVISAKER: If we do, we can get that statutory authority. I'll leave that an open question to counsel whether we need it or not, but we don't need a department, a new department, to do this particular job. We can do it presently if you give us the legal authorization, if you decide as lawyers that we need it. We need money, however.

MR. LUMBARD: Well, one of the thrusts of what is before the Committee is structure. It is inescapable under the proposed Senate 802. There are two sides to 802 - one is structure; namely

the whole department and, two, the various programs and suggestions that are embraced within 802. And it's pretty hard for the Legislature, it seems to me, to make a decision on 802 without necessarily concerning itself with structure. What you are suggesting could be interpreted perhaps as further fragmentation, because you do not now operate physical facilities. Is that correct?

MR. YLVISAKER: We do not, although in the summertime, with the cooperation of other departments such as Commissioner Roe, we have had kids who have been sent out by the day. We also can put them in other kinds of camps, as we did as a reward to those kids we were using on the Trenton youth project this summer. They had the last five days out at camp, which was a tremendous experience, by the way. This meant that we could use the other kinds of camps, not necessarily these day centers.

But the point I'm making here is that I don't think you can justify establishing a new Department of Criminal Law merely to attain these results. These results can be attained now, if you wish, with a statutory authorization, some more appropriations, and, if you also wish, a clear administrative assignment. But we would be perfectly happy to take on the nature of the program that I'm suggesting.

MR. LUMBARD: All right. May I continue with a few questions. You made an offer that your counsel or someone would supply a memorandum of comment upon the bill. I'm sure the Legislature would like to receive that memorandum

or any other material that you wish to supply. You mentioned in your statement on page 3 that by labeling a young person a potential delinquent we increase the probability he will become one. I wondered if there is a provision in the article in Senate 802 that does in fact label these people juvenile delinquents. I am unaware if there is, and perhaps that could be a --

MR. YLVISAKER: Let's give you two answers. First, I'll give you the legal answer and then I'll give you the more general answer.

MR. LUMBARD: Well, if it's a legal answer, the bill could simply be amended. So what is the other answer? I am unaware of a labeling provision in here of juvenile delinquency, in Senate 802.

MR. BING: There is no explicit labeling as such because of the broadness of the bill in which kids have been sent to the residential centers as a condition of probation with no safeguards in the bill that they will be segregated from children who are there not as a condition of probation. The inference to be drawn, it seems to me, by the child is that someone considers him predelinquent if he looks around at whatever are the facilities and the person next to him has come from the Juvenile Court and he has come from an authorized agency. The inference, so far as the child is concerned, is reasonably clear.

SENATOR WOODCOCK: But legally there is nothing in this bill that would label him as a juvenile delinquent.

MR. LUMBARD: It is your implication, and you are

saying that the children would so imply also.

MR. BING: I would say that on the basis of my experience. I represent -

SENATOR WOODCOCK: That is not a legal conclusion drawn from the language of the bill?

MR. YLVISAKER: It's a possibility that's wide open if the program were run in a lousy fashion. It's an emotional-

SENATOR RIDOLFI: Well, Mr. Chairman, isn't that something we can clear up by the language of the bill?

SENATOR WOODCOCK: I understand that, but the point was -

MR. LUMBARD: The statement of the Commissioner said "by labeling a young person a juvenile delinquent."

SENATOR WOODCOCK: I don't think there is any labeling in the bill itself.

SENATOR RIDOLFI: It's rather by implication.

SENATOR WOODCOCK: Right.

MR. YLVISAKER: There's no adjudication there or anything of this kind. I think the fact that this bill sets up a department with a Commissioner who will make these determinations, since it is a Commissioner of the Department of Law Enforcement, or whatever, it is pretty clear to the neighborhood that the kid is in the meshes of the law already.

MR. LUMBARD: Commissioner, of course, it may be something that was done deliberately in the drafting of the bill, but it may not have come to your attention. The Division of Rehabilitation would embrace all those aspects

of youth, children, juvenile delinquents that are now in Institutions and Agencies. However, a separate Division for Youth is proposed in 802 to clearly distinguish those youth under a separate Assistant Commissioner from the rehabilitation grouping, the significance of which would be up to the Commissioner whomever he might be, to carry into reality or not, leaving him some administrative discretion.

MR. YLVISAKER: That's why I want to talk now not as a lawyer but just talk as a parent. Your kid has engaged in something that somebody recognizes as not entirely abstract. He has probably engaged in something that has upset the community. Somebody in that community then refers, an authorized agency - it could be the school principal in that particular community. He gets mad one night and calls up and he refers this one into the Commissioner's Department. The community now knows where the line is going. That kid has now been publicly identified as somebody worthy of attention of the Commissioner of this department which tomorrow is also handling problems of the Maffia or handling problems of corruption, is getting tough, which probably ought to be the case. Now he makes the determination as to whether this kid should go to the Center. Is that correct? The kid now goes to that Center. Everybody in that community makes only one conclusion, whether it's a court action or anything else. That kid is adjudged a lawbreaker.

MR. LUMBARD: Commissioner, that's true of any kind of facility where you keep children. As Justice Fortas said

In Re Gault - the label "juvenile delinquent" has come to mean something other than desired, but it's really inescapable. If you put him in a facility, it's very hard to avoid somebody making some kind of implication, even if it's in your place - the State's got him.

MR. YLVISAKER: But is it necessary that that determination should be made by the head of that Law Enforcement Agency. This I think is a serious question at issue here. I would say that that determination could be made by other procedures not so clouded by the criminal process.

MR. LUMBARD: And you would prefer that it be in your department?

MR. YLVISAKER: I'd like to do some more thinking about where this ought to be or how it ought to be done, but I don't think it ought to go through that channel.

MR. LUMBARD: Well, could you, say, in several weeks let the Legislature know your thinking in that regard?

MR. YLVISAKER: I would be very happy to. Here is, for example, one way we could handle it. Let's assume -

MR. LUMBARD: Excuse me. Just so we can clear this: I am under the impression that the transcript of these proceedings will be available in the reasonably near future and you could then consider your recommendations in view of what has happened here during these whole proceedings, including the testimony, I might add, yesterday of Commissioner Luger of the New York State Division for Youth who came here and gave us the benefit of their experience under this provision.

MR. YLVISAKER: And their experience, I'm glad to

report as to the mixing of these kids has not been as adverse as I would have probably guessed, speaking abstractly.

Let's put it this way: If the Legislature now indeed thinks that this kind of program makes sense, that we ought to have experimental centers for kids, some of whom are just on the edge and we think we can save, this could be done, as I mentioned before, probably with that single legal authorization for us to run residential centers and then by the appropriation of funds adequate to do this job.

Now on referrals, these referrals can come quietly from many different directions. I think with the trouble going on in our schools in Trenton right now, it would be a very smart idea to strengthen the guidance counsellor position in many of these schools. As I have checked into these schools, it's rare that you get guidance counsellors who have got the sensitivity to deal with these kids as we want to deal with them right here.

Now if you planted able, sensitive people in the school system right now and probably paid for them out of some extraordinary educational funds. they could be the feeder for centers of this kind. And I'm not so sure it even requires - you'll have to tell me how much legal authorization is required, whether you have to excuse from school attendance, and the rest of it.

MR. LUMBARD: You might get into as much of an authorized agency problem that way as the other way that

you talked about before.

MR. YLVISAKER: Well, if we do and if law is necessary, certainly we should put in all those safeguards that we talked about.

MR. LUMBARD: Well, Commissioner, we will see if there are any other questions on Youth, and then we will return to narcotics.

SENATOR WOODCOCK: Are there any further questions by members of the Committee? [No questions]

MR. LUMBARD: Could we turn to narcotics addiction now, which is the other side of your statement, which is really broken into two broad parts. On page 5, Commissioner, you mention "We should not commit the State too heavily to one strategy of treatment and rehabilitation, as Senate 802 does."

Is it not possible under 802, in view of the article on narcotics rehabilitation, that indeed a number of possible programs could be operated under the language, not only of that but also keeping in mind, Commissioner, that brought into this bill 802 would be all the present statutory authorization that now inheres in the corrections area and otherwise of Institutions and Agencies. So you would have the specific new language that is in the article on narcotics in 802, plus other authorization presently in the law, all of which might be interpreted to provide a very broad range of alternatives.

MR. YLVISAKER: Well, let me back up just a bit and then I will come directly to your question. There are two concurrent ways of handling the problems of addiction. One is to go after the guys who are peddling this stuff.

MR. LUMBARD: Who are what?

MR. YLVISAKER: Who are peddling this stuff.

MR. LUMBARD: Yes. No doubt.

MR. YLVISAKER: And the other is to go after the addict.

SENATOR WOODCOCK: In many instances, aren't they one and the same? Aren't the pushers of the narcotics normally narcotic users, generally?

MR. YLVISAKER: I am not talking just immediately about the pusher.

MR. LUMBARD: You mean, the non-addict seller.

MR. YLVISAKER: He's the retail operator.

MR. LUMBARD: You mean, the non-addict seller, Commissioner?

MR. YLVISAKER: I am talking about even the international operations that get this stuff and import it into this country, bring it in through the airports or whatever it may be, who bring it in to certain drop-off points where you can get amateurs taking a bus into New York, picking it up, and bringing it back, and then doing the peddling on the street. There's a whole apparatus here.

SENATOR KELLY: Commissioner, you mentioned previously about trying to understand organized crime and you used the word Maffia and what it has to do with youth. And what it has to do with youth possibly is that where organized crime, through devious means, is selling narcotics to youth, and through their addiction use them as salesmen.

MR. YLVISAKER: That's right.

go with this business of narcotics.

MR. LUMBARD: Well, Commissioner, so we can dispose of that, there is no problem in the laws of New Jersey now about prosecuting sellers. Right?

MR. YLVISAKER: The network we are dealing with is international. There is no question about this, and one State cannot often handle it unless it has access to other methods of law enforcement which transcends State boundaries. By the way, also, as I understand it - and I may stand corrected on the record - it is my impression that the Governor did recommend to the Legislature additional State policemen in order to go after that effort, and these funds were not made available. I may be wrong but this is my memory.

Now the point I am driving at is: The law enforcement effort at this time ought to go heavily at that part of the business. The second part of the business is the addict, once he's hooked. And the addict is probably more of a medical problem than a personality and a psychological problem right now than law enforcement, except in one respect - that when he's looking for the dough to get his fix, he's on the streets and he's responsible for a lot of the burglaries and assaults, etc. that we have seen, not while he's under the influence but while he's looking for that kind of dough.

Now, query, how do you handle this? Do you handle it primarily in the law enforcement agency which distracts the efforts of the people you have there to get after the production and distribution, or do you handle this problem

and don't want to be attached to it. But what I'm suggesting here is that if you want effective and intelligent work on this problem, save the toughest law enforcement efforts for getting after the distribution and the racketing that goes into that, and then concentrate on the other which is at least equally and I think predominately a medical-social problem. And this would not argue for placing that function within the law enforcement agency. There have to be close relationships, but not within.

MR. LUMBARD: Commissioner, other than the structure, what language in 802 does not lend itself to what you have just said? There is nothing, as I read 802, that would in any way inhibit the law enforcement effort you say; indeed, it would try to encourage that. On the other hand, it would seem to me that the whole panoply of potential ways to treat addicts is provided for in the act during the current other law which would be brought in within this act.

MR. YLVISAKER: When you do commit these people, by the way, and civil commitment, where will they go? What will be the nature of the facilities? What adequacy? Have you chosen that they go into residential facilities removed, or, as we are experimenting with now in Essex and Hudson Counties, in a half-way house which is built right into the community? - and in that case tied into medical facilities, to the hospitals, and to some of the social agencies. The church, and Father Iantelli has been part of this from St. Peter's. If I were assured this is equally the effort and this kind of thought is going to go into the program, yes, this is what all of us

follow from that is also the determination, the commitment, the program designed and the money to do a job once you have decided to commit. As I say, it's a tremendous temptation to all of us these days to make the headlines with a conspicuous act but not to follow through with the resources and the determination that is necessary.

MR. LUMBARD: Commissioner, I have just spoken to Senator Woodcock - again, if you have alternative statutory language or a program that you would propose, the Legislature would like to receive it because it now is not talking as it did with you last spring in the context of what are problems, but as a result of those hearings in which narcotics emerged as a major one, along with juvenile delinquency and organized crime, it now has a specific bill. Does it pass this bill? If not, what bill does it pass, if any?

MR. YLVISAKER: Right.

MR. LUMBARD: So could you react with language that you believe would adequately cope with this particular problem of narcotics?

MR. YLVISAKER: That's a fair challenge and a very welcome opportunity.

SENATOR WOODCOCK: Is there anything else, gentlemen?

If not, Commissioner Ylvisaker, we want to thank you very much for coming down and taking time out to testify before the Committee. We appreciate it.

MR. YLVISAKER: Thank you, Senator.

SENATOR WOODCOCK: I think we'll take 5 minutes.

[R E C E S S]

MR. LUCAS: Of the State Bar Association.

And I would like to introduce Mr. Glickman who has been all through that statute and is the Editor of our News Letter.

Preliminarily, we'd like to tell you that we don't appear here in the guise of any expert. Personally, I have had some exposure in the area, for five years as Assistant Prosecutor in Somerset County, four years working for the Administrative Director of the Court in which I handled a project in which we considered the appeals of indigents in 21 counties; I was a member of the Supreme Court Committee which came in with the post-conviction relief rules, and I'm presently a member of the Supreme Court Committee on Criminal Procedure. And it's against that background that I make my comments.

We have not heard the testimony before the Committee and we have not seen your transcript. And we work from that disadvantage or weakness.

And one final thing, our section is made up of men who both prosecute and defend. There are assistant prosecutors in our section, there are public defenders in it, men who have been assistant prosecutors and, I assume, later men who have been public defenders.

First, we would like to commend the Committee for what we consider the public service it has done in focusing public attention on the matter of crime and crime control. This is perhaps long overdue and we feel indebted to the Committee for that purpose.

302, be achieved within the Department of Law and Public Safety by statutory amendments and the additional funds which you propose to put into this Department?

In short, we suggest, with all deference to the Committee, that we question the need for the divorce and we can't see why the Department of Law and Public Safety cannot cope with the problems which have been raised before your Committee if given necessary enabling legislation and additional funds.

The act sets up six operating divisions, the names of which you know. What we question on this score is, don't several of these divisions have different objectives and aren't these objectives disparate if not incompatible? For example, your divisions of Youth, Narcotic Addiction Control, and Rehabilitation is traditionally thought of as belonging in Institutions and Agencies and somewhat of a welfare function; while the Division of Local Police Service, the Division of Prosecution and the Division of State Police we have traditionally thought of as police functions. And are not these functions incompatible?

And the man who wears this hat, we suggest, is going to have a difficult time disassociating one of these functions from another. Obviously this would be true even if these divisions were put under the Attorney General.

Another comment we make is about the Assistant Commissioner. We've gone through the Division of Local Police Services, Division of Youth, Division of Prosecution, Division of Narcotic Addiction Control. Nothing is spelled

SENATOR WOODCOCK: Well it doesn't mean that he wouldn't be.

MR. LUCAS: I suggest that he should be at least, and it ought to be spelled out. We can check those statutes, it's no problem at all, and I'm certain we will before we make our report. And if I'm correct in this, then I suggest if you're going to supervise with an assistant commissioner then he ought to be as qualified as the prosecutors whom he will supervise. This is my point simply.

MR. LUMBARD: In effect, the assistant commissioners would be appointed by the Governor, together with the Commissioner.

MR. LUCAS: I appreciate that.

MR. LUMBARD: And I'm under the impression that in New Jersey persons of the level of assistant commissioner in all the departments are such appointees by the Governor, they're not within the Civil Service. The question really is, therefore, whether or not the Governor should be left freedom to make an appointment within that scope or whether the Legislature should try to tie him down in some specific way. You suggest he be tied down?

MR. LUCAS: I'm suggesting that he be tied down at least to that extent.

MR. LUMBARD: In the prosecutive.

MR. LUCAS: Yes. I think he ought to be a lawyer, I can't state it more bluntly, inasmuch as he's going to be dealing with lawyers.

MR. LUMBARD: It's pretty hard to imagine the Governor

yourself to but which is really a companion bill and particularly concerns prosecutors, by the way, is adapted from the United States Attorney System, indeed the whole proposal is adapted from the Department of Justice concept which, of course, embraces the Federal Bureau of Prisons, the investigative agencies, the prosecutors, and perhaps it's a matter of judgment as to whether or not they've proven historically to be incompatible or not.

MR. LUCAS: We have another one or two points and, gentlemen, we'll have finished our presentation and we will try to keep it brief.

On the Narcotic Addiction Control, as we understand it there, on petition a person could be taken into custody as an alleged narcotic addict, delivered for exam, on an order of a judge this would be, and examined and then he would later be entitled to a hearing before the judge.

Am I correct in this?

MR. LUMBARD: Yes.

MR. LUCAS: Well the question we raise is this - we're raising more questions perhaps than we're providing answers.

Is there any due process privilege here that's being abridged in delivering him for examination prior to a hearing?

MR. LUMBARD: There was a case in the New York Court of Appeals called The Matter of James, in late June or early July, Judge Keating made that decision - it was referred to, in fact, by Commissioner Ylvisaker and others -

"beyond a reasonable doubt."

MR. LUMBARD: I haven't quickly focused perhaps on everything you're talking about but the main point that I would immediately reply is that this is a civil commitment provision and the civil standard would apply. And if you think that's not clear, then obviously it should be cleared and we would solicit from you a memorandum perhaps which would give us the language you think would eliminate any ambiguity.

MR. LUCAS: The reason I make this point, Mr. Lumbard, is that in paragraph 50 you make the commitment, or the language in the statute - my apology - the language talks in terms of a "judgement of conviction," so we're talking in terms of criminal conviction.

Now the significance of this, certainly from the point of the accused, is that a judgment of conviction has significance under our multiple offender statute.

MR. LUMBARD: Well, Mr. Lucas, could I make this request, --

MR. WOODCOCK: Well, if I may say this, I think if you read section 49, it says, "A person who is found to be a narcotic addict pursuant to this section and who has pleaded guilty to or has been found guilty of a misdemeanor or a disorderly persons offense," and then it goes on. So, if you're talking about section 49, the conviction they're talking about there, I think, has to do with the misdemeanor where he has pleaded or been convicted or where he has been found guilty of being a disorderly person.

MR. LUCAS: Well, suppose he has been found guilty

found to be narcotic addicts who have either a violation of possession in some way, narcotics related, or who are arrested for any other kind of criminal offense but who are addicts. There is a separate road.

So when you're making your analysis or the comments you wish to make, let us have them with relation to those two separate groups. Both are of very real concern, apparently, to the Legislature.

MR. LUCAS: All right. If I could make one final comment, and I address myself to page 20, paragraph 52d, which has to do with the commissioner. I assume you're talking about the assistant commissioner of Narcotic Addiction Control, perhaps a commissioner of criminal justice, "shall have the power to issue a warrant for the arrest of a person who has been declared delinquent by it."

MR. LUMBARD: That's for a person who is under the civil commitment program but who absconds.

MR. LUCAS: Well, we have a question about that.

MR. LUMBARD: That's under civil commitment.

MR. LUCAS: Yes, because the power to issue a warrant, for example, for escape, the normal process, as I've always understood it, is that somebody, administratively, goes in and signs the complaint and a warrant is issued over the signature of a magistrate.

MR. LUMBARD: But that's for wholly criminal people. This would be done for civil, and the mere word "warrant" doesn't make any difference. You could even use the word "warrant" if, let's say, a delinquent husband wasn't paying

SENATOR WOODCOCK: Thank you very much, Mr. Lucas.

Next we will have Dr. Kelley, please.

C H A R L E S R. K E L L E Y, called as a witness, being duly sworn, testified as follows:

SENATOR WOODCOCK: Dr. Kelley, I would like to apologize for not having you on earlier but what happened, yesterday the schedule just ran so far behind that we got lost with our witnesses, really, and I do apologize on behalf of the Committee.

DR. KELLEY: Thank you, Mr. Chairman. I accept your apology.

My name is Charles R. Kelley and I'm here as First Vice President of The New Jersey Association for Retarded Children.

On behalf of the thousands of members of the Association, I appreciate this opportunity, at long last, to present to you directly and concisely our statewide interest and concern over the establishment of a Department of Criminal Justice --

SENATOR KELLY: Do you have a prepared statement that the young ladies can have it?

DR. KELLEY: Yes.

SENATOR KELLY: Do you have extra copies there?

DR. KELLEY Yes.

I appreciate this opportunity to present to you directly and concisely our statewide interest and concern over the establishment of a Department of

In addition to up-to-date facilities and adequate staffing, the Residential Care Committee and the Association have long worked for better human services for the institutionalized retarded. Improvement of food and food services, of laundry services, of maintenance and grounds services, - and over the years there has been an absolutely remarkable improvement in the quality of these services. This significant achievement has been accomplished quietly yet effectively through the Department of Institutions and Agencies' ingenious system of providing these services to the residential centers for the retarded from its correctional units. This system has been carefully and efficiently developed so that not only has the quality of life of the institutionalized retarded been enhanced, but savings of hundreds of thousands of tax dollars are realized annually.

The Association registers with you its very grave concern over the fate of this system of services, so smoothly coordinated under an integrated department should its Division of Correction and Parole be relocated in another department. The Association does not oppose fragmentation in se, but we all have lived long enough to know the hang-ups, breakdowns, delays and even ruptures that occur in the budgetary and bureaucratic cracks that lie between departments at any level of government. The prospect of a retarded youngster under the responsibility of The Division of Mental Retardation of the Department of Institutions and Agencies being processed through the Department of Criminal Justice because of some brush with the law augers a further fragmentation of lives; a duplication of record-keeping, functions and services; and an R.S.V.P. invitation to more broad base taxation. Neither in the

forecast this morning, that in three years it would no longer be operational. So not only would it be a lessening of the kind of things we're trying to provide but it would, you know, bring with it, as far as we can see, and we see pretty far and we see pretty well, just further taxation. This isn't to say, you know, that we don't appreciate we have the problem and want law and order and justice for all, and I wish every problem we had, you know, could be so facilely solved that we just establish a new department.

SENATOR WOODCOCK: Has anybody given you the impression that by establishing this department we were going to solve all of these problems?

DR. KELLEY: No.

SENATOR WOODCOCK: Do you think that that is what this Committee or this bill proposes, that all of these problems are going to be solved by establishing this department?

DR. KELLEY: No. We're looking for a new system encapsulated in a new department which, in a sense, - what we are saying, it seems to me, is that the present machinery doesn't work, we need a new machine. And we don't think that the only option is a new department.

MR. LUMBARD: What option would you suggest to the Legislature? Having the problem of crime, juvenile delinquency, narcotics addiction, organized crime, in New Jersey, the Legislature being in search for alternatives, you not liking this alternative, what alternative do you suggest?

DR. KELLEY: Well, I even alluded to the fact that

you have?

DR. KELLEY: I believe so. I think it's done every day.

You know, for a long time, - for example, we have the whole issue of public education in New Jersey, which has been something of a deficit operation in some respects for a number of years. And for that particular reason, you know, we established another department. Now we have a Department of Lower Education, a Department of Higher Education. We might wind up with a department of graduate education.

There was nothing to say, you know. At that point we had the option of just taking the department that then existed, the Department of Education, and made the investment there so that it would have had the capability to address the educational needs across the board. It didn't necessarily have to be a new Department of Higher Education.

I'm saying, I think we're confronted with that same kind of option now in this particular area.

SENATOR WOODCOCK: And the decision was made, sir, at that point, in the wisdom of the Legislature, that they create a Department of Higher Education with a Chancellor focusing his attention on higher education, --

DR. KELLEY: Right.

SENATOR WOODCOCK: -- because of the fact, and I think this was so, and let me say I voted for the establishment of that Department because our feeling was at that time that

delighted to get them to you.

MR. LUMBARD: Well, that would be important because there is a difference between speculation and experience in other states.

DR. KELLEY: Right.

MR. LUMBARD: So far some inquiries have been made by myself and others and there seems to be no such problem. And if you feel there is or could find proof of that, I'm sure the Legislature would like to have it.

DR. KELLEY: Well, I don't really have any feelings in that area but I've lived here long enough to appreciate the uniqueness of New Jersey. You know what I mean. It might work in New York but it wouldn't necessarily work here.

SENATOR WOODCOCK: Do any other members of the Committee have any questions?

SENATOR RIDOLFI: Except to observe, Mr. Chairman, I don't think Dr. Kelley is inconsistent when he is just saying the Division of Youth doesn't belong in the Department of Justice. Is that what you're saying?

DR. KELLEY: Precisely.

SENATOR WOODCOCK: Well he didn't just say the Division of Youth, it was the concept of rehabilitation being in this Department.

DR. KELLEY: I think the Senator's point was illustrative of, you know, the general point I'm trying to make.

Thank you for your time, gentlemen.

SENATOR WOODCOCK: Thank you very much, Dr. Kelley.

various fields, including brain and heart circulation, arterial disease, schizophrenia, and more recently the laboratory has been testing the urines of present and former addicts to see whether or not they are taking unauthorized drugs.

I should say, we are now testing about a hundred odd urines a day and it would seem that we're going to be doing it for a large part of the State, as far as I can make out.

MR. LUMBARD: When you say "we", what do you mean?

DR. SMITH: In the laboratory, Dr. Nichols and I are running it.

My appearance to testify here is at my initiative as a somewhat informed private citizen and physician. In no sense am I a spokesman for the Department of Institutions and Agencies, the State Hospital system or anybody in this echelon.

Since I'm moving in January from New Jersey to Hilo, Hawaii, to continue in the practice of internal medicine in the Hilo Medical Group rather than the Princeton Medical Group, I think it must be obvious that I don't have any particular personal interest in this that might return profit to me in any sense, or kudos or anything. I simply want to see New Jersey dealing or trying to deal with drug addiction in a way that would seem to be most profitable both in success and dollar investment and not in ways that would seem less likely to succeed.

I would like to testify against those portions

The bill, at first, appears firmly to class addiction as a crime. And I would like to direct attention to the fact that only since the passage of the Harrison Act in 1914 was it construed that it was criminal to be an addict, perhaps as Mr. Ylvisaker said, more in the nature of a disease. To steal to pay for drugs clearly is criminal and to push or purvey illegal drugs is certainly criminal. And I'd like Mr. Ylvisaker's attention, focusing on the business of trying to apprehend and shut off this aspect of addiction.

But being an addict is a malum prohibitum, not a malum in se, as the Army Manual of Courts Martial say. In the bill a chief corrective measure spelled out is civil commitment. The mechanism for arranging this appears to make the proposed commissioner responsible for providing the facilities. Civil commitment is expensive. In New Jersey, which is estimated to have the fourth largest number of addicts, ranking after New York, California and Illinois, we now have some 5,000 plus registered addicts, plus unknown numbers not registered, and we are getting about 500 more per year which is a fairly serious business.

It has been said that it is less expensive to keep a man in the Waldorf than to keep him in jail, and civil commitment can't be very different. There isn't enough space in jails or anywhere else like that for a civil commitment program. We would have to build it. It would cost somewhere in the neighborhood of \$42 to \$75 million to do it. This is not chicken feed.

high recommendation for this program.

But it's better than what we usually hear from Lexington, Kentucky, and Forth Worth, Texas, which is around 5 percent. These centers have claimed that the poor result is because they have no follow-up program but it has also been said that if you have a follow-up program it doesn't work much better anyway.

The New York civil commitment program I have not seen analyzed. I've heard it referred to and the newspaper articles don't seem to indicate that all is going well there.

Dr. Humphry Osmond, who is a noted psychiatrist would say that the civil commitment program seems to be a moral model; that is to say there's something wrong with the addict which through lack of motivation causes him to fall into evil ways. And it assumes that the addict can crawl out if motivation is provided either through fear of restraint or in the course of time following forcible separation from access to heroin.

We heard earlier this afternoon that this doesn't work very well.

If civil commitment is very expensive and does not work very well, what are alternatives. Well these come under the medical model and there are two general sorts, one is that which provides support to the individual which need not actually be from a physician, though it's a medical model, a Daytop and Synanon program are this general order. And they seem to work. They get persons really off drugs but it takes about two years and not everybody can afford

represent 59 percent of the people who had come into the program. (See Appendix - Vol. IV)

There is another 29 percent here which is lightly shaded, not working but they're off heroin, socially acceptable. And then there's 12 percent which didn't work out, Which is not a bad record and almost exactly the opposite of the California experience.

Now it has been said that these are selective patients. Maybe so. The drop in criminal convictions and things like that is also shown in this one, the next graph, and it shows where having had a quite considerable number of convictions before admission, of which the top, felonies, are shaded, and these other kinds of misdemeanors, in the second year just an occasional felonious event and after that none.

The treatment, as they've used it, requires six weeks admission to the hospital to get them corrected, for medical errors, and to get them stabilized on methadone, get them in the habit of coming and taking their methadone in juice once a day in the presence of a nurse who knows that he's taking it, and then they have a urine test taken. They provide a urine sample and the nurse is careful to see that it's a warm specimen, not a cold one. This we know about. They will bring in a specimen that really isn't their own.

But if this is done, it seems to work out. And one of the interesting things that is not in here is the remarkable transformation in the personality of the addict.

can't imagine doing it without him.

But, be that as it may. There's another graph, number 3 here in your series, which shows a rising rate of employment as time goes by. They don't start out working, they've got to get adjusted. And there is some discharge or failure part at the top. There's a socially acceptable part which actually tends to fall.

Well, there is also an interesting story from Dr. Isdel, who is one of the people at Lexington who, at Dr. Dole's invitation, came to interview some of the patients in New York. After Dr. Isdel interviewed these people he said, "Dr. Dole, you've been had, these people aren't addicts." And Dr. Dole, knowing perfectly well they had been addicts with criminal records and convictions and jug terms and all that, sentences to prison and so on, said, "Maybe he's right. They aren't addicts anymore, they're patients, they're people."

It's a very remarkable thing. Anybody who has had close contact with it can't help being impressed.

Now there has been objection to the methadone program. It is not a perfect program at all, but it works. People on the program, the first thing they say to you is, it works. It's objectionable because we have had to keep a person tied to a program which somewhat restricts his mobility and things like that. A person actually can go and move his job anywhere in the States and Canada, except California where it's illegal. He can't go to California and stay on methadone but he can go anywhere else and

stuff like that. But they had to get rid of them.

There's a paper here, a pink one, by Mr. Herman Joseph, a Parole Officer in the New York City Police Department, - Probation Officer, Criminal Court, New York City. This says the parole officer's choice is methadone treatment. It works. They don't have any trouble with it, they don't get any convictions. (See Appendix - Vol. IV.)

The proceedings of the First Methadone Treatment Conference (See Appendix) are here and we just got this yesterday, an extra copy of this, and this contains papers which I commend to you to read: The evaluation of the treatment program by an independent committee, up to and including Nobel Laureates, which committee was reported for by Dr. Frances Gearing. Dr. Henry Brill was Chairman of the Committee, actually. He was then working with the Civil Commitment Program in New York but has since gone back to Pilgrim State Hospital. The Experience of Methadone by Dr. Jaffe, who used to be in New York but has moved to Chicago. He has a kind of ingenious gimmick. He puts people on methadone, preadmission for something else, pre-admission to a hospital, and he seems somehow to get 90 percent of them working without actually sending them to a hospital. This is pretty good and not very expensive. I can't give you the details of how he manages to get it done but it saves, obviously, a lot of money.

There are some people in Baltimore under a program known as Man Alive, Inc., who get the work which is done in the hospital in New York under the Dole-Nyswander Program,

of the Legislature to prescribe one treatment rather than another? Don't you think that this is within the competence of experts such as yourself?

DR. SMITH: I don't think that the Legislature should prescribe but I think it may well be asked to give money to support such programs which might work and I wonder if that's the proper thing to hope.

SENATOR WOODCOCK: Right. Well, I think, you know, that's an appropriation function, not the function of this Committee. But our purpose in being here today is with respect to Senate Bill 802 --

DR. SMITH: I appreciate that.

SENATOR WOODCOCK: -- and we would just like to know whether you think there is anything in the bill that would prevent a methadone program from being established.

DR. SMITH: There's certainly nothing in it to prevent it but I think there's little in it to suggest that it is much supported by it excepting the paragraph which refers to research.

MR. LUMBARD: Well there are many provisions in Article 6 that give freedom to the new commissioner, or would give it if there is such a commissioner, under various procedures but the bill doesn't try to spell out one program or another. The bill is merely an umbrella under which various roads are authorized.

DR. SMITH: Doesn't it spell out civil commitment?

MR. LUMBARD: Well that's one such road, it's certainly not an exclusive road.

who is new to addiction because we haven't found an answer. I said at the very beginning there are lots of things we don't have an answer for. And the thing which I would like concentration on, aside from stopping the flow of heroin, Mr. Ylvisaker referred to, is getting the people who are treatable and ready to stop in a program which will make them honest citizens definitely contributing to the State.

MR. LUMBARD: That's all.

SENATOR WOODCOCK: Does any other member of the Committee have any questions?

DR. SMITH: There's one other thing I would like to say. If you get a civil commitment program going, inevitably it has a big bureaucracy behind it. This is a kind of vested interest which is very hard to get away from and which has, in other states, been very difficult because they tend to stand in the way of other kinds of work being done. I don't want to go into that too much but I can say that I know that it's true. The people in New York were circulating adverse pamphlets and literature against Dr. Dole's program which apparently they must have felt kind of uncomfortable about somehow, because it wasn't their's.

MR. LUMBARD: Well, actually, Doctor, isn't it a fact that the New York State Narcotic Addiction Control Commission is the one who provides most of the money for Dr. Dole?

DR. SMITH: Under pressure from the Governor.

MR. LUMBARD: Well, where does the money come from?

will submit it. I could not get the figures together in time to get it to you. I'm sorry.

You did ask me for the figures as to the attendance of the Board Members.

SENATOR WOODCOCK: Mr. Wescott, first of all, I think we should limit your testimony to this because we need not go over any of the testimony that we had yesterday.

MR. WESCOTT: All right.

The figures I submit are figures on the attendance of the Board Members on the boards of the various correctional institution. You will see that they achieved an average attendance of 74% for some 40 members on 5 different boards. That includes very low attendance for three people, two people and the wife of one who had been very ill and have subsequently died and consequently during 1967 did not attend.

We think that this is a very commendable showing and certainly substantiates the fact that these people do work and do care.

MR. LUMBARD: Commissioner, since you talked yesterday, there has been some discussion among the Members of the Committee and it seems that - and again I'm trying not to repeat what we went through yesterday because the schedule really does cause us problem and there will be some who will be here late tonight.

There seemed to be three functions, as it came out of all the testimony of all your people yesterday, that is, performed by members of the boards. The first is, they advise; the second is, they assist, by these various extra services you

in the institutions for the retarded and --

MR. LUMBARD: I'm not trying to say they don't, no.

Now 802 provides in section 5k that the Commissioner may "Appoint such advisory committees as may be desirable to advise and assist the department or a division in carrying out its functions and duties." That would be two of the three primary functions, as I understand it, that your people now perform. Is that correct?

MR. WESCOTT: Yes.

MR. LUMBARD: So, in so far as they are concerned, this bill, and perhaps you didn't know this, - this bill, 802, does not eliminate the boards, it would allow the Commissioner to appoint them in indeed such number as he desired, there's no restriction, no assignment, for the purpose to advise and assist but not to control.

MR. WESCOTT: Yes. I think, however, as any number of persons said, that unless a board has a significant responsibility, a citizen board, - significant responsibility in the case of correctional institutions, the parole authority, you just won't get this kind of citizen participation. They will become, as one man said, ill-tempered gadflies, and they will just be ignored and will fall into disuse. There's no question in my mind about that.

MR. LUMBARD: Well, is it not a fact that your prison industries board is an advise and assist board and not a control board?

MR. WESCOTT: Yes. And if you asked me for the figures on their attendance, I could have shown you that it

we finish that.

MR. WESCOTT: Yes.

MR. LUMBARD: Who picks the professional staff for the drug facility?

MR. WESCOTT: The Commissioner, I believe, and with the --

MR. LUMBARD: Mr. McCorkle.

MR. WESCOTT: Yes.

MR. LUMBARD: And who determines the program content?

MR. WESCOTT: I believe that that is worked out with the Commissioner and the Advisory Committee on Drugs. There is no responsibility as far as the Board of Control for program content for the drug program. That was provided by law.

MR. LUMBARD: And the budget, how is that devised?

MR. WESCOTT: It is budgeted entirely without regard to us.

MR. LUMBARD: Do you think that's desirable?

MR. WESCOTT: I don't know. And that is one of the programs that's the most difficult and the most hopeless and the least promising, and I'm as confused about it as everybody else seems to be and I'm perfectly willing to let someone else comment on it. I don't know.

MR. LUMBARD: Well, if the Legislature were to assume that there are lots of addicts now and something must be done, do you think that something should be done in Institutions and Agencies or elsewhere?

MR. WESCOTT: I do not know. I do not know. I was

and I think we have underspent in certain areas.

I just hate to see our department criticized because there has not been money to implement the programs that we needed.

There's one question that I failed to answer the other day, the question of how recently or whether we had made a request to change restrictions on State Use. I had hoped that Mr. Cochran would say that every year the Bureau of State Use complains bitterly about these restrictions.

SENATOR WOODCOCK: To whom?

MR. WESCOTT: To us, the Board of Control, and the Commissioner. And every year we decide that we better let sleeping dogs lie because almost without exception there are bills introduced automatically each year which would further curtail the ability to run the State Use program.

We get constant harassment from organized labor for obvious reasons. We're constantly criticized by anybody we compete with. If we make snow fence, if we make highway signs, if we make anything, some Senator says, "What are you doing to my client, my constituent who is a manufacturer." So it is constantly under pressure. So we just have decided to let sleeping dogs lie.

Maybe that's why some adjustment of that isn't included in this legislation. It's a very, very severe problem I suppose everywhere.

You see, in order to have an effective industry, you have to have a big industry. The minute you have a big industry you start competing. So that what we do, we make

Hospital, food and janitorial and supervision service. Now here are three things happening together, just like that, but we can't get a boy transferred - it took us two years to try to get a boy transferred to the institution for the deaf and we haven't got it done yet.

I'm not criticizing. They have their problems, we have ours, and they don't want ours and we don't want theirs.

If you get this coercion of the Commissioner, when he can set people down together and say, now look, we need this done, get it done, let's get it done.

In the laundry, Vineland was very reluctant to give up its laundry, they hated it, and every six months it complains because the shirts aren't ironed as well as they used to be when they hired civil servants to iron shirts. . The Commissioner says, okeh, if you want to reopen your laundry, you're going to lose twenty persons out of patient care, you're not going to get it any other way. You want to lose the twenty persons out of patient care, don't you? and they say no. So the laundry is still done at Rahway. It's that coercion that the Commissioner brings and can bring. And I just don't believe it's going to work anywhere else.

MR. LUMBARD: Mr. Wescott, could you give us some problems that you say occur in State Use that hold you back and that are now in the law and that the Legislature could address itself to? I'll ask again.

MR. WESCOTT: I think that the restriction on State Use can be changed. I can give you recommendations for legal

SENATOR WOODCOCK: Within a week?

MR. WESCOTT: Right.

SENATOR WOODCOCK: Fine. If you would address that to me, sir, I would appreciate it.

MR. WESCOTT: And again I thank you all for your patience and time.

SENATOR WOODCOCK: Fine. Thank you very much, Mr. Wescott.

MR. LUMBARD: Thank you.

SENATOR WOODCOCK: We will take a five minute recess.

(Recess)

(After recess)

SENATOR WOODCOCK: I think we can reconvene now.

Mr. Blair, if you will step forward, we will continue.

J A M E S H. B L A I R, called as a witness, being duly sworn, testified as follows:

MR. BLAIR: My name is James H. Blair. I am Director of the Division on Civil Rights, State of New Jersey.

Prior to coming into the State Service, I was a former Probation Officer in Essex County attached to the Juvenile Court. I can say at this point that I've spent approximately eight years working with juveniles, in the Juvenile Court, in a supervisory manner, and also attached to the Juvenile Court as a Consultant to Juvenile Court Judges.

I would like to address myself to only Article 4 of Senate Bill 802.

Having spent the bulk of my life working with

This bill also provides a method of mingling the delinquent, the disadvantaged, thus creating additional problems in the community.

I didn't find any follow-up, nor did I find out what would happen to the youth when he's released.

There's no real stipulation as to the kind of training the youngster will receive in order to maintain himself if he is released and when he is released into the community.

In my opinion, this act is not removing the artificial barriers to youth employment, nor is it establishing any method of really assisting it. It seems that it is just a method of removing from the street the undesirables or, in the central cities, the black youngsters.

The President's Commission on criminal justice called for a greater participation of youth in decision-making or decision-shaping in their life. This included their schools, their communities, and in some instances their families.

I personally don't think we need centers. We need better vocational schools, better methods of creating jobs, and, most of all, a little justice for the disadvantaged rather than hostile rules and regulations that will continue to push, force and leave the poor at the mercy of understaffed guidance clinics, patronizing social agencies, and many do-good organizations.

The Juvenils Courts over the last few years have usually entertained the complaint of juvenile delinquency and sustained said complaint, and the Judge sustained this

SENATOR WOODCOCK: I would just like to ask you one question. Is it your feeling that we should not have the type of program set up in Article 4, the Division of Youth, regardless of where it is?

MR. BLAIR: Correct.

SENATOR WOODCOCK: That would be your opinion.

And it's further your feeling that the State of New Jersey does not need a program of, let's say, preventive juvenile delinquency, a preventive program against juvenile delinquency.

MR. BLAIR: I think the State of New Jersey needs a program to help or to assist in preventing juvenile delinquency. I don't think this Article in this Act is the thing to do it. I think, in the first place, it's stigmatizing the youngster, putting it in the Department of Law, - you're stigmatizing the youngster immediately.

I'm saying very frankly, there is a need for rehabilitation programs, there is a need for training programs, but we already have institutions to do it. What these institutions need is a prod, a push, and the money to do it. We're forgetting what we already have and we're trying to create new entities.

SENATOR WOODCOCK: What I'm saying is, for the moment let's say we're not going to put it in the Department of Criminal Justice, but the concept of developing this kind of a program for the youths of the State of New Jersey, you say we should not do it.

from where we put them and take just one part of that
Article --

SENATOR WOODCOCK: Right.

MR. BLAIR: When we say that any agency dealing with the moral, physical, etc. wellbeing of a youngster has a right to send a youngster to a center, I think you're giving that agency too much power.

My experience, and I'll give a good example, - one guidance center used to write reports and because they were understaffed the child did not get the benefit of a good report. One conference for one hour and a report was written, and the court had to make a decision on that one report.

I don't think it's fair, especially when somebody who is in an advantaged community can send his child to a psychiatrist and probably pay the fee and get the benefit of four, six or eight sessions and really try to find out what's wrong with the child and give a substantive report.

I think if we look at it from the standpoint of the agencies we're talking about in this bill at the present time, we're just giving them the power to hurt many more disadvantaged people in the community, regardless of where you put it, if you put it in this form.

MR. LUMBARD: Mr. Blair, you have a copy of the bill there, do you not? I thought I saw one. On page 8, Section 16a, is the basic entrance provision.

I think the implication that I gathered from what you stated was that a school, for example, could put a boy

do not know the rights that they have. Maybe using the school is a bad example but I can use institutions such as the Welfare Board and some Welfare Departments who haven't explained the rights to their parents, who have done various things to the parents and have taken their youngsters to court on complaints telling the parents that this is in the best interest of the child and the parent has accepted it.

But I am saying that in many instances the parent doesn't know what the best thing is for the child.

What we're saying is that in many instances this is a way of removing a youngster from a community without benefit of the total process.

MR. LUMBARD: Well, I am not going to argue that point but I just merely ask if you have inquired or learned that there has been misuse of that nature during the seven years of operation of the New York State Division for Youth under this same act.

MR. BLAIR: That one I can't answer.

MR. LUMBARD: Because Commissioner Luger indicated yesterday that there was no such negative experience and, of course, if that arose it could always be amended.

So the problem isn't so much perhaps that kind of thing but whether New Jersey needs a program for youth right now if there are problems. And if there are problems, what should it do about it. And this is merely one specific attempt to do something, no magic intended.

If you do not recommend this, what do you recommend New Jersey undertake?

the road might be or how this bill should be amended in your view.

MR. BLAIR: I will be happy to.

MR. LUMBARD: Because that's what the question is now, this bill, is it wise or wrong or what can be done with it.

MR. BLAIR: I will be happy to.

SENATOR WOODCOCK: Are there any other questions from any member of the Committee? (No questions)

Well, I want to thank you again, Mr. Blair, for taking time out to come down and give the Committee the benefit of your thoughts with respect to Senate Bill 802. We really appreciate it.

MR. LUMBARD: You may want to read Mr. Luger's testimony of yesterday, the transcript, and Commissioner Ylvisaker's of today.

MR. BLAIR: I will try to do that.

Thank you.

MR. LUMBARD: Thank you.

SENATOR WOODCOCK: Mr. Mass, we have finally gotten around to you.

R A Y M O N D M A S S, called as a witness, being duly sworn, testified as follows:

SENATOR WOODCOCK: I understand you are a Chief of Police?

MR. MASS: Yes, I am. Shrewsbury Borough.

SENATOR WOODCOCK: Well, I will make sure that I

been greatly disturbed as to this proposal and at our 56th Annual Police Chief's Conference the following resolution was proposed as follows:

Whereas, S-802 and S-803 and A-828 have been introduced in the New Jersey Legislature for the purpose of creating a State Department of Criminal Justice, and

Whereas, the members of the New Jersey State Association of Chiefs of Police object to any action toward the centralization of control over law enforcement which would ultimately destroy the independence of municipal police departments and the concept of home rule, and

Whereas, the financial aid which is available through the Federal Law Enforcement Assistance Act, or financial aid that may be available through the Federal Safe Streets Act should be applied directly for police services, the advancement of police training and education on state, county, and municipal level, rather than eliminate existing services and supercede home rule, and

Whereas, a close liaison and working relationship among all law enforcement agencies that now exist would be totally disrupted by the proposed State Department of Criminal Justice which mixes rehabilitation and other services with police and prosecution functions, now, therefore,

Be it resolved that this Association is strongly opposed to S-802, S-803 and A-828 in that such legislation would be detrimental to the best interest of effective law enforcement in the State of New Jersey, and

Be it further resolved that this resolution be spread

personnel needs, planning, and research requirements within the law enforcement field. At this time I must also inject the financial needs for adequate salaries as we have reached a point in the road, because of high taxation and monumental costs of academic needs, where state and local government find it difficult to mandatorily budget salary needs.

Gentlemen, let me also bring to your attention the seriousness of your proposal in that it possibly does imply a bureaucratic system whereby authority invested within the home rule aspects of government is being superceded by this proposal. I know I don't have to labor on the detriments that consolidation, centralization, or regionalization present for I believe you gentlemen have been confronted by many of your constituents that it is their unanimous opinion that they oppose any of these implications and that it will be many, many years before this becomes a possibility or a reality.

Gentlemen, my main purpose for appearing has been presented and to briefly summarize, let me state once again, as President of the New Jersey State Chiefs Association, and as an individual police chief, we are emphatically opposed to your creation of this financial waste and we earnestly solicit your cooperation to redirect the financial funding of your presentment to the already sound and efficient governmental structure of the Attorney General and his agencies, the State Police and its bureaus, and last, but not least, all local law enforcement agencies throughout the State.

Gentlemen, I'm sure that if you were to consult

rule with respect to police departments, local police departments infringed?

MR. MASS: I assume you are Mr. Lombard?

MR. LUMBARD: Yes.

MR. MASS: Mr. Lombard, there has been quite a bit of research and I don't think any of us need to be in the dark. It is the purpose --

MR. LUMBARD: I'm not sure I understood you. In the dark?

MR. MASS: In the dark in that, let's say, the advancement within the police areas are proposed in such a way that they advocate regionalization, they advocate centralization and consolidation.

SENATOR WOODCOCK: Specifically where in 802 is this?

MR. MASS: It doesn't say that but it is building in that respect. Anything that is offered to police today, unless police regionalize, centralize or consolidate, their chances of being considered are very nil. I'm sure you gentlemen are aware of that and I'm sure Mr. Lombard is aware of that.

MR. LUMBARD: No, I'm not aware of that, Chief.

MR. MASS: You aren't aware of it?

MR. LUMBARD: No, I'm not.

MR. MASS: How about Suffolk County? Let's take New York State, for instance, where you come from.

SENATOR WOODCOCK: No, let's stay within the confines, if we can, of 802.

not explicitly set forth in here. Senator Italiano then asked what gives you the feeling that it would happen eventually.

SENATOR ITALIANO: What language in here, or section in here.

MR. MASS: Well, the only thing I can say, Senator, you're creating a commission here and in law enforcement, let me put it to you, and you all, I think, know something about law enforcement, - law enforcement cannot be answered pure and simple. Our needs are monumental and you haven't spent or begun to spend the monies that you need to spend in law enforcement to stop crime.

This Commission that you're creating is going to find that it's going to have many roadblocks and it isn't going to be able to function unless you start advocating what we do not want, and that is a regionalization or centralization.

Now, maybe it isn't in there, Senator. I don't know. As far as I can see, I didn't see it in there. I'll confess to this but we know that this is the basic realm that everything evolves around today. We know that the only way we're going to be considered is through this respect. Through all the federal grants that are being devised right now it's only when we begin to regionalize that we will be considered.

SENATOR ITALIANO: Then that's a fear without this bill.

MR. MASS: That's a fear without the bill and this bill makes it moreso.

Right? I want to be sure. Is that right?

MR. MASS: That's correct.

MR. LUMBARD: Okeh. On (b) "Administer such local police standards as may be established by law;"

MR. MASS: Administer?

MR. LUMBARD: Let's read it again. "Administer such local police standards as may be established by law."

MR. MASS: May I ask what "administer" means then?

MR. LUMBARD: Well, whatever they may be.

MR. MASS: You're presenting this law. Now my interpretation would be that you're going to compel us or, let's say, one of your assistants is going to compel us to adhere to the State law. You don't even know what our problems are so how can you make us adhere to a State law?

SENATOR WOODCOCK: Well, wait a minute, that's not so.

MR. LUMBARD: Chief, let me explain it, if I may. Right now the only State local police standards that I know of are training, which you agree with and want more of, and personnel, that is the moral character, you know, who can be a policeman. Right?

MR. MASS: Right, we do have a code of --

MR. LUMBARD: You do have a State law with that.

MR. MASS: Right.

MR. LUMBARD: You have no objection to that, do you?

MR. MASS: No, it's necessary.

MR. LUMBARD: All right. That's what I'm trying to get at and that's what's embraced within this.

MR. MASS: There are standards, yes, for reprimand.

SENATOR WOODCOCK: Except that that would not be one of those --

MR. LUMBARD: State law or local law?

MR. MASS: Well, the State sets the precedent in that the local government can establish their laws regulating it.

MR. LUMBARD: Well, Chief, all I want to say is, (b) does not by itself set up any new laws and it only says those that concern local police that are now in existence that need some administration he will do. That's all it says. It creates nothing new. And any new state law --

MR. MASS: He'll administer.

MR. LUMBARD: No, it would have to go through the Legislature at which time you have a perfect opportunity to be heard before anybody could do anything. This commissioner couldn't make new state law. The Legislature would do that.

Now (c) provides something that is new to the State of New Jersey, that is, a general management consulting service to those who want it. There's nothing that forces it on them, and it's patterned after the one in New York State by the Office of Local Government.

SENATOR RIDOLFI: Mr. Lumbard, may I interrupt you to ask where that is elective, when you say you don't have to force it on them?

MR. LUMBARD: It just says that he shall provide a

provision of local police services.

MR. LUMBARD: Henceforth.

MR. MASS: I realize what you're all trying to tell me. The only thing I can do is go back and tell you that we already have these functions established.

MR. LUMBARD: But in different places, Chief.

MR. MASS: Why do you have to create another department?

SENATOR WOODCOCK: Well, what you're saying is, what you don't object to is the service. Is that correct?

MR. MASS: The service under (c) is fine. I agree it is something that we utilize.

SENATOR WOODCOCK: What you object to is the establishing of the department to bring them in under a Division of Local Police Services. Is that correct?

MR. MASS: Well, actually, I object to the whole bill. So I would have to object to almost all of the clauses.

SENATOR WOODCOCK: All right.

MR. LUMBARD: Just to follow up the Senator's thought about explaining it, because I think that's important, the whole point of this Division is simply to help the local police by providing them with services of training, or professional services, consulting and whatnot. That's all. And it is not a mandatory bill.

SENATOR RIDOLFI: Wouldn't it be better if we said, "if requested"?

SENATOR WOODCOCK: All right, that could be. If that seems to be the problem --

this bill either.

SENATOR KELLY: That's conjecture.

SENATOR WOODCOCK: Chief, the point being that it has absolutely nothing to do with home rule. That's the point that I think --

MR. MASS: Well, if you could erase the fears, maybe you might sell 443 chiefs of police. They are fearful of it and they do enjoy and they do know what their problems are within their home community centers, and they aren't about ready to allow anybody to come in and tell them how to conduct their house.

True, we do request assistance and we are working on a good broad program, through our own effort and initiative. Don't take away our effort and initiative. Allow us to grow. Allow us to resolve these problems.

What we are asking for and what we really need and what you should be doing is trying to find some financial means. We'll set down the mandatory requirements for policemen. No, that isn't it.

SENATOR WOODCOCK: No, I know it isn't and that's the bill that we're considering here today. What I would like to direct your attention to is that there is nothing in this bill, whether it be in Article 3 or any other Article in this bill, that destroys the right of home rule, whether it be with respect to the police departments or any other function of local government.

MR. LUMBARD: Or for you to run your police department the way you wish. There's nothing in here that --

SENATOR WOODCOCK: That's true.

MR. MASS: Let's put it in another light, as to our Attorney General. Let's bring up that.

I feel that we have a good law enforcement man who is supporting us in the interpretation of the law. He is trying to do his best. We've had many good Attorneys General over the past years. They do come in green but then again it's because the Legislature has deemed it that way.

We would like to have an Attorney General. We would like to have his offices staffed and we do believe that these things should come through his office.

SENATOR WOODCOCK: Do you think this is directed against Attorney General Sills?

MR. MASS: No. But actually you've taken away - the way this legislation is written right now, you've taken away our head law enforcement officer.

MR. LUMBARD: No.

SENATOR WOODCOCK: No, no.

MR. MASS: We've got a commissioner to answer to, right?

SENATOR WOODCOCK: Let me ask you this, Chief, because I'm getting confused. Do you mean to tell me that if we were to enact Senate Bill 802 that New Jersey would not have a chief law enforcement agent?

MR. MASS: Well, if you enact this, - wait a minute, doesn't this right now convey all the authority that is also vested in the Attorney General to the commissioner?

SENATOR WOODCOCK: Right.

to that old path I've walked many times.

SENATOR ITALIANO: Except that it has been stated that this is patterned after and similar to the federal system which has an Attorney General and Solicitor General.

MR. MASS: You can't slay me with these others. Let me tell you something, gentlemen. I think you've traveled yourselves and you can go from one end of this country, one end of this world, and you'll never find another comparable state like the State of New Jersey, as far as its law enforcement is concerned and, with no exception, we have been the forerunner on many, many issues and law enforcement has pushed ahead as best they could and they've done a pretty darn good job and we don't have to hold our heads second to none.

The only thing I ask is, allow us, through the structures you have right now, - to set up this bill that you propose here, I surmise that it does take funding to get it rolling, to get it in existence, does it not?

SENATOR WOODCOCK: I never saw anything that ever was implemented by this Legislature that didn't require money. You're right.

MR. MASS: All I can claim is, we're poor, we're poverty-stricken, we'd like that money, don't redirect it somewhere else, give it to us.

SENATOR WOODCOCK: Thank you.

MR. LUMBARD: That's where your home rule would begin to go.

MR. MASS: You know, you gentlemen are just like

SENATOR WOODCOCK: And what I'm saying to you is that one of the reasons or one of the problems that we have with the wiretap bill is that it is, to some extent, an invasion of privacy. In order to get people to consider the bill favorably or with a more enlightened or objective view, I put the question to him as to why the State of New Jersey needed the --

MR. MASS: The bill.

SENATOR WOODCOCK: -- the bill, and he did then reply that there was a problem of organized crime here in the State of New Jersey.

And I would say to you that this is no surprise, I don't think, to the members of this Committee, nor to the Attorney General's office, who have on a number of occasions conceded that there is this problem.

But I do not want to get this Committee involved in that kind of a ping pong match where Professor Ruth has made a statement in answer to a question by the Chairman of this Committee and then have that be part of this proceeding.

MR. MASS: I see your point, Senator, and I respectfully submit to it. It is unfortunate that he made such a dastardly statement that accused innocent people of something that they are not guilty of.

SENATOR WOODCOCK: I don't think he accused anyone.

MR. MASS: Well, if you read the report and you read the New York Times and the Long Branch Record, the Asbury Park Press, if you read the --

SENATOR WOODCOCK: What did they say?

Gentlemen, I have been designated by Mr. John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs to appear before this Committee concerning Senate Bill 802. Mr. Ingersoll sincerely regrets he was unable to attend personally.

The responsibilities of the Bureau of Narcotics and Dangerous Drugs as established by Congress relate to opium, its alkaloids and derivatives; the coca leaf and its principal derivative cocaine; the plant *cannabis sativa*, otherwise known as "marihuana"; and a specific class of synthetics called "opiates", such as demerol and methadone. In addition to our long-standing control of narcotic drugs, we have recently been empowered by Presidential order, under reorganization plan one of 1968, to take jurisdiction of all the so-called dangerous drugs including amphetamines, barbiturates and hallucinagens.

By international agreement and the demands of our own society, we have chosen to subject the narcotic drug problem to control through the process of law and, more specifically, through the use of criminal sanctions. The United States has ratified treaties and has enacted laws designated specifically to carry out the purpose of preventing the spread of addiction.

It is commonplace for a society, when it has determined that a practice is undermining the health of its members, to call on the law as an ally of medicine. Narcotic drug addition is, as we all know, a sociological and medical problem. It is also a legal problem. A society in which

projects which are aimed at proposing unconventional treatment by indefinitely providing addicts with narcotic drugs.

MR. LUMBARD: Mr. Dukas, in that regard, do you regard methadone as such an instance?

MR. DUKAS: Methadone is a narcotic drug and I do regard that, yes, sir. I am going to stop and make a comment about that but I'm glad you brought it up.

The increasing interest of the medical profession in exploring medical solutions to the addiction problem is heartening. Narcotic addiction has received much longwaited attention in the last several years. The addict is definitely in the picture these days, and the scope of what may lawfully be done to and for him is showing promise of becoming a settled question. I want to assure you at this point that the Bureau of Narcotics and Dangerous Drugs shall make every effort to promote and accommodate public interests in developing comprehensive research plans looking toward finding the most effective means of treatment and rehabilitation.

Concurrently, with the accelerated efforts of the medical profession, the Federal Government has arrived on the scene with legislation which provides various features aimed at affording more opportunities for the treatment and rehabilitation of addicts, and to assist the states in their efforts. Briefly, the new law which became effective February 6, 1967 provides as follows:

This is the Federal Government's law, the Narcotic Addict Rehabilitation Act of 1966.

An addict or a relative may petition the U. S. Attorney for admission into a treatment program supervised by the Surgeon General. Upon evaluation, the U. S. Attorney may file the petition with the court which may order commitment for up to six months or until a cure is achieved, plus 36 months of supervised aftercare.

Title IV, Rehabilitation and Posthospitalization Care Programs and Assistance to States and Localities: The Surgeon General is authorized to establish "outpatient" services, to make grants-in-aid to states, and to enter jointly financed arrangements with states and localities to develop treatment facilities.

Now when the bill was enacted \$15 million was authorized for a two-year period. At this time I am not aware if an additional fifteen or more has been authorized.

Title V deals with marihuana offenders, and in this one, briefly, they give the marihuana user a little more leniency than in the past. In other words, if he was just a user, he wouldn't be penalized as he was under the old law.

Now in his message on crime in March, 1965, President Johnson said: "The return of narcotic and marihuana users to useful, productive lives is of obvious benefit to them and to society at large. But at the same time, it is essential to assure adequate protection of the general public."

The Act of 1966 does not pretend to offer a total solution, but it is a good beginning. It does give more addicts a way to rid themselves of their affliction. It does help us to attack the roots of addiction by applying

Narcotic Act, labeling an addict a criminal. Now this has never been in the Act. We, in the Bureau, have never considered the addict a criminal simply because he's addicted. This individual needs help. He must want to help himself, also.

And the last point I'd like to bring out is, the Bureau bases its policies not on just our own viewpoints, they're based on the American Medical Association, and this Association tells us that ambulatory treatment of addicts is medically unsound, it just won't work.

Basically, gentlemen, what we believe in is a drug-free society as opposed to a free drug society.

Thank you.

MR. LUMBARD: When you say "ambulatory," you mean outpatient programs of one kind or another?

MR. DUKAS: Receiving drugs.

MR. LUMBARD: Yes. Would it be fair to say, Mr. Dukas, then that the position of the Federal Bureau of Narcotics is that voluntary programs are not as effective in combating narcotic addiction as civil commitment programs?

MR. DUKAS: I would say, yes, we would say that. And I would say compulsory commitment. Even with your civil commitment there is some compulsory commitment in there, am I right.

MR. LUMBARD: Yes. Have you read Senate 802, the narcotic section of it?

MR. DUKAS: I did read it, not as thoroughly as I would like to have read it, however, if you have any questions.

MR. LUMBARD: Well my question really arises out of the fact that your jurisdiction does embrace Northern New Jersey, plus New York State.

MR. DUKAS: Yes.

MR. LUMBARD: Now Commissioner Pearce of New York, in his testimony intimated that problems might arise, let's say, if New York had a strong commitment law and surrounding states did not, due to the fact that this mobile population of today, people can get quickly from one state to another, and so on, and that weakness in one state might diminish the efforts elsewhere and indeed draw on the weaker state more of a problem because that's where the addicts would go.

Would you have any observations about that or has your Bureau had any experience in that regard?

MR. DUKAS: Well in this regard it's obvious that a possibility exists that if addicts are in a state that has a strong law, it's obvious that the possibility exists that they will leave to avoid the penalties, commitment or anything else that comes under that law, and would go to a neighboring state to use that as, what can I say, a home base? It doesn't mean they are never going to go back into, let's say, New York but the possibility is they can come to New Jersey and just travel to New York to pick up their drugs.

I have two other papers that I would like to leave with you. One is the Addict Act, the Federal Act, if you would care to have it; and the other one, I may be out of bounds but it is a paper by Dr. Davis P. Ausubel who was, I think, Chairman of the Bureau of Educational Research at

The Department of Criminal Justice?

MR. DUKAS: Well I have to answer it this way. I said, first of all, that the addict has never been considered a criminal simply because he's addicted. He may be a criminal for the crimes he commits but because he's addicted, he's not a criminal.

As for the Surgeon General, there are sections in the Federal Narcotic Law, the Addict Rehabilitation Act, where the addict is under the custody of the Attorney General. That's in other parts of the law, the commitment in lieu of prosecution.

SENATOR RIDOLFI: We're talking about the addict now, we're not talking about the criminal addict, we're talking about an addict.

MR. DUKAS: The only way I can answer that, and I may be hedging but I'm going to answer it in this manner. Any program that you have that is workable, that is helping the addict, I don't think it matters where it's placed, in which department. I couldn't tell you right now that it should be under the Department of Health or the Criminal Justice. You've got a program. If the program works, what difference does it make where you place it?

SENATOR RIDOLFI: That might very well be and I would have to agree that you're hedging and I'm not going to belabor the point with you, but it just strikes me that you're being slightly inconsistent when you say in one breath your department never considers an addict, per se, a criminal, and in the next breath it has absolutely no

MR. LUMBARD: Are you appearing here in his behalf or for him? Are you speaking for Mr. McConnell?

MR. FANT: Both. I want to make a comment which I think represents the feeling of Mr. McConnell and the Chief Justice, and I also would like to make some personal comments which reflect my own thinking and my own philosophy in relation to probation.

I would like to limit the remarks that I'm going to make to three sections in the proposed act, Sections 59, 60 and 61.

In our interpretation of these three sections, we believe you propose in Section 59 to transfer responsibility for the supervision of persons placed on probation from the present Probation Department, located in 21 counties, to the new Division of Rehabilitation in the Department of Justice, if we interpret that section correctly.

Section 60 we interpret to provide for the new Division of Rehabilitation and the Administrative Office of the Courts to collaborate in developing plans for the supervision of those persons placed on probation and for continuing to exercise some responsibility for the pre-sentence functions which presumably are to remain with the present structure, that is the local probation department and the court.

And Section 61, we interpret that to require an exchange of information between the new department and the present probation structure.

I would like to make one comment with respect to

contrary, that's all. So I think 61 makes no change, as you just said, but tries to insure that there shall be no change. So maybe we share --

MR. FANT: We're probably in agreement on that, right.

MR. LUMBARD: So you are now talking about 59 and 60.

MR. FANT: On 59 and 60 would be the comments I would make.

The proposal to separate the intake and investigation functions from the supervision function of the probation process and to transfer responsibility for the latter from the Judiciary to the proposed Department of Criminal Justice will not only fractionalize the service, but make it administratively difficult or impossible to operate efficiently and effectively.

The bill does not provide for a transfer of the probation department or any part of it to the Department of Criminal Justice. Presumably the counties will still retain the responsibility for providing financial support and the Judiciary will retain appointment and salary setting authority. By giving the Department of Justice some authority for executing the probation supervision function, while leaving other functions and responsibilities divided between the counties and the Judiciary, the doctrine of separation of powers according to the legislative, executive and judicial branches of government is brought into question and creates conditions which could result in serious policy, administrative and financial problems and conflicts in the future.

While there may be some flexibility created in the rehabilitation process by transferring the probation supervision function only to an executive agency, I believe this must be weighed against other potential results of such a change.

It is firmly believed that there is and would continue to be greater use of probation by the courts when that service is under judicial control and administration rather than an executive agency.

Next, it is believed the total probation operation is a more effective service, when tied in with the courts, moreso than if part of that service was transferred to an executive agency.

Third, there is obviously increased confidence in probation and its use when the service is under the control of the Judiciary.

And, fourth, the relationship of the judges with probation staff is closer, more meaningful and effective when the total probation process is under their control than it would be if there is a fragmentation of functions and a transfer of part of that process to another agency under another branch of government.

In conclusion, it would appear from our point of view that the advantages of keeping the total probation service in the Judiciary outweigh the apparent single advantage of flexibility which could result from the proposed administrative change as outlined in the Act.

problems, but one single problem which appeared in every state in this country is the fact that probation has not received the kind of support, financially, morally, in terms of commitment that it needs in order to do the job that we believe it can do. We think that the job can be done here in New Jersey. All we need is money, leadership and commitments, and we can do it in the present structure.

Thank you very much for listening to my comments and I'll gladly answer any questions you might have.

MR. LUMBARD: Mr. Fant, I know you're from New York.

MR. FANT: I am now a resident of New Jersey.

MR. LUMBARD: I understand that, which on some occasions upset people from New York. I think we share a common background.

Have you had an opportunity to read the testimony of the three Chief Probation Officers who testified before the Forsythe Committee last spring?

MR. FANT: Yes.

MR. LUMBARD: That's really the genesis of this.

MR. FANT: Yes. I remember. I think I did. That was right after I came to the Administrative Office. I think I did read those.

MR. LUMBARD: Well, I think it's a fair statement to say that the three of them reported sort of disaster. That was at least what the Senators and the Assemblymen on the Committee took from that, and they instructed, do something about probation. This provision starts with that.

Inquiry into the problem, into a number of problems,

the probation officer to make initial investigations but field supervision, okeh.

So that's why the dichotomy came up really on the suggestions of persons other than on the Committee that this would be an acceptable thing.

Now if you feel that changes in the language would make this more workable or result in better service, I'm sure Senator Woodcock and, I know, Senator Forsythe would solicit them because I know Senator Forsythe is deeply concerned about this. We have spent literally several hours talking about just what to do and an attempt was made, without any politics or anything, to work out something that would be most acceptable to the Chief Justice and everyone else. That's the only goal.

So could you please let us have your suggestions or, if you wish, I'll see anybody you wish, as to what will make the best effective program and will result in the most money coming and doesn't tie down to simply saying the counties should give more money to probation but they don't and leave this very important service without a remedy to see that that money does come forth.

Is that a very long - maybe I am tired. I've been here quite a while now. But that's what it's all about and it's not an attempt to try to divide probation, it's an attempt to strengthen it.

MR. FANT: Well, let me just make this statement. We can make ourselves available if you or the Committee would like to talk with us further on this because, believe me,

MR. LUMBARD: Maybe Senator Woodcock would be agreeable that I talk with the gentlemen at some other time.

SENATOR WOODCOCK: And I think if he will make himself available to the Committee, we can sit down and discuss this particular problem.

MR. LUMBARD: Frankly, I'm exhausted.

SENATOR WOODCOCK: Senator Ridolfi, do you have any questions?

SENATOR RIDOLFI: No, sir. I have none. Thank you.

SENATOR WOODCOCK: All right, then we will thank you for being here today, sir.

MR. FANT: Thank you very much.

SENATOR WOODCOCK: I just have one telegram that I better read into the record before somebody's nose is out of joint. This is from the New Jersey State AFL-CIO and it's signed by Charles H. Marciante, Secretary-Treasurer. It says:

"The New Jersey State AFL-CIO had wished to appear before your Committee at the hearing tomorrow in opposition to the crime control bill and especially that part which would create a department of criminal justice. However, sudden and urgent meeting of our executive board prevents our attendance. Request that you list us in opposition and grant us time to file brief. We will check with you as to time allowed. For your information we are forwarding copy of resolution adopted at our recent convention by simultaneous mail."

And with that, I will just say, I want to thank Senator Ridolfi for coming in today and helping with the Committee's work, and the hearings are concluded. Thank you.

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