

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

before

NEW JERSEY
COUNTY AND MUNICIPAL GOVERNMENT
STUDY COMMISSION

Held:
December 2, 1969
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Senator William V. Musto [Chairman]
Senator Richard J. Coffee [Vice-Chairman]
Assemblyman William E. Schluter

Also:

Eugene J. Schneider, Executive Director
Michael A. Pane, IV, Research Director

* * * * *

I N D E X

	<u>Page</u>
Arthur R. Sypek, Vice President New Jersey Assoc. of Chosen Freeholders	2
John N. Matzer, Jr. New Jersey Municipal Managers and Administrators Association	17
Edward B. McConnell Administrative Director Courts of the State of New Jersey	23
William J. Kearns Legislative Chairman Municipal & School Law Section New Jersey State Bar Association	35
B. Budd Chavooshian Assistant Commissioner Department of Community Affairs	42
William Conner Vice President National Association of Counties	47
Alastair McArthur Deputy Director National Association of Counties	59
Hon. Lee B. Laskin Assemblyman - Camden County and Newly-elected Camden County Freeholder	66
Dr. Ernest C. Reock, Jr. Director Bureau of Government Research Rutgers University	78
James H. Pickford U. S. Advisory Commission on Inter- Governmental Relations	1 A
Ronald Zweig Executive Administrator, Bergen County	6 A
Dr. Justin Renz Assistant to Massau County Executive New York	7 A

	Page
Jules Marron Planning Director, Sussex County	18 A
Professor Jameson W. Doig Woodrow Wilson School of Public and International Affairs, Princeton University	23 A
John J. Gibbons Past President, New Jersey State Bar Association	36 A
Guy E. Millard County Administrator, Somerset County	51 A
James Alloway Director, Division of Local Finance Department of Community Affairs	58 A
Ernest Erber Executive Secretary, National Committee Against Discrimination in Housing	61 A
Richard Conners Professor, Seton Hall University	68 A
John S. Kosko, Jr. Management Consultant C. W. Robinson & Co., Inc. New York, N. Y.	72 A

SENATOR WILLIAM V. MUSTO (Chairman): Ladies and gentlemen, may I have your attention, please. I would like to call this hearing of the County and Municipal Government Study Commission to order and welcome all of you who have come here today.

As you know, we are considering the proposals relating to county government, including both a proposed optional county charter law and proposed State assumption of welfare and judicial costs currently being performed by counties. These proposals were discussed in full in the Commission's Report: County Government - Challenge and Change, and the Commission Staff has since prepared legislation on them, including the draft of the Optional County Charter Law which has been sent to all county and municipal officials and all members of the Legislature for their comment.

We welcome the ideas, suggestions and opinions of all those interested in local government, and to this end we have been holding hearings and meetings around the State during the past months, and we will continue to meet with any groups and individuals interested in our work. Thus, while this may be the final public hearing conducted on a formal basis by this Commission before legislation is actually submitted, I would like to repeat that we welcome the chance to discuss this bill particularly and all of our proposals with any group in this State desiring to do so.

Since we have a busy day ahead of us with many distinguished witnesses, I will only say that if anyone

else wishes to testify, beside those who have already applied, please advise our Executive Director, Gene Schneider, who will try to fit you in if at all possible.

Once again, I would like to welcome all of you to this hearing and we will now begin hearing the testimony.

Our Executive Director, Gene Schneider, will call the witnesses in the order that they have been submitted to him. At this time I will ask the Executive Director to call the first witness.

MR. SCHNEIDER: Thank you, Senator.

The first witness to appear before the Commission in this hearing today is the Honorable Arthur Sypek, Director of the Board of Freeholders of Mercer County and Vice President of the New Jersey Association of Chosen Freeholders. Mr. Sypek is appearing this morning on behalf of the Association. I would like to take this opportunity to thank Mr. Sypek and the entire Freeholder Association for their splendid help and cooperation in the preparation of our county report and the legislation.

Mr. Sypek.

A R T H U R R. S Y P E K: Mr. Chairman, members of the Commission, ladies and gentlemen, I will present my testimony in two parts - one, as introduced by Mr. Schneider, representing the State Association, and the second part representing the Mercer County Board of Chosen Freeholders.

I am Arthur M. Sypek, first Vice President of the New Jersey Association of Chosen Freeholders, which represents the 21 counties of our State. I am a full-time, working

Freeholder with ten years of elected public service at the County level of our government, currently serving as Director of the Mercer County Board of Chosen Freeholders.

Let me say that the studied approach of your Commission to the problems of County government is the best thing which has happened to us in the past fifty years. I fully support your observations that our problems are area-wide in scope; that the County is the logical government to serve our citizens effectively in that critical middle ground between the State and the local municipality.

Since the County is a creature or an extension of the State, and because it has performed creditably, in spite of the lack of adequate funding by the State, the Legislature has seen fit to give to the Boards of Freeholders more and more responsibilities to perform. This trend in New Jersey has outstripped all other states, until New Jersey has the fastest growing County government in America.

This acceleration of service functions has reached a new high in the past four years. Careful studies by the State Freeholder Association on County service functions for 1969 reveal a total in excess of 5,000 services compared to only 3,877 in 1965, an increase of nearly 300 new services each year. Most of these are mandated by the Legislature; few of them are funded by grants-in-aid or by State financing, resulting in a tremendous surge in the real property tax at the County level to sustain these state functions.

On the one hand some 265 semi-autonomous boards, agencies and commissions consume nearly 60% of our County

budget, over which the Board of Freeholders has virtually no control. Add to this the State-mandated functions required of the several counties to perform, and the end result is that the local County governing body has "say" or decision-making power over less than 20% of the total County tax required to sustain this vast structure of public services. However, the responsibility for increased taxes in the public mind lies with the members of the Board of Freeholders, and not with either the Legislature or the manifold autonomous agencies which we are obligated by law to support from and through property taxes.

The proposed County Charter Law, offering the peoples of the several counties a choice of government forms, is a decided step in the right direction - I repeat, a decided step in the right direction. The State Freeholder Association, as early as 1962, conducted its own studies and proposed a level of professional management to assist Freeholder Boards in the day-to-day operation of the growing tide of their responsibilities, along with the need for closer fiscal supervision of autonomous agencies.

The work of your Commission has carried the first proposal to its logical conclusion: a multiple choice of government forms which will clearly define the legislative and executive responsibilities for performing county services. The choice lies within the individual county, as it properly should, through a process which gives our citizens ample opportunity to participate in restructuring of their own county government.

Our Association secured legislation in 1968 requiring each of the autonomous agencies to report quarterly on their stewardship in handling funds allocated to them by the Freeholders from the annual County budget. This will serve to help us put our financial house in order and more sharply define the areas where the State is deficient in funding programs which it mandates the counties to perform.

Since the 1962 recommendations of our Research Commission, five counties have seen fit to name county administrators on their own, including Mercer, Bergen, Somerset, Camden and Burlington. In my own County of Mercer, the Freeholders have named a young man with broad experience at both the State and Federal levels of government, whose administrative skill is assisting my Board in meeting its responsibilities and solving its problems. Since Essex and Hudson already have administrators serving in their offices of County Supervisor, these five and two make a total of seven, or one-third of the 21 counties now have professional administrators.

As Director of the Mercer County Board, I can tell you we have moved into the mainstream of assuming major service responsibilities on behalf of our citizens, a fact which I will outline in detail in the second part of my statement.

Your Commission makes clear the definition between State-mandated services and the fulfillment of local county needs. The latter has to be neglected by every Board of Freeholders because the Legislature in giving us State

functions to perform does not provide the necessary financing from State revenues. Herein lies the growing crisis in the sound management of county governments. We wholeheartedly support your Commission's recommendations that both welfare and the costs of the courts be financed fully, 100 percent, by the State, thereby relieving the county budgets to handle growing local service needs.

May I restate the substance of previous witnesses of our State Association at your previous hearing, namely, that we approve a four-year term for Freeholders to afford more continuity in county government. We would oppose a plan to elect Freeholders by the district plan, which would destroy the very area-wide concept of county structure and function which we are seeking to achieve. Freeholders elected at large, each and all representing all of the people of a given county, are the most representative officials at any level of American government.

Let me conclude by declaring myself in favor of a significant separation of the executive and legislative branches of county government patterned on that of the State and Federal governments. This process is already well under way with one-third of the counties of New Jersey providing professional administrators or managers. This is relieving elected Freeholders of the burdensome details of day-to-day operations, and frees them to devote full time to the basic legislative, policy-making function which is so vital to the success of the fastest growing level of government in this State and the nation, the New Jersey County.

Now my second part is testimony as Director of the Mercer County Board of Freeholders before your august Commission.

In my first presentation I spoke as the First Vice President of the New Jersey Association of Freeholders. Now I would like to address you as the Director of the Board of Chosen Freeholders of Mercer County.

No county could welcome the inquiries and recommendations of the Musto Commission more than Mercer, for we have shown ourselves ready and willing to accept the responsibilities and challenges which an effective area-wide middle-tier government places on us.

Long before the County and Municipal Study Commission was established, more than 10 years ago, I had the pleasure of joining with the Vice Chairman of this Commission, the Honorable Senator Richard Coffee, in a call for a study of county government and the interrelationship functions of the various governments. Our pleas brought no response because the State and the counties were not yet ready. Today, it seems to me, the counties of New Jersey are ready for the Musto recommendations; the idea of an effective middle-level regional government has arrived.

As Director of the Mercer County Board of Freeholders, I welcome almost every one of the recommendations made by this Commission to bring about a broad reform of the ability of counties to govern themselves. Your stress on professionalization of administrative staff parallels exactly what Mercer County has been doing for the past three

years. Your emphasis on greater centralization of administrative powers, of stronger lines of authority over autonomous bodies is necessary and vital for effective county government in any area, whether it be urban, rural, industrial or agricultural. I look forward with great expectations to your proposals to give counties the necessary legal and fiscal powers without which effective local government becomes meaningless.

Indeed, in Mercer County we like to think, based on facts, that we acted on a number of Musto Commission recommendations long before the Musto Commission was established.

On May 1, 1969, the day your report was released to the public, I issued a statement to the press in which I said: "Mercer County is well ahead of the Commission in some of its recommendations: In 1967 the Board created the position of Freeholder Director which gave over-all administrative responsibilities to a principal elected official. In 1968 we established the position of County Administrator to serve as a link between the Board and all of the departments and agencies of county government. And in the same year we appointed a fiscal comptroller to give technical and professional direction to all of the county's financial and monetary activities."

Looking at these changes from the perspective of ten years as a Freeholder, I can say that although our county government is far from perfect, it is running more smoothly, more efficiently and is more responsive today because of

administrative and staff changes which have been made in the past three years. Indeed, even a brief rundown of the new responsibilities of Mercer County indicates that county government is vital, that it must be given new administrative and legal powers and that the people obviously support the growing catalog of services county government is preparing itself to offer.

Mercer County has moved rapidly, and I feel effectively, into the area of county-wide services and county-wide responsibilities to a degree unknown before in its history.

We now support one of the first county community colleges in the State with one of the lowest tuition rates in the State, and I believe the lowest tuition.

We have established this year a new pilot drug rehabilitation program.

We are moving forward on a Master Plan for county transportation, housing, economic, industrial and open space development.

We are now operating the first county-owned public bus transit system in the State.

We have established a new mental health board; started planning for a new county vocational educational complex, and, indeed, have a vocational school; established a county anti-poverty program; are moving forward with orderly planning for airport development; have already made a study of the possibility of a county-wide solid waste disposal system.

And, with wise planning and a good deal of foresight, we have become a leader in the acquisition of open land for public use and recreation through parks and golf courses and wooded areas.

In praising Mercer County's record, I am really underscoring the tremendous administrative, financial and program responsibilities which one urban county of 300,000 people has assumed during the last five to ten years - responsibilities which are increasing as we sit here.

I might add here that the State of New Jersey obviously thought Mercer County was doing something right when it assigned to us one of its Program Planning and Budgeting Systems teams to work on the transformation of the traditional line item budget into a program budget which, hopefully, can be evaluated in terms of cost benefits to the county.

Mercer County is ready to move forward and prepare itself for the new charter of home rule powers which we hope the Legislature will authorize in 1970.

At the reorganization meeting of the Mercer County Board of Chosen Freeholders in January, for example, I will propose that the departments of county government be further completely reorganized along program lines. I believe they have been reorganized most effectively, some three years ago. I will propose a further reorganization come this first of January. I will propose that the county establish a new department of Planning and Economic Development to tie together the planning and development efforts

of all county agencies, and a new Department of Community Affairs to bring together the separate human resource programs of the county under one administrative head. I shall also propose a greater centralization of legal services and medical services and the placement of certain functions directly under the County Administrator.

Many of the Musto Commission recommendations, frankly, are a reaffirmation of the goals which Mercer has been trying to attain over the past decade.

We look forward to the day when as a county we will have the power and the authority to bring autonomous bodies into the policy line under the county's elected officials. We look forward to the day when we will have the power to issue an administrative code which would apply to all county programs and all county expenditures, and in which professional county personnel will evaluate budgetary requests on the basis of need and public effectiveness of services required. We look forward to the day when many detailed administrative burdens may be lifted from the Freeholders so they may consider policy and legislation and new directions which, in my opinion, is the basic purpose for their election.

As a Freeholder and as a member of an association as diverse as the New Jersey Association of Freeholders, I applaud the fact that the Commission will propose four optional charter choices for county government. This gives any county the room it needs to revamp its structure no matter what the regional interests involved. But I must underscore once again that based on ten years of participating in the

activities and crises of county government, basic changes recommended by the Musto Commission must be made:

1. There must be broad home rule powers voted to counties.

2. Professional staff must be increased and given greater responsibilities.

3. Clear central lines of authority must be established by the elected Board over all autonomous and quasi-autonomous agencies.

4. County government must be made more visible to the people who support it and need it.

I would like to add a fifth item in here which will be discussed in detail by the representatives of the National Association and county officials, I understand, regarding the Lakewood Plan. The contractual relationships between municipalities and counties. I firmly endorse it.

I repeat what I said the day your report was issued: "The county of Mercer owes a debt of gratitude to the Musto Commission." I wish to express that gratitude by indicating that your real reward will come when county government becomes a more effective and modernized instrument of middle level government.

Thank you. I'm open to any questions, sir.

SENATOR MUSTO: Thank you, Freeholder, for your presentation. Before we go into any questions I would like to introduce a member of the Commission, who just arrived, a very hard-working member who was very much responsible

for the funding of this Commission, Assemblyman Schluter from Mercer County, on my right. On my left, I didn't introduce him before, our Executive Director, Eugene Schneider; and on the far left is another Assistant, Mike Pane. They are responsible for most of the documentary behind this report.

I would like to ask you this, Freeholder, do you have any view on the election of the Freeholders? Now we've been going to these various public hearings that have been held and have gotten some sort of a consensus but, of course, we'd like to hear about this more and more at the hearings, so far as the feelings of the Freeholders themselves are concerned. I'm talking about the election by district or at-large or a combination of both. Do you have any thought on that at the present time?

MR. SYPEK: Well I indicated in my presentation that I endorse the election at-large. The county government, as I see it, is moving to accept the challenge of regional government. We feel that the region should be represented in one central body to solve the elements of these problems. And, as I indicate in part 1 of the statement, I personally, and I believe generally, although it's not on a census basis of the 129 Freeholders, but I personally indicate and sense through discussions that the Freeholders would be supporting an election at-large.

SENATOR MUSTO: Do you have any view on the setting of salaries of the county officials?

MR. SYPEK: I indeed have. We're grossly underpaid,

sir.

SENATOR MUSTO: How about the employees?

MR. SYPEK: It's been a running battle, so to speak, between the elected Freeholders and the Legislature in permissive legislation or mandatory legislation for the increase in the Freeholder's salary. This has, I would say, almost unanimous agreement among the Freeholders. The Freeholder today is elected to dedicate nearly full time to his position, and the highest salary permissible in second-class counties, which I represent, is \$9,000. When you compare now what is happening on the Federal and most timely State bases, it would seem that the Freeholders are grossly underpaid.

Another element that may be discussed at this time is that many Freeholders do not choose to run for re-election because of this factor of time-consuming responsibility and inadequate compensation where they cannot transfer the basic livelihood to public dedication because of the minimal compensation.

The Freeholder Association has endorsed, annually, increased pay ranges for Freeholders for the various counties, so they are on record repeatedly and they were even hopeful that our current legislation might have been acted on but, not reading anything about this this morning in the newspaper, I would assume it was not acted on yesterday.

SENATOR MUSTO: Assemblyman, do you have any questions?

ASSEMBLYMAN SCHLUTER: Yes. Freeholder, you

mentioned that you favored county governments receiving broader home rule powers than, I assume, they now have. I wonder if you could be a little more explicit on that?

MR. SYPEK: Well, Assemblyman Schluter, you are very familiar with the operation involved in Mercer County, you represent our District. When we entered into an area of inter-municipal bus transportation, the Board of Freeholders found itself powerless to act unless it created another autonomous agency which automatically became an institution by itself. And we were called upon simply to provide the funding without the say-so of policy. This is a specific reference and reply to your question. Otherwise, the Board of Freeholders is regulatory, it's all resolutions. We have some legislation in the manner of, as I mentioned, putting a budget together over which we have control certainly no more than 20 to 35 percent, depending on how you define some of the responsibility. We must put this budget together on a majority of mandatory assignments and responsibilities. As a result, this is probably the only shade of an ordinance, the only shade of legislation that is left to us, per se, on legislative bases.

Now I agree and I will respond that we have electives that we may choose but they are simply electives, they are not creative, they don't give us the opportunity to sit down around a round table and discuss the problems as they are given to us from the municipalities, and the problems which we feel we are no longer interested in, they are too involved, problems on which we are meeting now in Washington hoping

to transfer the responsibilities of health, education and welfare to the Federal Government, the State and Federal Government, if you will. They are too huge, too large, too many national problems for us to consider anymore on a regional basis, and we want to get involved in those areas which are truly services to the region and county, for solution of the pollution problem, perhaps assistance in law enforcement that leads to specific recommendations; you are well aware of the waste disposal problem which Mercer County has taken a lead in, to give you sufficient specifics.

ASSEMBLYMAN SCHLUTER: One other question, Freeholder Sypek, you are familiar with the attempt by one county in the State, earlier this year, to enact by special charter their own specific charter. Do you think this should be allowed as an option, perhaps making a fifth option?

MR. SYPEK: Well, I think experience speaks for itself. That particular county has had all sorts of obstacles to overcome, of which many were more technical rather than, should I say, policy obstacles. And I would feel that I would rather take the experience that this Commission, through testimony of its executive staff, has brought about this recommendation on the charter presented here, the alternative presented here. I am not that familiar with each detail of the Bergen County Charter Study but I can tell you this, from the little that I've read, I see it as almost impossible to bring one about. Now I think your Commission has brought about a very orderly,

systematic, studied presentation of charter forms and I would say that they, in my opinion, should answer all, nearly all, of the requirements of any one of the 21 counties that may so desire. So I would say that I would, mildly at least, say negative, because I don't want to be put in the position that I'm opposing the charter option.

ASSEMBLYMAN SCHLUTER: I take it from your answer that you are not opposed to them being allowed to use this method to obtain even a --

MR. SYPEK: I would not go on record to say no, sir, but I think that, to summarize my few remarks, it would be very difficult to bring it about on the basis of your present legislation and I would strongly recommend that we follow through with the Musto recommendation.

ASSEMBLYMAN SCHLUTER: Thank you.

SENATOR MUSTO: Gene, do you have any questions?

MR. SCHNEIDER: No.

SENATOR MUSTO: Mike?

MR. PANE: No.

SENATOR MUSTO: Freeholder, on behalf of all of us, thank you very much for your presentation.

MR. SCHNEIDER: Our second witness is Mr. John Matzer, Business Administrator of the City of Trenton. Mr. Matzer is appearing today on behalf of the New Jersey Municipal Managers and Administrators Association. I would like to thank the members of the Association who have helped us so greatly with our field work. Mr. Matzer.

J O H N N. M A T Z E R, JR: Thank you, Mr. Schneider.

My name is John N. Matlock, Jr. I am the Business Administrator for the City of Trenton. I am here today representing the New Jersey Municipal Management Association.

Our Association takes this opportunity to endorse the work of your Commission and to assure you of our continued support. We feel strongly that definite action is required for the improvement of all levels of government in New Jersey and that your research and recommendations are a step in the right direction. The Commission's reports on "Creative Localism - A Prospectus" and "County Government - Challenge and Change" clearly show the thorough and competent manner in which you have proceeded to meet your responsibilities.

Your recent report on County Government and the proposed draft of an Optional County Charter Law represents a significant step towards correcting the structural, administrative, fiscal and legal inadequacies in County government. Our organization has long felt that serious attention should be given to this area. In 1964, we adopted a resolution calling for the type of study which your Commission has recently completed.

As professional managers and administrators we sincerely believe that there is need for area wide solutions to such problems as drainage, water supply, air and water pollution, solid waste control, transportation, health and planning which are not limited by governmental boundaries. Many important issues of public policy can no longer be handled by local communities acting alone. Their small areas of jurisdiction are inadequate for either administering area wide services or resolving area wide problems. Changes in the structure of government and innovations in relations between the Federal government, the States and local units of government are needed. A major step towards solving many of our urban problems is the unshackling of local governments by the States to permit maximum local autonomy. This includes authorizing optional

forms of city and county government, enabling local governments to perform a wide variety of functions, and provision of adequate financial resources. There is every indication that the processes of urbanization and suburbanization will make the performance of traditional local government services more difficult and will continue to create new problems. Our basic local government structures were not designed for meeting today's problems. Many problems of local services and controls have coalesced while government jurisdictions have remained as they were. Modification of local government powers, structures and jurisdictional relationships is needed to meet projected population growth and economic changes.

The importance of strengthening local government was well documented by your research on county government. Your staff's methodology was well planned and executed. Our Association was pleased to have had the opportunity to assist your staff in obtaining information on county-municipal relations and on county government's provision of services. The interviews held with local officials provided an effective means of identifying problem areas and obtaining suggestions for workable solutions.

We do not at this time have specific comments on the proposed Optional County Charter Law nor are we endorsing every specific section. However, based on our experience with the Optional Municipal Charter Law of 1950, we feel that this approach for county government is a workable one. The Law provides the means for county government to be a viable instrument for area wide services. We believe that the law is sound in that it provides for an adequate number of options, professionalization in every option, a proper separation of powers, strong policy leadership, an executive budget, clear lines of authority and administrative accountability, and adequate provision for public participation. Moreover, the law does not increase the number of overlapping governmental units, provides the means for eliminating duplication of services and economy of scale, makes effective use of an existing political institution, preserves the autonomy of municipalities, and has high political feasibility. All of these factors are essential for a workable solution to area wide problems.

The Optional Municipal Charter Law has made a significant contribution towards the modernization of municipal government in New Jersey. This has been made possible through the reorganization procedure that has been provided and the variety of organizational forms offered. We, therefore, believe that a similar approach is desirable for county government. It must be pointed out, however, that the Optional Municipal Charter Law is not beyond criticism. Many weaknesses have been uncovered during its approximately twenty years of operation. A number of defects have been cited by the courts in such areas as recall and run offs. Other procedural questions have been raised by those knowledgeable and experienced in the Charter Law. We feel that this Commission has given considerable attention to these problems and encourage those familiar with the operation of the law to bring to your attention specific weaknesses requiring attention.

Experience under the Optional Municipal Charter Law has demonstrated that the implementation of such legislation is by no means easy. Your proposal for counties represents a necessary but drastic change with the past. As with all change, it will be strongly resisted by many. Much opposition will develop because of the fear that a shift in governmental responsibility will result in loss of power. Although this opposition cannot be completely eliminated, it can be reduced by a complete public discussion of the proposed law and its implications. Hearings such as this give all parties an opportunity to raise questions and offer substantive suggestions. Feedback of this kind is essential to the acceptance of your recommendations. We encourage the Commission to give the widest possible publicity to its report and proposed charter and to permit the most intensive public review possible. Moreover, we are confident that you will incorporate constructive comments and suggestions into your final proposal.

In closing we are hopeful that the Commission will establish a realistic timetable for the implementation of its recommendations and will work vigorously for their adoption. Inordinate delay can be severely damaging to the excellent work already accomplished. Our Association pledges its continued support and assistance for the work of the Commission. We will welcome the opportunity to cooperate with your staff in future studies. The

proposed studies on interlocal cooperation and the functions being administered by the different levels of government is a logical and positive continuation of your work to improve and strengthen local government in New Jersey.

Thank you, gentlemen. I will be pleased to try to answer any questions you may have.

SENATOR MUSTO: Thank you, Mr. Matzer.

I would like to introduce the Vice Chairman of the Commission, who just came in, my colleague, Senator Coffee, on my immediate right, from Mercer County.

I would like to point out that we have other people now who would like to testify and our list is quite heavy but I want to promise everyone that if we don't finish today, in all likelihood we may not, we will hold another public hearing. We will try to do the best we can to fit everyone in today, if possible.

I notice, Mr. Matzer, in your statement on page 2, at the bottom, you say you feel that this recommendation preserves the autonomy of municipalities and has high political feasibility. In other words, you feel then that there are adequate safeguards for municipalities in this report we presented.

MR. MATZER: Yes, I do, I believe that there is a specific section in the proposed law on municipal powers which does guarantee that the existing powers and duties of the municipalities will be preserved, and I think specifically states that the law merely permits municipalities to approach the county to perform services for them that they

can already perform. So I think that there are adequate guarantees.

SENATOR MUSTO: Well this is what we have tried to get across to the public on these reports, and I'm glad you feel that way.

Senator Coffee, do you have any questions?

SENATOR COFFEE: No.

SENATOR MUSTO: Assemblyman Schluter?

ASSEMBLYMAN SCHLUTER: No.

SENATOR MUSTO: Gene, or Mike Pane?

MR. PANE: Mr. Matzer, as an official of one of our core cities, do you believe that some form of district or combination of districts and at-large representation would be advisable to increase the county's political responsiveness?

MR. MATZER: Well, I believe that on a municipal basis and from my own experience the combination of the district and at-large representation has been successful. I think that it does achieve a balance of representing particular neighborhoods or sections of the municipality as well as the public at large.

In terms of applying this to the county, I'm not sure that it would be as effective. I tend to agree with Freeholder Sypek's remarks that possibly an at-large representation to again emphasize the countywide approach that's being taken and countywide representation would be more desirable.

SENATOR MUSTO: Any other questions?

Thank you.

MR. MATZER: Thank you, gentlemen.

MR. SCHNEIDER: Our next witness is Edward B. McConnell. Mr. McConnell is the Administrative Director of the Courts of the State of New Jersey as well as being a Standing Master of the Courts. Mr. McConnell.

E D W A R D B. M c C O N N E L L: Senator Musto and members of the Commission, my remarks will be brief and informal, and will be directed only to the portion of your Commission's Report that deals with the financing of the judicial branch of government.

We are pleased to find in your Commission Report a position taken which coincides with our own, that all of the courts in the State should be financed totally at the State level. The reasons set forth in your report are the basic ones. We have in New Jersey a single court system, under the Constitution. They are all State courts, even those which bear the label of a municipal court. There is desirability that the courts, wherever located, be operated at the same level and not operate at different levels of efficiency. This is not possible today where the courts are financed not only by the 21 counties but also by over 500 odd municipalities.

The courts rules, which are enacted under the Constitution, establish a uniform practice and procedure for all of the courts, and also they have rules of administration. But it's very difficult for these rules of administration to operate evenly throughout the State in

the various courts where, to a large extent, the personnel and financing is a matter of local responsibility.

In your Report it is emphasized that one of the reasons for relieving the counties of the expense of the court is the lack of county control over those expenditures. It is interesting that there is also a lack of control because of this fractionalization of financing the courts at the State level because many of the operations of the courts, which are county or municipal financed, cannot really be affected or controlled at the State level. So that transferring the responsibility for the fiscal operation of the courts to the State level, seems to me, would put in one place the control and responsibility that's necessary to bring about effective administration.

Your Report also emphasizes the disproportionate burden upon the county under the present system. You've adequately documented that. It certainly is true that the counties which are least able to pay have the largest burden of the cost of administration of justice. By way of a little illustration, for example, we have sitting on the Criminal side in Bergen County today only one Judge who is able to keep current with the work; we have sitting on the Criminal side in Essex County eleven Judges and could use a lot more on the Criminal side and are unable to keep current with the work.

The cost of operating the courts in the urban counties is many times the cost of operating courts on a population basis in the less urban or rural counties.

One of the problem, also, in connection with fractionalization of financial responsibility is the lack of any uniform system of financial controls, even to the extent of being able to compare the expenditures in the operations of the courts in the various counties and municipalities. I note, for example, even in your Report what you include under the caption of Administration of Justice would be different than what I would include under Administration of Justice. You include, for example, the prosecutor, whom we consider to be in the Executive Branch of Government, but do not include, for example, the probasion department which we consider to be in the Judicial Branch of Government.

We have made efforts from time to time to make comparisons in the costs, hoping to find some clues as to what factors make for efficient operation of the courts by comparing county to county. It's absolutely impossible because of the lack of any uniformity in the accounting system between the various counties.

So we have a situation today, from the financial end, and this also is largely true of the personnel end, which is unmanageable because of its fractionalization.

There are several specific advantages that I would like to point out in your Report that are a matter of concern to us.

One of the reasons there is an imbalance in the expenditures between counties is that there is an imbalance in the structure of the judicial system from county to

county. We have some counties, for example, where the number of Superior Court Judges assigned, and their salaries are paid completely by the State, is about equal to the number of County Court Judges in the county, where the salary is paid 60 percent by the county, and where they have Juvenile and District Court Judges whose salaries are paid completely by the county.

In other counties where there have been a number of County Court Judges appointed, such as in Ocean County where you have six County Court Judges, you have not a single Superior Court Judge sitting in that county. So that in a county such as that the burden on the county is greater than it otherwise would be because of the structure of the judicial system, although the judges are assigned to the various courts within that county you still have an imbalance brought about.

This also creates problems in connection with the administration of the courts. When a County Court Judge sits in Superior Court, for example, in his own county the county is not reimbursed for his salary. If that County Judge were to sit in a Superior Court in another county, then the county is reimbursed for his salary. If a County Judge is moved from one county to another, the county to which he is sent must reimburse the county which pays his salary. If a Superior Court Judge were transferred, instead, there would be no financial adjustment between the counties.

This means that in the assignment of judges, particularly on a temporary basis but also often times on a

permanent basis, there are financial considerations that are totally irrelevant to the maximum use of the judicial work force that have to be given consideration. You are probably familiar with the situation that often times a Superior Court Judge who has been on the county bench for a long time finds himself assigned to travel a considerable distance away from his home where a newly appointed judge on the county court stays home. He doesn't understand the reason why this is so but the reasons are financial, that if the county judge were assigned one county would have to pay the other for no substantial reason other than this is the way the structure is financed.

This also creates problems in connection with the other personnel of the courts. The judges' staffs basically are paid by the counties. Only the Chancery Division and the Trial Courts have their personnel on the State payroll. This means that when a judge is moved from one county to another, a Superior Court Judge, his staff has to be supplied by a different county. This creates all sorts of problems in the area of pensions and other fringe benefits. So that there is an extraneous factor that exists there.

These problems would be eliminated if all of the staffs of the judges were on one payroll so that their salaries wouldn't go up or down depending upon the judge's particular assignment.

There is also a problem with fractionalization of financing of the courts in efforts to make any combination of services between counties. It would be very desirable,

for example, to set up a single calendaring system for the large metropolitan counties, but with the administration of the courts being borne at the county level it almost requires that the calendaring operations be done individually in the various counties. You would be able to overcome this if you had all of the administration of the courts centrally financed.

You have problems also in the area of probation, for example, where you could profitably regionalize many of the services which are provided and produce better results than where you have 21 separate departments of various sizes.

The court facilities that are provided by the counties, and the expense is totally theirs, differ widely between counties and oftentimes the court rooms are available but not in the counties where they are needed.

The fact that you have 21 counties having to plan and provide for the future development of the court system makes it very difficult to make any coordination between the number of judges that are sitting in a county and what the county court facilities may be.

Those are some of the problems that exist for us, quite aside from the matter of financial burden. Certainly the administration of what is a single court system would be materially aided by having all of the courts financed out of one source. And I might add that this seems to be the growing trend throughout the United States, as other states are beginning to find, such as Illinois and Colorado, that their system can operate more effectively if the State picks

up the full cost of the judiciary.

I want to mention, however, that mere change in the financial structuring of the courts isn't going to solve the problem. It will facilitate things a bit. But what the court system needs is a substantial infusion of people and facilities which means money. Last winter, for example, we recommended 35 additional judgeships be created in the State in order to meet the then existing volume of business. We are now re-estimating our current needs but it undoubtedly will be in excess of 35 out of the total authorized strength now of 235. So that we need a substantially bigger establishment. The fact is that in every year except two since 1948 the courts have fallen behind in their work. And this is becoming increasingly evident in various counties, particularly on the criminal side.

Some of you are familiar with the fact that in Passaic County there have been no judges available for several litigations in the Superior and County Courts, and yet with the concentration of judges on the criminal side and in the Juvenile and Domestic Relations Court, the courts in those areas are still falling behind in their calendars. This means that we have some very substantial manpower needs that have to be met. So that with State financing I think must come also the realization that the courts, if they are going to keep current with their work, have to have substantial increases in the amount of people and the amount of facilities. And this goes into not just judges but into

the related staff, the prosecutor offices, the public defender offices, the probation departments, and the other satellitte staffs that serve the courts.

I would also like to suggest that with the centralization of financing, if you are going to get maximum benefit from it, there needs also to be some adjustment in structuring. If you are still going to have at the county level independent autonomous offices, either within the system, within the judicial branch or serving the judicial branch, you are still going to have the problems of control that the counties are experiencing today and that are referred to in your report. And primarily I'm speaking of the surrogate, the county clerk and the sheriff. Now I notice in your Report it's suggested where these fall. It's not of substantial importance to the county but is a matter which should be dealt with by the judiciary, and I certainly strongly support the view that if you are going to have an effective and efficient operation of the courts, the various offices that serve the courts ought to be within the system and responsive to it.

Now one other thing I want to mention before I close and that is the manner in which the change in financing is brought about.

There have been introduced, in the past, several bills which would provide for the feedback of money from the State to the counties by picking up either a percentage of certain costs at the county level or by providing that certain of the services that are provided, for example, jurors who sit in the

Superior Court, there will be a reimbursement for their expenses, or judges paid by the county who sit in the Superior Court, that there would be a reimbursement for the expenses incident to their service.

From an administrative standpoint, legislation to provide for State financing in that way is very difficult because of the mobility of our judicial manpower, where it is difficult, if not impossible, to say how much of the judge's time and expense is attributable to the Superior Court and the County Court where he may be hearing a Superior Court case for part of the day and a County Court case for part of the day and sitting in the Juvenile and Domestic Relations Court or the District Court for a part of the day. So if steps short of the total change in the system are to be pursued in order to gradually relieve the counties of expense and transfer it to the State, this I think can best be done from an administrative standpoint by picking out particular block items that could be transferred to the State lock, stock and barrel. For example, you could provide that all of the county judge's salary be paid by the State instead of 60 percent by the county and 40 percent by the State. The county doesn't control it anyway, the salaries are fixed by the State.

You could have the staff of the judges of the Superior Court in the Law Division placed on the State payroll just as the staff of the Chancery Judges are on the State payroll.

You could relieve the county, for example, of the

expense which they still have for court reporters, where the reporters have been transferred to the State payroll but the counties still pay the cost that they had for reporting services in the fiscal year 1947-1948.

So if there's going to be less than a total shift, there are administratively feasible ways in which this can be done. And I would suggest that consideration might be given to those if there's going to be less than a total takeover.

Now the one item, also, that's of extreme importance is probation. This is one of the major costs of the courts, probably this year it will be in excess of \$8 million. And as I indicated before, I don't think the State nor the counties are getting their money's worth.

The cost of probation, for example, in Essex County, is several times the cost in any other county.

This, I think, is one area which, if you are going to have less than total state financing, ought to be immediately considered because all of the savings there, as your Report points out, by providing adequate probation services, are basically savings on your State institutional costs. And the cost of probation, the number of probation officers has been going up and up. And with individual departments which are basically autonomous, they're under the county judges but they're financed locally, it's very difficult to establish and provide the type of facilities, the type of probation service which I think is going to be necessary in the future if those costs aren't

to continue spiraling. I'm talking about establishing neighborhood type facilities, the team approach, instead of the customary setup where you have a probation officer working with individual probationers. It's very difficult to change the whole direction of this system as long as you have 21 separate departments with a very heavy administrative overhead. There are well over a hundred officers, probation officers, in supervisory positions out of some 700 officers in the State. So that I think any efficiencies that can be brought about in that particular area by having it become a State system should be considered.

That concludes my remarks.

SENATOR MUSTO: Thank you very much, Mr. McConnell.

Not to put you on the spot but if there were competing priorities, I heard you mention probation as being a very important area as far as assumption of costs was concerned, would you have a list of priorities if there were competing priorities? Suppose there wasn't a complete takeover by the State of judicial costs?

MR. McCONNELL: Well, I don't have any right now. We could certainly construct for you a schedule of various operations.--

SENATOR MUSTO: We would be very grateful.

MR. McCONNELL: -- that could be transferred with administrative ease from county to the State level. In fact, I think there are several bills that were introduced out of Essex County along that line. Just what the priority would be --

SENATOR MUSTO: I would be much more concerned with the priority. I think we're familiar with the bills. I would like to know your views on priority.

MR. McCONNELL: I will be glad to do that.

SENATOR MUSTO: Assemblyman Schluter, any questions?

ASSEMBLYMAN SCHLUTER: Yes. Mr. McConnell, in your testimony, when you were talking about the load of the criminal courts in Essex County as compared to Bergen County, I think you stated that the court costs in Bergen County were many times - in Bergen type counties, I think you meant Essex, did you not?

MR. McCONNELL: The costs in a county like Bergen, for the courts, are substantially less than they are in Essex County which is basically the same size.

ASSEMBLYMAN SCHLUTER: I think you did say Bergen instead of Essex.

MR. McCONNELL: I may have gotten things twisted up. I usually do.

ASSEMBLYMAN SCHLUTER: That's all, thank you.

SENATOR MUSTO: Gene or Mike, do you have any questions?

Mr. McConnell, thank you very much.

MR. SCHNEIDER: Our next witness is William J. Kearns. Mr. Kearns is associated with National Code Consultants of Trenton and he is Co-Chairman of the New Jersey State Bar Association's Legislative Action Committee. Mr. Kearns.

W I L L I A M J. K E A R N S: Senator and members of the Commission. A slight correction, I am no longer associated with National Code Consultants, as of a few weeks ago. I am an Attorney from Willingboro, New Jersey, in Burlington County. I appear before you this morning as Legislative Chairman of the Municipal and School Law Section of the New Jersey State Bar Association.

It is our belief that the proposed optional county charter law is one of the most significant proposals in the field of local government to be presented since the Faulkner Act was adopted for municipalities.

The need for a restructuring of county government is evident, as others have already noted this morning, others who have been directly concerned with the operation of county government.

We feel that this proposal deserves more than the preliminary review that we have been able to give it at this time. For this reason, a special committee has been appointed within the Municipal and School Law Section to review, in detail, the proposed draft.

The Chairman of the Municipal and School Law Section, Mr. William Cox of Newton, and I, are members of this Committee and we would hope to have our report with specific comments and some recommendations ready within the next month. We would also ask that, if possible, our report be incorporated as part of our testimony before this Commission.

By following this procedure, our Section and the

New Jersey State Bar Association can serve this Commission, the Legislature and the people of New Jersey in a positive and constructive manner. We can do more than simply support or oppose proposed legislation. We can assist with constructive criticism aimed at specific areas of the proposal and can add our efforts to yours in order to develop the best legislation for the citizens of this State.

I can also offer you the further assistance of our Special Committee on the Optional Charter Law by taking back to our Committee any specific questions or areas to which you would like us to direct our attention.

While my comment this morning must of necessity be very general because our Committee has not completed its study, there are a number of questions for which we may not find answers but which we will be reviewing and which you may wish to consider. Some of these questions may have already been considered by the Commission but I would like to itemize a few of them for you at this time.

Should there be some provision for geographical distribution with regard to the elected members of the County Charter Study Commission. You have provided for the option of geographic distribution of elected members of the Board of Freeholders, would not this same principle apply to the members of the Charter Study Commission itself?

Section 1.8 of the proposed law provides for advisors to the Charter Study Commission and provides for certain mayors to be advisors. Should a provision be made for the manager to serve in place of the mayor in a

municipality governed by a council-manager form of government since the manager is the executive head of the government in that type of municipality?

Section 1.10 provides that the Charter Study Commission can operate "within the limits of appropriations." This term is inexact and is open to potential abuse by existing governmental structure if the existing government wishes to oppose any charter study at all. Would it be more effective to mandate appropriations through a population based formula?

Should the optional charter forms include some form which would require bipartisan representation on a Board of Freeholders?

The power to legislate is through ordinances and resolutions but these terms are not specifically defined and it does not set forth what must be done by ordinance and what must be done by resolution, with a few exceptions particularly in the budget area. Some provision might be added to require pre-adoption publication of ordinance type legislation similar to that which is now required by municipalities.

Should section 2.4.g be revised to provide the individual municipality with some protection against possible coercion by the county where the municipality elects to contract separately for some services? An example might occur where a county has invested substantial funds in developing a computer center and has asked municipalities to engage the use of the accounting equipment

but the municipality feels better services could be obtained elsewhere. The county would be in the position to tell the municipality either you work with us on this particular proposal or there will be a lack of cooperation on other types of joint operations with the county.

Should a municipality have some means of withdrawing from a contract for police or regulatory services where the local municipality disagrees with the actions of the county in enforcement or administration? If it is done on a contract basis, it might be a contract for a number of years and a municipality may decide that it is in its best interest to withdraw before the end of the contract.

My previous comment on manager representation on advisory councils also applies to the municipal advisory councils permitted under section 2.6. Perhaps the term "chief executive of a municipality" should be used in place of the mayor.

One final question occurs in each area where a petition is used, whether it be for the election of a charter study commission or in the section on recall. You have termed the requirement as a percentage of registered voters when it might be better to use a percentage of those who have actually voted in a previous election; even moreso when you want to facilitate the use of a charter study commission. If you use a percentage of registered voters, you are making a more difficult means of obtaining the number of signatures required than if you use a percentage of those who have actually voted in the immediately preceding

general election.

In conclusion I would like to thank the Commission for the opportunity presented to us to participate in the legislative process by appearing before you. In addition to my work with the Municipal and School Law Section, I am also the Co-Chairman of the Legislative Action Committee of the New Jersey State Bar Association. In this capacity, I have been authorized by the President and Board of Trustees of the State Bar Association to offer this Commission the assistance of our full 7,000 member Association if this Commission feels that our assistance will be useful.

Thank you, gentlemen.

SENATOR MUSTO: Thank you, Mr. Kearns. I'm sure our Commission will take advantage of your kind offer of assistance and I think maybe I have one or two questions for you.

Assemblyman Schluter, do you have any questions?

ASSEMBLYMAN SCHLUTER: Just one, Senator.

Mr. Kearns, I found your testimony to be most interesting and most enlightening. You mentioned about possible coercion between counties and municipalities, don't you think this coercion to some degree exists or the potential for this coercion exists today under county relationships?

MR. KEARNS: Yes, I think it does exist today. I think it's something -- I don't know what the answer is at this point. Maybe our Committee will come up with some recommendation on that. But it's something that, in reviewing

the bill, I felt there was a greater potential for it under the proposal because you are trying to encourage contractual relationships between the municipality and the county, particularly in the areas of joint purchasing or, as I mentioned, computer services, it can be very useful to the municipality but it also can be used against a municipality that might not want to participate. I don't know that there's any set answer on how to deal with this, but it does exist.

ASSEMBLYMAN SCHLUTER: All right. I would think of it as a political fact of life that you get in any inter-governmental relationship.

Thank you.

SENATOR MUSTO: Gene?

MR. SCHNEIDER: A couple of brief questions.

Mr. Kearns, in your opinion, are the provisions defining county powers, especially those vis-a-vis municipalities, satisfactorily drawn?

MR. KEARNS: My preliminary feeling is that they are. I think there is definitely protection for the municipality set forth in the bill, if this is what you are getting at.

MR. SCHNEIDER: Yes.

MR. KEARNS: I think it's clearly set forth that there is no removal of municipal powers, no takeover of municipal powers by the county, to be a cooperative relationship. That was my feeling. Of course I'm not speaking for our Section at this point.

MR. SCHNEIDER: Thank you.

MR. PANE: Mr. Kearns, this is sort of a half question, half comment. It has been suggested by several county counsels that it is possible that we may have to go to specific and individual repeal of most of the older statutes relating to the organization and administration of counties. Do you feel that it is possible by having sufficiently strong language in the text of this that, if passed, this bill would repeal the older statutes by reference?

MR. KEARNS: Again, my preliminary feeling was that the language here would repeal any conflicting areas of previous law, and I think this is one area that our Committee wants to look at in more detail.

MR. SCHNEIDER: All right, my comment would be from the staff's point of view this is one area where we would earnestly welcome whatever could be done to strengthen this but, of course, repeal by reference would be substantially simpler for all concerned.

SENATOR MUSTO: I would presume both staffs have a date now.

Mr. Kearns, thank you very, very much and we are very happy about your offer of assistance.

MR. KEARNS: Thank you.

MR. SCHNEIDER: Our next witness is Mr. B. Budd Chavooshian, Assistant Commissioner of the New Jersey Department of Community Affairs. Mr. Chavooshian has been an official of New Jersey dealing with local government in

various capacities relating to his profession, planning, for the past fifteen years. Prior to that time he served as Redevelopment Director of Trenton and served in local government in several states. He is here today representing the Department of Community Affairs and Commissioner Ylvisaker.

B. B U D D C H A V O O S H I A N: Mr. Chairman, Assemblyman Schluter, my name is B. Budd Chavooshian and I am Assistant Commissioner of the Department of Community Affairs. I am here today speaking on behalf of Commissioner Ylvisaker and our department staff to present our views on the need for county government reform and improvement in our entire local government system. It comes as no secret to those of us who have been involved in local government that our present system is in many respects woefully inadequate to serve the needs of our people. Fiscally we all know that local governments bear far too heavy a share of the fund raising responsibilities in our State's government system. This means older municipalities are in some instances near bankruptcy and newer and developing municipalities must practice what is generally known as fiscal zoning as a matter of self-defense. We in the Department of Community Affairs believe firmly that there can be no improvement or even satisfactory maintenance of local government until our State government begins to undertake a greater role in the financing of major services, for we cannot expect local government to act responsibly until state government fulfills its responsibilities by increasing the downward flow of inter-governmental revenue for aid in major service areas, such as education and housing.

As a professional planner and someone who has worked with New Jersey's local governments for almost 15 years however, I know that money is not the only answer. We must have more flexible structures, better lines of communication, and a well defined and well structured framework for inter-governmental partnership in meeting our growing problems of urbanization and development. One of the greatest single flaws in our present system has been highlighted by the Commission's work - the need for a level of government between the state and the municipalities. County government at present is little more than an administrative device for the state's convenience. It is neither sufficiently representative of local interests nor flexible in meeting local needs; nor is it endowed with the legal, fiscal, and structural tools with which to serve these same local interests. It is important to note that the Commission's path has been wisely directed toward making the county a unit of local government rather than trying to superimpose immediately a regional structure over municipal governments. We all know that regional or area-wide government is important, but we also know that it must be built up from success to success with the consent, approval, and most important, the participation of municipal and community leaders. As the Commission's report emphasizes, structural reform of county government and fiscal assumption

by the state of major county costs are a starting place toward achieving the goal of better, more responsive, effective, and flexible local government at the middle or area-wide level.

It is our view that the County and Municipal Government Study Commission's proposals for strengthening and improving county government represent a significant step forward, not only in terms of county government itself where they are desperately needed, but even more important if we are to preserve government close to the people in the years to come. Naturally, many of us believe that the problems we have are so great that we should be doing much more much faster, but the Commission's proposals are sound and we support them wholeheartedly and look forward to more of the same in the coming years. I would only add in closing that as vital as the proposed optional county charter law is, it is equally important for the state to move to assume the welfare and judicial costs as the Commission recommends. As the county report points out, this is an irreducible minimum of support if we expect counties to provide more locally oriented services. Because costs in these areas are rising so rapidly, our department believes it vital that full state assumption of major mandated costs is the only answer to this problem.

In summarizing, let me say that the report, the bill, and indeed all the recommendations of the Commission to date, deserve in our opinion the immediate attention and full support of those interested in preserving our local government system, and we as a department intend to do all in our power to insure implementation of these recommendations.

Thank you.

SENATOR MUSTO: Thank you, Budd

You know, in this bill we provide that the Commissioner of Community Affairs is an ex-officio advisor to all the charter study commissions that are set up. Do you agree with that provision?

MR. CHAVOOSHIAN: Yes, I do, sir.

SENATOR MUSTO: And would I be -- well, I'll ask you anyway. Would you have offhand any particular areawide services that you would envision the county government performing once a bill such as this is passed, what areas you feel they would be in?

MR. CHAVOOSHIAN: Other than those mentioned in the report?

SENATOR MUSTO: Right. You can name those mentioned in the report, if you would like.

MR. CHAVOOSHIAN: Well all of those mentioned in the Report and purchasing, for instance, perhaps fire and police. I realize this represents some problems especially in police and perhaps in fire, where you have a certain number of outlying volunteer fire departments.

Well, one thing we have tried to do, as Gene knows,

in planning, is try to encourage the counties to take a more active role in providing a planning service to all of the municipalities in that county. Some counties have taken advantage of this opportunity, especially with the so-called 701 Planning Systems Program; others have not, for a variety of reasons and I'm not about to try to enumerate all of the reasons, they differ from county to county. But I think the counties could play a very important role here in trying to look at problems from a regional or at least a county-wide point of view. I think the counties could be very effective here. Some counties are beginning to move in that direction, starting from the municipality. As you know, Princeton Borough and Princeton Township have joined together to create one regional planning board.

MR. SCHNEIDER: I have one question, Budd. Do you feel that the trend indicated by the Federal Government will support our attempts to strengthen county government? Is the Federal Government in a sense bowing out on its initial attempt to strengthen counties? What's in the cards as best you can see?

MR. CHAVOOSHIAN: As you know, Gene, the Federal Government has bowed out from some of the initial attempts it made a few years back to involve the counties more in areawide functional planning, such as water and sewer. I think with the insistence of the State - in our particular case in New Jersey, we are insisting on involving the counties in the many programs, federal aid programs, that we possibly can. And for the time being, the Federal

Government is cooperating and they are not bucking us in this particular matter. It's possible, of course, that new policies could be established which would bypass the counties but as far as our Department of Community Affairs is concerned, we will be making a major effort to include the counties in all considerations.

MR. SCHNEIDER: Budd, thank you very much.

SENATOR MUSTO: Thank you.

MR. SCHNEIDER: At this time I would like to call Mr. William Conner, County Executive of New Castle County, Delaware. Since the reorganization of New Castle County several years ago, Mr. Conner has been instrumental in bringing to the greater Wilmington area many of the innovations which we wish to see our urban counties in New Jersey undertake, and it is for this reason that the National Association of Counties, of which Mr. Conner is National Vice President, asked him to appear today. Mr. Conner.

W I L L I A M C O N N O R: Senators and members of the Staff, ladies and gentlemen, I appreciate very much the opportunity to be with you here today. I would like to say that I am not in the usual position of the visiting fireman of being able to talk freely because the gentleman behind me is a representative of the Wilmington Press and the lady in the red dress is a member of the Delaware Senate who happens to be my wife, who has come along to supervise me from a senatorial standpoint. So I will have to be careful about what I say.

I am particularly grateful for two reasons for the work of your Commission, one is that reading your report has certainly articulated a lot of the things which to me were only half realized in my own appreciation of what we are going through in Delaware in trying to upgrade county government.

I think that the combination of the practical approach that your Commission and its Staff has taken with the theoretical grasp that you have of the problems that you face and we really all face has certainly been a big contribution.

The other reason that I am grateful to your Commission is that as an officer of the Regional Conference of Elected Officials in the Greater Philadelphia Area, I work closely with Freeholder Sypek and members of three of your counties, and in addition to that we have recently set up a three-State, three-county planning agency to supervise the distribution of federal funds, the Wilmington Metropolitan Area Planning Coordinating Council - and if you can remember the name of it you're eligible for membership, - and that includes Salem County, so anything we see you doing here to strengthen the hand of county government makes our job easier in New Castle County and, therefore, we're interested in it.

I brought along with me this somewhat battered campaign chart of our county administration because it's really more readily grasped when you see it than when you try to describe it. You will notice that we have made a

clear separation between the legislative branch, on the right, and the executive branch, on the left, and in the red we have the various departments of the county government which report to the county executive through the chief administrative officer.

Now the chief administrative officer is, as he would be under your plan, appointed by the county executive and serves at his pleasure with the advice and consent of the legislative body not being needed for removal.

The department heads are full-time public servants appointed by the county executive with the advice and consent of the county council.

In the outer circle to the left you see the boards and commissions which are, with one exception, advisory to the various departments, to the county executive and to the council. And we have had very good luck with having them serve in this advisory function without also being operating boards.

On the right you have the structure of the council itself. As you see, it has six members elected by district and the president of the county council elected at-large from the entire county. It is served by an auditor and clerk to the council who report directly to the council.

With respect to the operation of our government, it might be helpful if I sketch very quickly what we do and you don't do, and vice versa, so that you will understand what problems we face.

We do not have the responsibility for roads or for

You might be interested in some observations on the line offices. They are not shown on our chart but we still have a sheriff, a prothonotary, a register of wills, a recorder of deeds, clerk of the peace and coronor, and maybe I missed a couple, a register of chancery and clerk of the orphans court.

For many purposes, these offices have already been brought under the jurisdiction of the council and county executive. Their budgets all must be approved by the council and proposed by the executive. Their people are under civil service and must be selected through the civil service system. However, they still have a statutory responsibility for the program of their offices and it is not possible to make major changes or coordinate the various elective offices very effectively as long as you have a constant shifting in the heads of the office with each election or every other election, and as long as you have strongminded people in those offices who are elected by the people and wish to pursue their own policies.

So we are gardually moving, I think, in Delaware toward the consolidation of these offices either into the court structure or else into the county structure. And the coronor's office I think will be the next to go since we now have a state medical examiner.

Perhaps some thoughts about the relationship between the council and the county executive would be of interest to you.

Prior to this form of government which went into effect

in 1967, in January, we had the so-called levy court which was a board of county commissioners, in our case three men. They were both administrative, executive and also quasi-judicial and did the legislative functions and they were part time. And obviously they had more than they could chew. And this is why we came to the new structure. But it was a very considerable adjustment in the thinking of the officials and people of the county from a levy court commissioner, so-called, who had very broad powers to a legislator, county councilman, who had relatively restricted legislative powers but did not have administrative powers. And one of my problems in these first terms of the office of county executive was to work out with the council these philosophical differences, if you like.

Fortunately, we had a very fine council elected in both elections who are prepared to come to grips with this on a philosophical basis and not simply on the basis of personalities. And I think that we have worked out a rather well operating relationship.

Under the statute, and as we have worked it out, it's my function to form a budget, propose programs, to negotiate contracts, administer the finances of the county, work with the employees, sit in with the various boards and commissions at their request- if they want any guidance of the general policy sort, to coordinate with other organs of government, to propose legislation and make appointments and to attend to the ceremonial functions of the county.

The council, on the other hand, passes on the budgets

and makes changes in them from time to time, confirms appointments, reviews the performance of the county government, reviews proposed changes in zoning and plans, hears citizen complaints and problems, considers legislation, investigates new programs, sets the tax rate. They have taken the initiative in a number of areas, such as the devising of a housing code and the drainage code and gun legislation, and they have passed emergency measures giving the executive emergency powers in the case of civil unrest.

One comment concerning the proposal before you, I note that you give the county executive a voice in and a seat on the council and the vote to break a tie. Our experience has been, in our particular situation at least, that there's a certain amount of feeling on the part of the legislators that the county executive has all the powers he needs and that he doesn't need a vote, and we have set it, as you see, so that there will be an uneven number of councilmen so that they can break their own ties. In our case the president votes on all measures, but if they are all present there won't be any ties.

And as a footnote of possible interest, I used to attend all of the council meetings, the first two years, and sit at a convenient table and make a report each time, ask questions, I did not have a voice but occasionally if a problem came up that involved my office a question would be asked of me to which I was able to respond. We no longer follow that practice. I now come and participate only from time to time as indicated by circumstances and the legislative

body conducts its own program without interference from me. We have found that that works a little better.

I might just comment in closing that we have going in our county quite a bit of interest in consolidation of functions with the municipalities, particularly with the City of Wilmington. We are considering data processing, assessment, tax collections, civil defense, parks and recreation, administration of the public buildings, and a sewer system. We also have the possibility of contracting with the smaller municipalities or with Wilmington to furnish them with service and we have, further, a provision in our statute that by common agreement between any municipality and the county government any given function can be shifted from the county government to the municipality or from the municipality to the county government. So we do that by mutual agreement, not by imposition of anybody's will. And we have had several occasions to do this in the three years that we have had this kind of government.

So with that, Mr. Chairman, I will conclude my brief comments and I will be glad to answer any questions you might have. I will leave with you a copy of our budget and our annual report, which just came out yesterday, for whatever value it might have.

SENATOR MUSTO: I want to thank you very much, Mr. Conner.

I'm a little curious about your talking about the county executive not having a right to vote.

MR. CONNER: Well, you see, our concept is --

SENATOR MUSTO: What happens if there's a tie?

MR. CONNER: Our concept is that, as in the State government, there is a clear separation between the executive function and the legislative function and, therefore, while the executive has the power of veto, as the governor might on the state level, he does not have a vote on the council because it's the legislative body. And we don't have a tie as long as all persons are present.

SENATOR MUSTO: I realize that. My point was if they are not present.

MR. CONNER: If there's an even number present and there's an even vote then whatever proposition is before the body fails for want of a majority.

SENATOR MUSTO: These changes that came about, do you think any of these changes would have come about if you didn't have a change in government?

MR. CONNER: Well, it would have been very difficult under our old system of the levy court to make many of these changes because, like in New Jersey, the state legislature had the old county government very closely in leading strings and they had minimal powers to alter their own structure. Most of the boards that ran functions, such as regional planning board or the airport board, were set up under legislation from the State Capitol and we had no option in the matter.

I might comment that this is still not a charter form here, which as I understand it your are proposing. We are set up under a simple statute which can be altered at

any time by the legislature. This is a weakness of our system.

MR. PANE: I notice that you do seem to have what is basically an all-district system. Now I hate to put you on the spot but if you had your way, in retrospect, would you modify that to an at-large system or to more of a combination of districts and at-large representation?

MR. CONNER: Well, as a matter of fact, Mr. Pane, we have modified it twice in the last year. First we had to have a reapportionment because the districts were badly drawn in the first analysis, and then we subsequently had a census taken in 1967 for reapportionment of the state legislature. So we redrew this on the basis of 12 districts plus the president who is elected at large. And then that was not satisfactory so the governor called upon the county council to re-examine the matter and they did it over again, this time with six districts plus the president elected at large. But I think that the pattern is a good one and the fact that the president who has, after all, not only a full vote but also presides and is first among equals, so to speak, - he has quite a loud voice in the council providing he's not a blushing violet, and I think that that makes a good balance between district representation and representation at large.

MR. PANE: One more thing, if I may, to try to restate a point. Whenever there is a question of a charter change which would involve changing the elected county official from administrative and executive to legislative,

there seems to be the question of what will the new legislators be doing compared to their old roles. Your view would be then that under the form of government you have the council has managed to find it's own niche, as it were, and to come up with a role for itself in which it has the kind of policy view that it really needs to justify its existence to the voters.

MR. CONNER: Yes, it certainly has because it has come up with significant legislation and, not only that but the county executive has more than he can do in a fast-growing county like ours, at least, and, therefore, the members of council, as individuals, have taken specific projects and pursued them and come up with programs that are not only legislative in nature but really have directly to do with the administrative functions and we have been happy for the help because we've got skills on the council that we don't have in the administrative arm, so we've been very grateful for those.

If I may make one other suggestion, on your county executive plan, item B 3.4, I notice that there is no statutory protection for the salary of the county executive. Once in office, he's at the mercy of the council and I would implore you gentlemen not to leave him in that position.

SENATOR MUSTO: We'll give that every consideration, Mr. Conner.

Thank you very much.

MR. CONNER: Thank you.

MR. SCHNEIDER: Our next witness is Mr. Alastair

McArthur. He is Research Director of the National Association of Counties in Washington. Through his work he has gained a broad knowledge of the operation of modern urban counties across the nation and, for this reason, we are particularly glad to have him here with us today. Mr. McArthur.

A L A S T A I R M c A R T H U R: Senator Musto and members of the Commission, I am Alastair McArthur, Deputy Director of the National Association of Counties. Our national headquarters are in Washington, and I might point out at this time that we do enjoy a very close working relationship with the county governments of your State through the fine offices of Jack Lamping of the New Jersey Association of Chosen Freeholders.

At the outset, I would like to personally commend the Commission and your excellent staff for this comprehensive report on county government.

We at the National Association of Counties believe it is the single most exciting and challenging recent event in the resurgence and renaissance of our American counties. We believe that it truly can be thought of as a mini magna carta for counties of the future.

Now your Report has identified the many ills and inadequacies of county government and you also have presented a series of remedies and recommendations which, if adopted by your legislature, will allow the county to become the keystone of the revitalized local government system.

Now one of your principal recommendations would offer counties general powers to initiate areawide and interlocal services, including the power to enter into voluntary contracts to perform services for municipalities desiring such services, and it is to this point that I should like to direct my remarks today recognizing, of course, the strong relationship of the other recommendations of the Commission to this voluntary contract concept.

Probably the best known and most effective contract services operation in the nation is that performed by the County of Los Angeles through the so-called Lakewood Plan. The plan derives its name from the City of Lakewood, which, when it was incorporated in 1954, contracted with the County of Los Angeles to obtain total municipal services including police, fire, public works and others which for the first time were provided as one complete package.

Now prior to 1954 the County of Los Angeles, as a highly organized and municipal type county, provided contract services covering various municipal type activities for a period of 50 years. Today, the County provides services under about 1600 individual service agreements to some 76 cities, with services ranging from microfilm record storage to construction of city streets and police and fire protection.

From this cafeteria of municipal services offered by the County of Los Angeles, public health services and election services are subscribed to most often. Running closely behind these two services in contract popularity

come assessment and tax collection, housing of city prisoners and emergency ambulance and medical service.

Now the financing of the municipal-type services provided to cities under the Lakewood Plan can be divided into four categories:

1. Contract services which are self-financing. These services are financed entirely by fees collected from private citizens.

2. Contractural services for which statutory fees have been set. These include services where the cost of the service is controlled by State statute.

3. Continuance of service through special taxing or assessment districts. These are services which are provided through the fiscal device of a county-administered special district and they include fire, library, street lighting, sewer maintenance and others.

And the 4th one, the most important one, the Lakewood Plan. Contract services provided on the basis of a direct billing. In this case the county is reimbursed for all municipal-type services provided to cities by means of a rate established on the basis of actual costs as determined by the County Auditor - Controller. Services of this type include law enforcement, engineering and planning staff services, prisoner incarceration, street maintenance and construction, park maintenance and election services.

Now what has happened to the program since its inception in 1954, and what changes have taken place and what direction is the program beginning to take?

One significant change concerns the growth of contract operations in the older cities or those incorporated prior to Lakewood. During recent years there has been a definite growing tendency on the part of such cities to request contract services from the county. And this change of attitude has probably resulted from several conditions, the first of which is a tight budget squeeze. Transferring a function to the county helps the city reduce the financial burden on the city since the city saves on capital expenditures for buildings and equipment.

Another reason is increased labor union activity. City officials are finding that it is easier or at least to their advantage to contract with the county and thus relieve them of time-consuming personnel problems and labor negotiations.

And, third, is the gradual acceptance of the contract philosophy. Cities now agree that many services can be shared or cooperatively provided without affecting the basic independence of the city or the power of the city council to freely exercise the right of decision.

Now another significant change concerns the shifting service patterns in the newer cities, those incorporated since 1954. The newer cities are now revising their entire service operations as provided by contract and are revising the level, extent and degree of service received from the county.

Thus, the older city with an established service organization is primarily interested in augmenting its

service capacity and acquiring technical and specialized talents which it may not be able to obtain due to small size or financial resources. Such services as preparation of master plans of zoning and land use; specialized public works maintenance such as traffic signals, traffic striping and sewer maintenance; cooperative purchasing; mental health services and election services, to name just a few, are being requested on a more and more frequent basis.

Now on the other hand, newer cities, those incorporated since 1954, are beginning to set up service departments of their own to operate those functions which appear to them to be more appropriately performed at the city level. These are generally the bread-and-butter public works services such as responding to complaints for repair of streets and other public works facilities, the handling of routine day-to-day planning and zoning matters, the handling of certain engineering design functions, and others.

So generally speaking, the county is stepping back and is assuming those supporting functions requiring highly specialized personnel and equipment and those requiring less direct contact with the public. Thus, a natural selection process is occurring which will establish the logical role of both the city and the county in a highly urbanized area.

Now let me point out that inherent in the contract services program is the fact that local autonomy and control of municipal affairs remains with the locally elected city council. It is a partnership of cities and the county to

provide joint services at the least cost while both agencies retain the power of self-determination and home rule. And further, it is a voluntary partnership under which cities may establish and maintain local identity without heavy investment in capital plant, equipment and personnel. Thus, neither agency loses any of its powers but cooperates for the provision of the services at a mutually satisfactory level. In essence, it is decentralized policy with centralized administration.

Now the implications of a voluntary contract services program in New Jersey are apparent. Not only would it promote greater governmental efficiency and economy but it would also minimize competition that creates complex jurisdictional problems at the local level.

I again commend your Commission for this most enlightened report and I look ahead with confidence to the genuine reform of county government that it should bring in New Jersey.

Thank you.

SENATOR MUSTO: Thank you, Mr. McArthur.

I would like to ask you one particular question. You've covered this rather thoroughly, you traveled all over the country, nearly, with the county government problems, - have you found that the permissive or the mandatory concept is most successful in change, particularly in county government?

MR. McARTHUR: Permissive, I would say.

SENATOR MUSTO: Thank you.

SENATOR MUSTO: Any questions, Gene?

MR. SCHNEIDER: Yes, just one.

Al, the Lakewood concept is different from the New Jersey situation in one respect in that in Los Angeles County there is a substantial area of unincorporated land which comes under county jurisdiction and, therefore, the county is, in effect, a local government. Do you feel that the Lakewood concept could be adopted in New Jersey where all land lies within incorporated municipalities, all land in the county is within incorporated municipalities.

MR. McARTHUR: Yes, I think it could be incorporated - I won't say very easily but it could be incorporated here. In Los Angeles there are over one million people in the unincorporated areas of the county and, as you point out, the county does provide municipal services for these people. But let me point out one drawback in the Lakewood Plan, as it exists in California and would not exist in New Jersey, and that is, in California, with their joint exercise of powers act out there, it's very easy for an area to incorporate and you can incorporate and just have one employee, the city council and one employee, as did Lakewood. And this fragments your metropolitan problem. Now this is one of the drawbacks. That would not occur in New Jersey because all of the areas are incorporated, as I understand it, so you would not be creating any more fragmentation than already exists. So I think you could put it into effect here very well, Gene. It's voluntary, remember, and everybody preserves "home rule" and it should work out very well.

SENATOR MUSTO: Thank you very much, Mr. McArthur.

MR. SCHNEIDER: I would like to call at this time the Honorable Lee B. Laskin, Assemblyman from Camden County and newly-elected Camden County Freeholder. Mr. Laskin is familiar with local problems from every side - that of the State and of the local official, and we are delighted he could come here to testify today. Assemblyman Laskin.

A S S E M B L Y M A N L E E B. L A S K I N: Senator and members of the Commission: It is a pleasure to be here. I am not used to testifying at these hearings so I don't have anything written that I can bore you with. I have some comments that I would like to make about the proposed law.

First of all, I would like to say that during my own campaign for County Freeholder, I used the Optional County Charter Law with great effectiveness, I think. Certainly in my mind, if the Optional Charter Law had not been so close to reality, I never would have attempted to run for the office of Freeholder because in my opinion without a complete, comprehensive, over-all structural reorganization of county government, I don't really think there is any bona fide need to continue county government in New Jersey as we know it. And without the Optional County Charter Law, I think county government would continue to be in my opinion ineffective and absolutely useless.

I think we all know that so much of county government is controlled directly by State legislation that there is really very little for Freeholders to do other than make certain appropriations each year, many of which are mandated by the State, and appoint people to the government that really

runs the county, the commissions and the authorities and the boards and all these other things that make county government in my opinion so weak.

So I come today, Senator, really to urge that your Commission urge those newly-elected legislators to start moving on this bill as soon as possible.

Now I have gone through the proposals and I would like to comment on some specifics if I may.

On page 2 of the proposed law, there is a provision that is somewhat ambiguous to me. You talk about signatures - 5 per cent of the registered voters of the county as of 40 days before the most recent election. I think that means that we are supposed to use this 5 per cent figure based upon those who voted in the most previous election and the present language - it is just technical - but it could be a trouble spot in the future. As of 40 days could be interpreted to mean something other than what I think you really want it to be.

On page 8 of the proposed law, you talk about an Advisory Board to the Charter Study Commission and on the Advisory Board you mandate that one of the members shall be the Director of the County Board of Freeholders. I think you ought to consider changing that to a Freeholder selected by the Board because in many instances there may be Freeholders who are vitally interested in this particular phase of their duties and perhaps the Director either is too busy or not really that interested in this item that he would want to be on this Board. So perhaps the language should be "a member of the Board selected by that body" or "Director or his designee"

would be another alternative.

There are some other items that I have discussed with Freeholders; one is the budget date. Now I am not too familiar yet with formulating a county budget though I had two years on our Appropriations Committee here in the State. And I know that it is a rather tiresome, tedious job to prepare a budget. Under the present state of law at the county level, you have the budget submitted by January 15th. This doesn't give Freeholders much time and I think some consideration ought to be given to changing, again a very basic general sweeping change, but it ought to be given consideration to changing the submission of budgets at the county level to the same as the State. So there really should be no difference between the State and the county. I think it would make things easier and it certainly would allow for better budgeting practices because even if they make a January 15th deadline, it is difficult without knowing what is going to be available, without knowing about mandatory changes in State laws, just what they can budget for. So I think you ought to consider changing that.

There is another point, again a very basic point, that is a little ambiguous to me. On page 15 you talk about if the Charter Commission proposes or recommends a change. In one paragraph you state that if they recommend or adopt a change, it shall be submitted to the people for a vote. Of course, if the people vote it down, that is the end of the recommendations of the Commission. But in another paragraph you talk about, "If the Charter Study Commission recommends

or proposes a special charter, it shall be the duty of the Board of Freeholders to petition the Legislature for the special charter." So on one hand, if we adopt one of the optional forms, we go to the people and they can say yes or no. On the other hand, if a special charter is recommended, there is no yes or no. It is mandatory, at least from my reading of this proposal. Now it may not be that way. But if you go the special charter route, the Freeholders must submit to the Legislature the recommendations of the Charter Study Commission. I don't think it ought to be that way if it is. It may not be. Again I say I may be misreading the language of the bill. But it appears that way to me that if you are going to give the option to accept or reject one of the optional forms, you ought to have that same option with the other.

SENATOR MUSTO: I believe that is in the bill. Am I correct in assuming that?

MR. PANE: The special legislation procedure would provide, I believe, to have a referendum after the Legislature approved it. So it would go back to the people for the final vote.

SENATOR MUSTO: Does that satisfy you?

ASSEMBLYMAN LASKIN: Yes, sir.

Another important problem - One of the real evils, as you have stated so often, Senator, is the tremendous array and variety of commissions and authorities that really govern the counties. On page 18 of the proposed law, you are talking about the elimination of so many of these independent

commissions and authorities, and they ought to be eliminated and they ought to be eliminated immediately. But again I am worried about ambiguity of language. On page 18, under the Section 2.3 General Law, you say that "Nothing in this act shall be construed to prevent counties abolishing or consolidating agencies whose existence was mandated heretofore by State law, providing that the county continues to provide the same services." There is still another section on page 20 under 2.4 (f) where you conclude with, "The county may amend and repeal ordinances. . . . notwithstanding the effect of any previous referendum." Then in your explanation section you say, "This section is intended to give the Freeholders power to consolidate such agencies as Parking Commissions which may have been originally established by referendum," and other examples.

Again a question of interpretation - I don't know from my own lawyer's reading of this statute whether these two clauses say enough towards accomplishing what you really want to accomplish. I think they are a little ambiguous and I don't know that as a Freeholder I could say we can now eliminate commissions and authorities. I can't unfortunately recommend at this time to you the additional changes which I think ought to be made, but I have a feeling that it just doesn't say enough towards that goal. I think it is probably one of the most crucial parts of your proposed law, the elimination of all these independent agencies, and I think that some stronger language may be reworked along those points.

There are just a couple of other things - again evils

of county government as we know them, these term appointments. You have County Solicitors, for instance, appointed for 3 years or 2 years or whatever it is. You may have a Democrat-controlled Board of Freeholders and they appoint their County Solicitors for three years. Then the Republicans take over or vice versa. It doesn't make any difference. They both do it. And you are saddled with term appointments, not civil service people, not people who work full time at their county jobs. But I am talking about these professional-type appointments, lawyers or engineers or what have you. Now there are sections in your proposal that talk about County Counsel serving at the pleasure of the Board. I am not sure again whether or not this means that the county can appoint or not appoint for term. If they say "serve at the pleasure," do you mean that a man is appointed and when the county no longer desires his services, he is out, or can they continue to appoint for a term which may run over into the next Board of Freeholders? I am not sure of that and I don't know what you want to do there. That is one part of your proposal that I am not sure of what you desire to accomplish.

I would like to see accomplished where it would be strictly at the pleasure of the Board. I don't think professionals ought to have terms. I don't think a new board should be saddled with somebody who was too friendly with the old board. So I don't know what you intended by that.

SENATOR MUSTO: I think we have the same intent you have.

ASSEMBLYMAN LASKIN: I think you ought to take

another look at that language to make sure that no court would go off and say you can't appoint for terms.

Tenure - another problem that we have. I have voted consistently against every tenure bill that has come up in the Legislature. I don't care whether it is for a personal friend, a staunch Republican, a staunch Democrat. It doesn't make any difference to me. I think tenure is evil. I don't think any tenure bills ought to be passed.

Now there is ambiguous language, at least to me again, on that point. Is there something in your proposal that would eliminate these millions or thousands, whatever we have, of these special bills going through, granting tenure to a clerk who has served two years behind a candy counter and three years as an Assistant Garbage Collector, etc. I think you know what I am talking about. Is there something in this proposal that would eliminate these special tenure bills? And if there isn't, I think you ought to give serious consideration to also incorporating some language along those lines.

In so far as the forms are concerned, it is immaterial to me, whatever forms of government are decided are O.K. The point is we are concerned with changing the principle and I think that what you have done there is admirable and absolutely necessary. But the points that I just wanted to make today very briefly are these major, basic items that I have been discussing which would prevail with all forms of government, no matter what form was selected.

There is just one last point. Another major item, along with consolidation of the agencies, is contracting services to municipalities. These are your two really important features of the new laws. Under the proposals, a county may contract with a municipality to deliver a certain service to that municipality, for instance, a county garbage collection agency where it would be cheaper for the county to collect garbage in a municipality than that particular town, which is a good thing, or a central purchasing department, for instance. I think you have accomplished those two items under the language on pages 20 and 21, that is, services and central purchasing.

But now let me give you this example. This will work from the reverse. Let's assume that Municipality A has two or three blocks of a county road going through it. We all know there are county roads in municipalities and I still don't know how they are figured out to be county roads or municipal roads. But we have one block in the middle of the town - it is a county road - and I don't know how it got there. But it exists in most municipalities.

Now under your proposal, suppose the county wanted to say to Municipality A, "Look you have three blocks of county roads going through your town. It is very costly for us to come in there and remove snow. It is very costly for us to come in there and repair those roads. After all, you are there. Your snow cleaner can just take a detour and go right around the block and clean our street for almost nothing." Is there anything in this proposal which would allow the county to say

to Municipality A: "Look, here is \$45," or whatever they figure it to be, "You shovel the snow off those county roads," or "You repair those streets within your municipality and we will pay you to do it because it will be cheaper for us to pay you than to have our men do it"? This is sort of the reverse of what you have covered on pages 20 and 21. And if there isn't, perhaps some real serious thought ought to be given to the reverse of what you'd like to accomplish.

MR. SCHNEIDER: I believe the contractual relationship goes both ways. I think it is in there, but we will certainly check on it to make sure that it provides for a county contracting with a municipality to act, as it were, as its agent in this case.

MR. PANE: Roughly summarized, I believe it says either party can contract to perform any service which either party is empowered to perform. The problem I might mention which comes up in this regard, and it is one of drafting, is that there were those who felt that a somewhat similar provision in the Bergen Charter would in effect give the county power to mandate to the municipality the provision of services which the county should have been providing and this is something we have tried to watch out for. But it was our intent to make it a two-way street.

SENATOR MUSTO: I think what you have here is a question of making something mandatory or permissive. From a practical point of view, I think it would be almost impossible to mandate at the present time.

ASSEMBLYMAN LASKIN: Oh, we don't want it mandated.

We want the option.

SENATOR MUSTO: We don't stop it; we encourage it.

ASSEMBLYMAN LASKIN: On the same point, you do have a provision which states that a contract shall not exceed seven years. This is a personal feeling - I don't think any contract between a municipality and a county ought to have that amount of time to it. I think that the county or the municipality should be able to review these contracts with a much more frequent degree of regularity than every seven years, assuming someone enters into a contract for seven years. As a practical matter, I don't know that it would occur. But in a one-party county, I can see where it may occur more frequently than in a two-party county. And I think that that seven years is much too high. I think these contracts should be open to review much less than seven years. I would hesitate to give you a figure, but I would think somewhere around two years would be more to my personal liking. In any event, I think you can see the problem with the seven-year contract.

SENATOR MUSTO: You just brought up a good point. I just asked my Executive Director where he got that seven years from. He is going to check it.

ASSEMBLYMAN LASKIN: So other than that, gentlemen, I think though structural reorganization of government seems to be a dull subject and doesn't get too much newspaper coverage because someone isn't being killed or robbed, I think it is probably one of the most significant and important pieces of legislation that we can enact because a structural

change in county government will affect every emotional issue that you can think of. It will have an effect on taxes, welfare, crime, anything that there is. And I think it is a very exciting subject and I personally - and my Freeholders know my stand in Camden on this - will do everything possible once this bill is passed into law to seek a change in Camden. I would love to see changes all over the State because it is the only way I think we can continue with the modern philosophy of business-like government and, that is, by regionalization. This is really somewhat of a form of regionalization, making things cheaper by buying in larger quantities, and people are just going to have to be sold on this. And small town officials who do a wonderful job for their communities are also going to have to be convinced that this is the right thing to do because they really will be the ones who will have to sell it to their own people.

So again, thank you for allowing me to come. I am sorry to have taken so much time. I really wish you well and I hope this new Legislature, even without me being there to probe them, will pass this bill as soon as they start the new year.

SENATOR MUSTO: Lee, I want to thank you for not only a fine off-the-cuff presentation, extemporaneous at that, and excellent, but a most courageous presentation. We may not always agree, but I want to say you have presented a most courageous statement today. We are fortunate in that Mr. Kearns from the New Jersey Bar Association has offered the

Commission his services and many of the points you have raised will be taken up with them. And we are hoping we can put this bill in proper form so the legal points you raised are corrected or at least made clearer.

Regarding tenure, I don't know what the bill can do about tenure. I feel a lot about tenure like you do. In fact, I have opposed tenure for the Judges in the courts. I don't know how you feel about that one. But I think you have a good point there. Of course, one of the important things, as you know - and this is where you are going to be a tremendous help in the role you are going to play as a Freeholder - is in getting across just the points you have raised here today. There is going to be controversey - no question about that - differences of opinion.

I want to again commend you for a courageous statement.

Are there any questions? [No response.] You have convinced them all, Lee.

ASSEMBLYMAN LASKIN: Thank you.

SENATOR MUSTO: Thank you very much.

We will have time for one more witness and then we will go for lunch.

MR. SCHNEIDER: I believe our next witness needs no introduction. He is Dr. Ernest Reock, Director of the Bureau of Government Research at Rutgers - the State University. Dr. Reock and his staff have close ties to local government - not only in terms of their research into local problems and their consulting services for charter studies and other projects, but also through the in-service training programs offered to

local officials throughout the year.

SENATOR MUSTO: Again I would like to point out we are going to try to do the best we can to get as many of the witnesses on as we can today. We will announce a time for coming back as soon as Dr. Reock finishes.

E R N E S T C. R E O C K, J R.: Mr. Chairman, members of the Commission, members of the staff, and ladies and gentlemen: My name is Ernest Reock. I am Director of the Bureau of Government Research at Rutgers University.

I would like to confine my comments this morning to the proposed draft of the Optional County Charter Law. I believe that the enactment of an Optional County Charter Law is highly desirable. We have found over the years in New Jersey that the balance of local general government activity slowly, but steadily, is shifting in the direction of the counties. In 1955, counties made 28.4 percent of the local government expenditures and municipalities 71.6 percent. By 1960, the county share had risen to 30.0 percent; and by 1965 to 32.4 percent. Today the figure for counties undoubtedly is even higher. Since this statement was prepared, I have had a chance to check the figures for 1967 and the counties' share is up to 34 percent as of 1967 figures. Gradually, we are beginning to realize that our 567 municipalities are just too small to carry on many of the services required by a modern society. Therefore, we add new services at the county level and we occasionally transfer the responsibility for some governmental activity from a smaller unit - the municipality, to a larger jurisdiction - the county.

Given this trend, it is essential that the county governments be equipped to meet their growing responsibilities. Yet, most county governments are operating with substantially the same form of government by committee which they have had for decades. It appears most appropriate that the citizens of each county be given the opportunity through an Optional County Charter Law to examine the form of their county government, and to adopt some alternative form if they conclude that a change would be beneficial.

The model for this proposed Optional County Charter Law, obviously, is the Optional Municipal Charter Law, adopted by New Jersey in 1950, and known generally as the "Faulkner Act". This is fortunate, for in my opinion, experience with the Faulkner Act has been generally good. While the law still contains some vague areas, and while in a few communities there may be a feeling that the Act did not serve them well, in most cases the Optional Municipal Charter Law has been a success. I think that there is evidence to support this conclusion in the fact that of about 30 places which have had a Faulkner Act charter long enough to be permitted to abandon it, only two have done so, and have reverted to their old form of government.

This Proposed Draft of the Optional County Charter Law is a major step in a most desirable direction, and both the members and the staff of the County and Municipal Government Study Commission should be commended for its preparation. In general, I think that the draft is very good, and if I spend some time today making suggestions for its revision, I hope that this will not be taken as a negative attitude toward the draft itself, for I am very much inclined in its favor.

The Proposed Draft outlines four basic alternative plans which could be adopted in any county: the County Executive Plan, the County Manager Plan, the County Supervisor Plan, and the Board President Plan. The first two of these I believe to be clear in their formulation, and to have a good chance of operating effectively. However, the last two plans I think might be less successful.

The County Supervisor Plan has certain unfortunate characteristics. While it carries through with the common objective of making the Board of Chosen Freeholders a strictly legislative body, it then goes on to create two competing executives -- an elected County Supervisor and an appointed Chief Administrator. The County Supervisor is elected to office by the voters, and he is directed to exercise the executive power of the county. However, he has no control over the make-up of the county budget, and he has very limited and vague appointive and removal authority. His only real power is a veto over ordinances passed by the Board of Chosen Freeholders, and this can be overridden by a two-thirds majority. The County Supervisor is directed to enforce the charter, the county's laws, and all general laws through the Chief Administrator; but he does not appoint the Chief Administrator, and he cannot remove the Chief Administrator. The County Supervisor is directed to represent the Board in dealing with the Chief Administrator; but he does not represent the Board -- he is selected by the voters, not by the Board, and his only significant role in relation to the Board is to preside at its meetings and vote in case of ties. In practice, I believe that a County Supervisor would be a most frustrated person, for while he would have been elected by his constituents as chief executive, he would quickly find that, when in office, he had considerable responsibility, but very little authority.

The Chief Administrator, on the other hand, has considerable authority and power. He prepares the county budget and submits it to the Board; he controls revenue collection and disbursement; he has direct supervision of all county administrative departments; and he has considerable appointment and removal powers. On the other hand, while he is appointed by the Board of Chosen Freeholders and serves at the Board's pleasure, he is responsible to them only through the County Supervisor, with certain specified exceptions.

In sum, then, I think the County Supervisor Plan has such a potential for conflict between the Chief Administrator and the County Supervisor that I believe it would be best to drop the plan from the proposed draft.

The other plan, which is somewhat similar, is the Board President Plan. Here, the Board of Chosen Freeholders selects one of their own members to serve as President, with many of the same duties as the County Supervisor in the earlier plan. In this case, however, his situation seems less objectionable for two related reasons. First, the Board President will not have been elected as chief executive by the voters, and therefore, he will not be as obviously accountable to the voters as the personification of the county government. Secondly, since he will have been selected by the Board, he presumably will have their confidence and will really be able to represent them in dealing with his Chief Administrator. While there will still be an element of responsibility without authority in the Board President Plan, it probably will be something that most persons can accept. Therefore, I believe that this plan is an acceptable alternative, and should be retained.

While discussing this plan, however, there is one suggestion on detail which I would like to make. The present draft provides that the items in the county budget, which is prepared initially by the Chief Administrator, can be reduced by a majority vote of the Board of Chosen Freeholders, but raised only by a two-thirds vote. I do not think that it is appropriate for an extraordinary vote of an elected body to be required to change in any way a proposal made by an appointed official, especially when that official can be removed from office by a simple majority, and I would suggest that this section (6.10(g)) be amended to provide that any changes in budget items could be adopted by a simple majority of the Board.

Since I have spent some time on what appear to be deficiencies of the County Supervisor and Board President Plans, let me emphasize again that the other two plans proposed -- the County Executive and the County Manager Plans -- appear quite reasonable and effective.

Aside from the optional plans contained in the Proposed Draft, there are a number of other points of varying importance on which I would like to comment, and I will touch on these as I come across them in reading the draft. In section 1.5, the County Charter Study Commission is directed to meet and organize

within 15 days of its election. I would suggest that language be inserted to fix the responsibility for setting the time and place of that first meeting on some one individual -- possibly the candidate receiving the highest vote or the county clerk. Too often, the members of a municipal Charter Commission have been in doubt as to who should take the initiative in calling the organization meeting.

In section 1.6, provision for filling a vacancy on the Charter Commission is made by requiring that the unsuccessful candidate receiving the greatest number of votes in the Charter Commission election should become a member. This could have unfortunate results if that unsuccessful candidate adheres to views which are quite different from the Charter Commission members who were elected. Indeed, he may well have been defeated because a majority of the voters did not want him on the Commission. I would prefer the provisions of the Faulkner Act, which give the remaining members of the Commission the right to appoint some qualified citizen to fill the vacancy. However, I would suggest some consideration of the time factor with regard to vacancies. In the first place, there should be a limit on filling a vacancy -- possibly 30 days. Secondly, there is a question as to whether the filling of a vacancy should be mandatory at a late stage of a charter study. If the four remaining members of a Commission have spent 8 months educating themselves about their county government, and reaching a conclusion as to what should be done, does it really make sense to require the injection of a new factor just before a vote may be taken on a Commission recommendation?

Section 1.8 requires the participation of an advisory body of elected officials in the "deliberations" of a Charter Study Commission. Unfortunately, there is no definition of the word "deliberation". Does this mean only public meetings; does it include executive sessions; does it encompass informal discussions? Unless some more precise direction is included in the law, this provision may well cause considerable controversy and even litigation. The

same comment applies to Section 1.9 dealing with participation of the state in the "deliberations" of the Charter Study Commission.

Section 1.12 requires that a Charter Study Commission shall publish and deliver to the county clerk "sufficient" copies of its report for public study and information. Many municipal charter study commissions have been in doubt as to what "sufficient" means, and it is surprising that we have not had more litigation on this point. A more precise statutory directive would be desirable -- possibly in the nature of a ratio of number of copies to number of registered voters.

The Proposed Draft appears to depend upon State appropriations to cover the expenses of county Charter Study Commissions. This seems unrealistic, and I would suggest that specific language be inserted to authorize the use of county funds. While the State has an interest in County government reorganization, and this is recognized in Section 1.9, it would be a mistake to make any single county depend upon the largesse of the State in order to study its own form of local government.

Section 1.13 provides for discharge of a Charter Study Commission after tabulation of the vote on a successful referendum for adoption of an optional plan of government. However, the implementation of such a plan may be delayed by the statutory calendar for as much as 14 months, during which preparation for the change should be taking place. Too often, the governing officials in municipalities during the interim period have not been especially sympathetic to the impending change, and little has been done. I would suggest, therefore, that a Charter Study Commission be empowered to remain in existence until the installation of the new form of government, in order to serve as educator, stimulator, and general watchdog for the transition period.

In section 1.17, the referendum on adoption of an optional plan of county government is authorized at either a general election or a special election. We have waited a long time for a law of this sort, and I think that we can at least wait for a referendum until a general election at which we usually find a far greater turn-out of voters than at most special elections. I suggest dropping the use of special elections for this very basic referendum.

Section 3.3 and numerous other sections of the draft follow the current practice of having officials elected at the general election in November wait until January 1 to take office. This may have made sense two hundred years ago, when communication was slow and paper ballots had to be counted and re-counted. It makes far less sense today, and I see no reason why an elected official cannot take office as soon as the election results are certified. This would have a number of beneficial results. In the first place, it would eliminate a certain amount of mischief which is sometimes done by "lame duck" officeholders. Secondly, it would eliminate a two-month period of stagnation when "lame ducks", who are sensitive to the "mischief" charge, do nothing. Thirdly, it would give the incoming officials a chance to really work on the budget which they must adopt almost as soon as they enter office. For example, Section 3.16 requires a County Executive to submit his budget for the year to the Board of Chosen Freeholders by January 15. This is most unrealistic if he did not take office until January 1. The recall provisions of the Proposed Draft place the newly-elected official in office immediately upon certification of the election results (Section 7.12); there appears no good reason why this could not be made a general rule following all elections.

Throughout the Proposed Draft, the terms "ordinance" and "resolution" appear to be used loosely. I would suggest that some statutory language be

developed to define each and to specify when and for what purposes each shall be used. This becomes important when an executive is given the power to veto ordinances, for an antagonistic Board of Chosen Freeholders could well begin adopting resolutions, rather than enacting ordinances.

In Section 3.10, the County Executive is authorized to be present at Board meetings. I would suggest that his presence be made mandatory. The same comment applies to Section 4.9, dealing with the County Manager.

Another element which runs through the Proposed Draft is the assignment of the exclusive power to appoint legal counsel to the Board of Chosen Freeholders under each plan. This raises the question of the access of the executive to legal advice, with the possibility that selection of legal counsel should be a joint executive-legislative responsibility through an advice and consent arrangement.

In Section 4.3, I would suggest that appointment of a County Manager clearly require a majority of the whole number of members of the Board of Chosen Freeholders, and that no possibility be left that a simple majority of the members present would be sufficient.

Throughout, the Proposed Draft omits the provision of the Faulkner Act that public hearings be held during November on departmental budget requests. In my opinion, this provision has had a desirable impact. In addition to forcing a coherent evaluation of budgetary needs at an early date, it provides an opportunity for proponents of increased expenditures in certain budgetary areas to state their case publicly. This can be useful, particularly when there exists a charter provision that expenditure items in a proposed budget can be increased only through an extraordinary majority of the governing body. While this may sound like an invitation to higher budgets, it is not necessarily so,

for a strong case for a higher expenditure in one area can be balanced by the executive through reductions in other areas before the final budget is submitted to the legislative body. It is better that the case for expenditure be presented as early as possible in the budgetary process, than that this be deferred until other expenditure areas become relatively solid.

Section 7.4 deals with recall petitions, and requires signature by 20% of the registered voters of the county. In my opinion, this is far too high. In Bergen County, for example, this would require 86,000 signatures just to begin the process of recalling a county-wide officer. The application of a single percentage figure to all New Jersey counties, regardless of their size, seems unrealistic. I would suggest language stating that a recall might be instituted by 20% of the voters or 20,000 persons, whichever figure is smaller. The same comments apply to Section 7.19 dealing with initiative and referendum petitions. Certainly 20,000 dissatisfied persons, even in a county the size of Bergen, are enough to justify consideration of recall, initiative, or referendum by the entire electorate.

A second point dealing with this section, and with others involving petitions, is consideration of some language providing for a time period during which petitions may be signed. There has often been a question as to how long a person's signature remains effective, and when new legislation is adopted for petition procedures, some thought should be given to providing an answer.

In Section 7.35 the criteria for freeholder districts are outlined, but some elements appear to be missing. The proposed language specifies that the districts shall not differ in population. If taken literally, this means that they must be precisely equal. This may be an impossibility, since population figures are not reported for individuals, but are aggregated into some larger

units, such as city blocks, enumeration districts, census tracts, etc. The language here should be made more general, such as "as nearly equal as possible", etc. On another point, the language is not precise enough, for it does not specify what population count should be used. While the U.S. federal census is crude, in that it is taken only every ten years, it probably is sufficiently official and accepted that it should be specified here in lieu of any interim population estimates.

In a related section, 7.38, the board of ward commissioners is directed to revise the district boundaries within three months after every federal census. There is some question as to whether the detailed final figures required can be obtained that rapidly; therefore, I would suggest that the work period begin after publication of the census, and that it last only one month.

Finally, among my detailed comments, Section 7.43 attempts to prevent what I have described earlier as "lame duck mischief" between the time of election of the first officers under the new plan and the implementation of a new plan of county government. If my suggestion of immediate installation of newly-elected officials is not adopted, I urge that this section be amended to make it applicable after every election, rather than applying only once - when the new plan is about to go into effect.

I would like to insert one additional comment here. It is not in the prepared statement. I did not intend to comment on the desirability of the use of freeholder districts,

but in view of some of the testimony I heard earlier this morning, I would like to state that I think it is highly desirable to include in the optional plan the possibility of freeholder districts. I think if we really believe in home rule for counties, we ought to provide as many options as possible and this doesn't mean that districts have to be used in every county. It would be up to the Charter Commission and the voters in that county whether they would be used.

Let me conclude by summarizing my general position with regard to this proposed draft. I think that it has highly desirable objectives; it represents a major step toward the accomplishment of those objectives; I believe that it would be improved by dropping one of the proposed alternatives - the County Supervisor Plan; while I have made a number of suggestions for altering details of the rest of the draft, I support its concept most heartily.

I would like to thank you for the opportunity to comment on the proposed Charter Law and I would be very happy to try to answer any questions you have.

SENATOR MUSTO: Doctor, I would like to thank you for the tremendous assistance you have given to the Commission in its work and for your presentation here today as well.

Senator Coffee, do you have any questions?

SENATOR COFFEE: No.

SENATOR MUSTO: Assemblyman Schluter?

ASSEMBLYMAN SCHLUTER: Yes, Senator. Dr. Reock, you indicated that you proposed, as I understand it, three options instead of four on the basic plan.

DR. REOCK: That's right.

ASSEMBLYMAN SCHLUTER: Have you examined possible ways of circumscribing the functions of the Chief Administrator under that plan that you advocate dropping rather than eliminating the plan, in other words, to take care of the potential problems?

DR. REOCK: I think when you set up two Administrative Officers with two different sources of authority, one coming from the people and one coming from the Board, you have the potential for conflict right there. I think, if I can speculate about the objectives in proposing that particular alternative, it was probably to provide some alternative which did not go as far as the County Executive Plan or the County Manager Plan and which therefore might be a little bit more saleable in some counties and I think the Board President Plan probably meets that need quite well. I don't think you have to go to this other plan, which I suspect could have some unfortunate experiences if it were implemented in some counties.

ASSEMBLYMAN SCHLUTER: Thank you.

MR. SCHNEIDER: I have a point of clarification perhaps. You state on page 8 of the prepared statement: ". . . the County Executive is authorized to be present at Board meetings." You suggest that his presence be made mandatory. The same applies to the County Manager. I am not quite clear what would be the consequences of his not attending and whether this would carry with it some ---

DR. REOCK: I think the thing I had in mind here in trying to achieve was to keep the executive agency and the

legislative body near each other. In some cases there have been unfortunate experiences where the two have just gone off in different directions and begun to ignore each other. The executive has refused to attend the council meetings and in some cases the council has told him that they don't want him there and to stay away. I think it would be desirable for the two to be present at public meetings.

MR. PANE: Dr. Reock, based on your experience with municipal charters, would it be your opinion that the establishment of an Advisory Board of the Charter Study Commission consisting of the legislators, mayors, county party chairmen and freeholder directors, as stated in the bill, is a desirable innovation?

DR. REOCK: I am sitting on the fence on that really. I can see where it could really slow things down and cause a great deal of difficulty. If it makes the whole concept a little more acceptable, then it may be the price that has to be paid and I would be willing to pay it.

MR. PANE: Then you are not sure whether this would in effect forestall a crystallization of opposition once the proposals were released?

DR. REOCK: No, I think if there is a potential for opposition there, it may very well just give it a forum.

SENATOR MUSTO: I just have one question. I know you just wanted to talk on the bill. I was wondering, Doctor, if you don't relate the bill with the State assumption of county judicial costs and welfare? Do you relate it at all or do you feel the bill can stand on its own?

DR. REOCK: Oh, I think the bill can stand on its own. I think it should be able to stand on its own while the others may be very desirable objectives themselves.

SENATOR MUSTO: Thank you.

Any other questions? If not, we will adjourn until two o'clock.

[Recess for Lunch]

[AFTERNOON SESSION]

SENATOR MUSTO: This hearing will now come to order and our Executive Director will call the next witness;

MR. SCHNEIDER: Our first afternoon witness is Mr. James Pickford of the U. S. Advisory Commission on Intergovernmental Relations. As you know, the Commission is a federal agency established in 1959 to promote better intergovernmental understanding and to bring together representatives of federal, state, county and municipal government for consideration of common problems. The Commission has published a host of policy and research statements, almost all of which have been used extensively by our Commission staff in our work.

Mr. Pickford.

J A M E S H. P I C K F O R D: Mr. Chairman and Members of the Commission, The Advisory Commission on Intergovernmental Relations considers the role of county government to be extremely crucial to our entire system of local government throughout the United States in the years and decade ahead.

County government is on the move in many sections of the country and it will ride on the wave of the future with regard to local government organization and political power in many of our urban areas. The reason for this is that county government has one priceless asset which many municipalities do not have - the five-letter word "space." The counties offer an effective approach to coping with those urban functions, which by their physical or economic nature demand areawide handling.

The utility of the county probably greatest in middle-size and smaller metropolitan areas--the metropolitan areas that are and will continue to be largely confined with the boundaries of a single county. The counties, then, have an important role--one that is the basis for the recommendations in the excellent report of your Study Commission, "County Government: Challenge and Change"--in filling a gap at the "middle level--one between the State and federal governments on one hand and the municipality on the other."

It is absolutely true that in many sections of the country, county government still deserves fully the appellation placed upon it by some political scientist who said "county government is the dark continent of American politics." On the other hand, county government is responding vigorously and imaginatively in the handling of municipal-type functions in many parts of Virginia, Maryland, California, Oregon, New York, and other States.

However, it is one thing to talk about the potential of county government, it is quite another to realize this potential. Unfortunately, in too many States throughout our land, county government is still handcuffed to tradition by State constitutions and statutes and tagged in the eyes of the public and in the minds of newspaper reporters and editors as "horse and buggy" government. Action along one broad front is urgent and necessary. The form of local government, a structural consideration, is of significance because it can influence the powers of government to be exercised. It would appear, therefore, that it is wise strategy on the part of your Commission first to resolve the issues surrounding county government organization and structure.

The Advisory Commission on Intergovernmental Relations believes that legislative authorization of optional forms of county government is a pre-requisite part of a workable local government system. The variation in economic and political conditions across any given State militates against a single ideal form of county government structure. Nevertheless, the evidence is convincingly presented in your Commission's report that New Jersey's county governments are frequently handicapped in meeting new problems because of being in a rigid organizational structure straitjacket.

We believe that maximum local responsibility and maximum citizen participation in the governmental process can best be assured if the people themselves have a range of discretion in determining what form of local government is in their best interest. For years cities across the nation have had municipal home and have been able to choose among forms of government such as the strong or weak mayor-council plan, the city manager plan, the commission plan, and so forth. There is no reason to give cities this kind of flexibility and yet deny it to counties.

In New Jersey, you are in a more fortunate position than in many States where constitutional limitations on county government structure exist. Here, county structure can be established pursuant to a general act of the legislature.

The Advisory Commission has adopted a large number of recommendations dealing with problems involving local government. The principles of a significant proportion of these are included in the "Optional County Charter Law" now under your review. For example, the provisions dealing with grants of power in the draft bill quite properly should be applicable to all counties. Furthermore, discretion at the local level in determining whether to elect the county governing body at large or by district, or both, is fundamental. We are happy to see that provision for assistance from State government in charter study deliberations is provided by making the Commissioner of the

Department of Community Affairs or his delegate a non-voting ex-officio advisor to all charter study commissions. The provisions of the draft charter law, however, might be expanded to authorize specifically that additional State assistance be available upon request to counties in the development of new ordinances and procedures involved in converting to a new form of government.

The Advisory Commission has recommended a number of other steps to unshackle counties, many of which are contained in Article II of the draft "Charter Law." They include:

- Responsibility to determine at the local level appointment, tenure, and salary matters of county personnel engaged in the public service and housekeeping functions.

- Freedom to decide how duties mandated by the State legislature may be carried out with respect to internal organization and administration; and

- Authorization to enter into interlocal contracts and joint enterprises with any other unit of local government and the State in order to provide jointly or cooperatively any power possessed by the participating governments.

To sum up, the draft "Optional County Charter Law" is realistic and practical, and contains the essential ingredient to meet diverse local conditions and needs--flexibility. It provides for executive management and strengthens and makes more representative the governing bodies. It makes the administration of county services responsive to the county governing body, even those duties as may be mandated by the State. Finally, it does not establish statutory barriers that would handcuff local determination as to the form of

government best suited to govern.

County government in the United States has come a long way in the last few years. The New Jersey County and Municipal Government Study Commission is making a tremendous contribution not only within your own State, but in the other 49, by laying the groundwork for a stronger local government system. The quality of your background study reports and the draft legislation to carry out recommendations, prepared under your very able stewardship, are first-rate. All of us at the Advisory Commission wish you well in seeing through the task ahead.

Thank you.

SENATOR MUSTO: Thank you, Mr. Pickford.

Are there any questions? Senator Coffee?

SENATOR COFFEE: I have none.

SENATOR MUSTO: I just have one or two questions here that I jotted down. Would you say that the proposal as to the policy guidelines that we have set forth in this report are in line with the development in the other States as well?

MR. PICKFORD: Oh, yes. In fact I find it very difficult to criticize your draft law. It certainly tracks with the policy principles with respect to local government that the Advisory Commission has adopted and recommended as a job very well done.

SENATOR MUSTO: Are there any other States looking to set the county up as a middle government, so to speak?

MR. PICKFORD: Yes.

SENATOR MUSTO: Thank you very much.

MR. SCHNEIDER: Our next speaker, Mr. Ronald Zweig, has experience ranging from private consultant to assistant to the Governor, to being executive administrator of Bergen County. From his experience, particularly his experience in county government, he will present his views on county reform.

R O N A L D Z W E I G: Thank you. I might mention I am Zweig of the Zweig case. I know how Miranda feels.

There isn't much I can add to the testimony I gave in Hackensack at your first hearing on September 23, 1969. At that point, I pointed out that the report and the proposed act met the three major criteria I look for in a county charter: first, that there be a clear delineation of the legislative and executive functions; second, that all administrative officials be responsible to a chief executive; and thirdly, it provides local units with a full range of technical and operating services on a contract basis.

I find the proposed legislation to meet those criteria and to be a framework, which a charter should be, without getting involved in a great deal of detail that would hamstring the future governing body.

SENATOR MUSTO: I would like to thank you for the Commission as a whole, Ronald, for coming here again. You made a very wonderful presentation in Bergen County and we are happy to have you here again adding to that.

Are there any questions? [No questions]

There is just one thing I would like to ask from an overall point of view on the four proposals that were made. Do you

feel that that is adequate or sufficient enough to meet with approval of the counties?

MR. ZWEIG: Yes. I tend to agree with Dr. Reock that the supervisor form has a problem in it, but I think it adequately covers the types of government that any county would want and I think the option of at-large concurrent elections of the Board of Freeholders give adequate choice in that respect. I can't speak for the Bergen County Charter Committee but I feel certain that had this legislation been in effect at the time, Bergen County would not have gone the route of drafting its own charter. As I say, I can't speak for them but I was close enough to that group and involved enough to be certain that they would have selected one of the optional forms as contained in this legislation.

SENATOR MUSTO: On behalf of the Commission again, thank you very much.

MR. SCHNEIDER: The next person to testify is Dr. Justin Renz, an assistant to Nassau County Executive Eugene Nickerson. Mr. Renz is not only familiar with county operations in New York, but he did his doctoral dissertation at Columbia University in 1966, which was in fact a comparison of Nassau County, New York, and Bergen County, New Jersey. Mr. Renz has been most kind in cooperating with our staff in our field work and I wish to thank him for this as well. Dr. Renz.

D R. J U S T I N R E N Z: Gentlemen, let me initially thank you for extending an invitation to me to discuss the findings, conclusions, and recommendations of

your Commission regarding county government reform in
New Jersey.

Let me begin my testimony by stating that I heartily endorse the optional county charter law proposed by your Commission. The endorsement is based on an examination of the research documents released by your Commission, the research I conducted on New Jersey county government in 1964 and 1965, and my own practical experience in county government since that date.

In my opinion, the enactment of the optional county charter law will enable county government here in New Jersey to move from its present 19th Century administrative state into the 20th Century. In addition, the legal and fiscal provisions contained in the proposed charter law provide the tools to effectively develop and implement solutions to the major urban-suburban problems facing New Jersey counties.

As such, the fiscal, legal, and administrative reforms contained in this proposed legislation should serve as an example to other States if areawide local government is to survive as a viable entity in our Federal system. During the remainder of my testimony, I would like to specifically discuss your Commission's proposals as they relate to the legal needs of county government, the fiscal needs of county government, and the structural and administrative needs of county government.

In discussing the legal needs of county government here in New Jersey and elsewhere, the key word is flexibility. Unfortunately, county government largely here in New Jersey

does not possess the legal flexibility to respond effectively to the economic, social and ecological problems confronting our urban society. The legal straitjacket that New Jersey counties find themselves in has adversely affected the creation of the necessary instruments to effectively tackle areawide problems. These include such basic human needs as recreation, housing, transportation, economic development and the control of the environment. Continued inaction by county governments in these areas will only intensify the problems in the next decade.

This situation, of course, is not unique to New Jersey - State legislatures throughout the nation have been notoriously reluctant to delegate the necessary legal prerogative to "breathe a little life" into the concept of county home rule.

It should be well understood by the new legislature that, if legislation along the lines of the proposed charter reform is not passed and signed by the Governor, further concentration of governmental power will result here in Trenton and in Washington.

Actually the legislature should be guided by one of the foremost dictums of our pragmatic American society - if something doesn't work effectively, either fix it or get rid of it.

I think the same rule should be applied to county government - either fix it or get rid of it entirely. I sincerely hope that the leadership of your Commission will guarantee the preservation of the county unit of government in New Jersey.

The wide ranging complexities of our urban civilization demand that the local relationships between man and society be largely resolved on a local basis. We should all realize that the brain power needed to resolve the momentous complexities facing New Jersey cannot possibly be resident solely in the State Legislature. What counties need to effectively respond to arewide issues is the legal flexibility to exercise powers of self-determination and regulation, as well as the ability to cooperate with municipalities in areas of mutual concern. Your legislative proposals satisfy these requirements.

In attempting to discuss the fiscal needs of county government, it is difficult to know where to begin. County governments across the nation are faced with a terrifying fiscal problem. On the one hand, they are confronted with a rising level of expectations by their citizens, while on the other, because of their legal position as "creatures of the State," they are forced to spend most of their money resolving statewide problems. As your Commission report points out, state problems accounted for 56 per cent of county government expenditures in 1967. In Nassau, the percentage is even higher - currently totaling between 70 to 75 per cent of the entire county budget. When you couple these facts with others, such as the replacement needs necessary in many mature counties, as well as the revenue limitations imposed by the State, the fiscal picture is extremely bleak.

As you gentlemen are well aware, this current situation is not expected to improve. In fact, such conditions as

inflation and unionism are expected to deepen this fiscal crisis during the coming decade. This will occur because the basic "products" of any county government - services and construction - are undoubtedly going to cost a great deal more in coming years. In Nassau county, for example, 70 per cent of the operating budget is composed of salaries paid to county employees who are not content to be economically second-class citizens. With the advent of a militant civil service, it would be foolish not to expect anything but substantially higher personnel costs in the years to come. Along with higher personnel costs goes the substantial increase in construction costs during the past few years. In 1969, construction costs are expected to increase more than ten per cent, and this trend should continue due to restrictive work practices.

The effects of this entire situation - rising expectations, pressing areawide problems, restrictive revenue limitations, increasing county government "product" costs, and an increasing number of state-mandated programs spell fiscal disaster for county governments unless something is done. The recommendation of your Commission, to have the State assume the costs of their mandated programs, is a sound first step. I would recommend that research be conducted into the area of alternative local revenue sources as a second step. The advisability of instituting county income taxes as a major source of areawide revenue should be particularly investigated.

In the area of the structural and administrative

needs of county government, your Commission's summary findings accurately point out that "the present structure of county government in New Jersey almost prohibits effective and efficient administrative organization." This statement can be applied with equal accuracy to the vast majority of the nation's 3080 counties.

To me, effective county administration demands the creation of viable county program goals and objectives, the consolidation of interrelated county activities into functional programs, the effective direction of county functional programs by competent professional administrators, and the establishment of adequate control systems to insure the accomplishment of program goals at minimum cost.

The machinery necessary to accomplish these criteria of effective administration are not presently found in New Jersey counties. In fact, your Commission's studies, as well as my own in Bergen County, concur that the present administrative organization of county government in New Jersey runs counter to almost every sound criteria found in the field of public administration.

The key element to be analyzed in this area is the effect the fragmentation of county government activities has had on the administration of county programs. The existence of extremely fragmented areas of county government authority and responsibility here in New Jersey has undoubtedly adversely affected both the development of comprehensive county goals and objectives by political leaders, as well as the effective administrative direction and fiscal control of county programs by professional administrators.

Based on the present structural State of New Jersey county government activities, I am sure both the average politician and bureaucrat literally throw up their hands in dismay when they attempt to accomplish anything economically and efficiently.

If this is true, what can be done about it? Your Commission's recommendations on county government structural reform go a long way toward a resolution of the problem. By adopting any one of these alternative structural guides, county government administration and organization can be greatly improved in New Jersey. Some of the present causes of fragmented county services would, hopefully, cease to exist due to the creation of "clear lines of authority and administrative accountability throughout county government." As a result, county Boards of Freeholders would cease to act as part-time administrators of various program areas as well as county legislators.

In clearly distinguishing legislative and administrative tasks within the county government, the problem of establishing adequate control systems to accomplish program goals at minimum cost should be resolved. In addition, the creation of strong policy leadership through the preparation of an executive budget should also aid in the establishment of adequate control systems. Such an executive budget would also provide an effective tool to develop comprehensive county goals and programs and to

meet areawide problems.

My only reservation about the optional county charters is the Commission's seeming reluctance to emphasize the need to functionally consolidate interrelated county program activities for economy and efficiency. I can only assume that, with the distinction clearly made between the legislative and administrative roles of county officials, with the greater infusion of professional administrators into New Jersey county government, and with strong policy leadership from elected county officials, this situation will resolve itself. I hope so.

I would like to close by commenting on the prospect of some further research I understand the Commission is going to undertake in the area of analyzing the effect on local government of the 1200 grant-in-aid programs you have here in New Jersey. I heartily applaud this effort. Although grant-in-aid programs are designed to aid local government, I find that their present complexity largely leads to administrative duplication, frustration, and inefficiency rather than the theoretical results they are designed to produce.

Thank you, gentlemen.

SENATOR MUSTO: I want to thank you for your fine presentation and for your taking the time to come here before us today.

Senator Coffee?

SENATOR COFFEE: Dr. Renz, I think you have noticed that we are making an obvious attempt, and what we are offering the counties, to have a strong administrative head of government on the county level and getting into a legislative branch of county government will be somewhat new in New Jersey. Now I have noted in the press in your new forms of county government in New York State, particularly Nassau, Suffolk and Westchester, that you have had some interesting developments with your legislative branch, on apportionment, one-man one-vote-rule, etc. Could you just comment briefly on what pitfalls we should look out for as we move into what will be a new area in that we are going to have much more legislative activity on the county level, hopefully, after these bills are passed?

DR. RENZ: Quite frankly, I should only comment as far as Nassau County is concerned. We have had a distinction between an administrative and legislative branch since 1938.

I think the need in urban counties for a strong administrator should be the idea that should be paramount. A strong executive needs the power to both appoint county department heads and to form a legislative program. As far as I'm concerned, the recent developments in terms of one-man one-vote almost anywhere but particularly there would not significantly affect, say, the present state of the legislative branch, particularly as far as Nassau County is concerned. What they do for the most part, even when you have a divided political break as we do here in Nassau with a Democrat being the county executive and a Republican-controlled legislative

branch, the executive is the one that presents the legislative program. For the most part, the legislators merely reject or merely concur in these legislative proposals.

I don't think this one-man, one-vote will significantly affect the on-going county government that we have specifically in Nassau.

SENATOR COFFEE: Do you feel that it is better to have the legislative branch elected from a combination of districts and at-large or some other combination?

DR. RENZ: I think what we are going to end up with in Nassau is, as they have just had in Suffolk, by district. I think that is far better than the present system where you have heads of town government acting as legislators here in the county. Towns have their own particular role to play; they have their own particular biases. I think in effect when you have the heads of town government acting as legislators you have a weak legislature. If you have them elected from districts, they can represent the particular needs of that district rather than thinking of a balance of power or trying to maintain what they feel should be a balance of power between town government and county government.

SENATOR COFFEE: To your knowledge, are there any counties in New York State that elect any of their legislative members to county government at large, countywide?

DR. RENZ: Not as far as I know. It might very well be the case but I am not sure.

SENATOR MUSTO: Is Civil Service administered at the county level?

DR. RENZ: Yes, Civil Service is administered at the county level. I think the idea of having - well, a local Department of Civil Service is far better when you have pressing urban needs. We find, at least from any studies that I have ever seen conducted, when it is administered strictly from the State level, you have a sense of inertia; you have pressing problems, you need people, you need these jobs to be filled, and usually it's like yesterday - almost immediately - and when you go to the State it takes more time on the county level. When you have a County Department of Civil Service, you usually can get things done, I find, in half the time than you can when you have it on a State basis, a State-run basis.

MR. PANE: Dr. Renz, I gathered from your statement that you might be more inclined to adopting a stronger position in our draft in terms of autonomous agencies rather than having what in essence is a local option for abolition or consolidation of these agencies which we propose, that you would be more inclined toward almost a mandatory approach for abolition. Is that so?

DR. RENZ: I think quite frankly that one of the directions which your Commission should emphasize, as I said in my testimony, should be the consolidation. We all recognize we have a political system but I think you will find, particularly in New York, that with property taxes having gone through the roof, if you can have some sort of a force, particularly on a State Commission like this, emphasizing that functionally your interrelated activities should be consolidated, you are certainly going to cut costs, I would say. I know you could

cut costs in certain areas in certain counties in New York by ten to twenty per cent, and you find that they aren't inter-related; you find certainly that jobs are created when jobs are not needed. I think if anything should be emphasized on a county basis, it should be this functional consolidation. This certainly leads to cheaper local government. Politically it might not be too desirable but certainly administratively it is.

MR. SCHNEIDER: I would like to comment, perhaps responding somewhat to your last point. We are going to look into the functional areas. It is part of our on-going Commission's program. We were reluctant at this point to recommend the consolidation of certain functions into departments of county government until we looked at the individual functions to see where they should be lodged as between the various levels of government. It is conceivable that the State should take upon itself certain functions that are now performed by the county or by municipalities. Therefore, at this point we deferred the decision on this matter.

DR. RENZ: I can understand it is a matter of strategy and time.

SENATOR MUSTO: It has gone on for a long time.

Doctor, on behalf of the Commission, I thank you.

DR. RENZ: You are entirely welcome and it was nice to appear here. Thank you.

MR. SCHNEIDER: Our next speaker is Mr. Jules Marron, Planning Director of Sussex County. Mr. Marron is here today representing the New Jersey Federation of Planning Officials.

J U L E S M A R R O N: Mr. Chairman, Senator Musto, and Senator Coffee, and members of the New Jersey County and Municipal Study Commission, my name is Jules W. Marron, Sr., President of the New Jersey Federation of Planning Officials.

It is the considered opinion of the New Jersey Federation of Planning Officials that the proposed draft of the Optional County Charter Law that permits people in the counties of New Jersey to select a form of county government most suited to their needs presently and for the future deserves support of all concerned, making our counties more efficient and effective, thereby enabling county planning and implementation necessary as a regional task, for which it was originally conceived.

The New Jersey Federation of Planning Officials supports the principles of administrative choice and the recommendations of this Government Study Commission. This study and its recommendations by your Commission carries proof that many services performed by county government in New Jersey are important to the proper functions - administrative, planning, and development of our county. It carries a needed intelligent approach to strengthening and revitalizing this form of representative government without the constant fear by some as a threat to home rule, but rather as a catalyst that unites to provide the ever-increasing services required today and the many more tomorrow as our problems become more complex and expensive to local government.

Those of us who had the opportunity of years of experience in state, county and municipal government fully understand that the term problems in government in the early 20's cannot be compared with the problems of a rapidly increasing population of today and the challenges we must prepare for tomorrow. County government can best prepare for these challenges for they are regional in scope and the county government can provide guidance for proper development that can be more economic and provide a better environment to be left in pride for future generations to enjoy and their communities. Municipalities should take advantage of the expertise on the county level by voluntarily requesting assistance in all planning and implementation of programs. Such further coordination will strengthen the objectives at both levels.

Counties have recognized that if reasonable objectives are to be achieved then regional planning and framework must be adhered to as best possible. Counties cannot operate their programs successfully in a vacuum. Knowing this, they are striving for maximum coordination on a voluntary and mutual basis.

The counties in most part make a determined effort to dispel parochial thinking and action on parts of individual municipalities competing for economic growth. The county knows best that it can ill afford to be subjected to the heavy cost both of growing pains and urban decay. A county can show, through its educational programs, how municipalities and they

share tax bases and how a whole area benefits from wisely planned regional groups, how the total environment in all of its phases, working in concert with the natural resources of the county, can best be managed by a strong county government.

Mr. Chairman, you and the distinguished members of your Commission and the staff, are commended for devoting the many hours necessary in the preparation of this document or county government bible that should become part of the laws of our State of New Jersey that will in time enable county government to really function in the law as it should.

I want to thank you for this opportunity to voice the opinion of the New Jersey Federation of Planning Officials, a State group, who realize that planning of today makes tomorrow possible.

SENATOR MUSTO: Thank you very, very much for being here and your fine presentation.

Senator Coffee, do you have any questions?

SENATOR COFFEE: Departing for a moment from your role as a spokesman for the New Jersey Federation of Planning Officials and referring to the second hat which you wear, which is as Planning Director of one of our more rural counties, do you feel and the governmental officials in your part of the State feel the same as our urban counties and wish and desire that there just has to be a modernization of county government to meet your areawide and development problems that you are now facing and will be facing up to in the next ten or twenty years?

MR. MARRON: Yes, I'm certain of that, Senator. Just for example, I was jotting down momentarily this morning that just in the past two weeks, for example, for a rural county, its municipalities and the various programs: The Open Space Meeting at Rutgers just a few days ago, the State Pesticide Council, the Underground Wiring public hearing that I attended yesterday on behalf of the county; last week, on Tuesday, the State Transportation Department on Route 208 which involves many counties; the Solid Waste Conference we held recently in our area; the recent Narcotic Conference, again not just localized in our rural county; and Friday evening our Lake Hopatcong Regional Planning Board, its sewerage system study; the State Clean Water Council met recently in Hackettstown - just part of what happened in the last two weeks where a rural county is involved that is interested in knowing what could happen and is planning for its future.

Certainly, sir, they are going to see that that type of government is necessary in a rural area.

SENATOR COFFEE: As you view the four alternate proposals that any county may select as their form of government, if and when the legislation is passed, is there one or would there be more than one of those four alternatives that would and could be adaptable to a county like Sussex?

MR. MARRON: I think the one, sir, is the - after listening to some of the remarks - when we get the five counties together - Passaic, Morris, Sussex, Warren and Hunterdon - our problems are similar, particularly the three counties of Hunterdon,

Warren and Sussex, and listen to some of their comments after some of the meetings we have attended of your Commission, sir, I believe that the one they are thinking about is the one of the strong Freeholders and the selected executive for their Board.

MR. PANE: Just one question, Mr. Marron. Do you believe that having a regional conference of Mayors or a County Council of Mayors would foster better inter-local cooperation and better planning of services and facilities?

MR. MARRON: Oh, I'm sure they would. Any time we can, we tie up our Federation with our education programs. In bringing them together and bringing out the officials instead of just the lay people of the various committees, it is most important to know that we cannot delay action but move as quickly as we possibly can in these times. Yes, I do.

SENATOR MUSTO: Again, Jules, thank you.

MR. MARRON: It is my pleasure, sir.

MR. SCHNEIDER: Our next witness, Professor Jameson W. Doig, of the Woodrow Wilson School of Public and International Affairs at Princeton University, is an authority on metropolitan problems and the author of several important works in the field, including his well-known study of transportation problems in the metropolitan New York area. Professor Doig.

J A M E S O N W. D O I G: Thank you, Mr. Schneider and Mr. Chairman. I am glad to have the opportunity to comment at least briefly on the draft of the Optional County Charter Law, particularly since it relates to one of my continuing research concerns; that is, the ways in which local and state governments

respond to demands for increased public services from what seem to be ever-expanding urban populations. Let me comment on these problems in a general way before turning to the report of the Commission and the draft law directly.

During the past forty years, it has become increasingly clear that many of these problems - transportation, parks and recreation - could not readily be met by separate cities and towns and that some kind of broader governmental institution was needed.

In the academic literature, especially in my field of Political Science, much attention was given, of course, to the possibility of creating new regional governments of government called generally "metropolitan governments," which would consolidate responsibility for recreation, for housing, and other functions across the wide range of part of a metropolitan region. By and large, of course, these efforts led to failure, so few such metropolitan governments were established and none in this country within the last forty years except on a single county basis. Nashville and Miami are, of course, the most familiar metropolitan counties. And the reason for this and, of course, there are a number of them varying from area to area, but one of the main reasons is the reluctance of the public officials and the people in various urban regions to accept any radical shift in power from the existing governments to a new untried general purpose government.

Personally, I can sympathize with this view and in urban areas as complex as we have in New Jersey, metropolitan government on any broad scale it is not clear would be beneficial

anyway because the number of counties involved, the range of territory with metropolitan interrelationships, is so great that you would in effect have to establish a new State. However, the decisions not to create metropolitan governments around the country have left many States, including New Jersey, in a position that is hardly desirable. As specific functional problems have become too complex for individual towns, increasing control has often been ceded to the State or, in general even less desirable, control over various functional problems has been carved up and given to independent commissions or to authorities established on the model of the Port of New York Authority. Highway Authorities, Metropolitan Sewerage Districts, Metropolitan Park Commissions and Districts in California and Illinois are especially prominent examples of this effort to solve what are no longer problems that can be handled locally by municipalities but by instead creating new but functionally separate governments.

Another alternative has also existed, although not nearly as vitally used as the special district, and that is the use of the county as a source of broader coordination as a general purpose government. In nearby States this has been especially useful, I think, in Westchester County, in Nassau County, and in Suffolk County in New York State. In these three counties, the county government has been able to take important steps in coordinating land use planning, the development of parks and recreation facilities, and other functional areas. These developments, with the close cooperation of local towns and cities, have provided services that the individual towns cannot

handle themselves.

Let me stop just for a moment to discuss one part, one functional area in which I think having a stronger county government than we have in New Jersey has turned out to be beneficial not only to the county as a whole but to individual towns and cities in it, and that is in the area of construction of new highways. As you know, in New Jersey and in a number of other States the usual process in the construction of new highways is for the State Highway Engineers, cooperating with the Federal Bureau of Public Roads, to establish a corridor for a new highway and then slowly and inexorably push the new road through individual cities and towns. The protests from the individual towns are heard but they occur without much coordinated effect and without much success, as the decisions based predominantly on cost of the State Highway Engineers generally are those that are accepted.

In Westchester and a few other counties with strong county governments, the county has been able to take the lead in planning highway routes throughout the county, often thinking and preparing for action ahead, in fact of the State Highway Department. Because the county government is concerned with maintaining the integrity of the individual cities, as well as the environment of the county as a whole, it is concerned with these matters as much as it is with the costs of highways particularly - the result has been a less traumatic impact on the towns and cities of Westchester County in particular than in States where the county lacks the technical skill and the political strength to influence State decisions.

Now what I have said so far is independently from the direct work and reports of the Study Commission that has been working in New Jersey on county problems here. It is based really more on my own direct research and experience. But when one looks at the Commission's reports, they clearly document the problems of an urban society and especially the weaknesses of county government in New Jersey with considerable care. I have found it certainly one of the best analyses of the general problem, not only of county government, but of the general issue of the relationship of State, county, and local government in urban society that I have seen anywhere.

I agree with the general thrust of the Commission's recommendations that a strengthened county government can help improve and strengthen local governments generally and do it on a broader regional basis, and the Commission's view that this can ward off the pressure for the generation of additional independent authorities or rather more complete State control than we have now.

I have also reviewed the proposed draft, parts of it with some care, and there a few places in which I think minor alterations might be made; for example, on pages 2, 3, 4, and 5 there is an extensive discussion of the question of how to establish a Charter Study Commission. The conclusion at that point is that the Board of Freeholders may place the question on the ballot or that a petition signed by five per cent of the voters may do so. Five per cent of the voters, of course, would require 20,000 signatures on a petition in Essex County or 12,000 in Middlesex, and proportionate numbers

in other counties. My own view is that this is a rather high number when the issue at hand is whether or not a study commission or study group will be created to review the adequacy of county government. And, therefore, my inclination would be to favor action for the creation of a study commission, that is, action to put it on the ballot, based on a petition with perhaps 1,000 or 2,000 signatures rather than five per cent.

Generally, though, I think the proposed draft is well developed and carefully worked out. I particularly approve of the encouragement provided on page 5 for independent citizens to run for the Charter Commission, and at the same time the provision for close involvement of the county, municipal and state officials, on pages 8 and 10, is I think also highly desirable. Here I would agree, however, with Dr. Reock in his comments this morning and I would think that it would not be appropriate to require or even make it presumptive that county and state officials could attend all executive sessions. There ought to be some effort probably to spell out a bit more clearly than it is in this draft to indicate that executive sessions of the actual commission can be held without the advisory bodies and groups present.

Regarding Dr. Reock's criticism of the county supervisor plan, I had somewhat the same concern. It does seem to me that one is balancing off the possible advantage of the whole package being more desirable or being more likely to be attractive to the Legislature against the possibility that individual counties may be attracted to a county supervisor plan which really may be its own undoing. I notice here the

report from last March of your Commission in which you note on page 120 that where the Freeholder Board is politically split, the administrator may be ineffective, and perhaps an even more serious criticism of the county supervisor plan Number 3 - that this plan may itself build in supervisor-board conflict, especially if their constituencies differ.

It seems to me that these difficulties are extremely significant and, although I am not prepared at the moment I think you should drop the four plans to three; my own inclination at this point, if I had to make a decision, would be probably the losses obtained from including this plan as one of the four options are greater than the benefits.

Senator Coffee raised the question a moment ago regarding the advantages or desirability of selection from the district or from at-large. I think there are some advantages to a variety of different forms. In brief, my feeling is that it is useful to have at least some of the members of the board at-large, especially if you have an elected executive at-large. This helps build in among the constituency, among the people of the county, some concern for the county as an entity and for the future of the county as a whole. The more you divide this down into districts, the less that concern develops. At the same time it is clear that in some counties, and Mercer County might well be an example, you will have a dominant city and a large area of the county which is much more rural or suburban and it may well be appropriate, therefore, to have at least some representation from districts in such counties.

Finally, I would draw attention, in terms of emphasizing and commending, to the powers on pages 20 to 22 which counties would have to perform services for municipalities under contract. This use of contracts may well increase the economic efficiency of local services, something all citizens and certainly all officeholders find desirable, and it may in fact go beyond the pure question of economic efficiency and encourage counties and their included towns to experiment with new approaches to providing certain services.

I think I will stop at this point. I will be glad to amplify any of these comments or respond to any questions that you may have.

SENATOR MUSTO: Thank you.

Are there any questions?

MR. PANE: Mr. Doig, one area which you didn't touch on is the area of referendum, initiative, and recall. Do you believe that these are really necessary prerequisites to participatory democracy in our urban counties today?

MR. DOIG: Generally I am not an enthusiastic proponent of referendum and recall. I think the history of their use, and this is particularly true in California where they are more widely established, suggests that they do not increase the degree of responsibility and affirmative leadership on the part of the executive; they do encourage small groups to generate hostility and to attempt to disrupt government. That would be my general position. I would have to

consider the question in the context of the particular county issue more closely before responding further.

MR. SCHNEIDER: In terms of metropolitan problems, do you find the county a suitable building block, as it were, for intergovernmental cooperation on metropolitan area-wide problems?

MR. DOIG: That's a very difficult question, particularly in the context of a region which has between 21 and 26 or even 31 counties, depending on how widely we embrace, let's say, the New York region and then the Philadelphia area has a large number of counties as well, and in addition has the Atlantic County urban region.

It seems to me that, given the political realities, that is, the great difficulty in establishing and developing any kind of firm political and administrative leadership on any other basis, the counties are more desirable than not having the counties as such a basis. There is the great advantage that occurs in New York State where you have, for example, around New York City, Nassau County, Suffolk and Westchester, each of them extremely large in area, geographic area, and also extremely large in terms of the total area of New York State around New York City concerned with the New York urban region. The fact that in New Jersey our counties tend to be somewhat smaller geographically means that they will have some difficulties. My inclination would be to go to the counties to use them and probably to expect on a voluntary basis for additional cooperation to develop among these counties, between Essex and Union, for example, providing bi-county cooperation. In fact

such an approach is taking place now in Long Island where Nassau and Suffolk Counties, which compose the entire length of the island, have combined in terms of a joint planning board and do cooperate across county lines. So in this case the county turns out to be a far broader building block than the municipalities and turns out to have the ability in turn to bridge across county lines and to provide multi-county cooperative leadership.

MR. SCHNEIDER: Another question. Several counties have moved to establish county authorities for various functions such as solid waste disposal, bus and mass transit, etc. Do you find that where these are county authorities that there is sufficient control by the elected leadership of the county over the operation of such authority?

MR. DOIG: First, to answer that question in general is difficult because the power of the authorities and the power of the counties over them differ greatly. You might begin optimistically by saying the stronger the executive leadership of the county the more likely it is that they can influence the activities of the authority included within it, but if we look at some of the strongest county executives, those of Nassau and Suffolk Counties, and we look at their relationship with William Ronan's Metropolitan Transportation Authority, which happens to be an area of my particular interest, we find in fact there is very little ability to control and not a great deal of responsiveness at times by that authority. So I think again every official, whether elected or appointed, desires maximum discretion in carrying

out his responsibility. If you put him in charge of an authority and you provide some traditional basis for him to attempt to maintain independence and think only in terms of the narrow functional area he is concerned with, whether its transportation or sewage disposal, one is likely to get a lack of clear responsiveness and a lack of real coordination across different functional areas; even a very strong executive of the kind that you have under an elected county executive plan cannot very well overcome that or at least will not be able to develop the time and political resources necessary to really pull together those separate functional areas.

MR. SCHNEIDER: Thank you.

SENATOR MUSTO: I have a couple of easy ones. How do you feel about Civil Service? Do you think it should be administered at the county level?

MR. DOIG: Civil Service? I like the idea of the county being able to provide different ways and approaches to Civil Service because it does provide the basis for some experimentation. The only area I have looked at Civil Service really closely is in the area of police and there I think the State law provides as much a straitjacket as it does a protection, so if one had some greater flexibility in which the counties could operate under a general state arrangement but tried different approaches in terms of tenure and levels it would be, to my mind, more desirable than what I see in a statewide arrangement.

SENATOR MUSTO: And the salaries of the Freeholders at the regular county level or the State level?

MR. DOIG: The salaries of the Freeholders, I would be inclined to leave to the county level. With some reluctance but with the feeling that as long as the Freeholders' salaries are known to his constituents, he ought to stand the fire, and I guess this is probably my bias in favor of the home rule approach.

SENATOR COFFEE: As you look at government in the State of New Jersey, state government, county government and municipal government, have you analyzed the situation? Do you feel as some of the Commission do feel that we have now a hodge-podge system and, after we get the county structure straightened out, the next priority step must be how we allocate the governmental services that we now perform, on which level they should be performed, on which level they should be paid for, etc.? Can you comment on that?

MR. DOIG: Yes, I would like to, Senator Coffee. It is true you are dealing with two interrelated issues and the problem which I know has concerned your Commission from the beginning is where do we start or which cut do we take first. One of those issues is structure and powers at the very structural levels and the other is functions, who will handle which functions. I think you have approached it the right way. I would rather start by strengthening the county government so one can give powers to it if it seems desirable and finds that there is a government there to receive them. At the moment it would be difficult to do that.

I think I would agree also that it's a study of which functions ought to be handled at which levels. My only reservation is that the studies I have seen of this kind often tend to take an all-or-none approach; that is, either functions will be handled completely at the local level or completely at the county level or completely at the State level. In fact almost all functions are multiple in the responsibilities that one could have and it may well be that cooperative efforts among several levels of government is in fact desirable, not only politically but also rationally, and it is in the highway situation it is not clear to me, for example, that it would be desirable to decide at which level the interstate highway program ought to be planned and carried out. Clearly, if one had to choose one level, it would have to be the federal government because it is interstate. But interstate highways also have substantial interstate impact and, therefore, the State government ought to have the substantial role. My own feeling is that the county government ought to have the greater role with regard to interstate highways than they do now.

Now highways are difficult functions to decide between different levels, probably sewage disposal - it is easier in that area, I would guess, to decide that we can or cannot allocate it to one particular level, but I think in general my feeling is that a cooperative approach among two or three different levels - and this would be true in highways, it would be true in education, it would be true in parks and recreation - is going to be what one ends up with rather than a formula for

substantial severance of any one level of responsibility.

SENATOR MUSTO: Somewhere in between, but you only think.

MR. DIOG: If you can find that level my guess is it will be a close and hard study of particular functional areas and then once you have decided how it should be rationally then you'll take a look at the political aspects of it and it will be very difficult to move it even in that direction.

SENATOR MUSTO: Thank you very much.

MR. SCHNEIDER: At this time I would like to call Mr. John Gibbons. Mr. Gibbons, a partner in the Newark firm of Crummy, Gibbons and O'Neill, is a past president of the New Jersey State Bar Association and he served as a member of the Governor's Select Commission on civil disorders. He has been an eloquent advocate of improving local government and we are happy to have him with us today. Mr. Gibbons.

J O H N J. G I B B O N S: Members of the Commission, I should make it clear first that I am not speaking on behalf of anyone except myself. I suppose that I was invited to testify before the Commission because I have been from time to time over the past five or six years a fairly outspoken opponent of home rule. I have felt and have said on numerous occasions that the combination in New Jersey of the delegation to some 1200 separate municipal or quasi-municipal agencies of the financing and the delivery of services, while at the same time delegating to some 567 local municipalities control over land use, has produced a state of fiscal and social crisis in this State.

Now the optional county charter law as proposed for discussion it seems to me will do very little to alleviate this crisis. The heart of the law, if I read it correctly, is in Article 2 which deals with the powers of county government and those powers are extremely circumscribed. True, county governments are given authority in the legislative field but that is most limited and counties can adopt and enforce ordinances and resolutions within the limitations expressed in this article, and the limitations really are the limitations of existing or future state legislation. Moreover, Section 2.5 of that Article "Nothing in this act shall be construed to impair or diminish or infringe upon the powers and duties of the municipalities and other units of government under the general law of this State," it seems to me is probably the heart of the bill. This is a rather clear preservation of home rule with all its evils.

Now I refer back to the 1950's at a time when another study group came up with what was going to be the panacea for New Jersey's governmental fiscal ills; namely, the Faulkner Act. We had high hopes in the 50's that by improving the structure and quality of local government, we would more efficiently deliver services at a reasonable cost. Certainly with the benefit of hindsight, we can look back now and say whatever hope was held out for the Faulkner Act at that time has not been realized.

The ability of New Jersey municipalities, particularly older municipalities such as Newark and Paterson to deliver services and to make urban life tolerable for residents of

those places has steadily deteriorated. Newark and Hoboken, for example, were one of the early communities that turned to the Faulkner Act as a panacea.

It seems to me that that act, and perhaps this one too, represent a somewhat nostalgic approach to local government and that both that act and this proposed act fail to take into account the needs of the State that have been produced by technological change and by population increase.

Fundamentally the State relies for most of its revenue on real estate taxation. At the same time, it has designated land use control to local municipalities. The effect of this pattern, which is fundamental to the way we live in New Jersey, has been to create a series of tax havens which have drained off commercial and industrial ratables from the older cities and which at the same time, by land use patterns and such devices as two acres as the minimum zoning and square-foot housing requirements and the like, has discouraged population density in the suburbs. This has happened when the suburban way of life has, because of technological change, become the main stream of American life. The old cities such as Newark were built in the years of the industrial revolution as clusters of homes and factories where people relied essentially on public transportation if they didn't walk. These places are functionally obsolete in the automobile age. They can never be brought back by changes in the structure of local government.

To some extent the same thing is true of the older counties, many of which are just collections of functionally

obsolete older cities.

Now those places would not be so badly off if it weren't for the fact that, as the commercial and industrial ratables were pulled out of the tax havens, these older cities were left with a declining revenue base and with the poor people who have always occupied the semi-obsolete housing stock remaining in the older places. It seems to me that the essential problem that this or any other Commission trying to improve the quality of life in New Jersey must concern itself with is the relationship between government and revenue, and it seems to me that the fundamental failure of government in New Jersey has been its inability or unwillingness to solve the equalization problem.

Now the Optional County Charter Law is all right as far as it goes, in that any improvement of the structure of government is probably all to the good, but I see this danger and it is the same danger that I see in the proposed revision of the Zoning and Planning Act, Senate Bill 803, and that is that reforms to the structure of local government and tinkering with the machinery of local government will be regarded as a panacea and will allow the Legislature to avoid and shirk facing up to the fundamental problem which is that the distribution of revenue in the State under our tax structure is fundamentally unfair and unsound. It seems to me that the Faulkner Act decidedly had that effect that Senate Bill 803 on improvements in the machinery for local planning and zoning will have and that this County Optional Charter Act may well have a similar effect.

The problem with all of this tinkering is that there is no incentive to improvement. This bill, for instance, gives the county the power to contract with municipalities for the delivery of services on a regional basis. What incentive is there for Newark and Millburn, let us say, to enter into a contract with Essex County for the delivery of common services? If Millburn is getting its garbage picked up for two dollars a year less per capita than Newark, Millburn will not enter into any contract. The fundamental difficulty with the regionalization on a voluntary basis, which is really what you are proposing in this bill, is that there is a built-in tax incentive in this State against it. The tax haven municipalities will have nothing to do with it and, as a matter of fact, from the point of view of good government in those municipalities probably shouldn't.

One tremendous effect that the first report of this Commission had was to create at the time, shortly following the Lilly Commission Report, a climate of opinion in which the Governor was able to prevail upon the Legislature to have the State take a greater responsibility for the welfare burden. This, it seems to me, was a tremendous step forward in local government in New Jersey but now, if you look at government over-all and what services are the most costly and what governmental costs are encouraging the zoning and planning barriers which have been erected against poor people, the next obvious place is education. This is to the extent of at least 70 per cent the biggest cost of local government and it is here where there lies the greatest inequality. The

quality of education between one municipality and another in this State is terribly disparative. There is no equality of education between the older schools in a core city and the newer schools in the wealthy suburbs. That inequality is building up a tremendous future capital cost for this State because the social problems with which we will have to cope in the future - insane asylums and in jails - are being produced in these core cities' schools. The State, just from the point of view of sound fiscal planning, cannot keep on postponing the day when the State assumes the burden of equalization of revenue for educational purposes, because all we are doing is imposing on our children the cost of housing the alienated products of inferior education either in insane asylums or in jails.

It seems to me that any Commission concerned with the delivery of governmental services has got first to consider equalization of revenue, and for that reason I would not like to see the Optional County Charter bill presented to the Legislature so that the Legislature can use it as an excuse.

Thank you.

SENATOR MUSTO: Thank you very much, John, for your presentation, only that's a point of argument. I presume you have read both of our reports.

MR. GIBBONS: And most of what I said is in them.

SENATOR MUSTO: I am under the impression that we really agree, only we are not saying the same thing. We tried to point out in our report -

MR. GIBBONS: And, as I said, your Commission was what made possible the welfare -

SENATOR MUSTO: Well, in our Optional Charter Study recommendations, we recommended very strongly that the State adopt the financing of welfare expenses, traditional costs. I can't speak for all of the Commission but with the encouragement of this Commission in the educational area, I have individual bills in saying the State should take over the financing of education. I think it is related. I think the things you have pointed out here today are very related. I agree with you that the Faulkner Act alone accomplished nothing at all, but this Commission has tried to avoid and benefit from experience - we haven't recommended anything in the way of change, particularly the change in our county structure at the moment, in the County Charter Study Law without recommending along with it for adoption by the Legislature, or at least for their consideration, other changes that hit very hard, and I hope that we will hit harder in the future as to the inequality that exists as far as taxation is concerned. I agree with you 100 per cent on that, and that is why we solicit your support of these charter bills here.

MR. SCHNEIDER: I would like to expand a bit on your remarks, Senator. First of all, there have been two Commissions that have looked into this matter of education in the State - the so-called Bateman Commission and, of course, Dr. Mancuso on the reorganization of school districts. Since the publication of their reports, there is also the somewhat controversial proposal by the Governor of Michigan

to put education on a statewide basis and supported by a statewide property tax. The Commission is now looking at the impact of federal and state aid on New Jersey municipalities. And when you say that, of course, you are talking about the 70 per cent of their budget that goes into education. We will certainly address ourselves to it. What I don't quite understand is if you are saying that we should postpone consideration of other changes in the structure and in the function of local government until we have addressed ourselves to this admittedly very important ~~perhaps~~ first priority area.

MR. GIBBONS: Yes, that is my feeling exactly. I really believe that tinkering with the form of local government has in this State historically been a way of postponing facing up to the growing social crisis which is engulfing us and which has its heart in an inequitable revenue system. I think, for example, there is a zoning and planning crisis in this State and that nothing can be done about it so long as the revenue structure builds-in the incentive to fight for home rule in zoning and planning.

SENATOR MUSTO: That is one of the reasons, John, this Commission would not take a stand on Senate 803 at all. Personally I was against it. The Commission as a whole would take no position either because we feel as you feel there but I don't relate the suggested change in the county charters with waiting until we do something about the others. I think they are all related and we have to move together with it. I wouldn't want to hold up solving the garbage crisis in Hudson County. Now I am without any land to dump in Union City where

I am Mayor. I wouldn't want to hold that up because of the fact we don't want to tinker with the county structure.

MR. GIBBONS: How is this going to accomplish any improvement? Waste removal is a good example. Waste removal is not a Hudson County problem -

SENATOR MUSTO: It's a national problem.

MR. GIBBONS: It's a national problem but it is becoming just as acute in Short Hills as in Union City. It will be in a very few years just as acute in Morris County as in Hudson.

SENATOR MUSTO: Well, I was thinking about Union City because it is more acute there than it is in Short Hills. We are surrounded.

MR. GIBBONS: If you don't build in some sort of financial incentive to a regional approach, there isn't going to be any regional approach. After all, there has been a garbage crisis in northern New Jersey for 40 years at least, and if the mound of garbage on Doremus Avenue in Newark doesn't stop building, it will soon interfere with flights out of Newark Airport.

SENATOR MUSTO: You are saying there is no way of -

MR. GIBBONS: There is no incentive for Newark and Kearny to get together.

SENATOR MUSTO: Well there might not be an incentive at the moment for Newark and Kearny to get together but there is certainly an incentive for other communities to get together. You happen to pick a wealthy community with a poor community. Well, certainly I agree with you. That shouldn't be. I don't

think there is any difference in a youngster in Kearny getting a free public school education than in the City of Newark. It should be the same. There is only one way to accomplish that and that is by legislative action of the State level, but I don't relate that with the change in a county structure, which is only one of the many, many things being considered by this Commission. I don't mind your objecting to it; I just don't relate it to thinking it is going to create a financial panacea. The only thing it is going to do at the moment is in a very difficult State that believes so strongly in home rule - and I don't need to tell you the difficulties of even getting a change in county government; county government is traditional in this State; I don't need to tell you about the 567 municipalities we have and their provincialism, and perhaps rightfully so from their point of view - but what we are trying to encourage here in this Commission is a middle road that they all can follow. It is not going to be what you want or I want or any one individual wants. We have to find a road we can all get to and we are going to have to go there probably a little bit differently. Kearny's approach I believe is a little bit different from Newark's. You've got a wealthy community and you've got a poor community. I read in the paper the other day where Bayonne will get another ratable of about two hundred and eighty some thousand dollars because they are going to build another generating plan there or something like that. I am not angry at Mayor Fitzpatrick or other people of Bayonne; I love them all, but that's no way to run a home. That's no way to run

a home at all or running a State properly. There is no easy answer to it. We still have to follow a democratic process. What this Commission is attempting to come up with, and we hope we are successful, is finding that middle road where every kid in this State or in this country - maybe we can participate in helping there - but at the moment in this State - can get a good education, and if they are entitled to welfare they can get welfare no matter where they live; if you have a sewage problem or a garbage problem it is taken care of; it shouldn't matter whether you live in Cape May or Bergen County. This is our approach. We must do something with county government. We must do something with local government. That would be either city or county. We must do something with them; we have to start somewhere.

This Commission, after very, very deep study - and a tremendous job has been done, particularly by our staff - has come up with a beginning, I believe. A beginning has to start either at the city level or the county level. We will follow the road at the county level at the moment and we are hoping to make it a middle government, so to speak, to get something out of county government. Of course, today I don't think anyone can defend the role of county government. It really has no role. We want to give it a role. We think it can find a place. That's what we are attempting to do. If you don't give it a structure, you can't even begin. We have tried not only to give it a structure but the tools to work with, and the tools we hope to give it is the financing you talk about - some sort of equalization as far as the financing goes, and we are recommending bills to the Legislature that

we hope they will adopt so that, in addition to the structure, they will get some money to work with. And if the State goes along, there will be a place for county government; there will be a place for city government; in other words, we hope to strengthen home rule by the road we are taking now. Maybe we're going in the wrong direction. I hope not.

MR. GIBBONS: I think my difference with the Commission's approach is a matter of priorities. Undoubtedly it is important to strengthen the structure both of county government and of those municipal governments which eventually survive. But the trouble is that the discussion up to now in this State has been on the level that the problem is in the structure of government. That's not the problem at all. The biggest genius in the world could not make Newark work with the most ideal governmental structure, because the services that have to be delivered to four hundred thousand people living in that place, in a place that does not generate enough economic activity to provide those services - that's just impossible. That's got to be done by a State equalization of revenue and, as a matter of priority, I don't think that any change in structure is going to lead to any improvement until that problem is faced.

SENATOR MUSTO: But haven't we taken the priority that you suggested. We have been going in that direction.

MR. GIBBONS: In one area -

SENATOR MUSTO: In one area - I think they are moving pretty quick. They didn't do anything for 40 years.

MR. GIBBONS: What I am suggesting, Senator, is that with this great success, the first breakthrough that I can recall toward State equalization - you shouldn't lose the momentum and get the Legislature bogged down in things like the Optional County Charter Law and things like Senate Bill 803. The fight ought to be continued on the front where it will do some good.

SENATOR MUSTO: I'm still trying to get a beam with you. I'm with you all the way but I don't see why the introduction of this bill or pushing this bill, which is not first on my list at all. What we are doing here, John, is affording the public and hoping people like yourself will come in and discuss it with us like you're doing, but we don't want to lose our momentum. We are not so busy that we can't do all we are doing. There is no reason why we can't have the State or federal government take over welfare, the state or federal government in its particular function, let's have the State take over the financing of the judicial course - there's no reason we can't continue on all these courses and still do this, and still try to find out how we are going to raise money too. I mean, these are all things that go together.

I would feel remiss, myself, and I think I speak for all the Commission, if we only approached this from a point of money. I don't think that money alone is going to solve the problems of Newark. I don't think money alone is going to solve the problems of even my city where I'm Mayor. I'd love to have it. I won't chase it away. But, by the same

token, money alone won't give us what we really want. We want that money spent properly. We want it utilized properly. We want to take every advantage we possibly can take and, if it isn't this law that is going to give the county a better structure, maybe it's another law, but I wouldn't want to stop the consideration of this, because I think we are going to make progress. We have only begun to touch the surface of the problem here. We are going into the municipalities, we hope, next. We received a request - it didn't pass in the Senate, for example - that this Commission look into the consolidation of municipalities in certain areas and things of that nature. We are only beginning. I hope before I pass away that I will see less than five hundred and sixty some municipalities. I don't think we need them all now, but we still have to remember we live in a kind of country it's just wonderful to live in. I don't know of a better system you can have, and until we can find a better one we have to suffer along the way we do to get the job done. If we get a benevolent dictator once in a while, maybe you and I would get all these things we want done overnight. But this doesn't happen that way, and I hope we can change your mind not to support the bills themselves - maybe you have other bills you could offer - but I think we must go ahead with improving our structure. I think it's related to the functions we hope to assign or re-assign, and I think it's relating to financing. We firmly believe they all go together. We hope the Legislature feels that way. We don't think any one part of this belongs all

by itself. I know I feel they are all somewhat related and I would hope that you would feel that way too.

MR. GIBBONS: Well, I have taken up the Commission's time. One parting remark: The Legislature is suburban under the one-man, one-vote rule, and if you give them the opportunity to tinker with the structure of local government instead of getting down to the fundamentals, they are going to take it. And that is what they will do instead of facing up to the fact that they are getting a better deal than their poorer neighbors in the older cities.

SENATOR MUSTO: Do I understand you to say that the Legislature is going to accept this quickly?

MR. GIBBONS: I think that rather than accept a broad-based tax, they would.

SENATOR MUSTO: John, we've got to go into this a little bit deeper.

Thank you very much for appearing here and giving us your views.

MR. SCHNEIDER: The next person to appear will be Mr. Guy Millard, County Administrator of Somerset County. Having entered county government three years ago after serving in private industry, Mr. Millard brought to county government and to this hearing a fresh viewpoint gained in his time as one of our five county administrators.

Mr. Millard.

G U Y E. M I L L A R D: Thank you, gentlemen.

I appreciate the opportunity to appear before you today to add my voice to those who believe, first, that the time has arrived for a substantial legal, fiscal and administrative change in county government in New Jersey, and second, that this Commission is to be commended for the excellent quality of its work toward that end.

There is a relationship between what your Commission is attempting to accomplish and what Somerset County has been striving for. Three years ago, as you have indicated, the Somerset County Board of Freeholders decided to modernize the approach to county government and to establish, insofar as possible within existing county structure, businesslike methods in county administration.

As a result, even prior to the permissive state legislation, the Somerset Board created the position of County Administrator by resolution. The Freeholders recognized then the need for the centralized administration which is at the core of your report. Today five counties in New Jersey have county administrators carrying out the policies developed by their respective Boards of Freeholders, thus pointing the way

toward more centralized county administration.

As a businessman, I have been taught to believe that authority and responsibility are two sides of the same coin. Authority can, and should be, delegated with the person or organization receiving that authority being responsible for it to the delegating body.

As a citizen, I have come to the firm belief that authority should rest in the hands of those who are directly responsive to the citizens of the community. In New Jersey, at the county level, this is the elected Board of Chosen Freeholders.

Yet today County Government is an archaic hodge podge of boards, commissions and bodies, created by different legislation, appointed by the Freeholders or by the County Judges or by the Governor. In some cases these bodies seem to be responsible to the Board of Freeholders. In other cases they are responsible to another special body made up partly of Freeholders, in other cases to the judges, or the governor, or to the College of Agriculture or to various administrative offices of the State.

Freeholders spend many hours with many meetings each week trying to cope with the growing problems of their counties. Some of these meetings are most disappointing and frustrating exercises because of the inability to come directly to grips with these problems--because of the Freeholders' inability to determine overall policy for so much of county government. We are fortunate in Somerset. There's a good relationship between the Board of Freeholders and these autonomous and semi-autonomous bodies. So the system works passibly. But because we've been fortunate enough to be able to avoid some of the problems present elsewhere doesn't mean that the structure is sound.

The people have every right to look to their elected representatives-- their Freeholders--for answers in every area of county government, but they cannot. The people do not understand county government and little wonder-- even those who are part of it cannot fully understand it.

Let me give you an example which we all know is repeated again and again across the state. Late one evening, I received a telephone call from a 6th grader with this question. "Mr. Millard, what is a Freeholder? My daddy said you could tell me." It was obvious that she had asked her parents but they couldn't answer. How many can! Yet it is the Board of Freeholders and its appointees to whom citizens should be able to turn when they have questions about county government.

It is your Commission that has referred to County Government as "invisible government." This is the case, unfortunately. However, it is a curious thing that the parts of county government are not invisible-- but only the whole.

Virtually everyone, for example, knows that we have a Somerset County College, that there is a Somerset County Vocational High School and Technical Institute, a 4-H program, a library, that we have a county park system, that there is a county jail, courts, a Sheriff and a Prosecutor and so on. But how many realize--except dimly--that these, and dozens more, are all part of something called Somerset County Government?

Several years ago, the Research and Policy Committee of the Committee for Economic Development in their booklet "Modernizing Local Government" had this to say,

"The nation's courthouses and city halls have often seemed to lack the vision and dedication--as well as the financial resources-- to diagnose conditions, devise solutions, and make vigorous response.

New functions needed to meet new situations are neglected by most local units, and old functions are conducted without benefit of new techniques. By default, initiatives have commonly been left to more resourceful federal forces. Cast in an archaic mold, unable to cope with new issues, many--if not most--local governments are centers of strenuous resistance to change of any kind."

While undoubtedly there is much truth to that statement throughout the nation, and probably even within New Jersey, I am firmly convinced as I talk to Freeholders and to County Administrators from other counties that we are straining to break out of that "archaic mold" created for us by the structure of county government and largely imposed upon us by outmoded state law.

Throughout the state, elected and appointed county officials are attempting to cope with the many problems resulting from the rapid urbanization of our counties. Yet all too often when solutions become apparent, the county is incapable of carrying out the solution. The county is too often impotent in the face of difficult problems.

In Somerset County, with a population today of 200,000, the Board of Freeholders is responsible to one degree or another for over 700 employees and for a budget of almost \$10,000,000. Of this, \$8,000,000 will be raised by local property taxes. The people who pay these taxes have every right to expect that the elected Board of Freeholders can control expenditures. But as your Commission has so forcefully pointed out, their control is limited to only a small portion of the total budget.

Your Commission has recommended that the state assume the costs for two major areas, i.e., the Welfare and Judicial functions. State and Federal regulations have long controlled the former. Recent directives from the Administrative Director of the Courts, the Assignment Judge and decisions by the Supreme Court leave no doubt as to control of the latter.

Obviously if a probation officer is to be named by the Courts, and his salary, benefits and working conditions are to be negotiated by State Court personnel without regard to the County salary structure and benefit policies, it is only a charade to suggest that that probation officer is a county government employee.

This area of employee relations seems to point out clearly that Welfare and Court related functions are not really County functions. Decisions by the Public Employees Relations Commission, the Courts and other state bodies appear to place the responsibility for negotiating with employee representatives of these functions in other than Freeholder hands.

To continue to include these functions in the county budget is in my opinion no longer warranted. There are too many new discretionary functions crying for these financial resources to have them tied up in state-mandated functions. Further, I believe the property tax has virtually reached its limit. Thus unless the state assumes its financial responsibilities in these areas, the counties will be financially unable to meet their newly developing problems and to provide the services to municipalities envisioned in your study.

The County and Municipal Government Study Commission has been studying these problems for several years and has developed solid answers to the structural problems facing county government in New Jersey. The current report with its proposed legislation has clearly suggested avenues of approach which should be beneficial to most--if not all-- of New Jersey's counties.

Your Commission has essentially recommended self-determination for Counties--to give each county the ability to organize itself to meet the peculiar needs of its citizens, to enter into contracts to provide services on a broader basis than now possible, to extend the policy making role and to create a new legislative role for the Board of Freeholders, and to further provide for professional central administration within each county.

In view of the increasingly complex problems the counties face today, to provide any less self-determination would be to keep county government in the same type of straight-jacket it has been in for so many years.

I recognize the need of a changed structure immediately for the large New Jersey counties. I recognize the need of a changed structure shortly for my County to meet our problems--which everyday look more and more like those of the larger urban counties.

Each county, including mine, should be able to find one of the four proposed structures which meets its needs at its particular stage of development and urbanization. Just the overall process of studying and selecting this form of government, and then of studying and reorganizing internal governmental structure should go a long way to assist counties

to meet their problems head-on. The ability to provide legislative answers completes county capability to cope with their problems.

County government today is the highest level of government where a citizen can stand up before his governing body, say what he thinks, really be listened to, be questioned, and frequently to have his problem promptly acted upon. It is most difficult for the citizen to have his voice really heard at the higher levels of government. I am not faulting State and Federal Government , for the inability to listen to one citizen--except in certain cases--is inherent in the size of those governments.

But what I am saying, is that we need a level of government which can truly meet area-wide problems and provide area-wide services, one which is both effective, and just as important, responsive to its citizens. County government should be that level of government. County government must be strengthened so that it can be. The State legislature has the ability to determine whether county government will be that effective and responsive government.

I wish to close by complimenting this Commission and its staff for what I regard as a careful and well thought-out recommendation. I am looking forward to your forthcoming analysis of government function.

SENATOR MUSTO: Mr. Millard, thank you very much. Are there any questions by the Commission? [No response.] Thank you very much, Mr. Millard.

MR. SCHNEIDER: I would like to call next Mr. James Alloway, Director of the Division of Local Finance in the Department of Community affairs. In that capacity, Jim Alloway

deals on a full-time basis with the problems of municipal and county government, and this experience, together with many years as a professional manager in several New Jersey municipalities, enables him to speak over a broad range of topics under discussion here today.

J A M E S A L L O W A Y: Thanks very much, Gene.

I do not have a formal presentation today. I have gone through the proposed draft of the Optional Charter and I have just noted a few comments which I would like to impart to the Commission.

Number one, I listened with interest to the various speakers today and was trying to frame in my own mind the general consensus of the report. I feel very definitely it is a strong step in the right direction. I feel that the contents of the report are good. I reviewed the various optional forms and I think that they are palatable to all sections of the State of New Jersey.

I would like to comment on several factors:

Number one, the innovation of using the Commissioner of the Department of Community Affairs in a Charter Study Commission, I think is very good. I think that either the Commissioner or his representative could attend and would be interested enough to attend any type of caucus sessions which may be made up by any study commission. So I see no problem with respect to that regulation.

I think that there may be some confusion and some concern with respect to the use of the terminology of

"ordinance" and "resolution." I think that this has to be defined. I am quite sure that most county officials aren't used to the terminology of an ordinance and its various procedures and I think that special effort should be made to clearly define the different uses of these two items.

I would like to comment on the contractual agreements. I think this is an excellent provision. Not only have I studied with interest and lived with interest the problems of the State of New Jersey, but I have also kept an active interest in other areas of the Nation. I feel that there are many similarities between California and the State of New Jersey and in California they have made very good use of cooperative agreements at various levels. I think one of the greatest concern - and I will speak at this point as a municipal official - is the confidence of mayors and councilmen with respect to the performance of the existing structure of county government. I think that, number one, by changing the structure, and by, number two, allowing contractual agreements to be made, the confidence of county government can be strengthened through actual experience.

I believe that the contractual arrangements which could be fostered at the county level will in time lead to the confidence of the local official with county organization and county performance. I think this more than any other way will bring about a regionalization of functions and hopefully a reduction in cost for the performance of these functions.

I would like to make some comments with respect to

the budget process. I read with interest, and I do concur with it, of the concurrency of the adoption of the current budget and the capital budget. I think also that possibly the capital budget should be defined. Though we call it the capital budget in the statutes, basically it is a capital program. It is not adopted as one specific item as far as an appropriation adoption is concerned. So I think that some care should be given with respect to defining "capital budget," defining "capital program." At the present time most capital programs are adopted by resolution by the governing bodies. So, therefore, there is no public hearing at the local level on a capital budget. The only time that a hearing does occur, of course, is with the specific adoption of the appropriation ordinance or, if it is a line capital item in the current budget, then, of course, it is at the public hearing of the budget document itself.

So I would suggest that more detailed defining go into the capital budget process as far as hearing is concerned and as far as adoption procedures are concerned. I think this could lead to some confusion, though I do agree that they should be adopted concurrently. I feel that more and more our municipalities are beginning to be more sophisticated fiscal management efforts. We have a pilot study now on PPBS, one in Mercer County and the other in Woodbridge Township. And one of the factors that came to our attention was the two separate considerations of these two documents when in actuality the best goal-oriented decision-making must encompass both the capital as well as the current budget.

I would also caution the Commission with respect to the recall. Though I did not have time to review the existing statute, I believe it is possibly pulled out in its entirety from existing legislation as far as this provision is concerned, possibly with a change in the percentage required to initiate the petition.

I recollect that the New Jersey League of Municipalities and Rutgers University had started initially a study commission to analyze the problems of recall as it exists under the Faulkner Act. So I would caution you not to continue the same problem that the Faulkner Act communities are having with respect to the recall.

I remember one item brought to our attention was that a person could be elected on a recall petition with less number of votes than the person who was kicked out of office, which isn't quite correct or fair.

So I would caution the Commission to restudy the whole recall provision as it exists in the Faulkner Act and possibly bring about a correction of some of the inequities which have been experienced by various municipalities.

I refer specifically to Section 7.43 with respect to the transition time, the time between the incorporation of the new form of government and the time of the adoption of the administrative code. I speak now as an administrative operational official and I noted in one of the provisions that no employees would be appointed during this transition period. Well, I could easily see situations where various employees would have to be appointed in order to continue

the essence of the function that was effected. I think to allow no type of emergency appointment provision in this area could severely curtail a specific operation at a county level. So I don't think it should be absolute, though I do agree it should be greatly hampered as far as hiring procedures during the transition period.

Getting back to some of the comments I heard today, one of my favorite themes has been what I define as functional dissection where we determine various forms of government, various levels of government, will perform various functions. One of the niceties and to me one of the excitements of local government is that probably there more than at any other level of government do we have a consideration by people of the totality of the situation. And I would caution in the functional delineation of responsibilities that we not lose track of the totality of problem solving. So I know you are working in this area and I would just like to throw that caution and that concern to you.

I would like to make a quick comment on State fiscal policy. For many years I have watched the State of New Jersey grow and for many years I have listened to many people complain as to how it grows at the State level as well as all levels of government. I think the one thing I have learned in the years I have worked in New Jersey is that our municipalities react according to the economics of the situation which is determined by State fiscal policy. In the five communities in which I have worked, we considered it an attribute, and we are actually paid to create an economic bastion as far as

economic capability is concerned. So our growth planning, our growth patterns, our planning patterns, have actually been created by State fiscal policy. That is why I would say that what you are doing here is a very strong step in the right direction.

I do feel that organization structure is an absolute must if we are to perform better at lesser cost, and, most important, more effectively. I do feel that there have been studies stating that the Faulkner Act municipalities have reduced the actual projection of cost as compared to other forms of government in the State. I think if a higher caliber of person had been appointed in various Faulkner Act communities we would even have a much greater reduction than we do have under the existing situation.

So I do feel that structure is very important. I do feel that structure can create a more effective performance of government. I do feel that it is not the major problem of the State, but I do feel it is an inroad into the solution of our problems.

Again I would commend the contractual agreements. I think that this probably more than any other factor in this charter will help bring about a confidence at the local level of the performance of county government.

I would be willing to answer any questions the Commission may have.

SENATOR MUSTO: Jim, I want to thank you for having the patience to wait and testify and we are very grateful for the help you have given this Commission. Thank you.

MR. SCHNEIDER: I would like to call next Mr. Ernest Erber of Elizabeth who was for many years the head of the Regional Plan Association's New Jersey Section. He is currently Executive Secretary of the National Committee Against Discrimination in Housing.

E R N E S T E R B E R: Thank you, Mr. Schneider.

Senator Musto and members of the Commission, I do not have a prepared statement. I do have some notes and the hour is late and I would like to perhaps for the record just say a few pointed things. Then if there are any questions, I would be glad to respond to them.

I would like to first say - and perhaps this is just to say where I stand as a witness before your Commission - that in spirit and in emotion, I am with John J. Gibbons, but in intellect I find that my experience in government and governmental reform makes me want to congratulate your Commission for I think having taken a wise first step, in that you have created a proposal which I think can give us the form through which those of us who like myself and like John Gibbons are trying to fight another kind of a battle can find solutions which we find there is no form for under the present municipal-county arrangements. I believe that it is going to be very important in gaining public understanding of what your Commission is proposing to clarify, both the distinction between and the relationship between the form and content. And I believe that your county option proposals propose for the first time a form of general government above the municipal level through which those of us who have been trying to deal

with the physical planning of this State and with many of its social and economic problems can see the possibility of solutions which are local in character in that they relate to locally-elected officials and yet sufficiently broad in the geographic area that they contain to permit better approaches than could possibly come from the efforts of the many municipalities, each of which has far too little in the way of resources and area to be effective in the face of the problems which are really the problems of the industrialization of our State historically and its urbanization and now its metropolitanization - that's a long word to pronounce. But I believe that basically the spread of a continuous densely-developed urban population from our northeastern counties down to join the spread upward from Camden County is too apparent for any of us to mistake what it implies for the future of our State.

I would like to just dwell on one other aspect of the problem that impresses me as being extremely important, and that is, that regardless of how we improve the form and the structure and processes at any one level, it is important at all times to understand that what we are really dealing with in the Nation as a whole and in the State at this time is an effort to interrelate government across or down from the many levels - the work that began with the Hoover Commission and carried on by, I think it was called the Kestenbaum Commission and on into the work of the Advisory Commission on Intergovernmental Relations, with many different kinds of offshoots including the work that has been done in Congress by the Intergovernmental Relations Committee of the Senate, headed

by Senator Muskie, to which our own Congresswoman Florence Dwyer contributed so much as a member of the House Committee as a representative of the House working on that Committee. I think that this whole body of work has contributed such illumination to make it possible for us to understand that the improvement of the operation of government at any one level without simultaneously understanding that it has to fit into a system of government will always leave us floundering. I contributed an article which appeared in the publication of the Department of Community Affairs devoted to planning on S-803 from this point of view, pointing out that much of what it proposes is highly commendable from the point of view of improved municipal planning and State planning, but that there is a glaring lack of awareness that you can't have one big gear up here called the State and over 500 little gears here without getting some gears of medium size in between for this machine to work and these in-between gears are the need for county planning so that you can relate from State to county to local level and that each has a function, but an interrelated function, to perform.

I would like to just conclude my remarks by saying - and I perhaps should really save these if there is a hearing on the bill itself before the Legislature, but just in capsule to say I think that the time is much later than many people, even those people in political leadership, realize. I feel that there is a desperate urgency to face the problem with which your Commission is dealing. Such things as the action of the courts in connection with pollution on the Rockaway River,

such things as the recommendations of the State Commission on Civil Disorders that the police system of the City of Newark be made a county system and that its schools be taken over by the State - I think these are all harbingers of the direction in which this State is drifting if we do not come to grips with the inability to deal with social and economic problems through a more rational relationship of governmental levels and above all again here, and this is again a tribute to your Commission's work, the ability to fashion a middle layer of government, still local, still close to the people, but able to do what the municipal governments have not been able to do.

Those are my remarks. Thank you.

SENATOR MUSTO: Doctor, I want to thank you very much. I am sure we will be calling on you again. Thank you very much for having the patience to wait here today.

MR. SCHNEIDER: We have two more persons to appear. First is Professor Richard Connors of Seton Hall University. Professor Connors is a long-time student of local government in New Jersey and his work at the Seton Hall Urban Studies Center has been of great benefit to many New Jerseyans and the Commission.

Before you start, I notice you have some specific comments on the bill itself.

MR. CONNORS: Yes.

MR. SCHNEIDER: In view of the hour, may I suggest perhaps that we accept these for consideration and hear from you only regarding your general comments if this is possible

because I don't know how you prepared this.

MR. CONNORS: I was going to suggest the reverse.

MR. SCHNEIDER: O.K.

SENATOR MUSTO: Well, you go ahead.

R I C H A R D C O N N O R S: Again like Ernie Erber, I am tremendously in favor of the approach of the Study Commission in the revitalization of county government and this is the tenor of my opening remarks.

I would like instead of reading this material to you - you can read it on the way home - to address myself to the remarks of Mr. Gibbons because I really think he grabbed on something there, that really the big problem is the question of tax base and revenue adequacy in New Jersey. The ratables ain't where the problems are and this is it. I really think that the Commission has to push this into its number one priority for the future.

However, I do disagree with him on the strategy. As I understand him, he was suggesting a reform filibuster, you might say, until this priority item is pushed on the legislative agenda. I just don't think that this strategy would work. The nature of the political man is to move very slowly, incrementally, in reform and I can't see abandoning or even delaying the work you are doing just because this big item is out there. But I still, you know, return back to Mr. Gibbons that that is the basic problem of local government in New Jersey. You just have to face it sooner or later, easy, hard or however. Again I think that the Commission should put

this up as a priority item.

Here I will defer to you. Would you rather I read the general remarks?

MR. SCHNEIDER: Go ahead as you planned.

MR. CONNORS: I would like to go into some specific criticisms. I think this is where I can help if there are any questions you might have.

As I say, these are chapter and verse comments. You want the Charter Commission to come to an end as soon as the election is over. I would really question that. I think that it could perform a valuable service to the citizens and Freeholders if its life were extended six months. Again looking back at the Faulkner experience, the Charter Commission may be caught up in politics of reform and I think this makes it very difficult to establish a relationship to go into administrative code sort of work.

Secondly, on pages 18 and 19, I really am in sympathy with your aims but I question the approach. Here you are into the very difficult arena of dealing with the county's powers and the relationship between county powers and State. I really think that Section 2.3 needs reworking or perhaps elimination and that you should end up with some sort of a statement of the reserve power of the State Legislature to deal with the question of functional allocation. I don't think that the Optional County Charter Law is the place to grapple with this.

Others are technical criticisms. As far as the County Counsel is concerned, the Corporation Counsel, I think

you find in municipal government that he is moving into the executive framework. I think the same thing would apply on the county level, that the Corporation Counsel's advice to the Board of Freeholders could be provided for in the administrative code. I would think a far more appropriate officer for the County Board to have under its orbit would be a Controller, an Auditor, somebody in the financial field. I think this is how the citizens relate to Legislatures, primarily fiscal responsibility. I think you should re-think this particular item.

Again though in sympathy with your aim of having the Freeholders work through the elected executive or the executive to the various county officers, I think you have to think of some exceptions here. In particular, I think a County Auditor or Controller and County Counsel should be available to the Board of Freeholders at their discretion. I don't see any reason why the Freeholders have to go through the Executive to deal with these officers.

Finally, two comments along the line of Professor Doig earlier - I seriously question the County Supervisor option as a viable or desirable thing. Do you really want 21 counties run that way? You know, you are offering them that. The County Supervisor was a good idea that went wrong - it went wrong 50 years ago - and I don't think you can resuscitate it at this point.

Finally, as far as civil service reform is concerned, I don't think this should be attempted by an Optional Charter Law. I again think if you are going to deal with reform of

the relationship between the State Civil Service Commission and the three divisions, this should be a question of Civil Service Law. I think you are building in here more political problems to the basic job you are trying to do. Thank you.

[The written statements submitted by Professor Connors can be found beginning on page 85 A of this transcript.]

SENATOR MUSTO: Any questions?

MR. SCHNEIDER: I have none at the moment.

SENATOR MUSTO: I might point out, Professor, most of these suggestions will be taken up and many of them will be adopted that are here. We have other considerations from the other hearings.

I would just say on the civil service, which has come up, I don't think there is any intention of this Commission to want a civil service overhaul. It is a matter of administration.

MR. CONNORS: Right. I am thinking of it specifically as a political problem. I think you are raising a political problem here which is really tangential to the point of the whole act and I think the flak that would come up from this isn't really worth the effort.

SENATOR MUSTO: Professor, thank you very much.

MR. SCHNEIDER: Our final witness for the afternoon is Mr. John Kosko who has been sitting very patiently listening to all the testimony since the first witness this morning. He is currently a management consultant in New York City, but he has served in Essex County administration for some time, and has

considerable background in county problems.

J O H N S. K O S K O, J R.:

Gentlemen:

Thank you for the invitation and the opportunity to present testimony in response to the Proposed Draft of the Optional County Charter Law as prepared by the State of New Jersey County and Municipal Government Study Commission and its staff.

My comments are based on personal broad experience in the public sector. I am now engaged as a Management Consultant with C.W. Robinson & Co., Inc. of New York City, a firm with an extensive practice in local government reorganization. Prior to joining this organization, I served in an administrative capacity for over seven years with the County of Essex and also worked for the New Jersey State Department of Civil Service for a brief period. Since becoming associated with the firm of C.W. Robinson & Co., Inc., I have had exposure to the experiences of many of the Counties in the State of

New York regarding their efforts to "modernize the structure". Most recently, I provided consultation to Orange County, New York, to facilitate their transition to a County Executive/Legislative form of government to become effective January 1, 1970.

May I stress initially, that I totally favor a modernized structure for New Jersey Counties and wholeheartedly endorse the efforts made by this Commission. My comments are presented to bring to you the experiences of other States and to identify what has had success. I believe the incorporation of these suggestions would result in more effective and responsive legislation.

It is unnecessarily restrictive to limit the reorganization process for County modernization to four "standard" alternatives without allowing for deviation to meet local needs and local tolerances. The legislation as drafted assumes that local preferences for "modernization" will be satisfied by these four predetermined forms of government and leaves little in the area for local development. It has been the experience of C.W. Robinson & Co., Inc. that Charter government efforts

have had most success where local people have had the latitude to formulate a structure that meets local requirements. In recent years, we have participated in projects where such deviation from "standard" form as a combined "Clerk of the Board - Administrator" proved effective, and in another where a "Commissioner of Budget and Administration" was also found acceptable. Obviously in other instances, forms of government patterned along the lines described in this bill have also had success. But the point is that even if these four are the overwhelming choices of our county governments, they should be just that - choices. True alternatives rather than limited alternatives form a better foundation for the principle of "home rule".

The entire process of County Government reorganization as spelled out in this draft is impeded by the requirement of initial voter approval on the question of "Shall a Charter Commission be elected to study the structure of ----- County?" New York State invokes this procedure only if the local County governing body fails to initiate the process

on its own volition; or if it fails to respond to a voter petition favoring such action, signed by at least 10% of the whole number of votes cast in that County for governor at the last previous gubernatorial election.

Another aspect of the New York State legislation which deserves consideration is the elimination of an elected Charter Commission. In its place is a Commission appointed by the governing body to study and advise the Board on an alternative form of government. As an advisory body sometimes assisted with legal and staff services, they present recommendations to the Board for their review and ultimate action by the voters on adoption. I believe there are distinct advantages to the appointed Commission in that: (1) The present governing body is involved in its own fate by making the appointments and formally reviewing the findings; (2) broad based membership can be better assured; large suburban or city voting blocks can produce imbalance detrimental to an objective study; (3) Knowledgeable members can reduce the study time required eliminating a basic learning process;

(4) General voter acceptance of the findings have a better chance of approval if the composition of the Commission does not in effect establish built-in opposition.

With the institution of these features, a public question on a new form of government can be presented to the voters within one year or less, requiring only one additional general election for selection of the members of the new governing body. This has the effect of approximately a two-year reduction in the time span requirement for actual operation of the new structure.

In addition to these recommendations, I offer comment on specific aspects of each of the forms described in the draft and will conclude with some observations which are applicable to all four options.

County Executive Plan

Provision is made for the County Executive to break tie votes of the Board. Such an arrangement weakens the Executive-

Legislative division established under this form. The separation basically is appealing and should be maintained as firmly as possible; in no instance should the County Executive participate in the Legislative responsibility.

If a situation does occur where the best interests of the County are endangered by failure of the Legislative Branch to act, the County Executive rather than voting should be granted authority in this bill to act through "Executive Order" or similar means to resolve the stalemate on an issue of this type. The result is essentially the same, but retains the desired separation of responsibilities.

Section 3.5 concerning a vacancy in the office of the County Executive again has an unwarranted Executive-Legislative mix. The County Executive upon taking office should previously designate and file appropriately a line of succession to his office on an acting basis. This line of succession should be restricted to Administrative people appointed by the County Executive and who function within the Executive Branch of

government. Such people would be more familiar with the County Executive's policies and practices than a given member of the Board of Freeholders. It is understood that this replacement would continue on an acting basis only until a successor is elected by the voters at the next general election.

County Manager Plan

Under this form, provision is made in Section 4.11 for the mandatory ("shall") appointment of a Deputy Manager. Elimination of this phrasing and substitution of a statement allowing for such appointments by the County Manager as the Board shall authorize is more appropriate. Certain counties may find the need for a Deputy Manager while others may not. A line of succession in this form of government is also deemed advisable.

County Supervisor Plan

There are some awkward aspects of this Plan which require evaluation. A County Supervisor separately elected and having specific administrative responsibilities should not

- (a) preside over Board meetings, with the right to vote in case of ties (5.6 (b));
- (b) serve as spokesman for the Board on matters concerning policies and programs (5.6 (c));
- (c) serve as representative of the Board at ceremonial and civic occasions (5.6 (d)).

These mandatory duties may prove cumbersome in a situation where political differences are apparent and again unnecessarily mixes legislative and administrative functions and responsibilities.

The same argument is applicable in that the County Supervisor essentially supervises a County Administrator he does not have the power to appoint.

In the matter of filling a vacancy in the office of County Supervisor, assuming all other aspects of this Article remain intact, a former subordinate of the Board, the County Administrator could be presiding officer of their meetings.

Board President Plan

The major weakness here is in the replacement of the President when his office is deemed vacant. It is a matter of clarification. A vacancy in that office should be construed as a vacancy in the Board and the replacement chosen at election should clearly be for a Board vacancy. Since the Board has gone through the process of selecting a Vice President, he in all instances should be the logical successor for the office.

Not of major importance, but of significance is the designation of the major member of the Board as "President", the term "Chairman" seems more appropriate with local government.

General Comment Applicable to All Four Alternatives

One of the major problems in County government today is the budget-making process. In many instances with the January budget hearing aspect currently in use and retained in this bill, incoming Freeholders are required to make judgments without advantage of much time for study and analysis.

Two alternatives appear feasible: (1) Adjusting the budget

year for County government to a July 1- June 30 schedule allowing a brief period for familiarization, study and evaluation by a freshman Freeholder, or (2) to mandate the commencement of the budget-making process in the previous year for execution in the year following still utilizing the calendar year as the budget year. Our firm has successfully implemented procedures described in the latter alternative and would be available for discussion and elaboration upon invitation.

All plans provide that the Board of Freeholders appoint in addition to a Clerk of the Board, the County Counsel. In the County Executive form of government, that right should be given to the County Executive, following the theory of centralized administrative functioning. The Legal Department should and must be part of the Executive Branch; to allow for a provision where its head, the County Counsel, is appointed by the Board of Freeholders is unwarranted. The major responsibility of the Legal Department will be to serve operational and administrative needs. The department can still provide necessary legal and drafting services to the Board of Freeholders as required.

I fully realize that the term "Freeholder" has long traditional background for members of the County governing body in this State. However, while change is being considered toward a modernized government, the designation of a more fitting title should be taken into account. County Legislature, County Board of Representatives, or merely County Board are suggested. Individuals would be known as County Legislator, County Representative or Member of the ---- County Board, respectively.

In the matter of establishing Civil Service Commissions on the County level, further extension of this service by the County for local jurisdictions within its boundaries should be considered. Again New York State Counties are organized in this manner.

I trust this testimony will be helpful to the Commission in its anticipated actions. The comments presented were meant in that light.

Thank you. ---

SENATOR COFFEE: Thank you very much, Mr. Kosko.
The Chairman stepped out for a few moments. Are there any questions from the staff?

MR. SCHNEIDER: I have one or two. One is a technicality. Do you believe that the bill should provide for a time limit barring resubmission of the charter study question to the voters a year after they have rejected a similar referendum?

MR. KOSKO: No. I didn't address myself to that part of it.

MR. SCHNEIDER: I am thinking of New York and what their provision might be.

MR. KOSKO: No. I fully agree. I think you have a five-year re-presentation. I think that time is reasonable. I addressed myself to initiating the process where I think there was a calendar that had a four-year program: If we first submit the question, shall it be studied; and if we, second, have the charter approved and then we go to the new governing body, election, etc.- I think it was a four-year program as indicated in your comment section on that particular part.

MR. SCHNEIDER: And finally, do you feel that the proposals contained in this bill go far enough to strengthen improvement of county government?

MR. KOSKO: I think it is an excellent start. I think what is necessary is individual analysis of individual counties which at this point seems beyond the scope of the Commission's intent.

SENATOR COFFEE: There appear to be no other questions,

Mr. Kosko. Again I would like to thank you for being patient and waiting to testify.

I will ask at this time if anyone else wishes to be heard. [No response.] If not, I declare this public hearing closed at 4:30.

[Hearing Adjourned.]

Statement of: Mr. Richard Connors, Chairman, Department of Government
Seton Hall University
To: The County and Municipal Government Study Commission
Date: December 2, 1969

In the early years of this century, New Jersey was in the foreground of the movement for reform of county government in the United States. In abandoning the big board for the small board of freeholders, in most counties, in experimenting (albeit unsuccessfully) with the elected county executive, in authorizing civil service for county employees, in allowing counties to establish planning agencies, New Jersey made a conscientious effort to put into practice on the county level the advanced ideas of the Progressive movement.

But little has happened since that time. In 1947 New Jersey provided for the modernization of state government; in 1950 she adopted the optional charter approach to municipal reform. The proposed county charter law is, thus, the logical next step as New Jersey goes about setting her governmental house in order.

County^{re}organization is not only a logical step but, I would argue, an imperative step if we are to maintain the tradition of home rule in New Jersey. Home rule, in my lexicon, is the right of the people at each level of government to exercise those powers suitable for that level. Home rule is thus a concept appropriate to each of the bodies politic recognized by New Jersey law: the citizens of a municipality, of a county, and of the state as a whole. It is on the county or "middle management" level that the home rule principle is most threatened by retention of obsolete and inadequate governmental forms.

If we examine trends in other parts of the country, I think we will find abundant evidence to substantiate this point. Practically every state in the union has recognized that municipalities are incapable of coping with certain

regional problems that are a byproduct of our metropolitan society. In those areas with traditions of strong county government -- in the south and west in particular -- it is that level which is being relied upon to meet these regional needs. And in almost every case where an urban county is involved, a modern county charter has been adopted as a necessary and integral part of the reorganization movement.

In New England, on the other hand, the county has traditionally been a weak sister, and those states have met the metropolitan challenge by bleeding the county white and making the state assume responsibility for regional problems. County government in New Jersey might not be facing that fate in the immediate future. But I submit that our counties will slowly lose power to state agencies -- or to regional authorities -- if they do not have systems adequate to meet the challenges of the 1970's. This is the very antithesis of home rule. The proposed optional charter law gives the people of each county the opportunity to head off this development and retain a general-purpose government with the capacity for meeting today's needs. This is the very essence of home rule. I thank you.

Comments on the "Proposed Draft, Optional County Charter Law"

by Dr. Richard J. Connors

1. p. 12. Experience with the Faulkner Act suggests that a charter
(1. 13) commission will more than likely be caught up in the campaign for adoption of its report, and will have little time to work on an administrative code. Even were it so inclined, the politics of charter change will probably cause strained relations between the commission and some existing county agencies.

In light of the above, it might be wise to extend the life of the charter commission to 6 months after favorable adoption of its report, so that it can be of assistance to citizens and freeholders in the transitional stage.
2. p. 18 Although sympathetic towards the aims of these two pages, I would
p. 19 suggest that they be reworked. 2.3 is confusing verbiage and seems
(2. 1-2.4) out of proper order. Suggested approach: 2.1; 2.2; 2.4; followed by a statement on the reserved power of the legislature, i. e., its right to designate what functions will be the responsibility of the county government in the latter's corporate capacity, and what agencies working on the county level shall remain autonomous or be considered appendages of the state government.
3. p. 20 The end of this paragraph should read somewhat as follows "any
(2.4f) referendum adopted previous to adoption of this act." (Otherwise, you are cutting the heart out of the referendum procedure proposed on p. 77.)

(2.4g) Again a rewrite job is in order. The first sentence isn't a sentence.
4. p. 33 The second sentence in this section is confusing, since it could
(3.21) possibly refer both to the appropriations process and the budget control process. I would suggest that it be eliminated, and a new sentence added at the end of the first paragraph. This could read "The county executive shall review the requested allotments in the light of the work program of the department concerned and, if he deems it necessary, may revise such proposed allotments before transmitting the budget to the Board of Chosen Freeholders."
5. p. 41 Under strong executive forms, the natural orbit for the corporation
(4.10 c) counsel is the executive, and I feel that he should be selected by the manager, supervisor, president, or county executive. The counsel's responsibility for providing advice, on request, to the Board of Freeholders may easily be provided for in the administrative code. A far more appropriate officer for the Board to choose, it appears to me, would be a county auditor or comptroller.

6. p.46 I have grave doubts about the viability and the desirability of
at seq the county supervisor option. It runs against the grain of the
principles of clear lines of responsibility which is written into
the other plans. Moreover, p. 47 (5.6 first sentence) and p. 51
(5.10) are incompatible statements.
7. p. 70 Exceptions should be made here for the county counsel and the
(7.1) county auditor (comptroller). The members of the Board should
not be required to work through the chief executive in dealing
with these two offices.
8. p. 81 The last sentence should be rewritten, for it sets up an almost
(7.35) impossible mandate. Draw the requisite verbiage from the court
cases dealing with apportionment of county boards.
9. p. 86 This whole section might better be left to a general law dealing
(7.45) with civil service revision. Is an optional charter law the
vehicle for civil service overhaul?

JUN 20 1985



