

PUBLIC HEARING

before

ASSEMBLY COMMITTEE ON INSTITUTIONS,  
PUBLIC HEALTH AND WELFARE

on

ASSEMBLY BILL NO. 514  
PROVIDING FOR MANDATORY REPORTING BY  
PHYSICIANS AND HOSPITALS OF PHYSICAL  
ABUSES OF CHILDREN.

Held:  
March 26, 1964  
State House  
Assembly Chamber  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph J. Maraziti [Chairman]

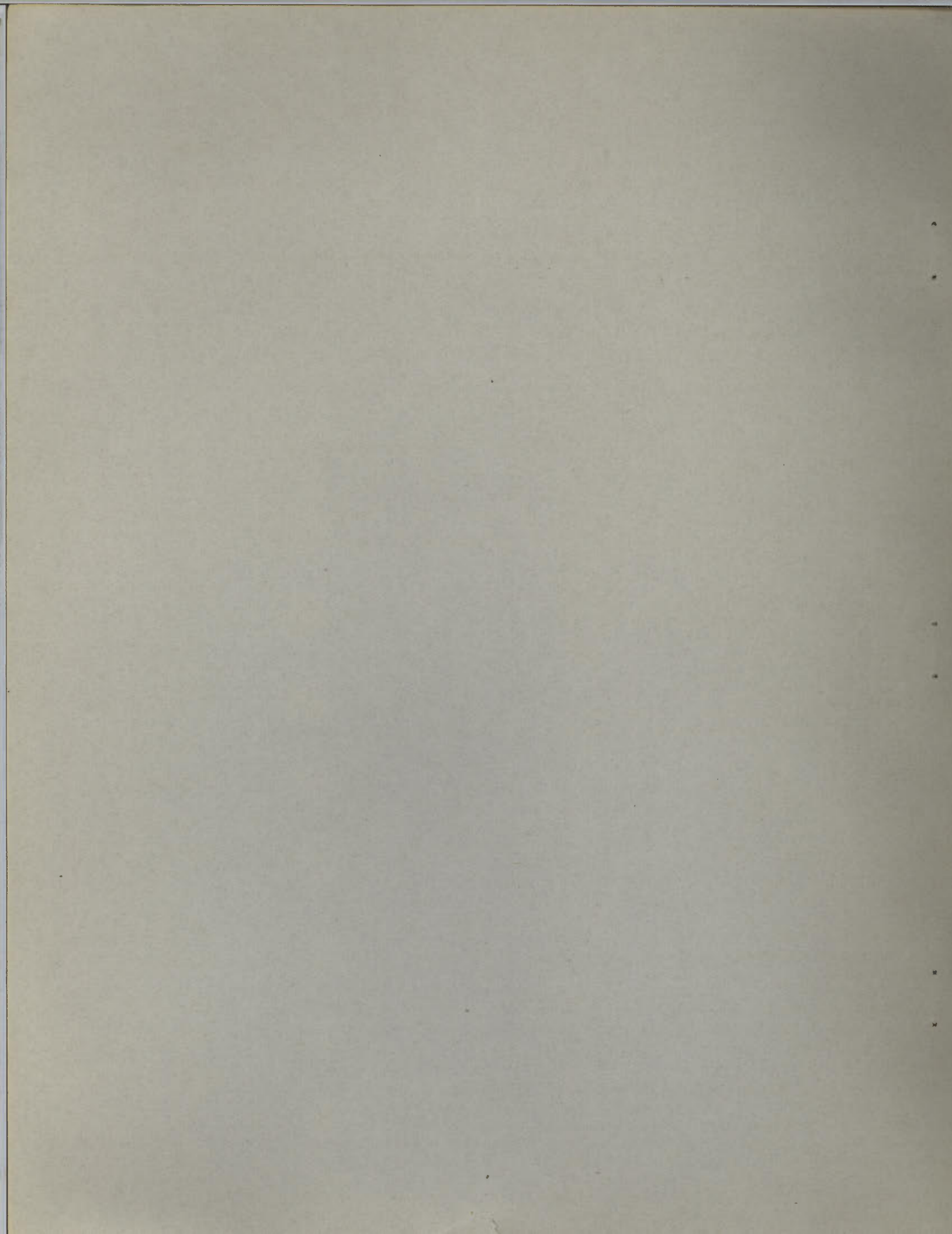
Assemblywoman Mildred Barry Hughes

-also-

Assemblywoman Marion West Higgins

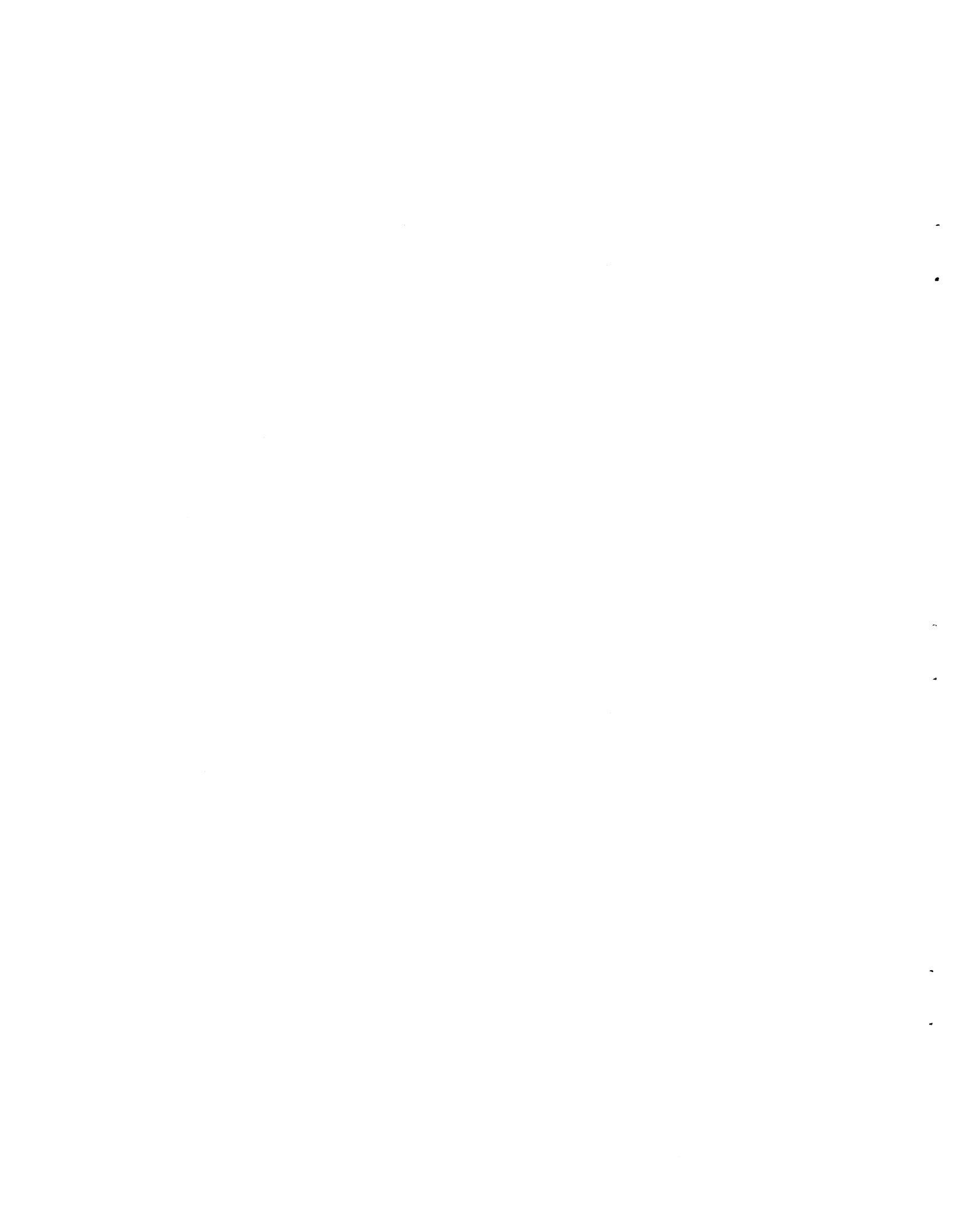
Assemblyman David A. Gelber

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ASSEMBLYMAN JOSEPH J. MARAZITI, (CHAIRMAN): I would like at this time to announce the opening of the public hearing by the Institutions Committee of the State Assembly on Assembly Bill No. 514. I note that the prime sponsor of the bill, Assemblyman Gelber of Bergen County is present, so I will extend to him the privilege of any opening remarks he would like to make in reference to this legislation.

Assemblyman Gelber.

ASSEMBLYMAN DAVID A. GELBER: This bill has been designed as indicated in its preamble to take care of children, and the preamble indicates that this is a public policy of this State to protect the children who have had physical injury inflicted upon them by parents or those responsible for their care. In addition to that, in order to implement that protection for children, it has been found throughout not only this State but the United States we have to provide immunity to physicians and hospitals who necessarily come into contact with cases of that sort. And unless they are given the immunity and protection as this law is intended to do, we find that these matters are not reported and, therefore, cannot be acted upon.

This bill, therefore, we feel serves a purpose that is desirous not only in the State of New Jersey but throughout the United States, and we know that many states have already adopted and enacted into law similar bills for this purpose and we urge the support of everyone in the State of New Jersey for this bill and particularly those who are affected, such as the hospitals and the physicians who will be called upon

to assist in the enforcement and the report of the abuses on children.

I think that I would welcome any suggestions that anyone may have with respect to this bill and to hear from those who are affected; namely, the physicians and the hospitals, and any other agencies that are interested or affected in any way by this bill.

Thank you, Mr. Maraziti.

ASSEMBLYMAN MARAZITI: Thank you, Assemblyman.

Now I would like to call upon those who are interested in expressing their views on this legislation, and may I ask that the speaker proceed to the desk immediately in front of the table so that we will have the benefit of the use of that microphone which is in operation.

There are a number of physicians here who, I believe, would like to speak during the early part of the session as they may have some other engagements, and at this time I would like to call on Dr. Murray, if he will step forward and give us the benefit of his views.

Doctor, will you state your full name, address and the group that you are representing, and you may sit down and be comfortable. The purpose of this hearing is to procure as many views and as much information as possible in order to assist the Committee and the Assembly in the evaluation of the legislation. So take your time and let us know how you feel about this bill.

DR. HARROLD A. MURRAY: Thank you, Mr. Chairman and Members of the Health Committee. I am Dr. Harrold A. Murray, Chairman of the Health-Mental Health and Education Committee of the New Jersey Youth Commission. I am a practicing pediatrician and a former President of the Medical Society of New Jersey, and I reside at 212 Crescent Parkway in Sea Girt, New Jersey. I am speaking today in favor of Assembly Bill 514.

This bill will enable physicians, internes and hospitals to report, with full immunity from legal action, cases of intentional severe abuse to children up to the age of 18 years by their parents or guardians. It will make it compulsory for physicians, internes or hospitals to report these cases to the Prosecutor in the county in which the parent or guardian lives, with the penalty of a misdemeanor if this report is not made immediately, first by telephone and then by a written report. This is the procedure for reporting gunshot wounds to the police, or contagious reportable diseases to the Health Department.

This bill will not make judges of the reporting persons, but simply will alert the Prosecutor to the abuse so that an investigation can be started at once.

This serious, repeated, intentional abuse of children, or the Battered Child Syndrome, as it is termed when the abuse is severe or fatal, has been seen by physicians for many years. The reluctance in reporting the abuse has been due to the fact that physicians, internes and hospitals have not witnessed the beatings and are fearful that they

will not have immunity from any liability, civil or criminal, that otherwise might be incurred.

Child abuse is now recognized as a major social and health problem. The American Humane Association estimates that there are some 10,000 cases of serious child abuse a year in the United States. This estimated number will be greatly increased when physicians are able to report such cases with immunity.

Parents who abuse children severely do not always have psychopathic or sociopathic personalities, nor are they all immature persons. In most cases there is a defect in character structure. These parents or guardians rarely go to the same physician or the hospital more than once.

In a series of 302 cases of physical abuse in children reported by Dr. Frederick Silverman of Cincinnati, there were 33 deaths and 85 permanent brain injuries. In another series reported by 77 District Attorneys in 447 abused children, there were 45 deaths and 29 had permanent brain damage. Physicians believe that severe physical abuse can traumatize young children to the point where their emotional and intellectual growth and development are severely impaired. Many of these children grow up to be definite problems in their communities and will become the responsibility of the State for their care. This is of great concern to the New Jersey Youth Commission.

In the past three months in New Jersey there were at least three deaths reported in the newspapers following severe beatings or burns. The reported beating of a 7-year-old child severely beaten by a mother who tied her hands

and feet to a bed and whipped her with a dog chain is deplorable.

Many studies have been made throughout the country on severe battering of children. The age can extend from birth to 18-years. Most injuries resulted from beatings with bare fists, straps, electric cords, rubber hose, sticks, baseball bats, and the like. Children's hands, feet and bodies were burned by open flame from gas burners, cigarettes, hot irons or pokers. Some were smothered by plastic bags or pillows intentionally held over their heads. A number were drowned in bath tubs, and it is reported that one child was buried alive.

The U. S. Children's Bureau recently drew up model legislation on the abused child. Thirteen states have already adopted this legislation. They are California, Indiana, Maryland, Minnesota, Oklahoma, Oregon, Pennsylvania, Wisconsin, Colorado, Florida, Idaho, Ohio, and Wyoming.

Every day New Jersey postpones approval of this bill will condemn innocent children to suffer not only severe physical and mental torture, but even death itself.

This bill has the approval of the Medical Society of New Jersey and many other important organizations concerned with the health and welfare of children.

I earnestly urge each one of you to vote for the passage of Assembly Bill 514.

Thank you very much.

ASSEMBLYMAN MARAZITI: Thank you very much, Doctor.

Are there any members of the press who have not

received a copy of Doctor Murray's statement and would like to have it?

Doctor, I wonder if you could be seated again. I would like to introduce to the group Assemblywoman Mildred Hughes, my very distinguished colleague from Union County, and I think she might like to ask you a few questions. Would you submit?

DR. MURRAY: I'd be very glad to.

ASSEMBLYWOMAN HUGHES: That, I think, Mr. Chairman, is the purpose of this. I am a co-sponsor of this bill, Doctor, so I am perfectly in favor of it, but I have a question. You said you had reason to believe that these bags were held over the heads of children purposely. Why wasn't that an offense; I mean, if this could be proven why wasn't the person charged with murder?

DR. MURRAY: You see, having practiced pediatrics for many years, I have seen many of these things. I have always been reluctant to report any of these cases because I did not have immunity from civil action. Now, recently, if I can just take a minute of the time, in a town near where I live a woman brought a kiddie to me with burns on the body. They only come once; you never see them again. And she said to me, "Are these burns from urine?" I said, "They could be." Then I told her what to do to prevent bed-wetting and the like. And that was the last I heard from her for over a year. She was finally convicted of manslaughter and she had held the baby in boiling water and then from that the kiddie got a toxic hepatitis liver condition and died. That was proven by autopsy.

Now to get back to your original question: I was suspicious of that woman but I could not report it. This bill enables me to call up the Prosecutor and tell him that I am suspicious, and he makes the investigation. We don't go to the police with it. Now, physicians have to do that with gun-shot wounds; they have to do it with diphtheria, Scarlet Fever and the other reportable diseases. It's nothing unusual. It brings it out so that it is no longer a tragic secret in New Jersey. Now, physicians will be able to report this. They don't call up the police; they report it to the Prosecutor and he follows through with an intense investigation, which we want, because maybe our supposition might be wrong.

ASSEMBLYWOMAN HUGHES: Well, of course, I'm all in favor of this because I happen to be the gal that got you people off civil suits on the "Good Samaritan" bill. So I understand your position and how you need to be protected in this. But I was curious to know, when you said they had purposely held the bags over the head - how did you know that?

DR. MURRAY: We know it from history. These are statistics that I am reporting to you that have been taken from all over the country really, and sometimes the mothers confess that they did it. You see, after it's all over, some are really in that frame of mind to say, "well, he got me mad; I got angry and I threw a pillow over him."

ASSEMBLYWOMAN HUGHES: Well, you see, I'm not a doctor; I mean, I'm not a lawyer, doctor, so I question you: If the woman confessed to this --

DR. MURRAY: Oh, she didn't confess to the legal side; she might have told a friend or something like that. You see, they don't go up and confess to the lawyers and the judges and all that, but it is finally wormed out of them by their friends. There are many, many people who know about these things that exist in the community and they can't report it, but they could call up a physician to see that patient, see, and then he in turn will report it to the Prosecutor.

ASSEMBLYWOMAN HUGHES: Then you use the words about New Jersey postponing this. I think there is no intention of postponing it, Doctor.

DR. MURRAY: No, I said, every day that it will postpone it; I didn't say that you postponed it.

ASSEMBLYMAN MARAZITI: Yes, that's right. The doctor did say that every day the State postpones action the abuse will continue.

DR. MURRAY: That's right. Somebody could be killed tomorrow.

ASSEMBLYWOMAN HUGHES: Well, I didn't mean to insinuate that you had said that we had postponed it. I have not had any objections whatsoever to this bill; I have gotten favorable reports. This came out of the Youth Commission; it was brought to us by them -

DR. MURRAY: That's right. We made an intensive study.

ASSEMBLYWOMAN HUGHES: -- therefore, I felt we could even have let this out of committee without any hearing at all.

DR. MURRAY: I think you did the wise thing in having a hearing on it.

ASSEMBLYWOMAN HUGHES: Usually we don't have hearings unless there are two sides to be heard. So I feel that we could have advanced this perhaps a little bit if we had omitted this.

DR. MURRAY: Well, that's your better judgment than ours. We wouldn't know anything about that.

ASSEMBLYMAN MARAZITI: Well, let me say this: I concur with your view that certainly we could have let this out of committee without a public hearing. I have favored the bill and still favor the bill and feel that the Committee in all probability will release the bill. The public hearing was requested on the bill more for the purpose of strengthening support for the bill and to procure information. I don't want the impression to be created that the Committee at any time refused to release the bill. I don't think there is any doubt about what is going to happen. We are trying to get all the information, as the Assemblywoman here elicited from you some additional interesting points. There is no harm in learning as much as we can and building up - those of us who favor the bill, and I will be very frank about it, I do favor the bill - as much support as we can, because we know that in order to get a bill to become law it has to pass the Assembly and Senate and be signed by the Governor.

DR. MURRAY: Well, thank you very much.

ASSEMBLYMAN MARAZITI: Thank you, Doctor.

I would like to call now on Mr. Owen, Director of the

New Jersey Hospital Association. Am I correct in that title?

J A C K O W E N: Mr. Chairman and Members of the Health Committee: I am Jack Owen, Executive Vice President and Director of the New Jersey Hospital Association with offices at Princeton, New Jersey. This statewide hospital association was organized in 1918 and represents 130 hospitals, 91 of which are short-term voluntary institutions and 39 are governmental institutions. It is a non-profit membership corporation, supported by the dues of the institutional and personal members. We are affiliated with the American Hospital Association which is a national organization in our field.

The goal of the New Jersey Hospital Association is to help hospitals of New Jersey provide better patient care.

I appear at this public hearing for the New Jersey Hospital Association in support of Assembly Bill 514. This bill, introduced on February 10, 1964, provides for the mandatory reporting by physicians and hospitals of certain physical abuses of children. Our 130-member hospitals endorse this bill and urge its passage as desirable legislation.

It is interesting to note that in 1963, 13 states enacted bills on child abuse. Ten of these states enacted laws similar to Assembly Bill 514 requiring mandatory reporting, and these were reported by Doctor Murray. Three other states of the 13 - Indiana, Maryland and Oklahoma - define specific cases of child abuse which must be reported.

The Children's Bureau of the United States Department of Health, Education and Welfare provided the stimulus for this nation-wide interest in child abuse. Here in New Jersey,

Dr. Harrold A. Murray of Sea Girt, Chairman of the State Youth Division's Committee on Health, Mental Health and Education, was recently quoted in the press as saying, "Child beating is a tragic secret in New Jersey, simply because doctors and hospitals are afraid to report such cases." Doctor Murray also said, "The answer is to require mandatory reports, as in the case of gunshot wounds. But we must also give immunity, for without such protection the doctor or hospital staff worker leaves himself wide open for a lawsuit."

New Jersey hospitals report not only gunshot wounds and contagious diseases but the commission of any abortion of which they gain knowledge, stabbings and injuries received by beating or through fights or through burglary or robbery as well. Hospitals do report such occurrences to the police, a judge, magistrate or prosecutor, depending on the local situation.

However, doctors and hospitals could be understandably reluctant to report cases of suspected child abuse because it is difficult to substantiate suspicions on the basis of symptoms alone.

Under Assembly Bill 514, doctors and hospitals would be required to report all suspicious cases to the County Prosecutor and then follow up with a written report. The Prosecutor's investigations would determine if the symptoms constitute grounds for legal action.

The New Jersey Hospital Association agrees wholeheartedly with the philosophy of this bill. New Jersey hospitals will

do their part in reporting child abuse, and we endorse Assembly Bill 514 as needed and desirable legislation.

Thank you.

ASSEMBLYMAN MARAZITI: Thank you, Director. Are there any questions? If not, I would like to call on Leontine Young.

L E O N T I N E Y O U N G: I am Leontine Young from New York and am Executive Director of the Child Service Association of Newark. I reside at 381 Broad Street, Newark, and I am representing the Sub-Committee of the Youth Commission on The Battered Child.

Mr. Chairman, the Sub-Committee on The Battered Child of the New Jersey Youth Commission was organized a year ago in response to the growing concern for children injured by their own parents or guardians. The Committee was composed of representatives from the fields of medicine, law, social work, and nursing. Our discussions shared the specialized knowledge and experience derived from these various fields. In all of them there had been experience with children who have been beaten, injured, even killed by a parent or parents.

The Committee surveyed the information available for the country as a whole and what we knew of the problem in this State. The U. S. Children's Bureau has been gathering material nationally and we were given this. Two basic factors are clear. Most of the children whose severe and fatal injuries to them were known, were under the age of 4 years, and the largest group was under the age of 2. Presently

it is impossible at this point to know the full extent of child abuse, but what is known is so serious that it commands attention. Further, the number of such cases seems to be increasing.

In 1962 the American Humane Society collected the published reports of child abuse from newspapers all over the country. There were 662 cases reported, covering 48 states. Out of the 662 children, 178 died as the result of parent-inflicted injuries.

Recently a physician referred a 7-months old baby to a children's agency in Newark. The baby was in the hospital near the point of death. Medical examination showed that in his few months of life almost every bone in his body has been broken. This little boy who began life as a perfectly normal, healthy child may be crippled for life as a result of these injuries. It will take all the skill and knowledge of medicine to give him hope, and even then the outcome must remain in doubt.

Dr. Henle who is going to follow me will show you X-rays of the damage to this baby.

Many agencies and individuals may hear about tragedies such as this, but doctors and hospitals are in the key position to know. Only as situations like that of this baby are reported regularly can helpless children get the protection they must have. This bill would provide for such reporting and would protect those who seek to protect our small children.

The fact that inflicted injuries can now be differentiated from genuine accidents would preclude embarrassment to normal parents who have little in common with the pathological parents who injure their children. The difference between normal parental discipline and punishment of children and child abuse is so great and now so well documented that there is virtually no chance of confusion between them.

The Committee endorses Assembly Bill 514 and urges that it be passed.

ASSEMBLYMAN MARAZITI: Thank you. Any questions?

ASSEMBLYWOMAN HUGHES: I have no questions but I would like to compliment Miss Young and her sub-committee because I feel that over the past year they have done a splendid job. And we could very well follow your advice and your bill without anything more added.

ASSEMBLYMAN MARAZITI: I would like to call on Dr. Henle.

D R. C A R Y E-BELLE H E N L E: I am Carye-Belle Henle, a physician member of the Essex County Medical Society and a Fellow of the American College of Radiology.

The key position of the radiologist in discovering evidence of unsuspected parental abuse of children is well recognized. Fractures are easily seen on the X-ray. Any child may be subject to occasional accidental injury, but when there is evidence of many such events that have obviously happened at different times, one is justified in suspecting that this child is being roughly handled. In addition to fractures, injuries to certain soft parts are visible on the x-ray at times. A blow to the abdomen may

may result in tearing of the stomach or intestines and the escaped air or gas may be detected in the abdominal cavity. Injury to the abdominal organs is a serious event and may lead quickly to death if not promptly discovered and repaired.

I have brought films on five different abused children and I will be glad to show them to you if you care to see them. One is the child that Dr. Young spoke about.

I don't know if you can see the box way back there. If there is an outlet, I'll be glad to bring it closer.

ASSEMBLYMAN MARAZITI: There doesn't seem to be another outlet, but we perhaps can see from here.

DR. Henle: [Referring to X-ray shown on screen]

This is a 7-month old infant and I think that even at your distance you can see there is a difference between this clavicle or collar bone that has not been injured and this one that has a buckle in it and is much shorter. That child will have a permanent deformity of this shoulder. In addition you can see, if you notice the bone in the wing of a chicken, it is nice and straight and regular, but this one doesn't look like that. There's been a fracture here and it's healed. This one is waving all over the place; there's been more than one fracture. On the legs of the same child there's a fracture here; there's a fracture here that happened at a different time and has healed, with the resultant callus outside. The child's hip has been badly pulled on and there is some extra bone under this hip, and the same thing is true of the arms on this same child.

Now these films are on a 4-month old infant. Here is a normal suture in the skull. All of these lines are breaks in this child's skull and you can see one even from where you are sitting that goes right across the back of the bone in profile, so there will be little wonder if this child becomes a mental deficient.

This is arm of the same child. Any child can be dropped, and if the mother is afraid of her husband she may not confess that she has dropped the child. But all of these injuries would not happen unless the child were in a major catastrophe and run over by a car, and there is no such history.

There's a ~~head~~ fracture here. This is the other arm. It shows what the bone should look like, but there has been a fracture there. The legs of the same child - there's a deformity down there.

I could go on. I have three more cases here. I won't take up your time unless you ask me for them. They are quite similar to the ones I demonstrated.

ASSEMBLYMAN MARAZITI: You may proceed.

DR. HENLE: This is a 6-month old boy child. The child evidently has been pulled hard and its elbow gave away with a fracture of the end of the arm bone about here with both attempted repair outside of it, and the same thing has happened up there.

These are the legs of the same child, and the covering of the bone back here - you'll have to take my word for this, but if you come up you will see it - there's

a double line there and a little bone production around the knee, and the leg also has been pulled up. This doesn't happen if a child falls or is run over; it's a pulling type of injury.

ASSEMBLYWOMAN HUGHES: Doctor, could I ask you a question now? From where I am sitting, there is a very definite change between one knee bone and the other. I mean, as I look at it, the one on the left seems to be longer and narrower at the end than the other one. There's a bulb of some sort on the one I'm looking at, which is on my right but it's the left leg of the child. Is that because of the pulling?

DR. HENLE: Well, when the child was x-rayed the legs were not in the same position. This is a bent knee turned to the side and this one is face on, so when they are not exactly the same you can't compare them. But here is a close-up of the hip at a later date and some repair has taken place. This bone is permanently deformed. This is all an attempt at repair with bone formation down in the soft tissues inside and under the leg and some up here over the hip.

I collected these cases within a period of two days. I didn't do any particular searching for them; I just asked a friend, "Do you have some samples" and I could have found dozens more.

Now, this is a 10-months old boy. I have not brought the complete folders on these children; they are very thick. I have just brought a few representative -

ASSEMBLYMAN MARAZITI: I think, in order to save your time, that we have been pretty much convinced by what

you have exhibited already and unless the members of the Committee wish further evidence along these lines, we will proceed.

Is that agreeable to you?

ASSEMBLYWOMAN HUGHES: It is very agreeable, except that now this one has been put up - what are those marks? Is that skin something or is it -

DR. HENLE: Well, here's a fresh fracture.

ASSEMBLYWOMAN HUGHES: Well, on the body, the torso.

DR. HENLE: Oh, those are safety pins.

ASSEMBLYWOMAN HUGHES: No, I didn't mean the safety pins. There seem to be marks all over that.

DR. HENLE: The black?

ASSEMBLYWOMAN HUGHES: Yes.

DR. HENLE: That's intestinal gas. That's a normal finding. The abnormal finding is in the bone - one there, one there, and one there. This is an old healed one and this is a fresh one. The child is progressively being mishandled.

ASSEMBLYMAN GELBER: Mr. Chairman, I think I've seen enough pictures to be convinced of the abuse.

ASSEMBLYWOMAN HUGHES: I didn't even need the pictures. The report from the Commission was enough.

ASSEMBLYMAN MARAZITI: Well, thank you very much, Doctor.

I would like to call on Dr. Rathmelle at this time.

DR. T H O M A S K. R A T H M E L L : Mr. Chairman and members of the Committee, I am Thomas K. Rathmell; I practice pathology at Mercer Hospital and I have been in the State of New Jersey for some 16 years. I appear before you this morning representing the Mercer County Component Medical Society.

This bill was discussed at the past meeting of the Council. It is their opinion that it's a good bill; it is well written and it should be enacted into legislation. The only question that was raised was the question to assure that the physicians and the hospitals had immunity and that this immunity was of a permanent and lifetime character.

Thank you very much for letting me appear here.

ASSEMBLYMAN MARAZITI: Thank you, Doctor.

Are there any questions? If not, I would like to call on Rev. John R. Green.

R E V. J O H N R. G R E E N: I am the Reverend John R. Green and am Director of the Department of Social Welfare of the Greater Newark Council of Churches. I live at 266 Fourth Avenue, East Orange. I am representing the Greater Newark Council of Churches at this hearing.

The Greater Newark Council of Churches believes that the passage and enactment of Assembly Bill 514 would represent a milestone in the prevention of cruelty to children. Only such a legal measure as provided by this proposed legislation would insure the complete protection of children from certain hostile and aggressive forces which threaten and often wreak horrible destruction on their young lives.

Assembly Bill 514 offers an effective method of determining legal proof of the evidence of brutality to children without which friends of children, brother neighbors, teachers, clergymen or doctors are often powerless to alleviate or prevent.

The Greater Newark Council of Churches is deeply appreciative of the opportunity to be heard regarding this matter. I want to add that this is my formal statement - that this situation with reference to brutality to children has created considerable problems among the clergy also, as well as physicians. We have had our own peculiar problems to deal with. I didn't intend to elaborate on that unless requested or unless you wanted to hear it.

ASSEMBLYMAN MARAZITI: Would you be interested in hearing Reverend Green's formal statement on the other subject? Is it very long?

REV. MR. GREEN: It wasn't a statement. I just appended it to this as my formal statement.

ASSEMBLYMAN MARAZITI: Well, suppose you let us have copies of your formal statement.

REV. MR. GREEN: Certainly. I am sure that will be of assistance to the Committee.

ASSEMBLYWOMAN HUGHES: I have a question, Mr. Chairman.

Do I infer that because clergymen are not included in this bill in the immunity which would go to doctors and hospitals, you feel you can work through the doctors and the hospitals in getting them to report anything? Do I infer that correctly?

REV. MR. GREEN: Yes, this is it. This would be very fine procedure for us because we at the present have no such procedure. Often there are difficulties of pastoral relationship here too. Even though the parent is treating a child cruelly, we have a pastoral relationship with that parent. Sometimes things that the parent tells us that are evidence of things that are going on are things that are told in pastoral confidence, and sometimes, of course, it's a case of mental derangement and the like. But this would enable us to call this to the attention of doctors and hospitals, and we run across many cases like this, so it would be most helpful from our standpoint also.

ASSEMBLYMAN MARAZITI: I would like to call on William S. Hart, Sr., Director of the New Jersey Youth Division. Director Hart.

W I L L I A M S. H A R T, S R.: Mr. Chairman, Assemblywoman Hughes, and Assemblyman Gelber: I am William S. Hart and reside at 50 Elliott Place, East Orange, New Jersey, and I am Director of the New Jersey Youth Division. As Director of the New Jersey Youth Division, a citizen of the State of New Jersey, and father of five children I am here today to testify in support of Assembly Bill 514. The Division is certainly beholden to Doctor Murray, Chairman of our Health, Mental Health and Education Committee; Dr. Leontine R. Young, who is Chairman of our Battered Child Syndrome Sub-Committee, and to each member of the sub-committee for the great number of hours spent studying the child abuse problem before supporting this legislation.

We are equally thankful and grateful to Assemblyman Gelber of Bergen County and his fellow Assemblywomen and Assemblymen for introducing this needed legislation. We certainly must acknowledge Governor Hughes' interest and support for this bill.

This bill is designed to protect the children of the State of New Jersey. That's the Number 1 purpose of this bill. Secondly, it is to afford immunity to the citizens who act in a professional capacity in helping to protect New Jersey's children.

In recent weeks, the Youth Division's belief that this type of legislation was needed has been supported by many organizations of our State. Two of these I don't think are represented here today, but if you have been reading the papers I know that you are aware that the Federation of Women's Clubs, when they were in here, supported unanimously our legislation and on Student Government Day the students themselves, the young people of the State of New Jersey said that this type of legislation is needed in our State, and this was made known by them publicly and by newspaper articles. The need is here and, as has been said before by Dr. Murray, every day New Jersey postpones approval of this bill may mean additional abused children and even could go as far as death. Child abuse may occur in any neighborhood among families of all social and economic levels. The seeming reluctance of many people to believe that child abuse exists and the failure of some people, because of exposure, to report abuse cases will, we believe, lessen with the passage

of this legislation.

Two similar reporting laws have been passed here before and, naturally, they are gunshot wounds and narcotics, and other things, as has been mentioned before, and they are presently on our statute books.

We urge immediate passage of Assembly Bill 514.

Thank you very much.

ASSEMBLYMAN MARAZITI: Thank you, Director. Are there any questions, Assemblywoman?

ASSEMBLYWOMAN HUGHES: No questions, except that again I want to express congratulations for the work of the Division.

ASSEMBLYMAN MARAZITI: I would like to call on Mildred Mahncke of the New Jersey Welfare Council.

M I L D R E D C A M P B E L L M A H N C K E:

My name is Mildred Campbell Mahncke; I live at 132 Voorhees Ave., Pennington, New Jersey. I represent here today the New Jersey Welfare Council, where I am Secretary of the Board and co-Chairman of the Legislation Committee. The New Jersey Welfare Council is a state-wide voluntary agency which coordinates the activities of public and private organizations, professional workers and volunteers. Founded in 1901, its membership now includes approximately 200 organizations and 800 individuals. The Council's primary objectives are to maintain and improve the health, education and social welfare of the citizens of our State. It pursues these goals through action committees voluntarily staffed by its members.

The Board of the New Jersey Welfare Council actively supports passage of Assembly Bill 514, under consideration by your committee today. This support derives from our long concern for the rights of minor children, especially for their right to grow up in a world where they are nurtured and loved rather than starved and abused. The bill is designed to protect from further injury children who have been physically abused by adults entrusted with their care; it seeks to accomplish this by requiring that physicians and hospital administrations report to designated authorities all injuries to children which are suspected of being non-accidental in origin. The Welfare Council's Legislation Committee and Board of Trustees have studied A-514 with care. They believe that it will accomplish its stated objective. They urge this committee to report it immediately and favorably to the Assembly.

The child has become in our time a person in his own right, rather than the possession of his parents. The growth of a sense of responsibility for him has caused new social valuations to attach to him and has engendered new legal concepts concerning his rights and relations. These have been spelled out by New Jersey and other States in a considerable body of statutory law, much of it enacted under the stimulation of THE CHILDREN'S CHARTER formulated by the 1930 White House Conference on Child Health and Protection.

The United States Children's Bureau has pointed out in a pamphlet GUARDIANSHIP: A WAY OF FULFILLING PUBLIC RESPONSIBILITY FOR CHILDREN that this public policy of

protection for the child is reflected especially in laws that presume his lack of capacity and responsibility to protect himself; that prohibit and regulate conditions harmful to his morals, health, and security; and that prescribe procedures for effectuating and enforcing his rights and the responsibility of others toward him. Fundamentally, it is the duty of parents to meet this responsibility for their own children. Additionally, however, it is the duty of the State to supplement - or even in the extreme case to substitute for - parental efforts whenever needed to further the best interests and welfare of the child.

From these basic ideas there derive statutes which entitle the child to special protection on the part of the courts and other social agencies.

Generally, these agencies are impressed with the duty of actively protecting the rights of minors, whereas adults must protect their own rights. This is possible, however, only when the minor requiring protection - either beyond that afforded by his parents or from actions of the parents themselves - is brought to the attention of the appropriate social agencies. Assembly Bill 514, by mandating physicians' reports to the county prosecutor or the Bureau of Children's Services, is thus one implementation of the State's responsibility toward minor children, specifically directed toward the child who suffers physical abuse deliberately inflicted by the hands of adults.

The bill further foresees and takes steps to remove the special handicap under which physicians and hospital administrators would ordinarily act in reporting abuses coming to their attention. The professional relationship established where the physician treats a child-patient is unique. Medically, the relationship runs between doctor and child; legally it runs between doctor and parent. The patient, though a legal person, is under certain disabilities at law, created originally for his protection, which may here restrict him from effective action on his own behalf. In consequence, under the presently-existing New Jersey statutes, parents may take various means to recover damages from the physician who reports abuses which he honestly believes have occurred but which are not subsequently substantiable in court. A-514 would free the doctor to bring suspected abuses to the attention of suitable public agencies by granting him immunity from civil and criminal prosecution deriving from reports based on necessarily subjective decisions.

The New Jersey Welfare Council believes that enactment of A-514 will assure to many children the larger society's protection against continued physical abuse by individual adults. They lack that proper protection today. Let us make certain that they have it tomorrow. Thank you.

ASSEMBLYMAN MARAZITI: Thank you very much. Are there any questions? If not, I would like to call on Dr. David Eckstein.

D R. D A V I D E C K S T E I N: I am Dr. David Eckstein of 725 Greenwood Avenue, Trenton, New Jersey. I represent the Mercer County Component Medical Society, and I am a practicing physician in this community, handling a large number of welfare cases.

I appear in support of Assembly Bill 514 and I appear primarily as a private physician, a practicing physician, and I would like to give you in a few sentences my reaction to the mandatory aspect of this bill.

As a physician, I welcome the mandatory reporting that is incorporated in this bill. It does not represent to me the heavy hand of government interfering in my practice but gives me the opportunity to cooperate in this very, very important area of child care. It makes me a much more efficient agent in preventing and treating this type of injury. In addition, it converts what might have been just a persuasion or a suspicion into a dignified legal and moral act, because knowing that I have immunity I am willing to follow my inclination without worrying what the penalties will be. I repeat, therefore, that I appear here in support of Assembly Bill 514, and thank you for the opportunity of being heard.

ASSEMBLYMAN MARAZITI: We thank you, Doctor. Are there any questions?

I will call Mrs. Rita M. Parrott.

R I T A M. P A R R O T T: I represent no organization or agency. I speak as a mother and as an individual.

ASSEMBLYMAN MARAZITI: Let me assure you on behalf of the Committee that certainly we are very happy to hear from you in your highly representative capacity of many mothers.

MRS. PARROTT: Thank you.

I am firmly opposed to Bill 514. Before saying why, however, let's quickly dispel any mistaken notion that I wish to espouse the unpopular cause of child beaters. Far from it. Nevertheless, however worthy the cause of defenseless children and however culpable and detestable their inhuman and sadistic offenders, I must seriously question the prudence and constitutionality of any legislation designed to release doctors from personal responsibility for the truth of their testimony or reports. On the surface, this bill would appear to be a harmless piece of legislation, even one of great merit - the kind that P.T.A's and women's groups are apt to support because its sole purpose appears to be that of championing children. Under closer and more thoughtful scrutiny, however, it shows itself to be contrived, insidious, and a subterfuge. Therefore, I'm against it on the following grounds:

First, such a law would be undemocratic and unconstitutional because it seeks to place doctors above the law and above the ordinary citizen. Secondly, it deprives the individual of his right to recover damages when unjustly accused on insufficient evidence. Third, conceivably it

could, if enacted, be extended to include all professional testimony such as that of teachers, school officials, psychologists, clergymen, and so forth. Fourth, it subscribes to the erroneous principle that the end justifies the means. Fifth, it is unnecessary and is a superfluous measure.

Why do I say it's unnecessary? Because, as my local newspaper, the Asbury Park Press points out, the law has always dealt harshly with child beaters, and rightly so. It further correctly states in a majority of these cases the physician's testimony offers the most persuasive evidence. Why then does the Press and other papers and periodicals feel there is a need for the proposed legislation? Certainly where abuse is obvious in professional opinion, and where a respected doctor knows with certainty whereof he speaks, the verdict is not likely to end in acquittal and the doctor is on firm ground, as he should be. However, if he offers an opinion based on insufficient rather than persuasive evidence, the parents under law must be acquitted, in which case they most certainly should be entitled to recover any loss of prestige or embarrassment they may have suffered. Happily, so would the doctor be entitled to recover in a similar situation, which brings up the interesting point - what non-professional without sufficient evidence could testify with immunity that a doctor abused his children?

Another reason why I consider such a measure unnecessary and even superfluous is the fact, the all-important fact, that present law is quite adequate in

this respect in that it already imposes an obligation or legal burden on each and every one of us, regardless of status or profession, to report to the authorities any serious crime of which we may have positive knowledge. Indeed, not to do so is to be guilty of concealing knowledge of a crime, which in itself is punishable by law. Therefore, why should special legislation be necessary to impose an obligation which already exists under present law? Why, too, does the press seem to feel that the mere imposition of such a legal burden can automatically release any witness, even a doctor, from personal responsibility for the truth of his statement? If anything, the existence of legal burden should heighten responsibility, not eliminate it. Also, it just so unfortunately happens that there is another legal burden the press forgot to mention, known as the burden of proof. And this burden is incumbent upon us all without exception when testifying against another. So let it be with doctors.

Finally, why should the press or the courts be so concerned about protecting doctors from suits anyway? Since when does the performance of an obligation, both moral and legal, depend upon the convenience of financial outcome? If a doctor is found to have concealed knowledge of a crime solely out of concern for his bank balance, is he not as guilty and liable under the law as any other reluctant witness with selfish interests? Is the press now endorsing the stand that morals are secondary to financial consideration? It seems to me that the authors

of this newly-proposed bill who would wheedle doctors into testifying with attractive promises of protective legislation enacted just for them, display a dangerous contempt for due democratic process and those precious constitutional devices which protect the rights of the ordinary work-a-day citizens as well as those of the professional.

This bill, if passed, would violate the doctor-patient relationship, making both parties suspect. Under the provisions of this bill, many innocent persons could automatically become suspect and thus be placed in the embarrassing and undemocratic position of having to prove innocence where there may be no guilt. The medical profession would in effect become an important adjunct of what threatens to become a police state and this in turn could lead to all sorts of corruption and influence-peddling, not the least of which would be bribery and hush money tactics, of which far too many doctors unfortunately are entirely capable. It could react unfavorably to the very children it purports to protect in that even innocent parents, through fear of appearing guilty, might not seek medical aid in an emergency requiring it.

I'm in sympathy with the child victims of the kind of abuses described in the testimony I have heard and read but I would also like to draw attention to the fact that all the cases cited were brought to public attention and some parents were indicted and subsequently convicted without benefit of this newly-proposed legislation,

indicating that present law is indeed adequate in this regard.

I also would like to point out that the proposed legislation can in no way prevent this type of abuse. If it can indeed prevent, I'd like to know by what constitutional means in a free society such prevention can be made feasible. The pictures shown and the testimony heard prove only that a bad condition exists. This we know. It does not prove that the proposed legislation can constitutionally do anything about it. I am unalterably opposed to Assembly Bill 514.

ASSEMBLYMAN MARAZITI: Mrs. Parrott, I think at the outset, in fairness to the doctors I should call your attention to a remark you made that indicated that doctors might be concealing evidence of a crime out of consideration or regard for their bank balance. I feel, as the Chairman of this Committee, that I should make the statement that that remark by you is unwarranted. There is no evidence of that and it is a very broad statement, and I merely want to cite for the record, as Chairman of the Committee, that the members of the Committee do not concur in that statement.

MRS. PARROTT: May I respectfully submit that this could be the case. After all, their reluctance to testify is based on the fear of suit which does mean fear in regard to their bank balance.

ASSEMBLYMAN MARAZITI: I think that the medical profession, as many of our professions, is a very honorable profession; there are many very honorable men there who

devote their lives to society, and I don't think you meant it that way. And I don't think we should in any way indicate that doctors as a whole would do what you suggest, and I think that the doctors certainly must be concerned about possible criminal prosecution because of the status of the law. But we are not interested in that phase of it. I wish to make the statement; I don't wish to labor it, and I do think that perhaps you may not have meant it the way I may take it.

MRS. PARROTT: With all due respect, I did mean it that way. It may not apply to the great majority of doctors, and I hope it doesn't, but neither do some of the things we heard here about parents fortunately apply to all parents.

ASSEMBLYMAN MARAZITI: Well, I don't think you can make the statement as applying to any doctor unless you are ready to prove it. Now, let's not labor that point any further.

I would like to ask you a question or two on some of these points: You stated that the present law is adequate and you gave us as a reason that the law requires, and it does require, the reporting of a crime. If a person has knowledge of a crime, he must report the crime. That is true. But, Mrs. Parrott, this bill requires the reporting of indications or of suspicion of the violation of the criminal laws. Criminal law may not necessarily be violated, but if a doctor has suspicion that it has been violated, then, as one of the witnesses testified,

he would report this to the Prosecutor of the county who would then make his investigation. Now, is it true as a practical matter that although there are convictions for child beating, as you pointed out, and the law deals harshly with child beaters, it is very likely that there may be many cases that never come to the attention of the authorities?

MRS. PARROTT: Yes, that's true. That's so with any criminal case other than child beating. We cannot encourage people to inform, I don't feel, in a free society. This applies to all crime, not just child beating. We cannot change the law in one area.

ASSEMBLYMAN MARAZITI: Well, do you see the distinction I am trying to make that perhaps a doctor does not have full evidence that there has been a crime but he has suspicion and if this law would enable him to report to the prosecuting authorities, don't you think there is some good that could come from it? If an investigation is made and there is no evidence of a crime, that's the end of it, but if there is evidence of a crime then the offender could be prosecuted. Don't you see that much benefit in the law?

MRS. PARROTT: Well, I think wherever a doctor has reason to suspect, he is on pretty firm ground. And I think usually his medical testimony is enough in accord. For the most part, as you said, doctors are usually good ethical men and when they feel that this is so, I think they usually have good reason. I think they could explain in court that ~~there~~ was no malice; there was no intent to

harm the reputation of any person, and they could present adequate reason why they voice this suspicion. There are certain conditions which would have to exist before the parent in question would be acquitted.

ASSEMBLYMAN MARAZITI: I just have one more brief question:,, You have heard a number of individuals, doctors and others testify here this morning and they indicated that in their opinion a considerable number of child beating cases could be brought to the fore if a bill like this were enacted, which indicates to me that perhaps from a practical standpoint, even though the law is as you stated it is today, we are not actually getting all the information we should have and that this bill will assist in that regard. Do you think that is a point in favor of the bill, or don't you agree with that.

MRS. PARROTT: No, I don't think that would be a point in any phase of the law regarding any kind of a crime. I think in America, we are considered innocent until proven guilty. This bill would have the effect of making maybe innocent people almost be guilty until they could prove their innocence.

Also, I haven't heard anyone say how they propose to prevent these abuses. They speak of how a parent who was at fault could be apprehended and prosecuted. Well, we are doing that now, and it's also brought to public attention. But it doesn't say how, once this is brought to public attention and once this case is dealt with, it can be prevented in the future. In a free society,

there can't be too much prevention. It would be very simple if we could operate on this prevention principle. We could prevent all crime.

ASSEMBLYMAN MARAZITI: Well, perhaps the prevention to some extent would come to the fore by the fact that if, as is the basis in criminal law, the individual realizes that punishment is certain, he may not commit the crime. It doesn't always work out. And if the rules of evidence and procedure, as this bill attempts to bring about, and investigations are provided to bring to the fore violations of the criminal law, that might have the effect of preventing some of this crime.

MRS. PARROTT: I must respectfully disagree. Just one point and then I'll be finished. The type of person who commits this type of crime isn't the kind who is rational enough to be inhibited by anything. Most of it is committed in the heat of passion. Some of them probably are not mentally competent and some of them are just criminal type people. And I don't think they are going to stop in their wrongdoing to say, "Well, a law exists which could put me in a bad spot." Fear of the law isn't doing away with crime at present.

ASSEMBLYMAN MARAZITI: Thank you. I think the Assemblyman has some questions he would like to ask you.

ASSEMBLYMAN GELBER: I would rather answer some of the questions you have raised, Mrs. Parrott. You mentioned at the very beginning about including clergymen. Don't you feel that that would somehow interfere with their

pastoral duties and the relationship between the pastor and the parishioner to have the pastor report any incidents?

MRS. PARROTT: Certainly.

ASSEMBLYMAN GELBER: So, therefore, you are not sincerely interested in including clergymen in this bill.

MRS. PARROTT: Well, yes, I think to act in such a capacity would spoil the pastor-parishioner relationship. For that very reason, I would object to clergymen being given immunity such as the doctor is given, and I think conceivably, as I said before, that this immunity could be stretched to include all kinds of professional testimony so that eventually we would have a professional elite who would be above the law.

ASSEMBLYMAN GELBER: Well, let me explain this to you, Mrs. Parrott. You kept mentioning the obligation that presently exists under the law. There is no obligation under the law at the present time for anyone to report to the Prosecutor's Office or any law enforcement agency their suspicion that there has been the possibility that a child was abused, unless of course the informer witnessed the actual commission of a crime. And I just want to clear that up to start with. What this does do; what this law does accomplish is to put an obligation upon the hospital and upon the doctor to report suspicion to the Prosecutor's Office. The Prosecutor's Office will in turn conduct an examination and a complete investigation to determine whether or not a crime has been committed. If

it has been committed, because this now becomes a crime, then the matter is presented to the Grand Jury, which then determines whether or not an indictment should issue. When and if an indictment is issued, then the defendant for the first time is brought to trial; then for the first time he has an obligation. Now, under no circumstances does the burden of proof ever change. The constitutional privilege of being innocent until proven guilty has not been changed by this bill when it's not intended to change, and I think that your fears are without foundation; I think that your criticism of the bill is without proper foundation. You mention about prevention of these abuses. Well, the Legislature cannot prevent abuses. The Legislature can only do its part to help to catch the offenders or to put certain machinery in operation so that offenders can be more readily apprehended and brought to justice. And the only way that can be done is to force by this bill the doctors and hospitals to report what they suspect has taken place. I know from my investigation and my experiences that in many cases in the past, a child is brought into the hospital by a parent and the parent will say that the child fell down the stairs. And while the child is being treated, the child will say, "Well, my daddy didn't mean to do it; my daddy didn't mean to throw me down the stairs." And there is nothing that the hospital is going to do about it, because they are not going to take the word of a child, or the physician will not take the word of a child to

report the matter to the Prosecutor's Office unless he knows that he's getting some immunity in the event that the party should be found not guilty at a trial.

Now, we rely upon the social agencies; we rely upon educating the public, and we rely upon the law enforcement agencies to prevent the abuses. All we are doing is implementing the means by which to do it, and the Legislature cannot prevent it in the future any more than it can prevent any other crime.

MRS. PARROTT: Well, the papers have been full recently of any number of cases that have been brought to public attention without the benefit of legislation such as you propose, and when you speak of the burden of proof I would like to ask - in a court, upon whom is the burden of proof placed if not the accuser?

ASSEMBLYMAN GELBER: The burden is always on the accuser.

MRS. PARROTT: Well, not if the doctor is making his report in a devious manner .

ASSEMBLYMAN GELBER: It still does not change the burden of proof. The defendant who is brought before the bar of justice is considered innocent until he is proven guilty. The doctor merely becomes a party who will testify if he's called upon to testify, and he may not be. I don't know how they will try their case, and I won't begin to tell the Prosecutor how his case should be tried in court. But the doctor may well be called as a witness.

MRS. PARROTT: Well, that should be looked into

at the outset. That's an important part of this bill.

ASSEMBLYMAN GELBER: Well, he would be brought in as a witness as any other witness would be brought in. The child may be brought in, a neighbor, or anybody else may be brought in as a witness, but this sets the machinery in motion, because for every case you have read about in the newspaper I would venture to say there are 50 cases that are never in the newspaper and are never brought to the attention of anybody. And I assume that there are many children who have grown up, despite these injuries which have never been called to anybody's attention.

MRS. PARROTT: Well, this bill won't change that one iota. Parents of this stamp will continue to do what they are doing, because they are the kind of parents they are, and this type of legislation will in no way affect them.

ASSEMBLYMAN GELBER: Mrs. Parrott, if this bill was able to stop one case of child abuse it's worth having this bill put through the Legislature.

MRS. PARROTT: I'm sorry, but I don't agree for the reasons stated here.

ASSEMBLYMAN MARAZITI: You have a right to your opinion and the Assemblyman has too.

Now, Assemblywoman Hughes would like to ask some questions.

ASSEMBLYWOMAN HUGHES: I'm a mother too, so let's get that straight. You made a remark about this bill and I am going to ask you now, do you disapprove of mandatory reporting at the present time, which is law, of gunshot

wounds and the use of narcotics?

MRS. PARROTT: Of what?

ASSEMBLYWOMAN HUGHES: Of doctors having to report gunshot wounds and narcotics?

MRS. PARROTT: Oh, certainly.

ASSEMBLYWOMAN HUGHES: You approve of that?

MRS. PARROTT: Certainly.

ASSEMBLYWOMAN HUGHES: You approve of mandatory reporting by doctors of those two things?

MRS. PARROTT: Certainly, because a gunshot wound -

ASSEMBLYWOMAN HUGHES: Well, let's not go into that. But you approve of doctors having to report those two things.

MRS. PARROTT: Yes.

ASSEMBLYWOMAN HUGHES: But you disapprove of doctors having to report child abuse -

MRS. PARROTT: On suspicion only. There's no doubt it's wrong for a gunshot wound to be inflicted on anyone; you know something wrong has happened, and that must be reported. He may not know possibly who inflicted the gunshot wound but he must report that it was inflicted; he has positive knowledge of that when he sees the wound. But to report something on suspicion flies in the face of constitutional law.

ASSEMBLYWOMAN HUGHES: The reporting, under this bill, would be to the Prosecutor, who could then initiate the proceedings. I am saying this is what would be done. Have you read the bill?

MRS. PARROTT: Yes.

ASSEMBLYWOMAN HUGHES: You know what the provision is?

MRS. PARROTT: Yes.

ASSEMBLYWOMAN HUGHES: That when it is reported to him, the Prosecutor shall initiate an investigation, and if the investigation shows nothing, then there is nothing done; if the investigation shows reason for proceeding, then the Prosecutor will proceed according to law as it is provided in this bill. And then testimony will be brought in court. This would be then a regular legal proceeding. So, therefore, on one case you seem to believe, from the remark you made, that the doctors themselves should bring proceedings. Am I correct that you said that you felt that the doctors themselves, if they had this suspicion, should initiate -

MRS. PARROTT: Not if they just have a suspicion; that's what I'm opposed to. But a doctor can usually tell, and doctors have gone into court right today and they have not had lawsuits brought against them; and, as the papers pointed out, the doctor's testimony, because he knew what he was talking about, was persuasive testimony and the parents were not acquitted.

ASSEMBLYWOMAN HUGHES: Even now, if a doctor is sure, do you feel that he should initiate the legal proceedings ?

MRS. PARROTT: Why not? I think anybody has the obligation to report something.

ASSEMBLYWOMAN HUGHES: I am not talking about reporting; I'm talking about initiating a legal proceeding. Do you feel that doctors should do that now?

MRS. PARROTT: Well, I haven't given it that much thought, but bringing it to the attention of the authorities, if you call that initiating it, I would say, yes.

ASSEMBLYWOMAN HUGHES: Well, bringing it to the attention of the authorities is one thing. Initiating a legal proceeding against a person is quite something else.

MRS. PARROTT: Well, a citizen can report any wrongdoing to the authorities and they will initiate it.

ASSEMBLYWOMAN HUGHES: Under this bill a doctor will report something he feels is reportable to the top legal person in the county, the Prosecutor, who is by law the one who will investigate -

MRS. PARROTT: The difference in what you are saying and what I'm saying is the fact that in my case he must know almost beyond a doubt, not just feel or suspect. I think this just flies in the face of constitutional law, as I said, and why should it apply in just the case of children? Why don't you believe this type of thing could extend to all other areas of wrongdoing, and the courts would no longer be democratic?

ASSEMBLYWOMAN HUGHES: Well, now, let me come to another point: You, in your remarks in answer to one of the questions, seemed, as I see it - I don't have what you said; I didn't take it down - but you seemed to say the mentally ill are criminal type persons- That is the remark I think you made.

MRS. PARROTT: No, I didn't say they are criminal. I said the parents who do this type of thing are usually

mentally unbalanced or of the criminal type, or maybe just cruel. I didn't say that mentally sick people are criminal people.

ASSEMBLYWOMAN HUGHES: Well, I hope you wouldn't.

MRS. PARROTT: Each is dangerous in his own way.

ASSEMBLYWOMAN HUGHES: But as I understood, you said mentally ill, these criminal type people.

MRS. PARROTT: No, I didn't. I differentiated; I said that parents who do this type of thing are either mentally - I said they would continue to do this despite this legislation, that this legislation will prevent nothing because the type of parent who does this type of thing is either mentally ill or he's criminal himself, or he's cruel, and he certainly isn't going to be inhibited by a law; he's not inhibited by the law as it stands today; neither is any criminal. If he were, just the existence of law would have a perfect --

ASSEMBLYWOMAN HUGHES: Do you think any of our laws are not deterrents? Do you feel that none of our laws are deterrents to people who are prone to commit crime?

MRS. PARROTT: Well, I think there may be technicalities occasionally that would seem to circumvent justice at times but I think, for the most part, present law is better than the new law that has been proposed.

ASSEMBLYWOMAN HUGHES: The new bill.

MRS. PARROTT: The new bill.

ASSEMBLYWOMAN HUGHES: Well, I'm glad you came because, frankly, I saw no reason for holding a hearing if everybody was going to be for the bill. So I'm glad

that we had some opposition because that justified my taking a day off and coming down here. However, I will examine the testimony very carefully because I am quite concerned that you should not equate mentally ill people with criminals.

DR. MURRAY: May I ask a question?

ASSEMBLYWOMAN HUGHES: You will have to ask the Chairman. Ordinarily, Doctor, the questions come from the hearing body. If you want to have one of us ask the question, the procedure is to give us the question and we will ask it.

DR. MURRAY: Well, she mentioned the Asbury Park Press. I wasn't quite clear, because I had two lead articles here on the proposed legislation.

ASSEMBLYWOMAN HUGHES: Well, I will ask the question:

MRS. PARROTT: I am not familiar with the articles.

ASSEMBLYWOMAN HUGHES: Did the Asbury Park Press, since you mentioned it -

MRS. PARROTT: They are for this bill. But I just took two of these statements out of context, and the thing about my testimony is - I don't even have that written down about the criminal type.

ASSEMBLYWOMAN HUGHES: Well, it has been taken down and we will have this on the record.

MRS. PARROTT: That's perfectly all right, as I said it. But it doesn't appear in here, because I said that extemporaneously.

ASSEMBLYWOMAN HUGHES: Well, it's part of the record.

MRS. PARROTT: I hope it is.

MR. HART: I have two very brief questions.

ASSEMBLYMAN MARAZITI: Just a moment. Let's get the attention of Mrs. Parrott.

Mrs. Parrott, I wonder if we could have your attention for just a moment. Director Hart has a question he would like to submit to you through the Chairman.

MR. HART: I would like to know - there are two parts to the question - if she has read this bill.

ASSEMBLYMAN MARAZITI: She has.

MR. HART: Well, paragraph 5 of this bill - you could ask that we read it to her - will explain-

ASSEMBLYMAN MARAZITI: Well, will you read paragraph 5; it's very short, and I think that will dispose of that matter.

ASSEMBLYWOMAN HUGHES: That's the question that I asked before, Mr. Chairman, and she said that she was familiar with the bill. I question that she is familiar with it, because paragraph 5 is very clear.

MR. HART: Do you wish me to read paragraph 5 of the bill?

ASSEMBLYMAN MARAZITI: Do you have it, Director?

MR. HART: Yes. And I would like to read the part about the Bureau of Children's Services, because I've heard it said that the bill says nothing about what can be done.

ASSEMBLYMAN MARAZITI: Well, perhaps the Assemblyman could read paragraph 5.

ASSEMBLYMAN GELBER: Paragraph 5 reads: "Upon receipt of such report the county prosecutor shall cause the matter to be fully investigated and shall, as the results of his investigation may warrant, proceed in the manner prescribed by the laws relevant to criminal

prosecution, or file a complaint with the Bureau of Children's Services in accordance with the provisions of law relevant to protective services for children."

ASSEMBLYMAN MARAZITI: Do you have another question, Director?

MR. HART: No, that's all.

MRS. PARROTT: I have one other question. Now, under this newly proposed bill, doctors have this duty to report even if it's just a suspicion. You said this is also extended to the ordinary citizen - anyone in the community. Under such a bill, we could have all kinds of abuses and inconveniences where anybody could take advantage of a law like this and use it to make trouble. A person could be constantly subjected to harrasing investigation -

ASSEMBLYMAN GELBER: A citizen does not have immunity, and a citizen will hesitate before he will report his suspicions of an incident.

MRS. PARROTT: Well, I think it's wrong, regardless of the doctor's professional standing.

ASSEMBLYMAN MARAZITI: Thank you, Mrs. Parrott.

At this time I would like to introduce Assemblywoman Marion Higgins who is the Majority Leader of the State Assembly, and I am very happy to say also a co-sponsor of this bill.

Assemblywoman Higgins, would you like to speak to us briefly?

ASSEMBLYWOMAN HIGGINS: Thank you, Mr. Chairman. I am very pleased to come here today to add my accord, of

course, to this legislation. I think that this is going to have a tremendous effect on alleviating a very serious problem we've had in the past. If it does nothing more than call attention of the doctors to the fact that something can be done to help these children, it will serve its purpose.

I'm so pleased with the immunity clause in the legislation because I feel that this will take care of a very serious problem.

I want to publicly thank the Youth Study Commission for the great assistance they have given us on the preparation of this legislation. I think that this is the type of thing that they do so well in their work for the youth of the State of New Jersey and they should be commended. I am seriously concerned with this problem of the abuse of children. I think the recent newspaper stories have called it to our attention. I'm very confident that this bill will receive favorable attention in the Assembly, and I am hoping for a speedy passage.

Thank you, Mr. Chairman.

ASSEMBLYMAN MARAZITI: Thank you very much for being with us, Assemblywoman.

At this time I would like to call upon the Chairman of the New Jersey Youth Commission, Mrs. Vervaet.

M R S. A R T H U R W. V E R V A E T: Thank you very much. I am Mrs. Arthur W. Vervaet, Chairman of the New Jersey Youth Commission. I don't intend to take much of your time because I feel that the merits of this bill have been very ably presented here this

morning by expert witnesses who are much more qualified than I to go into the details of how helpful it can be to the little children of the State of New Jersey.

In view of Mrs. Parrott's testimony, however, I would like to address myself to one point which she raised, which I don't believe has been answered : Mrs. Parrott feels that this bill will not help to prevent child abuse. I can agree with her to some degree that for emotionally-disturbed parents and people, the deterrent effect of a law does not often apply, because crimes such as beating and maltreatment of a small child are usually committed in the heat of great emotion, anger, rage, or upsetment. However, if doctors are able to report their suspicions to the Prosecutor, and the Prosecutor, upon careful investigation, discovers that this was child abuse, the second offense can be prevented.

One of the things that horrified me most about the pictures which were shown here this morning is that there were broken bones which had healed and then new ones. Child abuse is not an isolated incident. Someone who is capable of this because of their own illness or their pathological personality will continue to do so. Now, in this State we are fortunate in having extremely progressive legislation which governs the Bureau of Children's Services. It is possible for that Bureau, when they are aware that a child is in an unsuitable home, to institute proceedings to remove the child temporarily, hopefully, to see that the parents receive

proper treatment and in general try to improve the fundamental situation which caused the incident in the first place. We have this, and this bill will help us make much better use of it, I believe.

I would like to say that I have been impressed and grateful for the very hard work done by Dr. Murray and Dr. Leontine Young and their extremely able committee in carefully setting this legislation. They went through months and months of meetings. It is not a bill which was just lifted from another State. It was evaluated in terms of New Jersey and changed, and I believe that they have done an excellent job. We are also very grateful for having such a fine roster of Assemblymen and women as sponsors of this bill.

Thank you very much.

ASSEMBLYWOMAN HUGHES: Thank you, Mrs. Vervaet.

While the Chairman is absent, he has asked me to call the next witness, who is Gibson LeRoy.

G I B S O N L e R O Y: I am Gibson LeRoy and my home address is 573 Daniels Avenue in Trenton. I am State Legislation Chairman, New Jersey Congress of Parents and Teachers, better known, perhaps, as the PTA. This, as you may be aware, is an organization of nearly 500,000 membership covering the entire State of New Jersey.

One of the main planks in our platform or our statement of aims is to secure laws for the protection of children. We can think of no protection more needed than in the area of parent and child when the parent fails to exercise good

judgment in the treatment of that child, especially to the extent of inflicting cruel and brutal acts. The child is so obviously helpless, even to the point of fearing retribution if he tries to complain outside the family. The need is obvious, therefore, for protection to be provided. It is our opinion that this bill, A-514, will take a big step in the right direction. To be opposed to this bill would, in my opinion, be tantamount to favoring sin. Frankly, we do not want to protect the rights of people who beat children and give them immunity.

I would like to stress the point that was made just recently - I noted it myself - on the question of prevention, both from the standpoint of a deterrent - the important point that was just mentioned is the continued abuses which can by this method be checked to the point, if necessary, of taking the child away from an irresponsible parent.

Thank you.

ASSEMBLYWOMAN HUGHES: Is there anyone else in the room who wishes to testify?

W I L L I A M H. H U B E R: My name is Huber, and I am County Prosecutor of Ocean County, and I am a member of Dr. Murray's Committee. I live at 44 Mitchell Drive, Toms River, New Jersey. I am a member of the Battered Child Sub-Committee.

I am sorry that Mrs. Parrott left but her remarks are on the record, and I think possibly an answer from a Prosecutor might be of interest to the Committee. I

can assure the Committee that the same safeguards that any potential defendant has from the law are going to continue in effect. The Prosecutor is not, under this bill or any other measure, going to run out and investigate everybody against <sup>whom</sup> a malicious or ill-founded complaint is made. Every Prosecutor has citizens coming into this office every week in the year with complaints against their neighbors, largely unfounded.

When the information is presented to the Prosecutor from a physician, the Prosecutor will look into the matter. His inquiry alone may very well help other children in the same family and may very well help the same child, assuming the child is still alive, to keep from receiving other injuries. When the matter comes, if the Prosecutor determines that there is a case here of child abuse, which is a misdemeanor, it will be necessary that evidence, not suspicions - but evidence - be brought before the Grand Jury and, furthermore, at the time of trial, doctors and the others who have this evidence will have to testify under oath; they will be subject to cross examination, and if the Prosecutor can't prove to the satisfaction of a jury beyond a reasonable doubt that the parents are guilty of child abuse, then they will be acquitted as they should be acquitted.

I think the bill is excellent. I think that we have long wanted some indication, some evidence coming to us, before we come with the body of a child who dies in a hospital from what is obviously child abuse by its parents or guardians. Thank you.

ASSEMBLYWOMAN HUGHES: Thank you very much. Are there any questions?

ASSEMBLYMAN MARAZITI: I think it is a very fine presentation and I'm sorry that Mrs. Parrott was not here to hear you, and I think that you have certainly answered all the question that she has raised or the suggestion on her part that we were changing the Constitution or changing the criminal laws.

ASSEMBLYWOMAN HUGHES: Would you, just for the record, explain why immunity in this kind of case would be necessary? I know the answer but I would like to have it in the record.

MR. HUBER: Well, I feel that immunity for the physician in this case is necessary in order for the physician to give us his suspicions. Now, when a child is brought in, the child we are dealing with can't speak in many instances. This is a six months or eight months-old child, possibly a retarded child or a mute child who cannot tell us what happened to him. The doctor can suspect, but the parents have already given the doctor their explanation because he will ask them, "Well, how did this happen?" And I feel that a doctor who comes in and says, "Well, they told me this but I don't believe it," does hold himself open. Doctors are becoming in the minds of many people fair game for all kinds of suits - some founded maybe, but most and many not founded on anything other than the feeling that the doctor has a large professional malpractice policy and maybe we can benefit

from a law suit against him; we'll certainly embarrass him if we don't do anything more. And I feel that if the doctors weren't for this bill, I don't think it would pass, and I'm glad that they are for it, and I'm glad also that it's made a misdemeanor for them not to report these things.

Like Mr. Hart, I have five children also. I don't know how pertinent this is but I think that most parents as they raise children every so often have the feeling that maybe I spanked too hard for that one instance, or maybe I hit John when it was Mike's fault. I have two sons, John and Mike. And we regret that these cases of child abuse are the continuing constant abuse of children and sometimes it's one child who is retarded that gets it and another time it's right on through the line. As the children are born, the parents just seem to feel that they are playthings and they take the abuse that maybe an animal might take, and in some cases they take more abuse than the family's pet.

We have had two cases in our office - one of a small boy who had apparently suffered - he was only 18 months old - he was left in a locked car with the windows raised while the parents went fishing, and the temperature in the car rose to 120 degrees. If the State Police had not been called and broken the windows of the car, the child would have died. When he was taken to the hospital, the x-rays that were taken showed numerous fractures such as were depicted here. The parents entered a plea. In

another case we recently had a five weeks trial in Ocean County at which a mother was convicted of manslaughter and she and her husband were convicted of child abuse, and the child who died was lowered into very hot water. We believe, and it was our contention, that being retarded he had begun to soil himself again and to defecate and break his training, and he was lowered into this water and the pictures of the body showed bad burns over the groin and buttock area, and the area where the hands were, under the back and under the knees, were free of the burns; in other words, the hands that held that child were not lowered into the water but the child was and developed this hepatitis infection, lapsed into a coma and died. It was a case of great agony. This was a four-year-old child and other children in that family had been reported as coming to school with the marks of fingers against their face. Now, maybe when this child was first born, if he had suffered any fracture - and I am assuming this - and the doctor had brought it to our attention under the provisions of this bill and we had made a visit and an investigation and the parents knew they were under investigation, quite possibly that type of law, had it been in effect, could have deterred them from going further and continuing this conduct and possibly might have saved this child's life. That's speculative and I don't mean to dramatize it, but frankly any child who receives this deliberate torture, it gives you the shivers when you think about it and when you look at those films.

ASSEMBLYWOMAN HUGHES: Well, I'm sure we appreciate your testimony, Mr. Huber, and I'm glad you made it so clear, because I'm afraid Mrs. Parrott didn't understand the difference between immunity and simply wiping out all responsibility.

MR. HUBER: I might say that any doctor or anyone who testifies under oath is under the same sanctions to give the truth "so help you, God," and that applies to a doctor or anybody who takes the stand and testifies in a trial; they have to give the truth. And I feel if the doctor just said to the Grand Jury, "Well, I suspect there is something wrong here," no indictment would follow, because the Grand Jury, parents themselves in 99 per cent of the cases, they want evidence before they indict parents for child abuse.

ASSEMBLYWOMAN HUGHES: Thank you. Is there anyone else who wishes to be heard?

M I S S E D N A O ' N E I L: I am Miss Edna O'Neil, Social Worker, Passaic Children's Bureau. I might add that we deal strictly with children from birth to 18.

There is one matter that I thought might be clarified that would help a bit in considering this situation and perhaps Mr. Huber wouldn't mind answering this for me.

When we file a charge of neglect and abuse against the parents, under what code of law is it filed - civil or criminal?

ASSEMBLYWOMAN HUGHES: Would you consider that asked by the Committee, Mr. Huber?

MR. HUBER: Yes. Title 9 is the one that makes it a misdemeanor for abuse or neglect of a child. A misdemeanor is an indictable offense and unless the parent waives indictment, the matter then has to be presented to the Grand Jury.

MISS O'NEIL: So we would have this really under almost criminal code of law. Under the new bill, if it is referred, no petition is required and there would be no petition filed or complaint filed until after an investigation. And I feel that this possibly would serve as a protection for any parent being unjustly accused under this particular new law. Would you feel that way about it, Mr. Huber?

MR. HUBER: Yes, if a report comes to us from a physician in Toms River, we will make an investigation. If we determine that a crime has been committed, a detective from the Prosecutor's Office will sign the complaint; it will be served; the parents will either be summoned or arrested, and they will plead not guilty; they will have an attorney, and it will be handled like any other criminal case.

MRS. O'NEIL: I feel that this particular law eliminates anything that could be unjustly accusing of a parent or filing a criminal complaint which would be embarrassing. I think this gives the parent certainly every widespread use of all of the resources before any complaint or any stigma is attached to the parents.

ASSEMBLYWOMAN HUGHES: That is the intention of the bill, Miss O'Neil, to protect the innocent as well as to

find the guilty person.

Does anyone else wish to be heard?

MRS. MAHNCKE: I sent Mr. Maraziti a note asking whether we could add an additional thought.

ASSEMBLYWOMAN HUGHES: Certainly, Mrs. Mahncke.

MRS. MAHNCKE: I am Mrs. Mahncke; I testified before.

The New Jersey Welfare Council Legislation Committee discussed this bill more broadly than I brought out in my former testimony that I presented. Some of the things we talked about seemed to me perhaps pertinent to bring out here, one of them especially.

The bill we firmly believe should be passed by this Legislature, but we recognize that it is not the whole, not the only answer to the tragic problem of abuse. It's one step in the right direction. For the already battered child, it will prevent further injury by a variety of devices under which perhaps the maintenance of the child in other circumstances than with his natural parents would have to be contemplated. But except insofar as fear of punishment may stay the hand of a hostile and aggressive adult, the bill will not prevent first injury to a child. Such legislation could well provide a base line of experience for further study of the larger problem, which is altogether the broad matter of unwarranted aggression against a helpless infant. Some experience under this statute might well make it possible to develop at a later time procedures whereby other appropriate child-welfare aid could be focused on unhealthy family situations, and those are situations which lead to

needless child injury.

The Legislature now has indeed under consideration a group of bills which, if they were enacted, could serve as a preventive device here, or at least they could be ameliorative of the situations now existing. These bills are A-111, 112 and 113, the mental health act. They contemplate changes in the present laws relating to the mentally ill and the mentally retarded. They would make it possible for persons who suffer from these handicaps to be recognized more readily, to obtain help in the community more readily or sooner in the course of their illness; they would provide techniques by which guardianship would be arranged for children under broader circumstances than now is possible. And I think that their general sum would be some amelioration of this broader problem which we have all been talking about but not defining,- the total broader problem of the family situation in which aggressive acts against children occur in the first place.

Thank you.

ASSEMBLYWOMAN HUGHES: Thank you.

MRS. MAHNCKE: I might say that I couldn't agree more with you, since for several years now I have been working frantically to get those particular bills passed.

ASSEMBLYMAN MARAZITI: May I say this, Assemblywoman Hughes, you and I have been and still are co-sponsors of these very vital bills, A-111, 112 and 113, and I think we should say perhaps why the bills haven't been moved prior to this time. They will be moved very rapidly now. We

have a procedure by which we require fiscal notes. This is a mandatory procedure in the Assembly and we applied for a fiscal note on these bills about two months ago and I am very sorry to say that this particular department that has charge of this has had some difficulty in procuring the information. I have insisted the last week and a half that the fiscal note, whatever it is, be prepared immediately for A-111. That's the one we don't have it on. And I plan to have these bills considered by the Institutions Committee, of which Mildred Hughes is also a member, on Monday, the 30th, for release. We expect to have the fiscal note by then.

I thought I should make this statement at this time, although it is not connected with this particular hearing but it is related, that this is the only reason why they have not moved sooner, and I have been very much disappointed that they haven't. We hope to have them released Monday, and we do hope that that fiscal note is ready.

MRS. MAHNCKE: Thank you, Mr. Maraziti.

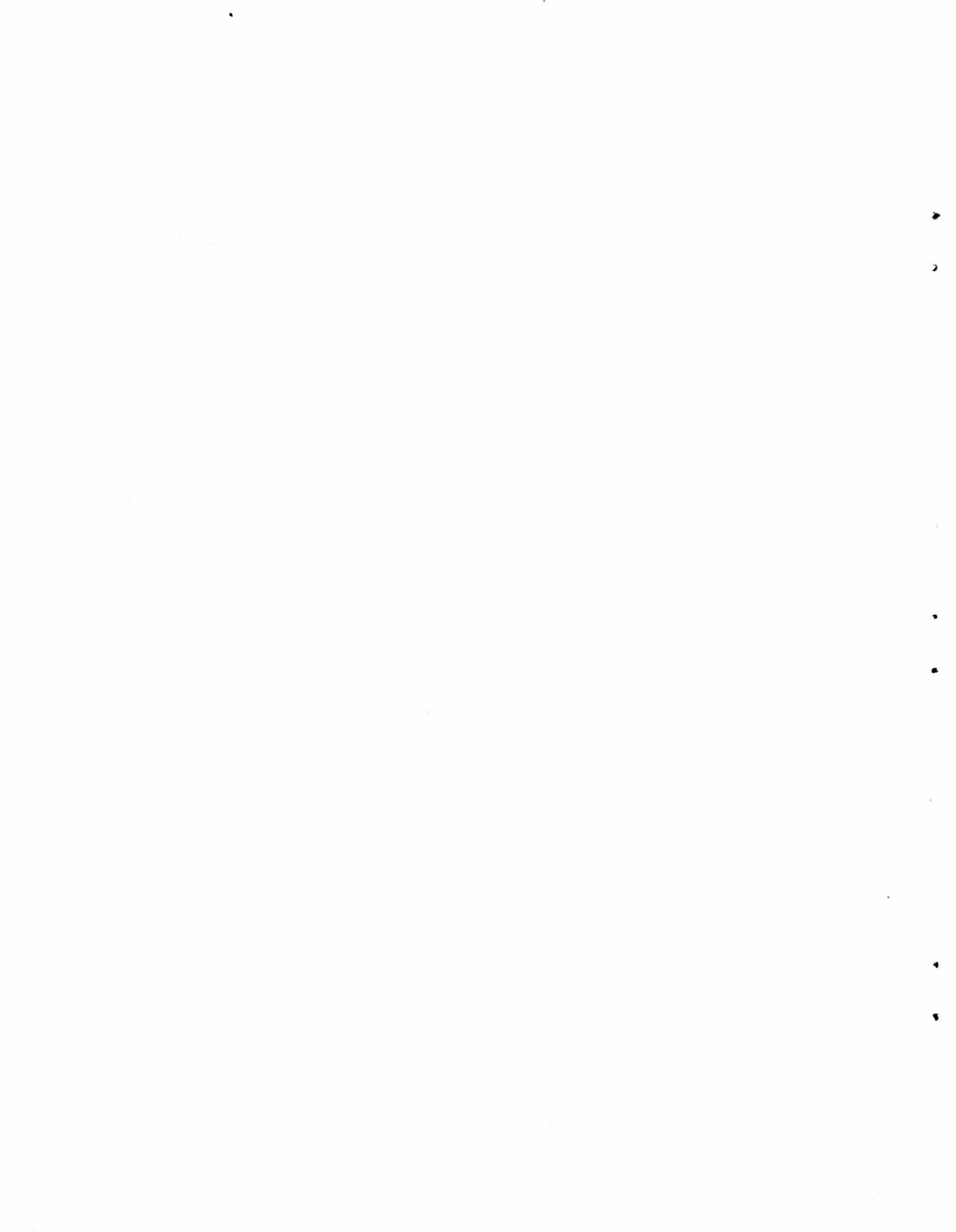
ASSEMBLYMAN MARAZITI: Is there anyone else who would like to be heard at this time? I believe the complete list has been called, but we don't want to miss anyone and it's not necessary that your name should have been on the list, since perhaps some came in late or did not sign the sheet. Is there anyone who would like to make any statement at all at this time?

If not, I declare the hearing closed.

Let me say very briefly that we thank all of you for being here and assisting this Committee by giving us your views on this legislation. We know that many of you, the doctors and others, have many duties to attend to and we appreciate the time that you have given in the public interest.

Thank you for coming.

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