

PUBLIC HEARING  
before  
LEGISLATIVE OVERSIGHT COMMITTEE

HELD:  
July 21, 1977  
Freeholders Meeting Room  
Union County Court House  
Elizabeth, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Martin A. Herman (Chairman)  
Assemblyman Dean A. Gallo  
Assemblyman Alan Karcher  
Assemblyman Walter J. Kavanaugh  
Assemblyman William J. Maguire  
Assemblyman Peter Shapiro

ALSO:

Steven B. Frakt, Research Associate  
Aide, Assembly Legislative Oversight Committee

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MEMBERS OF COMMITTEE PRESENT:

- Assemblyman Philip A. Brown (Chairman)
- Assemblyman John A. DeLoe
- Assemblyman James J. Florio
- Assemblyman Walter J. Hovavogel
- Assemblyman William J. Hughes
- Assemblyman Peter S. Vignone

Also Present:  
David A. Frank, Executive Director  
State Assembly Legislative Oversight Committee

I N D E X

	<u>Page</u>
Anthony R. Chiodo City Treasurer Elizabeth, New Jersey	1
Bernard Yarusavage, Mayor Clark, New Jersey	4
John Haertlein, President Alcan Metal Powders	7
Edward J. Del Rosso, Legislative Chairman Garden State Electrical Contractors Association, Inc.	11
Mary Nowakowski Roselle Citizens Committee	18 & 1x
John Reed, Chairman Environmental Controls Committee New Jersey Builders Association	21
Doris Mann, Councilwoman Garwood, New Jersey	25
Mary Ellen Inwin, Councilwoman New Providence, New Jersey	26
Edward Bein, Mayor Borough of New Providence, New Jersey	31
Fred Dubowsky Builders Association of Metropolitan New Jersey	37
Paul O'Keeffe, Mayor City of Plainfield, New Jersey	43
Harold Seymour, Freeholder and Tax Collector Cranford, New Jersey	49



ASSEMBLYMAN MARTIN A. HERMAN (Chairman): Good morning, ladies and gentlemen. My name is Assemblyman Herman. To my right is the Assemblyman who is going to be the host for this public hearing, Assemblyman Maguire. This is the Assembly Legislative Oversight Committee. We are engaged in a study of the need for greater legislative involvement in the on-going activities of Executive agencies. Through public hearings, such as this one, and through questionnaires which have been distributed to all registered lobbyists and others, we are attempting to document the necessity for stronger oversight powers.

I would like to note that Assemblyman Kavanaugh has just arrived.

The next step after these public hearings will be to review which of the various mechanisms for oversight, that have been proposed or adopted in other states, would best suit New Jersey's situation and New Jersey's needs.

This is the second public hearing of what we hope to be a number of public hearings to be held throughout the State. The first hearing was held in New Brunswick on May 18th.

Although we recognize that those in attendance are particularly concerned with one or more specific actions on the part of an Executive Department, we must remind our audience that our mandate is to take a broad look at the problem of over-regulation. We, of course, welcome your examples of agencies which may have acted arbitrarily, capriciously, or beyond the scope of their authority, but we cannot promise an in-depth review of each particular incident that is brought to our attention. However, let me add as a caveat that, as we did in the New Brunswick hearing and as we hope to continue to do, where there are particular problems that need immediate attention, our committee staff member, Mr. Steven Frakt - who is the gentleman on the left - will turn over that particular information to the legislative committee of the Assembly and the Senate concerned with that particular matter. This will, of course, try to give you some direct input to your Assemblymen or Senators so that that particular problem can be handled if it has an immediacy attached to it.

The goal of this Committee is to improve the process, to make the system more accountable, and to show that the legislative process does not merely begin with the introduction of a bill nor end with the passage of a bill.

On behalf of all of us, we thank you for contributing towards this goal and for your presence today. As I mentioned, I am pleased to turn over the co-chairmanship and the hosting of this meeting to Assemblyman Maguire. Thank you for having us here today, Bill.

ASSEMBLYMAN MAGUIRE: I would like to invite the Treasurer and Tax Collector from the City of Elizabeth to make any comments he may have. Tony, do you want to come up here and sit at this microphone?

A N T H O N Y R. C H I O D O: My name is Anthony Chiodo. I am the City Treasurer of Elizabeth, New Jersey.

Gentlemen, I have a prepared statement. It is not that lengthy, so I would like to read it and I will make it available to the Committee.

Assembly Bill A-2196, an act providing for property tax rebates or credits for residential tenants in certain cases became law and, as a result, regulations were drawn pursuant to Section 9 of Chapter 73, Public Laws of 1976, as amended by Chapter 81, Public Laws of 1977 and part of Title V of the New Jersey Administrative Code. The Tenants' Property Tax Rebate Program

has caused, and continues to cause, a chaotic situation involving landlords, tenants and local tax officials. The law, being extremely complicated, resulted in the Director of the Division of Local Government Services having to promulgate some 10 pages of regulations in an attempt to somehow guide the local officials and property owners in implementing the legislation.

The regulations were finalized after many changes were made, as a result of tax collectors' input indicating serious problems in implementing the legislation.

The legislation does not result in what the intent of the legislators was, and that was to afford tax relief to tenants in the form of pass-through property tax reductions.

The tenants of the City of Elizabeth, for example, under rent control ordinances, would, if the landlord passed through the tax increase - which he or she may do - have a net increase in rent, inasmuch as the unbudgeted state school aid rebate was approximately the same as a tax increase, and since the landlord paid back only 65% of the school aid rebate, the credit is less than a tax increase pass-through.

Gentlemen, this is very complicated and I will, when I am finished - if you have any questions - attempt to clarify some of this for you.

ASSEMBLYMAN MAGUIRE: The Committee may have some questions.

MR. CHIODO: The law has resulted in complete bewilderment to landlords, tenants, and many local officials. There are apparent inconsistencies in, for example, rebating unbudgeted state school aid refunds to '76 owners of property and pass-through rebates to 1977 tenants. A subject property owner, who purchased property in 1977 is required to rebate or credit an unbudgeted state school aid refund that was paid to the former owner of record in 1976. In other words, a new landlord must pass on to tenants something that he has not received.

The unbudgeted school aid procedure has resulted in many tax collectors, all over New Jersey, holding checks, due to their not knowing the former property owner's mailing address. In Elizabeth, for example, I am holding over 800 checks, representing over \$50 thousand of unbudgeted state school aid.

The Hot Line, established by Trenton in an attempt to answer inquiries, etc., has resulted in numerous calls to local tax officials, either because of the inability to reach the number or to state officials not having answers to the questions.

An example of a letter from a landlord is enclosed for your record. I will just read a couple of paragraphs from a letter I received from one of the landlords:

"As you are no doubt aware, there is much confusion regarding the Tenants' Property Tax Rebate Program. Frankly, I believe there is even more perplexity among us landlords than among our tenants. I am very much concerned that I, involuntarily, do not violate the letter of the law.

"For the past two weeks I have phoned the State Hot Line number" - and he gives the number - "at least six times a day, every day of the week, and received a busy signal.

"From the Apartment House Council of the New Jersey Builders' Association, I was able to obtain a copy of the regulations supplied to them by the Division of Local Government Services, whatever that is. After reading the

regulations, I am more confused than before. However, one of the provisions of the regulations I was able to comprehend was the paragraph headed, 'Responsibility of a Tax Collector'."

He goes on to say, "I am completely frustrated and have decided to do absolutely nothing more until I receive a knowledgeable response from your office."

In conclusion, gentlemen, there appears to have been a serious breakdown somewhere in our governmental process. The legislators were not given input from the professionals. The people closest to the scene, namely the tax collectors, were not asked, or if they were asked they were not listened to.

I would like to thank everybody on the Committee for permitting me to be here today. I would be very happy to answer any questions you have about the comments I have made.

ASSEMBLYMAN MAGUIRE: I have been following, with interest, the pieces I have read in the paper, so I know what your problem is. I don't have any questions, myself. Does any other member of the Committee have any questions?

ASSEMBLYMAN HERMAN: Mr. Chiodo, by way of general information, you have been tax collector for how long, sir?

MR. CHIODO: It will be 11 years in November.

ASSEMBLYMAN HERMAN: Let me ask you this: In that capacity - in your working with various state agencies and state laws - if you had to sum up the problems that you have had with Trenton - and, of course, everybody has problems with Trenton in one fashion or another - would you say, over those 11 years, that your primary problems have been in getting responses from administrative agencies, over-regulation, or the legislative process? I am just trying to establish what your frustrations are.

MR. CHIODO: A combination of both, possibly. In this particular situation, we had attended several meetings after the original regulations came out and many of the problems that we foresaw-- We tried to reach the people in Trenton. The legislation had been passed. In fairness to Local Government Services who had to come up with 10 pages of regulations, in my opinion to regulate something with 10 pages of regulations that cause other chaos, means there is something wrong with the legislation that was passed. Now, somewhere along the line there was a breakdown. We kept hearing, on the tax collector's end, that the legislators were not affording the professionals the opportunity to discuss many of the problems. On the other hand, the legislators said the professionals were not there when we wanted some of these questions answered.

So, what has really happened is, you have created a monster, in my opinion. You have landlords and tenants at each other's throats. You have people saying to each other, "I am not going to pay it." You have situations where - as I pointed out in my letter - a landlord who received no school rebate must now pass on 65% of something he never received. Many of them aren't going to do it. I am sure you are going to have court cases involved in many of these rebates.

ASSEMBLYMAN HERMAN: Let me ask you one more question that perhaps gets to the heart of what we are here to establish. I am sure you have reviewed, many times, those ten pages of regulations. I am sure you read the

law a number of times. Based on your expertise as a tax collector of 11 years, is it your opinion, or impression, that those regulations go beyond the spirit and intent of the law?

MR. CHIODO: Yes. I think they attempted to do something but the ultimate result was not there. For example, when the original school rebate came out, the collectors, I think as a whole, said it would have been preferable to credit the taxpayer's account. Why go through all these checks? Why go through this mailing, etc.? The answer we received was, we must go back to 1976 owners because, in effect, last year we raised more taxes than was necessary - okay? So, we accepted that and felt that it seemed logical that we were trying to reach the people from the previous year's taxes.

However, now, with the implementation of the tenants' rebate, we are suddenly forgetting the tenants of '76, who, in many cases, probably paid additional taxes and we are saying we are going to pass it through the '77 tax. There is no consistency at all.

ASSEMBLYMAN HERMAN: Thank you very much. Mr. Frakt, I would appreciate it - because I have other comments in this regard that I will hold to the end of the meeting that are in reference to the problem I have just run into - if you could distribute a copy of those rules and regulations to all the members of the Committee, with a copy of the law. I will be talking to you about this later on.

Thank you very much, Mr. Chiodo.

MR. CHIODO: Thank you.

ASSEMBLYMAN MAGUIRE: Mayor Yarusavage of Clark, New Jersey.

M A Y O R B E R N A R D Y A R U S A V A G E: Good morning. Members of the New Jersey State Assembly Legislative Oversight Committee, let me congratulate you for your wisdom in providing this vehicle of communication between local government and the State Government. I would also like to thank you for the opportunity to bring to your attention the effect that the Legislature's actions have on Clark, New Jersey and its neighbors.

Many of your colleagues in the Assembly may have forgotten the budgetary restrictions imposed by State statute which govern municipalities. For example the 5% cap, or ceiling increase on local budgets, is basically good control on governmental spending. However, the Legislature, in its zeal for holding down taxes, overlooked the fact that the municipalities have no control over the premium rates for various mandatory insurances such as workmen's compensation, hospitalization and retirement.

Salaries of municipal employees are also included in the 5% cap, but no wage controls have been imposed to match the limits set forth.

Though we all welcome the recent and pending tax rebates from the State, the actual refunds must come through the local treasurer's office, placing the added financial burdens on the municipalities - and the taxpayers - for the clerical work, research, label printing, calculations, mailing, and postage.

This is grossly unfair since there was no hint of this for the possibility of the rebate and, consequently, no provisions made in anyone's 1977 municipal budgets to cover these unanticipated expenses.

Future legislation concerning finances should be framed with more input from local government to keep the Legislature aware of what the towns can afford and what they can expect. An example of this is the proposed retirement plan

for certain local and State employees of "20 and out." The average citizen could be better served and local government and State Government could be more efficient if we have more meaningful dialogue between such agencies as the Public Utilities Commission and local government. We have no voice now in water or power rate setting or even in the cost of garbage collections, but we must pay the bill.

It is quite frustrating to try to get action out of many state departments. As an example, it is very difficult to try to get the Department of Transportation to repair and maintain the bridges over the Garden State Parkway. In another instance, many citizens whose property abuts the Garden State Parkway, have petitioned the Department to keep the proposed new fences closer to the Parkway pavement, but to no avail.

Time and again, we, as a municipality trying to protect our citizens, have been denied much needed traffic lights by the State Highway Department.

The vast majority of the population of New Jersey vocally and violently opposed the State Income Tax but we are saddled with it and now they are trying to soothe the hurt with these tax rebates.

We are also grateful for the positive things that you legislators have come up with recently. For example, I would like to cite the creation of a Fire Marshal. This is a real plus for fire fighters and fire fighting efficiency in the State. It is greatly appreciated, especially by the volunteers.

To date - and by and large this has not been true representative government - we need more sessions such as this meeting and, more important, we need responsive representation. This could be a new dimension in State and local government -- feeling for the people by understanding their local problems and situations. Thank you.

ASSEMBLYMAN MAGUIRE: I think, Mr. Mayor, this is probably the first time this kind of committee has been established in the history of the State of New Jersey. I have only served on it eighteen months, but I can tell you that the wheels that result in change grind very, very slowly, whether you are a member of the minority or a member of the majority.

I would just like to pursue the problems you are having with the Department of Transportation because Mayor Mancino of Kenilworth will be in later and I am sure he is going to address himself to that problem too.

Do you have a problem getting hold of people? Do you have a problem getting answers? What kinds of problems do you have?

MAYOR YARUSAVAGE: There are two different categories. The current expansion of the Parkway has produced a good rapport with the Department of Engineering in the Department of Transportation. We have had no trouble in getting the engineers to come down - the field engineers. They have talked to people. They have been sympathetic. But, unfortunately, there were unable, on their own, to help the people. They moved the fences back to the pavement - the proposed fences. But, at least they did come down and take their time and explain the situation and review the problems with the people.

The other category is in trying to get action from the Department itself, insofar as the maintenance of their bridges over the Parkway, the railings, the approaches, and the grass not being cut and trimmed is concerned. Again, we are hamstrung. It is not township property. We can't really go in there. We don't have the manpower. We don't have the money in the budget to replace

the fences that are deteriorating - and when I speak of fences I mean the wooden rails, the decorative part of the Parkway that looks so nice to everybody. It becomes a hazard to us when logs rot out and begin to fall. It seems to be more of a maintenance problem and getting response, rather than reaching people. We can get people. We have no trouble in getting through on the phone to almost anyone we want. But, getting them to react has been the problem.

ASSEMBLYMAN MAGUIRE: Thank you. Does anyone else have any questions?

ASSEMBLYMAN HERMAN: Mayor, is that on a local basis? Do they have a local maintenance department within the county or within your area? In other words, are you placing calls to Trenton or are you placing calls locally?

MAYOR YARUSAVAGE: Trenton. We have a Trenton number that we call.

ASSEMBLYMAN HERMAN: Isn't there a local maintenance DOT area?

MAYOR YARUSAVAGE: We do have a maintenance yard but to get the request through, we must go the Trenton number to get anything done.

ASSEMBLYMAN HERMAN: So, in other words, the complaint is, they hear you but they don't do anything about it?

MAYOR YARUSAVAGE: They may have been delaying this in anticipation of the Parkway widening program, I don't know. But, at any rate, we have had no service on those bridges.

ASSEMBLYMAN HERMAN: They have not even given you a reason why?

MAYOR YARUSAVAGE: We get yessed to death on it.

ASSEMBLYMAN KAVANAUGH: Is this by telephone conversation or is it--

MAYOR YARUSAVAGE: Both - by both telephone and letter. We have followed it up.

ASSEMBLYMAN HERMAN: May I suggest, Mayor, that if you would perhaps document this for us - to whom you have been communicating - we will be happy to turn that information over to your local Assemblymen and Senators and, of course, send that information on to Commissioner Sagner, so that perhaps just in a small way we might be of some help to you.

Let me ask you a question on a broader basis, if I may. Obviously, it appears that you have raised two cornerstones of concern, one is the question of non-responsiveness of government and, two, the question of ability to communicate. If, based on your experience as a public official and as a Mayor, you had to gauge these respective items of responsiveness and communication, as to the legislators and as to the administrative agencies of government, how would you respond? In other words, are you able to communicate better with your legislator than you are with the state agency, etc.?

MAYOR YARUSAVAGE: Yes, he is here this morning.

ASSEMBLYMAN MAGUIRE: He painted you right into a corner, you know that don't you?

MAYOR YARUSAVAGE: He did. He is available and so is our other legislator from this district, which I think all of us appreciate. So, it is not a matter of communicating with our legislators or our representatives.

By bringing this sort of a meeting to the City of Elizabeth so we can all get out to you folks, I think, is another plus for our legislators showing their interest in their local government. And, this is not novel. When Assemblyman Maguire was with the Freeholders, they began touring the county with meetings and he has continued this, by the way. So, it gives everybody a chance

to put their feelings out and be heard. To me, this is the type of government that we need. We were falling into this pitfall of "big brother" government where everything is going to be done for us and this is not what the people need or want. They are more concerned about the pothole in front of their house than they are about some bill in Trenton that they may never see or be touched by.

So, I congratulate the Committee again for this type of approach and I hope that this will be the first of many meetings between us. I find no problem at all in getting messages through to Assemblyman DiFrancesco or Assemblyman Maguire.

ASSEMBLYMAN HERMAN: Well, I hope I am around next year to come back. Thank you very much.

I would like to introduce Assemblyman Peter Shapiro, who is also a member of the Committee.

ASSEMBLYMAN MAGUIRE: I would now like to invite John Haertlein, the President of Alcan Metal, to address the Committee.

J O H N H A E R T L E I N: I am the President of Alcan Metal Powders, which is a division of Alcan Aluminum Corporation in Union, New Jersey. Our Corporation is a major multi-national concern with extensive interest in the United States and especially in New Jersey, where our four locations have a total of over 500 employees. My division, located here in Union County, has over 200 employees.

I have lived the past 35 years of my life in New Jersey and would very much like to continue to do so. In all honesty, I cannot recommend to my corporation that we expand operations further in this State and the corporation has come to the same conclusions on its own from examination of the problems associated with doing business in this State.

It is amazingly simple to those in the Legislature to effect improvements in the working conditions or the benefits of industrial employees, especially when such can be done at no cost to the taxpayer or employees, with business bearing the full brunt of the expense. However, there are numerous problems that this causes concerns, such as our own. We have many national benefit programs which we consider equal to any in the country. When the New Jersey Legislature changes, it either creates an inequity on the national basis, or the company has to provide special programs for our State, or they have to extend the benefits to all states.

In our corporate office, there is a development of feeling that New Jersey should be isolated and no further improvements should be made in benefits for New Jersey participants since this is the most logical way of compensating for the cost of legislative changes.

In this regard, I am referring to such bills as A-388, in which a specified half-hour meal time is required for a six-hour, or longer, period of work; A-1309, which prohibits deducting workmens' compensation programs from monthly pension benefits; and A-1898, requiring companies having health plans with medical service corporations to pay a certain cost.

I am not objecting to specific items in these bills since my own company includes many of the provisions already in its collective bargaining agreements and its other programs. I am opposed to the principle of legislating such matters.

A very expensive area for New Jersey business covers the unemployment compensation and workers' compensation provisions. Last year, extensive

committee work was done on proposed revisions of the Workers' Compensation Law and, in my estimation, there would have been an improvement, but no law was enacted.

I believe there has to be a change in philosophy from the assumption that anyone who files a claim must be entitled to something, to a fair provision for those truly injured and no benefits for minor and unjustified complaints. It hurts me to see someone suffer financial loss if he or she is unable to go to work for a period of time due to an injury on the job - and this happens under Worker's Compensation. On the other hand, we find our biggest cost in Workers' Compensation involves cases which, in my heart, I do not feel are attributable to events at the work place. For example, a recent large award in our case went to the claimant of an employee who died of a heart attack at home while sleeping. Under this type of philosophy, practically any cause of death of any employee can be attributable to his work and, if his wife is young enough, payments can be substantial.

In most years, Workers' Compensation payments by Alcan Aluminum Corporation to its New Jersey employees, who make up about 10% of its U. S. work force, are almost half of our U. S. compensation payments, although accident rates are roughly comparable throughout the entire organization. This can only be changed if the court philosophy is changed by law.

We have seen recent signs of tightening in the administration of unemployment compensation but New Jersey still tends to be most generous in its decisions in this area.

Our company pays extremely generous termination benefits. We were surprised recently to find a terminated employee who was receiving full salary for five months' termination pay, also applying for unemployment benefits. He was finally refused, as I think he should be until his termination pay ceases, but the law does not clearly provide for disqualification, and I believe it should.

We find that almost universally, on mandatory retirement at age 65, our employees applied for and received unemployment and Workers' Compensation, in addition to their pension benefits. I confess that I cannot perform the same physical activities that I could at 20, and I think age has more to do with it than having worked for a living, but the Workers' Compensation judges seem to feel that all disabilities are the effect of work.

We have recently had an employee, who is receiving 60% of his pay under our company's disability plan, also attaining an award of \$1,650 from Workers' Compensation. Having smoked three to four packs of cigarettes a day, he developed emphysema on top of his arthritis - apparently because "since he filed a claim, there must be some relationship to work."

In looking for sites for growth of our business, I, and officials of my parent corporation, am not looking in New Jersey. Personally, I think this is bad because I would prefer staying in my home here and I think we could provide good jobs for unskilled labor. On a business basis, I cannot put my company in an unfavorable position vis-a-vis my competition, and New Jersey certainly has the least attractive climate we have found in which to operate. This atmosphere can be corrected if the Legislature considers the economic and business effect of bills under consideration, if Workers' Compensation and unemployment benefit procedures are tightened, and, most of all, probably

by limiting the number of bills passed.

For business, a compromise is always giving up more of our management rights and we would rather do this in collective bargaining where we can at least receive the minor benefit of not having to pay quite as great a wage increase as an offset. Thank you for giving me this opportunity.

ASSEMBLYMAN HERMAN: Before we proceed, I would like to introduce Assemblyman Alan Karcher, Vice Chairman of the Committee.

ASSEMBLYMAN MAGUIRE: Are there any questions?

ASSEMBLYMAN HERMAN: Just a couple, if I may. I think, just as a preface, your testimony is well put - excellently put. I would like to ask you a very direct question. Based on your testimony, what can we do, as a Legislature? If you were boiling it down to its lowest common denominator, what can we do to make New Jersey a more attractive place for industry to stay, locate, and relocate in?

MR. HAERTLEIN: Well, first I think the Workers' Compensation Law has got to be overhauled. A good attempt was made at this last year. It was proceeding and then it got bypassed by the income tax and it has not come back, to my knowledge. I think it has got to be done.

In our corporation, we find that no other state has the liberality of the New Jersey compensation system. I think we are not liberal enough with the people that are really damaged, which is bad also.

The number of bills that I see coming through - and I just get peripheral reference to them because my job is running a company - if they could be consolidated in some way, should be looked at as a group and the question should be asked: "What does this group of bills that are being presented this year do to industry and are they really necessary?" Because some of these bills, I think, are the kind of thing that unions and management negotiated on and came to agreement on.

Bill invited me to this meeting because I wrote to him about this bill on lunch hours. If you have a twenty minute lunch hour and here they say you have to have a thirty minute lunch hour, that creates some problems. How do you cover? You manage to cover for your twenty minutes but maybe you have to shut down machines for another ten minutes, which costs money. Whatever a company does, it is going to cost money. I think most people do get their lunch hour, one way or another at the present time. I think these are the kinds of things that have to be looked at and "what does it do to industry" has to be considered.

ASSEMBLYMAN HERMAN: I am going to put you on a spot, if I can - if I may, I should say. I "can" also. You appear to be saying that labor, through the back door, through legislation, is, in essence, killing the golden goose by forcing jobs out by encouraging unnecessary legislation. Taking that into consideration, if you were to put it on a scale of one to ten, as far as the jobs being forced out of New Jersey and industry closing, or not coming in, if we were discussing the labor situation, DEP, or any other agencies of government, what would you say would be the factors which have forced industry to leave and not encouraged them to come back? I am trying to balance the labor and DEP. We have heard about DEP and I am just wondering what your impressions are - labor versus DEP.

MR. HAERTLEIN: Well, I don't think it is just labor that I am talking about. In other words, one of these bills, basically, was incorporating

chiropractic practice into the medical thing. Now, I think every company's medical plan is somewhat different and they are worked out according to the benefits that the company feels should be given. Personally, our company has chiropractic treatment included in the medical payment program but if a company doesn't, fine, people know what they can have. And, I don't think that was a labor-originated bill. I would doubt it very much. I think bills come from everywhere but they all impose problems on us.

In our own case, I think we are mainly concerned at the high and uncertain cost of certain types of doing business due to Workers' Compensation and unemployment and so on. But, we do have problems even with the high unemployment in this region. We frequently have problems getting good employees to work. People come in and they work until they can get unemployment and then they manage to get laid off and go on unemployment. We find this continually and we don't think it is a healthy situation.

ASSEMBLYMAN MAGUIRE: I think I would like to add one more thing that John and I talked about because I asked him pretty much the same question at the last ELC meeting. I think he speaks for many members of industry. The biggest fear they have is you and I, and our cohorts down in Trenton, passing legislation without taking into consideration what the short range and the long range effects are in the operation of a business. I don't care whether this business is John's or Exxon's or American Cyanamid; It makes no difference; it is the pro-labor legislation that is on the board. You have only mentioned three, but I can tell you there are probably fifty three and if they ever do become law, I don't know who is going to be working in New Jersey, other than politicians and I don't really know where we are going to get the money to pay us because there will not be anybody working.

ASSEMBLYMAN SHAPIRO: If I may, I would like to ask one question. I was wondering about this in reading the various reports that have come out over the past three years, especially the Fantus Report. You say you are not looking to relocate in New Jersey, or expand in New Jersey. Where are you looking to relocate?

MR. HAERTLEIN: It would probably be towards the South or Midwest.

ASSEMBLYMAN SHAPIRO: Are there specific states that come to mind?

MR. HAERTLEIN: I beg your pardon?

ASSEMBLYMAN SHAPIRO: Are there specific states that come to mind?

MR. HAERTLEIN: Some operations could be done in Alabama, Georgia, Mississippi region. We are expanding in Mississippi right now - not my division but other divisions. In the Missouri and Kansas area we are expanding. We are looking at these types of areas.

There are other problems also. You have energy problems here. They have energy problems but not to the same extent sometimes.

ASSEMBLYMAN SHAPIRO: One thing that the Fantus Report said that struck me -- Are you familiar with this report, by the way?

MR. HAERTLEIN: Yes.

ASSEMBLYMAN SHAPIRO: One thing that they said that struck me was, one of the problems we have in New Jersey, among the other things you have mentioned, is that we have a tendency to flog ourselves rather than to advertise our natural advantages. Throughout that report they came to a point and said, at this point New Jersey is, in fact, better than its nearest

competitors, or better than its competitive states for certain industries, but they fail to promote it. I wonder how much you have noted that to be the case and how much you think all of us can do to try to promote the State a little bit better? It seems to me that again and again I am hearing people say that we have a tendency to flog ourselves. We have a tendency to say how bad New Jersey is when there are some great strengths in this State, I think.

The Fantus Report on business relocation pointed some of those out and we fail to ever mention them, particularly at forums such as this. I was wondering if you had any thoughts on that?

MR. HAERTLEIN: Yes, I think we can do a great deal to help ourselves. I think business has a poor image. I know some of the heads of my company came from New Jersey originally, but they do have a poor image of New Jersey and it can be overcome. I think part of it, though, has to come from getting a better climate first.

We had minor problems with energy last year compared to an awful lot of states and yet we don't have any native sources, really. I think in a number of respects we have done a very good job and we can do a better job.

ASSEMBLYMAN HERMAN: Do you see New Jersey's problems as any different than the other northeastern states? Are you sort of lumping us in with the northeast?

MR. HAERTLEIN: I think the whole northeast has major problems, very definitely. But, I think some of the others have bad problems due to legislation. Right now, in certain areas, we find New Jersey is worse than any of them. We have other jobs in Upstate New York, which are very good. They have tax problems that are worse than we have, however. They are far worse than we have.

ASSEMBLYMAN HERMAN: Thank God, there is somebody far worse than we are. Thank you very much.

ASSEMBLYMAN MAGUIRE: Thank you, John.

ASSEMBLYMAN HERMAN: We are really collecting an aggregation today. We are indeed honored to have with us Assemblyman Gallo.

I'd like to make an observation. I don't know whether it is the climate in Elizabeth or what, but certainly this is excellent committee attendance and I think it hopefully shows the people of New Jersey and the people of this area that this Committee is serious about its task and hopefully intends to have some affirmative response.

ASSEMBLYMAN MAGUIRE: I would like to now call Edward Del Rosso, from the Garden State Electrical Contractors Association. Mr. Del Rosso, would you come up, please?

EDWARD J. DEL ROSSO: My name is Edward J. DelRosso. I am Legislative Chairman for Garden State Electrical Contractors Association, Inc., throughout the State of New Jersey.

I would like to thank Assemblyman William J. Maguire and his Committee for permitting me to speak on behalf of our members who are electrical contractors, licensed, with business permits in the State of New Jersey to engage in the business of electrical contractors throughout the State of New Jersey. They are responsible, hard-working people who feel the effects of inflation and the burden of the increased cost and time of doing business and feel most severely the impact of the current economic difficulties besetting the nation as a whole, and New Jersey in particular.

Now, turning to the proposed regulations, this device to add one more

intrusion into the operation of private business is perilous at best and counter-productive at worst. It is an apparent offshot of already formidable efforts by the State Government and the Federal Government to place total domination upon the operation of the free enterprise system. It is difficult to imagine what new regulations can be imposed on private business in the name of protection of consumers who already have ample protection powers at their fingertips if they care to use them.

Enforcing Agencies, duties, powers, and procedures -- This to me and my fellow contractors is too much regulation and it will raise the cost of housing. Just look at your post office, which is controlled by our government.

Now, to really reduce the cost of housing, you must also strengthen the professionalism of licensed electrical contractors and licensed master plumbers, for these two trades are professions, just like your lawyers, doctors, dentists and engineers. Of course, they make much more money than we do.

Your establishment of fees now is too high and as your plutocrat system continues, fees will get higher and higher and costs of housing will be higher. The only way to reduce cost is to do what I suggested in the previous paragraph.

I can see trouble ahead with this Uniform Construction Code Act. In the State of New Jersey there were 595 municipalities, all with different plumbing codes and licenses to operate in the State. At one time, they needed 595 licenses to operate in this State. So, we fought for one State license for plumbing and electrical work. Now, with the State Uniform Construction Code, we professionals will have to suffer with all the duties and powers and procedures of the enforcing agencies.

Our sole concern is the difficulties and defects arising from the passage of the Uniform Construction Code Act and the regulations presently adopted pursuant thereto.

When the new State Uniform Construction Code was enacted by our legislators, the regulations were later adopted by the Commissioner of Consumer Affairs and they left a great deal to be desired. The Department of Consumer Affairs completely lost the intent of the legislation, especially when it pertained to the electrical contracting.

When the code was voted upon and passed, basically the only requirement of electrical contractors was to adopt the national electrical code, which was not any problem for us. However, when the regulations were promulgated, it changed the whole method of inspections. We no longer had the choice of inspection agencies to make our inspections, which, by the way, gave good service at reasonable fees because of competition, an example of free enterprise in the United States of America.

Now the State is requiring each municipality that does not have its own electrical inspector or department to hire one exclusive inspection agency. It is to be the middle man and handle all applications which will result, of course, in higher fees, less service, and a monopoly of one agency, similar to the problems prior to the adoption of a license for electrical contractors and the Licensing Act of 1962.

It is important to note that the reason for the mutilation of inspection opportunities was to eliminate exclusivity and monopolistic control of inspection by either the public or the private sector and, in addition, minimize the chance of pressure, unfair coercion, bribery and inadequate service in this field.

Under the present regulations, as adopted by the Department of Consumer Affairs in conjunction with the State Licensing Act of 1962, there has been a return to this exclusivity and monopoly in the field of electrical inspections because the regulations call for each municipality in the State of New Jersey to select one inspection agency, either its own municipal inspector or one of the private inspection agencies. If they choose the latter, they have to contract exclusively with the agency for one year at a time. The contractor no longer has the choice and, thus, is not in a position to adequately service his customers. The Department of Consumer Affairs argument against the return to the proper arrangement is that contractors should not be able to decide who will regulate them. However, it was pointed out by me to the Department, at one of the public hearings last year, that the reason for the choice is to obtain the best service and the best price for the customer.

The fact that each town can set its own fee schedule, has resulted in mass confusion and disparity of fees, thus placing a difficult burden on the contractor who conducts his trade in the various towns throughout the State.

The Department of Consumer Affairs has shown very little interest in making a substantial modification in these regulations, although certain changes were made in response to industry criticism and suggestions. Therefore, it is our honest belief that the only way true relief can be obtained from confusing and oppressive regulations would be to amend the statute and regulations by deleting any reference to electrical inspections and electrical contracting and to return that field to the jurisdiction and control of the Public Utilities Commission where it received fair, equitable, and competent regulations. In light of the fact that the Public Utility Commission already controls and regulates the public utilities and other aspects of electrical energy, it would seem to be the logical thing for it to remain with the Commission.

Something that must not be overlooked is that the electrical contractor pays the State for his electrical license plus the fee for the business permit which is required by the Act of 1962.

It is the feeling of the many electrical contractors that the intent and purpose of the legislation was lost through the regulations of the Department of Consumer Affairs.

I would like to raise the question of the inspection fees. The fees for inspection and permits and other certificates required to be obtained by a contractor bear no reasonable relationship to the quantity or quality of the work to be performed. Any fees charged for permits and inspections or otherwise, logically will be paid by either the contractor himself or by the customer, if passed along by the contractor. Neither of these persons can really afford, nor should they be required to pay unduly high fees for relatively simple work. It is not unreasonable to raise the flag of consumerism, especially in the light of the intent of the Legislature in this act, and that is the elimination of construction regulations that tend to unnecessarily increase construction costs and to eliminate unnecessary duplication of effort and fees in the review of construction plans and the inspection of construction. For example, when you state that the fee for from one to twenty-five receptacles or fixtures shall be \$25.00, this is clearly disregarding the fact that if a small contractor is requested to install two, three, or four outlets in a room of an existing house, the fee required will bear a widely disparate relationship to the cost of the work performed and materials supplied.

Mr. Chairman, I have something here I would like to read. I asked for this and just happened to receive it in time for today's hearing. It is from the Borough of Rutherford, New Jersey. It deals with inspection. It is from a building inspector: "I am a building inspector of the Borough of Rutherford. My background covers some twenty-five years in construction, ranging from project house development construction to industrial buildings and apartment houses, and twelve years as Building Inspector in a civil service community.

"With this background, I have long felt the various codes used throughout New Jersey were in dire need to be condensed into one Uniform Building Code. Personally, I have no objection to using the BOCA Code as a standard. However, what we now have is a 'mishmash' of reference material - time consuming, hard to understand and poorly indexed.

"What sections do I object to? To start with, that section referring to one central office for building permits, plumbing permits, and electrical permits. This probably works well in large cities where the Plumbing Inspector, the Engineer, Electrical Inspector, and the Planner are located in one building.

"In my community of some 21,000 inhabitants, the Building Inspector's office is and was in a one-man operation with a secretary. No full-time plumbing inspector and no electrical inspector are or ever were employed by the Borough.

"By combining all of these functions into the Building Inspector's domain, I am jammed with reports, files, and records that make my head swim. Even worse, I am made responsible for monies collected, that in no way benefit the Borough.

"For example, why must I collect monies for electrical permits; take separate checks; make separate deposits and entries; and at a later time, refund this money to the Inspection Agency, State, etc.? None of this extra added work in any way benefits the Borough. It only consumes my time and prevents me from giving the attention to field inspection I used to do.

"Even worse, issuing electrical permits makes me, in theory, an authority on all electrical work, which I am not. I feel like a dummy when some person questions me on some technical explanation on some subject related to electrical work.

"Plumbing - same situation. Sure, I have a good general knowledge of both subjects, however, I am not a licensed plumber or a licensed electrician. Yet, I must act as an authority on both.

"In Rutherford, the Police Department, Board of Health, and Building Department were considered as a service to the residents and so in most other communities. Now, under State mandate, fees had to be increased to cover the cost of operating my office.

"Sounds good, but it is self-defeating by passing the added costs on to home and property owners. The result, in the plumbing areas more homeowners are taking it upon themselves to replace fixtures, etc., without benefit of a plumber and I'm sure the same can be said about electrical work. It must be even more of a disaster in enforcing these sections in smaller communities with part-time help.

"Rather than draw this out further, I'll summarize. A Uniform Construction Code is highly desirable. However, the State mandated lumping of the three areas as the responsibility of one individual is wrong and benefits no one. The Construction Code should be just that - a Construction Code and not a catch-all, including the Fire Sub-section."

Mr. Chairman, before I close I would like to state that electrical

contractors that would have to abide by 600 municipal inspection systems is a move in the wrong direction.

Thank you for your courteous attention to my pleas.

ASSEMBLYMAN MAGUIRE: Thank you, Mr. DelRosso.

MR. DEL ROSSO: Mr. Chairman, I have a couple of bills here that I forgot. One bill is 2043. It is an Assembly bill, State of New Jersey and it is against the plumbers and electrical contractors in this State.

Then there is another Senate bill - No. 1345. This is another bill that is detrimental to our trade. I wish that you would not pass them.

ASSEMBLYMAN SHAPIRO: Mr. DelRusso, in regard to Bill A-2042, how is that detrimental to your trade?

MR. DEL ROSSO: Well, that is going to effect our licensing board and our licensing act. If this bill goes through, we will have no more license.

ASSEMBLYMAN KAVANAUGH: I am the sponsor of that bill. That is termed sunset legislation. If you read the bill, it is to review regulatory agencies - and they are listed in there - every six years. It just shows the need and wants - the desires - if one of these boards is not coming up to par. They can be terminated so that we don't have this bureaucracy developing all the time. It is an on-going thing.

I don't think it is against you. In fact, I am a licensed master plumber and, as you mentioned, the master plumbers are listed in there. So, it is something that is to review the situation. It is on a six year basis. But, that doesn't mean it is going to be eliminated. It would be reviewed in six years.

MR. DEL ROSSO: From what I read and I am not an attorney - because a lot of times to read anything an attorney writes you have to be lawyer or a judge--

ASSEMBLYMAN HERMAN: I feel the same way about Assemblyman Kavanaugh's bills. I am only kidding.

MR. DEL ROSSO: In this case, why disturb a good thing that we have? How would you like to have somebody say that you, as an attorney, have to take a course every year?

ASSEMBLYMAN KAVANAUGH: I am not an attorney. I am a plumber.

MR. DEL ROSSO: You are a plumber?

ASSEMBLYMAN KAVANAUGH: Right.

ASSEMBLYMAN HERMAN: I might add for the record that sunset legislation -- Assemblyman Kavanaugh is really to be commended for introducing sunset legislation. I think that he can speak with you at a later time in greater detail and explain to you the purposes of the act. I don't think you will have any undue fears. It is not an attack on any particular industry or professional board, nor is it an attempt to unduly interfere with any particular trade. It does have a very useful purpose, I believe, and I think we are going to be seeing more of sunset legislation. I am sure he will speak with you at a later time.

Does any other Committee member have any comments with reference to Mr. DelRosso's testimony?

ASSEMBLYMAN KARCHER: Maybe you don't have enough statistics yet, but on the information available so far, would it be a safe statement to make that your experience bears out that the Uniform Construction Code - the adoption of that Code - has driven up the cost of construction rather than decrease it?

MR. DEL ROSSO: To answer your question, the licensed electrical contractors and the licensed plumbers worked to get a Uniform Construction Code. They are all for a Uniform Construction Code. What they don't like is all the regulations and the ballyhoo about it. In other words, they are putting authority in people's hands that don't know anything about it. It is all a political gimmick to hire political plums in this State. That is all it is. In other words, the electrical industry, the way it is, is beautiful. It is not bothering anybody. We have good inspection systems. They give us beautiful service at less cost. The customers are satisfied.

Now, this other way, we are going to go back to the horse and buggy days of years ago when you had to have a license in every town. That was bad because some of the towns wouldn't give you a license but they would let you work there if you gave them \$100 under the table.

ASSEMBLYMAN KARCHER: One of the regulations that was adopted by the Commissioner but was not adopted by the Legislature - one of the things that this Committee aims at is to highlight things that the administrative branch of government does with no authorization; that is why I want to ask this question. - was to promulgate a rule that if you are the designated inspector for electrical work in the community, you could not do any work in that community. Is that correct?

MR. DEL ROSSO: Are you talking about conflict of interest?

ASSEMBLYMAN KARCHER: Right. In other words, if the ABC electrical contractor is going to do the inspections for that community, he has to give up all electrical work within that community, is that correct?

MR. DEL ROSSO: No that is no good either.

ASSEMBLYMAN KARCHER: Well, is that the way it is now?

MR. DEL ROSSO: No, not right now. In other words, an electrical inspector now - that is all they do. It is an inspecting agency. In other words, we have a Garden State Electrical Inspection Agency. We have Middletown Inspection Agency. That is all they do. They don't do any work.

ASSEMBLYMAN KARCHER: All right. That is what I wanted to know.

MR. DEL ROSSO: The way it was before in plumbing and electrical work, - way back, years back - the electrical contractor was an inspector and also did work. So did the plumber.

ASSEMBLYMAN KARCHER: So, it has essentially driven a lot of people out of the inspection field - doing inspection on a part-time basis - and it has centralized the inspections in these agencies that have set themselves up?

MR. DEL ROSSO: Right. In other words, we have two great agencies in this State that need no help. They can perform their own duties. So, why get rid of them?

In other words, you are looking for trouble.

ASSEMBLYMAN KARCHER: It was the regulations that caused this to come about?

MR. DEL ROSSO: The regulations caused this. That is what we are fighting about and that is why I am here today.

In other words, we want a uniform code for the simple reason that if you did work in Red Bank, you had to use one kind of wire. If you worked in Long Branch, you had to use another kind of wire. If you worked in Matawan, you had to use a heavy casted wire. In every town, before you did a job in the

town, you had to stay up all night and study their regulations and their code. So, we are for the uniform construction code one hundred percent. It is the regulations we don't like because the regulations are going to kill not only the contractors, but they are going to hurt the consumer the most.

Right now, in some of the towns, the inspection system that cost \$40 is now \$225.

ASSEMBLYMAN GALLO: Mr. DelRosso, I heard you make mention of the BOCA Code. When municipalities have passed an ordinance that they were going to abide by the BOCA Code, wasn't that in a sense a uniform code?

MR. DEL ROSSO: Some of them did.

ASSEMBLYMAN GALLO: Didn't it give latitude to building inspectors and also other regulatory bodies in a municipality? Didn't it give them some kind of wherewithal to be able to classify it, somewhere, as a uniform building code?

MR. DEL ROSSO: Well, you see, some towns did adopt it and some towns didn't. That was the problem.

ASSEMBLYMAN MAGUIRE: That was permissive legislation. It wasn't mandatory.

MR. DEL ROSSO: No, it wasn't mandatory.

ASSEMBLYMAN GALLO: What I was trying to get at is the reference to the BOCA Code as being something that would satisfy the needs if it were mandatory throughout this State.

ASSEMBLYMAN HERMAN: I think what Assemblyman Karcher, through his questioning, tried to highlight is the fact that what we are dealing with is not a bad law but a bad implementation of the law through unnecessary regulation, which I think you agree to.

MR. DEL ROSSO: Right. I agree with that.

ASSEMBLYMAN HERMAN: I think a lot of us are having a great deal of difficulty swallowing some of the regulations that are coming out of the Department of Community Affairs, not only in relation to the Uniform Construction Code but to the Tenant Passthrough, to the Cap Law, and a few others that I perhaps could mention at this time. I would think that through the course of this meeting here today and through other public hearings, we are going to hear a lot more criticism, as we did in New Brunswick, and as we heard today, and as I am sure we will hear tomorrow and the following day regarding the administration of these particular laws as to regulation.

I would like to suggest to the Committee that perhaps we entertain the thought of trying to expedite that testimony which relates solely to the Division of Community Affairs and forward that testimony to them. I think the regulations in regard not only to the Cap law but to the Uniform Construction law and the Tenant Passthrough ought to be in each Committee member's hands and I believe that we, perhaps, ought to have a public hearing and a Committee session thereafter, strictly related to these three particular laws and the regulations. And, in addition to the Oversight Report that we come up with, we should make some pretty firm recommendations, or at least create the vehicle - for instance, Byron Baer's Committee on Commerce, Industry, and the Professions, which dealt with the Construction Code. I helped write that Construction Code, or the amendments to it. I knew at that time that all you people - the plumbers, the electricians, and everybody - were in favor of the

law the way it came out. You thought it was a great law and you pushed for it and you worked hard for it and you thought it was going to be a great benefit to the people of New Jersey and that it would simplify things. So did we, who helped draft the law, and I was one of the prime drafters of substantial amendments. I worked long and hard on that piece of legislation, with Assemblyman Pellecchia. I am very upset. And, I can tell you that is not "show biz"; that is plain old fact.

I really think that when we hold the hearing I mentioned, we should invite Assemblyman Baer and his Committee and turn this - after this public hearing and Committee meeting - over to them and ask them to be of some aid in drafting some response to these rules and regulations, even if it takes the approach of introducing legislation to have a general repeal of a moratorium on these rules and regulations involving the Uniform Construction Code until we can develop a Legislative Oversight procedure for these particular statutes.

I can tell you, I agree with you. I think most of the members of this Committee agree with you that these damn regulations don't come near complying with the intent of that legislation.

I was just remarking to one of my colleagues that there is a regulation in reference to the Uniform Construction Code which requires a permit fee for every socket that you install. You could pay more for the permit fee for the sockets than you will to install the damn sockets. This is just one of a number of outrages that permeate these regulations, which is destroying a pretty good law. It is not perfect but it is pretty good.

I thank you for your testimony. I know we are going to have more of it. I just think that we ought to have a central hearing in Trenton and invite the Commissioner and invite some of the Commissioner's friends who developed these rules and regulations, to come and justify some of these things before the Committee. I don't say that disrespectfully to them. I say that I think it is a matter of great importance to the citizens of the State of New Jersey.

MR. DEL ROSSO: All our members will be highly appreciative to you - whatever you can do for us - because those regulations are rally bad.

ASSEMBLYMAN HERMAN: Thank you.

ASSEMBLYMAN MAGUIRE: Thank you.

Our next witness will be Mary Nowakowski, representing the Roselle Citizens Committee.

M A R Y N O W A K O W S K I: Mr. Maguire and gentlemen, I thank you for the opportunity to let me come before you and speak. To me, this is reponsive government, when the legislators come down to a county and say, "Let us hear your gripes." Believe me, we in Roselle do have a gripe. We have no voice in our destiny. We pay our taxes and, yet, we are told, when we want equal consideration for a hearing, that it is the law. Our local school board will tell us, "We know what is best for you."

Also, the State bureaucrat, Commissioner Burke, says, it is the law - maximum dispersal of students for racial balancing.

I am here with a special request - please take immediate action, seek a moratorium on racial balancing, and form a committee to review this policy on racial balancing.

In Roselle, we have a catastrophic problem. We have racial balancing

for one year. When I say it is catastrophic, exactly the questions we wanted answered by Commissioner Burke were not answered. We were not permitted to have this hearing. We even tried to take it into the court. The judge ruled us to go back to our board of education.

Again, I reiterate, the board of education said, "We know what is best for you."

Well, the results of this racial balancing plan is as follows: We have a white flight from the community and we have a white movement that is the ultimate in protest for something that is happening. We have a white withdrawal from the school system. So, what we are trying to meet in number quotas for racial balancing is not met.

Federal funds - we have received about one quarter of a million dollars for this racial balancing. We have 30 more Title VII teachers and about 60 aides, and the recent test scoring from the State, which I read in the Elizabeth Daily Journal, showed that Roselle was on the bottom of the list.

Plainfield was another community that had that same mandate, maximum dispersal of students. They are number one on the bottom of the list. Therefore, I am requesting the Committee to review this policy because we are in serious trouble.

Also, I would ask Mr. Maguire to please continue with your evaluation of T & E. We feel that is a monster.

ASSEMBLYMAN MAGUIRE: I am working very closely with Dr. Santos on that.

MRS. NOWAKOWSKI: We also have a third request: Open hearings on the educational voucher system. Right now, we understand it may be on the referendum in November but, yet, we don't hear the pro's and con's. There should be an educational program.

ASSEMBLYMAN MAGUIRE: Excuse me, I am not so sure that they have not had public hearings on that. I am not a member of the Committee but I thought I read they did have some.

ASSEMBLYMAN HERMAN: No, I don't think so.

ASSEMBLYMAN MAGUIRE: Yes, they did have public hearings on that.

MRS. NOWAKOWSKI: Was this in Trenton or did they come out to the communities?

ASSEMBLYMAN MAGUIRE: Maybe it wasn't properly advertised, but I know they have had them. I think that is what resulted in the recommendation that it be put on the ballot - it was as a result of the testimony received at the public hearing.

MRS. NOWAKOWSKI: I would like to leave a copy with each of you gentlemen of the proposal by Raymond Lesniak for a moratorium on the implementation of racial balancing. I believe he sent this to Thomas Dunn and Assemblymen Deverin and Gregorio. I wish you would study this and take immediate action. I thank you very much.

ASSEMBLYMAN KAVANAUGH: What percentage of your community is a minority?

MRS. NOWAKOWSKI: What percentage?

ASSEMBLYMAN KAVANAUGH: As far as enrollment is concerned - student enrollment?

MRS. NOWAKOWSKI: Well, now the figure has gone up. I understand there is a six month evaluation and we don't have the report as of June. But, there was a drastic change as of February. The black minority has gone up.

I would say it has gone up about fifteen percent in the schools because of this white withdrawal.

ASSEMBLYMAN SHAPIRO: We had a similar situation in my district, in the town of Irvington - similar to what you are talking about. It never got quite as severe as Roselle's did. I think there are a few but important contrasts that can be pointed up. One of those is, we had the benefit of your experience. We read about it and knew that there were some pitfalls to try to avoid, in terms of keeping the community solid.

Irvington, as you probably know, is an urban community. It is a community that is surrounded on two-thirds of its border by the city of Newark and it faces a lot of the problems that you can imagine accompany that situation. The school system went from 87% white in 1970 to 45% white today. There has been a huge racial influx.

The plan that eventually came up was very innovative. It was one that took a while for the office in Trenton to accept, but they did accept it. It has just been accepted, in fact, last week. Our problem has been resolved peacefully and I think it has proven to be to the benefit of everyone in the community due to the fact that this is not simply an order that is put in by the Legislature or an order that is put in by the law; it is an order that is put in by the courts. We can't, in effect, come out and say there is a moratorium on this because the Federal Courts are ordering it. So, what we have to do is to try to strike a balance that will work out some kind of a method to work out all the various problems that there are in our community. One of those is to try and make our community as stable as possible. That is one of the ones that I care about the most.

MRS. NOWAKOWSKI: You are talking about the courts. Don't you think they are over-stepping their powers in regard to racial balance? Why pick on a community that is integrated, like Roselle was. Now, we are becoming a black community. How do you stabilize a community that is turning black? We were a well-integrated model community.

ASSEMBLYMAN SHAPIRO: In a sense it is an irony that these court decisions do affect the integrated communities because they have said they are not going to step beyond community boundaries - that they are not going to say, "Integrate out to the community that is not integrated."

No matter of what my opinion is about whether the courts are over-stepping their bounds or not, we don't really have the control over that, other than to amend the Constitution and that is a very, very long, drawn-out process, as you probably know.

MRS. NOWAKOWSKI: Well, based on other decisions, I feel the court is over-stepping its bounds and I wish you would read that.

ASSEMBLYMAN HERMAN: I read the Commissioner's opinion in the Roselle case and I think what we are really talking about is a sense of fair play, and a balancing of equities, and perhaps what we can do is to have Mr. Frakt turn over a copy of your letter to the Education Committees of the Assembly and the Senate for further consideration.

MRS. NOWAKOWSKI: All right. One more thing: Mr. Shapiro did mention that they have a plan in Irvington. I would just like to repeat what I read in the Journal yesterday. It is a neighborhood school plan. Why couldn't that apply to Roselle? This is what we wanted - minimal dispersal of students.

There are other plans that could have been accepted by the Commissioner but he wouldn't hear of it. He wanted maximum dispersal in Roselle.

Kindergarten children are walking with a school crossing guard right through a high-crime area, on St. George Avenue down towards the school. Now, this is wrong. This is why we are having that white withdrawal from the school system. You cannot force people to do something against their will. We are not a democratic society anymore when that happens.

ASSEMBLYMAN SHAPIRO: Well, if you read our plan in Irvington, I guess you noticed that it does emphasize the voluntary nature of the program; it does emphasize the improvement in the school system and, thereby, selected open enrollment, magnet programs, and things like that; that is why they decided to accept it.

MRS. NOWAKOWSKI: Well, that is what we offered. I am a former school board member and I felt the fairest way and the American way is freedom of choice and ironically, the blacks chose the neighborhood schools too.

ASSEMBLYMAN HERMAN: Thank you very much for your testimony, it is much appreciated.

MRS. NOWAKOWSKI: I hope you will take some action on it. You know, the childrens' education is really at a point where it is being sacrificed for a mandate by Commissioner Burke. (see page lx for Mr. Lesniak's letter)

ASSEMBLYMAN MAGUIRE: Thank you very much again.

John Reed from the New Jersey Builders Association.

J O H N R E E D: My name is John Reed. I serve as a Chairman of the Environmental Controls Committee for the New Jersey Builders Association. As such, obviously my area of so-called expertise lies with the DEP - the Department of Environmental Protection. I have spent, on various committees, from three and one-half to four years - on the Flood Plain Act; the Flood Fringe Act; the Stream Encroachment Act; the Coastal Area Review Facilities Act; and I am now working on the Pinelands.

I would like very much for you gentlemen to take more interest in the end result of what happens after the various laws, such as the flood Plain Act, are passed. They not only affect us, the building industry, directly but they also obviously affect the end result - the cost of the house and, therefore, the consumer.

But, even further than that - which doesn't seem to get the attention we think it should - those laws largely are beginning to determine the value of properties throughout the State of New Jersey. No longer does a normal market prevail.

Now, since 1974, when the Flood Plain Act was passed, we were supposed to have had a Flood Fringe set of regulations. Now, that area, which by its name is pretty clear, is on the edge of a flood zone and it might or might not be a buildable area. A person owning a piece of land there don't know whether it is going to be buildable or not. In the northern area of New Jersey - from here on north - land is extremely valuable if it is buildable. What might be, in Bergen County, a \$50 thousand lot, may be changed to a \$5 thousand lot by the effect of these fringe rules and regulations, which are yet to be published - since 1974.

This leaves, also, the total assessed values of towns in doubt, because practically every town has land either in the flood plain or in the flood

fringe area. This eventually is going to give quite a load - in all probability - to the courts. Just as the areas were affected along the coast in South Jersey - Ocean, Monmouth, and on down - by the Coastal Area Facility Review Act, where some property value dropped from, say, \$2 thousand an acre to \$500 because of the complicated rules and regulations that you have to go through in order to build there, so when you put a Flood Plain Act out, the rules determine what may or may not be done. Hence, the ability to use that land is determined by these rules and regulations.

We did not, as an Association, at the time, object to a regulation saying, "No habitable dwelling should be built in the floodway," which, in its simplest designation means that which is flooded at some fair frequency. Actually, we have since found out that the Federal Government, which has published a book of elevated structures, believes that it is practical, using specific methods - such as raising on stilts and other things - to allow some construction, even in a known flooding area, under the new technology. Had we known what we know today, perhaps we would have objected at the time.

We think that the Assembly should take a look at the result of this, which must affect somewhere around one-quarter of the land values of the State of New Jersey.

We also would appreciate looking at what we call double jeopardy. At the present moment, some proportion - perhaps half of the towns in New Jersey - require an Environmental Impact Study. Last night I was with the owner of a property and a lawyer and an engineer and we had 17 lots, which we may or may not buy, for preliminary approval. The estimate given us for the Environmental Impact Study in that town was \$25,000 for 17 lots. The engineering was estimated at \$30 thousand and because of possible poor percolation, a sewer plant was estimated at \$130 thousand. The application may or may not proceed; I do not know at this point. But, I do know that if we proceed, we would have to go through the rules and regulations because we have a stream there. That means we have to go through stream encroachment. When we make application for that permit, if that stream hasn't been delineated - and only approximately one-fifth of the State of New Jersey has been delineated - the applicant will have to survey that area of the stream and do a profile and look up and down stream a mile, to add to the cost.

Then, the application will go to the DEP who will, again, subject it to an environmental review. They have, in the DEP - headed by the Chief, Mr. Walker - a review department to again review it, possibly by different standards than the environmental type study we just did for the town for a cost of approximately \$25 thousand. This redundancy is incredibly expensive and time-consuming.

We appreciate the interest of all of you gentlemen here and we appreciate the thought of the Assembly and Senate in having an oversight committee to take a look at the end results. If there is anything we can do to encourage you, believe me, gentlemen, I will be one of the ones who will be very glad to help. I apologize for not having a prepared statement. I did not have time. I would be very happy to answer questions.

ASSEMBLYMAN GALLO: I was kind of surprised the other day, when I received a call from an individual in Pompton Lakes, who advised me that property - some of their properties - is in what is called the floodway. Furthermore, as a result of being in the floodway, there are rules promulgated by

the DEP which state that if, in fact, their home is damaged over 51%, they would not be allowed to reconstruct. The first question I asked was, well, what alternatives do you have as far as reimbursement for the mortgage that you may have that exceeds 51%? I checked with DEP and they indicated that this is a very difficult situation. I said, it is tantamount to confiscation of property if, in fact, you are not going to reimburse an individual who may, in fact, have a mortgage exceeding 70%. Who is going to make up the difference between the lost value that the insurance company might pay - assuming that, being in a flood plain, they would have insurance - versus the amount that they may have on the mortgage? Under flood insurance you can only get a certain amount and I think the maximum amount is \$35 thousand.

So, again, I think this is what this Committee is really here to find out - whether or not legislation that has been passed is really being adhered to or whether or not the particular departments, within whose jurisdiction it falls for regulation, have gone overboard to a point where they, in turn, have set up rules that just are not practical and have not taken into consideration the responsibility that they have, nor have they taken into consideration the citizens that are affected. So, I think this is what we are trying to get at.

I know one area where the State is not moving quickly enough on and that is in the flood plain delineation. I am not so sure I can blame DEP for that. I can blame Joint Appropriations, maybe, and the Administration for not finding the necessary funds. But, I do think that is one particular area that is most important, when you talk about building in this State. The people should be aware of where it is going to be allowable and that flood plain delineation should be completed as soon as possible, because it puts builders and towns - towns that sit there with a particular piece of land that may be on the fringe--

ASSEMBLYMAN MAGUIRE: Industrial parks, for example, at a value of \$50 thousand an acre or more.

ASSEMBLYMAN GALLO: Right. They have no wherewithal to say whether or not you can build on that. They are not getting too much cooperation from the State because, in fact, the dollars are limited and they have not been able to zero in in that particular area for flood plain delineation. So, the towns and the citizens owning the land are really put in a box and are up in the air as to what they can do with their property. The towns, likewise, even though it is zoned, are very reluctant, knowing that a flood plain may exist. So, it is a very difficult question that you bring up and I think one that this Committee will review and come up with some recommendations on.

MR. REED: May I comment a little further on that, sir?

ASSEMBLYMAN GALLO: Sure.

MR. REED: New Jersey also uses a 100-year storm, plus 25%, whereas the Federal Flood Insurance was only for a 100-year storm. I did testify at the Administrative hearing, where they are reconsidering that. I tried to make the point that we have apparently 16 to 20 thousand known homes in the flood-way area. Now, not only is the problem the loss of the mortgage inherent there, but they are not permitted to rebuild. They are left with the total loss of the value of the lot; that is an unbuildable lot in the present rules. So, there is no insurance to cover that portion. What insurance they may have will only

cover the value of the structure.

So, an individual with a total savings in there suffers an indescribable loss, which is possibly unnecessary in view of the HUD flood insurance booklet, "Elevated Structures", which purports to show how you can build in that same area in an acceptable manner by elevating it. I think that is typical of the things that should be reconsidered.

ASSEMBLYMAN GALLO: I know one area that the DEP is considering, and that is utilizing Green Acres funding to secure those areas that, in fact, are in floodway. There is a difference between floodway and flood plain delineation. Those areas that are in the floodway certainly should be number one priority in an acquisition from the State's end. It solves two things: First of all, it may set up a park atmosphere in a particular area that floods, which is good utilization of property that otherwise is not acceptable for building and, the second part of that is that the individual owning the land be compensated for the value of that land. At this stage, there is no way to compensate an individual on the part of the State for that land. In fact, I think the courts will find that you cannot just totally confiscate that individual's property without some remuneration given to that individual.

ASSEMBLYMAN MAGUIRE: I want to pursue one thing, Mr. Reed. You said that you would be available to help the Committee in drawing up its recommendations for possible changes in the Uniform Building Code. Just tell me exactly what kind of help you would like to give us because I am ready to ask you for it at the right time.

MR. REED: I don't believe I mentioned the Uniform Building Code, sir.

ASSEMBLYMAN MAGUIRE: No, you didn't -- flood plain delineation, floodways, in that area.

MR. REED: In the environmental field, yes.

ASSEMBLYMAN MAGUIRE: Environmental, yes.

MR. REED: We would be very happy to help because -- May I use an example, sir?

ASSEMBLYMAN MAGUIRE: Yes.

MR. REED: For three and one-half years, we have been trying to kick one word out of various rules and regulations. The word is "enhance." We have gone all the way up, literally, to the Commissioner and gotten the word removed and then it comes back in. Now, it might sound like a very silly thing but when it is in the form of an application, where we also have to appear at a public hearing, and the question is raised, "What are you doing to enhance the environment?", we don't know how to answer because we don't know how, our engineers don't know how, our lawyers don't know how to qualify, or standardize, the word "enhance." When you can't do that, how can you prove that you are enhancing something, or to what degree you are enhancing it?

So, we have objected, loudly, vocally, stomped, screamed, "Please take the word out. We don't know how to cope with it. We wouldn't know what to do if we were taken to court because we didn't enhance. We don't know what degree to enhance." Yet, that word keeps coming right back into the rules and regulations. Apparently the middle level bureaucracy likes it. Unfortunately, most of the people we have to deal with there are very sincere, rather young people who probably have no other experience other than college before they take the job. For us to try and point out to them that our whole project may

hang on the use of this one word "enhance" and we can't find anybody that clearly defines it. I wind up making jokes -- "Do they want me to put a flower pot with a flower in it on the stump? Is that enhancing or is that just pure aesthetic?" They can't answer, yet those words are still in there. We think if you had an oversight committee for the Assembly and the Senate, they, with a more broad background and some business experience, would be quick to understand the difficulty with something that may not seem important, but on which an entire project could hinge.

ASSEMBLYMAN HERMAN: We couldn't help but observe that your last example has enhanced the quality of your testimony.

ASSEMBLYMAN MAGUIRE: Thank you, Mr. Reed.

ASSEMBLYMAN HERMAN: We will take a five minute break at this time.

(Whereupon the Committee recesses for five minutes)

#### AFTER BREAK

ASSEMBLYMAN MAGUIRE: From the thriving metropolis of Garwood, I would like to call Councilwoman Doris Mann to be our next witness.

C O U N C I L W O M A N D O R I S M A N N: I am going to be nice and brief.

ASSEMBLYMAN HERMAN: We applaud you in advance.

ASSEMBLYMAN MAGUIRE: But, don't feel that you have to.

COUNCILWOMAN MANN: Your invitational letter of July 6th was discussed briefly at our last Council meeting and I am representing our Council today since the other members are working and unable to be present.

Garwood is a very small, industrial municipality and it is getting increasingly difficult to govern with the many restrictions placed on elected officials.

We urge you to stop mandating so many laws that are detrimental to small communities and return it to home rule. We are opposed to "20 and out" because it is too expensive and we are not in favor of the post of fire marshal, which would add to the bureaucracy. We feel the sunshine law and the 5% cap are too restrictive. The rebate checks cause much extra work, expense and confusion. While your intentions may have been good, they have made the cost of local government higher. In fact, I have been told that some collector/treasurers in the State have resigned because of the extra burden in handling the rebate checks.

The new Uniform Construction Code is demanding, burdensome and too restrictive.

In closing, we urge you, in passing legislation, to pay more attention to the taxpayers' pocketbooks. That is all I have to say, Mr. Chairman.

ASSEMBLYMAN MAGUIRE: It didn't take long, but it sure said a lot. Does anyone have a question for Councilwoman Mann? (no response)

Doris, I guess there are no questions. Thank you.

ASSEMBLYMAN KARCHER: Can I ask one question?

COUNCILWOMAN MANN: Yes, sure.

ASSEMBLYMAN KARCHER: I happen to have a little experience with municipal government. What particularly, with regard to the sunshine law, do you find oppressive?

COUNCILWOMAN MANN: Well, I am sure when you pass these laws, there are a lot of crooked people around, but when you are from a small community, such

as Garwood, it really is a nuisance having to advertise whenever you want to get the Council together to talk about things in general. I certainly don't resent the fact that the public listens in to our meetings because I don't feel that I ever say anything that I would be ashamed to say before the public. But, I think it is a nuisance. I don't think you can compare all communities. After all, we - as I pointed out - are a very small community and we have so many problems. I, for example, must put in 40 hours a week as a member of my Council. We are a do-it-yourself community. We don't have an administrator. When we have problems, we have to just go out and do things ourselves.

ASSEMBLYMAN KARCHER: How many people do you have in Garwood?

COUNCILWOMAN MANN: How many people? As of the last census, 5,260.

ASSEMBLYMAN MAGUIRE: Doris, I think I should tell you that there hasn't been an awful lot of support for any amendments, even though we all realize that they create hardships. But, support for amendments to the Cap Law in 1977 has been scarce, for the obvious reason. We are all up for re-election and I don't think you are going to see any changes - Democrat or Republican.

COUNCILWOMAN MANN: We have a lot of part time help in our community, which is another hardship on us. All of our part time people work from their homes. I, myself, have two filing cabinets in my bedroom. So, we do have many hardships that they don't have in larger communities.

ASSEMBLYMAN MAGUIRE: Where do you have your meetings? In your home where you have your filing cabinets?

COUNCILWOMAN MANN: We have our meetings in our borough hall but sometimes our borough hall is so crowded we have to all but meet in the lavatory.

ASSEMBLYMAN MAGUIRE: Okay.

ASSEMBLYMAN HERMAN: That may present a problem when you have a mixed council. (laughter)

ASSEMBLYMAN MAGUIRE: I would like to now call Councilwoman Mary Ellen Inwin from New Providence, please.

C O U N C I L W O M A N M A R Y E L L E N I N W I N : Good afternoon. Thank you for letting us come.

I speak to you today in two capacities, one is as Chairperson of the Community Development Committee of Union County, representing 16 towns and 365,000 people. Our relationship with the State has been warm and, for the most part, efficient and innovative. However, we did have one problem and you have asked us to bring our problems before you. This problem is with the Department of the Public Advocate.

Each urban county must submit its application for a tri-state review and the public advocate review is a part of that. Our application went through quite nicely. It reached the various projects which represented \$2.2 million this year. This was worked out by the Committee members after hours, and hours, and hours of volunteer labor. Many towns compromised. The application went down to the State and the only comment we received was from the Division of the Public Advocate. Apparently, it was precisely the same comment that other counties had received, it was not an individualized perception of what Union County's projects were all about.

I bring this to your attention now and will be glad to discuss it in greater detail with you later.

As a local government official, there are a number of items that have come before us that have created problems. One is simply an observation. The first is, how about equal pay for equal work? Many different kinds of communities in the State of New Jersey have different titles, like townships, boroughs, villages, cities. They all are able to pay their executives - in the form of councilmen or township committeemen - different amounts of money. There is no standardized approach to the remuneration for expenses that are incurred in the line of work.

If the town next door to us can have a councilperson receiving \$3,000, is it fair that we as a borough can only receive \$750? Maybe the pay should be abolished completely. I am not saying one way or the other. I am only asking you, as legislators, to look at a situation which is grossly unfair, evaluate it, and try to come up with something that is fair for those of us that do give so much time and energy to the good government of our community.

The next item is the difficulty in trying to understand the vast number of bills that are put before us. I suppose it is even harder for you because you must vote on them. But, we, as a community--

ASSEMBLYMAN MAGUIRE: That doesn't make us any more knowledgeable than you.

COUNCILWOMAN INWIN: We try hard to follow the legislation that affects us and it is extremely difficult. We get the Index and the news but nevertheless, we would appreciate it if perhaps as you study efficiency, maybe you can put all the special bills in one category, or perhaps work out, before they are introduced, some compromise as to putting bills together. Or, perhaps, - and maybe this is heresy - limit the number of bills to be put into the hopper to something like 1,500. There are number of things that I am sure you can do. Those of us that must administer those bills that you pass, once they become law, would appreciate it very much if you would look to this problem that you, too, face.

The next item is the public hearings on bills. Agendas of committees are available, but I have heard from many people who have gone down to speak on a particular bill that they have found that their bill was never reached during the day. It was a waste of their time and it certainly was discouraging as far as public participation goes. I would hope that perhaps you might be able to develop better ways of scheduling public hearings on bills in order to truly encourage the public participation that we all want.

ASSEMBLYMAN KAVANAUGH: May I just interrupt one moment? You said "public hearing", do you mean the committee?

COUNCILWOMAN INWIN: During the committee meetings when bills are brought up and discussed.

ASSEMBLYMAN KAVANAUGH: Okay.

COUNCILWOMAN INWIN: Not the special hearings because I know those are advertised. Though it is sometimes hard to find the advertisement, still we are aware that that does happen.

The next item I would like to speak to you about is rules and regulations. I have distributed to our Council a copy of - to each of them - A-3145, which suggests that the law include the regulations that will be imposed upon the people. I think this is something that you should look at seriously. It might be, indeed, of great benefit to the citizens and taxpayers of the State

Very specifically, I also participated on the Flood Plains Rules Development Committee and did find that they were receptive to our comments in terms of setting up the regulations. This was also true on behalf of the Green Acres Regulations. They invited citizen participation and I felt that was a strong and fine thing to do.

However, isn't it a little bit backwards? Shouldn't those rules and regulations happen, in effect, before the law ever was finally passed?

As far as the flood regulations go, delineation should have been the very, very first step before any laws were even finally discussed. As it is now with delineation, there are 600 miles completed, another 1,000 are in the works, and altogether there are some 8,000 miles that will have to be done. They money isn't there for the rest. Can it come from you? I don't see how you are going to raise enough to possibly do the kind of job you are meaning to do.

Delineation should have come first because property values have been adversely affected.

I would like to compliment you on one department and that is your Green Acres. We have found them to be highly efficient, innovative, cooperative, willing to listen, willing to talk, willing to discuss, coming out quickly, friendly, positive, and, on the whole, a very good department to work with.

ASSEMBLYMAN MAGUIRE: They enhance the quality of life.

COUNCILWOMAN INWIN: They do. And, they take it seriously.

I would not like to compliment you on Water Resources. The DEP storm regulations - or stream regulations - that were promulgated two years ago, of course, had to be redone. You are all familiar with that. We still, in order to clean a stream - which is necessary to help prevent flooding, - must apply to them for permission to do so. I honestly feel that further deregulation can happen in terms of the municipality's ability to administer its own small streams and to try to prevent flooding in some of those areas.

I would like to suggest to you that as far as legislation and rules and regulations go, that the words, "This Act shall take effect immediately" be stricken from all the records that you have. Last year, when the Public Contracts Law went into effect, I believe those words were attached to it. We received a copy of the law a couple of weeks later and several pages were missing from it. I know this isn't your fault but I would suggest that one way to deal with problems of this type is to not use that language in the bill. Instead, allow an adequate amount of time for printing to take place, distribution to take place, and comment and discussion by the municipalities that must administer these rules, in order to set up enforcement procedures. We simply do not have the time.

I would also like to suggest - and I am sure that this has been suggested to you before - that roads not be build piecemeal. We are the recipient of most of the traffic from I-78 in two directions and, of course, the two ends that are going to be built, with the Watchung being a matter of contention - and it is still a matter of contention - we just wish someone would make a decision on this and please take the traffic, which generates a tremendous amount of pollution, off the streets of municipalities, such as New Providence.

ASSEMBLYMAN MAGUIRE: Do you have a position, Councilwoman, on the--?

COUNCILWOMAN INWIN: Yes, we have passed resolutions several times

concerning the alignment. I believe the original alignment with a modified interchange was what we had hoped for. We have a number of times passed resolutions encouraging the Legislature and the DOT to act.

I would like to tell you one horror story that we have concerning the State, which may give you some perspective. New Providence has participated in the Upper Passaic Waste Water Management Study Group, at the behest of DEP. They said in 1973 and 1974 that it would be to our advantage to join together for a study group in order to be able to push the construction of badly needed sewerage treatment facilities. So, in 1973 and '74, we joined together as a ten-town group to do this study. The Federal Government picked up 90% of the cost. The State said they would probably pick up 15% of the cost and the rest was divided among the ten towns.

The other alternative was to wait a while and have the State do the study themselves. But, because Berkeley Heights had a moratorium on building and Bernards Township had AT&T going in and was quickly reaching its capacity, we said, we will help our neighbors, we will join together, and we will have a study group. We all voted the money and we interviewed the environmental contractors and we interviewed the various hydraulic engineers and came up with a firm and the study proceeded, but it did not proceed very fast. Before they could go on, minimum standards had to be promulgated by the State. Population projections had to be finalized. Waste water allocations had to be finalized.

It is now almost four years later. Various towns that went into the other type of study that the State paid for - the towns, themselves, did not have to - are almost through and about ready to go into construction. We had our public hearing a month ago. Comments have been received and processed. We were all set last Thursday night to say, "Fine, the plans are good, let's go ahead with the project." We came to the meeting and we were all prepared to have a party afterwards when we found out that the State and the Federal Government is requiring a secondary impact analysis, at a cost of \$172,265.00. The Federal Government will take on 90% of it. The State may take 8%. None of us count on that anymore. The towns, of course, will have to pick up the difference. But, we have a 5% cap, imposed by you. Where are we ever going to find the money in a small community like New Providence in order to get this impact statement done?

It is an absolutely impossible situation and in the meantime, the River gets polluted.

ASSEMBLYMAN KARCHER: Did you hire your archaeologist?

COUNCILWOMAN INWIN: No, the State has told us that we will not have to hire the archaeologist until the second phase of planning, for which we are thankful because that was another \$7,000. We don't know what it would have been like.

For those of you that are not familiar with this problem, after the contracts are signed with the engineers, new rules and regulations come from the State saying, "You must include this. You must include that. You must include archaeological excavations and historical site analysis." It doesn't matter that you have already signed your contract. That doesn't matter one single bit. So, as a result, we have been able to work out this particular problem.

So, I bring this to you as a horror story because now there is Berkeley

Heights full to capacity with sewerage and they were in the low 20's in the priority listing. Their original cost for building their plant was \$6.5 million. The cost is now \$10 million and it will be \$13 million, according to our Waste Water Management Study. They have moved from in the 20's in the priority group to about 35. That is the preliminary number they were just given. They are fighting it and hoping it will come up again.

New Providence is moving up in the priority scale, but we have one of the best sewer plants around - a brand new experimental facility that is working beautifully.

ASSEMBLYMAN KARCHER: That is not so horrible as compared to other stories.

COUNCILWOMAN INWIN: Don't tell me that, for us and for our neighbors it has been an extremely difficult situation to live with.

With that, I would like to suggest to you that we feel very strongly in New Providence that we do try to govern efficiently, innovatively, and creatively. We do try to hold down the taxpayer's expense in every way possible. We do wish to cooperate with the State and feel that only the State can solve some of the problems we have. But, the State laws are not made just for lawyers and the way they have been coming to us lately, they are made just for lawyers.

We would appreciate it if you would consider the fact that State laws are made for people: Those of us that must administer them - local government officials - and for those who must live with those laws. They are people and they aren't all lawyers.

ASSEMBLYMAN HERMAN: You are making me feel very bad. I was going to ask you, aren't lawyers people?

Your testimony has been very good. Does anybody have any questions?

ASSEMBLYMAN GALLO: One of the last things, before we got into the sewerage end of it, was, "effective immediately" in legislation. I have a bill that in turn makes it 90 days, unless otherwise specified. This was after checking with Legislative Services as to where does "effective immediately" come in? That is thrown in on any bill that does not have an ending, or a point of starting, and it an automatic thing which I do think should be reviewed because with many of these, it may not even be the intent of the sponsor that it be effective immediately.

ASSEMBLYMAN HERMAN: It might be a point of education for the members of the Legislature. Perhaps that is a point that can be brought back. We can use a lot of education in a number of areas and I think, in reference to that particular point, what you say has great merit. Perhaps, Steve, that is something you might be willing to discuss with Bill Lanning, as a general recommended memo, not only during this term but perhaps in the beginning of the coming session. You could ask Mr. Lanning if he would, on my behalf and on behalf of the other members, send out just a brief memo to the Legislators to take that into consideration, that when they ask bill drafting to prepare a piece of legislation, that they be careful of the effective date and include what they really wish by way of enactment.

MR. FRAKT: I think we generally try to give recognition to the fact that certain things have to be phased in. I think the Constitution says that if there is nothing on the bill, it takes effect July 4th of the next year. But, very few bills go through with no enactment date.

ASSEMBLYMAN GALLO: When I talked with them, they said that if there was nothing on there, they put "effective immediately." I think by the educational process, if there is a statute that says July 4th of the following year, that should be utilized because evidentially it is not. I haven't seen anything that has come out with that.

MR. FRAKT: I think the Constitutional provision states in the absence of anything. But, it would be July 4th, fortunately or unfortunately, whatever the case may be.

ASSEMBLYMAN HERMAN: I would appreciate it if perhaps Bill would draft some sort of memo to the Legislature.

ASSEMBLYMAN GALLO: I think the other comment that was made regarding committee hearings is one that we should take heed of and make some recommendations on, because even ourselves, as legislators, many times, go before them because a bill is listed but it is not reached due to a heavy schedule. If you have people coming in from all parts of the State, whether it be to testify favorably or to give comment against it, they certainly should be heard. I think it is a valid point. I have heard it myself. Many people come before a committee and it gets bogged down and does not get to all of the people there. I think it is important to have that kind of citizen approach.

ASSEMBLYMAN MAGUIRE: There is another problem too with committee hearings. Many times committee members themselves, for whatever reason - and I am sure they are valid - don't have a quorum and people come from Cape May to High Point to give testimony and there is no one there to listen.

Thank you, Mary Ellen.

Mayor Edward Bein, I defy you to follow that act.

M A Y O R E D W A R D B E I N: It is a tough one to follow. My name is Edward Bein. I am Mayor of the Borough of New Providence. I am also President of the New Jersey State League of Municipalities. I want to congratulate the Committee for inviting people to express themselves on issues that may have been overlooked by the Assembly and the Senate because I think there are many areas where this has occurred. I think you have heard some of those this morning.

I was interested in the comments of the one gentleman who was here, which related to industry - the effect it had on industry and the attraction of industry to stay in this state. I was encouraged by the comment that there are members of the Assembly that are reading and have read the Fantus Report because I think that is a document that should be "must reading" for every member of the Assembly and the Senate if they want to find out what is wrong with the State of New Jersey and what can be done to keep industry in the State. I speak from personal experience because I have been a displaced person because of a company which left the State of New Jersey. Having been twice counted among the statistics of the unemployed, I don't relish this very much. So, I think there is a lot of work that has to be done by the Legislature to understand the problems of industry and not just look at it from the other side of the fence. Because, while you may - and certainly do - get tremendous pressures from the labor unions, I think someone commented that you are not looking ahead to what the effect of some of the laws that are being passed have, long-range, on the community - or to an industry.

I couldn't help but remember one specific instance where - I think if you gentlemen will just refresh your memories just a little bit, you will also

recall this - the headline in the Newark Sunday Star Ledger talked about how the Environmental Protection Agency was going to pass more stringent regulations on the glass industry in the State of New Jersey. In that same paper, on the bottom of the front page, was the 11.5% unemployment rate.

Now, it is pretty tough trying to correlate these two avenues. I am not here to say that we should relax regulations in terms of industry because having been a member of private industry and being involved with management, I appreciate that industry has its duty to do, and must do these things for the community in which they are involved.

But, specifically, I can relate to the glass industry because the company I was with had a glass manufacturing plant in Ohio and we were trying to meet the standards of the Department of Environmental Protection out there. The corporation was willing to spend over one million dollars to put a scrubber into the system to remove the particles into the air. But, it couldn't be guaranteed to us that by putting that investment into the plant we were going to be able to satisfy all regulations that may be coming down the road.

I will just link that to another little incident in the Borough of New Providence, where there are 14,000 people. We have a little concern called Fadlock Mills. It employes roughly about 100 people. It produces textiles and that type of thing. They were required to put a scrubber in because they had to meet some of the regulations coming out of EPA. As a result of putting that scrubber in, they neighbors were complaining about the noise level from that particular scrubber. Because of that, they were fined by another department - the Noise Abatement Department - because of the fact that they were exceeding a certain decibel.

A complaint was filed with the State of New Jersey - the Noise Abatement group - a year ago by the Board of Health. I don't have the letter with me but I was shocked to read it because I wasn't aware of this until three weeks ago; nobody came up to investigate the complaint. The letter that we got in reply from the State said that because of their manpower restrictions they could not get to this until sometime in 1977. This letter was written around the end of 1976.

At a planning board meeting when the same company was trying to put in a little improvement in their air conditioning, the people in the area came down and reminded us about the complaint. This is the first that I heard it hadn't been solved or inspected and I made a commitment that we would try to get the thing squared away. I personally called the State Office of Noise Control three times in a period of three days and never could get the person that was supposed to come up and make an inspection. They finally came up a week or so ago and I asked the secretary of the Board of Health to do one thing when they made the inspection, because I couldn't be there that afternoon. I wasn't interested in having them come up and say, "Yes, you are exceeding the decibel limit and, therefore, you are going to get fined." Forget that. What I wanted from them was a recommendation of what we can do to solve the problem. Let's not just say you are exceeding the limits and you have to be fined.

I just bring that out because what shocked me was to realize that this Department of Noise Control - as far as I know - only has two people in the entire State of New Jersey to handle the complaints. Obviously, they are

inadequate. Now, if we are going to create a department like that, I think it has to be staffed intelligently and I am certainly not one that is saying let's create more layers of government and create all these bureaucracies at all. But, if this is what we want to do, then let's give them the tools to do the job correctly and not just have two people in the entire State of New Jersey to try and handle all these complaints.

I was amused by the comment made about the word "enhance" because I am sure we have all gone through that. We certainly can "enhance" the area.

I think Mr. Shapiro asked the gentleman from industry why he thought the State was not attractive to industry. I would say there are two things. Mrs. Inwin brought out one of them - I-78. Bill, we have made our position loud and clear and I made my position known at the hearings in Berkeley Heights a year or so ago and we haven't deviated from our position over the last ten years that I have been in office. I think that tells industry about the indecisiveness of our government. They can't seem to make up their minds, or they are afraid to make a decision. Being on a local level, you can't hide. You are there out in the front and you have to take a stand and, by God, you live with it. Whether you are right or wrong, you live with it, but you take a stand. You can't walk away from the people.

I think that is one area. I think another area would be -- We talked about the flood plain and the floodway and all that. How many years has it been since the State and the Federal Government have talked about the Passaic River and all the problems there? And, where have we made any progress in that area? The Governor appointed a special assistant last year - or a year or two ago - and I haven't seen anything. If that woman can solve all those problems, God bless her. I will be the first one to get on her bandwagon. But, I don't see where anything is coming. We go through the same thing - study, restudy, and nobody seems to want to make a decision and whatever you want to do, the costs seem to keep escalating up, up, and up, so that it becomes almost impossible to do anything.

Let me get back to another point that I wanted to make. I appreciate, Assemblyman Maguire, that in 1977 we are stuck with the cap law. I am all for it. And, I think if you talk to most Mayors throughout the State of New Jersey, they all would agree with it. Certainly, the League of Municipalities feels the same way. But, in consideration of the continuation of this law, there are some inequities. Number one, the law was passed in conjunction with - and I may be wrong in this but this is my understanding - the income tax. The income tax has a self-destruct clause effective June of '78. The cap law goes until 1979. Now, where is the justice in that? How are we supposed to manipulate our funds? If the income tax goes out the window, we still live with the 5% cap. I am willing to live with the 5% cap, but I need some relief. Where do I need the relief? I need it in the areas over which we have no control. Insurance is one. We had \$130 thousand. We could increase our budget last year. Thirty one thousand of that was related to insurance, over which we had no control.

I have a letter which just came in the end of the month from our agency who says, "The Insurance Commissioner has just approved an increase of 18.2% in the collectable level of the Workers Compensation rate for the State of New Jersey. Some classifications have increased considerably more than this percentage,

so we have no idea at this time as to the specific increase of your cost. All July policies have been delayed pending this rate adjustment as well as all rate manual pages, neither of which have been received to date." Now, this is in the middle of the year. We passed our budget. As I told John Laezza, I said, "John, this year I think you are going to have more emergency appropriations than you ever had in the history of the State." Because there is no way, gentlemen, that you can live within the confines of this law and try to do it without having to go for an emergency appropriation.

We are being hurt in our town because we were trying to protect our taxpayers for the last three years. So, what happened to us? With the cap law, 5% of "zilch" is "zilch" and you can't do anything about it. Maybe what we should have done, like some other cities who spend money, is -- It seems the philosophy is, the more money you spend, the more you are going to get. I think that is a hell of a way to have to operate a railroad because the taxpayer out there doesn't know anything about what is going on in Trenton and all that. All he knows is what he puts out of his pocket every quarter and every year, and all he sees is costs going up.

There is one area that came up last night at our conference meeting and I think it was rather interesting to me. Perhaps somebody may want to look into this. We have a new Councilman on the Council and we have just gone over our audit report. One of the statements in the audit report recommendations was that all deposits should be made within 48 hours. So, we asked the question, "Why is that in there? What is wrong?" He said, "I only put that in there to protect myself because that is what the statute says." He said, "I know every municipality in the State of New Jersey doesn't deposit all their money within 48 hours. Certainly, you have \$42 in your dog account and you are not going to run over to the bank and put it in because it says you have to put it in within 48 hours." You may want to take a look at that statute and see what in the world is meant by that because, very frankly, we are all political animals. As I pointed out to the auditor, "While you may tell us there is no problem, somebody on the other side of the fence, just reading that, without any knowledge of anything, is going to have one of the most beautiful campaign issues you can have in your town without even knowing what it is all about.

That was interesting to me and maybe it ought to be looked into. Perhaps that goes under the Department of Community Affairs. I don't know. It is local finances. Maybe they should take a look at that.

ASSEMBLYMAN HERMAN: You are raising something that is definitely unconstitutional - the question of being logical in the political process. You recognize that, don't you?

MAYOR BEIN: I appreciate that.

The other thing that I would like to suggest you take a look at is, - this also came up last night and the Treasurer informed me that it was state statute again - we have a potential cost to install a sewer for three property owners that is going to run roughly \$12,000. Now, our policy is to assess the property owners for that amount. So, you divide 12 by 3 and it comes to \$4,000. We are debating with ourselves. Nobody ever got hit with a bill like that. We were sitting there and she said to me, "Well, you can pay over a five year period." Fine. But, after the first year you have to pay an interest rate. I said, "Why? Gee, it would seem to me we might have a good way out if we could" - locally, now - "just say, 'okay in this particular case it is a

very unusual one, so let's give the property owner a ten year period at \$400 a year; no interest." She said, "You can't do it because the law says you have to take it on a declining balance." I said, "Boy, oh boy." You know, this is where I think sometimes the person on the street - you used the word logic just now - can't understand the logic of this and why you can't make exceptions to things of that nature.

I just brought those two things out because--

ASSEMBLYMAN HERMAN: Did the solicitor give you that opinion?

MAYOR BEIN: I beg your pardon?

ASSEMBLYMAN HERMAN: Was that a solicitor's opinion?

MAYOR BEIN: Well, he didn't correct her when she made those statements.

ASSEMBLYMAN HERMAN: Make a suggestion that they go back and take a look at the books.

MAYOR BEIN: Do you think there is a way out? I will gladly do that. I would be curious because that is a very interesting point. As I said, I appreciate the opportunity to come here and I do know this, the League will certainly be willing to work with the Legislature in any way possible, as we have done with the Land Use Law and S-3139, which is the Balanced Housing Act. Any other area that you think we can give you any input on, we would be very happy to do so because I am trying to find out for myself what problems each municipality may have through a questionnaire I developed as part of my responsibilities.

ASSEMBLYMAN HERMAN: Mayor, you might want to take one thing back to the League. In reference to emergency appropriations, the Department of Community Affairs, in their infinite wisdom, has issued a regulation in reference to the Local Public Contract Law, involving emergency appropriations, which says as follows: If you enact only an emergency resolution, that money goes against next year's appropriation towards the 5% cap. If you do it by ordinance, it is not included. I have had a great deal of difficulty finding that in the statute, as to where that delineation is made. I don't think it is in the statute. There is a prime example of the Legislature setting the standard for what is within the 5% cap and isn't within the 5% cap. Here we have a very, very direct application of this. I would bet you dollars to doughnuts that most municipalities - and I am just putting this out for your help - are going to adopt emergency resolutions, not aware that those emergency resolutions are going to apply against next year's cap, whether it comes out of surplus or not, notwithstanding the exceptions which we provide in the 3% - it being our intent in the statute that that is permitted to go beyond the cap level. That was the whole purpose of the emergency exception. That might be helpful to you and the other municipal officials who are seated here. You must be very careful of that distinction between emergency regulation and doing it by ordinance, as to how it may affect your cap next year.

That just goes to point out one example that I forgot of a regulation which goes far beyond what we intended. In fact, I can't find it anywhere in the statute. I never really knew I intended to do that when I voted on the legislation and I have been practicing municipal law for almost 14 years now. Mr. Laezza and I have had more than one scuffle on what I intended as a legislator. I think that I, along with Al and a few of the other attorneys that practice municipal law, know what we voted for. I know what I intended

and now somebody is telling me I didn't know what I intended.

MAYOR BEIN: In the cap, in any consideration for future legislation in this area, would you consider having the same rules apply to all bodies? I am now speaking about school boards. Why is it that a school board is given flexible rate for a cap and a municipality has fixed rate? Their rate is higher than ours and their budget is maybe five times the amount of ours. So, you know, 6% of \$6 million is one figure; 5% of \$3 1/2 million is another figure. It would seem to me that there ought to be a set of standards which apply to everybody; no exceptions. I think it was horrible that this Legislature, this year, passed bills which allowed certain municipalities - certain school districts, rather - to exceed the cap limit that was set by law. In my opinion, it made a whole mockery of the cap law. And, my town was one that was affected that way and I still took that position and I still wired to the Governor to tell him not to sign the bill. I think Mr. Gallo got a copy of that same telegram that I sent. I think it was morally wrong.

The Governor and everybody went out and said we were going to have a cap on spending and then turned right around and 139 - or whatever it was - school districts were told, "Forget the cap, you can do what you want to do", in essence.

ASSEMBLYMAN KARCHER: Some are more equal than others. You know, the horror stories from New Providence are not really bad. Where I come from, we had a situation with our sewers. We got an order in 1964 where the Federal Government said, Look, we are going to replace your sewers in just a section of town and we are going to pay, I think it was 75% in those days. The State said we will pay 15% and the municipality only has to pay 10%. The law is pretty much the same now. They have changed the component parts but the 10% that is being spent by the municipality on today's estimate exceeds the total cost of the project that we wanted to do in 1964, which has been delayed for 13 years by Federal and State Governments. That is a real horror story.

On your Workers Compensation and on your other insurance, what do you do?

MAYOR BEIN: What can we do? Surely, you could examine why you have the rates you have - whether it is the accidents you have. You can try to take action in that area. We have a very small work force in our town. Our whole population for running the Borough is something like 67 employees. In the 10 years I have been in office, we have only had 7 people file a claim, and out of the 7, 5 were on the police department. So, I think we are trying to keep our costs down for running the government. What can I do?

ASSEMBLYMAN GALLO: I think some of the areas, Marty, that have been brought out to all of us in the cap legislation are not only the insurance but the additional utility costs and things of that nature. I really think the Legislature will take a look at this, if in fact the interpretation now exists that they all fall into the cap.

Again, with the legislation I am not sure that that was really given that much consideration at the time.

ASSEMBLYMAN SHAPIRO: In a sense, those are State mandated increases - the increase in the telephone cost and the increase in Workers Compensation is something that is passed down by a state agency which allows that increase to occur. We did explicitly exclude State mandated increases, but those

have been interpreted, again, by an administrative agency, only to apply to a certain kind of state mandated increase, not an insurance increase, which, after all, is mandated by the Insurance Commissioner - or a PUC increase, or anything like that.

ASSEMBLYMAN HERMAN: I have a feeling that by the summer of 1978 there will be a lot of changes in a lot of laws. I think this whole package is, obviously, going to get a large review. I don't think anyone has any predictions, one way or another, as to what is going to happen. But, I think, seriously, the cap law is going to be, obviously, amended.

I can only tell you, with regard to the difference in costs, just in historical perspective, that cap law was supposed to be very similar to the State Cap Law, which was supposed to be geared to the consumer price index. There was an inability to get an emergency at two or three o'clock in the morning. I am just giving you history; it is just the way things go. There were a number of us - and I think Allen was one, I know I was another - who raised the question, "Hey, that 5% shouldn't be; it should be the consumer price index. It is supposed to be drafted like the State bill - the State Cap Law." It got passed. It got sent over to the Senate where they promptly forgot to amend it. That is the history of the 5%, rather than a sliding cap, based on the consumer price index, which probably is a fair way to go.

MAYOR BEIN: Thank you very much.

ASSEMBLYMAN MAGUIRE: Thank you, Mayor.

ASSEMBLYMAN HERMAN: Living history.

ASSEMBLYMAN MAGUIRE: Fred Dubowsky, please.

F R E D D U B O W S K Y: I represent, almost exclusively, people involved in one chain of the home building system, land acquirers - people who are professional planners, solely involved in getting approval for construction on certain sites. Of course, I have been associated with - or dealt with and negotiated with - many, many home builders in the State of New Jersey over the years, from the largest to the smallest, but mostly the average kind of homebuilder who is a small fellow. Most of the houses in the State are built by rather small enterprises.

The problems that they are encountering are of a critical nature. The enactment of legislation, such as the BOCA Code, such as the Municipal Land Use Act, has been designed to help, but in practice is not helping, in fact it may be complicating the problem and making it worse.

Let me start with certain facts - a piece of land that is zoned to be used for residential use. I will restrict it to that, because I don't get involved in commercial and industrial that much; I know residential far better. It is zoned and you know exactly how big your lot is to be and how far your set-back is, side yards, how big your house is. In short, the local government has established a plan which, under zoning, you can know to the exact centimeter the exact detail and precisely what you have to build.

In that state, the land is worth about 25% to 30% of what it will be worth when the same piece of land has a piece of paper attached to it which says that you are allowed to go get building permits.

In short, if you take a lot that will eventually be sold or used as an unimproved building lot - which has a value of \$8, \$9, or \$10 thousand - that lot, without a piece of paper, is worth \$2, \$3, or \$4 thousand. The additional cost has nothing to do with the land, but the amount of work and money spent

in getting a piece of paper.

The engineering costs, today, are averaging about \$500 a lot for the engineer's work in obtaining an approval. Once you are zoned, mind you, you know what the law is and exactly what you have to do. You are saying, when you make your application, that you want to do it exactly, Mr. Chairman, the way you are supposed to do it. You say you are going to build houses "this big, this wide, on this sized lot, with this kind of road, with this wide a pavement, with these many sanitary sewer lines." Everything is exactly laid out.

The time period - if you are under two years in getting an approval from zoning to building, you are a genius; I can't do it. I have no pretensions to even attempt such an enterprise within a two year period. This involves a cost, in dollars, of at least \$2 to \$3 thousand a lot - for your engineering, your planners, your lawyers. This does not count the interest running on whatever monies are outstanding while you hold the property. This does not count the taxes that are running during the process for two years. So, consequently, not double, not triple, but, many times, five times the value is attributable to governmental bureaucracy and the very land on which you are going to build the house represents 20% of that which the consumer is buying. His lot is 20% land and 80% paper.

Now, the question is whether the paper is worth the price because, you see, houses in areas that people can afford are costing \$60, \$65, \$70 thousand. Fifty five thousand is already a loss leader to attract people so when they are there, they will buy the house for the same \$70 thousand that, in fact, they are probably going to have to spend.

The fact is, you need an income, to qualify for a mortgage, of in excess of \$25 thousand and even being a politician may not necessarily get you into this rather lofty bracket to be able to qualify to purchase that house.

So, we are now confronted with a market for new housing which is so dramatically restricted to the home buying public of the State of New Jersey that new houses may no longer be the business of people because those who can afford them would have to be in a position to pay more than they can possibly afford.

In addition, if you don't have zoning and you do it the Mount Laurel way -- For example, I have clients who are involved in the Flood Plains Act. The zoning they have been given by the town is for high-rise apartments or industrial use. They suggest that since the State of New Jersey won't allow them to build high-rise apartments and they won't allow them to put industrial plants in, particularly 12 feet below sea level, it seems important that they have different zoning. It takes perhaps two law cases, with remands back and forth, before the town would set up a recreational use for the property in question - so the man could build a lake. But, that is the only use you can put the property to. Of course, the town would then require that some \$10 thousand worth of fees be paid to make the application. The engineering incident to it would be in six figures. And, the cost of the lake - the only use to which he can put the property - is well in excess of six figures.

In short, we have certain situations and problems with regard to both the cost of the house to the public, and the cost of getting the land approved. I know for a fact, for example, that \$25, \$28, or \$30 thousand is the brick and mortar cost to build a house that is being sold for \$60 thousand. The

builder's profits are normally calculated -- they shoot for 15% of their brick and mortar, which means that they would be very happy to make a \$5 thousand profit on a house. They can build a good one for \$25 thousand. That \$30 thousand - \$5 thousand in profit and \$25 thousand in brick and mortar - house, they have to sell for \$60 thousand. Now, \$30 thousand is not going to the builder and it is not going to the trade that was represented here today - the electricians were here.

You used to be able to build in 1971 and 1972 for about \$11 a square foot. You are up to \$14 or \$14 1/2 a square foot now but that is not the killer because even at \$25 thousand, a house that you build today that used to cost \$20 thousand-- I don't know how much of that \$5 thousand, that extra \$3 or \$4 a square foot you are paying, is red tape. I am not sufficiently versed in the problems that the electricians and the plumbers have.

ASSEMBLYMAN HERMAN: Mr. Dubowsky, can I ask you a very direct question? This gets to the essence of why we are all here. What do you think we, as State legislators, can do in that regard? I am happy to hear about municipal problems for a change, versus State problems. What do you think we as legislators can do to be of some help?

MR. DUBOWSKY: It should not cost \$300 to get a building permit for one house. It should not be required that you have to fill out what they call the mechanicals, which means you have to get 17 permits to build one house. You should not have to submit two sets of certified plans by an architect to the town so that they can give you one back to keep in your field area to designate what you are doing. You don't need to see it. That is \$80 to see it. That is something that the home buyer is paying that is absolutely unnecessary. The one that the town keeps, of course, is necessary. But the one for the field man to keep back in the trailer is absolutely unnecessary. An unsealed set is sufficient.

Number two, the name of the game in the towns now is, when you are going for your applications, at the first hearing you are required to sign a paper stating the time in which to make a decision. That is before you hear anything. You want to get a hearing, so you first sign an extension. Consequently, I would suggest that you take the discretion away from the builder and away from the municipal planning board to extend it. In all fairness to the township, however, you should require the builders to give them a complete working set of plans showing exactly what they want, precisely in accordance with the zoning laws. Or, change the system altogether. Go to the township, take your engineer, pay whatever they want paid and let the towns tell you what you are supposed to build on your land, whatever it is - anything you want that is consistent with the zoning. If they have a zone, they tell us exactly what they want and we will do it. They don't do that. They say, "You tell us" and after we tell them, they say they want to change it. That is how you get the two year's delay. You have one political party and another political party and one wants the changes this way and the other wants the changes that way. Consequently, either let the towns do it or go by the zones. That way, you know exactly what they want when you walk in the door. Let them fill out the plans and we will pay for it. Let them tell us what we have to do. That is one way.

The second way is to stop giving the discretion to extend because that

is all that is going to happen; it will be extended. Avoid the duplicity and the unnecessary cost in connection with the payments of monies for the engineering fees that have to be paid during the course of construction. Establish some way so that you don't stop a builder during the course of construction for things that are beyond his control. This is how you get your sub-contractors to go broke and this is where you have the builder going under, leaving many home buyers who have put deposits on these homes in the position of finding themselves without a home.

ASSEMBLYMAN HERMAN: Can you give us an example of what you mean?

MR. DUBOWSKY: Oh, God. South Brunswick, for example, had a little problem about their sewerage. A Montgomery Township builder has, for example, nine building lots. They are fully improved but he can't build anything there. Apparently five years ago they decided to put sewers in and they decided that since they were going to put sewers in there anyway, you shouldn't bother with septic tanks. So, you have nine fully improved lots sitting there with the interest building on the improvements and the cost of that and there is nothing to show as far as when they are going to be putting sewers in there at this point.

ASSEMBLYMAN GALLO: On that particular subject, is there no relief as far as a septic system is concerned?

MR. DUBOWSKY: No. I have gone to the Board of Health. I could sue them but the fact is that it is not their fault; the State won't tell them what stage they are in. In South Brunswick Gene Ameron is the engineer. He is a very nice fellow. He is a very conscientious engineer. If you start asking him for the last two years - as I have - when we are going to have a sewer in that town, despite the fact that some builders were under construction, building permits were issued, and houses were up that they couldn't connect because they wouldn't have sewerage - he says, "I give up. Everytime I get a decision from them, they change their mind. I promised these builders that they would have their sewers two years ago." He says, "I am not promising anybody anything. I don't know. I have no idea whatsoever."

In addition to that, you have the building inspector who -- For example, there is a township in South Brunswick - again, with which I am familiar - and the building inspector had not ever been involved with the energy saving kinds of construction that are becoming more prevalent. There is a substance called styrofoam, which is inserted. It is an additional item of construction. He doesn't have to put anything on but he puts this on to protect and give some additional energy savings features. Well, it looked like a giant coffee cup to the building inspector and since it did and since he wasn't used to it, he has been insisting on delaying the issuance of building permits, refusing to allow close-up inspections, and as a consequence the builder is sitting there, unable to be able to deliver houses - built houses. The houses have been contracted for to the home buying public and these people don't know when they are going to be able to get their house. They don't know when the building inspector will allow them to build it.

If you stop a builder in mid-stream - with houses under construction - for any reason that isn't consistent with building the house properly-- You know, few builders actually build the houses themselves. Mr. Del Rosso's people - the electricians - themselves are contracted out. The plumbers also.

They are all licensed. So, you don't get a job stopped unless it is -- Rather than mention names, there is one situation where they discovered, halfway through the job, that the DEP was dissatisfied with respect to the sewerage situation in a given area, after the man was well under construction. It was in the newspapers. It was Caplan's job, obviously. It was Hidden Lake. I just know that he was in the middle of construction when I read in the newspapers that, in fact, they were stopping him from building. A delay like that, with 30 or 40 or 100 houses under construction, could put that builder under. If he goes under, the contractors won't get paid and if they don't get paid and the deposit people don't get their houses, you have a crisis on your hands.

For example, towns won't let you have bonds. You have been in municipal-- That is one thing you don't do, particularly when there is a cash bond up. You see, you don't have to pay any interest to the builder who put the cash up and it is far better for your townships to continue to leave the cash portion of the bond in the township coffers as long as possible. The bonds are submitted by the bonding company, who requires that there be performance. So, they just sit on the bond and make it very difficult to get the bond released.

Now, I only know, frankly, at this time of one bonding company in the State of New Jersey and if they go out of business or if they refuse to give bonds, that is the ball game. The fellow who said he had 17 lots -- improvement costs could run him \$10 thousand a lot. That means in order to build, he would either have to put up \$170 thousand in cash - which is certainly economically insane for the profit that he is contemplating for this - or, number two, he would have to actually put the improvements all in first before he could even start building and start making a profit.

There isn't one bonding company that I know that will give you a bond without putting up the exact amount of cash required in exchange for the performance guarantee. In short, if you have to bond for \$170 thousand, any other bonding company will say, all right, give me \$170 thousand and I will put the bond up with the town. Of course, you may as well put the cash up with the town yourself. This bonding company has been-- The towns won't release the money. In 1974 and 1975 and 1976 a lot of builders went under. This bonding company is required to pick up the tab. If they stop, I don't know how you are going to build at all. I don't know how, unless you have these companies that can simply spend \$10 or \$15 thousand a lot in cash for putting the improvements in and spend \$30 or \$30 thousand building a house and have no return for their investment.

So, the problems that we have involve getting the approvals and getting the house up within six months. That is a good time from the time you start to completion. It should only take 90 days. But, an inspector has to be there when your rough plumbing is in and is not available until a week afterwards, which holds up your trades in their construction of the house.

So, you asked what help you can be to us? I would suggest that, number one, if land is zoned, streamline the process, either by the towns telling the builder, "This is how you do it", or requiring them, in fact, within the 90 day period, without extensions, to, in fact, grant or deny the approval. During the initial stages of going for your building permit, there has to be a streamlined process by filling out one application, paying one fee, and getting one building permit. I think the 20-day rule, in terms of being required to issue the

permit is too long. I believe that they can obviously review, after doing 20 houses, the next 80 within one day, or five days, or one week, but there should not be a requirement of two or three weeks, as they presently have.

With respect to the State and its situation, the DEP is presenting a serious problem for future developers. As I understand it, in the Plains Act, or in areas where the DEP has jurisdiction, doing this violates the law because they are restricting pollution and their standard - that they are utilizing - is that you can't make the environment any worse than it was. If you are going to try to build anything, if you are going to worsen the environment by a fraction of a percent - it doesn't matter, as long as it makes it worse, - you are not allowed to do it. Consequently, if you do that, you are obviously worsening what is there and this has been the attitude the DEP has taken in the areas where they have been given control - the pines area and the coastal area.

Another area is solid waste disposal. One of the problems I have in one of my cases is that the builder wishes - or the developer, or the owner - to supply soil and sell it, essentially - most of it - to build roads. Well, towns don't like you to do that. In fact, the DEP doesn't like you to do it either. I was speaking with one fellow who was very heavily involved, who met with Commissioner Bardin on a regular basis. Soil disposal permits are very, very rare and difficult to obtain at the State level. But, you see, in this case, the State requires that if you are going to take the soil out, you have to bury the stumps. That is why a solid waste disposal permit was required.

ASSEMBLYMAN HERMAN: There have been amendments to that, as you know. There is a certain degree of open burning now.

MR. DUBOWSKY: Yes. But, the matter is that the township would allow him to dig a hole but they would not let him take the soil off the property. The State would allow him to dig the hole only on the condition that he did take the soil off the property. Then, of course, it was on the Rockaway River and the U. S. Corps of Army Engineers and the Federal Government was very concerned about resetting the boundaries of the river and they were very anxious to have the soil removed. But, whenever you got permission to something from the town, it violated the State law. Whatever you got from the State, violated the township rules. And, whatever you got from both of them, violated the Federal regulations. Consequently, everytime you go to a new board and get permission to do something, permission is conditioned upon the current jurisdiction of the various other agencies of the State and the Federal Governments. So, you can never get approval because their rules conflict. In short, what you have is a kind of a nightmare where, "who goes first and who has jurisdiction?" seems to be the question. I think that in areas where you have concurrent jurisdiction, either the State or the town or the county or the Federal Government should be given the say-so in determining what is to be done - sort of as the final decider, or the final person to make the decision.

ASSEMBLYMAN MAGUIRE: I think maybe Mr. Dubowsky has covered all the points. Are there any further questions?

ASSEMBLYMAN HERMAN: Thank you very much, sir.

We will now take a 45 minute break for lunch and when we return we will call on the rest of the witnesses.

(lunch recess)

AFTER LUNCH

ASSEMBLYMAN MAGUIRE: We have before us the Honorable Mayor Paul O'Keefe from the City of Plainfield. Mr. Mayor, do you have a statement you would like to make to this Committee?

MAYOR PAUL O'KEEFE: Yes, Assemblyman Maguire. You have my prepared statement but I thought since you have invested so much in recording equipment that I might as well utilize the benefits of it.

I thank you for the invitation to appear before the Assembly Legislative Oversight Committee and I would like to extend special thanks to Committee Chairman, Assemblyman Herman, for arranging a hearing in Union County. I think it is a very good idea. It is not always convenient for us to attend hearings in Trenton.

As a local official, I am pleased to have the opportunity to comment on the administrative arm of State Government. We often have a chance to give our opinions on legislative matters, but we do not often get a chance to discuss what has happened to legislation after it becomes law.

This afternoon I would like to briefly identify some problems that Plainfield has experienced with State administrative and regulatory agencies and also take note of some of our positive relationships. I am pleased to say that our positive experiences far outweigh negative ones. State administrative employees, on the whole, attempt to implement legislative intent in an efficient and conscientious manner. Where there are problems, it is often the result of unwise or ambiguous legislation in which major policy disputes are left unresolved to be answered through administrative regulations.

First, the State Public Utilities Commission has a significant responsibility to regulate the operation of public utilities in the State of New Jersey. As some of you may know, I have constantly written letters to the Chairman and the Governor regarding some of their actions. Homeowners, tenants, and local governments are finding that more and more of their fiscal resources are being allocated to escalating utility costs. In most cases these are very basic expenses which are difficult to cut back on. During these times we must demand aggressive utility regulation which specific cost guidelines provided to public utilities prior to incurring costs. Areas of expenses related to public relations, entertainment, executive salaries, and general labor costs need to be closely watched. Under the existing method of operation, the Public Utilities Commission reacts to costs already incurred by public utilities. Consequently, there is little alternative but to approve large rate increases or drastically cut services. Plainfield has found the Public Utilities Commission to be unresponsive to our call for such aggressive utility regulation.

Parenthetically, I recently noticed a study that was done of state regulatory agencies and it indicated in that study, if I remember the synopsis, that states that have a large and professional staff digging into utility costs within that state, find that they are able to regulate and control the utility cost to the consumer much better and that although your investment on the front end of setting up a commission with the expertise and strength to do this is higher, the end result for the consumer is much better. I don't have the results of that study, except what I have read in the paper, but you folks may have it.

State legislation connected with the Public Employment Relations

Commission is a good example of a very general State legislation which leaves much of the impact of the legislation to administrative determination. When issues involving what is negotiable and what is an unfair labor practice are left ambiguous in State legislation, you can be sure that public unions will make sure that the matter is defined, not by elected public officials, but by hearing examiners appointed by the Public Employment Relations Commission - or PERC. Consequently, there is a continual usurpation of the prerogatives of public employers. We cannot continue the existing trend toward treating public employee labor relations like the private market. In the private market, labor costs can be passed on to the consumer in the marketplace, and the consumer can choose to buy or not buy the product. No such choice exists in the public arena. My suggestion is that either the Legislature carefully review the PERC law to more clearly define provisions in the law, or regularly review the decisions of the Public Employment Relations Commission. A review of the Public Employment Commission decisions will reveal the need to institute specific State legislation to protect public management from union control. Certainly, public unions have aggressively solicited legislative action on their behalf.

Local governments share with the State Alcoholic Beverage Commission regulation responsibilities for licensed liquor establishments. Recently, in Plainfield, we have made an attempt to go beyond more routine licensing issues to ascertain the effect of the licensed premises on the neighborhood. We have attempted to provide clear guidelines to license-holders, so that they understand what is expected of them and the sanctions available to the City Council in relation to their license. In attempting to meet these obligations, the City of Plainfield asked ABC officials to attend a meeting with the license holders to discuss and clarify the regulations and the authority of the municipality, as well as the authority of the State ABC. We were shocked to receive word that the ABC would not send a representative, and would not help in our attempt to promote the responsible operation of licensed liquor establishments.

The City of Plainfield and its residents have this past week been faced with a public transportation crisis. Plainfield Transit stopped the operation of important bus services in the community as a part of its dispute with the State Department of Transportation concerning bus subsidies. During my years as Mayor in Plainfield, we seem to be continually faced with manufactured crises of this sort in which Plainfield residents and the residents of surrounding communities are held hostage during negotiations between Plainfield Transit and the State. This is no minor matter. Many residents in Plainfield depend on public transportation to get to places of employment, and many senior citizens need such transportation to shop for basic necessities and to take care of medical needs. Part of the problem is that the Public Utilities Commission has responsibility for service questions associated with the operation of the buses and the State Department of Transportation has responsibility for State subsidy money. This split of State responsibility needs to be corrected, and State officials need to settle the subsidy issues that continually crop up with Plainfield Transit. I became so frustrated at the most recent elimination of service that I asked the City Corporation Counsel to take legal action to get the buses running again.

Again, parenthetically, we understand that the Department of Transportation has really never sat down with Plainfield Transit and the PUC to

iron out these problems. They are all individual communications and it is up to someone to tie them all together.

The interest of the State in public education is obvious. It is an extremely important local service, and the State contributes a considerable sum of money towards the operation of our schools. State legislation dealing with the constitutional requirement for a thorough and efficient education could be a positive factor in improving the quality of education in the State of New Jersey. However, the requirement that a thorough and efficient system of education be provided is apparently difficult to define. The State Department of Education, after expending a considerable sum of money in promulgating a large amount of rules and regulations, seems to conclude that the primary definition of thorough and efficient education is how much money is spent. I call the Committee's attention to the fact that the phrase in the State Constitution refers to a thorough and efficient system of education. Being thorough and efficient is not synonymous with expensive. The status of the State Commissioner of Education is a prime example of too much authority invested in an administrative official. The Plainfield City Council has had a continuing dialogue with the Plainfield Board of Education attempting to get the Board to adopt the same kind of stringent control on expenditures that the City of Plainfield has adopted. However, the Board of Education knows that the Commissioner of Education can restore funds to any school budget without any effective appeal mechanism. This situation has nothing to do with the inherent nature of education, but reflects the process by which school boards can appeal to an administrative official to give them public funds which they are not responsible for raising. I would submit to you that the same situation would result in excessive police or fire salaries if a State police or fire commissioner was given the kind of authority that the Education Commissioner has. The other obvious danger is that powerful teachers unions can have an inordinate amount of influence on the administrative determinations of such a commissioner.

The State of New Jersey has a number of local aid programs that provide invaluable assistance to local governments. Legislative committees, like yourself, however, should insist on measurements of performance as to how these funds are disbursed. Plainfield, on many occasions, is faced with severe cash flow problems caused by delays in releasing State funds and reimbursing eligible costs. There is a wide variation among State agencies in this regard. In Plainfield, we have had excellent experience with the State Law Enforcement Planning Agency, but difficulties with the contracting process of the State Department of Community Affairs. In any case, the effectiveness of State grant programs should be measured in part by their ability to quickly disburse the funds in a responsible manner.

Again, we operate on a very tight budget. We don't have a lot of surplus and we try to invest about 99% of our funds that are not being used at the moment, but we have had problems with the county and some problems with the State.

Naturally, your Committee will concentrate on the problems that are created by State administrative and regulatory agencies. However, in Plainfield we have had a number of positive experiences with State agencies that should be recognized in this forum.

One, the State Department of Community Affairs, under the able leader-

ship of Commissioner Sheehan, has provided valuable assistance to local governments and particularly to urban areas. The State Safe and Clean Streets Program is an excellent example of an effective State program which concentrates on priority local needs, such as walking police officers and road improvements, while leaving a maximum amount of local discretion. A careful monitoring by professional staff protects the State's interest and documents the success of the program.

Two, I am sure that you often hear complaints from local government officials about the amount of regulation done by the State Division on Local Government services, headed up by John Laezza. Despite the annoyance of a multitude of reporting requirements, Plainfield has been impressed with the professionalism of the people from this division and their protection of the State's reputation for careful control of local expenditures.

ASSEMBLYMAN HERMAN: They have been good legislators.

MAYOR O'KEEFFE: Number three, the City of Plainfield has established a vigorous program for retaining and attracting industrial and commercial ratables. The State Economic Development Authority has been extremely helpful to us by providing technical assistance and grant funds to accomplish our purposes. Recently, the State agency co-sponsored a forum for small business people as to the types of local, State, and Federal assistance that is available to them.

Number four, the State Public Advocate is often viewed as a defender of individuals in their relationship with State agencies. In fact, the City of Plainfield has found the Public Advocate to also be an advocate for local government. We have been helped by the State Office of Public Advocate in attempting to achieve affirmative action objectives through the Civil Service Commission and representing our interest and the interest of our residents before the Public Utilities Commission.

Number five, the employees of Plainfield's City Clerk's office have asked me to specifically commend the employees of the Legalized Games of Chance Control Commission. Our staff in the City Clerk's office is faced with a myriad of licensing problems associated with bingo games, raffles, and the like. This State agency has often assisted them in clarifying the State rules and regulations in a thorough and competent manner.

Number six, State Insurance Commissioner Sheeran has recently been under attack for his aggressive regulation of the insurance industry. I am not sure that I entirely share those sentiments and believe that Commissioner Sheeran has set an example for other State officials with regulatory responsibilities. The burden of proof for increasing rates should be placed on the industry representatives appealing for the rate increase. State consumers should not have to suffer unconscionable increases in basic living cost without a rigorous examination of the increases being requested. In the area of insurance, the City of Plainfield and many other municipalities in the State are facing incredible increases in liability insurance costs and the cost of providing workmen's compensation coverage. In Plainfield, the cost of workmen's compensation has driven us to the self insurance alternative, which has proven to be a real money saver. Such an alternative with liability insurance is just too risky. The Legislature needs to take a careful look at recent changes in the Tort Liability Law to see if changes will improve the insurance cost situation.

In that respect, our City Administrator is working with the New Jersey

League of Municipalities in this whole area of tort liability. We are very concerned about the effects of it, related to the cost that we are paying for insurance.

This Committee is to be commended for holding these hearings, and I hope it will lead to a more vigorous review of the impact of legislation once it becomes law. In addition, I believe it would be wise for all legislation which affects local government to have a statement attached detailing the local fiscal impact and the administrative impact on local governments. If necessary, an advisory body of local officials should be responsible for attaching such statements to State legislation.

I appreciate the opportunity to make our feelings known and I hope my comments have been constructive. Thank you.

ASSEMBLYMAN MAGUIRE: Thank you, Mr. Mayor. I am not really sure, when I follow your reading of the document, who you are really mad at.

MAYOR O'KEEFFE: I am not mad at too many people, really. Our relationship has been pretty good.

ASSEMBLYMAN HERMAN: I think the Mayor's testimony has been excellently presented and it certainly was excellently prepared. I commend you for that. I was just remarking to Assemblyman Shapiro that I believe your comment on page 7 of your statement, where you say you hope that what we are doing here leads to a more vigorous review of the impact of legislation once it has become law, is perhaps the cornerstone or the essence of what we hopefully are about.

I do have a question that I would like to ask you in regard to the ABC. Your comment was, "We were shocked to receive word that they wouldn't send a representative." What was the program that you were engaged in and what was the problem, generally?

MAYOR O'KEEFFE: The problem was basically one that involved a very small number - three or four at most - of taverns that have a consumption license. There had been problems not only with the tavern, particularly - there were not too many inside - but around the outside. We wanted to meet with the tavern owners to discuss with them the ABC interpretation of regulations for their responsibility in and about their establishments. The ABC's position-- We have had a number of meetings with tavern owners ourselves and, of course, we can take one action and the ABC can override us. So that we could have a more formal position together and discussion together, we asked the ABC to come and meet with the tavern owners. Their position was that they did not want to discuss their policies in front of their licensees. So, we were in the middle and it was a difficult position to be in, consequently we revoked the license of an establishment which is now appealing to the ABC.

ASSEMBLYMAN HERMAN: Have you--?

MAYOR O'KEEFFE: We think that perhaps the ABC may uphold their appeal.

ASSEMBLYMAN HERMAN: Have you adopted, in your local ordinance, a set of standards for licensees?

MAYOR O'KEEFFE: We have a set of standards but some of them are somewhat questionable. A number of like kinds of consumption establishments may have different problems. One we may have no problem with at all, or a number of them we may have no problem with at all and then another has a problem, particularly in this case where there is loitering around the outside.

How much of it is attributable to the owner and manager of the tavern is a question and how much it is attributable to the area is another question. So, they are not really able to be defined. The judgment of the Council in this case had been that the owner of the establishment could have had more control over his place of business.

ASSEMBLYMAN HERMAN: Thank you.

ASSEMBLYMAN SHAPIRO: Mayor, my district includes two urban aid towns so I am interested - those two towns are Newark and Irvington - in the comments you made on point number six of the first group of points, that being the problem with dispersal of local aid programs. Can you point out a little more detail on that, particularly with regard to what you refer to as the contracting process of the DCA?

MAYOR O'KEEFFE: Our staff tells us that we contract with various other governments, Federal, State, county. We have had, for instance - even though we are in Union County Headquarters - over the last few years with Manpower Programs, some real difficulty, with the cash flow situation, of getting reimbursement.

ASSEMBLYMAN SHAPIRO: With specific agencies or with the municipal government itself?

MAYOR O'KEEFFE: The municipal government. In this case, it was the county Manpower Agency.

Now, in the case we refer to here, we realize that our SLEPA grants were a very good reimbursement and very quick when we submitted a voucher and showed that we expended the funds involved. Evidently, we don't find that as quickly with DCA. I know we are also involved with Institutions and there I think our receptivity as far as response on reimbursements is much, much better.

ASSEMBLYMAN SHAPIRO: Can you pinpoint any of the DCA programs that are involved in this?

MAYOR O'KEEFFE: Safe and Clean would be one, I am sure.

ASSEMBLYMAN SHAPIRO: The administration of Safe and Clean?

MAYOR O'KEEFFE: The administration of Safe and Clean, not the program itself nor the concept of the program - just the ability to get the check back quickly after we have expended the funds.

ASSEMBLYMAN SHAPIRO: We did just double the amount of money that that Division has available to it for administering these funds.

MAYOR O'KEEFFE: Okay. I can check the specifics and get back to you.

ASSEMBLYMAN SHAPIRO: You also have that problem with Human Services and Institutions and Agencies?

MAYOR O'KEEFFE: No, that has been pretty good.

ASSEMBLYMAN SHAPIRO: I get the complaint on day care in particular - the reimbursement of day care centers.

MAYOR O'KEEFFE: We had a problem at one time, about a year or so ago - a fairly severe one - but I think it has been worked out since then.

ASSEMBLYMAN SHAPIRO: Thank you.

ASSEMBLYMAN HERMAN: Well done, Mayor.

MAYOR O'KEEFFE: Thank you.

ASSEMBLYMAN MAGUIRE: Thank you, Mayor, we appreciate it.

I think I would like to recognize Harold Seymour, a member of the Board of Freeholders and a former Chairman of the Board. Harold.

H A R O L D S E Y M O U R: Thank you, Bill. If I may, there are a few things I would like to say. I was not prepared to come in today, nor to listen to this, but we had an emergency that brought me down here. I think that I completely missed what the Oversight Committee was and what your intentions were that brought you here today. In fact, you should have had a room full of people.

ASSEMBLYMAN MAGUIRE: We did this morning.

MR. SEYMOUR: Did you have it? Well, gee, I am grateful for that. There are a few things - as long as the Committee is meeting - that I would like to state. I would love to see, for example, a sunset law in this State.

ASSEMBLYMAN HERMAN: That is part of the Committee's consideration.

MR. SEYMOUR: Okay. Unfortunately, I don't know what went on before.

ASSEMBLYMAN HERMAN: Let me ask you a very direct question, if I can. The purpose of this Committee is to determine whether there are areas of administrative rules and regulations which go beyond the intent and scheme of the legislation that was enacted -- what the purpose of the legislation was. We have been interested in determining what our legislative response should be. So, in that regard, we are holding hearings to find out from people, such as yourself, who are involved on a day-by-day basis with the operation of government - in this instance county government - whether or not you have found, to any degree, areas where the executive, or administrative, branch of government, through the rule-making process, have gone beyond what you understand to be the purpose of the laws that you administer.

MR. SEYMOUR: That puts it in a nutshell. May I speak then as the Tax Collector of Cranford?

ASSEMBLYMAN MAGUIRE: Sure.

MR. SEYMOUR: I would like to say to you folks that the havoc you have wreaked upon us with this rebate program under our income tax law is so tremendous that is inconceivable. I don't think any legislator ever realized what it was that a collector had to do, or what was forced down his throat.

The Tenant Rebate is a good example of this. It is well-meaning legislation and I believe that the tenant should get it back, as well as the homeowner, who will get something back under the Homestead portion of it.

But, you ask us to pull out which are two-family, or multiple dwelling, units and we have no way of doing this because the county is so disorganized. In fact, all counties are disorganized even when they have a good computer system; it cannot pick that information out. You ask us to identify and find these people by going to something like the utility companies and asking them where they install two meters, and particularly you ask us to do this during the month of August when the taxes are due August 1st. You mail out your bills - which, by law, should have been out June 1st - and try to get this information and then you follow through and say, "We will send you a copy of the whole law" and we get it about three weeks later -- you know, budgetarily that is something we cannot do because in towns we start our budget year on January 1st and you folks do it on July 1st. So, my budget is so tight that if somebody says, spend an extra dollar, I really don't have it.

I think the Cap Law was a heck of a good law. I mean, that should have been imposed upon us a long time ago. But, with a budget like that, where do we find the money for even mailing these things out? I mean, it has to go "emergency", so to speak. So, there are no provisions within the law letting us

know, if we have to do this work, where we get the money or even the cooperation from other departments. The attitude seems to be, "That is your headache."

The school aid -- again, gentlemen, if I read it correctly, the income tax is going to die aborning - if that is the expression - no matter who is Governor. So, if it does, you are going to have this same effect again, because what are school boards going to do when they have to make their budget up and prepare for the March 31st deadline? You will reach a deadline, like you did the last time and everything will be up in the air.

ASSEMBLYMAN HERMAN: 1978 will be an exciting year.

MR. SEYMOUR: Yes, it will.

ASSEMBLYMAN MAGUIRE: I have a letter here that the present Chairman sent and in it he details the Freeholders' concern about being able to create nursing home beds, asking that legislation be introduced amending the CAP Law in order to do this. I would tell you that there isn't a great deal of support for amending the Cap Law, but if that were done, in the case of your county and my county, where would you get the money to staff it?

MR. SEYMOUR: I think that is what they are asking - that the State provide some of it. I don't know how explicit his letter was. I think, Assemblyman Maguire, that the intent was that we ask that we could exceed the cap. If we could raise the money, we were going to use the capital portion - to erect the building and what have you. But, I think they were looking for funds for the excess staffing. I think that was the intent. I am not sure, but I read the same letter and, to me, it really didn't say what I think the intent of the Board was. Like you say, if we need 100 more people, for example, where are we going to get the money from?

I think they are looking for State funds for that portion of the staffing that exceeds the present staff.

ASSEMBLYMAN MAGUIRE: It really doesn't say that though.

MR. SEYMOUR: No, it doesn't.

ASSEMBLYMAN HERMAN: Freeholder, on behalf of the Committee I want to thank you for your comments. Although they were not planned, they were certainly most welcome. I trust that you will extend to the rest of the members of the Board our collective and many thanks for having us here today and being willing to play host. Hopefully, what we have done here today and what we have done at other hearings will have some impact on trying to develop that balance between the Administrative and Legislative branches of government.

MR. SEYMOUR: Thank you. I think on behalf of the county, I would like to thank you for having a Committee that will at least take the time to come into a county and to do what you are doing. That is refreshing.

ASSEMBLYMAN HERMAN: Thank you, Bill.

ASSEMBLYMAN MAGUIRE: I think it is time to adjourn.

(hearing adjourned)

A P P E N D I X

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Raymond Lesniak  
681 Summer Street  
Elizabeth, New Jersey 07202

Copy of letter sent to Senator Thomas G. Dunn  
and Assemblymen Deverin and Gregorio.

I am writing to request that you use your offices to seek a moratorium on the implementation of racial balancing plans for elementary schools in New Jersey. The current program for achieving racial balance is ill-conceived, irrational, and damaging to the educational opportunities of young children.

The New Jersey Supreme Court's original ruling which mandated the maximum dispersal of students to achieve racial balance was based on two concepts, one of which is no longer valid. The Court stated that blacks feel inferior to whites if they attended a predominantly black school. If that statement ever were valid, it certainly is not today. The other basis for the decision, that young children should learn to work and play together, regardless of race, will always be true. I believe that goal can be achieved without maximum dispersal of students by racial quotas.

The Supreme Court tempered its maximum dispersal doctrine with a warning that it must be consistent with sound educational principles and that its impact upon safety, increased costs, withdrawal of majority students from the school community, inconvenience and other factors, including the significant benefits of neighborhood schools, must be considered. The Commissioner of Education has minimized the negative effects of maximum dispersal and has expanded its scope to include not only racial balancing by school districts but also racial and ethnic balancing by classroom, as a goal.

I am very concerned that the current program will impair the learning process and create turmoil among parents and students. As larger cities are mandated to racially balance elementary schools, the burden on young children will increase. Certainly the burden upon young children in Linden will be greater than in Roselle because of longer walking distances and heavier traffic.

My greatest concern is the effect of racial balancing in elementary schools in Elizabeth. I predict that minority parents will justifiably refuse to allow their children to be taken from George Washington School in Elizabethport, which is widely acclaimed as the best elementary school in the nation, and bused to another school, such as Roosevelt School in the Bayway section of Elizabeth. I attended Roosevelt School and it cannot be compared with the modern facilities at George Washington.

The entire idea of racial balance by school population in a school district is not rational. Predominantly white school districts will have predominantly white schools and predominantly minority school districts will have predominantly minority schools. Certainly no one would suggest that regionalization of elementary schools to achieve racial balance is the answer. Thus, only integrated municipalities will have to forego neighborhood schools to achieve racial balance.

The impact of previously implemented racial balance plans must be studied. The number of majority pupils leaving the school population in these districts must be determined. Their effects on the educational process and the underlying goals of racial balancing should be known before the haphazard approach currently used is continued.

The Legislature has not taken an active role on the issue of racial balance. It has allowed policy to be determined by the courts, the State Board of Education, and the Commissioner of Education.

I propose that a committee be formed to investigate this matter and develop a sound program which will afford all students throughout the State the opportunity to learn of and respect the different cultures of our society while preserving the significant benefits of neighborhood schools.

Until a sound program is established, a moratorium on the implementation of racial balancing plans should be declared. Continuing the current haphazard, illogical and outdated policies will not achieve any of the sought after goals.

Very truly yours,

Raymond Lesniak

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