

PUBLIC HEARING

on

ASSEMBLY BILL NO. 692

(Provides means for meeting New Jersey's transportation problems)

before

SENATE COMMITTEE ON HIGHWAYS, TRANSPORTATION & PUBLIC UTILITIES

Held:

Assembly Chamber
State House
Trenton, New Jersey
August 21, 1959

MEMBERS OF COMMITTEE PRESENT:

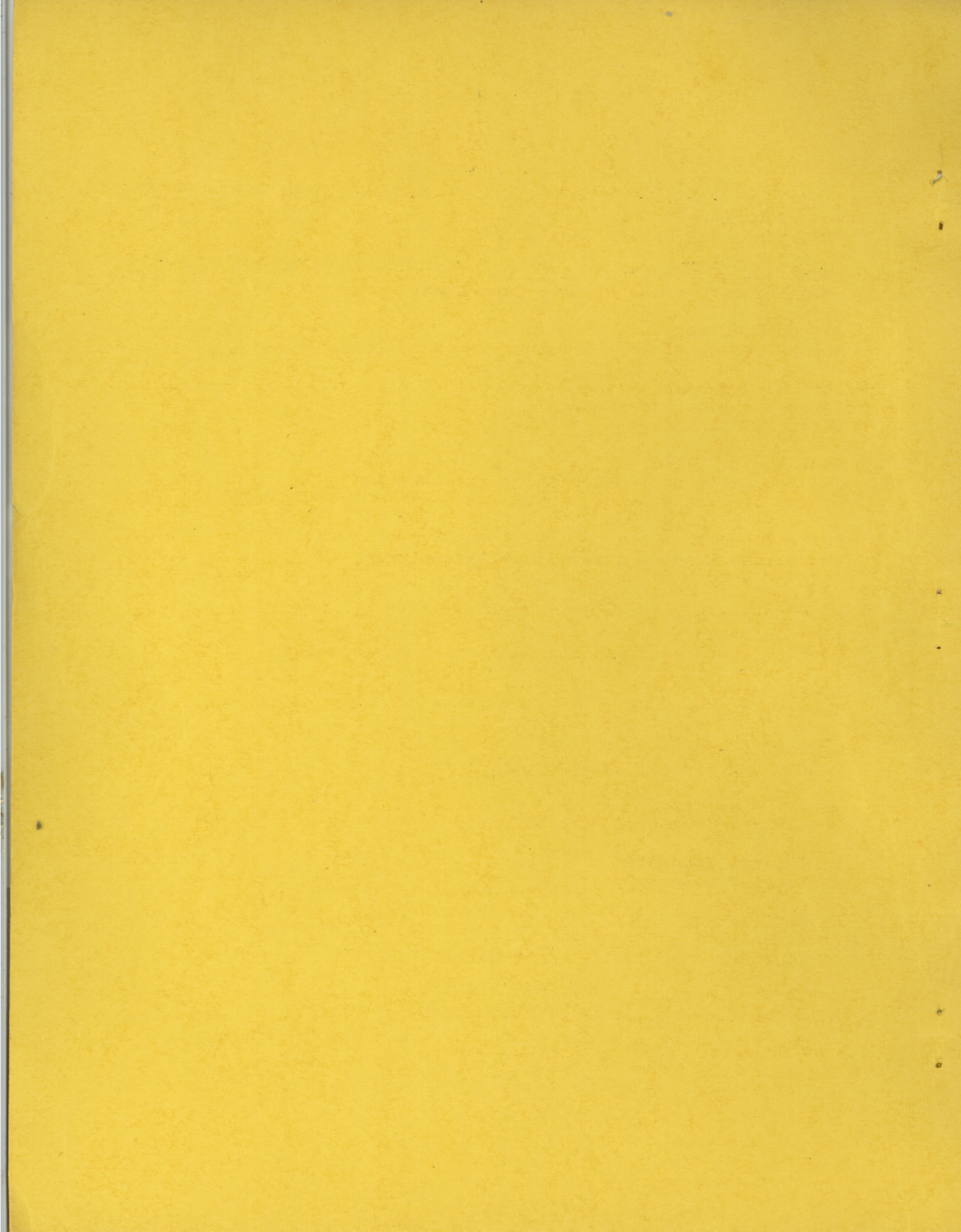
Senator Richard R. Stout (Chairman)
Senator Wayne Dumont, Jr.
Senator Walter H. Jones
Senator Charles W. Sandman
Senator Donal C. Fox

Also Present:

Senator Wesley L. Lance
Senator Thomas J. Hillery
Senator Anthony J. Grossi
Senator John A. Lynch
Senator George B. Harper
Senator Robert C. Crane

William Miller
Counsel to Committee

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SENATOR RICHARD R. STOUT (Chairman): Gentlemen, we will call the hearing to order. I want to thank all of you for coming here today. The purpose of today's meeting, as all of us know, is to conduct a hearing on Assembly Bill 692 which will be considered at the next session of the Senate on Monday, August 31. The Bill, as you know, has passed the Assembly.

I will introduce the members of the Highways, Transportation and Public Utilities Commission, to which this bill will be assigned in the Senate. Senator Donal Fox of Essex County, a member of the Committee; Senator Sandman is on his way here but I don't think we should wait for him; Senator Dumont is at National Guard Camp; Senator Jones is also a member. My name is Stout. And because of the urgency of this matter and the time limitations in connection with the referendum, I have taken the liberty to invite all the members of the Senate who may have an interest in this matter to appear here this morning. We have Senate President Wesley Lance on my left; Senator Thomas Hillery of Morris County on my right; and Senator Grossi is here in the building and will be here shortly.

As I believe all of us know, A-692 - and there are copies here if anybody present would like a copy - would provide for a public referendum at the next general election. And the constitutional limitations make it mandatory that the bill, if approved, be approved or passed more than forty days before said election. This proposition has come before us very late and the matter is one involving a great amount of

money, important policy questions, and it has aroused real interest not only in New Jersey but throughout the rest of the Country. Consequently, we believe it is our duty to the people of New Jersey to consider fully all aspects of this proposal.

The events of the last few weeks, in fact since the passage of A-692 by the Assembly two weeks ago, have shown the need for a careful study of the facts and a need for the plan.

Now, so far as procedure is concerned, we have invited the New Jersey State Highway Commissioner, Dwight Palmer, to present the proposition, and he has with him members of his staff, including Mr. Thomas of the newly formed Division of Rail Transportation. They will be available for questioning by members of the Committee and other members of the Senate present.

I would like to request that all others who are here today to speak, either for or against the proposition, enter their appearances with the Stenographer, Mrs. Smith, and indicate generally whether they are for or against the proposition.

There will be no questioning of the witnesses appearing here today except by members of the Committee or other members of the Senate present.

If anyone has a prepared statement, we would request that they give a copy of the statement to the Court Reporter here. And also, except for the members of Mr. Palmer's staff, I would suggest that the witnesses sit where Mr.

Joseph Katz is sitting now.

Now, I would like to ask if any members of the Committee would like to make a statement before we call our first witness. Senator Fox?

SENATOR FOX: I have no statement to make.

SENATOR STOUT: Senator Hillery? Senator Lance?

SENATOR LANCE: My name is Wesley L. Lance. I am the Senate President. These hearings are being held under rather unusual circumstances. The House of Assembly passed this Bill on August 10. The Senate is not scheduled to return until August 31. Usual procedure would be for me, as Senate President, to refer Assembly Bill 692 to one of the standing committees on August 31. However, due to the very tight time schedule, that is not practical. And I suggested to Senator Stout, last year's Senate President and this year Chairman of the Transportation Committee, that his Committee hold hearings in advance of August 31, so that the public might receive as much information as possible, in the interest of saving time.

It is my hope that this hearing today will cover at least six questions. First, is this a proper source of funds for the achievement of the purpose intended? that is, are surplus Turnpike tolls a proper source of funds to be used? Second, would it be desirable to have a complete plan developed prior to August 31? By a complete plan I mean that I think everyone concedes that the plan set forth in Assembly Bill 692 is a money raising plan and maybe not too much more. It does not state how the money shall be spent.

Third, even though it were desirable before August 31 to develop a complete plan, is it possible within the time limit available? I distinguish between my second point of desirability and my third point of possibility.

Fourth, how much money will be available from surplus tolls? That breaks down into "A" and "B" - "A" How much of a lump sum would be immediately available? and "B" How much money would be available annually over at least the early years?

Fifth, what formula can be devised in order to achieve the purpose intended? That is, the preservation of commuter service and essential passenger service. How can the funds be translated as a practical matter into the achievement of these purposes? And, incidentally, on that point I have found out in the last two months that that's where people go out the nearest door and window when I start talking about that.

And sixth and last, if this Legislature is to be ultimately confronted with the problem of reimbursing municipalities for loss of taxes - meaning chiefly the Hudson municipalities because they get three-quarters of the second class railroad taxes - on what formula would such reimbursement be drafted? for how long a period of time? under what terms and conditions? shall it be a gradual decrease in scale? shall it not be a decrease in scale and last for X years or what?

Now, there are many other facets to this problem but at least I see those six major questions and I trust that this hearing will be a little different from some hearings and give us light rather than heat.

SENATOR STOUT: I would also like to introduce Mr. William Miller, Counsel for the Committee. And since we started, Senator Wayne Dumont, a member of the Committee, has arrived and is on my right; and Senator Anthony Grossi of Passaic County, a member of the Senate.

I will now call Commissioner Palmer to present the proposition as embodied in Assembly Bill No. 692.

DWIGHT R. G. PALMER: Senators and Gentlemen: My voice is a little weak. I will try to make myself heard. I've sat in so many drafts during the past few weeks that I think I have contracted a slight cold. I am probably responsible for some of the drafts myself.

We, the Transportation Division, were assigned the responsibility of tackling the transportation problem in its broadest aspects, primarily having to do with the movement of people but also inclusive of the entire picture.

A realization of the transportation problem which apparently has crystalized within the past few months precipitated the Transit Division of the Highway Department which, by passage of the Lance Bill and signing on the part of the Governor, went into effect early in March. Preceding that period, the congestion and the transportation chaos that might have been faced by the cessation of service of the Weehawken Ferry brought us into the picture even preceding the Bill's passage.

Early in January I was requested to provide ways and means of transporting about 3900 commuters on the West Shore Railroad to the City, in New York, because of an

anticipated decision on the part of the Supreme Court canceling out the Weehawken Ferry on the request of the New York Central. Accordingly, we visited all points on the West Shore Railroad and obtained from the General Counsel of the New York Central the point of origin of all of the commuters. Then we sat down, I and some of my associates, with the individual bus companies and worked out schedules to pick up these customers at their point of origin, rather than having them arrive in one fell swoop, 3900 of them, and finding no means of transportation across the river.

As of the 24th of March, the day preceding the effectiveness of the shut-down of the ferry, we had a dress rehearsal with all of the ferry companies. And the following morning, instead of 3900 commuters arriving, some 317 odd only arrived, made up of some intrastate, some interstate, but about 40 to 50% of employees who were on passes.

As April 1st arrived, those who had been using commutation further filtered out. The net result was that only about 207 arrived on the 1st of April. We had some congestion in New York at the bus terminals but gradually worked that situation out. However, I will say this, it is not a wholly desirable situation because many people hated to give up the transportation across the river. However, effectively and practically, it served the purpose.

After the Bill was passed and we got into action, it took us some period to get our staff together and I collected the following staff: Mr. Herbert Thomas as Executive Director,

Mr. Lee Poor of the firm of Ford, Bacon & Davis, who had been engaged in railroad work with the railroads for 25 years; Mr. Shepherd of Peat-Marwick-Mitchell, one of the partners of Peat-Marwick-Mitchell, who has devoted the last ten years to railroad accounting; Mr. George McKelvey of Tucker-Anthony-R.L. Day Company, as Fiscal Adviser; and Mr. William Morgan of Blyth & Company, as Fiscal Adviser; and Mr. Tony Kieb, who up to February of this year was Assistant Postmaster General under President Eisenhower, to take care of our property evaluations; and then we called in Mr. Ike Russell as the Counsel, Bond Counsel; and his Associate, Mike Donahue.

I felt that the selection was probably the most practical and the most effective committee that could be brought together without any feeling except trying to put into the job and give, instead of take, everything that we possibly could.

Over a period of fifty years this transportation problem has been neglected - by you, by me, by public officials, by railroads, by individuals, - and finally the law of diminishing returns has presented us with a dangerous chaotic sword of Damocles, if you will, suspended over us. And that not only is applicable to the railroad situation in itself, it is also equally applicable to the problems that face the Department that I happen to be associated with, the Highway Department. And if I may I will deal, just as a figure, with the Highway Department's factor so that you may get the influence of that upon this over-all picture.

We have projected, with the Federal Government, a program of adequate transportation by highways with a total expenditure that would place us in good condition by 1975, of two and three-quarter billion to three billion dollars. It so happens that the wherewithal for the program will be a billion dollars shy, in so far as source of revenue, in order to enable us to face up to the probabilities of that situation. In other words, we will have to dig up another billion dollars, either from the Federal Government or from the State, to put our roads in adequate shape.

Therefore, when we were faced with the possible cessation of traffic - passenger traffic by railroads - it was imposed upon us that we could not conceivably under any circumstances meet that additional load of transportation. We cannot, at the moment, visualize meeting our own immediate highway problem in its entirety and to take that additional traffic would probably cause at least a fifty percent increase in the over-all cost of the highway program. We have neither the money nor do we have the time, and were we to add additional highways to enable us to take care of that traffic it's perfectly conceivable that our State of beauty, the Garden State, would lose a great deal of the charm which it presently has.

So, we look upon the railroads as an absolute necessity for mass transportation as an ally of the Highway Department.

Now, to move into the transportation field, I happen to know by personal experience supported by some of the

commuter organizations, that property values have already been materially affected; and that many surveys have been made as to the possible effect on the citizens of various communities in the event that the railroads would shut down their passenger trains.

The City of Glen Ridge, New Jersey, sent out some twenty-three or twenty-four hundred questionnaires and had an appreciable response, better than half, which is unusual, and of those about 33% voiced the opinion that they would either possibly or probably move out of the community in the event that that transportation was no longer available.

We have been besieged by people who hold jobs in other communities, by property owners, by people who have mortgages on their homes, by little business and big business, and by employee organizations, to do something about this situation. It looks very complex and it sounds very complex but, as a matter of fact, when you get down to the base of it and you know what the causes are and you are supported by a group of competent people, we begin to see the light and the way and the means - or the way, if you will, of accomplishing clearance of this problem. Every step that we took and in every move that we made we were impressed with one need and that was the availability of funds. We looked back to the various commissions and committees that have met over a period of years, of the wonderful reports that they submitted, the brochures, all very informative, all very helpful, but nothing has actually been done. And almost invariably all contributions had to do with a heavy tax upon the

municipalities or upon the people of our State.

So, we were impressed with the need of finding not only the way but the means, and the means free of taxation of the people, if we could, in order to straighten out this problem that faces the economic as well as the cultural side, if I may say so, of our great State. We have had no interest in bailing out the railroads or subsidizing anyone. Our problem is to take care of the citizens of the State and of the economics of the State structure.

Accordingly, after many discussions and the analysis of every source of revenue, realizing the contribution to the demise, if you will, or the potential demise of this passenger service, by the Highway Department, by building highways and thereby providing the facilities for people and vehicles - also what the Turnpike has done, and the other groups that have made provision for rubber-tired vehicles - we felt that it was a perfectly legitimate participation in the over-all problem of moving people and moving goods to look to surplus funds of the Turnpike for the purpose of financing this program.

There is no question about it - that the entire State is affected. So many people have dealt with the word "commuter" alone. Commuters mostly we visualize in the metropolitan area of New York or the metropolitan area of Camden-Philadelphia. As a matter of fact, we transport hundreds of thousands of people intrastate and we have these great movements from the shore and from the North and clear into the South.

And I want to emphasize that in my experience in industry and the privilege that I have had of being familiarized somewhat with the problems of the State, I have come definitely to the conclusion that we have a great interdependency, all of us, every part of the State. And when one issue, such as this, comes up that is so far-reaching, it behooves everyone in the State to be informed so that when the time comes, if they have the opportunity to vote upon this proposal, they may know what the facts are.

We have discussed this matter at great length, this financial situation, with the officials of the Turnpike. We held numerous meetings. One of the meetings, which members of my staff and myself attended, was attended by the Trustee and officials of the Chase National Bank; also by a member of the firm of Smith-Barney & Company, who are the fiscal advisers to the Turnpike.

I may say this, - at the inception, neither of those two groups was enthusiastic about this probability. But as we explained it, and our fiscal people scored back and forth with them, and also because I gave them the assurance for our Division that at no time would we abrogate either the legal or the moral commitments to the bondholders or interfere with the operation of the Turnpike, that the Turnpike must continue to grow to meet its demands by the public and, therefore, that this was not a substitution for anything that existed, this was merely the utilization of a surplus which they had been using to liquidate their outstanding bonds; I also stated that we had no intention

of changing the fiscal adviser to the Turnpike or changing the trustee; and at the conclusion of our meeting and our luncheon we were assured by both groups that they had lost their disposition to oppose and, as a matter of fact, that they would both be glad to be of assistance, and in the event that we had press releases or material to offer they would be glad to advise with us as to the proper ways and means of conveying information to the public.

The question came up as to the treatment of the bondholders and what the bondholders' attitude might be. Our Fiscal Advisers, who have been in that activity for years, were very thorough in their explanation of the intent and of the probabilities, and also they outlined that, as was so wise, the existing conditions in the bond market as of today plays a very small part, if any, on what the conditions may be in December or January, so much depends upon the fiscal problems of our Federal Government and upon the market as a whole. So they could not anticipate what the return might be or what the demand might be. They were, however, willing, with some interpretation that they had, which they will be glad to explain here, - they had a feeling that there was a fairly substantial segment that would be glad to avail themselves of the opportunity of substituting the State's guarantee for solely the Turnpike's revenues. The Turnpike's reserve of revenue to meet the obligation will be maintained but on top of that will come the State's guarantee and an "A" Bond, which is now rated by Moody's and the other agencies in New York as an "A" Bond, will

become a "AAA" Bond. We were also advised that in no sense would the adoption of this by the State in any way affect the rating of our State's own bonds.

Subsequent to that meeting we held other meetings. They were continuous, more or less. And finally, within the past week, which has received some treatment in the Press, there was a meeting at which -- and, incidentally, I might add that all of the Commissioners, with exception of one, were at those other meetings and the notice went out to all of them, so if anyone was not there, it was through their own choice or other engagements. At a meeting within the past week there was some discussion as to a discrepancy between the estimates of the Transit Division and the estimates of the Turnpike itself. I have here a brief which I wish to submit to you, Senator, and get into the record a reconciliation and an explanation of the difference between the Turnpike's views and the Commission's views.

I might add this, that I read in the Press that one of the members of the Commission had cited that the surplus would only be \$250 million. In this brief, and I'll say it now, Commissioner Morecraft, the Chairman, who has met with us, with care and judgment his figure is \$423 million.

I will not go into detail of the explanation because it is in the record and I feel that you, the Committee, will wish to ask our Fiscal Advisers about that.

I would also like to put in the record, if I may --

SENATOR STOUT: Do you have a copy of that Reconciliation Statement for all the members?

COMMISSIONER PALMER: Yes, sir.

SENATOR STOUT: May we have it now?

COMMISSIONER PALMER: Yes, sir. (copies given to
Committee members)

I would also like to put into the record, if I may, certain editorials that have been recently presented on account of this program; and also photostats of several telegrams received from the public carriers within the past few days which indicate, more or less, a moratorium on their part until after the referendum - assuming it is held - so that they will not, apparently, ask for additional train removals or fare rises, etc., according to these messages.

SENATOR STOUT: You don't want to read those; you just want to give them to us for the benefit of the Committee.

COMMISSIONER PALMER: I am giving them to you for that purpose. I would be delighted, sir, if you would recommend it and it may be desirable, to read them. May I do that then at this point?

SENATOR STOUT: Well, are there many there?

COMMISSIONER PALMER: No, sir. I only have two to read and the third one I will tell you about.

SENATOR STOUT: All right. Fine.

COMMISSIONER PALMER: This is from Mr. E. T. Moore, President of the Central Railroad of New Jersey: "This will confirm telephone assurance that the Jersey Central is willing to await the outcome of legislation and referendum passed by the Assembly on August 10, identified as A-692, before

initiating any new petitions for fare increases or train abandonments. This moratorium is not applicable to normal and routine changes, and adjustments in schedules and new time tables effective with change from Daylight Saving to Standard Time. We will continue to cooperate fully with the Rail Transportation Division in efforts to develop a plan which will enable the railroads to continue to furnish essential public service without the impossible burden of current deficits. We are hopeful that a plan will be consummated soon enough to enable us to continue this service without further disintegration. I must again emphasize the urgent need for prompt and adequate relief from the twin burdens of excessive inequitable taxation and the unbearable losses resulting from providing a large amount of commuter and suburban passenger service at very much less than cost." Signed: E. T. Moore, President, Central Railroad of New Jersey.

And from Mr. P. M. Shoemaker, President of the Lackawanna: "The Lackawanna Railroad desires to clarify to the Division of Railroad Transportation and the public its current position with respect to commutation and suburban service. Our patrons are seriously disturbed by discrimination in fares now in effect because of PUC failure to decide pending case as ICC has done. This should be corrected immediately. A plan to propose a major revision and improvement in New Jersey's train service is being held in abeyance pending action by Senate on A-692 and subsequent decision by public in November referendum.

Thus no major train service changes or curtailments will be initiated ahead of that time. The urgency of tax relief continues to be emphasized by Lackawanna's financial results. We look forward to continued cooperation with your organization to plan such relief at the earliest date as will assure service continuation."

I might add, sir, that I also had a call from Mr. James Cranwell of the Pennsylvania Railroad who adequately, and along the same lines as Mr. Moore, assured us of the cooperation and development of the Pennsylvania Railroad until the program was finally decided.

Now, to get back to the problem as a whole, it seems to me, - I don't mean to simplify it too much but, number one, that we all recognize that we are faced with a serious situation; and, number two, we must find ways and means, with promptness, to clear it up; and, number three, in order to do it, we have to have funds and these funds, if conceivably possible, should be available without taxation; and lastly, in so far as laying out the schedule of the work to be done, we have been carefully over the months making analyses of every situation and we have some very specific ideas as to what use can be made of the funds. The Bill itself is very broad in its opportunities but we will have to do with all of the railroads and we have met with them all on more than a half dozen and probably a dozen occasions, but it is impossible for us to submit at this stage of the game, if I may so term it, the details of how each dollar will be spent and specifically for what purpose. And I wish to emphasize

that we in our attempt, and we approach it very humbly, to present to the Legislature from time to time programs of necessity, as we see it, realize that it is only the Legislature that can finally determine the legitimacy of the expenditures and, therefore, instead of this Division having the opportunity to spend this money it will be solely via the representative of the people themselves.

The general perspective that we have is this, that if we are able to work out a program for the next five years, and possibly delving in to the ensuing five years, we will be fortunate, indeed. As we look back and see the changes that have been effected in such short periods, we cannot conceivably look into the crystal ball beyond that period. However, there is sufficient money, even though the differentiation between the Division's opinion, fiscal experts, and the Turnpike, - sufficient money, as we see ahead, to accomplish the ends that we are all so imbued with a desirability of.

There is no disagreement as to the amount of money that is presently available in the reserves of the Turnpike, between the Turnpike and the Division. That sum is \$29 million. It has variously been talked of from \$25 up to \$40 million. And while it may be more, as a minimum we are in perfect agreement.

In addition to that, we are in agreement that for the next five years the individual surplus each year will approximate in the neighborhood of \$10 million.

So, if we were to assume a \$29 million figure, which we legitimately can, plus a \$50, we would have \$79 million available in the first five years; and a continuity of \$10 million a year seems perfectly feasible on both sides for the ensuing five years.

Whoever may be delegated at the time to carry out or effectuate the plans that are recommended to the Legislature and approved by them will be fortified, I am positive, with a yardstick, which Senator Lance has so often referred to, which must be arrived at as to the compensatory features of the railroads in return for the assistance that we anticipate granting them. It's a difficult yardstick to assign but it is essential. And I might add also that any commitment to the railroads, contractual or otherwise, should be subject to a year-to-year allocation so in the event that there should be any slippage in the first year as to performance we would have the sword of Damocles, if you will, suspended over them for the second year.

However, we have no anticipation of any such disagreement. The meetings to date have been very, very effective and very cooperative.

I consider it a great privilege to be able, if you will, to share in this responsibility, to have you, Senator Stout, and your Associates invite us here, my Associates and myself. We are interested in this program because of its complexity and because we have been given the responsibility, and we are interested in what we can put into it. And I feel,

with the staff that we have, that we will not let you gentlemen down in the program, not let the Governor down, or not let the State as a whole down.

I again want to emphasize that we have no desire to subsidize anybody or any business. As a matter of fact, it's just the opposite. We are interested in people and in our economy, and on that basis, if I may, I feel that you have listened long enough to me and I and my Associates are available for whatever questions you wish to put to us.

Thank you, sir.

SENATOR STOUT: Thank you, Commissioner Palmer.

Before we have any questions, I would like to introduce another member of the Committee, Senator Charles Sandman of Cape May County who arrived after the Commissioner began speaking.

Do any members of the Committee have any questions?
Senator Hillery.

SENATOR HILLERY: Through you, Mr. Chairman, I would like to ask Commissioner Palmer if he would give us his views on the responsibility of the New York Port Authority. In my own county specifically, I am receiving inquiries as to why this problem is not handled by the Authority and why it was not approached in the same manner that the Governor of New York approached it; and why the Authority over the years, being particularly the sole watchdog of transportation in the metropolitan area, did not make recommendations to the Legislature or offer to do something about the commuter problem.

COMMISSIONER PALMER: Senator Hillery, although I may not be competent to fully respond to your inquiry, I would like to say this, first, that the State of New York's problem, as a background in response to your question, is not the cessation of service. The State of New York's problem apparently with the three railroads, the Long Island Railroad, the New York Central, and the Pennsylvania, was additional equipment. And when the Purcell Plan was advanced the question of whether the Port Authority would be considered -- the New Haven, I'm sorry, I said the Pennsylvania Railroad, the New Haven Railroad -- when the Purcell Plan was advanced they canvassed the possible participation of the Port Authority and arrived at the conclusion that the State would put up \$20 million and advance that money, using the Port Authority merely as the conduit, the vehicle for going into Wall Street and acquiring additional funds, with that stipend of \$20 million, and then surveying the needs of the railroads from an equipment standpoint and accepting their requests and supporting them and eventually loaning them sufficient money to accomplish this additional equipment.

Now, it takes eighteen months to two years to get a car of the modern type. That has been the experience of some of the roads. In the interim period that additional money that's acquired in the street, New York voiced the opinion that they would put through a constitutional amendment in about a two or two-and-a-half year period, because they have to jump one schedule of the Legislature, in order to provide that additional financing as a guarantee

to the bankers if it added the additional money. So, the Port Authority was not identified as the one to do the job, only to act as the conduit.

Now our situation is totally different. Ours is not focused upon equipment, although we feel that we need equipment, but ours is focused upon a threat to completely shut down passenger service. Accordingly, the tax angle came into the picture and the availability of funds. It is quite true that the Port Authority is a very efficient organization and exceedingly competent and may or may not, not to my knowledge either way, have the facilities for moving into a picture such as we are presently identified with. But at all periods of time, as I understand it, when approaches had been made to encourage them to come into the picture they have stood on the position that a deficit operation was not possible of conception in their own field of endeavor. And yet, justifiably, people have referred to the fact that some of the airport situations and other angles have had some deficit aspects. But in the over-all they have taken that position.

We in the Highway Department work with the Port Authority very closely. As you gentlemen may know, they have contributed \$25 million dollars to the advancement of highways in the State of New Jersey. And we have been assured by them and supplied by them with all of their material on the freight handling situation, and we believe that it is perfectly possible to get their complete cooperation on that. But I have no opinion as to whether they should or

should not, and I have no responsibility or opportunity to engage their interest beyond those that I have outlined.

SENATOR HILLERY: Commissioner, in the course of further discussion on this problem over the period of time, recommendations have been made that the Port might take over some of the terminal facilities. Have they shown any willingness at all with your Department to assume even that responsibility?

COMMISSIONER PALMER: Senator, that's a perfect question and it fits right into our picture. We have spent many hours with the Port Authority officials in reviewing the waterfront properties and the values and the possibility of them taking over certain parcels of land, certain ferry terminal locations, and there has been every indication of a willingness and an interest, really, in working with us. We have the feeling, - our group has the feeling that the Port Authority will give us the benefit of their experience as well as their financial assistance, if you will, by the means that we may adapt to accomplish this over-all clarification of this transportation problem.

SENATOR HILLERY: Thank you.

SENATOR STOUT: Before we have any more questions, Senator John Lynch of Middlesex County is here. Would you care to sit up here with us, Senator?

SENATOR DUMONT: May I ask a question, Mr. Chairman?

SENATOR STOUT: Yes.

SENATOR DUMONT: Through you, Mr. Chairman:
Commissioner, it was my recollection that when you met with

us on July 27th, I think it was, you said that between now and 1975, if this program or something like it were not adopted, it would actually cost \$5 to \$6 billion dollars to get the highways in shape to handle mass transportation in New Jersey instead of two and three-quarters to three million dollars. Is that correct?

COMMISSIONER PALMER: That's correct, sir.

SENATOR DUMONT: Thank you.

SENATOR STOUT: Any further questions?

SENATOR FOX: Commissioner, in the Press recently, in the last few days, I have noticed the articles with respect to this proposed route 95 which would be a freeway from Trenton to the George Washington Bridge. I may be mistaken but it is my conception of the fact that any discussion with respect to that particular highway has not entered into any of the statements of the Division of Railroad Transportation or any discussions in connection with this plan. Can you give us an explanation of that at this particular time, as to why that was not brought out, so that we may have a clear conception of the reason for it?

COMMISSIONER PALMER: Under the interstate program established by the Federal Government, the State of New Jersey has eight interstate highways. The old Route 1, as we know it, will be the new Route 95, and it is that that you have applied your question to. That route will be built, as all of the other interstate routes will be built, but when we set up our program of highways and we issued our map

each alignment was a paint brush, if you will, alignment of a general area in which one of these interstate routes would go. Route 1, as you know, at the present time is free and a wholly accessible route, runs identically parallel with the Turnpike. The Turnpike, however, has lots of traffic and there is a good deal of congestion on Route 1. When we visualized the carrying out of Route 95, the new interstate route, we concluded in our outfit, in our own department, that to build that route through the present corridor of Route 1 would be destructive of many property values and would also concentrate upon a present area that is greatly overloaded another highway and another focusing of traffic. And our studies at the present time will continue for some period because the money is not available at the present time anyway - a point of origin and destination of traffic will dictate the final alignment of that highway.

In connection with some discussions in the Press and discussions at the Turnpike in respect to the possible competitive angle of a road that might be laid alongside of the Turnpike, it was generally recognized that were we by 1972 or 1974 to complete the highway immediately next door to the Turnpike that it would have an appreciable effect upon the drainage of any of their traffic; that if it was a limited access route, a free route, that much of the traffic would go on the free route. That was discussed at great length and we have many differences of opinion as to where that route should be.

I want to have this on the record, that definitely the Federal Government and ourselves have no desire to spend money for highways so long as another highway, be it toll or free, can take care of the traffic. There are limited funds both to us and to the Federal Government. As a matter of fact, there is a grave question at the moment as to whether money will be available in sufficient quantity to meet these needs of the over-all Country as well as the State of New Jersey. So we are being ultra-careful to insure that wherever we build a highway that it is one of first-need, if you will, and it is one that no other road can service. If over a period of years the Turnpike may decide to widen the Turnpike, or to duplicate their facilities, we, the State, have no objection or no citation one way or the other in respect to that. Our new 95 will probably be considerably to the westward, as we presently see it, of the present Route 1, and it will be provided for only after full acceptance on the part of the Federal Government and a public hearing as to the need for it and the need for it in the area in which it is laid out.

Does that answer you, sir?

SENATOR GROSSI: Commissioner Palmer, there has been quite some discussion with respect to the outstanding bonds. What is the amount of the outstanding bonds?

COMMISSIONER PALMER: At the end of this year, sir, it is estimated there will be \$430 million as against a total issue of \$466 million originally, with a facial retirement date of 1988. But in the event that these

funds that have been accumulating in excess of needs have been utilized to retire bonds, it is estimated that the bonds could be retired by 1974. And our interest in those funds picks up the difference between the earlier retirement and the original retirement date.

SENATOR GROSSI: Has there been any estimate made as to how much more than the total amount of bonds outstanding it would cost to acquire these bonds for the full faith and credit of the State?

COMMISSIONER PALMER: There has, sir, and I would prefer to ask Mr. McKelvey, who is here, one of our Fiscal Advisers, or Mr. Morgan -- Mr. McKelvey, will you be kind enough to respond to Senator Grossi?

GEORGE MCKELVEY: Senator, we have been making estimates in our own minds every week, as the market moves for or against us, what the ultimate outcome is going to be if the Senate in its wisdom votes this bill and the people in their wisdom say yes at the referendum. What the market will be in November, December or January of next year, naturally, we can't say and, therefore, we can't give any estimate. We have been asked by some of the holders of the bonds, indirectly, what we were thinking. We have avoided answering that question to them, sir, for this reason - that is almost like asking a contractor to build a house for you next year and he doesn't know what the plumbing will cost or what the plywood will cost, etc. And we are afraid that if we tell them anything that's in our minds now, they will try to hold us to that figure, come November, December

or January.

SENATOR GROSSI: After the bonds have been acquired by the State of New Jersey, then the full faith and credit of the State is pledged behind those bonds. Hasn't it been the custom or rather the practice or the experience that bonds that carry the pledge of the full faith and credit of the state or municipality are far more attractive on the market than bonds that are held by people in sort of an independent agency?

MR. McKELVEY: Infinitely, sir. And may I take exception to your word "acquired" by the State. There has never been any thought in the minds of the Fiscal Advisers that we would call in these bonds or acquire them in any way. The bonds would remain in the hands of the original owners. If you happened to own some of the bonds, we would come to you and ask for your consent to take the surplus revenue now and give you in exchange therefor the State's guarantee. Now, if you wanted to send that bond into the State Treasurer and have him stamp on it that it was guaranteed by the State of New Jersey - that was written into the bill as a privilege that you as a bondholder would have. But if the law becomes effective and if the plan is received by the bondholders, immediately throughout the entire financial world they will be rated as an obligation of the State of New Jersey.

And then to come to the second part of your question, they should be infinitely more valuable and history proves that they have been because in the first

place, as Commissioner Palmer said, the "A" bonds, the prior lien bonds are rated "A"; the second lien bonds, the ones for the Hudson County Extension, have no rating from the investment services. Our conversations with Moody and Standard & Poor were that the coverage on the bonds was so great that they never figured that the State would be at any time called upon to put up money and, therefore, they would not change the State's present "AAA" rating from what it is now. So that the holder of the bond would have a "AAA" bond instead of an "A" rated or a non-rated bond.

SENATOR GROSSI: So it is conceivable then, Mr. McKelvey, that some time in the future that if the State were to go in for refunding that these bonds then would be sold at a more attractive rate of interest to the State, that is. In other words, the refunding process would have a rate of interest lower than the bonds are carrying now. Is that true?

MR. MCKELVEY: We anticipated that in drawing up the bill, sir, when we were asked to collaborate on that portion of it, by giving the State the right -- if the money in, shall we say, '65 or '72 or whatever turns around and goes back to where it was in 1950, these bonds could be refunded by the State at a very much lower rate of interest, we would hope.

SENATOR GROSSI: So that it is conceivable too that whatever cost there might be now in the acquisition or getting these people to convert these bonds, so to speak, that cost could be recovered in the future by a refunding

process?

MR. McKELVEY: Well, again you are asking me to build a house next year. We would hope so. And the mechanics are all there for it and you could rest assured, if the market was at a spot where it could be taken advantage of, that we would certainly take advantage of it, or ask the Authority to take advantage of it.

SENATOR GROSSI: Thank you.

SENATOR STOUT: I am going to ask Commissioner Palmer to bear with us for a couple of minutes. I have had several requests from gentlemen here who asked to be heard this morning and who will not be here this afternoon. I am going to take the liberty of calling on former Senator Alfred Clapp who would like to make a statement at this time. You will be available?

COMMISSIONER PALMER: We are at your service and will be available without any change in salary.

ALFRED C. CLAPP: Mr. Chairman, distinguished Committee, other Senators, Ladies and Gentlemen: My name is Clapp. I am Republican Candidate for State Senator from Essex County and I speak on behalf of the Republican Assembly Delegation of whom there are present next year's Assemblymen Philip Insabella and Martin Hanselman.

We in Essex County are deeply concerned over the travel and business welfare of suburban Essex and the City of Newark. And there can be no question as to the need for continued railroad passenger service, of which Commissioner Palmer has spoken, to meet the needs of Essex County's

people and its business interests, and the needs of other counties of this State.

Subject to certain conditions and questions which I will refer to below, we think that the general principle of legislation providing for the use of surplus Turnpike funds to maintain and improve passenger railroad services and for other transportation purposes, assuming such a dedication of funds can be made effectively, has merit.

I say we have certain conditions and we would like to have assurances on two matters: (1) That the railroads will cooperate among themselves and with the Port of New York Authority to effect substantial savings by more efficient and economic freight operations, in accordance with the underlying purposes of S.C.R. 35.

Freight operations must be considered in connection with this Turnpike plan. As President Shoemaker of the Lackawanna Railroad has recently said in testimony: "A railroad is an integrated operation. I am sure the Commission" he was referring to the Interstate Commerce Commission and the Public Utility Commission "appreciates it is exceedingly difficult to put fences around suburban service or commutation service, or through freight service, or local freight service, or through passenger service, as the case may be."

It is therefore unreasonable to expect the public in effect to subsidize what may be inefficient, wasteful freight operations of the railroads by providing tax or other

financial relief for alleged passenger deficits.

In the second place, we wish assurance that the railroad will give a satisfactory guarantee to the public that in return for equitable financial assistance from the State they will continue and improve their present passenger service.

It would be folly to go through this proposed referendum and solicitation of bondholders and give the railroads tax relief for a period, as has been suggested this morning, of perhaps five years and then have the railroads go to the Interstate Commerce Commission for permission to discontinue that passenger service.

Now I have some questions. I am sure that all of us here are acutely aware of the conflicting reports that have come down in the last few days with regard to this plan in connection with surpluses and other matters. There are many serious questions that remain to be answered.

One question is: How will the over-all program now proposed affect the future needs of our motoring public for free facilities? We certainly do not hope that a parallel road which, if it is needed, is to be paid 90% by Federal funds, is now to be sacrificed.

Second: How much money is needed to carry out a program for the betterment of commuter transportation service?

Third: How long a period of time will it take our Highway Department to effectuate such a program?

Fourth: We have heard, for example, that it may be that in a short time two additional lanes will be needed on the Turnpike going north and two additional lanes going south, in the not too distant future. This means a very large cost, new facilities over the rivers, it may cost fifty or it may cost seventy-five million dollars.

When you are thinking of things of this sort, projects of this size, one asks whether the tapping of the Turnpike's excess funds jeopardizes any needed future expansion of the existing Turnpike facility. Will it be feasible to finance these needed new Turnpike facilities if all of the excess funds are dedicated under Assembly Bill 692?

My last question is: Would it be wise to tap only such funds as are actually needed to do such a job rather than, as seems to be the general contemplation, to dedicate perpetually all funds in excess of those needed for operating expenses, debt charges and sinking fund requirements?

I am sure that this Committee will want sound financial data on all of these questions before the Senate meets again on August 31st to consider the program. Only in this way will our citizens understand what the program means to them and how it is expected to alleviate our real commuter transportation problem.

I thank you, Mr. Chairman, very much for giving me this opportunity to speak.

SENATOR STOUT: Thank you, Senator. Do any members of the Committee have any questions to ask Senator Clapp?

SENATOR FOX: Senator Clapp, do I understand the beginning of your remarks? I mean that coming events cast their shadows before them?

SENATOR CLAPP: They always do.

SENATOR STOUT: Thank you, Senator.

Now I will call Joel Jacobson of the CIO who has asked to be heard at this time.

JOEL R. JACOBSON: Senator Stout and members of the Senate: My name is Joel R. Jacobson and I am Executive Vice President of the State CIO Council. I see so many Senators before me that I am almost compelled to ask permission to speak about the Unemployment Compensation Bills, but I appreciate your kindness in calling me at this time and to show my appreciation I will refrain from that and also be very brief with regard to this measure.

I am appearing here this morning to present the views of our Union with regard to this proposal to divert the surplus funds from the Turnpike Authority for the relief of our State's railroads.

The State CIO is fully aware of the complex nature of this proposal, the legal obstacles standing in the path of its enactment, and the many questions of fact relating to it that are still to be determined. I suppose this is a polite way of saying that we aren't too sure of many of the answers ourselves.

Because of this and because of the fact that I can hardly qualify as an expert in high finance, or even low finance for that matter, I would prefer to devote these few

moments to an analysis of the broad principles of government involved in this legislation, rather than a detailed exposition of the various technical problems. In short, I will devote this testimony in an attempt to present our views with regard to the first question posed by Senator Lance at the outset of this hearing.

In broad terms then, permit me to set forth the thesis supported by the State CIO Council, namely, that the State of New Jersey has a responsibility to provide for the needs of its citizens. Where a specific problem affects the welfare of the total community, it is the responsibility of our government to find, to spur or to provide a solution. For this reason, the State CIO Council endorses in principle the permissive action recommended in this legislation to draw upon the Turnpike's surplus funds as provided in A-692.

Now, there is certainly no question that this issue is a most intriguing proposal, particularly when you consider the fact of its genesis and some of the sources of its support.

An analysis of the individuals and groups taking sides on this issue demonstrates quite forcefully that there has been a wholesale and unique departure from normal political behavior in our State. When one considers who is for this measure, it becomes quite plain that the traditional political battle lines in New Jersey have become considerably confused.

As a result of this we can see the emergence of a double standard of behavior being employed by many

representatives of the railroads and corporate enterprise. On many previous occasions when the State CIO Council has reiterated its support for this principle of subordination to the common will, our opposition universally present, always vocal and always obnoxious, would hurl the charge of socialism. Imagine our confusion then this morning when we realized that on this issue some of these shouting gentlemen are now supporting this legislation, not as socialism but as intelligent planning.

I must confess it is rather amusing to see the perennial rugged individual protectors of laissez-faire free enterprise supporting a program of government subsidies to relieve the self-induced deterioration of the State's railroads. If I may be granted a very quick aside to these gentlemen, I would like to inform all such recent converts that if it is not socialism to expend public funds to assist private railroad interests, it can hardly be called socialism to expend these same public funds to construct new hospitals and mental health facilities, to erect new schools, to provide college scholarships, to raise teachers' salaries, and to ease the tax burden on the small owner occupied home sites.

Thus, invoking the principle upon which our support for the permissive phase of this legislation is based, the State CIO believes that these same surplus funds should also be made available to meet many of the State's other important financial needs. Certainly the items just enumerated bear eloquent tribute to the fact that funds to

provide our citizens with additional services are sorely needed.

One additional point that was phrased by Senator Hillery, in regard to the Port Authority - if we are seeking lucrative sources, it appears to be that there is an additional source of abundance or perhaps super-abundance in proportion, and obviously I refer to the Port Authority. As a matter of fact, the likelihood of attracting support from this particular agency is much greater due to the fact that this does not require the approval of any bondholders.

Now, I realize that this is no place for a philosophical tome on the role of government but it appears to me that one point must be made in order to substantiate our claim that the Port Authority should assume its obligation with regard to this problem. The Port Authority is a creature of the bi-state legislatures. It is a super-state in itself, in its present form. It is responsible to no one and accountable only to the individual consciences of the individual Port Authority Commissioners. I would submit there is flimsy evidence upon which to base any decision as to whether or not this is sufficient to restrict the activities of the Port Authority. But in a democratic government, it appears that the representatives who are elected by the people should take action and then face their constituents for approval or rejection at periodic moments. The Port Authority never does this and it appears reasonable to us, however, to expect the Legislature to ask that the Port Authority assume its obligation and that this

principle of a super-state be somewhat reversed, both as a general matter and with regard to this specific issue.

In conclusion then, the State CIO Council supports the guiding principle of this legislation and urges the New Jersey Legislature to look to the Turnpike Authority and the Port of New York Authority as a lucrative source of funds for meeting many of the State's other important financial needs.

Thank you very much.

SENATOR STOUT: Do any Senators or members of the Committee have any questions?

Thank you, Mr. Jacobson.

Now, back to the main stage. I am referring to the Commissioner. We interrupted his testimony to take care of these two requests.

Does anyone have any further questions of Commissioner Palmer?

SENATOR HILLERY: Mr. Chairman, through you to the Commissioner, I want to discuss the specific proposal in the bill here and the section No. 3 which seems to be the controversial part of the bill.

It states in here that these funds will be available for the transportation of persons and goods. Has it been your experience to date in these conferences with the railroads that they have been losing money on freight transportation of goods?

COMMISSIONER PALMER: No, sir, Senator, not that they have been losing money but in order that we may be

certain that the passenger service which may be considered a loss-leader item may^{not}/in some way get confused with the return on freight, we have assigned to our Commission an expert accountant in the field of railroad accounting and we have every reason to believe that the over-all picture, the over-all structure of the railroads is essential to be reviewed rather than just specifically what may be allocated at the present time to passenger service alone.

SENATOR HILLERY: Well, Commissioner, do you feel that some of this money should be made available for transportation of freight or solely for the improvement and maintenance of commuter services?

COMMISSIONER PALMER: We believe that this money should be made available to insure a continuity and an improvement in the transportation of people; and in the event that freight or the movement of goods in any way is a deterrent or a distraction or a deviation upon the practical solution of our problem, that we should also be proficient and delve into the freight situation as deeply as we do into the passenger.

SENATOR FOX: Commissioner, along the lines of the question propounded by Senator Hillery, have you any definite information or advice from the railroads that they will agree to cooperate with the accountant or accountants that you send out to check on this breakdown as between freight and passenger service?

COMMISSIONER PALMER: Senator Fox, in our many, many visits with the Presidents, Counsel, Chief Engineers,

Assistants, over a period of months, we have been assured by all of the railroads, not only assured by them but assisted by some of them with complete analyses of some over-all phases of their activities and definite assurance that they will give us complete cooperation and there will be no resistance or no denial of material, all to the one end of developing a plan for the continuation and improvement of service to the citizens of the State. And it has been broad enough in their concept of acceptance to include every activity that they are engaged in - their ferries, their freight, their passenger, and every aspect, and their inter-connection and their inter-dependency upon each other.

SENATOR FOX: The reason I asked that question is because of the fact, if I recall correctly, a month or so ago at one of the hearings before the Public Utilities Commission a question was directed to the representatives of one of the railroads asking for a breakdown of the type that you have mentioned here before and there was strenuous objection by Counsel at asking the railroads to divulge that information and the further statement that it was so complicated that it would be almost a physical impossibility to present such a breakdown. That's why I want to pin the point down.

COMMISSIONER PALMER: Well, I with you probably would not subscribe that it is so complicated that it couldn't be broken down, but let me add this, that we must recognize also the situation of a railroad appealing to the PUC and whoever represents them being asked to involve them in

other situations. But I will add this, that in so far as the railroads are concerned we have no feeling of complication, of being able to differentiate and properly assign charges, and that their assurances of cooperation in the field of endeavor that we are in, plus the fact that instead of being an agency that may take something away from them or deny them something that we will be an agency that they will look to for support and something more material than just moral support --

SENATOR HILLERY: Through you, Mr. Chairman: Commissioner, in the early stages of their appeal to the legislative body and to the Governor, the railroads were asking for tax relief. Do you feel that if they were granted tax relief they would be able to improve their facilities without getting into the area of socialism, as Mr. Jacobson so aptly puts it?

COMMISSIONER PALMER: Well, sir, it seems to me that we are faced, and with all due consideration for any observations in respect to subsidization or socialism, it seems to me that we are in a channel of great necessity and of finding the ways and means of meeting that necessity. This is not a drift in temperament or in ideology, this is a practical down-to-earth facing up to an impending danger. As a matter of fact, the money that we will utilize is not State money. We presently use State money for institutions and agencies and hospitals, etc., as we should, but this is money of individual bondholders, if you will, in fifty states of the Union and many foreign countries. And when

those bonds are cashed in, that money will never come back to New Jersey and particularly will it not come back to the highways. So it is a situation that has contributed to the potential demise of railroad passenger service but it is private money and not public money. In so far as subsidization is concerned, we have every reason to feel in our discussions with the railroads that the timing of this return to an ability to maintain the dignity of their own responsibility will not be elongated and that the relief on the tax situation will supply them with, very definitely and immeasurably, the greatest need of compensation to neutralize the effectiveness of their present setup. And we do not feel that we ought to look ahead for any perpetuity, if you will, of maintaining any railroad or any business. We have a feeling and we have a confidence in the management, present and those to come, that they will realize their responsibility to the public. And while they have been divorced from some of the beneficial effects of supplies of coal and other assets that they had - they were a monopoly at one time but they are no longer a monopoly; it's a highly competitive business, and we believe that with the proper management and the proper cooperation on the part of all of us with them, we can protect the public.

SENATOR HILLERY: Commissioner, do you think that they could do this solely on tax relief? I mean, rehabilitate themselves.

COMMISSIONER PALMER: Senator, I am not enough of a long-range expert, if you will, to any extent that I may be expert at all to be able to give you either an affirmative

or a negative answer. My "guesstimate" would be that there will be much more to be done than merely tax relief.

There's got to be modernization; there's got to be a new awareness on the part of the railroads of their obligation to the public; there's got to be consideration of the views of the municipalities and the commercial institutions in the area preceding any arbitrary decision to cancel out or to effect changes. I do believe from the railroads that they are awakened as much as we are awakened to the need of a common endeavor and of our inter-dependency.

SENATOR HILLERY: Thank you.

SENATOR STOUT: Before I ask for any further questions I might point out that we have three more Senators here now, Senator George Harper, Senate Majority Leader; Senator Robert C. Crane of Union; and another member of the Committee, Senator Jones of Bergen.

Are there any further questions?

SENATOR LANCE: Commissioner, in your opinion would it be desirable for the New Jersey Division of Railroad Transportation to attempt to prepare in legislative bill form plans for spending the funds in order to achieve the purposes intended before the public votes on the proposal in November?

COMMISSIONER PALMER: Senator Lance, I would feel that it would be inadvisable and impractical for us to find ourselves in the position of presenting the so-called Bill of Particulars as to how the money would be spent. To begin with, as each day passes we have a new element in the picture. More recently we have had the notification of the

adoption of the Narrows Bridge; we also have the second-decking of the George Washington Bridge; we will have the completion of various interstate highways. Each one of those arteries or means of travel will have an appreciable effect upon the suitability and desirability in emergency of a certain program. We have ferreted out the relation of the Hudson & Manhattan and the possibilities with the Central Railroad and with the Pennsylvania, and discussions with the Erie and the Lackawanna, the interchangeability of service, the treatment of the aspects of the shore roads; but we have not reached and cannot reach, because we cannot talk advisedly and carefully with the carriers, - and our engineers cannot reach conclusions until we know whether or not our effort in that direction is going to be supported by adequate funds. We will, however, after we have knowledge of the facts, the view of both the Senate and the referendum, attempt to provide a preview to the Legislature of some of the channels in which the money will be spent. But, mind you, these only would be recommendations on our part and would not in any sense be decisions. The decisions would be up to you gentlemen.

SENATOR LANCE: Commissioner, the Senate returns on August 31st, which will soon be here. Is it your present intention to have the Division of Railroad Transportation, which is in your Department, present to the Legislature anything in legislative bill form concerning the proposed spending of the funds to achieve the purposes intended?

COMMISSIONER PALMER: I would like to ask Counsel, Mr. Russell, to indicate his conception of that situation.

HENRY E. RUSSELL: As I understand the Commissioner's plan, it is not to have drafts in bill form for submission to the Senate or to the Assembly by August 31. I think the type of problem that concerns the Commissioner or a background to this rises from this sort of thing: We talk tax relief. The Division with Mr. Aaron Neeld, who used to be State Treasurer and head of the Division of Taxation, has been studying the aspects of that problem and it is just as conceivable that tax relief as such will go out the window when we get down to the ultimate conclusion and that the matter will be taken up on the basis of, as you know, sir, Rutgers vs Parsons, on payment to the railroads for services continued or public services rendered. I do not believe that the Commissioner will be in a position to suggest to the Legislature any specific bills at that time.

SENATOR LANCE: One more question, Commissioner. Have any studies been made whereby it could be predicted with any reasonable degree of accuracy as to what percentage of the Turnpike tolls come from non-residents?

COMMISSIONER PALMER: Yes, sir. That figure has been variously represented to us - at one time as $66 \frac{2}{3}$ from out of the State and more recently the figure has approached 60% out of the State, in so far as tolls are concerned or income to the Turnpike. There has been no definition to us in writing of either but we have the Chairman's expressed view that it is something slightly in

excess of 60%.

SENATOR LANCE: And that figure, Commissioner, is based on dollars rather than numbers of users.

COMMISSIONER PALMER: Yes, rather than number of vehicles.

SENATOR LANCE: It is based on dollars and not number of vehicles.

COMMISSIONER PALMER: Yes, sir. That's correct.

SENATOR STOUT: Any further questions?

SENATOR SANDMAN: The only thing that seems to concern me in this Bill is section 3, Commissioner. There are two words that you have in section 3, page 3, line 8 of the Bill, and these two words which I am most concerned about are "to insure." Do you have to have that in there?

COMMISSIONER PALMER: Well, again, I would like to ask Mr. Russell if he would be kind enough to deal with that factor. We have discussed that section no end and I think he can express it in fewer words and more intelligently than I might be able to although I fully understand what our conception is.

MR. RUSSELL: Senator Sandman, we are, as you know, associated with the Attorney General as kind of special counsel on this particular matter. Answering just your question, just as it was stated, those words in our view are not necessary to the section. Our view is that - and I have here a draft of opinion to the Attorney General on the subject, that this clause taken as a whole, particularly with the last sentence of it referring to the carrying out of

the object and the means and methods to be adopted by law does not require the Legislature to make any particular allocation of the funds derived; that it is a matter for a future Legislature to decide whether tax reimbursements will or will not be made in event that some tax revision regarding railroads is adopted in connection with the transportation problem. We do not believe that this fund can be used - could even be used to make reimbursements for adjustments in the tax structure arrived at for some other purpose, namely, reassessment revaluations.

I may say that I believe that, if the Committee wished, Attorney General Furman is available to give his views on this same subject.

SENATOR SANDMAN: Do they agree with yours?

MR. RUSSELL: No, sir, they do not.

SENATOR SANDMAN: Then you think they are unnecessary.

MR. RUSSELL: The words are unnecessary but taking them out would not change the construction.

SENATOR SANDMAN: My only purpose in asking that question, Commissioner, was I fully understand the last sentence in that paragraph, which pleases me, and I can find no fault with the paragraph, especially in view of the last sentence. However, with the two words in there "to insure" no loss in revenue as a result of tax revision programs hereafter adopted - makes the paragraph a little ambiguous and that is the only reason I made that suggestion. If those two words were deleted, would the bill still meet your purpose?

COMMISSIONER PALMER: Yes, it would.

MR. RUSSELL: -- as a matter of legality.

SENATOR LANCE: Mr. Russell, while we are on this subject, you are a school bond expert, as I understand it.

MR. RUSSELL: But not on local fair share.

SENATOR LANCE: Let us assume that the Legislature in its wisdom or lack of it should repeal the second-class railroad tax as you and I know it and in its place pass a new law whereby the State of New Jersey would tax second-class railroad property and keep it for state use. Is it not true that Jersey City, to be specific, would then lose from its tax base certain ratables?

MR. RUSSELL: Its tax base, yes, sir.

SENATOR LANCE: And when a municipality, whether it be Jersey City or anybody else, loses ratables from its tax base, does not that affect the State Aid for Schools formula?

MR. RUSSELL: That's the one I can't answer. I understand that it does. I am not an expert on the State Aid formula or anything else for that matter.

SENATOR LANCE: Assuming that it does without deciding that it does, Jersey City, for example, would then have less tax ratables than it now has and therefore be entitled to a less share of State Aid for Schools the way the formula works.

MR. RUSSELL: Assuming that it does, it would certainly get less State Aid. I suggest, however, that the State Aid formula is a statutory one and conceivably appropriate adjustment - I hate to see that Committee go to work again - but appropriate adjustment could be made.

SENATOR LANCE: It would be the other way that the less ratables they have, the more State Aid they would get.

MR. RUSSELL: I believe that is right; that is, the local fair share is increased by the ratables.

SENATOR LANCE: How would you integrate that picture with line 8 of page 3 of the bill?

MR. RUSSELL: Under Mr. Miller's correction, there wouldn't be a loss in revenue, but assume there were a loss in revenue? Assume that there were a loss in revenue, which is derived from State Aid in that case as I understand your question, I believe, or our opinion is, sir, that the legislature is under no minimum directive under this language to provide any reimbursement to the municipalities. And on the basis of that opinion, I think that line 8 is immaterial unless the legislature in its wisdom and on recommendation decides to make reimbursement.

SENATOR GROSSI: Mr. Chairman, through you - with respect to line 8 "to insure no loss in revenue as a result of any tax revision program hereafter adopted by law in connection with transportation problems ***" - I imagine that that is tied in

directly with losses of revenue as a result of transportation problems. Now, the thought occurred to me that under the Dumont-Fox, etc. bill of the fifty, fifty, twelve and one-half, that in effect reduces the railroad assessment by 50 per cent.

SENATOR DUMONT: Only if you assume that --

SENATOR GROSSI: -- railroads are assessed at 100 per cent.

SENATOR DUMONT: -- they are assessed at 100 per cent.

SENATOR GROSSI: Well, that has been the cry.

SENATOR DUMONT: Well, we don't agree with it.

SENATOR GROSSI: Well, you say that they are assessed for less than 100 per cent.

SENATOR DUMONT: That's right.

SENATOR GROSSI: Well, the cry is that they are assessed at 100 per cent and that is collected by the State of New Jersey. So, therefore, if the tax assessment ratio is reduced to 50 per cent, theoretically the railroads then would have their assessments cut by 50 per cent and the rest of the freeholders in the community would have to absorb that extra 50 per cent. Now, under this bill, would that mean that these communities would be reimbursed by the loss of revenue as a result of a tax revision program because Jersey City and Newark, I think, stand to lose the largest amounts by a tax revision program because Jersey City has presented figures to show \$7,000,000 and I think Newark gets \$1,000,000. About \$1,000,000, Senator?

SENATOR FOX: A little over.

SENATOR GROSSI: A little over \$1,000,000. Now then, a tax revision program that would reduce this revenue by half or

approximately half - would they be reimbursed under this bill out of surplus revenues to make up the difference? Could you answer that? I know it's a long question.

MR. RUSSELL: I think the answer is that the Legislature, if it determines that this revision of the basis of taxation is in connection with solving the transportation problem, may but is not required to provide reimbursement, if you want to call it that, out of this fund.

SENATOR GROSSI: Well, the reduction of assessment - tax relief to the railroad would be in direction connection with reducing their cost and helping the transportation problem, wouldn't it?

MR. RUSSELL: I doubt it, sir.

SENATOR GROSSI: Any tax revision program ---

MR. RUSSELL: It is not in connection with the transportation problem. There wouldn't be consideration for it as I see it.

SENATOR GROSSI: The question was put earlier here ---

MR. RUSSELL: Pardon. I must have misunderstood your question.

SENATOR GROSSI: Any tax revision for the railroads, downward, any tax revision downward for the railroads would in effect affect the transportation of the railroad. It would help put them in the black in other words.

MR. RUSSELL: I believe it would.

SENATOR GROSSI: So, therefore, any tax revision would be directly connected with the transportation problem.

MR. RUSSELL: I doubt it, sir. If it's in connection with

the statewide rearrangement of assessment, that's a different matter it appears to me.

SENATOR JONES: Well, isn't the real answer to this, if they do get some type of help out of another measure, not associated with transportation, that at a subsequent time the legislature would take that into account and accordingly probably reimburse them? Isn't that your answer.

MR. RUSSELL: I believe that's correct.

SENATOR JONES: And that's the answer you were looking for.

SENATOR GROSSI: That's right.

SENATOR LANCE: To be more specific, Mr. Russell, suppose in the case of Delaware, Lackawanna and Western versus Neeld, with which we are all familiar, decided in 1957 in 23 New Jersey 561, the Delaware, Lackawanna and Western Railroad had been successful, meaning that they had proved two things: one, that the assessment ratio in Jersey City is 62 per cent and that they were assessed at some figure higher than 62 per cent. Is it your opinion that Section 3 of this bill would permit the Legislature to reimburse Jersey City for a loss in taxes arising out of a decision in Delaware, Lackawanna and Western versus Neeld situation?

MR. RUSSELL: I would believe not, sir, on the basis that in line 9 the revision programs which can give rise to the right to use this fund for reimbursement are those adopted by law and, I believe, it is the proper interpretation of that section that that means legislative acts.

SENATOR LANCE: So your answer is "no" to that question. Correct? But if this Legislature should repeal the second-class

railroad tax and pass a new bill whereby the state takes the money for its own uses and the municipalities then lose money, you say that is Situation Number Two whereby reimbursement could be achieved under this bill?

MR. RUSSELL: Yes, sir, by act of the Legislature.

SENATOR LANCE: In whole or in part?

MR. RUSSELL: In whole or in part, not exceeding the loss in revenue.

SENATOR STOUT: Do you have any questions, Mr. Miller?

DR. MILLER: Mr. Palmer, I have a few questions getting back to the estimate of yield, if you want to go back to that for the moment. The \$10,000,000 in annual money which is projected I assume is on the basis of the existing debt service, is that not so?

COMMISSIONER PALMER: That's correct.

DR. MILLER: So if in the refinancing there were to be an increase in the debt service cost, the \$10,000,000 would be reduced, would it not?

COMMISSIONER PALMER: Not necessarily so, sir. In the event that due to expansion or duplication of existing facilities, which is a capital investment, the Turnpike should necessarily have an issue of new bonds, it will be anticipated that all of the charges would be borne by the results of the new issue and the existing situation would not be materially changed.

DR. MILLER: I am sorry. I didn't mean to suggest any new bond issue other than a bond issue to buy in or refinance the entire \$430,000,000 which has been outstanding so that the consent

of the bondholders which is required, and perhaps might not be forthcoming, could be circumvented. I am sure Mr. McKelvey would agree there is that possibility. Now granted that the consent could not be obtained or that it could not be obtained without some exchange of consideration, to make it attractive for the present bondholders, would the additional cost of borrowing, which in turn would be reflected in the annual debt service, cause your \$10,000,000 estimate to be less?

COMMISSIONER PALMER: My personal opinion is "no," but I will ask Mr. McKelvey to answer that.

MR. MC KELVEY: In answer to that, when we drew up the \$10,000,000 figure.--

SENATOR STOUT: Just a minute. You have a dead mike. It's all right now.

MR. MC KELVEY: Sir, in answer to your question, as you know there was a considerable dispute between our estimates and those of the Turnpike Authority as to the amount of funds that would be available. The figures that have been used by Commissioner Palmer include or exclude a cushion that we have left of about \$8,000,000 to \$9,000,000 over the first five-year period. We have purposely accepted the Turnpike's lower figures for the first five years so that that cushion would be there available. So specifically, in answer to your question, if we do have to add something to the coupon rate of the bond to get the consent, we would still be up to the \$10,000,000 figure and in our humble opinion plus.

DR. MILLER: I don't quite follow, Mr. McKelvey. Granted whatever the estimate is or the details are, the \$10,000,000 is

something, I assume, you have agreed upon and we have the memorandum indicating how that came about. As I understood it, the whole difference of opinion was on the projection of revenues, not on the projection of debt service, is that correct?

MR. MC KELVEY: That's correct.

DR. MILLER: So that if your debt service is increased, granted you start with a given revenue, would not your \$10,000,000 be reduced?

MR. MC KELVEY: No, sir. We have left a cushion of \$8,000,000 in there for the five-year period.

SENATOR JONES: You have got to say "yes." The question is loaded and all you are doing is unloading the question by adding to it that in your opinion more money will be there. But if we disregard your opinion that more money would be there, then you have to answer the question "yes." Isn't that right?

MR. MC KELVEY: Well, I am not quite used to answering that type of question.

SENATOR JONES: You check with your advisors and see if the answer isn't "yes."

MR. MC KELVEY: Well, will you repeat then the specific question.

DR. MILLER: The question is a very simple one. Given your revenue assumptions which are involved in the \$10,000,000 annual surplus, if you had to pay more for debt service than the present debt service of the Turnpike Authority, would not your \$10,000,000 be reduced?

MR. MC KELVEY: I bow to Senator Jones. Then the answer

is "yes."

DR. MILLER: Then the next question is how much, given a refinancing in the present market?

MR. MORGAN: May I answer that question?

DR. MILLER: Surely.

SENATOR STOUT: Pardon me, sir. Would you mind giving your name?

MR. WILLIAM MORGAN: My name is William Morgan of Blyth and Company. I am one of the financial advisors to the Commissioner. I would think that is a question which is so subject to bond market conditions that we will not answer it and I think you can understand the reason why. The question, if I answer it on the basis of today's conditions with the bond market - well, to cite an example, - the bond-buyer index at a three fifty-seven rate and in a year hence or say three or four months hence when we have to go to the bond people, the averages have changed materially in favor of the state, we might be, shall I say, committed to answer such a question. We do not feel we should answer that question.

DR. MILLER: Well, suppose the bond market is the same as it is now, and that is conceivable, is it not?

MR. MORGAN: Well, that is true, but I would still prefer not to answer the question because ---

DR. MILLER: Do you have any figure as to what ---

MR. MORGAN: --- it is still a matter of opinion. Let's put it this way: If we had to increase the interest rate by a quarter of one per cent, and I am not in position to say that is the amount - I would not make that statement - I want that part clear - the amount over the life of the bond issue would be about

\$600,000 per year. Does that answer your question?

DR. MILLER: Well, that is at least one assumption and that would mean that you have around 9.4 instead of 10.

SENATOR FOX: Well, Mr. Miller, isn't your very question based on assumption and speculative?

DR. MILLER: It must be; it's got to be.

SENATOR FOX: So that all this man can do is to speculate also.

DR. MILLER: Absolutely.

MR. MORGAN: I wanted to give you those figures. In other words, that is an adjustment figure upward or down. I wouldn't say you could adjust it down because you can't change a fellow's interest down from what he has got now. That is not done. It can't be done by the bond resolution.

DR. MILLER: May I ask while you are there, Mr. Morgan, whether to your knowledge there is any indication that two-thirds of the bondholders are likely to consent on any terms that you have in mind?

MR. MORGAN: Again we are in a tough spot. We have nothing definite to go to the bondholders with. We would have to go to them with an "iffy" question. Having formerly been employed by a major holder of these bonds, I am inclined to say that if someone brought me that question in my former position, I would say "When you are in position to talk - you have a definite basis, a definite plan which you can set forth - come back. Meantime, I would prefer not to answer the question." We have discussed the plan informally with various bondholders. We think

that certain of these bonds there is a very good chance, without any difficulty, of getting the approval. On certain of the other bonds, we will have a much tougher job.

DR. MILLER: Do you think the chance of getting approval is any better or worse if you first had a popular referendum approving the expenditure?

MR. MORGAN: We can't go with a definite plan without the popular referendum.

DR. MILLER: Suppose you had all but the results of the referendum.

MR. MORGAN: We would still be in the position of asking a question three to four months before we had something definite to talk about.

DR. MILLER: Could you not make any of the same assumptions you are making today and then tell us whether or not the bondholders might consent without any additional interest cost?

MR. MORGAN: We don't feel that that is good business, sir.

DR. MILLER: So they would not consent in your belief?

MR. MORGAN: We do not think at the moment they would be in position to make any consent because we have nothing definite to provide for them. One of the things you have to realize that with most major bondholders, they give a great deal of thought and study to the program. We think it would be very ill advised to go to them with a lot of "iffy" questions and then have to hit them again three or four months from now.

DR. MILLER: I believe the Committee has been informed that the bonds are very widely held. You mentioned something about being associated with a major holder. Is it correct that

the bonds are now very widely held?

MR. MORGAN: That is correct, sir.

DR. MILLER: So that the consent information you get from any one bondholder or a substantial holder would not necessarily be the basis of predicting the action of two-thirds?

MR. MORGAN: That is correct. But it is normal in a situation of this sort that the major holders to a large degree tend to work out a pattern.

DR. MILLER: Then you would say Assemblyman Beadleston was correct when some weeks ago he indicated a strong likelihood that the entire issue might have to be refunded.

MR. MORGAN: I didn't say that, sir.

DR. MILLER: Or refinanced rather.

MR. MORGAN: No. I do not feel that ---

DR. MILLER: Well, is there any likelihood it might have to be refinanced?

MR. MORGAN: My thinking would be that if it had to be completely refinanced, there would be a very good possibility that the Committee set forth in here would say they would not want to do it because the surpluses then would not justify going ahead and doing the job.

DR. MILLER: May I ask the Commissioner one more question, Mr. Chairman.

In light of the range of estimates, and we all appreciate this isn't a very precise science, Mr. Palmer, would you care to comment on the advantage of this way of providing funds which was your main objective as compared with the direct use of highway-user revenues in the amount of up to \$10,000,000 a year,

and the use of Turnpike surpluses to extend the road system that would otherwise be handled by the highway-user revenues, eliminating bondholders' consent and referendum and everything else?

COMMISSIONER PALMER: In due season the Turnpike bonds will all be retired and it will be up to the legislature at that time to determine whether or not it is to continue as a toll road to support the highway system or whether it is to be a free road. In so far as utilization of funds or availability of funds, at the present time we would not have arrived at the conclusion we did if there had been any other money in the cash register. But since all of the plans that have been promoted have all dealt with taxation on the citizenry, we sought out a plan that without such taxation could be accomplished and at the same time would be contributed by an organization that has contributed also to the problem that we are faced with today.

DR. MILLER: But in any event, would it not be true if you were to use the same Turnpike surpluses to provide highway facilities, you would be relieving the tax burden and free tax moneys in effect?

COMMISSIONER PALMER: Sir, we cannot cope or provide sufficient highways to take up the slack or the additional traffic that will come by a cessation of passenger traffic. It cannot be accomplished by the Highway Department either in the terms of money - of the money that is available through the Turnpike, if you will - or any other money that is available or within the time it will be necessary to accomplish it.

DR. MILLER: Well that, of course, is understandable and is it not possible that the program you envisage, tax relief, new equipment, complete reorganization of the transportation system, rehabilitation of bus lines, might very well require a great deal more money than the nine to ten million dollars that is presently projected annually?

COMMISSIONER PALMER: As we see it at the present time, the answer is "no."

DR. MILLER: And that is even though the railroads are now paying about eighteen million dollars a year in taxes?

COMMISSIONER PALMER: Because we feel that if this available fund is handled intelligently and on a practical basis with the cooperation of the railroads that we can reach a point within a nearby period whereby they will begin to take up the slack themselves and become self-supporting. It is perfectly conceivable that from the long range, which I think none of us can anticipate the time or condition, that long before that, the transportation problem will not be in the position it is in at the present time.

DR. MILLER: Well, we appreciate you have been quoted in the press, at least, as saying that in five years the industry would be on a self-liquidating basis.

COMMISSIONER PALMER: Sir, I am not responsible for the press; I am responsible for my own statements, but not the interpretations either. I am not of the opinion that the answer to prayer will be accomplished in a five-year period, but I am satisfied that we will alleviate the situation materially and that within a five- or ten-year period substantial accomplishments will be the result with the submission and the approval by the

legislature of some of our recommendations.

DR. MILLER: Thank you.

SENATOR GROSSI: Mr. Chairman, may I ask a question of Mr. Morgan. Picking up the questioning by Mr. Miller, Mr. Morgan, with reference to the \$10,000,000 estimated surplus and the increased debt service, conversely he also mentioned too about the possibility that the state would have to refund bonds and if this were so they would have the full faith and credit of the state pledged behind those bonds and as a result would draw a lower interest rate; isn't that true?

MR. MORGAN: That is correct.

SENATOR GROSSI: Therefore, if that were true, your \$10,000,000 surplus would be up and your debt service would be down; isn't that true?

MR. MORGAN: That would be true, Senator, but the facts of life at the moment are that we are pretty close to the position where a general obligation of the state would be very near the current interest rate on the outstanding obligations of the Turnpike. So to give you the thought that you are going to gain some advantage from that, I think would be a misconception. We want to be honest about this thing and we do not feel at the moment that you would gain any material advantage by refunding in the markets as they exist today.

SENATOR GROSSI: I don't mean presently, but I mean some time in the future because we are going to 1988 so somewhere between now and 1988 it is entirely possible that a refunding would save a lot of money and interest rate, isn't that true?

MR. MORGAN: That is correct.

SENATOR GROSSI: And therefore your estimate of surpluses of \$10,000,000, would increase materially?

MR. MORGAN: That is correct.

SENATOR GROSSI: And your debt service would decrease in proportion, is that true?

MR. MORGAN: That is true.

SENATOR LANCE: Mr. Morgan, in the past 25-year period, in what year did the yield on municipal bonds achieve its highest figure?

MR. MORGAN: The yield on municipal bonds achieved its highest figure, I believe, earlier this year. In other words, some three to four months ago we had the highest figure we have had since about 1935.

SENATOR LANCE: So if there is any refunding to be done, you folks wouldn't pick it now with the interest rates on bonds being higher than they have been in 25 years.

MR. MORGAN: That is correct.

SENATOR STOUT: Any further questions?

SENATOR LANCE: This is an easy one, Mr. Morgan, for a change. Out of the \$430,000,000 of outstanding Turnpike bonds, how many million bear a Moody A and how many million are non-rated?

MR. MORGAN: I will go back to original figures which I am more familiar with on the basis of issuance. There are two hundred and about fifty million which bear a Moody A. They are the general series A bonds. They are in effect a closed, first-lien bond in the term of the trade. Then you have the second

series bonds, of which there are the three and three-eighths, three per cent and the two eighty per cent bonds. Of that group, that figure is about 180 million or will be by the end of this year. They are non-rated by Moody's or anybody else due to the fact that they can be dilluted; their coverage can be dilluted by the issuance of additional bonds to build additional projects of the Turnpike.

SENATOR STOUT: Any further questions?

SENATOR JONES: Section 3 suggests that you want to take care of transportation in the state generally and not railroads specifically, and as I understand estimates as we have them now, there is some question whether \$10,000,000 could take care of the railroads, is that not correct?

COMMISSIONER PALMER: Yes.

SENATOR JONES: So that in effect, as it relates to this referendum and to our immediate purposes, there is neither money nor purpose to extend subsidy or whatever term you want to use to describe these funds. So in effect for our present purposes and intent as well as the money available, there are no proposals of any kind nor money of any kind to take care of other transportation problems.

COMMISSIONER PALMER: May I remind you of this, Senator, that in addition to the ten million a year, there is presently a reserve of twenty-nine million dollars available.

SENATOR JONES: And is that proposed to sweeten up the railroads or is that proposed to do the other?

COMMISSIONER PALMER: That is proposed to be in the kitty

to present to the Senate our program for gradual improvement of the railroad service and relief to them.

SENATOR JONES: Well then the twenty-nine million is devoted to railroads and again I say it is not devoted to all the other factors of transportation we have in the state.

COMMISSIONER PALMER: Well, sir, neither the time nor our ability at the moment would be directed in the broadest field with which we presently have a horizon in the bill. But it permits us to do it as the need develops of emergency and therefore our present concentration will be upon the railroads. But in the event that it is an accessory to the service - some other element, bus or what not comes into the picture - we would then give due weight and consideration to that as well.

SENATOR JONES: Then, if I understand your reply, I think it is a fair assumption to say, taking the material you have given me, that you know of no emergencies and no problems with respect to transportation other than the railroads.

COMMISSIONER PALMER: At the present time, sir, that is correct.

SENATOR JONES: So that without any understanding of emergency and without the presence of any emergency, however, these bills propose to create a broad availability for all other transportation factors in the state to come forward to the legislature and say "We would like some money"?

COMMISSIONER PALMER: That is correct, sir, absolutely.

SENATOR STOUT: Any further questions?

SENATOR DUMONT: Mr. Chairman.

SENATOR STOUT: Senator Dumont.

SENATOR DUMONT: To go back to an earlier question, Commissioner, your whole objective here is by the expenditure of somewhat less than a half a billion dollars in Turnpike surpluses, by keeping the railroads in operation, to save what might cost two to two and one-half billion dollars more to provide the highways that will be necessary if the railroads are not kept in operation, is that right?

COMMISSIONER PALMER: That's correct, sir.

SENATOR GROSSI: Mr. Chairman, one more question please.

Commissioner Palmer, do you see any difference in quote "sweetening up the railroads by granting them tax relief through surplus funds" and reducing their assessment by 50 per cent?

COMMISSIONER PALMER: Sir, I have not gotten into the tax situation on assessments because of my own limitations. I have looked forward to the legislature, of which you are a member, to handle that phase of the situation. In so far as relief is concerned, relief from whatever source financially would be of benefit to the dissipation of this present threat.

SENATOR STOUT: Any further questions?

We have several witnesses after lunch and I would suggest that we adjourn now for one hour until quarter of two. You will be back then?

COMMISSIONER PALMER: Yes, sir.

(Adjourn for Lunch.)



SENATOR STOUT: The hearing will come to order. I will call Augustus S. Dreier.

MR. AUGUSTUS S. DREIER: I appear at this hearing on behalf of the Joint Committee of Municipal Railroad Transportation Groups of Northern New Jersey which is composed of the Boonton Line Transportation Association, the Inter-Municipal Group for Better Rail Service, the Jersey Shore Protective Committee, the Morris County Railroad Transportation Association, the North Hudson Municipalities Group and the Transit Committee of Bergen County, all of whom are official organizations representing municipalities in the counties of Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren. I noticed this morning that there were Senators here from nine of the twelve counties which we represent. The Committee is keenly interested in assisting in the finding of the solution to the problem of mass transportation. These groups are not commuter groups, but official municipal representatives. We represent both Republicans and Democrats. This problem should not be allowed to become a political football. As in the past, we have no hesitation of expressing our views on any rail transit matters and we try, as we believe we will later show, to offer constructive suggestions. We have offered our services in the past and this offer still continues.

It is at this time unnecessary to go into detail regarding the seriousness of the rapidly deteriorating rail transit in the metropolitan area of Northern New Jersey. You are well aware of the continued curtailment as well as abandonment of services by

the various railroads and of the serious threat of complete abandonment by certain railroads of all of their passenger service. We all know that something must be done and without further delay to not only check this trend but to cause the railroads to return and improve the service formerly rendered by them.

At previous legislative and other hearings the views of our member groups have been set forth in detail. We then and we still take the position that the Port of New York Authority is responsible for the situation existing today and is the agency which was legally created not only to handle terminal facilities for traffic on rubber and water but also and specifically on rail. We have maintained the rail and vehicular facilities should complement each other, not compete with each other, because the latter has resulted and will continue to result only in the gradual elimination of rail service, increasing the need for further vehicular facilities and causing greater congestion, loss of ratables and increasing costs to both user and non-user of these transportation facilities. We are particularly pleased to see that in Governor Meyner's release of June 16th when the present plan was submitted that he has now agreed with our thinking that transportation by rubber and transportation by rail are parts of a single problem. When the funds become available, should not the Port of New York Authority be charged under existing law together with any supplemental legislation deemed necessary, with the responsibility of coordinating the flow of all traffic across the Hudson River?

Enough studies have been made and the time has come for action.

The Port Authority is the only lawful and competent agency to deal with the problem. It has the technical know-how, operational experience and financial resources.

The rail problem can be solved only on an integrated land transportation basis, where vehicular and rail facilities complement, not compete, with each other at public expense. The Port Authority has completed vehicular facilities. It needs only direction by the States of New York and New Jersey to complete the remainder of the job in accordance with the Comprehensive Plan which it abandoned when its activities were shifted to the construction and operation of vehicular tunnels and bridges, airports, truck and bus terminals, a grain warehouse, grain elevators, a \$5 million hotel and, more recently, the construction of a \$890,000 factory for the manufacture of windows and doors.

In view of the foregoing facts, the Joint Committee strongly urges that the Port Authority be directed in accordance with the statutes by which it was created to solve the rail transit problem on an integrated land transportation basis by

1. Immediately starting work on the maintenance of existing rail and ferry services, and
2. Planning, constructing and operating rail facilities on a long-range basis similar to those for the existing PA vehicular, water and air facilities.

At long last there has been recommended a proposal which will provide the necessary funds, and I might say that we feel the funds were within the Port Authority's backlog of money, but wouldn't give it up, to insure maintenance of essential common carrier passenger service to the residents of New Jersey. We

believe that is the prime purpose of Assembly Bill No. 692. The Joint Committee favors the use of the surplus Turnpike funds to maintain as well as improve and restore railroad and ferry services and therefore urges that the Senate adopt this bill at its next meeting and that, if there should be any amendments, it stay in session until such amendments are approved by the Assembly to the end that the legislation be adopted in ample time for the necessary referendum to appear on the ballot this November. The Joint Committee is of the opinion that legislation will necessarily have to be adopted so that there will be a statutory formula for the distribution of the funds that are made available. We believe that any legislation proposing tax relief for the railroads beyond tax equity - and I might add here that we feel that the so-called Dumont-Fox Bill shows that tax equity - should incorporate certain safeguards as well as incentives to insure the rendition of public service. We feel that specific standards should be provided so that a railroad may increase the assistance it receives by improving its service while, on the other hand, if a railroad's service is diminished, its assistance would be decreased. As an example such standards should be:

1. Number of passengers carried. (If total passengers are increased, greater assistance would be given.)

2. Speed of trains - time spent in transit. (Faster transportation would mean greater assistance.)

3. Frequency of trains - number of trains available. (The greater the number of trains running, the greater the assistance.)

4. Rolling stock - quality, comfort, cleanliness, air-conditioning, etc. (The better the equipment, the better the assistance.)

By way of illustration of the above, tax relief could be provided on the basis of \$12.00 per month per passenger using a monthly commutation ticket or equivalent four weekly tickets if the carrier provided high speed, frequent and air-conditioned service. If on the other hand the carrier provided slow, infrequent and non air-conditioned service, the amount per monthly passenger could be reduced to \$2.00. The relief between the \$12.00 and the \$2.00 figures would depend upon the grade of service rendered based upon the above-mentioned standards. The figures used are illustrative only and are not based on a factual study.

The problem now rests squarely with the Senate of New Jersey. If this legislation is not adopted at once, the transportation of people by railroads will soon be a thing of the past - unless, of course, the State wants to take over the operation of passenger railroad service. Unfortunately, the only agency created by the State to handle this problem, the Port Authority, has refused to do so and so far their word on the subject has been final. The Governor and the Legislature still have the power to compel the cooperation of the Port Authority under existing law.

In conclusion and on behalf of the Joint Committee, may I again urge the adoption of Assembly Bill No. 692 and that as soon as this is done work be started on the preparation of the legislation setting up standards by which the railroads can qualify for assistance. That concludes my prepared remarks.

I just want to offer this gentlemen: Three nights ago at a meeting of the Joint Committee, we were fortunate enough to have shown to us a one-half hour sound movie which was prepared by NBC, narrated by Chet Huntley, dealing exclusively with the problem of the building of highways throughout the country showing the terrific economic loss to the communities, the burden placed on the taxpayer and the homeowner and the state. That movie is here today available. I realize you have a long schedule. I merely state we will be glad to show it, if time permits, after you have finished with your regular schedule. We have it. It's a professional thing, nothing that we put out, and it's not propaganda. If you don't have time today, if at some future time you want it, I think it would be a marvellous picture to see. Thank you.

SENATOR STOUT: Thank you, Mr. Dreier. We will forego that until later in the afternoon if we have time, and if not, at some future date.

Do any members of the Committee have any questions of Mr. Dreier?

SENATOR GROSSI: Mr. Dreier, on page 2 of your prepared statement, you say the Port Authority is the only lawful and competent agency to deal with this problem. And on page 3 you say "At long last there has been recommended a proposal which will provide the necessary funds," etc. Is it the proposal of your Committee that the surplus funds from the Turnpike be turned over to the Port Authority for use in solving the transportation problem?

MR. DREIER: Well, I would qualify that. I would never

advocate turning any additional funds over to the Port Authority. I would advocate that the Port Authority operate the facilities, and I am talking about terminal facilities and not the operation of railroads generally, under very strict and direct laws and standards to be promulgated by the Legislature. They haven't seen fit to follow the laws now in existence so that new laws, I think, would have to be made. I might add to that, and I am glad you asked the question, that one very good way of controlling - seeing that the Port Authority does what we believe the law says they should do, and serve the public, would be in the very close screening of future appointees.

SENATOR STOUT: Any further questions?

SENATOR LANCE: Mr. Dreier, the Senate has passed Senate Concurrent Resolution 35, that would direct the Port of New York Authority to make a study in conjunction with the railroads - that is, private industry - in conjunction with the Bi-State Transportation Agency, in conjunction with the New Jersey Division of Transportation and all other interested agencies, with the thought there should be a consolidation of the freight facilities on both sides of the river.

Do your organizations support the passage of that resolution?

MR. DREIER: Yes, we do support that resolution. We feel that there should be some joint operation of freight facilities. We also feel and believe that if there was a combination or a joinder of those facilities, then the Port Authority would show a reversal of its reluctance to step into the rail transit situation.

I might add, however, I think the one big stumbling block in that is the New York Central and the Pennsylvania Railroads' control of any joint facilities by reason of their being the two largest railroads and that the other railroads are fearful that if there is some control, they will be shunted off into the background. However, we feel that it is a good proposal. It should be studied, definitely.

SENATOR HILLERY: Through you, Mr. Chairman, Mr. Dreier, you said the Legislature has at its fingertips the means of forcing the Port Authority to assume this problem. What did you mean by that?

MR. DREIER: They have several ways. The laws are on the books. The Legislature could refuse to approve any new projects and stymie the Port Authority in that manner, such as the Narrows Bridge, which they had to come to you for your approval. If the Legislature refused to permit the Port Authority to undertake any of their vast new projects until they took action on this rail transit situation, they would soon realize the futility of being a super state onto themselves, and not taking dictation from the legislature - also on the appointment of the Commissioners and also on the Governor's power of veto of the minutes of the actions of the Port Authority.

SENATOR HILLERY: You know, Mr. Dreier, this requires the concurrence of the New York Legislature too in these actions? It is a bi-state authority.

MR. DREIER: I realize that. But if the New Jersey Legislature refuses to approve, I don't care what New York does - they can't go along - they can't proceed. It requires the

concurrence of both legislatures. If one says no, that's it.

SENATOR DUMONT: I just want to add on the record here, Mr. Chairman, that in view of the fact that the witnesses today seem to be quite complimentary of Senate Bill 123, which would put Class Two railroad property on the basis of 50 per cent along with the other bills in respect to real and personal property, that Senator Crane of Union County was likewise the co-sponsor of those bills.

SENATOR HILLERY: Will you take a bow, Robert?

SENATOR CRANE: I want to say, Mr. Chairman, this is an election year and I am extremely sensitive. (Laughter.)

SENATOR STOUT: Any further questions?

DR. MILLER: Mr. Dreier, I notice your statement is couched solely in terms of railroad transportation. Is it that your group wants to limit these funds to that purpose or would you feel that they are equally well spent if they were used to sustain bus and other facilities for the mass movement of people?

MR. DREIER: We would like to see the bill passed as it is rather than take chances on amendment and delay. As far as the buses are concerned - and I am answering you in a round-about way; but I will give you a direct answer - the buses, the air lines and all other forms of transportation are so heavily subsidized by government and by Port Authority. The terminal facilities are provided by the Port Authority, the bridges to cross the Hudson, the tunnels to cross the Hudson. They have had everything handed to them in the lap, as a result of which we have this rail transit situation. Directly answering your

question, I don't think they need any assistance. However, it should be in the bill because of the unknown future.

SENATOR STOUT: Anything further? I guess that's all.
Thank you, Mr. Dreier.

I will call Peter Hoff.

MR. PETER B. HOFF: Mr. Chairman and members of the Committee: Due to the fact that I was called to a meeting this morning at ten o'clock and I didn't get that word until late Wednesday afternoon, I prepared my remarks in the form of a letter and addressed them to Senator Stout, with the request that he pass on the information to other members of the Committee.

SENATOR STOUT: Mr. Hoff, would you identify yourself for the purpose of the record?

MR. HOFF: My name is Peter B. Hoff, 18 Sack Avenue, Penns Grove, New Jersey. I was a member of this House from 1945 to 1953 as the Assembly representative from the County of Salem and at the present time I am the Republican candidate for Senator from Salem County.

(Reading letter.)

"I am writing to express opposition to the passage of Assembly Bill A-692. I had hoped to be present at your public hearing tomorrow, August 21, but because of a special meeting called that morning, I doubt very much whether it will be possible for me to get to Trenton prior to closing of your hearing. I would appreciate it if you will let the other members of your committee know of my feelings in this matter.

"Up until the time I read this bill, I was under the impression, from news releases, that it was designed to relieve

the commuter problem in this state. However, on reading it, I find it is so all inclusive with respect to persons and goods (Paragraph 3, Line 5) that it belies this basic announced purpose.

"Actually this is one of the most cleverly written bills that I have ever read. The word 'transportation' appears to be the magic word which permits so many subjects to be combined into a single bill that it might well be called the 1959 Omnibus Bill.

"Try as I may, I cannot think of a single subject or problem concerning us in our daily existence that cannot, in one way or another, be associated with transportation. From the time we are born until we are laid to rest, we are affected by transportation.

"It appears to want to save anybody and everybody from harm. The one most important exception is the real estate and personal property owner who, in the final analysis, must make up any deficits that accrue from actions by the Turnpike Authority and Guaranty Officials from any state commitment. Since there is a wide diversity of opinion as to what the actual annual surplus from the Turnpike's operation will be, this is a very serious matter. It appears true (Paragraph 3, Lines 17, 18 and 19) that protection is afforded the citizens of New Jersey by requiring all acts be determined by law. However, particularly in the matter of insuring existing revenues from second-class railroad tax, there is nothing to prevent a law's being passed that would embrace existing revenues indefinitely, even though this type of tax may in the future be altered considerably should the

law with respect to assessing at some per cent less than the present 100% apply to railroad property. Good laws can be made at a given time which become unfair and unjust a decade later. Ill-considered laws are made which, on trial and experience, require amendment. However, when the time comes for this action, there may be circumstances when the necessary revision of any such law cannot be made. We have only to cite the present failures during the past several years to enact a reapportionment law. This same situation might apply in any law that would be enacted with respect to guaranteeing revenues, in this instance, no matter how equitable and just such a law might have been at the time of enactment.

"Another thing that disturbs me is the verbiage 'other purposes' found in Paragraph 6, Line 11. It is not hard to conceive that in the case of an act of God or an act of war, considerable damage might result to Turnpike property. This bill, it seems to me under the above phraseology, would permit the Turnpike to spend over and above the normal operating expenses, debt service and sinking fund requirements to the extent that there would be no reserve or surplus revenues over an extended period of time. It may be argued that these things can be limited in effecting the new bondholder agreement, but it is doubtful whether the bondholders will be interested in much more than the rate of interest, tax exemption, together with the fact that New Jersey will guarantee payments rather than depend on future revenues. I may be wrong on this but, as I recall in the original Turnpike Act, complete authority was vested in the authority to effect a

satisfactory bond agreement with potential purchasers on the basis of amortization through toll revenues. Such a condition is quite different than one wherein New Jersey guarantees payments. There is another circumstance possible in that should the Turnpike Authority and Guaranty Officials start feuding, it seems to me under this bill the Turnpike Authority could manipulate 'surplus funds available' to a very embarrassing degree.

"Our problem in this section of the state is not the commuter problem." I am speaking about Salem County. "As a matter of fact, we have no passenger service at all in Salem County. We do have an equally serious problem with respect to the every increasing taxes against real estate for the purpose of public education. While I have tried to view any New Jersey area problem without prejudice, I can't help but feel that this bill, if passed and if the referendum be adopted, can conceivably work a great hardship not only in Salem County, but throughout the entire state where this burdensome problem of meeting the ever increasing cost of education exists.

"If I were a Philadelphia Lawyer, and not a layman, I am sure that Paragraphs 3, 6 and 7, particularly might be analyzed further on a definitely questionable basis. However, I am convinced that the bill should be opposed for the following reasons:

"1. This over-all plan to accomplish its avowed purpose is too fluid and not firm enough to warrant submission of the referendum for pledging the credit of the State of New Jersey to the extent of \$430,000,000.

"2. The present uncertainty of the amount of surplus that

will be available annually for meeting any future statutory guarantees to present recipients of second-class railroad tax, which they have a right to expect, in granting relief to the railroads to offset any losses that may be sustained for any reason in carrying out this program.

"3. The uncertainty at this time of the effect of any future change in the rate of assessment that may apply to railroad property as compared to the present 100% requirement.

"4. No one can confidently predict today what the future position of railroad transportation, whether passenger or freight, will be 25 years from now. In this jet and missile age, we may see previously unbelievable changes in transportation during the next quarter century.

"5. The present status of this proposed plan as projected by A-692 is so unsettled that it does not seem fair or prudent to submit the proposed referendum called for to the electorate at the same time the 'College Bond' referendum is being voted on. It is an extremely diversionary question and could easily affect, and no doubt will, the thinking and voting of our citizens on the 'College Bond' issue.

"I sincerely trust that the Senate will see fit not to pass A-692, or any like bill, this year and not until a much more thorough analysis and presentment to the public can be made as to its over-all effect should it be enacted into law.

"Finally, my recommendation to the Legislature is that notwithstanding the seriousness of the commuter problem, a much more serious one, that affects a far greater number of our

citizens, is the matter of real estate taxation. In view of this circumstance, any revenues that can be made available from any source be applied to this purpose.

"The vehicle to accomplish this is already available. (The 1954 State Aid Law for Distributing Monies for Education.) Two simple actions are all that would be required:

"A. Amend this law to increase the foundation amount.

"B. Appropriate the necessary funds to meet the requirement.

"Respectfully submitted."

SENATOR STOUT: Thank you, Mr. Hoff. Are there any questions from members of the Committee? Senator Grossi.

SENATOR GROSSI: Mr. Hoff, you make reference to this surplus problem and tie it in with the real estate state problem; that is the equalization of taxes, I presume. Do you object to using any of the surplus funds to reimburse the municipalities in lieu of taxes in case there were tax relief granted to the railroads?

MR. HOFF: Would you restate that?

SENATOR GROSSI: Do you object to the use of surplus Turnpike funds - do you object to that use in reimbursing municipalities for loss of revenue by reason of a reduction in the railroad taxes?

MR. HOFF: No. I certainly do not. I have a very definite feeling that such municipalities as Jersey City, Hoboken, Weehawken, any of those municipalities that have had the benefit of ratables as provided by the railroads and as we, and when I

say "we," I mean the state has assessed ~~as a~~ second-class property, should not be expected under any circumstance to give up that source of revenue, whether it be to appropriate money for schools, education or for transportation or what have you. I think that that is one of the problems that the legislature has to face, to see that those municipalities are properly compensated. At least, I would be on the soap box if I lived there if that situation obtained.

SENATOR GROSSI: So that you are not opposed to the use of surplus Turnpike funds to reimburse municipalities in case tax relief were granted to the railroads?

MR. HOFF: No. I have this feeling: I would much prefer to see, even though we are collecting those tolls much faster and those balances will accrue, as I understand what I read in the paper, probably within ten years sufficient to cover the outstanding indebtedness - I would much prefer to see that the total amount necessary to meet all outstanding obligations was put in trust before we start to tamper with any of the revenues from it. I realize that this project is a gamble to a certain extent, but even so, so far as 692 is concerned, it is so broad, it is so fluid, to me there are all the elements where pressure can be brought to bear on municipalities - on the legislators - we can do anything apparently under the guise of transportation - and as I stated here in this letter to the good Senator, when I sat down and tried to figure out anything that was part of our life that couldn't be tied in with transportation, you just can't do it. So this whole bill isn't unconstitutional, although I

think it is one of the widest bills so far as considering various phases of our every-day life that I have ever seen. I think that I have probably cursorily examined or diligently examined at least 7500 bills during the nine years that I was here in the legislature.

SENATOR GROSSI: I would assume then that you would not be opposed to this measure in principle, but you are just uncertain at this time as to what way they are going to allocate the funds; is that about it?

MR. HOFF: Yes. That is true. And, secondly, I feel that this particular bill, the way it is drawn up with all the safeguards, that we have to consider practical conditions. The legislature can pass a bill and we can allocate \$2,000,000 to this municipality or \$7,000,000 today. Ten years from now there may be a changed condition, but that particular municipality may be in such a financial condition that they are going to use the pressures that they have to prevent that. And that is why I mentioned very frankly our position with respect to reapportionment as it exists today, that we cannot guarantee -- and I think the bill is too fluid, it is too subject to pressure, and while it isn't the principle of what they are trying to do, we admit, and we are certainly not dogs in the manger down in Salem County, that Bergen County or Essex County or Hudson County or any other county has a problem. We don't want to say because we don't have that problem that they aren't entitled to relief. But certainly we do have a problem, not only in Salem County, but throughout the entire state, and that is relief of real estate. Now the mechanics of accomplishing it are many and varied as I am sure you well realize.

SENATOR GROSSI: Thank you.

SENATOR STOUT: Any other questions?

SENATOR LANCE: Assemblyman Hoff, you stated you have no railroad service in Salem County. How long has that been the fact? I mean railroad passenger service.

MR. HOFF: Oh, I think it has been seven or eight years now. I recall in the latter days of passenger service, I rode several of those trains and after you took out the deadheads and those who had railroad passes, they didn't even collect enough from the other passengers to pay the fuel bill, let alone the normal cost of operation or the wages of the men, so we had no defense at all. The railroads were perfectly right in trying to take them off. After all, they have to try to make a profit for the stockholders.

SENATOR STOUT: Do you have any commuters in Salem County?

MR. HOFF: We have commuters by bus. We have them by car pools. We have people from Camden County coming down into our plants and people from our area going up to the shipyards in Camden.

SENATOR STOUT: How do they get there, by bus?

MR. HOFF: Well, a few, but principally by car pools.

SENATOR STOUT: Any further questions? Thanks very much, Assemblyman Hoff.

I will call F. T. Richardson.

F. T. RICHARDSON: Mr. Chairman, my name is F. T. Richardson and I am a resident of Mendham, New Jersey. I am Vice-Chairman of the Morris County Railroad Transportation Association which is an agency of County Government officially constituted by its Board of Chosen Freeholders for the preservation of railroad passenger service in Morris County.

This organization is on record as endorsing the intent and general provisions of this legislation as passed by the Assembly and now to be considered by the New Jersey State Senate.

In our opinion it is a long overdue recognition of the fact that our passenger-carrying railroads are indispensable to the welfare, growth and future of the State. They have been badly discriminated against in favor of rubber-tire transportation for the past thirty years, and have been deprived of much needed traffic because of the tax-free State and Port Authority constructed facilities provided for their competitors.

Of course, this not to be construed as an endorsement of the failures of railroad managements and ownerships to adapt themselves to changing conditions. In fact, it is this very failure to help themselves in a constructive manner, and thereby adequately continue and improve a needed public service which causes the principal misgiving which our Association may have regarding this legislation.

This stems from the current reluctance of the railroads to show any good faith in the matter of cooperating with the State of New Jersey in correcting a

situation which obviously has existed too long. The railroads have failed to understand that no situation which has been so long in developing is going to be settled in a very short period of time, especially when that situation is so complex. This intransigence of railroad ownership, and its hired management, makes us believe that for the public good several safeguards must be included in this legislation to prevent a continuance of the current rush to get out of the passenger business.

First of all, certain misunderstandings as to the nature and responsibilities of public transportation must be clarified. Certainly the paramount consideration in this State for the granting of a franchise, and its continuance, is public necessity and convenience, and it should be the abiding consideration of railroad management. Railroads came into being fully understanding this responsibility to serve the public, and they discharged it well for years. The charters under which railroads were created, and their resultant franchises, are serious documents, therefore, not to be lightly dismissed simply because of the complexities of modern transportation and the abject failure of certain railroad managements to keep up with the times.

We strongly recommend that, where a railroad fails to avail itself of the relief which subsequently may be offered in return for not only maintaining but also improving passenger service, if possible some system of penalties be instituted whereby railroads which do not

show good faith are actually penalized for such actions.

With this requirement on the part of the railroads to render service, however, must go the realization by New Jersey of its moral obligation to provide conditions which will enable a railroad which is efficiently managed in the public interest, to earn a reasonable profit, just as we permit our electric utilities and our telephone companies to do.

It is human nature to look upon the proposed legislation as a cure-all, as the one-shot solution which, when passed by our Legislature, approved by the voter, and accepted by the bondholders, will immediately result in utopian transportation. We must disabuse ourselves of this ridiculous but pleasant thought and understand that public transportation will remain New Jersey's top problem for many years to come. Eventual success will follow hard work and unending efforts to achieve the objective.

The Legislature should provide for a permanent transportation "Watch Dog" or investigative committee, composed of qualified, responsible citizens, which will review projects proposed by the State Division of Railroad Transportation for the betterment of New Jersey's common carriers and commuters.

In the matter of compensation for local governments which may stand to lose railroad taxes, the bill now seems to provide for the payment of moneys to municipalities in perpetuity. It should be recognized that it is in the nature of things to expect a gradual reduction in railroad

properties, and no municipality should receive a permanent guarantee in a fixed amount of income, whereas due to subsequent sale of railroad lands municipal taxes would be reduced over the next ten to fifteen years. It seems reasonable that the principle followed in establishing a new reservoir at Round Valley indicates that you cannot assume a financial status quo beyond a reasonable length of time. It is true that the Hudson River waterfront is now a solid mass of railroad trackage, but we cannot assume that it will remain so forever, archaic in layout and of decreasing necessity as time goes by.

The differences of opinion concerning the amount of money which may be available from the Turnpike should not be allowed to obscure the basic need, namely, the preservation of our railroad service for the good of the people of this State. Time is not running out on us; it has already done so. It is too late in Los Angeles, now hopelessly entangled in the coils of forever-inadequate, costly new freeways. It is almost too late in the State of Maine, where the railroads hope to end all passenger service before the snow flies. Cape Cod saw its last passenger train on June 30th of this year, and has since regretted that catastrophe. These warnings should be sufficient to arouse the Legislature of the State of New Jersey, so that it will proceed as rapidly as possible toward the solution of our railroad passenger transportation problem.

It is our opinion that a good way to start is with this very constructive legislation which requires but minor changes and additions before adoption by the Senate.

Thank you.

SENATOR STOUT: Thank you, Mr. Richardson. Are there any questions? I guess there are none. Thank you very much.

Mr. C. R. Turney.

C. R. TURNEY: Well, briefly, from a financial standpoint --

SENATOR STOUT: Will you identify yourself, sir?

MR. TURNEY: I am from Summit, New Jersey.

SENATOR STOUT: What do you do there? Who do you represent, yourself?

MR. TURNEY: Yes. I have been in the financial business most of my life. From a financial standpoint I would like to point out that five percent and five and three-quarter percent bonds are going to be sold in Newark to construct a new bridge and tunnel there. Now, if these bonds in New Jersey were four percent it might raise the amount of interest per year perhaps by \$5 million. And if some of them had to be called it would increase payments some millions of dollars. It seems to me that you might think about a more direct approach to this matter, that is to say, 1988 is the time when the bonds fall due and if they are to be retired in '74 then you would have the earnings of 14 years. And I see no reason why you couldn't in a very direct way offer State bonds due in

1975, for example. If you had \$10 million due in 1975, that would be \$400,000 a year fully tax exempt. And as an offset to that you would have three and three-eighths coupon on the amount which you can pay on the Turnpike bonds and that would only cost you five-eighths of a point.

It seems to me that less than \$100,000 would be a very small amount in relation to raising the coupon rate on the entire \$430 million.

It seems to be generally agreed that they are going to have to increase the coupon rate and it might be up \$5 million. And instead of that it seems to me that you might take a direct approach and merely issue the fully tax-exempt obligation of the State itself in a very small amount, whatever amount of money you want to use. And it might be only one-tenth of the cost of the present proposal. So it seems to me that that is a matter for consideration.

SENATOR STOUT: Thank you, Mr. Turney. Are there any questions by any members of the Committee? Thank you very much.

Mr. Weldon R. Sheets.

WELDON R. SHEETS: My name is Weldon R. Sheets. I am County Supervisor of Essex County. I represent the Supervisor's office and not the Board of Freeholders which I am very closely associated with.

I listened here today and I was not only surprised to hear of the many people that will move out of our County with the abandonment of our railroads, as was mentioned - Glen Ridge, half of Glen Ridge would move; probably East

Orange, where I come from, they would move out if the railroads are abandoned; and I am frightened to hear about what will happen if the railroad taxes are reduced because it will reflect right back to the taxpayer. After all, I'm here representing the taxpayers. We have a million in Essex County. In 1950 we only had 800,000. We have increased 200,000. What I am getting to is, how did the railroads lose so much business and the population gain in these ten years?

Now, I listened to several of the Senators this morning, Senator Grossi of Passaic; I was very much interested in the figures of Hoboken, Jersey City and Newark. Of course Newark is the only one I mention there that's in Essex. And it seems to me that the word "cooperation" was used here all day long - if this bill is passed and this money is granted to the railroads to bail them out, the word "cooperation" - I believe the word "cooperation" should be put in there that the citizens, the taxpayers, the patrons of the railroads would benefit. By that I mean, they have increased the rates and increased the fares and instead of competing with the rubber on the roads and the highways that we have had to increase six or seven billion dollars by 1975, I believe that they would get the riders on the railroads if the rates were reduced.

That is my reason for getting up here today, that you Legislators could put in this bill before you pass it, if you do pass it, that the railroads would cooperate and

reduce the rates, maybe back to 1939 or 1941, and give the taxpayers, the patrons of the railroads, a chance to use the railroads and keep them going.

Thank you very much, Gentlemen, for allowing me this time.

SENATOR STOUT: Thank you, Mr. Sheets. Are there any questions? Thank you very much.

Mr. Henry R. Williams.

HENRY R. WILLIAMS: Thank you, Senator. In the interest of time I would like to waive the privilege of verbally delivering this statement, as a citizen, and give it to you for the record.

SENATOR STOUT: Will you state your name and address?

MR. WILLIAMS: My name is Henry Williams from Pequannock Township, Morris County, New Jersey.

SENATOR STOUT: And you are here representing whom?

MR. WILLIAMS: I am acting as a citizen only.

SENATOR STOUT: And you want this in the record.

Thank you very much.

(Following is the statement submitted by Mr. Williams:

Thank you for this opportunity to speak as a citizen. It may be presumptuous for me to question the statement "Turnpike surpluses" or the assumption that the "Turnpike" has any surpluses. But the New Jersey Turnpike is not finished, nor has the tremendous and excellent job that has been done to date been paid off.

Earned funds, over and above operation costs and annual bond obligations, should most certainly be directed (1) to the continued development of very much needed, and increasingly so, safety and maintenance devices and techniques; (2) to continued expansion so that this New Jersey Turnpike may adequately meet the ever growing demand on New Jersey, the Corridor State; and (3) to an accelerated bond retirement program.

To siphon off any New Jersey Turnpike Authority funds or earnings will, whether it be the intent or not," (1) reduce the Turnpike Authority to the ever complaining status of every other State Department, or part thereof, and/or agency - "We don't have enough funds, so we can't do our job;" (2) reduce the self-sustaining, self-supporting New Jersey Turnpike Authority, from a respected service organization, serving New Jersey and the Nation, to a respected (?) tax collection agency; and (3) it will destroy this, a "creation" of a previous New Jersey Governor and State Legislators which has, to date, fulfilled every expectation and dream of its creators and of those who contributed to its establishment.

And if the proposed legislation being considered here today is finally adopted, it will contribute funds to a service, a utility, a much needed medium of transportation which could be, can be, and must be a self-sustaining, a self-supporting service to New Jersey and the Nation.

Each level of government and the people and services represented must realistically and equitably share in the

solution of the problem of transporting goods and people. That solution does not lie in the easy method of shifting present inequalities and burdens. It can be reached by putting into their proper relationship each medium of transportation. If such cannot be done by the joint cooperative action of government and private enterprise operating transportation services, then it must be done under the direction of an Authority, and as a self-sustaining and self-supporting service.

If you have read or listened to this expression of a citizen, you deserve to know more about this citizen:

I live in Pompton Plains, Pequannock Township, Morris County. I am a District Sales Manager, doing at least 30,000 miles of travel per year to cover my territory, the central and southern portions of our State. I have been doing this continuously for 13 years. I can from experience tell you about highway traffic and the emergency need of expanded mass commuter facilities.

I am and have been a member of Pequannock Township's Planning Board for nine years, it's Chairman for six years.

I have served the New Jersey Federation of Official Planning Boards as Director, Vice President, Chairman-Northern Area, as President, and currently as Associate Director and Chairman Pro-tem of its Legislative Committee.

This experience, at home and Statewide, makes me very much aware of accelerated growth; the accelerated demand on every tax dollar to provide more facilities and services; the ever-growing need to find new and equitable

sources of revenue to meet the tax burden; and I am very aware of the advantages of a self-supporting, self-sustaining facility which can also finance needed expansion and modernization out of its earnings.

Gentlemen, as a citizen - for I represent no organized group in this expression - I plead that there be no cash subsidies to railroads - certainly not from Turnpike funds for they have no surpluses and won't have until their job is done; that you exert leadership, understanding, cooperation and guidance so that private enterprise will succeed and railroads will provide, at a fair profit, needed transportation of people and goods; or that as a last resort we put this task in the hands of the Authority established to do the job.

Humbly, gentlemen, I say, thank you.

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SENATOR STOUT: Mr. H. Everett Woodruff.

H. EVERETT WOODRUFF: Mr. Chairman, my name is H. Everett Woodruff. I'm a citizen from Madison, New Jersey, and a commuter of twenty-five years.

I have had correspondence with my Senator, Thomas Hillery, and this morning I received a special delivery letter - I was at the office, I was called, and he suggested that I might come down here to present what ideas I had. They do conflict with Mr. Dreier, who is a representative of, I believe, our transportation group; they agree in part with his views; they agree in part with the views of Mr.

Hoff.

It is in the spirit of trying to help that I appear. I believe, gentlemen, that you have before you one of the best proposals - I'm not saying the bill but I am saying the idea - that has been presented. I think you have in your hands one of the administrative bodies that can give you the results that the State of New Jersey, its citizens, and the Country needs, and that is the Port of New York Authority.

I have been told that the Authority has the powers and the responsibility to see to a coordinated transportation and efficient system in the New York Metropolitan Area.

Now, with those thoughts, I would like to read in part what I have written to Senator Hillery:

"I feel that this is a cooperative problem. It affects many people, many more than I can perhaps mention, but a few are: me, the commuter; secondly, the community in which I live and the communities ~~through~~ which I pass; third, the State in which I live and the State in which I work; and fourth is the vehicle or means by which I commute; and fifth is the business in which I am employed."

I have heard nothing that has convinced me as a citizen as to why I should vote for this bill as proposed. I think Mr. Hoff pointed out some of its shortcomings. I think Mr. Dreier pointed out some of its shortcomings. There are, perhaps, others. We don't want, or maybe it is too much to hope for, a perfect bill, but I come back to this - you have the suggestion of a plan and you have the vehicle

by which it can be carried out. And with that in mind, I would like to read some of the things that I wrote to Senator Hillery. I said:

"Much has been said regarding the excellent record, knowledge, planning and operation of the Port of New York Authority. It has also been represented that it has, by enabling legislation in creating it, been endowed with the powers and responsibility for transportation. Since it is deeply concerned with transportation in the New York Metropolitan Area, and since it has vast experience in studying the over-all future transit needs and has the expert talent for planning coordinated operations, I ask, is it not logical for this Authority to assume the task of meeting the transit problems facing the Metropolitan Area and adjacent territory?"

Now, to induce the Authority to use its talents in the forward planning which would encompass all forms of transportation, including railroads in New Jersey, would it not be better to divert New Jersey Turnpike surplus funds as a backstop for the Port of New York Authority?

In this way the Authority could improve, enlarge and build new transit systems; since most everyone has agreed that the present facilities are old, uneconomical, inefficient and inadequate, and that they will be even moreso in the future.

"Since you want the State"- I said here to my Senator -"to be prepared for the future growth or at least to hold the attributes it now enjoys, new and better

facilities will probably be required and the use of surplus New Jersey Turnpike funds to backstop another Port of New York Authority transit program would certainly be a sufficient and tremendous contribution on the part of the State of New Jersey, its citizens, and the Turnpike Bondholders to a program that would be lodged with a knowledgeable and forward-thinking Authority."

It's my sincere feeling that something along these lines could start a development and produce the most modern and efficient transportation system in the world.

Thank you, sir.

SENATOR DUMONT: Any questions of Mr. Woodruff?

Thank you very much, sir.

SENATOR DUMONT: I will call Commissioner Ralph Fusco, President of the Board of Public Utilities of New Jersey.

RALPH L. FUSCO: Gentlemen, at the request of your President, I made an outline of the several cases that are pending before our Board for curtailment of service at this time, and several cases pending before the Board for increase in fares.

Since July 1, 1958, the Board has acted on 27 cases for discontinuance of passenger service on 10 railroads. 245 trains were requested to be discontinued. The Board granted permission in 127 of the 245 cases. These figures include several cases that were taken to the ICC under the Transportation Act of 1958.

Breaking that down, it runs this way: Central Railroad came in with one case in which it requested - the Central Railroad of New Jersey - discontinuance of 30 trains. We granted 29.

The DL&W came in with five cases, requested a discontinuance of 91 trains. We granted the discontinuance of 45 and action on 35 is still pending.

The Erie Railroad came in with one case requesting discontinuance of 4 trains. Action on this case is pending.

The Lehigh Valley came in with two cases requesting the discontinuance of 14 trains. We granted the discontinuance of seven. The Lehigh Valley has taken our refusal to grant the discontinuance of the other seven to the ICC under the Transportation Act of '58.

The New Jersey and New York Railroad came in with one case involving one train. We denied that and that is before the ICC now.

The New York Central Railroad came in with two cases involving 28 trains. That action is pending before the ICC since we failed to act on it within the four months required by the Transportation Act of '58.

The New York and Susquehanna Railroad came in with one case involving the discontinuance of ten trains. That matter is still pending before the Board.

The Pennsylvania Railroad came in with eight cases involving the discontinuance of 16 trains. We granted discontinuance of 14. The other 2 are subject matters before the ICC now.

The PRSL, the Pennsylvania-Reading-Seashore Lines, came in with one case involving the discontinuance of 46 trains. We granted 27.

The Reading Railroad came in with two applications involving several small changes and we refused to grant them.

The Reading-Central Railroad came in with three cases involving the discontinuance of 5 trains and we granted the discontinuance of those 5 trains.

Now, I have here a figure or a group of figures on the approximate number of passengers carried by these several railroads, as of a late figure. The Baltimore & Ohio Railroad, which now carries no further passenger service in New Jersey, had 12 trains discontinued involving 500 passengers.

The Jersey Central carries about 14,000 passengers. The DL&W carries about 24,000 passengers. The Erie Railroad carries about 9,000 passengers. The H&M Tubes, we estimate, carry about 55,000 passengers but you must appreciate that some of those duplicate on several of the other trains that run into Jersey City or Hoboken.

The Lehigh Valley carries 900 passengers. The New York Central carried 4,000 passengers - and I say that in the past tense, Gentlemen, "carried," because it does no longer carry that many passengers since the ferry curtailment.

The New York & Susquehanna Railroad carries about 2500 passengers. The Pennsylvania Railroad carries 25,000 passengers. The PRSL carries 2,300 passengers.

The total is approximately 137,000 passengers being carried as of about June of 1959.

Now, as to the Transportation Act of 1958, since a question was raised as to what it did, as to the procedure before the Board, I would like to call your attention to what was attempted several months ago by the Delaware and Lackawanna Railroad, in which it posted on its several railroad stations and trains a notice that by June of 1959 it would discontinue all of its passenger service. Well, that's the procedure authorized by the Transportation Act of 1958, that if a train is in interstate commerce a 30 day notice is sufficient to invoke the effect of the Act. The ICC may then either allow the discontinuance to go into effect or, on the other hand, may call for a hearing. But the Interstate Commerce Commission is bound to make a decision in that matter within four months.

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In cases involving trains in intrastate commerce, if an application is made before the New Jersey Board of Public Utility Commissioners, our action must be taken within four months. Upon failure to act or upon an adverse finding by our Commission, an appeal may be taken to the Interstate Commerce Commission. Now, on that appeal before the Interstate Commerce Commission, the only notice that the ICC must give is a notice to the Governor that an action is pending before it but there is no public notice; and the public then is put to the burden, if it does appear, and as the Board has appeared in those cases where it feels it appropriate and the Governor has appeared in the Division of Rail Transportation and those cases in which it is recommended, - we have resisted the curtailment where the curtailment is beyond those recommended by our own Board.

I thought it might interest you gentlemen to know too that since the end of World War II coach fares on railroads have increased approximately 100% and is, in general, in keeping with the increase in the cost of living. During the same period commutation fares have increased 150 to 200% which is much faster than the increase in the general cost of living.

We have pending before the Board at this time for decision approximately 17 cases involving curtailment of train service. The oldest case that we have pending before the Board is one in which a hearing was completed on June 8, 1959, that involves the complete curtailment of the balance of the West Shore service, the New York Central service that used to tie in with the ferry.

There are also several other cases involving the discontinuance of one or two trains on several of the other lines.

We have also pending before the Board, for action, several applications for fare increases. One is an application by the Jersey Central for a 40% increase across the board.

We have negotiated an approximate 20% increase with them and have not decided the final case on its merits yet.

We have also pending before the Board an action by the DL&W to increase its commuter fares, in some instances as much as \$3.00 per month on unrestricted tickets; I think \$2.75 on restricted tickets; and varying amounts for varying distances and varying types of service. That case still remains before the Board and has not been decided.

I know that there has been filed before the Board a similar application for increase in fares by the Erie Railroad on which no action has been taken yet. And I think there's another application by the Pennsylvania Railroad to equalize its fares with that of the Jersey Central. And there's an application pending, involving just a few people, by the Reading Railroad for an increase in its fares.

Generally, that gives you the problem as it appears before our Board in the number of matters that are pending before it.

SENATOR DUMONT: Any questions of Commissioner Fusco? Senator Grossi.

BY SENATOR GROSSI:

Q Mr. Fusco, do you have any figures available as to how many passengers were affected or dislocated by virtue of the curtailment already granted by the Public Utilities Commission?

A I think I can observe some figures in that regard, Senator Grossi. I have indicated, of course, that as a result of the adoption of the Transportation Act of 1958 the West Shore-Jersey Central has abandoned the operation of its ferries. As a result of that approximately 2500 or more passengers who used to ride the New York Central-West Shore Lines is reduced to possibly two or three hundred today, and I think the latest figure at a hearing before the Board now, in which the Board is considering the possibility of requiring the Railroad to run into a terminal where it will make contact with either another ferry or the H&M Tubes, - that's reduced to about two or three hundred. So that those several thousand, or twenty-two or twenty-three hundred passengers, have been displaced from the use of service. There have been several passengers - of course, we can't tell the number in regard to the Erie Railroad, as the result of the abandonment of the ferry service.

Now, in the curtailment of the other services it's hard to tell whether -- well, yes, I better give you the Susquehanna Railroad. In the case of the Susquehanna Railroad, as a result of the curtailment that we permitted and as a result of the further curtailment permitted by the Court when our Order was reversed, because the Court held

that we had allowed too much service, several hundred passengers were put out there. As to the others, we have no way to estimate at this time.

SENATOR GROSSI: Thank you.

SENATOR DUMONT: Any other questions?

Senator Lance.

BY SENATOR LANCE:

Q Commissioner Fusco, if we exclude the riders on the H&M, how many commuters are there on all of the other lines by way of a total in New Jersey today? A About seventy-five or eighty thousand commuters by rails. Now I am limiting myself to rail because there's that many more, of course, by bus and, of course, there are several thousand - I have the figure on that - by car. I think there are 75,000 estimated by rail, about 50,000 by bus, and about 30,000 by automobile.

BY SENATOR FOX:

Q Well, may I ask you this: This figure of 137,000, that you have given us, is your estimated number of passengers or those commuting by rail. Is that correct? A That's right, into New York City.

Q And excluding the 55,000 on the H&M that gives you a total of 82,000 commuting by rail into New York City. Is that correct? A That's right.

Q Now, you made some remark, Commissioner, about the 55,000 on the H&M, the Hudson and Manhattan Tubes, as being duplicate. Would you just give me an explanation of that?

A Well, when the count is made of those people who commute on the DL&W, if some of those should change in Jersey City for tube service, and a count is made on the number of passengers commuting on the Pennsylvania Railroad - if some of those people should change to tube service, and in some instances some do; on the other hand, of course, you have people who take the tubes directly out of Newark, people who take the tubes directly out of Hoboken, and people who take the tubes directly out of Jersey City; and we haven't a breakdown on that figure.

BY SENATOR HILLERY:

Q Commissioner, what do you use as a guide in the specific elimination of a train. We hear statements and we read them in the press that the railroads don't offer their true financial facts and about not being permitted to look at their books, and all those things, how true is that?

A Well, in the first instance, of course, the railroads offer as great a detail as they think is necessary and as we may require; and there isn't any book of the railroads that we haven't looked into. As a matter of fact, we have the financial reports of the several railroads filed with us and they are constantly being reviewed by the personnel of our staff, both on curtailment cases and on fare cases. Of course, there is a serious problem of separation, as you gentlemen know, - how to allocate the funds or the charges made by the railroads for the various classes and types of services. But normally when we go along on the curtailment of service, we can generally find it's an above-the-rail loss

in the operation of a particular train, plus the fact that public convenience and necessity may not require that because there is another train running a few minutes on both sides of it. So that you can save the above-the-rail loss on a particular train and still, without too great inconvenience to the traveling public, give them service into their particular destinations. Certainly, many times the traveling public would like to have direct service and it may require a transfer service; many times the traveling public would like to have an express service and it may require a local that picks up a couple of additional stops; but we have got to weigh the balance in making our decision and, of course, the Board tries to come out with a fair answer, not only to the commuting public but also to the railroads because we have a responsibility, too, to keep the railroads going within the scope of their ability to go.

BY SENATOR GROSSI:

Q Commissioner, in granting the fare increases, did the railroads present a case of increased cost of operation or did they present a case that due to the lack of passengers they were forced to make up the difference? A It's a combination, Senator. It becomes a round-robin. The railroads may find themselves with a loss of passenger service and come in for curtailment of service. As a result of that then they lose some more passengers. And then you find them coming in for increase in fares. Now, I didn't get into the summary the number of cases which have been before the Board but you will find that they recur. For

instance, I have a schedule here for the DL&W over the past four or five years. They were in on a curtailment case on July 12, 1955. They came in on a further curtailment case on June 10, 1956. They came in on a further curtailment case on December 14, 1956. They came in on a further curtailment case on March 5, 1958. They came in on a further curtailment case on April 17, 1958. They came in on a further curtailment case on May 15, 1958. They came in on a further curtailment case on December 29, 1958. And a further case on December 29th - a second one, there were two on that same date, December 29, 1958. Now there is another one before us, June 15, 1959, and a further one before us, June 26, 1959. And that's the way the cases run - it's back and forth.

On the fare cases, the DL&W has been before us on March 22, 1956; January 30, 1957; February 10, 1958; and again on April 10, 1959.

Q So they are reducing their operating costs and asking, too, for an increase in commuter fares.

A Reducing the number of trains that they operate. We don't know if they are reducing operating costs.

Q Well, wouldn't that reduce the operating costs?

A Sometimes they don't.

BY SENATOR DUMONT:

Q Commissioner, these figures that you have cited here - maybe I misunderstood you but I got the impression that they applied to metropolitan rapid transit. Now, what is your figure for the interstate runs, such as the Lackawanna, Lehigh Valley and the Pennsylvania, over to Pennsylvania,

Justice Brennan in a recent case decided for the United States Supreme Court, in which we apply the entire over-all earnings to determine whether a railroad is entitled to relief and not merely whether there is a loss in the passenger service alone.

Q In other words, there is no specific analysis as to whether or not there is a loss in commuting traffic as contrasted with freight. Is that correct?

A The only time we get that is where the loss is a direct above-the-rail loss.

Q Have they cooperated in that connection?

A We've had no problem in getting their cooperation.

BY SENATOR GROSSI:

Q Through you, Mr. Chairman, - Commissioner Fusco, if the railroad wanted an increase in freight rates, do they apply to you or do they apply to the Interstate?

A On intrastate, they apply to us.

Q For intrastate. A Yes, sir. And we've got those. I haven't presented those nor do I have any figures but those cases are before us regularly too.

Q Oh, you have cases before you, too, to increase freight rates? A Yes, sir.

BY DR. MILLER:

Q Commissioner, in your analysis of 127 trains discontinued, I got the impression that public convenience or necessity was served by trains running either before or after. Do you have any estimate of how many passengers had no rail service as a result of discontinuance?

A Well, there are instances where that happens. Now, many times, for instance, there's a train that runs in the wee hours of the morning with five or six or eight passengers, and on some occasions, because there may be an alternate service although not train service, we will permit the discontinuance. On the other hand, we have trains that are running 18 or 20 passengers - I think Senator Dumont is familiar with one in Phillipsburg - we have one running up to Flemington, you are familiar with that, I think, Senator Lance; and I think Senator Stout is familiar with one that runs down the shore. We have as few as seven and eight passengers. And where we find that public convenience and necessity requires the running of those trains, we order them run. Several of those cases have been before the courts and the courts have sustained the finding of the Board in that regard. I have the details on these several curtailment matters. I didn't want to burden you gentlemen with them but I have them available if you care to have them.

SENATOR DUMONT: Commissioner, I hope you keep that train going to Phillipsburg too, please.

Any further questions of Commissioner Fusco? Thank you very much, Commissioner



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SENATOR DUMONT: Commissioner, I hope you keep that train going to Phillipsburg too, please.

Any further questions of Commissioner Fusco? Thank you very much, Commissioner



SENATOR DUMONT: All right, Attorney General David Furman, please. Senator Lance has some questions, Mr. Attorney General.

D A V I D D. F U R M A N, called as a witness, testified as follows:

BY SENATOR LANCE:

Q Mr. Attorney General, for the purposes of pointing up some of the constitutional and legal questions under this bill, I would like to ask you a series of questions and I will number them for convenience in referring to them in the record. You will need two things: the State Constitution and a copy of the bill. A All right, Senator.

Q I see you carry your constitution with you. A I am indebted to Mr. Miller for the constitution. I have the bill with me.

Q Question one: This is a silly question, but it is for the purpose of leading up to one I hope is not so silly a little later. In the event the Rutgers' bond issue bill be approved in the 1959 November election, could some future legislature legally pass a statute to use the proceeds of this bond issue for the payment of a bonus to Korean War veterans? A The answer I take it is "no," definitely, Senator.

Q Question two: Will you turn to the State Constitution and read to us the clause which supports your conclusion? A Well, that is in Article VIII, Section II, Paragraph 3, quoting, "All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created." Now this would be a referendum

pursuant to that section establishing a liability of the state in excess of the amount provided in that section.

Q So it is your conclusion there would be a constitutional dedication of the revenues?

A That's right. A future legislature could not change the object that had been approved by the voters in the referendum.

Q Question three: In the event the Turnpike surplus revenue proposal in Assembly 692 be approved by the public this November, could some future legislature legally pass a statute to use the Turnpike surpluses for the payment of a bonus to Korean War veterans?

A I'd have to see the reading of that question to see the difference from question one, Senator.

Q I will restate it. If Assembly Bill 692 should pass the legislature and the public approved the proposal, could some future legislature legally pass a statute to use the excess Turnpike surpluses for the payment of bonus to Korean War veterans?

A Well, my view of that question, Senator, is that the answer is "no," that the surplus revenues as defined in this bill could only be used for the objects of aiding, extending and developing transportation and the other objects as defined in Section 3 and that surplus revenues could not therefore be used for the purpose of paying a bonus to Korean War veterans.

Q Question four: What clause of the New Jersey Constitution supports your conclusion?

A The same clause that I quoted before.

Q Question five: Is it your opinion that the intent of Assembly 692 is to achieve a dedication of released Turnpike surpluses for some specific purpose or purposes?

A Yes, it is.

Q Question 6: For how many different purposes are the released Turnpike surpluses dedicated under Assembly 692?

A For one general purpose and that is set forth in Section 3. The general purpose, and I am paraphrasing now, is the aiding, extending and developing of existing and additional transportation facilities within the state.

Q Question 7: I am going to ask you if it is possible to use these Turnpike surpluses for a series of purposes which run through (a), (b), (c), right down to (i). Question 7: Would it be possible to use some of the Turnpike surpluses for (a) the construction of new state highways? A Yes, it would.

Q (b), for the making up of deficits on the Garden State Parkway Authority bonds if such deficits should develop?

A Yes, it would.

Q (c), for the assistance in a financial way of bus services? A The answer to that is "yes" within the other sections of the Constitution prohibiting gifts and donations to private corporations.

Q Which clauses of the Constitution, incidentally, would also apply to railroads. A Yes, with reference to gifts or donations.

Q (d), for the development of helicopter service? A Yes, subject to the same provision that there should be no direct gift or donation to a private corporation.

Q (e), for additions to the New Jersey Turnpike? A Yes, that would fit within.

Q For consolidation of freight terminals by way of loans

to the railroads for such consolidations? A The answer there is "yes."

Q (g), for the preservation of commuter and railroad passenger service? A The answer there is "yes." That is a rather general object.

Q (h), for loans to railroads for construction of capital facilities and the purchase of rolling stock? A The answer there is "yes."

Q Now (i) would be a dirty trick. I am not suggesting that either the Governor or the legislature would ever do it. Would it be possible for the Governor in 1960 and the legislature in 1960 to use these funds for state highway construction and then use other money ordinarily intended for state highway construction to balance the state budget? A Well, you are not talking there about other money, Federal money, which is acquired for highway purposes.

Q I am saying that this legislature every year appropriates about 20 million dollars for new highway construction of the domestic type. A I can only answer that question, Senator, that there is clearly the authority of the legislature to spend money for highway purposes and the suggestion of balancing the budget in that respect, taking money normally devoted to highway purposes and using it for other state purposes, would be within the power, I take it, of the legislature and the Governor in approving the appropriations bill.

Q I said it would be a dirty trick, but you say it is legally possible under this bill. Number 8: Must municipalities which lose revenues as a result of any tax revision program in

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connection with transportation problems be reimbursed for loss of revenues before any money can be spent for any other purpose? The magic word there is the single word "before." I will read the question again. Must municipalities which lose revenues as a result of any tax revision program in connection with transportation problems be reimbursed for loss of revenues under this bill before any money can be spent for any other purpose? A My opinion is "no," Senator.

Q Will you turn to Assembly 692, Section 3, line 10, where the wording is "in priority to other applications of such moneys," and tell us what that clause means? A As I construe and read this section, I would read and construe it in this way, that the words "provision for any financial aspect thereof" govern the rest of this sentence down through line 17. Then "provision for any financial aspect thereof" includes three things which are stated in the disjunctive, so that any one of the three may be authorized by the legislature in the future. Now the first of those is compensation to municipalities to insure no loss of revenue as the result of any tax revision hereafter adopted by law in connection with transportation problems. And then the clause which you referred to means that if that alternative is adopted by the legislature, then the money to compensate the municipalities has a priority or that application has a priority, and those payments must be made prior to any other application of the surplus funds of the Turnpike which are secured under this bill and referendum. But there are two other alternatives in the disjunctive: payments by the state in lieu

of taxes or payments of any liability or obligation heretofore or hereafter incurred by the state in connection with transportation facilities or services. So as I read it, my opinion is that there is an authority in the legislature, but the legislature is not required to make the municipalities whole in the event that this money becomes available and that there is a tax revision program.

Q Question nine: This is along the lines of Lackawanna versus Neeld. Suppose the Central Railroad of New Jersey is successful at some future time in proving a discrimination case in our courts by showing that the state assesses second-class railroad property in Jersey City at 100 per cent of true value whereas Jersey City assesses its other real estate at 62 per cent of true value. Then Jersey City would sustain a loss of taxes, would it not? A In the event of such a holding, yes.

Q Question: Could the legislature legally under A-692 reimburse Jersey City for this type of tax loss?

A Senator, I thought that your question would be ---

Q That's the next one. A (Continuing) --- would the legislature be bound - rather, would the legislature have the authority at that time to recognize the court decision and to reduce the amounts contributed by the state. Now you have asked the question the other way: Could the legislature make it up to Jersey City? And I suppose that under a plan as it might be drawn, the answer could be "yes" and that there could be a reimbursement of the full amount to Jersey City.

Q Well, I am talking about just a court case where the

Central Railroad comes in and proves discrimination as the Lackawanna was unsuccessful in doing in the Neeld Case. But in this case the Central Railroad is successful and Jersey City sustains a loss in taxes by virtue of the court decision. Is it your opinion that the legislature could legally under 692 reimburse Jersey City for this particular type of tax loss?

A Well, the authority would not come under 692; the authority would come under the general law dealing with the relationship of the state and the municipality, and my opinion would be yes, that the legislature could at that time make a contribution in some form to Jersey City which would have the effect of making up for tax loss.

Q Silence by the interrogator does not constitute consent in all instances here.

Number ten: Suppose the legislature repeals the second-class railroad tax statute and passes an entirely new statute whereby the state collects a property tax on second-class railroad property and the state keeps these funds for its own uses. Then Jersey City would sustain a tax loss, would it not? A Yes.

Q -- about eight million dollars. A Yes.

Q Could the legislature legally under A-692 reimburse Jersey City and all the other municipalities similarly situated for this type of tax losses? A Yes, it could.

Q The questioner agrees on that one.

Eleven: Suppose the legislature passes a 40 per cent real estate assessment statute sometimes called the Dumont --- Strike that. Suppose the legislature passes a 50 per cent real

estate assessment statute, sometimes called the Dumont-Fox-Crane Bill.

SENATOR CRANE: Strike that too. (Laughter)

Q (Continuing) It is possible that Jersey City might sustain a tax loss as the result of the passage of that statute, is it not? A Yes, that's right.

Q Could the legislature legally under A-692 reimburse Jersey City and other municipalities similarly situated for this type of tax loss? A The answer would be "no" under 692. There is no authority in 692 except to compensate where the tax revision program is in connection with transportation problems.

Q Number twelve: Will you please refer to Section 3 of Assembly 692, lines 7, 8, and 9, and read that clause to us and then tell us what it means, starting with the word "including"?

A (Reading) "*** including compensation or adjustments to municipalities of this State to insure no loss in revenue as a result of any tax revision program hereafter adopted by law in connection with transportation problems and, in priority to other applications of such moneys, payment when due of any liability or obligation to any such municipality hereafter incurred by the State in connection therewith ***" Now, the legislature is authorized ---

Q The magic words here are the four words "to insure no loss." Will you amplify in all directions those four words?

A The legislature is authorized in the final sentence of this section to determine the means and methods of carrying out this object of aiding transportation. Now this whole clause that I have

referred to authorizes the legislature to adopt a tax revision program which would give tax relief to railroads, probably with particular reference, I surmise, to the elimination or reduction of class two railroad property tax payable to the municipalities. Then the legislature would be authorized to incur liabilities on the part of the state to make the municipalities whole, to insure no loss of revenue as a result of such a tax revision program. Now this is one of the ways, one of the means and methods by which the legislature can carry out the object of the act. But the legislature would have the decision as to whether to adopt this method or another method. If the legislature adopted the method of insuring against loss of revenue, a subsequent legislature could change that decision and adopt another method of carrying out the aiding and assisting and extending of transportation which is the object of this act.

Q Question 13, and we are getting near the end: In your opinion are those four words in Section 3 "to insure no loss" a floor or a ceiling from the standpoint of future legislatures?

A Well, let me answer that by saying that if this method is adopted and the legislature decides to insure no loss of revenue, that would not mean that if there were a general tax revision program of the type you refer to in the Dumont-Fox-Crane Bill, the municipality would be saved, harmless from any loss resulting therefrom, nor does it mean if the railroads sold property within the municipality, that the tax level as of the date of the legislation would be preserved in that municipality. Only the amount that is lost as the result of the tax revision program in connection with transportation problems would be insured by the

legislature in adopting this alternative under Assembly 692.

Q Fourteen: To be quite specific, suppose the legislature should repeal the second-class railroad tax act. In that event, is it your opinion the words "to insure no loss" are a ceiling or a floor as far as the legislature is concerned if they decide to give any reimbursement to the municipalities for loss in taxes?

A I believe that it would be a ceiling that the legislature under this authority, under the authority of this section, could not give in excess of the amounts that would be suffered as loss of revenue as a result of the tax revision program. So if the choice has to be between a floor and a ceiling, as I understand your question, there is no authority in this section to give beyond what the tax loss would be and that would be a ceiling.

Q Mr. Attorney General, the reason I have asked you these questions is that in going about the state in the last two months I have had many lawyers ask me what Section 3 means and if I talk to four lawyers, I get four answers, and some of us would like to have Section 3 not --- How many words are there in this? Did anybody count them in this Section 3? A No. I have been over it and assisted in the drafting and studied it since, but I don't know the numbers of words, Senator.

Q Well, it would be unfortunate if this Section 3 caused any problem in the referendum just because it meant different things to different people, whereas if we mean all the same thing, we could say it in less sentences or in more sentences perhaps in a little clearer fashion.

SENATOR DUMONT: Senator Crane.

BY SENATOR CRANE:

Q Mr. Attorney General, I have a few questions, and I am referring back to a matter which Mr. Drier brought up for the Inter-Municipal Group. Are you aware of his presentation this afternoon?

A No, I am not, Senator.

Q Have you ever at any time seen any of the representations of the Inter-Municipal Group for Better Rail Service, which I believe represents communities along the line of the Jersey Central Railroad, with particular reference to their opinion as to the Port Authority's obligation to develop rail facilities, including passenger service and ferries, as part of the harbor facilities?

A I am not sure that I recall specifically seeing any of their information or letters or publications.

Q It is frequently their claim, sir - I believe there are about seven points in the original compact and in subsequent law where they feel that the Port Authority does have the obligation to develop or to cooperate in the development of such rail facilities, and I am wondering if you concur in the opinion that the Port Authority can legally act in a rail crisis? Does it have it within its purview to act in rail matters?

A You mean under present statutes or under new legislation, Senator?

Q Under compact and under existing legislation.

A Well, I would think it was better for me not to render what would be taken as an opinion on that. I am not sure that I have studied the existing legislation that closely. I am sorry that I can't be more definite on it. I would think there is not much question that they could at least by supplemental legislation passed by both states engage in such projects.

Q Just look at it this way - I am a journalist looking for free legal advice as long as you are on the stand. But I would like to pursue this just a little further and you just answer what you feel you can without prejudice.

Sir, is there any way that you feel that the Port Authority can be compelled to pursue one direction rather than others? In other words if this state should prefer that it act in the rail crisis rather than developing more bridges and tunnels and various lofts and factory sites and things like that, is there a way that we can compel them to go in one channel rather than the other, just one state?

A Well not directly by ordering them to proceed, Senator. As you know the Governor of each state has a veto over their actions. The Governor of each state has the appointive power over the membership. There is always the possibility that suggestions cooperatively offered by the Governor and the legislature of the two states will be followed as against some other course of action by the Authority. But I don't believe that there is a chain of command in the sense that the Authority can be ordered to drop certain projects and embark on others. I hope that is a sufficient answer for you.

Q In other words our ability to deal with the Port Authority rests almost entirely with the point of our approval of a certain project when it is initiated and after that, we have no power?

A We have that negative power in the veto and we have the affirmative power of legislation which is passed by both states.

Q Well in the event it were found that we could legally have the Port Authority take up the development of rail facilities,

are we tied irrevocably in this bill, sir, should the referendum pass, to the use of a Division of Rail Transportation or could we later without upsetting the constitutionality of the financial process which we have devised turn this problem over to the Port Authority?

A Your answer is in the framework of this bill. Is there anything in this bill which would prevent, if in accordance with valid legislation at that time, turning over part or all of the responsibility for handling transportation problems to the Port Authority? I find nothing in this bill that would prevent that.

Q Well, I was referring to the fact that I believe the Division of Rail Transportation has an expiration date and I was wondering if its existence in any way impaired the further operation of the provisions of this financial operation? A No, I take it not. The answer is "no."

Q In other words, at any time we could transfer the authority and the responsibility to virtually any branch of government at the discretion of the legislature or to a body such as the Port Authority and still retain this financial ability?

A Well, the authority here is broad and the delegation could be given by a future legislature to some other state agency or certainly in part to an inter-state agency.

Q In other words, in some way we could legally take this financial ability and put it over with the Port Authority over which we have no power at some future date? A I think that that is something of a jump over what I have said. I thought your prior question was that as far as the administration of the plan, it could be handled by the Port Authority in whole

or in part. That is, I think you gave the example of maintaining transportation facilities, rail facilities, stations or yards. Now your next question is whether we can take all the money that is raised by this bill and turn it over to the Port Authority to use for transportation purposes?

Q I am not recommending it; I am asking it. In a sense is this something we should think about that might be provided in this bill? Could we at some future date - say the Division of Rail Transportation passes out of existence - turn to the Port Authority and legally set up the administration of these revenues and their expenditure and invest that power with the Port Authority and in a sense take it away from New Jersey State control?

A Well, the money raised pursuant to this act - if I may go back to my fundamental concept of the bill, the state gives its guarantee contingent upon the surplus funds of the Turnpike being made available for the object of transportation, of meeting transportation problems. That object is defined in Section 3. Now there is nothing in Section 3 which says who handles or who administers the aiding, extending, maintaining, developing, and so forth, of transportation facilities. So in view of that, the decision could be made by a future legislature to entrust this to an inter-state body such as the Port Authority. It would be the question at that time whether that was within the Port Authority's authority or jurisdiction under their laws and I am not passing upon that. My guess would be that there would have to be additional legislation passed both by New Jersey and New York at that time. But I find nothing which requires that the Division of Transportation or any other state official be in charge of the administration

of this program.

BY SENATOR GROSSI:

Q General, I just wanted to clear up a couple of points that were raised by Senator Lance. If I understand correctly, if the Crane-Fox-Dumont Bill were to pass, which gives the fifty-fifty-twelve and a half, that the railroads would benefit by fifty percent of the present assessment, and then if the Legislature wanted to reimburse the municipality for loss in revenue that they could do so by legislation but a future Legislature could also rescind that act. Is that true?

A Yes.

Q But if the Legislature were to rescind the present statute which provides for the assessment and collection of taxes under the rate in the municipality where the property is located, and instead passed legislation that would permit the State to assess railroad property throughout the State uniformly, but that money to be turned into the State, could the Legislature then, under the purview of 692, reimburse the municipalities for the loss in revenue and make it irrevocable so that other legislatures in the future could not pass legislation to rescind?

A No, the legislature at that time, in my opinion, could not make that irrevocable. It would be subject to future legislation.

Q Wouldn't the tax relief granted them, to the railroads, wouldn't that constitute relief along the line of transportation? that affects transportation?

A Yes but since there was legislation it would be subject to being amended or being repealed by a future legislature and another method could be adopted to carry out the object of meeting transportation problems.

Q But they would have to pass another method, though?

A That's right.

Q In other words, they just couldn't rescind and leave things hanging in the air. They would have to pass other legislation within the purview of 692 because this will be passed by referendum, assuming that it is.

A Yes. If there are surplus funds. I don't think you are asking whether the State can just do nothing when it gets the surplus funds of the Turnpike. I mean, assuming that they do something they are bound by the terms of Section 3 but they could change the method that they adopt.

SENATOR GROSSI: That's all.

SENATOR DUMONT: Senator Fox.

BY SENATOR FOX:

Q Mr. Attorney General, this morning Mr. Russell made the statement with respect to line 8 on page 3, referring specifically to the phrase "to insure," and he stated that he did not consider elimination of that phrase vital or necessary so far as this legislation is concerned. Are you in accord with Mr. Russell's statement to that effect? A His statement was that the elimination of that phrase was not necessary?

Q Not necessary or vital to the legislation. I believe the question was propounded by Senator Lance, if I'm not mistaken. Do I quote you correctly, Mr. Russell?

MR. RUSSELL: Yes, sir. Well, the elimination of that clause would not affect the bill.

Q Is that clear, sir? A The statement is that

elimination of that clause would have no effect on the meaning of the bill.

Q Yes. A Well, I'm not sure that I would agree in so many words. I would think that if the method used was to compensate, to insure no loss of revenue, that under that method "insure no loss of revenue" would have a significance. I don't think that the inclusion of that phrase imposes a binding legal commitment on the State or on future legislatures to insure. I think that's probably the thrust of Mr. Russell's answer.

Q No. His statement was that the elimination of the words "to insure" would have no effect on the legislation or on the bill. Do I quote you correctly, Mr. Russell?

MR. RUSSELL: I don't believe so, sir, but the record will show. I believe I said that the elimination of the phrase in and around there --

SENATOR FOX: "To insure," yes.

MR. RUSSELL: -- to take out the language "to insure no loss in revenues" would not change the legal effect of the bill as it is now written.

Q Well, are you in accord with that, Mr. Furman?

A Well, I am not sure that I am. I think that perhaps it's just a matter of a different interpretation of the question. But I would think that some phrase has to be used at that point in describing the effect of this first alternative here, including compensation. Now, if the phrase is eliminated completely, of course, it's no longer English, there's no -- or perhaps it is -- let me read it.

(refers to Bill) Well, I would have to say that the section read grammatically and made sense with the elimination of the phrase and that the only thing that can be said for the phrase is that it might express a vague or perhaps a moral suggestion that a future legislature would insure, would agree to make whole. I would say that it has no legal effect, and that's in accordance with my prior answer.

BY SENATOR GROSSI:

Q Excuse me. General, you mean that despite the fact that this would be put on referendum and the public were to adopt it, and the words "to insure" were left in there, that it would not be incumbent upon the legislature to make sure that the municipalities did not suffer any loss of revenue?

A That's right, Senator. It would not be binding.

BY SENATOR LANCE:

Q However, Mr. Attorney General, it would not be unreasonable for the Corporation Counsel of Jersey City to go to Court and argue that this was a constitutional dedication for a hundred percent reimbursement, would it?

A I think it would be unreasonable. I think it would be an unreasonable reading of the statute. I can't foreclose it as a possibility but I think it would be unreasonable.

BY SENATOR FOX:

Q Well, do I understand then that you are now in accord with the statement of Mr. Russell?

A I'm substantially in accord with him, yes.

BY SENATOR LANCE:

Q Would I be asking a State secret if I asked who drew this Section 3? A Well, I wish I could answer that. I worked on it, my office worked on it, the Governor's Counsel worked on it, Mr. Russell worked on it, Commissioner Palmer, and it is a joint production.

BY SENATOR DUMONT:

Q Mr. Attorney General, suppose that Senate Bill No. 123, which is designed to put second class railroad property on the same basis - 50% assessment of fair market value - as other real property in the other bills, passed the Assembly and was signed into law by the Governor - now, do I understand from your answers to previous questions that none of these surpluses embodied in Assembly 692 could be used for reimbursement for any loss that the municipalities, particularly in Hudson, would sustain as a result of the passage of Senate 123 providing for this tax adjustment for the railroads? A The answer is yes.

Q Now, on what do you base that answer? Is it because you don't feel that that bill is related to transportation but rather is related to statewide equalization or uniformity of assessment of real and personal property?

A That's right, Senator. The only authority I find here is to compensate municipalities as a result of the tax revision program which is adopted in connection with transportation problems and not a general tax revision program.

Q But one of the purposes, at least as I understand it, of that bill is to grant adjustment to transportation

facilities so that they could continue to operate. Now, doesn't that have to do with transportation then?

A I believe that the main object of the legislation, and here I would have to study it, is to effect a general tax revision making municipalities within the state have a standard rate of assessment, and that while there may be some incidental consideration of the consequences on the railroads, it is incidental; if so, it is not a revision program adopted to meet transportation problems. Now, I may have misconstrued your legislative proposal but if I am right in that analysis of it then the answer is that there is no authority under this Bill to make payments to reimburse municipalities for any reduction in tax revenues as a result of your legislation.

Q Well, of course, that bill was introduced after all the other bills in the program, in other words at a later date, primarily so that any doubt as to whether or not Class 2 railroad property was included in the general bill applying to all real property, land and buildings, regardless of their use in New Jersey, that there would be a proper clarification as to the inclusion of Class 2 railroad property; and it was introduced primarily, at least as I understand it, for the purpose of providing some tax adjustment to the railroads. Now, granted that it may be a part of a program dealing with general equalization of tax assessment throughout the State, it would not have been introduced unless it was intended to help grant some reasonable tax adjustment to the railroads which, after all, are in the transportation business. You think that the main purpose of it is different, or a little different,

from the main object of A-692. Is that correct?

A If the premise is that this legislation is adopted or rather has as its object meeting transportation problems, then I would have to change my answer. I understood that your bill was intended as part of the general tax revision. But if the main object of your legislation - and as I say, I haven't studied it from that aspect -- if the main object is to meet transportation problems, then there would be authority in the future legislatures to make a reimbursement based upon any losses sustained by municipalities as a result of that bill.

Q Without any supplemental legislation.

A That's right. Well, in legislation at that time.

Q Well, at the time of the hearings, back in February, some of us raised the point as to whether or not the Class 1 and 3 railroad taxes, which are collected by the State and retained by the State, - whether or not the law could be changed so that those taxes might be returned to the municipalities affected. We realize fully that the \$4 million, or thereabouts, collected from those two types of railroad taxes might not necessarily pay for all the loss that might be sustained by municipalities as a result of the readjustment of the Class 2 railroad tax, but we did raise the question then and we were thinking then in terms of trying to reimburse these municipalities, at least to a large degree, for any loss they might sustain as a result of lowering the Class 2 railroad assessment from whatever it now is - the railroads say 100%, I think most of us disagree that it is 100%; it's higher than 50 but we don't know how much higher, -- whatever

loss they would sustain would be largely reimbursed through the use -- that was just one suggestion of the Class 1 and 3 railroad taxes being returned to the municipalities rather than being kept by the State.

A Well, that sounds as though it would be a constitutionally valid proposal.

SENATOR DUMONT: Thank you, sir.

BY SENATOR LANCE:

Q Mr. Attorney General, my question 11 to you was: Suppose the legislature passes a 50% real estate assessment statute, let's assume Jersey City would sustain a tax loss as a result, then my question was - could the legislature legally, under A-692, reimburse Jersey City for this type of tax loss? As I remember it, you answered me "No." In line with what Senator Dumont has just asked you, you are going to have to change your answer to my question 11, are you not?

A I think not, Senator. I qualify my answer there, as I did to Senator Dumont, that if the tax revision program is undertaken in connection with transportation problems and to meet transportation problems, specifically, probably to aid the railroads and give them tax relief, then under 692 there is authority to compensate or adjust; but if the object of that bill is part of a general tax revision, then under 692 there is not authority to compensate or reimburse the municipalities.

Q So as a practical matter what we would have is a Supreme Court Case to determine the legislative intent in passing Senate 123, whether it was (a) part of a general tax

revision program, or whether (b) it was in connection with a railroad program. Is that correct? A I think perhaps you have jumped to a conclusion that it is a tough point that would be subject to litigation. I am sorry that I can't give anything positive as to my view of what Senate 123 does, but certainly the Legislature would be guided by this language in 692 and would not rush in to give tax relief unless it was clear that the tax loss to the municipality was sustained as a result of a tax revision program aimed at aiding or meeting transportation problems.

SENATOR GROSSI: Mr. Chairman, may I ask a question, please?

SENATOR DUMONT: Surely.

BY SENATOR GROSSI:

Q Along the same line, General, if the Legislature were to pass legislation that put second class railroad property in the same class as Class 1 and 3 - in other words, the State to collect it and retain it, - then the Legislature could pass legislation granting reimbursement to the municipalities for that loss in revenue, couldn't they, under 692?

A Yes.

SENATOR DUMONT: Dr. Miller.

BY DR. MILLER:

Q General, I have a few questions that follow up those of Senator Lance - I'm not sure that I will remember all the numbers but I will try to refer to them. Fundamentally, referring to the section of the Constitution that requires the State to borrow only for some single object or purpose, - I believe are the words, - when you compare the language in the

bill for transportation purpose, which as we have seen runs all the way from horses to rockets, - from the reimbursement of busses, railroads, terminals, and what-not, capital investments and tax concessions, - is there any doubt in your mind that there is a single object or purpose as required by the Constitution?

A I have no doubt that transportation is a single object or purpose, that is the meeting of transportation problems.

Q Whether it be by public or private vehicle or facility.

A That's right.

Q Is there any previous experience in this State or elsewhere that you may know of where that has been so held?

A I don't know of any litigated case that has so held, Mr. Miller. I believe that the prior bond issues approved by referendum in this State have several times dealt with a general object which may be met in any one of diverse ways; for example, the Highway construction and the Institutions and Agencies construction bond issues.

Q Well, both of those, as I recall, either were specifically for the building of highways, or in the other case for the construction of institutions or their extension and repair. They certainly were more specific. Well, to get to the next question, could you suggest any way that this language might be strengthened, from a constitutional standpoint?

A No, I have no suggestion there. I'm satisfied that it does meet the terms of Article VIII, Section 2, Paragraph 3.

Q Another question, if you please. The guarantee that

we have here could conceivably go to one less than 33% of the outstanding bondholders who did not consent, is that correct? And if 66 2/3% of the bondholders consent, then the exchange of the guarantee for the revenue bonds can take place under the bill. Is that correct? A Yes.

Q Is there any doubt in your mind that the extension of the general obligation of the State of New Jersey to those bondholders who do not consent (a) or (b) to those who do represent the lending of credit which is prohibited by the Constitution? A Well, which is prohibited unless

approved by the voters at a referendum.

Q The voters' approval is to borrow money, not to lend the credit of the State, as I recall the provision, sir.

A Well, I am not sure. Perhaps you better rephrase your question. I mean, repeat the question.

Q When you give a bondholder a general obligation in place of a special obligation, are you not giving him something he did not have before and thereby lending the credit of the State to him, in the technical sense?

A Yes, that is so.

Q Are we then safe in assuming that guarantee could be accepted as a valid basis of refinancing? A Well, yes, I'd say we can assume that.

Q Is there any authority on that score that you know of, sir? A No. If you are referring to a case

or other authority, I have none in mind at the moment.

Q On a similar point I think the record may be mistaken in that when Senator Lance asked you with respect to one of

his questions whether under this bill, 692, loans could be made to railroads to provide improved terminal facilities, as I recall it the answer in that case was "Yes," but in all other similar cases you qualified it by adding "provided there is no violation of Article VIII, Section 3, Paragraph 3" which prohibits the lending of credit or aid to private corporations.

A Thank you, Mr. Miller, I would insert that amendment there too.

Q I would assume that you meant to have them all the same. Now, with respect to dedication, as you referred to the following clause of the State Constitution, I believe you quoted those words which say that the proceeds may not be used for any other purpose. A I don't have it before me.

Q Is it not true that those words refer to the proceeds of a bond issue, namely, they dedicate new money and do not refer to the dedication of revenues which is what we are here discussing?

A No. I say that the money to be raised by the authority of the law in this case the surplus revenue, that the guarantee is contingent upon the surplus revenue being paid over to the State and that the moneys raised by the authority of the law, within that phrase, to be applied to a specific object are the surplus funds of the Turnpike.

Q Well, if you read it that way, what effect do you give to the single annual appropriations clause of the same Article of the Constitution? How can there be no dedication under one clause of revenues, as distinguished from bond proceeds, and dedication under the bond section of revenues

there described? A It seems to me that Section 2, Paragraph 3 clause is paramount and would control in this case, specific on the point, where the people have approved at a referendum then the money is not subject to be used for another object until the termination of the obligation incurred in accordance with the referendum.

Q I take it then that you would not grant that it is at least arguable that there is no dedication under the borrowing clause because there are no new bond proceeds here obtained.

 A I am not sure that I understand - you say it is not arguable?

Q At least arguable. A Well arguable is a word -- no I don't think it is reasonably arguable.

Q Then may I turn to bill, sir, line 10 on page 3, with reference particularly to the words "in priority to other applications," and so on "payment when due of any liability or obligation to any such municipality hereafter incurred by the State in connection therewith," - "therewith," I take it, refers back to the compensation for tax losses. Suppose the Legislature of 1960 should adopt a tax reimbursement program in light of the then known conditions, thereby imposing an obligation upon the State without time limit, would it be your opinion that this clause, if it is a dedication, binds all future legislatures so that they could not change the obligation once having been committed under it?

 A My answer to that is no, Mr. Miller. I don't believe it would bind future legislatures. I believe that future legislatures are bound by the Constitution

only to making use of the moneys for the object of meeting transportation problems, and that they may vary the method that is used.

Q Which, of course, I pose the same question as Senator Lance asked, namely, that if a reimbursement for second class railroad tax were to be adopted in 1960, the Legislature could grant no assurance that it would be retained indefinitely. Is that correct? A The 1960 Legislature could provide no definite assurance, right.

Q Under this language or under the Constitution.

A That's right.

DR. MILLER: Thank you.

SENATOR STOUT: I have a letter addressed to Senator Lance from the Lehigh Valley Passenger and Shippers Association, signed by William G. Dickson, Treasurer, which I will file in the record; a telegram from the Board of Education of East Brunswick, New Jersey, concerning the subject of the hearing today, which I will also file in the record; and a statement by J. W. Kehoe, taxpayer of Prospect Plains, New Jersey, on the matter - he was here this morning and couldn't come back this afternoon.

There being no further witnesses and no further questions, we are about to adjourn the hearing, but I would first like to thank Commissioner Palmer and the members of his staff for their patience here today and all others who have testified: Attorney General Furman; President of the Public Utility

Commission, Ralph Fusco; and all others who have contributed in making this information available to the members of the committee, and also to the members of the Legislature who are not members of the committee for showing up here today.

Commissioner, do you have a statement?

COMMISSIONER PALMER: I have a short word of appreciation on behalf of myself and my associates for the privilege of being here and of having the benefit of the intelligent inquiries, the suggestions and the comments made, which will be very illuminating and very helpful to us. We thank you for the privilege of being here.

SENATOR STOUT: Thank you, Commissioner.

The hearing is adjourned.

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RECONCILIATION OF ESTIMATED SURPLUS DATA

TURNPIKE AUTHORITY SURPLUS

VS.

RAILROAD DIVISION SURPLUS

submitted by
COMM'R DWIGHT R. G. PALMER

The data prepared by the New Jersey Turnpike in a letter dated July 7, 1959, showed that total surplus available for transportation purposes over the period from 1960 to 1987 would be approximately \$285 million. This estimate compares with the figure of \$630 million submitted publicly on the occasion of the announcement of the Transportation Program on June 16. The following data are submitted to explain the differences in the two figures and the adjustment of these data.

- A. First, with respect to the Turnpike Authority's figure of \$285 million. Chairman Morecraft of the Authority in a meeting held today agreed that the gross revenue estimate upon which the Authority projection was based was at least 5% too conservative in view of recent and 1959 traffic growth. This would result in an upwards adjustment of surplus of \$69 million.

Mr. Morecraft was of the opinion that the expense allowances were too high. In this respect the recent expense ratios have been running at the rate of about 20% of gross revenues, as contrasted to the estimated future expense ratios of 30%. Accordingly, he felt that the expense ratio would still be conservative if adjusted downward to 25% of gross. This would add another \$69 million of surplus to the Authority estimate.

The addition of the two items noted above would increase the estimated surplus

from \$285 million by \$138 million to a figure of \$423 million. Mr. Morecraft also conceded that adjustments to such surplus were possible to reflect further reductions in expenses and growth in gross revenues after 1974. However, he was not prepared to place dollar figures on such additional adjustments.

- B. The Railroad Division surplus was estimated at \$631 million. At the time of this announcement, the Division was aware that obviously the figures would have to be adjusted downward to reflect loss of interest earnings of the Turnpike Authority because of the transfer of some of the Reserve Funds of the Turnpike. This adjustment downward of the \$631 million would not exceed \$30 million, bringing such surplus down to \$601 million.

The Division also knew that an additional reduction in their surplus figure might have to be effected because of extraordinary expenses of the Turnpike not normally budgeted. Such expenses in 1959 are running at the rate of \$1 million and it was felt that \$2 million per year, or approximately \$60 million in total, would be an ample figure for this purpose. After reflecting this amount, the surplus would then be adjusted downward to a figure of \$541 million.

- C. The two adjusted surplus figures as shown are now estimates of \$423 million by the Turnpike Authority and \$541 by the Division. The principal causes of the \$118 million difference in the estimates are: (1) in the anticipated ratio of operating expense to gross revenue, and (2) as to the rate of traffic and revenue growth after 1974.

The Turnpike Authority expenses in recent years have been running at rates approximating 20% of gross revenues. This ratio compares with the 1958 ratio of 20% for the main section of the Pennsylvania Turnpike, (326 miles) and 22% for the Ohio Turnpike, (241 miles). If the New Jersey Turnpike were to continue

to operate at a 20% expense ratio instead of the above mentioned 25% rate in the future (and the ratio of expenses to revenues might be expected to decline with higher revenues) the surplus as estimated by the Authority might be increased by another \$69 million.

The Authority estimates show that traffic, and hence revenues, will not increase following 1974. The Division, however, has estimated that traffic growth will continue to 1980, adding at least \$50 million in gross revenues. In this respect, the Division's opinion is supported by the Traffic Engineers' 1955 estimate for Turnpike Authority's gross revenues.

D. To summarize:

Authority's estimate of surplus	\$285 million
Added:	
Additional gross revenues	69 "
Lowered expenses	<u>69</u> "
Authority's Adjusted Estimated Surplus	<u>423</u> "
Division's estimate of surplus	\$631 "
Less:	
Lowered interest earnings	30 "
Increased extraordinary expenses	<u>60</u> "
Division's Adjusted Estimated Surplus	<u>\$541</u> "
Difference	118 "
Unreconciled Differences:	
Reduction of expenses to 20% rate	69 "
Increase in Gross Revenues after 1974	<u>50</u> "
Total Amount	<u>\$119</u> "

