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PUBLIC HEARING

before

SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE RELATIONS
AND VETERANS AFFAIRS

on

SENATE NO. 1639

(Requires the Port Authority to make annual payments to
local governments in amounts equal to the taxes which
would have been realized on the property had it not
been owned by the Authority)

3-1-3

Held:

November 30, 1977

Freeholders' Chamber

Bergen County Administration Building

Hackensack, New Jersey

New Jersey State Library

MEMBERS OF COMMITTEE PRESENT:

Senator Raymond Garramone (Chairman)

Senator Joseph W. Tumulty

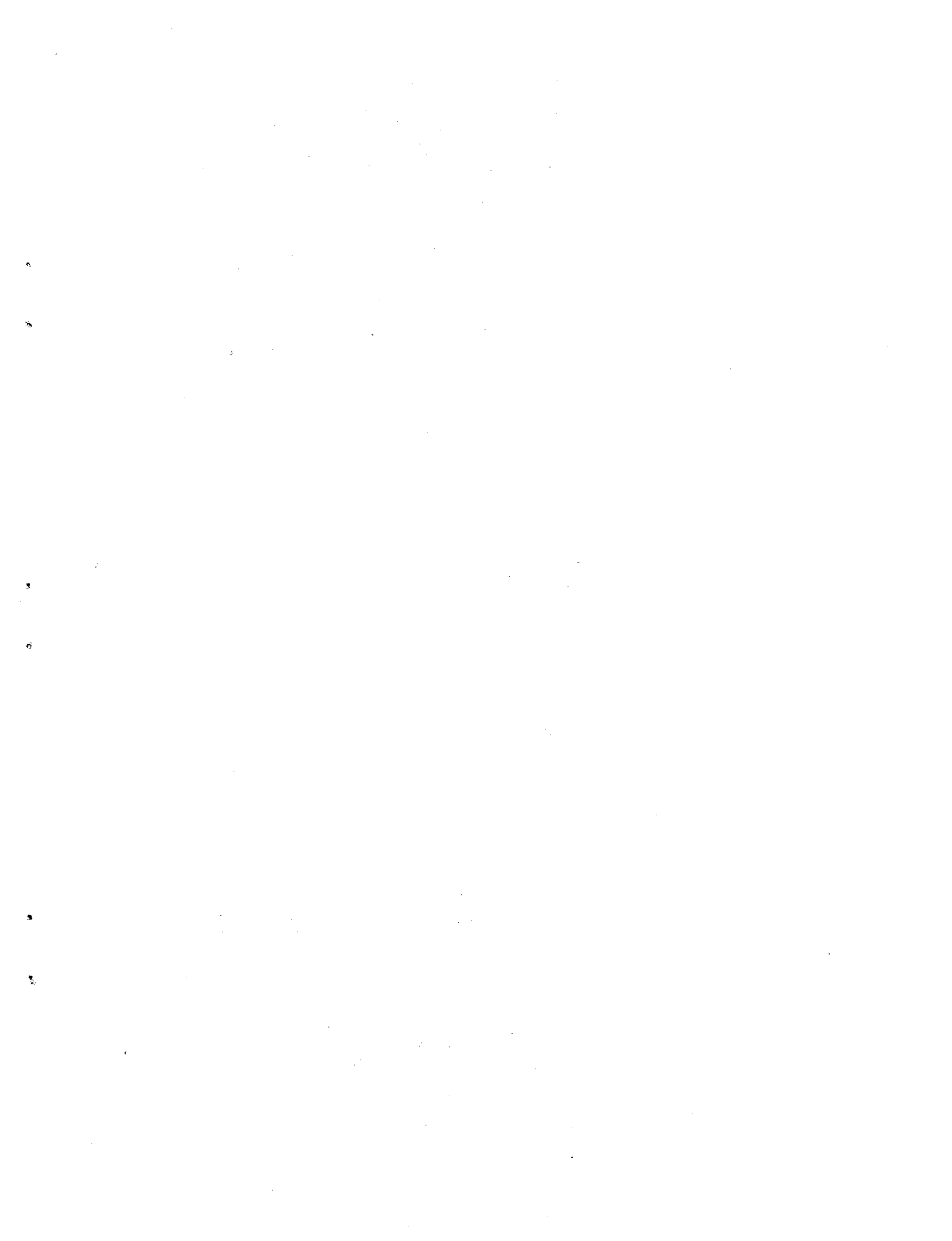
ALSO:

James A. Carroll, Research Associate

Legislative Services Agency

Aide, Senate State Government, Federal and Interstate

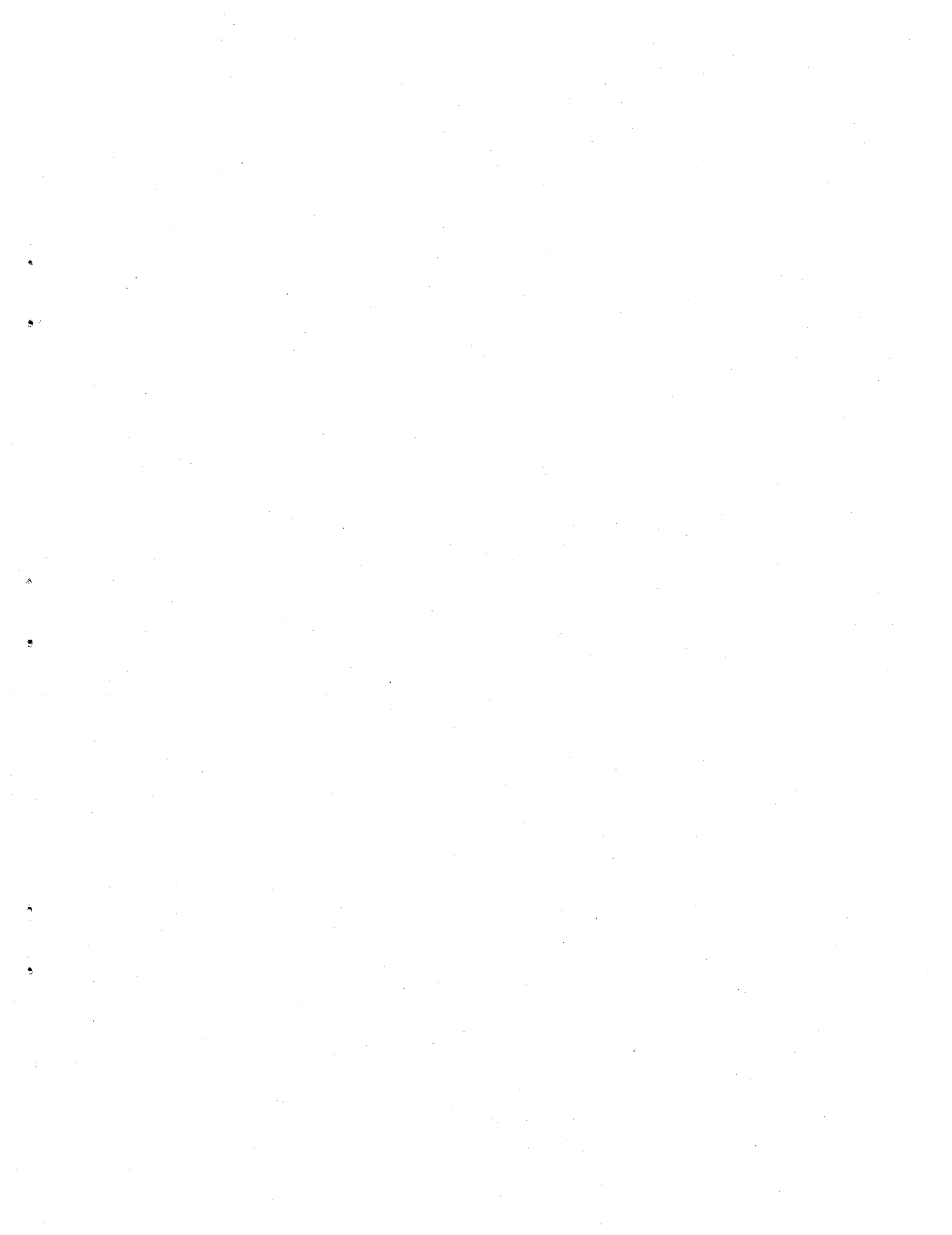
Relations and Veterans Affairs Committee



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SENATOR RAYMOND GARRAMONE (Chairman): I think we are about ready to go. First, I want to thank you all for appearing at this public hearing of specifically Senator Tom Dunn's bill which deals with in lieu payments. Beyond that, I have invited Commissioner Sagner, the Chairman of the Port Authority of New York and New Jersey to join us in really an exploration of not only the specific bills that are in the Stage Government Committee, but the role of the Port Authority in 1978 and in the future. There are some specific questions we have asked the Commissioner to give us his thinking on. We are very much interested in the role that the Port should be playing. What we are attempting to do is to put into focus the role of the Port Authority in this bi-state region. It is a rather important role that they serve. We would like to see how we can make it serve maybe a more important role in terms of the needs as will be defined in terms of New York and New Jersey. So, we welcome you. It is a public hearing and I would like to, for the record, indicate that Senator Tumulty, who sits on the Committee with me, is here with us today and also Jim Carroll, who is the aide to the Committee, is up here. Tom Kiernan, who is on my staff, is also joining us today.

So, with that note and those general loose goals that we are attempting to define, I would like to open the meeting and invite Senator Tom Dunn to give us the benefit of his thinking on his bill - a general approach to the Port in this bi-state region. Senator Dunn.

SENATOR THOMAS G. DUNN: Chairman Garramone, Senator Tumulty, gentlemen: Thank you for giving me this opportunity to speak before you on this matter of critical importance to every taxpayer in the State of New Jersey as well as New York and, in particular, to those taxpayers of municipalities in which the Port Authority of New York and New Jersey owns land and buildings. I am particularly pleased with this opportunity also in view of the fact that I am the prime sponsor of legislation known as Senate Bill number 1639, which is the subject of this hearing and which would, if it became law, require the Port Authority of New York and New Jersey to make annual payments to local governments equal to the taxes which would have been realized from the property had it not been owned by the Port Authority.

On August 21, 1921, by Public Resolution Number 17 of the 67th Congress of the United States, Congressional approval was given to the original compact between New Jersey and New York, creating the Port Authority of New York and New Jersey, then called the Port of New York Authority. That approval set into motion the giant and autonomous agency we know today. Included in its many powers, which were authorized by the compact, was a provision which permitted the Port Authority to make payments in lieu of taxes to municipalities, but which limited the sum to be paid to those taxes last paid on the property prior to the time of this acquisition by the Port Authority. I am referring to that provision in the compact encompassed in New Jersey Statute, 32:1-144 which reads - and I quote: "Agreement between the Port Authority and municipalities amount and manner of payments. To the end that counties, cities, boroughs, villages, towns, townships and other municipalities in the Port of New York district, may not suffer undue loss of taxes and assessments by reason of the acquisition and ownership of property therein by the Port of New York Authority (hereinafter called the port authority), the Port Authority is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement, or agreements,

with any county, city, borough, village, town, township or other municipality in said port district, whereby it will undertake to pay a fair and reasonable sum or sums annually in connection with any marine or inland terminal property owned by it, not in excess of the sum last paid as taxes upon such property prior to the time of its acquisition by the Port Authority. Such payment or payments which the Port Authority is hereby authorized and empowered to make, shall be in such amount or amounts and shall be payable at such time or times and under such terms and conditions as shall be agreed upon by and between the Port Authority and such county, city, village, borough, town, township or other municipality concerned." I emphasize that this was in 1921.

It is the foregoing provision of law with which my proposed amendment deals. Before introducing the new legislation, I sought the legal opinions of both the Attorney General and the City Attorney of Elizabeth, New Jersey. Both Attorney General William F. Hyland and City Attorney Frank P. Trocino, who incidentally is with me here today and sits at my right, were in agreement that the amendment in question did not require a Congressional approval, but could become law with the adoption of the necessary amendatory language by the Legislatures of New Jersey and New York, accompanied by the approval of the Governors of these States. In reliance upon the legal opinions, I then prepared the necessary legislation now under consideration.

In my view, based on nearly thirteen years as Mayor of an urban city in which the Port Authority has land holdings of 1800 acres of land with a current assessed value of more than \$400 millions of dollars, or approximately one-fourth of the City of Elizabeth's total assessed value, the current formula which now permits the Port Authority to pay to the City of Elizabeth only \$63,000 annually, represents a totally unfair burden upon the taxpaying public of the city, as well as upon the taxpayers of all municipalities in which the Port Authority owns land.

As recently as October 30th, Port Authority Chairman, Alan Sagner, reported in a television interview that he recognized the limitations of the current law and hoped to be able to revamp the formula by which the Authority makes payments in lieu of property taxes so that New Jersey cities such as Elizabeth, Jersey City, Teterboro, and Newark may receive additional financial benefits to give some relief to the tax base of those municipalities. I find Chairman Sagner's views heartening, and I welcome them as they are consistent with the object of my legislation, although I do not know at this time whether or not he supports the formula which I have proposed in S-1639.

For many years, there has been much talk about relieving the burden of the local taxpayer. This legislation takes a giant step forward and is a positive approach to correcting and rectifying what has been a grossly inequitable situation.

Let me give you an example of what would happen in the City of Elizabeth, and the benefits derived by its taxpayers, should S-1639 become law.

The Port Authority, as I have mentioned, owns land in Elizabeth with a current assessed value of \$400 millions of dollars. Based on that figure and the 1977 tax rate in Elizabeth, a reduction in taxes to the general taxpaying public would be realized in an amount of approximately 40 percent, or as set forth as follows:

1977 tax rate per \$100 valuation is \$4.19, less a reduction of \$1.70,

would make an adjusted 1977 tax rate to the other people of our City of \$2.49, instead of the \$4.19.

The foregoing reduction is calculated upon figures furnished to me by the Department of Finance in the City of Elizabeth, utilizing \$100,000 per tax point, and anticipating a realization of \$17 million dollars in lieu of tax payments by the Port Authority, based on the assessed value of \$400 million dollars in holdings by that agency.

In addition to the annual payments received from the Port Authority from land and buildings owned by it, the City of Elizabeth also receives \$824,000 under a fairly recent 1972 agreement between the City and the Port Authority for approximately 100 acres of land leased by the Port Authority from the Jersey Central Railroad. Incidentally, the Jersey Central Railroad, as you know, is bankrupt and they owe us almost \$2 million in back taxes. This payment is based on a tax assessment of the property by the City and is the current subject of a tax appeal by the Port Authority.

Therefore, the amounts realized are subject to future judicial determinations because of the dispute raised by the Port Authority in its tax appeal.

In any event, there is no doubt that should S-1639 become law, local taxpayers in Elizabeth and other cities with similar circumstances would immediately realize an approximate reduction of 40 percent in their local property tax bills.

For the reasons that I have set forth in this statement, and voiced as well on many occasions in the past, it is my view that the arguments are compelling in favor of the enactment of this proposal. To do otherwise would only ignore the pressing needs of those people who have for too long paid more than their share. To quote from Abraham Lincoln, instead of John Fitzgerald Keenedy for a change, I close with his quote: "The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise to the occasion. As our case is new, so must we think anew and act anew. We must disenthrall ourselves and then we shall save our country."

I am interested at this particular time in saving those cities within the jurisdiction of the Port Authority. So, let me again thank you for the opportunity of appearing before you today, gentlemen.

SENATOR GARRAMONE: Thank you very much, Senator Dunn. I have maybe a question or two. I think I am reading this properly. You received \$63 thousand from the Port. That is exclusive of the \$824,000 that was a supplementary agreement made in 1972. If this bill were to become law, that would change to approximately \$17 million now? Am I reading that properly?

SENATOR DUNN: Yes.

SENATOR GARRAMONE: How would this affect the remaining areas that are within the geographical confines of the Port? Do you have a reading on that? What are they presently getting in lieu of taxes? If this formula were to be distributed to all of the affected municipalities, do you have any projection of what that would cost?

SENATOR DUNN: Do you mean how would that affect Jersey City?

SENATOR GARRAMONE: Yes, Jersey City and--

SENATOR DUNN: No, I don't have figures on that at all.

SENATOR GARRAMONE: I see.

SENATOR DUNN: I would suggest, perhaps being somewhat presumptuous, that you concentrate on the \$63 thousand because the \$800 and some thousand is the result of a negotiated agreement back in 1972 between the Port Authority and the City of Elizabeth that relates only to property that they leased from the bankrupt Jersey Central Railroad, which they leased, developed, and then rented to tenants. Through a formula that was negotiated that-- While they are realizing some \$800 thousand at this particular time, the original anticipation was that we would receive some \$5 million on that property, but it hasn't been developed and successfully tenanted to the expectations of 1972. Again, you have to be mindful of the fact that the railroads running through the City of Elizabeth are bankrupt and owe us more than \$2 million in back taxes now, so that only adds to the burden. But, the \$800 thousand, despite the fact that it was negotiated back in 1972 with the Port Authority, is now under tax appeal by the Port Authority. I say this with a smile on my face. We can't help but think that the Port Authority has a lot of gall to take that appeal to the State of New Jersey.

SENATOR GARRAMONE: This was an agreement that was entered into in '72?

SENATOR DUNN: Yes. I was the Mayor at the time.

SENATOR GARRAMONE: Okay, fine. Let me pose another question and I am sure that Senator Tumulty has some questions also.

Just on the overall approach of municipalities in the States dealing with the Port, do you have any suggestion in terms of providing better input to the direction the Port should be taking - because they do have long-range planning - in its present role, and should it be redefined?

SENATOR DUNN: Well, there is no question about it. You know I am sure that the Port Authority has come here today with all kinds of arguments that they can use to justify the great things they have done for the State of New Jersey and I don't argue too strenuously against that. They will also mention that private enterprise would never have developed the Meadowlands if they hadn't come in to do it. But, you know, we are not-- I don't want to weaken my case. We do not have any expectation at all of receiving \$17 million a year from the Port Authority. Although, if this bill became law and if the Governor were to sign it-- And, I am not that stupid to expect that Governor Byrne would sign such a bill. But, I am trying to focus attention, if nothing else, on the total inequity and the total unfairness of being bound by a 1921 agreement that allows a giant corporation, that owns one-quarter of all the land in the City of Elizabeth, to be paying to our City only \$62 thousand a year. It is sinful. It is criminal and if the Port Authority would just bend a little bit and would be willing to say, "All right, this particular bill is the ultimate for the City of Elizabeth. It should be changed, or amended, or negotiated", we would be receptive to it. But, I think that we have to start focusing attention on the Legislature of the State of New Jersey and on the Governor of the State of New Jersey and also their counter-parts in New York, to show the total unfairness to the people of the City of Elizabeth who are taxed to their gills, to the benefit of the Port Authority and to the bankrupt railroads, and to other people.

I really think that the Legislatures and the Governors have to start thinking about the taxpayers in our cities. And, so far, I have not seen too much concrete evidence of it.

SENATOR GARRAMONE: Do you think, Tom, that if the Legislature had an on-going committee whose exclusive responsibility was really to communicate directly with the Port and with the Legislature of New York, dealing with what the on-going problems are here in the State, that maybe we would get a quicker response? It could provide the Port with more information, quickly, rather than -- you know, we generally react rather than initiate and, unfortunately, that is part of the problem.

SENATOR DUNN: Yes, I agree with you. I don't know when I introduced this bill but I am sure it must have been about two years ago and this is the first-- You know, it took us two years to get to today. I certainly can't find any fault with having committees studying anything, but we are "committeed" to death and it will be another 10 years and in the meantime the average homeowner, or the average property owner in the City of Elizabeth will be paying higher taxes because the Port Authority hasn't bent a little bit to amend this compact to change the agreement reached in 1921, which is 57 years old.

SENATOR GARRAMONE: When the Commissioner speaks, Tom, I will ask him what the contributions are in in-lieu taxes in both New York and New Jersey at the present time. I would be interested to know what that comparison is.

SENATOR DUNN: I might say this, Mr. Chairman, if you are talking about committees and you are talking about time, I emphasize here that I have been Mayor for 13 years now in the City of Elizabeth and I have been making this appeal for 13 years to all the Commissioners, to Mr. Tobin, to Mr. Ronan, to Mr. Sagner -- you name them -- and they are familiar with the arguments of the cities like Elizabeth. So, I don't know how much more can be accomplished by having committees study the problem. It is so obvious that a child could see the inequity of having an autonomous agency, like the Port, only paying \$62 thousand in taxes. We are constantly supplementing services that they, in the first instance, provide. We are talking about fire services, police services, and our municipal court handles all the legal problems that come out of the operation of Terminal A. We can't even get the Port Authority to agree - or admit - that Terminal A, in the new Newark Airport, is in the City of Elizabeth. You know, they never mention the City of Elizabeth in anything they do. They spend a couple of hundred thousand making a movie about selling the new Newark Airport to travelers, worldwide, and they don't even mention that Elizabeth is in the State of New Jersey. They don't mention that the Port Authority has a big, beautiful terminal in the City of Elizabeth. It is a little embarrassing to be the Mayor of a big urban city and to receive absolutely no recognition of any kind from the Port Authority.

But, that is a different kettle of fish. I am here today asking the Legislature of the State of New Jersey to do something about the fiscal needs of our City and the total inequity of allowing an autonomous agency to pay us an insulting \$62 thousand a year for all the land that they own and all the buildings that they own and all the tenants that they have who aren't engaged in the area of transportation at all. They are making a pile of money

and they have been for 57 years. What they have been doing with the money -- Well, I guess some of it is commendable, but there is an awful lot of it that isn't so commendable. You would think out of the kindness of their heart they would be willing to make a deal with the City of Elizabeth or with some of the other cities. They have ice cold blood running through their veins and with the change in administrations it makes no difference. It is like me appointing somebody to the Board of Education who wants to get on the Board of Education because he knows how he is going to save taxpayers money by doing this and doing that. He only attends one meeting and overnight he becomes the most pro education individual on the new Board. You know, I love Alan Sagner. He is a great guy, but he is no different than Austin Tobin. Jim Kellog is a Commissioner who lives in the City of Elizabeth. He couldn't care less about what is happening to the City of Elizabeth, even though he is a resident of it. There is absolutely no change. They are all cut from the same cloth. They have absolute ice water instead of blood running through their veins.

SENATOR GARRAMONE: Well, I think, Tom, the physical characteristics of the individual members really wasn't the topic of discussion. I have hopes that Alan Sagner will give it a new look, but we will see. You know, he will have his day.

SENATOR DUNN: Mr. Chairman, I am a lame duck. I will be out of office in a couple of days and it is going to break my heart if, when I leave the Senate on January 10th, I find that my bill is junked and, "Well, we had a public hearing; that will quiet Dunn for a while" -- you know. I am appealing to the members of the Legislature and to the Governor to just consider the total unfairness of this - the inequity of it - and to try to give some relief to our City and other cities that are really being strangled because of the power and the influence of the Port Authority.

SENATOR GARRAMONE: Senator, you have made a very good point, I think. This in lieu payment is very much in focus in most urban areas. I don't think this bill will be junked. Maybe this particular bill may not pass this Senate this year because we are really in the last couple of weeks of the session. But, I think the principle has been enunciated by yourself and others a great deal and I think there is an awareness of it on the part of the Port - that there has to be some fairness doctrine, if you will, established in this whole area of in lieu payments.

So, I think there is a purpose for this hearing, Tom. I don't see it falling off the cliff and nothing happening in the future Legislature. I would see activity in this area.

Senator Tumulty?

SENATOR TUMULTY: Senator, and Mayor, I would comment at the outset that you, Senator Garramone, and I all occupy the unique position of being lame ducks. Maybe what the Port Authority needs is a former Senator or a former Mayor to serve on the Port Authority.

SENATOR DUNN: That is wishful thinking, I am afraid.

SENATOR TUMULTY: I am willing.

SENATOR GARRAMONE: Joe, have you been a Mayor?

SENATOR TUMULTY: No, I haven't been a Mayor, but I have been pretty close to city government in my time.

SENATOR DUNN: Unless you have graduated from Yale or Harvard, I doubt if you are going to make it, Joe. You know, a kid like myself, a graduate of St. Mary's High School, taught by the Sisters of Charity -- there is not much chance of making it. But, there is hope for you.

SENATOR GARRAMONE: Just as an aside to the audience, this is an illustration of the diversity that sits in that Senate - Tom Dunn and Joe Tumulty. I think that brings to bear the necessity of having a diverse approach in terms of government. Now, you see this multiplied many times down there. You are seeing some of the pros and some of the very good people there who have different points of view and are willing to enunciate them and say so.

So, in a sense, I hope your visit to Hackensack was more than just waiting down below. You got a flavor and a taste of what state government is about because in reality, your county government and your local government only deals and really exists at the option of state government. So, you have two, I think, very excellent examples sitting here of people who do make the laws.

SENATOR TUMULTY: Mayor, how much of the 1,800 acres in the City of Elizabeth are improved?

SENATOR DUNN: It would be somewhat of a guess on my part. I think I would be safe in saying most of it.

SENATOR TUMULTY: Most if it is improved?

SENATOR DUNN: Yes. We have the giant terminals of Port Newark.

SENATOR TUMULTY: Do you have any up-to-date appraisals of what you think these properties are worth?

SENATOR DUNN: Well, the up-to-date figures are the \$400 million.

SENATOR TUMULTY: Your \$400 million figure is an appraisal?

SENATOR DUNN: Yes. It is pretty accurate too.

SENATOR TUMULTY: Let me ask you this - what benefits can the Port Authority claim they bring to the City of Elizabeth? In other words, do they generate anything much in the economy of the City of Elizabeth?

SENATOR DUNN: No, but they are going to argue that it does. Their argument, of course - and it is somewhat justified; not somewhat, it is justified - is that they bring a great deal of benefit to the States of New York and New Jersey and to this northeastern corridor and I guess they do provide a national service. But, they are doing it at the expense of the cities that are directly adjacent to their operations.

So, I don't find any argument with their claims of all the great things they have done for the States of New Jersey and New York. But, they really, specifically, do very little except cause problems for a city like Elizabeth. Again, I would be somewhat guessing but I would say very few employees come from the City of Elizabeth.

SENATOR TUMULTY: I was going to ask you that.

SENATOR DUNN: Very few.

SENATOR TUMULTY: Do you have any idea of how many people are residents?

SENATOR DUNN: In the shipping port, most of the locals are - the union locals - controlled by outside interests. Very few Elizabeth people work in the labor unions that are involved with the shipping operations. I don't have any up-to-date figures on it. I don't know what it does to help the economy of the

City of Elizabeth. The expansion of the Newark Airport and the two new hotels that were built in the City of Elizabeth could be, certainly, classified as one benefit the City has received from it.

But, I am sure that the disadvantages outweigh the advantages when you look at the overall problem from a municipal standpoint.

SENATOR TUMULTY: Is part of the Airport in Elizabeth now?

SENATOR DUNN: One-third of the Newark Airport is in the City of Elizabeth.

SENATOR TUMULTY: And how about the container ports and the like?

SENATOR DUNN: Port Elizabeth is within the geographic boundaries of the City of Elizabeth. That is an extension of Port Newark and it is quite massive, as a matter of fact.

SENATOR TUMULTY: Do you provide fire and police protection to the Port Authority, or do they have their own?

SENATOR DUNN: The Port Authority has their own but on a day-by-day basis, we are constantly providing supplemental services to the Port Authority - police services and fire services, as well as the legal entanglements that are involved with operating the Port within the City of Elizabeth. All legal matters resulting therefrom must be adjudicated in our municipal court, which is also a taxing situation on our municipality.

SENATOR TUMULTY: So, in summary then, it is your position that the disadvantages of having them far outweigh the advantages?

SENATOR DUNN: Absolutely. Just the services that we do provide, with fire, police, municipal court, and some other things I just can't think of right now, certainly do cost more than \$62 thousand a year. So, actually, we receive nothing for the services that we do provide and we are being penalized by not being able to get a better shake on the assessed value of the land that they occupy.

If private enterprise took over, that property would be assessed at \$400 million and our tax revenue would be in the area of some \$17 million.

SENATOR TUMULTY: Thank you, Mayor.

SENATOR GARRAMONE: Thank you, Senator.

SENATOR DUNN: Thank you.

SENATOR GARRAMONE: Alan, do you want to join us. We will wait until the noise decreases.

COMMISSIONER SAGNER: It is a shame they can't wait to hear the answer to Tom's inaccurate statement.

SENATOR GARRAMONE: I would like to welcome the Chairman of the Port Authority of New York and New Jersey. He will share with us his comments on Senator Dunn's bill and a number of other bills before our Committee. And, of course, he will answer the questions that we did pose to the Port Authority in terms of their general approach to existing problems and what the future problems will be and how they can help this bi-state area. We did make note of the fact that there are other existing committees in the State of New York who are looking into the expenditures of the Port in terms of expenses and trips, which are all very valid. As I understand it, the Commissioner has made changes in that procedure. This is ground that is being covered by others. We are obviously interested in that area but we would like to focus upon the bills before us, really, and - again, I am repeating myself -

the general direction that the Port should be taking in the assistance of the bi-state region.

Again, should there not be a constant source of input of information from the Legislatures - i.e. the people - to the Port so that you can respond, or communicate directly in terms of what are the mutual problems and how do we solve them? Certainly, you are in a new age. The spotlight is now being focused upon the Port, more so than ever before. You never had the spotlight upon you and a recognition of what you have done, what could be done, and what are some of the limitations that have been set over the years.

So, in that general scene, Commissioner, we welcome your participation and the microphone is yours.

C O M M I S S I O N E R A L A N S A G N E R: Thank you, Senator Garramone, Senator Tumulty, Mayor Dunn, and ladies and gentlemen. My name is Alan Sagner. I am Chairman of the Board of Commissioners for the Port Authority of New York and New Jersey and I am gratified to be here and respond, Senator, to your invitation to discuss with you the matters referred to in your memorandum to me of October 24th, relating to Senate Bill No. 1639.

Before I proceed with my prepared remarks, I cannot restrain from correcting certain statements made by my friend, Senator-Mayor Dunn. He quoted me as having said in a television interview that I recognize the limitations of the current law and hope to be able to "revamp the formula by which the Authority makes payment." I don't know, Tom, whether you didn't see the program yourself or whether this was reported to you, but that is not what I said. What I said on that program - and I repeated it about a week later at the Erie Lackawanna Terminal in Hoboken when I appeared with the Governor and Mayor Smith of Jersey City and Mayor Capiello of Hoboken - was that my statements were in response to a letter that I had received from the Governor expressing concern that there was not equality of treatment in payment in lieu of taxes and other payments to the municipalities on both sides of the river.

I said on the television program - and I said this in Hoboken and I have replied to the Governor - that I am investigating this very carefully and that I can assure all of those responsible that all of the municipalities on the Jersey side of the river will be treated on the same terms and conditions and by the same formulae as those in New York. Specifically, in response to the Governor's letter, it would appear that, for example, larger payments are being made to New York for the use of the airports in New York as opposed to the payment for the airport located in Newark and Elizabeth. The formula is the same. The base is the value of the properties at the time they were taken by the Port Authority, which is in accordance with the formula. I said our investigation is not complete and that if there are any cases where New Jersey municipalities are not receiving fair treatment and on the same basis as comparable properties in New York, we would take immediate action. That is an accurate report of what I said and what was contained in my letter to the Governor.

In specific response to Bill No. 1639, I have submitted to you, Mr. Chairman, a memorandum prepared by the Port Authority general counsel, Mr. Patrick Falvey, dated September 20th. That memorandum, for the compelling reasons stated therein, urges that this bill be rejected and we continue to urge that the bill be rejected despite Mayor Dunn's arguments that it would have a deleterious effect on the Port Authority's operation and the economy of

this region. I will not repeat the contents of that memorandum unless there are questions that you would like to raise about it. Perhaps later I will pull out the more obvious ones.

Rather than, with your permission, I will direct myself to the specific questions raised in your memorandum of October 24th to me. Your questions, number 1, 2, and 3 were: 1. "Has an inventory ever been taken of the amount of taxable property owned by the Port Authority of New York and New Jersey in New Jersey? And, is there information on the tax value of this property?"

Question number two is: "Is there a breakdown of this property according to county and municipality?"

And, question number three is: "Which municipality has the most Port Authority-owned property within its borders?"

Our response to these questions is: The Port Authority owns no "taxable" property in New Jersey. The schedules attached hereto contain breakdowns by municipality and county in both New Jersey and New York of property owned by the Port Authority on which such payments in lieu of taxes as are permitted by law are currently being made by the Port Authority and of Port Authority owned bridge and tunnel properties on which, in accordance with law, no in-lieu tax payments are made. Also shown for each of the municipalities are the current assessed values and the 1977 tax rates.

The New Jersey municipality which has the most Port Authority owned property within its borders is the City of Elizabeth. As the schedules indicate the Port District municipality which has the most of such property is New York City.

The next question is: "If the Port Authority would be required to pay 'in lieu of' funds, what would be the impact on the Authority's fiscal status? What would be the effect on the Authority's plans for the future? How would it affect the Authority's credit rating?"

The Port Authority is currently making "in lieu" of tax payments on its marine and inland terminal properties in both New York and New Jersey. If the Port Authority were required to pay full taxes on its marine and inland terminal properties in New Jersey, the Authority would be required to pay \$18 million more than its current payments. If it was required to make full rather than in lieu payments on its properties in New York, it would be paying \$74 million more than its current payments.

I am certain that Mayor Dunn believes in equality and fairness and that what we do for Elizabeth we must do for all other municipalities. So, if we were to adopt the formula in the proposed bill, we would be paying in taxes to the municipalities and to both sides of the river more money than we show on our bottom line, therefore making it impossible for the Port Authority to carry on its activities and to undertake some of the programs we might talk about later. In effect, it would destroy the Port Authority.

Without question, the Port Authority's public projects are dependent upon the Port Authority's status as a tax exempt governmental agency employing its property for public purposes. If its facilities had to be financed, operated, and maintained with the prospect that they would be taxed as if privately owned, the Port Authority would have been unable to undertake them.

Furthermore, as our memorandum in opposition to S-1639 demonstrates, if legislation was enacted which subjected Port Authority properties to full

taxes in New Jersey, it would, as I have said, to be legally valid, necessarily accord to all municipalities in the Port District the same right, not only on Port Authority property but on all other publicly owned property. So, therefore, East Rutherford would finally be able to put the Sports Complex on the tax roll and reduce taxes in East Rutherford to nothing, or perhaps show a small profit to be divided among all taxpayers.

Furthermore, such legislation could be valid only if the State of New York enacted concurrent legislation which would, of course, permit the City of New York full taxation of Port Authority property. Such legislation would cripple the Port Authority's ability to serve the two states. Without question, full taxation of Port Authority properties and the deficits such taxation would produce would have a detrimental effect on the Authority's credit rating in view of the fact that the only base for that credit rating is the revenues of Port Authority facilities. For example, payment of full taxes at Elizabeth-Port Authority Marine Terminal, the Port Authority's only owned marine terminal in New Jersey, would increase annual operating costs by \$11 million and subsequently increase the deficits produced by those marine terminals. And, please take note that I say "increase the deficits", not reduce the profits, because those facilities are presently operating at a deficit. And, furthermore, the Port Authority would be unable to recoup any of that payment because the properties are leased under long-term leases without the ability to reopen them if we had to pay additional costs.

The imposition of full taxes would have the immediate effect, however, of terminating construction at Elizabeth since it would be impossible for the Port Authority to rent those facilities on a self-supporting basis. Mayor Dunn referred a few minutes ago to the failure of the Port Authority to build on the property that it has leased from the Central Railroad of New Jersey. The very reason we are unable to build on that property is that by the imposition of full taxes, we are unable to build at a competitive level and rent facilities in that area. Therefore, the land remains vacant and jobs are not created either in construction or employment there because of the tax picture.

Full taxes on the Port Authority owned properties in Elizabeth which are used as a part of Newark International Airport would add almost \$6 million to the facility's operating cost. A significant portion of this amount would be automatically passed on to the airlines under the terms of the facility's master lease, thereby adding to the cost of doing business at Newark Airport contrary to the efforts being made at all other public airports to reduce costs. Again, the airlines are a cornucopia that could serve out goodies indefinitely, but many of them are in very serious financial difficulties and increasing and increasing costs will lead to their curtailment of service, the loss of jobs, and the loss of benefits to this region.

In fact, as an aside I would like to say that even the charges that we are entitled to charge the airlines under our contract are being deferred in order to help them through these difficult economic times.

The Newark Truck Terminal is currently assessed at \$5 1/2 million and full taxes would amount to over one-half million a year. Taxes at that amount would be greater than the gross revenues generated by this facility in any year of its operation since its opening in 1951. It should be noted that a recent appraisal of the value of the Newark Truck Terminal property indicated a market value of approximately \$2 million, less than 40% of the assessed

value.

Teterboro Airport, the only airport owned by the Port Authority, is operated by Pan American World Airways under a long-term operating agreement. Under the terms of that agreement the imposition of full real estate taxes, which would approximate almost \$1 million per year, would have to be absorbed by the Port Authority because under the terms of the agreement Pan American would be permitted to terminate the agreement if we attempted to pass such taxes on to them. Termination of the agreement would also involve the Port Authority's required reimbursement to Pan American of approximately \$7 million of unamortized investment, \$7 million that we would have to take out of our funds, funds that we can use for mass transportation and for other benefits for this region and give it over to Pan American, and for what purpose? To give one million to the seven or eight residents of Teterboro who already have the lowest tax rate in the State of New Jersey.

As the attached schedules indicate, full taxes on the Port Authority owned properties in New York, which would necessarily follow full taxation in New Jersey, would have totaled \$104,519,612 for the year 1977.

Question number 5: "What are the economic trade-offs involved here? For instance, how many jobs are provided in the State by the Authority? Which of the Port Authority's operations provide the largest number of jobs? Where do most Port Authority employees live? Are there any estimates of the total labor pool?"

In response: The public facilities provided by the Port Authority not only generate substantial employment and payrolls during construction, but also provide thereafter when they become operational, many permanent jobs as well as other sources of income. It is reliably estimated that within the Port District, one person in every four derives his livelihood from Port activities to which the Port Authority makes significant and vital contributions.

The following table lists the number of jobs provided by each of the Authority's facilities in New Jersey:

Newark International Airport provides	6,100	jobs
Elizabeth-Port Authority Marine Terminal provides	4,400	jobs
Port Newark provides	3,200	jobs
Journal Square Transportation Center provides	1,600	jobs
Teterboro Airport provides	900	jobs
Tunnels and Bridges and Other Facilities provide	<u>1,200</u>	jobs
For a total of:	17,400	jobs

Of a total of 8,200 permanent and temporary Port Authority and PATH employees, 4,600 reside in New York and 3,600 in New Jersey. The discrepancy between the 8,200 and the 17,400 are those people who are employed by stevedoring firms and airlines and are not direct employees of the Port Authority. This is out of a total labor force in New Jersey of 3.3 million.

Another aspect of this proposal which could readily be overlooked is its effect on the competitive position of the port area. Now, I think, Mr. Chairman, members of your Committee, and Mayor Dunn -- Tom, if once in a while I should like I am being sly in my remarks, I have great sympathy and respect for your efforts and your determination and it is only done in the same good humor that you used when you said I had a lot of gall. So, I really want to be

respectful but I think it is a very serious problem that you are causing us to focus on here, much more important than people realize.

We have made an analysis of major United States' ports and their public authorities with particular attention to the methods of funding for capital improvements, revenues generated, overhead and maintenance expenses and monetary contributions returned to the municipalities or localities in which each of the ports is located. The ports studied were Boston, Philadelphia, Baltimore, Hampton Roads, New Orleans, Los Angeles, Long Beach, San Francisco, Oakland and Seattle.

In summary, we found that the only port making payments in lieu of taxes is the Port Authority of New Jersey. The other ports pay no taxes nor do they make in lieu of payments. The ports of Los Angeles, Long Beach, and Oakland do make payments but only for direct services received such as police, fire, sewage, computer services, and contributions to retirement plans. The payments are made on a per call or use basis. The ports of Boston, Philadelphia and Hampton Roads have commitments to repay their localities for the original cost of the facilities at the time of acquisition by the port agency, costs paid for by the municipalities and localities. However, if those ports cannot meet the payments, either direct subsidies are received, as in the case of Philadelphia and Hampton Roads, or deferred, as in the case of Boston.

Financing the development of new facilities parallels the commitment of the port agency in operations. Only in the ports of New York and New Jersey, Boston, Long Beach, Los Angeles, and Oakland is financing accomplished through the issuance of revenue bonds backed solely by the revenues of the agency. In Philadelphia, Baltimore, Hampton Roads, New Orleans, San Francisco and Seattle, port development is provided by the issuance of either general obligation bonds of the State or municipality, direct appropriations or a combination of both. In New Jersey, of the \$400 million of value there, not one penny is the responsibility of the taxpayers of Elizabeth, of Union County, or of the State of New Jersey. All of that was financed by bonds sold to the public - to the investment public - based on the revenues to be derived and paid to them from the overall operations of the Port Authority.

It is not only the ports listed above which are the beneficiaries of various forms of state or local aid, the local situation which is particularly relevant here is not different. In New Jersey, the South Jersey Port Corporation is the direct beneficiary of financial assistance from the State Treasury. And you and Senator Tumulty and Senator Garramone, in approving the budget for the State of New Jersey every year, have approved monies in that budget to be paid to support the indebtedness of the South Jersey Port Corporation - something you don't do for the Port Authority of New York and New Jersey.

In New York, the Port of Albany, in recent years, has had the benefit of a state loan and state capital grants.

For all the foregoing reasons we are firmly convinced that S-1639 not only is constitutionally defective and thus could not be lawfully implemented, but also embodies a policy which would, if adopted, be inimical to the best interests of the State of New Jersey.

Mr. Chairman, we have attached here tables that give you the information that was requested on the location of the Port Authority facilities, the current assessed valuation, the tax rate and what the taxes would be if

they were assessed and taxed at the current rate.

Mr. Chairman, it is appropriate that this hearing is taking place the day after the settlement of a disastrous dock strike and it helps me to point out that all of the important issues behind the dock strike were efforts on the part of the ILA to equalize labor costs among the ports, to try to remove one of the disadvantages that this port area has. We have a number of disadvantages here. Until recently, we had higher labor costs, higher drainage costs, higher railroad costs and the fact that the shipping that is generated in this area is from manufacturing that is not available because the manufacturing has left this area. And, if we add another disadvantage to that razor thin difference that exists now between most of our competitive ports, we will continue to assist in the deterioration of the Port and the jobs and the importance to our economy.

I think we have to think of the overall picture. The answer to the problem that Mayor Dunn is so correctly concerned about, I think the current Legislature and the current Governor of New Jersey have addressed in the only reasonable and practical and honest way they can and that is by the imposition of a tax that falls upon those people who have the ability to pay and doesn't depend upon whether you have a community of homes or a community of factories or a community of schools or a community of ports. That income is to be distributed to the communities according to their need and that is the purpose of the income tax, which it appears now is going to be with us and perhaps will be reformed and revised to be more equitable. It is the key. It is the foundation for solving this problem and not by trying to find an easy way out of admittedly a very difficult situation in such urban communities as Elizabeth, Newark, Jersey City, Camden and others.

Mr. Chairman, I will just take 30 seconds to tell you very quickly where we hope to go with the Port Authority in the future, but first let me preface it by saying how I, as the new Chairman of the Port Authority, view our relationship with the State of New Jersey and with the State of New York.

I do not view the Port Authority as the third leg - or the third point on a triangle, consisting of the State of New York, the State of New Jersey and the Port Authority. It is my view, and it is shared, I believe, by a majority of the Commissioners who are now serving on the Port Authority that the Port Authority is exactly what it was created in 1921 to do, and that is to serve as a tool, as an instrument of the two states to accomplish those things which it can do better than any other state agency can do. We will carry out those responsibilities, either ideas initiated by us or by the Legislature of either state, that can receive the approval of the legislatures of the two states and the governors of the two states, because it is only from that source that we have the authority to undertake projects and programs. It is because of the direction that we receive that we are going to proceed with large projects in mass transportation in the amount of \$400 million. One hundred and sixty million dollars is currently being spent for an expansion of the bus terminal at 42nd street in New York, which principally serves the citizens of New Jersey - more than any other from the county in which we are having these hearings, from Bergen County.

One hundred and twenty million dollars additional will be made available as plans are developed in cooperation with the Departments of

Transportation of the two states for other transportation facilities in both New York and New Jersey.

In addition, we are studying two other important areas that we think the Port Authority can serve and serve better than any other agency. One is in the area of economic development and we are currently studying three locations, one in New York, one in Jersey City, and one in Newark. We are proposing to develop industrial parks which would be financed and developed and constructed by the Port Authority for development by private enterprise, with the construction of buildings and job opportunities.

We are attempting, in the concept of these industrial parks, to assist the urban communities in which they will be located by providing in them the key amenities that have led to the shift of industrial facilities to the suburban area. We think our plan will permit us to do that.

A unique feature of each of the three plans is a resource recovery project where we hope to turn garbage into energy and provide to the user or the occupants of the park, energy at lower than current rates, one of the disadvantages that has caused us to lose industry in our urban centers.

These two programs of industrial development and resource recovery are programs that we hope to develop in consultation with the legislatures of the two states and the governors of the two states and the appropriate cabinet officers of the two states.

The other area in which we hope to be active in the future, in addition to providing capital funds for public transportation, is to re-assert the original role of the Port Authority as a leader in transportation planning, to work with the transportation departments of the two states and the counties to develop plans to improve both passenger and freight transportation in this area.

I would be glad now, Mr. Chairman, to answer any questions that you or the members of your Committee might wish to address to me.

SENATOR GARRAMONE: Commissioner, Senator Tumulty requested us to delay asking you any questions. We do have a number of questions that we would like to pose to you. Maybe we could give you a chance to grab a glass of water and get your vocal cords in order. Senator Tumulty has a request.

SENATOR TUMULTY: Mr. Sagner, in the audience is the Chief Assessor of the City of Jersey City, Miss Jeffers, and she may have some things that she would like to say which might lead either Senator Garramone or myself to seek some enlightenment from you on. So, if you wouldn't mind, we would like to defer your questions until I call upon Miss Jeffers.

COMMISSIONER SAGNER: I am at your service, Senator.

SENATOR TUMULTY: I just want to say to you, I didn't take your pulse today but I am sure you don't have ice water in your blood. As to your gall bladder, I am not a doctor, I couldn't comment on that.

COMMISSIONER SAGNER: You are a scholar and the little bit I remember from my Latin is that Gaul is divided into three parts so there is enough for everybody.

SENATOR TUMULTY: This, Mr. Chairman, is Miss Jeffers from the Jersey City Assessors office. She handles all the assessments of the City of Jersey City and has for many years. I think I can say, without fear of contradiction,

she is probably the best informed person in Jersey City on our local taxing process.

M A R G A R E T J E F F E R S: Thank you, Senator Tumulty. Senator Garramone, Senator Tumulty, gentlemen: I was not aware of this meeting until very late yesterday afternoon and I was very interested in both speeches this morning.

I would like to say, for the record, that Jersey City - I don't see it appearing here - does receive \$86 thousand in lieu of taxes for the so-called bed of the old H & M - the Hudson and Manhattan Railroad - which became PATH. As far as the rest of the property in Jersey City, we do have access routes to the Holland Tunnel which would have to be there anyhow. But, our main improvement today is the Journal Square Transportation Center.

I would like to call to your attention the fact that while the figures are undoubtedly what they appear in the 1977 book, the proper value of that transportation for the exempt role is going into the 1978 book. Our map people had to go to New York and make sure we had the whole plot because it was an accumulation of very many pieces of property. Now, we have the property clearly delineated. I hope to get some information from Port Authority as to cost figures so that at least in our exempt role we will have the proper kind of a figure. This figure that says Journal Square Transportation Center of \$2 million is what was there before. The Terminal itself, I would not be surprised, would run more like \$75 or \$80 million. That is not a correction. This is according to the books, but it doesn't give you the proper picture of the situation in Jersey City.

SENATOR GARRAMONE: It is not reflective of what the true value of the property will be at the present time.

MISS JEFFERS: Right. I thank you.

SENATOR TUMULTY: Miss Jeffers, do you have any idea - or any concept - of what the PATH center brings into the economy of the City? Have you taken that factor into consideration?

MISS JEFFERS: No, no more than I found out today, that there were 1,600 employees in the Journal Square Transportation Center. However, there are uses there that are not strictly public uses - stores, banks, lobby operations, which would not be Port Authority employees. So, I don't know. I would think that would not be in the 1,600 count, like Shoe World and the newspaper stands and things like that. But, there are quite a bit of non-public-- I mean, it is property that is not exactly in public use in that Journal Square Transportation.

SENATOR TUMULTY: Well, without putting you on a spot, are you basically in agreement with what Mayor Dunn said here today?

MISS JEFFERS: Yes, basically.

SENATOR TUMULTY: Do you support Mayor Dunn's bill?

MISS JEFFERS: I support getting enough taxes from the Port Authority that would help the City.

SENATOR TUMULTY: Do you have some substitute?

MISS JEFFERS: I certainly don't feel that we can go to the point where we can ruin the Port of New York Authority. There has to be some balance in between, I would hope.

SENATOR TUMULTY: In other words, are you saying that you would favor

an update of the original formula?

MISS JEFFERS: Yes.

SENATOR TUMULTY: Is that what you are saying?

MISS JEFFERS: Yes, that I would favor.

SENATOR GARRAMONE: Thank you.

Alan, do you want to join us? I have a number of questions here. My source of information really is pretty much some of the statements the Port has made over the years, the '76 annual report, newspaper clippings we have had and some of the studies made. One specific study was made by the Assembly Transportation Committee in 1976, I believe, where they were addressing themselves to why the toll increases. So, there is a whole spectrum of questions I have and as I have indicated earlier, the focal point is Senator Dunn's bill, the in lieu tax payments. Maybe there is some direction we can obtain from you rather than, yes, it is a problem but let's leave it alone; we are going to take the personal income tax as a solution. I don't really think you said that - I hope you haven't. Maybe it is a separate question on to itself and, yes, the overall tax picture in the State is all part of it - they are all interrelated.

But, specifically, this in lieu problem that Senator Dunn did raise is the focal point of this hearing. Is there some other solution that you see that doesn't impede the progress of the Port, its goal, and what would you suggest should be the handling of that problem? I recognize what you are saying, that you feel it is unconstitutional, and also the strong arguments that you have made in support of your present position, but I do detect somewhat in this international Israeli-Arab approach that, you know, there is always a door where we can negotiate something a little better.

So, can I ask you, Alan, do you see a changing of that in the tax formula that doesn't hurt you, yet offers some recognition to the over 200 municipalities that you really are in intimate contact with? You might help them somewhat.

COMMISSIONER SAGNER: To carry your analogy, Senator Garramone, I don't want to be the Syria of this purely Arab matter. But, I will be. I think when you start talking of payment of taxes by a state agency, you are talking about destroying that agency. I have to tread very carefully here because I am in support - and it might be contradictory - of the concept of government agencies who have a large property in a municipality making some payment in lieu of taxes, as your very respected Legislature has, I think, made the initial steps to do in the last few years. An approach is being made where if a municipality has prisons, colleges, hospitals that are state sponsored, the State has an obligation to make some payment to those communities, such as Newark and others, that are burdened with those facilities.

But, I will back off from that and say that even in that case the Port Authority is not in that category because it lacks what the State has - the authority to tax. We are a business created by the State to carry on its activities in a business-like way and it was very clearly spelled out that we should not be taxes because we could be taxed, especially on an ex post facto basis. We cannot go to the investment public and say, lend us money to build something. Here is our proforma. This is what we are going to have and this is how we are going to pay you back. We are dead the

day that happens.

SENATOR GARRAMONE: Well, I think maybe you touched on the general purpose of this Committee hearing. What is your role to be in the future? Does every venture that you embrace show a profit? Now, even your past history will demonstrate that that is not the case. Your overall picture should be one that is profitable and serves the purposes of both states. How are you going to make this decision? Are you going to make it unilaterally, or are you going to make it with the assistance of both legislatures?

COMMISSIONER SAGNER: When we undertake a project, we cannot-- You know, we are like the joke about a fellow who says I am working for a non-profit organization but it wasn't planned to be that way. We don't, normally, go into projects that will not be self-liquidating. There are, because of changing times, projects that the Port Authority has undertaken that are not profitable.

I will give you several examples. One of the most notorious is the passenger ship terminal. By the time that came on stream, the last trans-Atlantic ocean liner went out of business. Perhaps with better thinking it could have been foreseen that that was the trend, but it was built. It was a loser, has been a loser, and the prospects of it not being a loser are very good. But, it wasn't planned that way. The Union Terminal in New York City, was probably the first facility built by the Port Authority, if I am correct on that.

SENATOR GARRAMONE: Where is that located?

COMMISSIONER SAGNER: On 9th Avenue?

MR. MULHERN: 8th and 9th Avenues and 15th and 16th streets. It is the original Port Authority building.

SENATOR GARRAMONE: Oh, yes.

COMMISSIONER SAGNER: Incidentally, I did not introduce Art Mulhern, who is the counsel for the Port Authority and Jim Conly, who is in charge of public information, who will help me field some of the questions on things that took place decades ago.

SENATOR GARRAMONE: They don't look that old.

COMMISSIONER SAGNER: Senator, the projects that the Port Authority will go into, in order for them to finance them without putting a burden on the taxpayers of this State, have to be planned to be self-liquidating and we will not undertake them unless the Legislature tells us - or authorizes us - because otherwise we cannot do it.

SENATOR GARRAMONE: I understand what you are saying there, Alan. Your emphasis was placed, in your summary, on the fact that you are involved now - maybe more dramatically than ever before - in mass transportation. You have the bus terminal complex, which I understand is strictly Port money; you don't have any Federal or State money going into that. You are expanding that facility in New York.

But, you are involved in transportation. There has been talk about the PATH extension and I would like to hear your thinking on that and about coming to some terms with the present bond holders so that you can go into mass transportation. I would like your thinking about that.

You also opened up two other areas - the economic development, the industrial park - the three locations - and resorts recovery. Now, that is

rather fascinating because that becomes a nationwide problem and I have seen some examples of this, specifically in Milwaukee, where private industry has come in with the City of Milwaukee and done quite a commendable job in terms of turning garbage into something that is usable.

So, I am interested in this area and it would appear to me in the mass transportation field and from your annual statement, that you have a loser in the paddock in the PATH operation. You have a loser in the World Trade Center. That doesn't seem to make any money for you. Where do you make your money? You make it out of the airports, or I am misreading where your income is derived from? So, I am interested in that.

I see that your total income for this year is, what, about \$450? Is it \$450 or \$500--?

COMMISSIONER SAGNER: Your total revenues would be over \$500 million.

SENATOR GARRAMONE: About \$500 million. That is your total revenue. You have indicated in your report -- how much do you get from the Federal Government? Is it about \$180 or \$200 million for these projects?

COMMISSIONER SAGNER: It varies. We get money from the ADTF - the Airport Development Trust Fund. I think we have gotten a few study grants from Urban Mass Transit for studies that we are doing. But, that is not on a any formula basis. It is on a discretionary basis and we get them when application is made.

SENATOR GARRAMONE: What does that average out to be?

COMMISSIONER SAGNER: I don't have those figures with me, but principally it would be our grants for the airports, out of the airport fund. This is paid into the fund out of the ticket sales of the airline users.

SENATOR GARRAMONE: From what I was able to discern in the statement, at the end of your annual report you identified some contributions from the Federal source but it wasn't totally clear to me what that total amount would be. I wonder if you just comment, Alan, on this mass transportation. What specifically do you have in the future of the Port Authority besides the expansion of the bus terminal in New York? What is it we can do to get the people moving from our two states and how do you get them to maybe utilize that facility much more effectively than it is presently being used?

I notice that you have a great deal of traffic going over the bridges, which is basically cars. Does that handle the bulk of the number of people that cross the bridges and tunnels? Automobiles as opposed to buses - which handle the maximum number of people?

I have a lot of questions here, but I would just like your general thinking on this whole mass transportation. I would appreciate it.

COMMISSIONER SAGNER: The majority of the trips to New York City are still by individual car.

SENATOR GARRAMONE: Still by individual car?

COMMISSIONER SAGNER: I don't have a breakdown on that, but we have been encouraging bus transportation by the use of bus lanes, which is an example of cooperation between the State, the Federal Government, and the Port Authority. There was a three-way funding program to build the bus lane in the Lincoln Tunnel, which is very successful and saves a lot of time for the bus commuter. And, in the expansion, the overdue expansion and improvement of the bus terminal building, we are trying to encourage people to come into

New York by bus. We are trying to encourage people to come into New York by car pool by giving a very great differential in tolls for car pool, as opposed to the individual.

SENATOR GARRAMONE: Has that been successful?

COMMISSIONER SAGNER: No.

SENATOR GARRAMONE: It has not been?

COMMISSIONER SAGNER: A very small percentage of people are using the car pools.

SENATOR GARRAMONE: Have you considered dropping the tolls during the non-busy hours? I experienced this out on the West Coast, going from Oakland to San Francisco. If you ride with three people you don't pay anything.

COMMISSIONER SAGNER: We have a study underway which we would have done anyway. But, it is a requirement, for the approval of the Federal Highway Administrator for our toll increase, that we do a study on time of day and variable tolls and we have a year in which to do that and that is being done.

In mass transit - and you know, Senator, that there people who have great expectations that are at times not related to reality for the role of the Port Authority and what it can do. If you look at the Port Authority's statement, which you have there, we are not broke. We have reserves. Those are reserves that are required by law, by covenant, to maintain for the protection of our bond holders - our bond holders who have purchased bonds from the Port Authority in excess of one billion, seven hundred million dollars. These are reserves and when you put them against that amount of debt they are not an unreasonable amount of money when only the income of the Port Authority is available to repay that huge debt. So, these are prudent reserves and must be kept as reserves.

But, if you look at the statements that were made when Senator Williams was here, about the needs for mass transportation - when he was here at the National Transportation Study Group a few weeks ago - and if you review what was said at that time by the Department of Transportation of the State of New Jersey, their needs are beyond the capacity not only of the Port Authority to meet the capital needs of the State, but the State and the Federal Government. Our needs are that great. So, it is a question then of priorities and planning to see that we use our resources in the most cost effective way.

The Port Authority is pledged to share some of its profits and to use that money for mass transportation, as I have described to you earlier - some \$400 million. This will not resolve all or even scratch the surface of the needs for mass transportation.

What we hope to do is to use the money in the most effective way, in cooperation with the State and the municipalities and the counties within the State, who are getting more involved in mass transportation.

SENATOR GARRAMONE: Al, what do you have planned for the other \$240 million? You have the \$160 allocated to the bus terminal. What are you going to do with the other money?

COMMISSIONER SAGNER: \$120 was originally to go to the PATH extension.

SENATOR GARRAMONE: Is that the Plainfield--?

COMMISSIONER SAGNER: That is the PATH to Plainfield.

SENATOR GARRAMONE: What is the status of that?

COMMISSIONER SAGNER: Well, the thing has been put on hold because the Supreme Court decision made it impossible for the Port Authority to carry out that obligation. In the last six months we have been involved in a political campaign and it is not the time to make rational decisions and long-term planning. I hope to meet with the Governor's staff and people from the Department of Transportation and make a very important decision.

SENATOR GARRAMONE: Now, the Feds are offering how much supplementary funds to that?

COMMISSIONER SAGNER: The Feds have pledged up to \$157 million for improvements in that corridor. And, as far as the Federal Government is concerned, they are willing to swing either way. They will go to the PATH extension or they will go for an upgrade of the CNJ, it is up to New Jersey to make that decision. We hope very shortly to decide whether we can wait until we go through with our effort to remove the effects of the covenant and make the money available for rail, or to make a decision to use the money for some other purposes that the State might want us to use it for.

SENATOR GARRAMONE: What other mass transportation projects did you have in mind, Alan? That takes care of approximately \$280 of the balance of the money.

COMMISSIONER SAGNER: Well, there is \$400 million, \$160 for the terminal, and \$120 million for each of the two states and that eats up your \$400 million.

SENATOR GARRAMONE: I have \$160 and \$120, giving me \$280.

COMMISSIONER SAGNER: And \$120 for New York.

SENATOR GARRAMONE: Oh, for New York. Okay. So, that is really the limit for mass transportation.

COMMISSIONER SAGNER: At this go-'round. If at some time when we have digested this and we continue to have profits over and above our needs for reserves and for other activities, we can then decide, in consultation with the two states, what would they like us to do with that money. The Port Authority is not private enterprise; it can't declare dividends. We can't take helicopter rides anymore, or take our wives to Europe, so we have to use the money to the benefit of the two states.

SENATOR GARRAMONE: Is that a statement of new policy?

COMMISSIONER SAGNER: Well, I just returned from a two-week trip to Europe with my wife and she paid for both of us.

SENATOR GARRAMONE: Maybe we need a new subsidy for the Port.

There has been some talk about how mass transportation's projects seem to have a deficiency to them. They are great energy users. Do you run across this at all?

COMMISSIONER SAGNER: Well, they are energy users--

SENATOR GARRAMONE: This would suggest that you better redirect your thinking and your planning on new techniques that are not abusive of energy and yet will move people from spot to spot. San Francisco was pointed out. Their system is not a particularly efficient energy user. Is there any study going on within the Port's great engineering empire?

COMMISSIONER SAGNER: I have a favorite saying, Senator: There is no

free lunch. If you want to move people, you are going to use energy and there are no secret ways to do that. The only efficiency that I know of is, the more people you pack on the bus or the train, the more energy you save.

SENATOR GARRAMONE: You have taken the subway to Brooklyn, I gather.

COMMISSIONER SAGNER: We have another exciting project that we are working on concerning mass transportation that was recalled by that statement I just made about packing more people on, and that is letting people know what is available in mass transportation. We are working on a project now for an area-wide information system that the Port Authority would like to undertake. We have talked to the Federal Government about their financing part of it and they have been very receptive. We will have a single number where anyone can call from anywhere in the Port district and find out how to get from point 'a' to point 'b' public transportation, where it is available, what the schedule is, what the transfer points are, how much it costs. It is a very elaborate system and we will have a more thorough announcement of it at the right time.

But, those are the types of things that our planners - our transportation people - are working on to serve this region.

SENATOR GARRAMONE: Let me ask you this, Alan, you have approximately 8,200 people that work for the Port Authority and PATH, is that correct?

COMMISSIONER SAGNER: That is approximately right.

SENATOR GARRAMONE: Of the 8,200, can you block out what their functions are? How many are in planning, how many are in an executive capacity, and how many are out in the "doer" role at your facilities? Do you have that sort of a breakdown?

COMMISSIONER SAGNER: I have something - but I don't know if I have it with me - that has that breakdown.

SENATOR GARRAMONE: Well, how many of the 8,200 people do you employ at your headquarters at the World Trade Center?

COMMISSIONER SAGNER: I will figure that out for you.

SENATOR GARRAMONE: What this leads to, Alan, is that you have a good annual report here but you leave a lot unsaid also in terms of your in-house operating facilities. You know, what are the various groups doing and what is the allocation in terms of these groups?

COMMISSIONER SAGNER: I have a suggestion. I will ask Jim Conly to make a note of that. I think more of that type of information should be in our report.

SENATOR GARRAMONE: I would be interested in your break-up. I am not interested in what every person does. I just interested in general areas - where is your planning, etc.?

COMMISSIONER SAGNER: How many people in each operation? I just don't have that at my fingertips.

SENATOR DUNN: I would like to have how many live in Elizabeth and work in Elizabeth.

SENATOR GARRAMONE: Well, I am sure you can get that. Mayor Dunn would like to know how many actually live in Elizabeth.

Another question I have - of the 8,200 employees, how many of them are women?

COMMISSIONER SAGNER: I don't know.

SENATOR GARRAMONE: Do you have any idea?

COMMISSIONER SAGNER: We will get that information.

SENATOR GARRAMONE: As you look around your executive talent, do you find many women in other than secretarial positions?

COMMISSIONER SAGNER: Yes.

SENATOR GARRAMONE: You do have?

COMMISSIONER SAGNER: Yes, some of our top planners and managers are women. The secretary of all the three officers is a woman.

SENATOR GARRAMONE: I see. Okay. I would be interested in that. I would suggest that maybe your report might expand in that direction.

Also, the various groups in your operating divisions, you don't specifically show who makes a profit and who doesn't make a profit. I think there is a general summation.

COMMISSIONER SAGNER: Well, there is a reason for that. What the Port Authority has attempted to do is to present to the investing public the overall operation of the Port Authority. We sell a consolidated bond that does not have to depend upon the profit or loss of any one facility. All of the facilities - and that is one of the unique things that I believe is central in the success of the Port Authority - and all of the income is pledged for all of the bonds. So, as times change and one area slips out of profitability to unprofitability and back again, the security of the investor is not affected. They look to the bottom line of all of the activities.

SENATOR GARRAMONE: All right.

COMMISSIONER SAGNER: We have that information and we would be glad to share it at a Committee meeting or with the members of the Legislature. It is not necessarily in our annual report.

SENATOR GARRAMONE: One of the points you made, Alan, was the reserve funds. I think you set aside - it is stipulated here - two years mandatory bond to debt service. Now, is that in excess of the 10% of what you have outstanding or is that equal to the 10%, or have I misread this? Are you overcompensating in terms of what you are holding aside in the reserve fund? You have \$1.7 billion out and I think you have--

COMMISSIONER SAGNER: One point seven.

SENATOR GARRAMONE: It is \$1.7?

COMMISSIONER SAGNER: Yes.

SENATOR GARRAMONE: And you have two years in bond debt service that you do put aside. You make that statement. Is that in excess, do you feel?

COMMISSIONER SAGNER: No, we feel that in an agency in these times that does not have the ability to tax, it is prudent. Our financial advisors believe that the size of the reserves that we have is a prudent amount in order that we may sell our bonds at an advantageous rate.

SENATOR GARRAMONE: Okay. Now, that decision was made some time ago. Has that been reviewed?

COMMISSIONER SAGNER: It is constantly reviewed, yes.

SENATOR GARRAMONE: You haven't made any movement on that. That is the reason I raised the question.

COMMISSIONER SAGNER: Mr. Chairman, in fact in the study that we are now doing on the new bond issue that will replace all of our present indebtedness, these issues that you are talking about are being reviewed because here is the

opportunity now to change those problems. So far, the people that are advising us - and we have leading financial people and business people from the two states doing that - say that we leave those reserves the way they are.

SENATOR GARRAMONE: All right then would you clear something up for me that is not too clear in my mind? You talked of the 10% reserve and then we talked about the two years mandatory bonded debt service. Is this one and the same and if it is not, how is it different?

COMMISSIONER SAGNER: We will get that for you.

SENATOR GARRAMONE: That information is not currently available?

COMMISSIONER SAGNER: I want to be more accurate on that.

SENATOR GARRAMONE: Okay. Fine. I would be interested in that piece of information.

Let me ask Senator Tumulty to take the mike while I go over some of my other papers here.

SENATOR TUMULTY: Commissioner, have you ever read the book "The Power Broker"?

COMMISSIONER SAGNER: Yes, sir.

SENATOR TUMULTY: It is in some respects critical of Robert Moses, who I think is a really great man and I don't agree with most of the criticism. He accomplished very much in developing the parks and the transportation systems of the State of New York. I think the thing underscores one thing, and I think that is one of the problems we have to deal with here - that there are problems that come with bigness.

COMMISSIONER SAGNER: Yes.

SENATOR TUMULTY: I think the danger here with the Port Authority is that the public is getting the idea that this thing is getting to be an octopus-type operation and when a thing gets to that stage it does present problems.

Now, one of the things that I think is disturbing in the public mind at the present time - and I think you, since you have become Chairman, are striving to cope with - is, the public didn't like some of the disclosures that have come in recent months - and I am not going to go into that. You know what I am talking about. Also, in my experience over the years as a member of the Senate, I have noticed on the part of some of the Commissioners an attitude that they are high and mighty - an attitude of arrogance. This is what comes from too much power and this is a thing I think you will have to be wary of in your time as Director - and I am sure you will. They are accountable to the public. There is no question but what Moses in New York did many great things, but what he did has now, over the years, presented some problems and the Port Authority is presented with the same thing. This is the thing that I seek to emphasize here today.

It is true, as I see it, that if you didn't have an autonomous agency as they have had in New York and as you have with the Port Authority, you couldn't accomplish by other means what has been accomplished here. There is no question about it.

Without being an advocate of the Port Authority - because I am going to speak about Mayor Dunn's position in a minute - I suppose it is true and I suppose, without putting words in your mouth, you would say that the overall advantages gained by the operation of the Port Authority are something that

can't be traded in dollars and cents and, therefore, the Authority takes the position that we shouldn't pay taxes, or we can't pay taxes. This is very true, as I see it. A great public benefit has been gained. But, if the Authority is going to continue to increase the scope of its operations, if it is going to become bigger and bigger, aren't the municipalities and the other government entities involved going to be kind of caught in the squeeze if something isn't done to equitably treat them? As Mayor Dunn says, Elizabeth has not been treated and Miss Jeffers of Jersey City has not been treated.

What I am getting at is this: I think you have to concede that on \$400 million worth of real estate in the City of Elizabeth, to get a return of \$65 or \$63 thousand is very little and in Jersey City \$86 thousand is very little. Now, I understand. I know Jersey City certainly much better than I do Elizabeth and I know that the PATH development at Journal Square has been a great thing - something that we couldn't do with local financing in Jersey City, that's for sure. And, therefore, equating it in terms of that advantage, you can't do it in dollars and cents. But, even so, the money, the revenue, that these municipalities receive, it seems to me, is very small, even taking into consideration the great advantages that your Authority brings to a community.

Do you have any suggestion as to any kind of a formula that could be adopted that would alleviate the situation of the municipalities without putting yourselves into a bind also?

COMMISSIONER SAGNER: No, I don't, Senator, because I think if you open that door, I don't know what you would find on the other side of the door. We would have a situation where if we were to return to Elizabeth a fair amount, based on \$400 million worth of property - \$400 million worth of property that would not have been developed if it were taxable-- Just as the land we leased from the railroad - we tried this - has not been developed because we can't develop it. The equation doesn't come out if you have to crank in full taxes.

SENATOR TUMULTY: I am not suggesting that.

COMMISSIONER SAGNER: Well, once you write a law, once you change the rules of the game, you have to live by the rules of the game and it has to apply to everybody. It has to apply to Elizabeth, to Newark, and to Jersey City. It also has to apply to Teterboro. It also has to apply to New York City. We would have to pay \$107 million to New York City and you would effectively destroy the Port Authority.

Now, we are willing, and have asked Elizabeth and the other cities in which we operate, to sit down and let us see what it costs you to provide those services that we provide and let's see if we are, in our payments, covering that. I don't know that there has been a satisfactory conclusion to those discussions. But, that is as far as I am willing to say we should go.

SENATOR TUMULTY: But, you do suggest something like that and that could be a periodic thing.

COMMISSIONER SAGNER: We would sit down and see what it costs the community to provide us with the services - the actual out-of-pocket expenses - and to see where we are in relation to the payments that we are making.

SENATOR GARRAMONE: Alan, I have a few more questions, if you will. I am interested in knowing if you have developed a line of communication with the Congress. The reason for this is, you talked about Federal funds and from

what I can discern here, I think in the last fiscal year you picked up \$150 to \$160 million in Federal monies for various projects. At least that is what I discern from your report. But, you made a point, Alan. There are a couple of notes here. Conrail really doesn't treat us particularly fairly here in terms of their rail freight rates, that is number one. You also indicated that with the Federal money we can dredge out this port so that we can make it an attractive point of commerce. As I understand it, there is more tonnage that flows into some European countries like Rotterdam - is that the other port?

COMMISSIONER SAGNER: Yes.

SENATOR GARRAMONE: That has greater tonnage than we have here in the Port of New York.

What specifically have you done, or do you think could be done, to get this line flowing between the Congress and the Port of New York and New Jersey? Has anyone ever done anything about this?

COMMISSIONER SAGNER: Yes. We found out - and I can say this, the election is over so it is not campaigning - that under the Byrne administration we realized that New Jersey had not, in the past, gotten what it should out of Washington and that was a concerted effort of this Administration. I can honestly say that the Department of Transportation received in the three and one-half years from 1974 more money from the Urban Mass Transit Administration than was received in the previous nine years because we went to Washington and we made our case and we enlisted our Congressional delegation to support us, particularly Senator Williams, Jim Howard, Bob Rowan, and some of those who happened to sit on the right committees.

So, I am very sensitive to the important point that you are raising, Senator. We have planned, in conjunction with the Washington office of the Port Authority - we maintain an office there - a visit to Washington in which we have invited all of the Congressional delegation to a dinner meeting so that we will have an opportunity to present to them, all at one time, what the problems are that face this region that can be attacked, or addressed, by legislation. We will then follow this up with individual visits to the members of our delegations, not only of New Jersey but of New York, so those people sitting on the right committees can help us initiate legislation that we need and then go with us to visit the various agencies, so that if the matter is one of regulation and not of law, we can address that. That would be a very important activity of the Port Authority and one in which I will take a very personal interest in.

SENATOR GARRAMONE: You certainly have the background for it, Alan. You are appreciative of what can be done in the Legislatures of both states and also in the Congress.

You are expanding the facility in LaGuardia. I read in the papers that Eastern is going to have a new terminal. They now pay you, what, \$100 thousand a year, I think, for the present facility? Is the Port going to build that, Alan, or is Eastern going to build it?

COMMISSIONER SAGNER: We are going to build the building. We have negotiated with Eastern. We will borrow money to build a \$25 million facility and Eastern will, over the life of the property, pay us our cost, plus interest on our money so that it will be completely liquidated at the end of that time.

SENATOR GARRAMONE: So, there is going to be a readjustment of what

they pay the Port in terms of utilization of that facility.

COMMISSIONER SAGNER: That's correct.

SENATOR GARRAMONE: Do you have any immediate plans for completing Terminal C at Newark-Elizabeth Airport?

COMMISSIONER SAGNER: No.

SENATOR GARRAMONE: None whatsoever?

COMMISSIONER SAGNER: No.

SENATOR GARRAMONE: I see that in that negotiation with Eastern that they agreed to expand their facilities at Newark, or at least increase the shuttle flights from Washington to Boston. Has there been more activity in the Newark Airport area than there had been?

COMMISSIONER SAGNER: The Port Authority has tried to address the problems of Newark Airport, which has suffered because of the failure of airline growth to continue as had been planned and the financial losses of the airline and the higher cost of operation, which made it necessary for them to limit the number of flights that they run and the new, larger equipment that they are using.

Now, we have tried to address this in a number of very specific ways. Number one, we agreed that the higher costs that we were entitled to under our contract would be deferred so that we wouldn't put an economic burden on the airlines.

Ground transportation was an important problem and we have done several things. We have introduced the air bus at a cost of hundreds of thousands of dollars of subsidy from the Port Authority, which provides 14 or 16 hour-a-day, 20 minute headway and a mini bus service from the Conrail Station in Newark - the former Penn Station - from the bus station in Downtown Newark, and the Erie Lackawanna Station. Those three points connect them to the Airport at a low cost for the use of the employees and the travelers and that service is growing and has -- I think we have served over 100,000 people last year with that service and it is continuing to grow.

In addition, we have provided a taxi starter service because of some of the problems we have with the taxi cabs, principally at the terminal in Newark - not the one in Elizabeth because it seems that the cabs from Elizabeth do not give us the problems that the cabs from Newark have. But, cabs are one of our most important problems because a trip from New York has to be charged at a round-trip fee because the cabs cannot pick up in New York. They come from New Jersey, or the other way around. That is a problem that we hope to address but I am not too sanguine about the possibilities of overcoming the jurisdictional and union problems there.

In addition, we have provided for bus service to New York, so therefore we are addressing the transportation problem in every way that we can.

The third thing that we are doing is to publicize Newark as a port of entry to the Metropolitan area through films, through meetings with travel agents around the country, so that people will know that Newark Airport is the port of entry to the Metropolitan area.

SENATOR GARRAMONE: You have heard this question before, Alan, so I am not going to repeat it. The question had been raised that it costs more for the airlines to operate out of Newark than out of LaGuardia or Kennedy. Is this true, or not?

COMMISSIONER SAGNER: Yes, it does cost fractionally more to operate out of Newark than out of LaGuardia. Both LaGuardia and Newark are four fold the cost of Kennedy. Now, this is a myth -- there is a myth that the landing fees at Newark are the cause of the lack of traffic in Newark. Now, a myth is a false, untrue statement widely circulated and widely believed, and this is a myth in the classical definition of the word. We had a hearing last Spring in which the leading executives of all the airlines using Newark Airport stated at a public meeting - Mayor Dunn was there, Mayor Gibson was represented, members of the Legislature were there, the public was there - that the landing fees, while they would like to see them, as good businessmen, lower - as all costs should be lower - had nothing to do with their scheduling arrangements. They put their airplanes where there is traffic and where they can make a profit. In the last year the greatest growth in the number of flights has been at Newark Airport, not at Kennedy Airport where the landing fee is around 35¢ or 40¢ per 1,000 pound, but at Newark where it is over \$1.50.

TWA is going to start international flights in April out of Newark. They could take that same plane, which is going to go every day to England and back, out of Kennedy at a lower cost than Newark. They are bringing it to Newark because they think there is a market there and if it proves to be a market, other airlines will follow.

SENATOR GARRAMONE: Well, I think that is the point. It would seem to me that there is a market. The access to Newark is certainly easy for many of us, rather than go to Kennedy or LaGuardia. Is the Port pushing in that direction?

COMMISSIONER SAGNER: We are. The fact that TWA is coming there is not an accident. We made very good arrangements with them. We provided them, at the Newark Terminal, with a very fine facility and we have used every method that we can to get the airlines to increase their business in Newark.

SENATOR GARRAMONE: I have a question or two, Alan, on the World Trade Center. As I understand it, when this project was originally conceived and approved by both Legislatures it was estimated to cost some \$650 million. I think when you tally it all, your annual report puts it at close to \$900 million, is that right?

COMMISSIONER SAGNER: About one billion, one hundred.

SENATOR GARRAMONE: A billion, one hundred?

COMMISSIONER SAGNER: When it is finished.

SENATOR GARRAMONE: That is quite an over run. Has there been some analysis as to why? That is almost a 50% over run.

COMMISSIONER SAGNER: Well, there were several reasons, Senator. There are two main reasons why any job runs over. One is, the scope was changed after the original plan. There are more buildings and they are more elaborate than were originally planned. Second, it went through the greatest inflationary cycle in the building industry in this country. So, that costs. Plus, there were delays due to strikes and it extended the construction time and caused contracts to be renegotiated. Financing charges were much higher than anticipated. For all those classical reasons the building has come in at a much higher figure than was originally projected. We are now about 80% rented. The building is now more than covering its operating expenses and it is making a payment toward

the debt service.

SENATOR GARRAMONE: Of that 80% rent, how much of that is the State of New York? How much do they occupy with their--

COMMISSIONER SAGNER: I think about 20% of the base is New York State.

SENATOR GARRAMONE: Twenty percent is New York State. I understand you are negotiating with them in terms of changing the lease arrangements, is that correct?

COMMISSIONER SAGNER: Well, their lease is subject to - because of New York State law - 5 year increments. So, we are constantly negotiating with them because we are going from one lease period into another.

SENATOR GARRAMONE: In one of the reports we have noticed that it operates at a loss of about \$15 million. Now, I don't know whether that is an accurate figure or not. That is the World Trade Center, Alan. That is one of the summaries that we have.

COMMISSIONER SAGNER: The World Trade Center is currently covering all of its operating expense and making a contribution to debt service.

SENATOR GARRAMONE: Well, those words, "contribution to debt service" I am going to interpret as saying that you are really not making a full commitment.

COMMISSIONER SAGNER: We are not covering our full debts for turn around investment - not yet. But, eventually that building will be and it is successful from a functional standpoint. It has served as a focus for international trade. There isn't a week that goes by that we don't recognize, or receive, visitors from abroad who are coming to this area and visiting the World Trade Center.

SENATOR GARRAMONE: Well, I guess we will get back to what we discussed a little bit earlier, Alan, that there are some projects that aren't going to make money, or they are not going to make money immediately and this seems to be one of them. If you look at the data we have had before us, you generate your funds from the crossings, the bridges, the terminals, and you make money from the air terminals. But, the others dip into your reserves. The bus terminal makes some money for you but PATH is a loser. The Marine Terminal, as you pointed out, and World Trade Center, these are the areas that are really not on the plus side of the ledger. So, I think there should be a recognition that some of the things you have done didn't pay off in terms of a profit, so to speak, but some of them were very necessary. I was using this as a basis, in terms of your overall planning for the next 10 years, which you do include in your in-house papers, of which we have had some before the Committee. You do have financial anticipation and what your planning growth is and I suspect you take this all into account.

But, you have focused on three areas - mass transportation, economic development, and resource recovery. Now, these are also things that are being done by the individual states. Are you coordinating with them, Alan, in these areas?

COMMISSIONER SAGNER: Yes, we are. There is close cooperation because the basic action is that if there is a state agency, the State Economic Development Authority can develop the industrial park then there is no reason for the Port Authority to do it. If the Cities of Elizabeth, Newark, or Jersey

City can develop industrial parks or other projects - port facilities - then the Port Authority will not do it.

SENATOR GARRAMONE: Alan, do you feel that the check and balance that exists, as I understand it, with the Port Authority functions, is really with the Governor of each state? He has the power to veto your minutes and in a sense that gives it some direction and sometimes it does not. Do you feel that the minutes of the Port Authority should be made available to the Legislature?

COMMISSIONER SAGNER: Well, they are formally submitted to them. They are available. They are public documents and they are available. Senator, we studying this very issue now and the study stems from the philosophy that I enunciated earlier, that we consider ourselves a unique but still a public agency. Peter Goldmark and I have had a number of discussions on how we can improve and strengthen our relationship with the Legislature and through them with the public of the two states which we serve. I am not ready to reveal it today because I don't know yet what we are going to do. But, we believe that we should operate openly not only with the Legislature but with the press and the public.

In that regard, let me point out to you that in New York and New Jersey we have freedom of information laws and we have a Federal freedom of information law. The Port Authority is not subject to any of those laws because it is neither a state nor a federal agency, but a bi-state agency.

In the spirit of the attitude that I have been trying to describe to you, we have, on our own initiative, passed a Freedom of Information Regulation that pertains to the Port Authority and that embodies the spirit of the two state laws. So, the Legislature, or the press, or a citizen does not have to subpoena, or sue, the Port Authority if it wants information about what we are doing or what we have done or what we intend to do. All those things that are appropriate for public scrutiny can now be made available upon proper application to the Port Authority. This is a first step in a program to make ourselves accountable and open to the public that we serve.

SENATOR GARRAMONE: I think it is a necessary step. The scrutiny of the public authorities is essential. I think the accountability is absolutely essential. We want to keep it in business and I think that is necessary.

Just one short question. I am intrigued by the World Trade Institute. What is it?

COMMISSIONER SAGNER: This is something that is not very much publicized. It is something that the Port Authority initiated and it is a trade organization of world trade institutes and organizations and individuals involved in world trade. It is a clearing house for the dissemination of information pertaining to world trade. I will explain this by giving you an example. If you are a manufacturer in Hackensack of widgets and you would like to expand but you have no idea of where in the world there is a market for widgets, you can come to the World Trade Center and with our computers find out if there is a demand and not only if there is a demand but what size widgets do they want in Thailand, or wherever the country might be, and how would

you ship them there, and who can you deal with there as an importer. All that information is available. Also, foreign manufacturers and suppliers of raw material can find out who in this country is looking for foreign trade. This is an organization that is growing and there are branches all over the world.

SENATOR GARRAMONE: One other question. You said you had an office in Washington, Alan. Do you have any other offices besides Washington and, of course, your facility in New York?

COMMISSIONER SAGNER: Yes. We have offices abroad.

SENATOR GARRAMONE: Where?

COMMISSIONER SAGNER: In London and Zurich and in Tokyo. We have offices in Washington, Cincinnati, and Chicago.

SENATOR GARRAMONE: These are staffed by U. S. citizens - the foreign offices?

COMMISSIONER SAGNER: Yes. On this last trip I visited our office in London and spent time there with our manager. The purpose is to generate business for this port. We go to a manufacturer in Sweden and tell him if he is shipping specialty steel to Ohio, that the right place to ship it is through the Port of New York and New Jersey.

SENATOR GARRAMONE: Alan, you made mention of the fact that there is only one terminal that you own. Which one is that, the Elizabeth?

COMMISSIONER SAGNER: That is the Elizabeth Terminal. That was built by the Port Authority in New Jersey from scratch.

SENATOR GARRAMONE: You own the facility but you own the land also? The others you don't own?

COMMISSIONER SAGNER: The others we don't own. We have taken over facilities that the city had.

SENATOR GARRAMONE: Senator Tumulty, do you have anything further?

SENATOR TUMULTY: Just one further question, Commissioner. Are any income funds from the PATH being utilized to reduce the operating loss of the Twin Towers or the World Trade Center?

COMMISSIONER SAGNER: Senator Tumulty, in the first nine months of 1977, PATH had gross revenues of \$9,340,000. For the first nine months of 1977 we spent, out of pocket for fuel, wages, repairs, etc., \$26,206,000.

SENATOR TUMULTY: On PATH?

COMMISSIONER SAGNER: On PATH. So, there was very little surplus.

SENATOR TUMULTY: There was no profit?

SENATOR GARRAMONE: Yes, Senator Dunn?

SENATOR DUNN: When you have finished, I would like to make a couple of additional comments.

SENATOR GARRAMONE: All right, fine. Commissioner Sagner, I do want to thank you for joining us and giving us some additional information in terms of not only Senator Dunn's bill but the role of the Port Authority. Obviously, it is to serve the public in what I hope will be an open policy attitude and I think you reflected this. You are sensitive to this and I would like to see that it becomes a good Port - and it can be - and stay in business, but still be accountable.

COMMISSIONER SAGNER: This was an opportunity that I appreciated and I would like to make two observations, Senator. One is that I am going to regret not dealing with you as Chairman of this Committee and Senator

Tumulty. I dealt with Senator Tumulty on the Transportation Committee and I found him attentive at meetings and acute in his questions and tough in his attitude, but fair and constructive. This isn't bull because you are not going to be there anymore, Joe, yet, it was a pleasure working with you and with you too, Ray. I would hope, number two, that you would pass on to whoever is to be the Chairman of this Committee in the future that exchanges of this type have a great benefit on both sides and that until we work out a more structured plan - as you suggested, and that we are working on - that at a minimum we periodically meet with the Committee under whatever circumstances they want. The more public the better, so that we could be subject to the questions pertaining to our activities by the members of the Committee.

SENATOR GARRAMONE: I think that would be mutually advantageous.

SENATOR TUMULTY: Commissioner, I just want to say that I thank you for coming here today. I always enjoyed having contact with you as Commissioner of Transportation when I was on the Transportation Committee of the Senate. I have complete confidence in your ability and desire to do everything you can as Chairman of the Port Authority to direct it in the best interest of the public.

COMMISSIONER SAGNER: Thank you, Senator.

SENATOR GARRAMONE: Thank you. Senator Dunn.

SENATOR DUNN: Mr. Chairman, we came here to talk about my bill - 1639. It is quite obvious to me that it will be doomed to failure. Instead, we gave about two hours of opportunity to Commissioner Sagner to tell you about the great wonders of the Port Authority. Somehow, until Senator Tumulty started asking questions, we did not get back to 1639.

You know, when I sat down before, I made it clear when I was talking that I was being somewhat facetious when I said that Commissioners of the Port Authority are all cut from the same bolt of cloth and I made reference to them, or it, having gaul to take a tax appeal against a tax matter in the City of Elizabeth. As I sat down, I was thinking perhaps I might apologize if someone took it in the wrong way. But, after listening to Commissioner Sagner, no way would I consider anything that sounded like an apology because, first of all, I know I did not misunderstand the television program that I watched. I saw it myself. I don't recall the name of the program. I am going to have to check the script. When he did give some hope to cities like Elizabeth on taking over as Chairman of the Port, it was a very clear-cut, crystal commitment that he would at least give the courtesy to the Mayors of the affected municipalities of sitting down with us and talking about a revision of the formula that might erase, or at least alleviate this inequity that exists to cities like Elizabeth.

So, I am extremely dissatisfied now. I might say this: When Mr. Sagner became head of the Port Authority I said, "I am elated over the fact that Sagner is Chairman of the Authority. I always got a sympathetic ear from him when he was Commissioner and now that he is Chairman maybe we can rectify some of the injustices of the past." He added - meaning me - that I would attempt to initiate meetings that would lead to a better deal for the City, taxwise. Then, when I heard him on television I said, "It is the same Alan Sagner who I always did get a fair shake from." But, now, after listening to him today saying that he doesn't even want to open up the door because he doesn't know what is going to be on the other side, -- well, what he is doing

today, in my opinion, is proving that all these people are cut from the same bolt of cloth. They have a fixation. They won't do one damn thing to rectify the inequities to the City of Elizabeth or any other city that is so affected, such as Jersey City.

So, while I did come here to talk about 1639 and I am not too disillusioned as to what is going to happen to 1639 - whether I am in the Legislature or out of it - I am leaving this meeting today terribly, terribly disappointed over a statement made by Commissioner Sagner that he is not even going to open a door to talk to us about changing the formula because it is going to bankrupt the Port Authority. He talked about this facet of the operation not making money - this operation not making money. It shows to me, among other things, that there has been an awful lot of stupidity in the planning operations of the Port Authority long before Mr. Sagner came with it.

But, there is absolutely no hope for getting them to sit down and talk to us about revising this formula. He wants to talk about how much does it cost to send the cops down when you have problems or how much does it cost to send the fire department down when we have fires to help them out with. So, we are talking about peanuts. We are not talking about the principle or the philosophy that is so wrong. It was wrong in 1921, and it hasn't been corrected one iota since that time.

One thing I would like to mention is, when I said they had gall taking the City of Elizabeth up on a tax appeal on this one particular piece of land that is owned by the Jersey Central Railroad - and I repeat that too owes us back taxes - you know, I refuse to even apologize or think of apologizing for that because when this deal was negotiated with the Port Authority, the Port Authority knew they were going to have to pay a sum of money in lieu of taxes equal to whatever the tax would be. For them to say now, "Look, you are being unfair; you are putting us in a non-competitive position with other ports" -- my God, they should have known that when we went into the negotiations in 1972. Now, for them to say that they are being shafted is almost a joke in my opinion. What they are now saying is they made a mistake in 1972 when they negotiated. They made a hell of a mistake, by his own admission, when the Port Authority built a passenger ship terminal in New York, only to find out that the big ships were not going to use it; they were going out of business.

Admittedly, the Tower operation, at this point at least, is a losing proposition. And, there was one other thing that he mentioned, but I just can't think of it right now, that would indicate to me that there had been very, very bad planning - almost as a way of life - on the part of the Port Authority down through the years. Evidently, according to what he said, it was poor planning for them to enter into an agreement with the City of Elizabeth in 1972 to pay in lieu of taxes an amount of money equal to the taxes. Now, they are crying that they made a mistake. How about this tremendous inequity to the City of Elizabeth that has been going on since 1921?

You know, sure, I feel sorry for some guy that operates Teterboro Airport if he has to pay taxes. But, how about the people in the City of Elizabeth and in Jersey City who are subsidizing the Port Authority? Because every tax dollar that we do not receive from the Port Authority or from a bankrupt railroad must be made up by the guy who owns that one family house or owns a candy store or runs a little business somewhere in that town.

So, I am leaving this meeting today very, very disappointed with the Authority, with Mr. Sagner - who is my good friend - nor with any hope of this being -- I can tell this by your attitude, Ray - Mr. Chairman. I admitted from the very beginning that I didn't have too much hope for 1639 ever being signed into law by Governor Byrne, or by any other Governor. But, I did admit publicly before, and I did admit publicly today that I am trying to focus attention on the terrible inequity that has been allowed to exist since 1921. I don't have much hope of anything being done now by the Legislature, Governor Byrne, or Alan Sagner. I don't think the door will even be opened up allowing us to sit down and talk about the problem.

Let me tell you this: I think we got a better shake under some of the other people - the people who sat down before and worked out an agreement on the Central Railroad property, for example. I hate to leave here with that attitude, but it is obvious as to just where the municipalities in the State of New Jersey are going to stand under this new administration that has taken over the Port Authority.

SENATOR GARRAMONE: Tom, you have always been a forceful advocate for what you believed in. You are a good, wise individual. You have been around politics and government a long, long time. What you have done, you have done very successfully. You focused another spotlight on this entire in lieu question. I alluded to what I think the solution is ultimately going to be, Tom. It is not only your problem, it is the problem of an awful lot of people in the states of New York and New Jersey. It is not going to disappear. You and I and Joe are leaving the Senate. The problem is going to be here. This system is going to open up and the solution may very well be that it has to come from the people to the Legislature. They are going to stand up and say, "There is just too much being taken from us. We want something in return."

Now, the answer may very well be, as was suggested, that the State is underwriting other Port projects. There has to be some sort of a trade off, maybe, between what the State gives other groups within the State of New Jersey and what they are doing with the Port of New York and New Jersey Authority. There has to be a continuing dialogue here. You have opened it, Tom, you haven't closed it.

SENATOR DUNN: What you are saying and what Commissioner Sagner is saying - and he said it quite clear - is, the only solution to this problem is increasing the income tax. That is what he said - increasing the income tax, increasing the income tax so that you can keep the Port Authority solvent. You couldn't misunderstand that.

SENATOR GARRAMONE: No, we commented on that. Again, all these problems become interrelated, but right now that income tax, which happens to be dedicated funds, is not to help the Port Authority. It has a specific purpose. I don't think that would have great support - that we underwrite some of the responsibilities of the Port by increasing the income tax. I don't sense that in the people. I don't sense that in the Legislature.

But, in any event, I do want to thank you for appearing here and sharing your thoughts with us and arguing very effectively for your bill and the in lieu formula.

Again, to Commissioner Sagner and the members of the Port and the members of the public, for sharing these last couple of hours with us, I thank you and the hearing is concluded.

(hearing concluded)

Port Authority of New York and New Jersey
 Estimated Taxes based on Current Assessed Valuations
 vs. Year 1976 Payments in Lieu of Taxes
 State of New Jersey

<u>Municipality/County</u>	<u>Facility</u>	<u>Current Assessed Valuation</u>	<u>1977 Tax Rate</u>	<u>Estimated Tax based on Assessed Valuation</u>	<u>1976 Payments in lieu of taxes</u>
<u>Real Property at Port Authority facilities in the State of New Jersey on which payments in lieu of taxes are made:</u>					
<u>Bergen County</u>	Teterboro Airport	\$ -	\$ -	\$ -	\$ 9,069
Hasbrouck Heights	Teterboro Airport	156,400	5.55	8,680	1,037
Lyndhurst	Teterboro Airport	28,100	2.57	722	73
Moonachie	Teterboro Airport	34,642,300	1.95	675,525	16,336
Teterboro	Teterboro Airport	37,100,600	.81	300,515	13,859
<u>Essex County</u>					
Newark	Newark Truck Term.	5,539,100	9.25	512,367	4,893
<u>Hudson County</u>					
Jersey City*	PATH	-	-	-	19,897
North Bergen	PATH*	-	-	-	86,729
	Lincoln Tunnel	1,464,000	3.434	50,274	945
<u>Union County</u>					
Elizabeth**	Elizabeth - P.A.M.T.	263,037,600	4.19	11,021,275	48,126
Elizabeth	Newark Airport	136,042,700	4.19	5,700,189	15,116
Totals		<u>\$478,010,800</u>		<u>\$18,269,547</u>	<u>\$216,080</u>

* Under current state laws, this property would be classified as exempt of local taxes.

** Excludes 245 acres of CNJ property assessed at \$19,666,500 on which the Port Authority under an agreement of lease pays the taxes assessed against the CNJ.

Port Authority of New York and New Jersey
 Estimated Taxes based on Current Assessed Valuations
 of Tax Exempt Real Property - State of New Jersey
 on which no Payments in Lieu of Taxes are paid

<u>Municipality/County</u>	<u>Facility</u>	<u>Current Assessed Valuation</u>	<u>1977 Tax Rate</u>	<u>Estimated Tax based on Assessed Valuation</u>
<u>Tax Exempt Real Property at Port Authority facilities in the State of New Jersey:</u>				
<u>Bergen County</u>				
Fort Lee	George Washington Bridge	\$ 5,477,100	\$2.45	\$ 134,189
<u>Hudson County</u>				
Bayonne	Bayonne Bridge	16,900,000	7.567	1,278,823
Jersey City	Holland Tunnel	189,500	9.477	17,959
Jersey City	Jo. Square Transp. Center	2,001,300	9.477	189,663
North Bergen	Lincoln Tunnel	4,526,100	3,434	155,426
Union City	Lincoln Tunnel	10,200	5.897	601
Weehawken	Lincoln Tunnel	4,108,100	5.699	234,121
<u>Middlesex County</u>				
Perth Amboy	Outerbridge Crossing	69,300	4.51	3,125
<u>Union County</u>				
Elizabeth	Goethals Bridge	<u>244,900</u>	4.19	<u>10,261</u>
Totals		<u>\$33,526,500</u>		<u>\$2,024,168</u>

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Port Authority of New York and New Jersey
 Estimated Taxes based on Current Assessed Valuations
 vs. Year 1976-77 Payments in Lieu of Taxes
 State of New York

	<u>Current Assessed Valuation</u>	<u>1977-78 Tax Rate</u>	<u>Estimated Tax based on Assessed Valuation</u>	<u>1976-77 Payments In-Lieu of Taxes</u>
<u>Borough of Manhattan</u>				
Port Authority Bus Terminal & Annex	\$ 45,200,000	\$8.75	\$ 3,955,000	\$ 316,678
New York Truck Terminal	6,205,000	8.75	542,938	34,415
World Trade Center	750,850,000	8.75	65,699,375	2,286,708
PATH	<u>18,086,400</u>	8.75	<u>1,582,560</u>	<u>852,320</u>
Total Manhattan	820,341,400		71,779,873	3,490,121
<u>Borough of Brooklyn</u>				
Erie Basin P.A. Piers	7,186,000	8.75	628,775	210,217
Brooklyn P.A. Piers	<u>68,456,800</u>	8.75	<u>5,989,970</u>	<u>665,326</u>
Total Brooklyn	<u>75,642,800</u>		<u>6,618,745</u>	<u>875,543</u>
Grand Total	<u>\$895,984,200</u>		<u>\$78,398,618</u>	<u>\$4,365,664</u>

Port Authority of New York and New Jersey
 Estimated Taxes based on Current Assessed Valuations
 of Tax Exempt Real Property - State of New York
 on which no Payments in Lieu of Taxes are paid

<u>Borough of Manhattan</u>	<u>Current Assessed Valuation</u>	<u>1977-78 Tax Rate</u>	<u>Estimated Tax based on Assessed Valuation</u>
Holland Tunnel	\$ 40,000,000	8.75	\$ 3,500,000
George Washington Bridge	122,116,000	8.75	10,685,150
Lincoln Tunnel	<u>111,560,000</u>	8.75	<u>9,761,500</u>
Total Manhattan	273,676,000		23,946,650
<u>Borough of Brooklyn</u>			
Columbia Street Pier	7,142,000	8.75	624,925
<u>Borough of Richmond</u>			
Bayonne Bridge	6,743,250	8.75	590,034
Outerbridge Crossing	3,971,500	8.75	347,506
Goethals Bridge	<u>6,992,900</u>	8.75	<u>611,879</u>
Total Richmond	<u>17,707,650</u>		<u>1,549,419</u>
Grand Total	<u>\$298,525,650 (1)</u>		<u>\$26,120,994</u>

(1) Not included are LaGuardia Airport and John F. Kennedy International Airport, which are owned by the City of New York and leased to the Port Authority, and currently assessed at \$1,322,662,700

Commissioners
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Howard Schulman
Victor R. Yanitelli, S.J.

M E M O R A N D U M

WITH RESPECT TO

S. 1639

Peter C. Goldmark, Jr.
Executive Director
(212) 466-7271
(201) 622-6600 x7271

To: The Honorable Members of the Committee on State Government, Federal and Interstate Relations and Veterans Affairs of the Senate of the State of New Jersey

Honorable Gentlemen:

The Port Authority respectfully submits that the above bill should be rejected.

The bill is unsound in principle and is not in the interests of the people of New Jersey because:

1. the bill violates the Constitution of the State of New Jersey;
2. the bill would, in the long run, increase the financial problems facing the local taxpayer and undermine the economy of the bi-state region; and
3. the bill would cripple the ability of the State to utilize the Port Authority in solving regional terminal and transportation problems.

In contrast, the existing legislative directives concerning payments in lieu of taxes have permitted an extensive program of public projects to the benefit of all the people of the Port District. These projects could not have been undertaken by private enterprise on a taxable basis nor by state and local government without extensive financial support by the general taxpayer.

The Bill is Unconstitutional

The bill would require the Port Authority to make what it describes as "in lieu" of tax payments to each municipality in which publicly-owned Port Authority Marine or inland terminal property is located. The required payments would be in amounts "equal" to the local taxes which would be paid if the property was owned by private enterprise. In other words, the bill would tax the Port Authority property.

By its terms, the bill would take effect upon the enactment by the State of New York of concurrent legislation. But this bill could never validly take effect, because it has fatal constitutional defects.

The basic defect of this proposal is that Port Authority ownership, and not the use to which the property is put, would determine its tax status. By taxing only Port Authority

public property, the bill violates the requirement of Article VIII, Sec. 1, Paragraph 1 of the New Jersey Constitution that "Property shall be assessed for taxation under general laws and by uniform rules."

Thus, Port Authority marine terminals, airports and terminal facilities cannot be subjected to full real estate taxes in New Jersey unless all dock, airport and terminal property in New Jersey is also made subject to full real estate taxation.

The courts in New Jersey have consistently held under the Constitution that the taxability of property depends on the use to which it is put and not on the personal status of the owner. The sham of extracting full taxes under the guise of in-lieu-of tax payments was apparently devised in an attempt to evade the serious questions of law and equity which would be raised by a more candid statement of intent to single out and subject to taxation these public properties of the Port Authority. But the device is as defective as the objective of the proposal is unsound.

A principal reason for the submission of this bill, supposedly, is to provide a basis for the City of Elizabeth to levy taxes on the Elizabeth Port Authority Marine Terminal and a large part of Newark Airport. Prior efforts to levy such taxes on Port Authority Marine Terminal properties

under existing law have been rejected by the New Jersey Supreme Court (Newark v. Essex County Board of Taxation, 54NJ 171, (1969)).

The State of New York grants full tax exemption to all publicly owned and operated airport and seaport property including the Port Authority's. The City of New York although itself plagued with financial difficulties recognizes that its plans to develop container terminals on Staten Island and Brooklyn, depend, for their economic feasibility, upon freedom from real estate taxation.

The Bill Would, in the Long Run, Increase the Financial Burdens of the Local Taxpayer and Undermine the Economy of the Bi-State Region

One out of every four people in the New Jersey-New York Metropolitan area depends on port-generated employment for a livelihood. The Port Authority of New York and New Jersey is the governmental agency charged by the States of New Jersey and New York with the responsibility of developing and operating, on behalf of the people of the two States, terminal and transportation facilities indispensable to the continued pre-eminence of their Port.

The facilities provided by the Port Authority, pursuant to this bi-state mandate, represent a cumulative Port Authority investment in excess of \$3,000,000,000 none of which is

supported by the credit of either state nor by the general taxpayer. All the people of the Port District share fully in the benefits which flow directly from these great public terminal and transportation facilities.

Whether it be a vastly expanded and improved Newark Airport; Port Newark-Elizabeth, the container capital of the world; the air gateway of John F. Kennedy International Airport; a modernized LaGuardia Airport; the Port Authority Trans Hudson Corporation (PATH); a double-decked George Washington Bridge and Bus Station; World Trade Center; or the Port Authority Bus Terminal (and the addition thereto now under construction) -- each is vital to the welfare and prosperity of the people of the two States and, indeed, of the nation. The fact is that no one of these public improvements could have been undertaken by the Port Authority on the basis that the property would be subject to tax. The inevitable long-range effect of the proposal would be to cast back on municipalities and State taxpayers the burden of financing such projects themselves. As a more realistic alternative, the people would probably have to forego the benefits of these costly public improvements.

Without question, the Port Authority's program is dependent upon the Port Authority's status as a governmental agency. If its facilities had to be financed, operated and

maintained with the prospect that they could be taxed as if privately owned, the Port Authority would be no more able to undertake them than is private industry.

Economic Benefits Resulting From the Port Authority's Program

Any objective analysis of the effect of the Port Authority's program upon the tax rolls of the municipalities in the Port of New York District must include consideration of the significant economic advantages accruing to these municipalities from this program. The program consists of necessary transportation and terminal facilities whose meager net revenue possibilities or actual deficit prospects -- as weighed by the economic standards of private corporate financing -- make their development by private enterprise impossible. At the same time, they are projects which municipalities are unwilling to undertake in the face of already top-heavy capital budgets. The public projects of the Port Authority not only generate employment and substantial payrolls during their construction, but also provide many permanent jobs and other sources of income during their operation. As previously noted, it is reliably estimated that within the Port of New York District, one person in every four derives his livelihood from Port activities to which the Port Authority makes significant and vital contributions.

The Bill Would Cripple the Port Authority's Ability to
Serve the States

From time to time over the years, bills attacking the Port Authority's tax exemption have been proposed to the Legislatures of both States. These sought to tax the Port Authority Bus Terminal, airport property devoted to incidental air terminal purposes, and even the Port Authority's bridges and tunnels. The Legislature of each State has constantly rejected taking action on these bills.

The proposal of bi-state legislation necessarily would accord to all the municipalities in the Port District the same right to subject Port Authority properties to real estate taxes. Thus the City of New York could make such a claim as well as any New Jersey municipality.

It is a most serious objection to this proposal that it does violence to the fundamental principle that all Port Authority properties and revenues are held in trust for the benefit of the States of New Jersey and New York. The proposal is unsound in principle, because, even if it could be adopted and applied, it would impair the ability of the Port Authority to proceed with the program for the development of the Port of New York entrusted to the Port Authority by the two States including the present programs relating to mass transit.

The General Role of The Port Authority of New York and New Jersey

The Port Authority of New York and New Jersey was created by the Port Treaty of 1921 between the States of New Jersey and New York, as the direct agent of the two States, for the development of the Port of New York. In their Treaty, the two States pledged their faithful cooperation in the future planning and development of the Port of New York through their joint and common agent, The Port Authority of New York and New Jersey. For the effectuation of this pledge, the Port Authority was charged with the responsibility to develop and operate, on behalf of the two States, terminal and transportation facilities within the Port of New York District and to protect and promote the commerce of the Port.

The Port Treaty and the Comprehensive Plan Act specifically deny to the Port Authority the power to pledge the credit of either State or to levy taxes or assessments. These two prohibitions necessarily required that Port Authority facilities must be self-supporting as a group; i.e., must produce net revenues at least sufficient to repay interest and principal upon the funds borrowed for their construction and to defray the costs of operation, maintenance and administration.

Pursuant to the Treaty and legislation supplementing and amending the Treaty, the Port Authority has financed, acquired, built or leased many public facilities in the Port of New York District. These are: six inter-state

vehicular crossings (Holland Tunnel, Lincoln Tunnel, Bayonne Bridge, Outerbridge Crossing, Goethals Bridge, George Washington Bridge); six air terminals, including two heliports (John F. Kennedy International Airport, LaGuardia Airport, Teterboro Airport, Newark Airport, the West 30th Street and Downtown Manhattan Heliports); six marine terminals (Port Newark, Hoboken-Port Authority Piers, Brooklyn-Port Authority Piers, the Port Authority Grain Terminal, Elizabeth-Port Authority Piers, Erie Basin-Port Authority Piers); two union motor truck terminals (New York Union Motor Truck Terminal, Newark Union Motor Truck Terminal) and a union motor bus terminal (the Port Authority Bus Terminal); the Port Authority Trans-Hudson commuter transit system; and The World Trade Center.

The Port Authority also promotes and protects the flow of export and import cargo through the Port of New York, not only through the world-wide solicitation of the flow of cargo and commerce through the Port but also by carrying a major share of the representation of the port's interest before such federal agencies as the Interstate Commerce Commission, the Federal Maritime Commission and the Civil Aeronautics Board.

The public port facilities which would be taxed under this bill and the Port Authority's vitally important promotion and protection work have been and will be provided without cost to the general taxpayer. They are supported solely by

the revenues derived and to be derived from charges imposed upon the users of the terminal and transportation facilities.

The Tax Exempt Status of Port Authority Property

Over the past 48 years, the States of New Jersey and New York have agreed again and again that in providing these facilities and services, the Port Authority is performing "essential governmental functions." The two States have, therefore, determined that the Port Authority shall not be required to pay any taxes or assessments upon the properties it devotes to these public purposes.

The last bi-state act relating to the Port Authority (Chap. 209 of the Laws of N.Y., 1962; Chap. 8 of the Laws of N.J., 1962) specifically confirms the traditional tax exemption of Port Authority property by providing that property acquired for the Hudson Tubes-World Trade Center project shall be exempt from all taxes and assessments. There are similar express declarations as to the tax exemption of Port Authority property acquired for air terminals and for the Grain Terminal. (Section 5 of Chap. 802 of the Laws of N.Y., 1947; Chap. 43 of the Laws of N.J., 1947 (Air Terminals); Section 13 of Chap. 410 of the Laws of N.Y., 1944 (Port Authority Grain Terminal)).

With respect to the Port Authority's marine and inland terminal property, Chap. 69, Laws of N.J., 1931 and Chap. 553, Laws of N.Y., 1931, (which this bill seeks to amend)

authorizes and empowers the Port Authority to make payments in lieu of taxes to municipalities in the Port of New York District upon property acquired by the Port Authority for these purposes. Implicit in this grant of power to make payments in lieu of taxes is the determination by the two States that property acquired by the Port Authority for marine and inland terminal purposes is devoted to public purposes on behalf of the two States and, therefore, is and should be exempt from the taxes and assessments levied on private property. This very question has been litigated and the highest courts of the States of New Jersey and New York have recognized these statutes as reaffirming the tax exempt status of this group of Port Authority facilities. Bush Terminal, et al. v. City of New York, et al., 282 N.Y. 306 (1940); Port Authority v. City of Newark, 20 N.J. 386 (1955); Newark and Port Authority v. Essex County Board of Taxation, et al., 54 N.J. 171 (1969).

Port Authority Payments in Lieu of Taxes

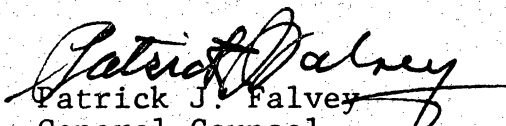
The Port Authority has always been aware that in the development of its terminal program, there would be instances in which the balancing of interests would indicate that a municipality should be saved harmless from any loss of its established tax revenues. As above noted, the Port Authority obtained authorization from the two States as early as 1931 to pay to municipalities in the Port District up to the amounts last paid as taxes on property acquired by the Port Authority for marine and inland terminal properties.

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The in-lieu-of tax provisions in these statutes set forth the States' policy to protect municipalities from loss of established tax revenues in those cases where the project can support such a payment. The legislation was not intended, however, to insure that municipalities would derive tax revenues from such public projects on the same basis as if they were purely private in purpose and operation. The two States decided that the benefits derived by the public from such projects more than justify their tax exempt status, but that, within reason and within its means, the Port Authority should save municipalities harmless from tax losses which might otherwise result from the effectuation of Port Authority projects. This balancing of equities has worked well. The Port Authority's terminal program is serving vital public purposes without hardships on municipalities. To subject these facilities to tax could only serve to destroy this effective pattern.

Because it is constitutionally defective and unsound in principle, and because its objective would be seriously detrimental to the economic development of the States of New Jersey and New York, this bill should be rejected by your Honorable Committee.

Respectfully submitted


Patrick J. Falvey
General Counsel

September 20, 1977

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