

PUBLIC HEARING

before

AUTONOMOUS AUTHORITIES STUDY COMMISSION
[Created under Assembly Concurrent Resolution No. 9, 1968]

Held:
May 14, 1968
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Kenneth T. Wilson [Chairman]
Assemblyman John J. Fekety
Senator Milton A. Waldor

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ASSEMBLYMAN KENNETH T. WILSON (Chairman): I would like to open the hearing on Assembly Concurrent Resolution No. 9, the advantages and disadvantages of autonomous authorities.

I would like to have first placed in the record the statement of Senator Rinaldo, who at the last minute was unable to attend.

(Statement submitted by Senator Matthew J. Rinaldo follows)

My purpose in presenting this statement is to urge adoption by the Assembly and enactment into law by the Governor of Senate Bill No. 493 which I sponsored and which passed the Senate on April 8, 1968.

This legislation would curb the unbridled power of the New Jersey Highway Authority, operator of the Garden State Parkway, which has been able to broaden its horizons beyond the wildest dreams of its sponsors, primarily because it is not required to answer to the legislature and Governor.

I am convinced that this bill has long-range significance for the taxpayers of New Jersey and that the bill's importance transcends the immediate question of the cultural center in Holmdel.

The New Jersey Highway Authority was created by the legislature in 1952. At the time, it was charged with the responsibility for constructing and maintaining the Garden State Parkway. It also was authorized to build "such adjoining park or recreational areas and facilities as the Authority, with the concurrence of the Department of Conservation and Economic Development, shall find to be

necessary and desirable to promote the public health and welfare."

These words contained the seeds from which the cultural center just grew like Topsy. Through this loophole, the Highway Authority slipped an extravagant cultural center for which costs already have reached \$6.5 million -- far more than the \$1.5 million price originally projected. And it could very well hit the \$10 million mark.

It is obviously too late to do anything about the complex being built on Telegraph Hill. But it is not too late to prevent repetitions. S-493 would amend the 1952 act to restrict the Authority's construction of recreational and cultural facilities to those "directly related to the use" of highways. It would also specifically prohibit the Authority from engaging in the construction or operation of any facility or activity "not directly related to the use of a highway project except as may be specifically authorized by law." This bill would not, of course, affect the cultural center now underway, but it would bar the door to similar projects in the future.

Although I have a deep and abiding interest in the promotion of cultural activities, I do not think the construction of a cultural center is a fitting and proper activity of a public authority that was created to build and operate a highway, and while I agree that a cultural center is most certainly a worthwhile venture for the state to sponsor, the decision to build one should be left to the elected representatives of the people who are responsive and

responsible to the taxpayers.

I am not alone in my view that public authorities should be required to obtain legislative approval for any projects not within their ordinary purview. This is a key tenet of the Ronan Report on public authorities. These authorities have not been constituted to perform the generalized functions of government. If their activities become too diverse, the singleness of purpose which has contributed so much to their success may be jeopardized.

The rein of legislative review on all non-road functions should be imposed on the Highway Authority because all public authorities have a way of expanding their horizons until they are self-perpetuating. We need look no further than the Port of New York Authority, which was created some 40 years ago to build tunnels and bridges linking New York and New Jersey.

I do not regard it as unreasonable to look forward to the day when all Highway Authority bonds will have been redeemed. This might not happen within our lifetime, but at some distant time, the treasury of the State of New Jersey could benefit from the enormous revenues generated by the Garden State Parkway.

However, this is not likely to happen if funds continue to be spent in areas unrelated to highways. For this reason, I regard the adoption of this legislation as a moral and fiscal imperative for New Jersey.

(End of statement)

ASSEMBLYMAN WILSON: Our first witness will be Mr. Harry W. Wolkstein.

Mr. Wolkstein, before you begin your statement, could you give us a little bit of your background so far as your occupation is concerned and so forth.

H A R R Y W. W O L K S T E I N: Yes, Mr. Chairman. I would like first to express my appreciation for your invitation to appear here and testify on this most urgent topic, namely, autonomous public authorities.

As to my background, I have served as a member of the Board of Directors of the New Jersey State Taxpayers Association for a period of over 15 years; I have been practicing as a Certified Public Accountant and a Tax Practitioner, both in the State of New Jersey and the State of New York, for over 30 years; I have my own accounting firm in the City of Newark; I have been an active member of the National Tax Association; and as far back as 1951 I presented a paper there on the subject of Industrial Development Authorities, and ten years later, 1961, brought such paper up to date on the same subject, namely, Our Expanding Industrial Development Authorities.

I testified in 1962 before the Senate hearing, here in New Jersey, on the so-called "package bill", namely, the World Trade Center and the Hudson Tubes.

In 1965 I testified before the Senate, the New York State Senate hearings on the World Trade Center and the Port of New York Authority. And in 1965 I was engaged by the City of Newark as an expert consultant to represent the City of

Newark in connection with a court case against the Port Authority, the express subject matter of that case being the renegotiation of the 50 year lease as between the City of Newark and the Port of New York Authority, pertaining to the Newark Airport and the Newark Marine Terminal.

In starting my prepared statement, Mr. Chairman, I would like to stress the fact that in my judgment the U. S. Congress and our state legislatures, as well, must give public recognition to the fact that, over the past fifteen years, we have been witnessing a serious breakdown in our democratic form of government, due to the increasing take-overs of the economic power and governmental power by our various expanding autonomous public authorities. And it is my judgment that this serious governmental problem can no longer be swept under the rug despite the apparent disinterest of the general public in this urgent problem.

Based upon the research that I have conducted over the past 20 years or so, I am of the opinion that over the past decade, at least, we have slowly but surely revised our basic form of government from that of democratic, representative government to "Government by Authorities" or more simply stated, Authoritarian Government, to a marked degree.

I wonder how many of our voting citizens and how many of our governmental officials realize that in the United States today we have in existence and in operation more than 18,500 independent public authorities at the various levels of government, namely, local, county, regional, interstate - a larger number, in point of fact, than the number of municipal

governments throughout the United States. And these 18,500 or more authorities exert a tremendous amount of economic power by way of their power in the letting out of all types of contracts - in many instances, I might say, without competitive bidding for the basic reason that they seem to be exempt from our statutory laws pertaining to competitive bidding on governmental contracts.

The basic criticisms which I would level at these public authorities may be summarized as follows:

A. In their continuing expansion - I mean as independent public authorities, - they have a tendency, to a marked degree, to fractionalize our democratic form of government, and to extend themselves beyond the voting power of our citizens without adequate supervision and control by our normal governmental bodies and state legislatures.

B. Our citizens in New Jersey must be concerned with the fact that at our local and county levels we have organized far too many of these autonomous public authorities which enjoy relative prosperity, whereas our state governments, our county governments, and our municipal governments are faced with continuing and increasing financial crises.

C. The typical authority we might define as being a quasi-public corporation that has been organized outside of the normal structures of government, for the purpose of carrying out a specific function. The point is, however, that each of the commissioners of the typical independent public authority is a political appointee who is not responsible or responsive to the mandate of our voting citizens. And we

are at a loss to pin them down with responsibility for the simple reason that they are responsible to no one but to their own board. And thus our voting citizens have given up too much of their inherent democratic rights.

D. In my judgment, the citizens of our generation have no right to saddle our future generations with so many of these independent governmental agencies and their improper operations, along with their excessive interest rates; no right to saddle them with such an excessive number of autonomous agencies that deprive the voting citizens of their rightful control over their governmental operations and expenditures of public funds.

I believe it to be essential that our U. S. Congress and our state legislatures initiate prompt action with regard to all public authorities affecting interstate commerce. Each such public authority should be limited in its operations to specific and essential governmental functions for the public benefit. Moreover, our statutory laws should require the prompt dissolution of each such authority upon completion of its specified function, and also the transfer of its remaining funds to its mother government or sponsoring government.

Our independent public authorities should not be permitted to become super-governments accountable only to themselves; they must be made responsive to the mandate of our voting citizens through their own elected representatives. And, in turn, we must not allow our elected governmental officials to shirk their responsibilities by way of their

organizing any more of these autonomous public authorities.

These increasing and expanding autonomous public authorities, in my judgment, especially those at our county and municipal levels, represent what I call "The new dark continent of American politics," and are to a marked degree responsible for the rapid decline of our state, county and local governments. However, it is sad but true that little if any public recognition has been given to this fact of life in today's American Government.

Our statutory laws should require each public authority to submit to public hearing its proposed itemized annual budget, before the beginning of its fiscal year, with supporting detailed data as to its operations and capital construction programs, so that the public, as well as our elected officials, can have the opportunity to express their views and to approve of its proposed annual budget.

I think it is a fairly well-known fact that the Commissioners of the Port of New York Authority have adopted the philosophy of administering its fiscal operations as though they were operating a private country club, and consider any inquiring thoughtful citizen as a "voluntary interloper" or, more precisely, - and now I am quoting the phrase that they addressed to me in their legal brief in a court suit that I brought, a taxpayers' suit that I brought against the Port of New York Authority in the U. S. District Court in Newark, back in 1959, in which they referred to me as, and I quote, "a gratuitous interloper."

This serious state of affairs, I think, is

fundamentally due to the fact that our State Government and our elected county and local governmental officials have failed adequately to supervise and to control the fiscal operations of each such public authority. One glaring example of such criticism is the fact that our State Government and also New York's State Government has failed to conduct one single annual audit on its own of the books and records of the Port Authority throughout its 47 years of existence.

We must recognize the fact that public authorities cannot be permitted to continue their fiscal operations secretly, or they will undermine the very foundation of our democratic system of representative government, as well as our system of private competitive enterprise.

The state comptroller or equivalent officer of each state, New York and New Jersey, should be required mandatorily to audit the books of each and every independent public authority at regular intervals, certainly not less than once every three years, but preferably each year, and at the direct cost of the public authority itself.

Our state governments should be kept completely informed and should retain control over the pricing policies of the public authority, its user charges, its policy as to the awarding of contracts under competitive bidding requirements, as well as to the fiscal status of each facility operated by any multi-purpose authority.

The hiring practices, the job classifications, and the salary scales of all "authority employees" should conform to, and be equal to the personnel practices and policies of

the creating governmental unit. Salary scales should be established in the same manner as those of the creating body. If a public ordinance is required to be enacted, following the full statutory procedure for such ordinances, then the authority must be required to go through the same procedures.

The governmental unit creating any given public authority should be required initially to authorize any bond issues of such agency. Thus, the governing body elected by the people will have the final say as to the proper means of carrying out the specific task of such agency. Too often we have seen that the public authority is given a mandate in but general terms and then the authority proceeds to improvise on such mandate as the agency itself grows older it is more routinely accepted and is then overlooked by the public and the creating governments.

Our New Jersey State Legislature, in my judgment, ought to establish a reasonable maximum permissible term for the bonded indebtedness of each public authority. Refunding, except to secure a significant lower interest rate, should not be permitted. General purpose bonded debt should not be allowed. A specific project should have a specific budget, a forecast for the redemption of the bonded debt, and all such bonded debt should be repaid and amortized over the life of the bond issue.

Over the past fifteen years, we have witnessed an expanding economic war among out individual state governments in their competition for new private industry, by means of their having organized statewide industrial development authorites

that, in turn, have issued so-called industrial aid bonds for the specific purpose of constructing virtually literally million-dollar private industrial plants with such public funds. And currently more than 39 state governments have established these statewide industrial development authorities that have issued income tax-exempt bonds. And I think it is noteworthy at this point, Mr. Chairman, that here in the State of New Jersey I believe our State Constitution prohibits that very practice. In many of the other states, if not all of them, they have found it necessary, believe it or not, to revise their state constitutions in order to constitutionalize, if you will, such an improper if not illegal expenditure of public funds.

Our U. S. Congress should be seriously concerned with the disastrous effects that future defaults in these revenue bonds would have upon the fiscal integrity of our state and municipal governments and upon their general obligation bonds. It is high time, I think, that our federal income tax laws were revised to halt the expanding policy of our national and international corporations of having their new million-dollar plants constructed with such public funds with literally no equity investment on their part.

To cite but a few of these outrageous examples:

1. Armour & Co. recently had a \$25 million plant constructed for it by the small town of Cherokee, Alabama.

2. Ohio Aluminum Company recently had a \$45 million plant constructed for it by the small town of Lewisport, Kentucky, a town of but 750 residents.

3. General Tire & Rubber Company recently had a \$9 1/2 million plant constructed for it by Kentucky.

4. Alexander Smith, Inc. had its \$4 1/2 million plant constructed by Mississippi.

5. Genesco Corporation had a \$7 1/2 million plant constructed for it by Nashville, Tennessee.

And this list goes on and on. And I stress the fact that these corporations, each one of them, virtually invested no equity funds on its own at all.

I submit to you, Mr. Chairman and members of the Commission, that such improper if not illegal expenditure of public funds through the issuance of so-called revenue bonds, that are factually only real estate bonds with the fictional veneer of being governmental obligations, has resulted in cut-throat competition among our individual state governments for new private industry, with the citizens' loss being these fantastic give-aways of public funds to these large-sized corporations. And, I submit to you that it is high time that out state legislatures throughout the country adopted a proper code of ethics to halt this illegal expenditure of public funds for such private or proprietary purpose. Moreover, this expanding economic warfare among our individual state governments warrants the prompt investigation and remedial action by the U. S. Congress.

And I might note at this point, Mr. Chairman and members of the Commission, that I have testified before the House Ways and Means Committee, back in 1954 when such Committee was considering the revision of its federal income tax laws and

internal revenue code, and several years thereafter before the U. S. Finance Committee, on this very subject.

Over the past fifteen years, - and I think it is important to our state legislature and to our Governor and state governmental officials to note that a large number of industries have been pirated away from the State of New Jersey by other state governments, along with the loss of many thousands of jobs in our State, as a result of this cut-throat competition for industries and jobs. And I would like to leave with you, Mr. Chairman, several copies I have of the papers that I referred to at the very opening, - papers that I prepared for the National Tax Association. And this paper is precisely concerned with the subject of the expanding industrial development authorities throughout the United States and the economic warfare among our individual state governments for new private industry.

I would say that the long-range approach to this constantly growing morass of independent public authorities is the gradual if not prompt elimination of the need for such independent agencies. The prime motivation in the creation of these public authorities and special districts is a government's real or imagined need to avoid reaching or exceeding its constitutional or statutory debt limit. If it is valid economic and financial reasoning to impose this debt limit, then there should not be a means for avoiding or by-passing this debt limit.

If there is a good and permissible end to be achieved by providing alternative means for raising public funds, then

the governing body itself should be able to raise such funds without the need for creating new independent entities, new administrative and governing boards, and fragmented municipal staffs. Responsibility and control should be concentrated in the same hands, and these hands must be those of the duly elected governmental officials and their staff employees.

If our current municipal and county debt limits were eliminated, there would be no need for the creation of the vast majority of independent county and local authorities, and the even greater flood of public authorities that may be expected under the simplified procedure for enabling legislation as is now proposed by the new bill, and I refer, Mr. Chairman, to Senate No. 684, recently introduced into the State Legislature.

Our New Jersey State Legislature must decide whether we are to maintain our democratic-controlled governmental process, or whether we are to sell our freedoms. Unrealistic debt limits for our cities and counties must be eliminated. Let the county or municipality justify a project to the electorate, and let the electorate decide whether it wishes to incur the debt to finance the newly-proposed project.

I, for one, can only envision eventual chaos in our democratic government if we permit a further increase in our present hodge-podge of autonomous public authorities. And as a slight example thereof, may I cite the following bills which have been introduced in our own State Legislature over the past three months:

A 280 - To create The New Jersey Airport Authority.

A 340 - To create The County and Municipal Recreational Authorities.

S 511 - To create the Local Seaquarium Authorities.

A 501 - To create The County Transit Authorities

S 540 - To create Expressway Authorities by two or more counties.

And if we went through the list of bills introduced over the past 15 years, I think we all would be amazed.

I might take a moment to note the fact that about 40 minutes earlier I went to one of the offices of the State House here - I believe it was to Mrs. O'Brien's office - and asked Mrs. O'Brien whether she could furnish me with an itemized list of existing intra-state public authorities within the State of New Jersey. She could not. She was good enough to call one of the other offices in the building and the answer was no, they knew of no such accurate itemized list of independent public authorities existing in New Jersey.

Coming back to Senate No. 684, which was introduced on April 22, 1968, it purports to inaugurate a new general authority law as an additional chapter to Title 40A of the New Jersey Statutes. And may I humbly and respectfully caution the Commission that this new bill, in my judgment, contains a number of deficiencies which should be corrected before its enactment into law.

Let us now consider a few of The Port of New York Authority problems as they currently exist. And I might note that the Port Authority has been the subject of surveys, if not probing, by various legislative committees over the

past ten or fifteen years. I don't know what the results of such committee reports and probes have been.

For the past 14 or 15 years, in addressing myself to a number of organizations and legislative committees on this subject of independent public authorities, I have called upon both our New York and New Jersey State Legislatures to investigate the financial policies, practices and projects of The Port of New York Authority, and particularly to inquire into the following pertinent basic questions:

1. Why has not The Port of New York Authority reduced its bridge and tunnel tolls since we all know that the construction costs of their older bridges and tunnels have been paid for long ago?

When the States of New Jersey and New York constructed the Holland Tunnel - and the States constructed the Holland Tunnel, not the P.A. - these state governments did so with the agreement that they would no longer charge tunnel tolls once the construction costs of the Holland Tunnel were paid for.

2. Are the Port Authority's financial reserves in excess of its true and real requirements?

The answer, I think, ought to be "Yes," otherwise, the Port Authority simply would not be able to embark upon as many private business ventures of constructing commercial buildings and office buildings, such as the World Trade Center, for private companies, and are such business ventures the proper and essential basic function of a bi-state governmental agency?

3. Isn't the Port Authority's policy of continued and aggressive expansion, by acquisition, very harmful to the future developments of our municipal governments?

Might I say, Mr. Chairman, that during the 47 years of the Port Authority's existence, there has never been a formal re-examination by our state governments as to its planning, its operating and administrative practices. Such an investigation by our state legislatures, both in New Jersey and New York, at this particular time, I think, is essential, since there are so few avenues of regulating this huge autonomous agency.

The Port Authority is free from statutory control by either state in its financial matters, in its personnel, in its administration, in its payroll, and in the construction and operation of all kinds of transportation and terminal facilities.

I believe that the public interest demands at this time that such autonomous agency be placed under exacting and continual supervision by our two state comptrollers and state auditors.

My files indicate that upon my direct inquiry by letter of the two state governments several years ago, I was informed by letters in response from them that the state governments of New York and New Jersey have never once, of themselves, audited the books of the Port Authority. Inasmuch as the Port Authority actually is an agency of the two state governments, it is my considered opinion that our two state governments should have made annual audits and surveys of the Port

Authority books. I respectfully contend that the two state governments of New Jersey and New York have been negligent in not auditing the Port Authority books once in all of these years, and I say so respectfully. I don't think they can reasonably explain it away, that is the failure to audit by our state comptroller or state auditor, by way of their pointing to the annual audit reports submitted by the Port Authority's independent accounting firms. And I say so being a practicing CPA myself. It is my sincere opinion that no independent firm of CPA's can take the place of the State Comptroller or the State Auditor in interpreting legislation or resolutions that have a direct bearing upon the basic financial policies or user charges or the new projects of a tremendous bi-state agency such as the Port Authority.

I think that our two state governments must be made to realize that they have the legal responsibility to continually supervise and to control, in fact, each and every authority within the boundaries of the two states. I believe that there is a compelling need for the investigation of the Port of New York Authority as to its financial practices, particularly along the line of the following basic questions:

Are the consolidated bond issues, under which the P.A.'s bridges and tunnels are made, to support its airports in the public interest?

Is the Port Authority properly exempt from taxation in its proprietary ventures - and I refer to both the question of state taxation and local taxation with regard to real estate and personal property, and also with regard to federal

income taxation on their proprietary projects.

Should the Port Authority be so insulated against examination by the courts?

Is the Port Authority studiously avoiding the public scrutiny through the maintenance of large public relations staffs to engage in the selective dissemination of information? And I might say that my perusal of the Port Authority's annual budget some ten years ago indicated that at such time the Port Authority spent no less than \$1 million dollars of public funds per year for advertising. They may refer to it by the phrase, in various items of such budget, as public relations, community affairs. (See p. 77 A)

ASSEMBLYMAN WILSON: Mr. Wolkstein, is it possible that we could read this into the record, as we did Senator Rinaldo's statement, and then maybe question you now on this?

MR. WOLKSTEIN: That is perfectly all right.

ASSEMBLYMAN WILSON: Because we do have two other people that will appear this morning, Assemblyman Caputo and also Commissioner Goldberg.

MR. WOLKSTEIN: All right. May I note one item. In the haste of getting this statement together, my secretary omitted one full page, that is the page before the last, and I will be happy, within a day or so, to have that mimeographed and sent to the office here.

ASSEMBLYMAN WILSON: Yes, will you send it to Legislative Services?

MR. WOLKSTEIN: Legislative Services. Yes, sir.

ASSEMBLYMAN WILSON: I would like the record to

show that present today is Senator Waldor and also Assemblyman Fekety.

Mr. Wolkstein, I thought it was very interesting when you made note of the fact that the authority is generally created in general terms and a lot of these general terms are forgotten, and then they more or less expand on the purpose for which they were created in the first place. I believe, and I would like you to comment on this, an example would be the Port of New York Authority with the building of the World Trade Center; and I believe our own New Jersey Highway Authority has expanded through the development of their Cultural Center. Could you comment on these two?

MR. WOLKSTEIN: I believe, without question, Mr. Chairman, that each public authority should be limited in its operation to the specific function for which it was originally organized. I think there is a very serious question of legality as to whether the New Jersey Highway Authority, I believe it is, had the legal right to use some four to six million dollars, is it, of public funds --

ASSEMBLYMAN WILSON: \$6.7 at this point.

MR. WOLKSTEIN: \$6.7 million of public funds to construct the Cultural Center, however worthy that project may be. But I don't believe the usage of tolls, automobile tolls, exacted under the principle of user charges, by such an independent authority - I believe, personally, that it's a misuse of such public funds.

With regard to the Port Authority, I would like to say this, as briefly as I can although it's a subject that

would take hours to discuss, - under the 1921 compact that was created by the state governments of New York and New Jersey, the Port Authority was created as a bi-state agency or child of the two state governments to assist such state governments in, I believe, one general and specific purpose, namely, to develop the Port of New York area and to expand on essential terminal and transportation facilities.

Certainly I believe that the officials of the two state governments, when such compact was created, would now be horrified, if they were here, to witness the fact that the P.A. Commissioners saw fit, two or three years ago, to commit themselves to the expenditure of some five hundred to six hundred millions of dollars for the proprietary purpose of two real estate office buildings, and that's all they are, which they call the World Trade Center. I think that is an atrocious squandering of public funds, especially when we consider the fact that the two mother governments of the P.A., namely New Jersey and New York State Governments, are literally facing an increasing fiscal crisis. That money, those five hundred to six hundred millions of dollars, could better be spent in constructing bare essential needs of our government - hospital buildings, college buildings, school buildings, mental institutions, and such. That money could better have been spent - and that's a tremendous amount of money -- that money could have better been spent in solving, as is the basic responsibility of the Port Authority, the mass transportation problems of the metropolitan area as between the states of New Jersey, New York and Connecticut.

I believe that the Port Authority has been allowed to shirk such basic responsibility in squandering its funds on so many commercial enterprises instead of devoting itself to the jetports, the airports and to the mass transit problems of the metropolitan area.

ASSEMBLYMAN WILSON: Are there any questions by the members?

SENATOR WALDOR: I would like to ask a couple of questions of Mr. Wolkstein.

I've read your statement and I've heard you read part of it and you talk about independent audits being conducted by the State and then dereliction of duty also, as far as your opinion is concerned, with respect to the failure of the State or states that are involved in these compacts to audit independently the books of these authorities.

It is a fact, is it not, that the minutes of the meetings of these authorities are subject to the scrutiny of the Governors of the respective states, the Governor of the State of New Jersey, and it's within his purview to examine and inspect these minutes and to determine whether or not in his judgment anything is wrong, let us say, and to act accordingly. Is that not so?

MR. WOLKSTEIN: That's perfectly true.

SENATOR WALDOR: So that there is an element of control that is exercised by state governments over the autonomous authorities, or at least there is a provision for that control. Is that so?

MR. WOLKSTEIN: That's perfectly right, Senator.

SENATOR WALDOR: If that be so then it really is not completely factual that autonomous agencies are without or outside the range of the structure of state government and can act entirely on their own. Wouldn't you say that that's also true?

MR. WOLKSTEIN: With this one exception, Senator, and I believe I am right when I say that if the facts were checked as to actually what has happened over these 47 years --

SENATOR WALDOR: Well, you see, that's not answering the question because I'm not talking about what was done or not done by the individuals or respective governors of both parties, I am merely saying that when we talk about our autonomous agencies and their relationship to state government, we're not talking about whether the government officials who had the authority to do a certain thing had done it or had not done it, we're talking about whether or not there is the opportunity for them to exercise control over these agencies if they were to do so. Now whether they do so or not is their problem. That's another area entirely in which I join with you perhaps in criticizing. But the authority is there for exercising a tight or tighter rein over autonomous agencies, is it not?

MR. WOLKSTEIN: Yes.

As I understand it, Senator, and I'm speaking to your question, I believe the law provides for each state governor having the right to veto any resolutions of the P.A. Commissioners within a certain number of days.

SENATOR WALDOR: Right, as I say. All right, now,

the next question.

In your statement, and I'm asking this for the purpose of information because I certainly don't claim to know nearly as much about this as you do, - but throughout the entire text of your statement, as I looked through it and heard you testify from it, it appears to me that the basic criticism that is leveled by you at the autonomous agencies is one that is economic or fiscal in nature, in a general sense, plus a lack of responsiveness, let us say, to the public interest, to the public welfare, as a result of there not being reins to tighten or to control these agencies. Is that so, generally speaking?

MR. WOLKSTEIN: Generally, yes.

SENATOR WALDOR: Because there is no criticism, as I see it, in this report - and frankly I haven't had an opportunity for a careful examination of it - of the operations and maintenance of the facilities which were constructed and are maintained by the autonomous agencies, for example the tunnels and so forth, the physical plants themselves, and the operation of these physical plants apparently are not subjected to your criticism, as such, - the existing facilities, you have no criticism of how they are operated or anything of that nature except for the fact that they shouldn't be charging tolls because they're paid for, or something like that.

MR. WOLKSTEIN: Yes, I have a number of criticisms.

SENATOR WALDOR: There are none in here.

MR. WOLKSTEIN: No. But go on with your question.

SENATOR WALDOR: For example, tell me what is wrong

with the operation of the Holland Tunnel or the Lincoln Tunnel or the airports, or anything of that nature, by the Port Authority. Tell me, if you will, what is wrong with the operation of the Garden State Parkway or any of those facilities insofar as the actual maintenance and operation of the facilities are concerned, if you have any criticism in that area.

MR. WOLKSTEIN: Well, as to specific criticisms, I think it comes under the general basic criticism that very little is known by the public, Senator, as to the specific operation of any such authority precisely because, as I testified and several times noted here, very little if any specific reporting is given or demanded or required by our state governmental agencies, whether it be the State Legislature or whether it be the administrative officials, so that too little is known as to how they operate, as to each one of those authorities.

How many of us know for sure that each such authority, that is the commissioners of each such authority, adhere to the basic requisite of all of our local, county and state governments, namely, that contracts shall be given and awarded on the basis of the lowest competitive bidder. How many know that?

SENATOR WALDOR: I haven't explained my question properly. Perhaps there is some ambiguity to it.

Let's take an analogy for example, citizens who have waited in motor vehicle inspection lines say, "The state ought to do something about that because we shouldn't have to wait

so long to take a driver examination." Now this is a criticism of the operation of the facility. So you don't need any information to know that you have to wait five weeks, for example, or eight weeks to take a driver's test or two hours in a motor vehicle inspection line. You know that you have to do that.

Now, you ride the Garden State Parkway, you go through the Holland Tunnel. All I want to know is, is there, in your judgment, any criticism of the operation of the facility itself, forgetting for the moment -- you don't need any financial information to determine that. The operation of the airports, - you don't need any financial information or any background.

MR. WOLKSTEIN: I would have no specific complaint.

SENATOR WALDOR: You have no criticism or complaints about that.

MR. WOLKSTEIN: For the simple reason that I haven't enough information with which to render a judgment.

SENATOR WALDOR: But you ride these.

MR. WOLKSTEIN: Yes. They seem to be reasonably operated, yes.

SENATOR WALDOR: That's all I want to know. Thank you.

MR. WOLKSTEIN: But along the line there, Senator, if I might expand a bit upon your question, I think I was trying to get through to the Commission a much more basic and much more urgent criticism.

SENATOR WALDOR: Yes, you have. I just wanted to

know for my information the answer to these questions.

MR. WOLKSTEIN: Yes. To this effect that my thesis is, and I believe that this is very urgent and too little recognized by our governmental officials and voting citizens, - I sincerely believe and I make such statement on the basis of the rather lengthy research that I have conducted of independent authorities over twenty years and that is that we have to too marked an extent actually revised our basic form of government over the past ten or fifteen years.

SENATOR WALDOR: You said that, Mr. Wolkstein, You said that thoroughly in your statement. I am not attempting to engage in colloquy with you concerning that. I'm in agreement with many of your recommendations. I just wanted to know from your research and study of this problem the answers to my questions. You've already in detail outlined that and I am in great agreement and accord with much of what you say.

MR. WOLKSTEIN: Thank you, sir.

ASSEMBLYMAN WILSON: Thank you very much. We appreciate it. You've been very informative.

Assemblyman Caputo.

R A L P H R. C A P U T O: First of all, I would like to express my appreciation for the opportunity to state my feeling in regard to the New Jersey Garden State Parkway and the Highway Authority and its relationship to the citizens of Essex County, which I am privileged to represent.

It is a great pleasure for me to address you this

morning and be able to directly speak to those individuals who are responsible for the New Jersey highways.

Although I am new to the Legislature, I am an old user of the highway system and well acquainted with the issues before you.

I come before you this morning not to complain about traffic jams on the Seaside Heights Bridge or about the driving conditions on Route 1, but mainly to discuss the Essex County roads and, particularly, the Essex County excellent section of the Garden State Parkway.

As you know, Essex County is among the State's most densely populated, most affluent, and most highly industrialized and most taxed counties. In Essex County there are a large variety and number of local businesses, services and industries and a very heavy commuter traffic density during work and rush hours. I might also add that most Essex residents also work in Essex.

While we are fortunate in having several east-west access routes available to commercial and personal travel, as well as east-west interstate highway systems, freeways, under construction, we presently rely almost completely on the Garden State Parkway for cross-county north-south travel. It is this aspect of Essex County highways to which I will address you.

Now to go into some of the history of the Highway Authority. The New Jersey Highway Authority was established in compliance with Chapter 16 of the Laws of 1952 as an autonomous body, empowered to construct, maintain and operate

the Garden State Parkway.

From its inception the Parkway was designed to be a financially self-sustaining facility supported by tolls, all in line with the pay-as-you-go attitude toward highways prevalent at that time.

The public was sold on the Parkway because there was a clear need for north-south superhighways and because the Authority implicitly indicated that tolls would be eliminated when the road construction costs were paid. The public was willing to pay these road use taxes temporarily thinking that after elimination of the tolls the roads would be maintained by the entire state under the regulation of the Highway Department.

The public has since learned about the realities of public autonomous bodies and has come to accept tolls as a price for good roads. In Essex, however, this attitude toward tolls is not so blandly accepted.

While the Parkway serves the whole State, the Highway Authority has decided that Essex County should shoulder the brunt of Parkway expenses by paying more tolls for less mileage than any other section of the State.

At the moment, Essex commuters pay 35¢ for less than 3 miles of travel or 50¢ for a trip from Union to the Bloomfield exit, which is on Hoover Avenue in Bloomfield.

To insure that Essex pays, the Authority has seen fit to close the Springdale Avenue exit and to impose a 10¢ toll at Exit 148 at the Bloomfield Avenue exit in Bloomfield.

This state of affairs is extremely unpalatable to

Essex. However, the citizens of Essex have come to know the penalties to be paid for the creation of the Highway Authority.

I introduced a resolution in the General Assembly which memorializes the Parkway Authority to eliminate the Springdale Avenue exit. This resolution has passed the Assembly and I hope that it will pass the Senate and will go on to pressure the Highway Authority to do something about this exit.

Now as an Assemblyman of that District, which represents a good portion of the Essex County constituency that uses these exits, I can say that my constituency is irked and angered to know that this Authority can thumb its corporate nose at its creators who are crying for relief which I believe they are entitled to.

While I do not expect the tolls to immediately disappear, surely something can be done about this Springdale Avenue problem as a minimal gesture to the Authority's most dependable and most penalized supporters.

Much propaganda and press are now being utilized to support the Governor's recommendations for highway capital needs at an estimated cost which exceeds \$1 billion. This huge program will add further burdens to Essex if it is financed by gasoline tax increases, sales tax increases, or a combination broad-based tax.

I believe that Essex is not willing, however, to contribute this money knowing that it will not receive a proportional benefit. I believe that the Highway Authority should give some relief in order that this goal can be attained.

The public does not separate the Authority from the Highway Department and cannot understand why taxes are required when the Parkway is obviously making a profit.

If the Garden State Parkway Authority can build a cultural center with this money, it can also build roads.

While the Parkway Authority is independent, it must recognize that it is an integral part of the State's highway system and must function as a part of that system.

The present thinking in the Authority is potentially destructive of the entire State Highway System because of the reaction the Governor's proposal will receive in the light of the Parkway profit and its present system.

If Essex once again must bear the lion's share of taxation for roads without alleviation of the excessive toll situation and the arrogance of the Authority regarding the Springdale Avenue exit, the pleas for support of the much needed master plan for transportation will fall on deaf ears.

I respectfully urge that you give these matters your consideration and fully recognize your role in the future of New Jersey highways. This \$2 1/4 million profit for 1967 in light of the Essex situation is a most eloquent argument against further expenditure for roads. However necessary and vital these expenditures may be, Essex County is painfully aware that it will not receive benefit proportionate to its outlay for roads and a revision of thinking and equitable reform is now required, namely, in the form of toll elimination and a reopening of the Springdale Avenue

Exit as a minimal gesture of consideration for its long-suffering relationship with the New Jersey Highway Authority.

ASSEMBLYMAN WILSON: Any questions, Senator?

SENATOR WALDOR: Well, I was interested in the opening remarks of the Assemblyman, who hardly looks old enough to drive and who has had so much experience in highways, but I enjoyed his statement very much, being also from Essex.

You're shaking your head - I suppose it means thank you.

ASSEMBLYMAN CAPUTO: That's it.

ASSEMBLYMAN WILSON: Thank you very much, Assemblyman Caputo, and we appreciate your appearing before the Commission.

Commissioner Goldberg?

D A V I D J. G O L D B E R G: For the record, Mr. Chairman, my name is David J. Goldberg, Commissioner of Transportation for the State of New Jersey, and I am appearing this morning in response to the Chairman's request that I attend this hearing.

Since I am appearing in response to your request, I do not have a prepared statement to submit to the Committee but I would be very happy to try to answer any questions the Committee may have.

ASSEMBLYMAN WILSON: Fine. Commissioner, some of these questions I am going to ask for the purpose of the record and the Committee will make a study of the transcript.

First of all, what is your salary?

MR. GOLDBERG: \$25,000.

ASSEMBLYMAN WILSON: Who represents your Department legally as far as court action is concerned?

MR. GOLDBERG: The Attorney General's Office. We have assigned to us deputies from the Attorney General's Office who represent the Department with regard to its legal matters.

ASSEMBLYMAN WILSON: And how many do you have assigned, a specific number or --

MR. GOLDBERG: It is not necessarily a specific number. I have a number of deputies who are handling work primarily on the condemnation side which numerically I think is the great bulk of the legal business that the Department has.

In addition, I have Deputy Attorney General Biederman who assists me with regard to matters other than those affecting real property.

I do not recall the exact number of deputies that are working on condemnation at the moment; I believe it is approximately 16. If, however, the Committee desires this specific information, I can make it readily available.

ASSEMBLYMAN WILSON: Would you have any idea of the salaries involved for these individuals?

MR. GOLDBERG: The salaries range, depending upon the experience of the deputies involved - I believe the lowest paid deputies are somewhere in the neighborhood of \$7,000 to \$8,000. The maximum salary paid to the head of the Condemnation Section is I think approximately \$19,000. Salaries are set by the Attorney General with my concurrence. My policy is to accept whatever the Attorney General recommends with regard to salary levels.

ASSEMBLYMAN WILSON: How about your Engineering Department? Say your top engineering staff, what would their salaries be?

MR. GOLDBERG: The top engineer in the Department is State Highway Engineer, James Schuyler. He is a line item in the budget and his salary is set at \$21,000. Beneath him I have Assistant Engineers, three of them, and their salaries are set at \$20,000. In addition, the Engineers who head up the key operating divisions of the Department are under Civil Service and a number of them are in Range 39 of Civil Service. And the top of that range is, I believe, slightly in excess of \$20,000. And, therefore, the salary range for the top engineering executive staff of the Department is very closely compressed together.

ASSEMBLYMAN WILSON: As Commissioner of Transportation, what is your responsibility?

MR. GOLDBERG: The Department has responsibilities in three major areas of transportation. It has the responsibility for the construction and maintenance of the State highway system. It has responsibility through the commuter-operating agency for activities in the sector of public transportation, which at the present time primarily relates to the operation and maintenance of service on the commuter rails. Beyond that, we have regulatory authority in the area of aviation as well as planning responsibility.

The Department has a responsibility to establish and maintain and revise from time to time a Master Plan for all modes of transportation.

In simplest terms, I think this summarizes it.

ASSEMBLYMAN WILSON: Approximately how many miles of roads is your Department required to maintain, operate and so forth, in the State of New Jersey?

MR. GOLDBERG: There are approximately 2,000 miles on the present State highway system.

ASSEMBLYMAN WILSON: Now if you were to compare the salaries of your Department as far as engineers and your people that actually maintain the roads for you, to the New Jersey Turnpike and the New Jersey Highway Authority, would they be compatible?

MR. GOLDBERG: I must admit that I am not really familiar with the current salary levels in the authorities as they relate to our Department. I presume that that information is available

and undoubtedly it is on file with the Department. But I have no personal recollection of what those figures are.

ASSEMBLYMAN WILSON: Would you give me, for example, the salaries of the individuals that work for you, say, like your maintenance individuals, the bottom of the scale, so we would have that in the record?

MR. GOLDBERG: I would prefer to submit that. We have just been successful in getting a revision of the Civil Service ranges for a great many of the people in the Department, which is something that I strongly favored and was very pleased to see happen. I can, therefore, submit a list which will set forth the salaries of all personnel in the Department with no difficulty, but I do not have it with me and I must admit that I don't know it just from recollection.

ASSEMBLYMAN WILSON: On this salary scale, would you send one copy to Legislative Services and another copy to me so we can put it in the record?

MR. GOLDBERG: Certainly. We will send one to Legislative Services and an additional one to the Chairman or, if you want, I will send one to every member of the Committee.

ASSEMBLYMAN WILSON: O.K.

ASSEMBLYMAN FEKETTY: May I interject here a question while we are talking about these salaries. The question is: Do you find yourself competing in the labor market with these other agencies?

MR. GOLDBERG: Well, we are competing with everyone that is seeking similar personnel. I don't think that the agencies, themselves, create that much of a problem in terms

of competition for employees because their employment force is fairly stable and they are not constantly in the job market looking for additional personnel.

We have, I think, greater difficulty with, for instance, the construction industry. A great many of our people are related to the construction of the highway system and we are unlikely to pay as well as the private contractors would. This is probably a tougher area. In addition, there is a great shortage of civil engineers generally and a good civil engineer has a range of possibilities and he is not limited, for instance, just to highway construction. And, therefore, we are in competition with any kind of activity that would require services of a civil engineer and that could be the Space Program, it could be the City of New York, it could be some Federal agencies.

So I don't think that the existence of these several agencies is particularly causing our employment difficulties, but we do have difficulty in recruiting adequate, trained, professional personnel and this is a problem.

SENATOR WALDOR: Commissioner, I have several questions I would like to ask you. First, do you think at the present time that the State of New Jersey is adequately represented on the Port Authority in your judgment?

MR. GOLDBERG: I think we are adequately represented in the sense that both states have equal numbers of individuals and I am certain that the Commissioners from New Jersey are quite conscientious in their representation of New Jersey's interest. Now New York and New Jersey have the same kind of

representation. It is on an equal basis.

SENATOR WALDOR: In so far as numbers are concerned.

MR. GOLDBERG: In so far as numbers are concerned, yes. Now New York has put Commissioner Ronan of the Metropolitan Transportation Authority on the Port Authority membership and I think that representation of that kind of individual from New York gives them an advantage.

SENATOR WALDOR: In what respect, Commissioner?

MR. GOLDBERG: Well, Commissioner Ronan is a very knowledgeable individual who has responsibility for carrying out governmental programs in the State of New York and, therefore, is in a position to follow very closely any Port Authority activities which would be relevant to the governmental programs for which he has responsibility and is more likely, therefore, at the time that basic policy is being formulated on the Authority, to make sure that that policy is formulated in a manner which is consistent with his own programs.

SENATOR WALDOR: So the representation from New Jersey in your judgment is not equally equipped, let us say, - I am not speaking necessarily from the basis of qualifications, although if you feel that, I wish you would say it - with that of New York in so far as their representation on the Port Authority is concerned.

MR. GOLDBERG: I should make it clear, I have absolutely no criticism of any of the individuals from New Jersey who serve on the Port Authority, all of whom I believe do a very conscientious and able job for New Jersey. From my Department of Transportation's viewpoint, we are less able to represent

our viewpoint with regard to that agency by virtue of not being on it and in that sense, from our viewpoint, New York seems to have an advantage.

SENATOR WALDOR: Do you think that the best interest of the State of New Jersey in so far as the over-all transportation problem is concerned was fully realized or partially realized or to what extent was it realized with the widening of the Turnpike?

MR. GOLDBERG: I think the Turnpike widening was one of these inevitable decisions which was reached as a result of the history that preceded the making of that decision. In 1963, as I am sure you know, Governor Hughes recommended a substantial bond issue which was defeated. In 1964, the Legislature then reviewed the problems concerning the various areas of government, particularly with regard to their capital needs and in that year the Legislature recommended bond issues for higher education and for institutions, which were two of the three areas that were covered in the 1963 proposal. The third area was highways and in 1964, the Special Joint Legislative Committee specifically stated that they did not believe that any funds should be allocated for transportation at that time and that the toll authority should be called upon to do more with regard to the State's highway problems.

Now within that background, the decision to widen the Turnpike to me appeared to be inevitable. If you want to look at the problem in abstract, I think there would have been better ways to provide transportation service for the

people of New Jersey than through the widening of that one road. However, those better ways could not have come about unless the then State Highway Department was provided with additional funds and those funds were not available and, therefore, the decision to try and get some additional highway capacity, even if it were in an area which was not in abstract the most ideal, as I say, appeared to be inevitable.

SENATOR WALDOR: Two other questions: Do you think that, for example, a department such as yours could better serve the public interest by becoming in itself an autonomous agency and one that would not be subjected to whatever restrictions you are presently subjected to as a result of the budgetary limitations that are placed upon you in one way or another?

MR. GOLDBERG: There are advantages to being autonomous, if you want to use that term, but there are disadvantages as well. I do not believe that a Department of Transportation should be operated as an autonomous operation. I do not believe that the difficulties that the Department has with regard to carrying out its programs will be cured by that kind of change in form.

I do believe that we could carry out our responsibilities a lot more effectively and a lot more promptly and a lot more efficiently if we had a more reliable source of income or a more reliable source of revenue. But I don't think that you achieve this necessarily by saying that the agency is all of a sudden autonomous. It was for that reason that the Master Plan which the Department formulated recommended that we

adopt a ten-year program and that we fund this ten-year program through the use of bond issues.

SENATOR WALDOR: Let me ask you just one more question: Of course, as a member of the Legislature, I receive what seems almost like daily public relations releases or something of that nature, which are apparently run off on your mimeograph machine at least twice a week or three times a week, whenever it is, and I am not being critical of it because I think it is informative. But I am wondering whether or not in view of some of the statements and testimony given by Mr. Wolkstein in so far as the tremendous expenditure from a public relations standpoint that is made by autonomous agencies, the Port Authority and so forth, I think he mentioned, -- whether or not a greater emphasis isn't placed on the public relations phase of highway building, maintenance and so forth than is necessary and whether or not a greater expenditure of funds isn't made for public relations that could better be used for the maintenance and construction of roads, and I say this not only as it applies particularly to your Department, but to those that are similar and supervised by the Port Authority, the Garden State and others.

MR. GOLDBERG: I can only speak for my own agency. I am not sufficiently familiar with the practices in the others to really comment on their policies. I know from my experience during a relatively short period of time as Commissioner that it is not merely useful but absolutely indispensable that we try and get out information about what the Department is doing. Most of the releases that we put out numerically, for

instance, relate to actual developments within our program and, of course, what we do affects sooner or later every municipality and every county and every person in the State of New Jersey. If we do not make a deliberate effort to communicate and tell people that we are talking about locating a road in a particular area or the fact that construction is about to commence in a particular area or that detours are going to go into effect, we very quickly either complicate our ability to proceed with our program or are very seriously criticized.

I think of a very good example because it came to my attention only about a month ago. The Department wanted to construct a section of road in South Jersey. Under the law we have to have a public hearing and we held a public hearing and we held it in a regional high school in South Jersey. The road was designed to go in front of that high school. And after that public hearing, there was no criticism, we went ahead with the design and were now at a point where the road could be built. At that point in time, members of the School Board came in and objected to the location of the road because they now first became aware of the location in their minds. Now several Senators and Assemblymen came in and made very strongly the point, and a point that I can't really disagree with, that the Department has an obligation to let the local people know as fully as possible what we are going to do so that they can react to it, so that they can communicate with us, so that we can work out these kinds of problems cooperatively. We were able ultimately to resolve

that particular incident, I think, to everyone's satisfaction. But it tends to illustrate the necessity for us to try and tell people what we are planning, not only initially - and here we had the hearing right in the high school and they still were unaware of the problem - but continually. I think if you look at the amount of money that the Department allocates to this function, which I think is absolutely vital, as against what we spend on the maintenance and construction of highways, while I don't have the actual figures, it is a relatively small percentage and it is a percentage that I would hate to see sacrificed because I know if we stopped it, very quickly we would get a level of criticism from the people in the communities which were losing this information.

SENATOR WALDOR: One other question and I am through: You were counsel to the Governor before being Commissioner of Transportation, weren't you?

MR. GOLDBERG: That is correct.

SENATOR WALDOR: During the period of time that you were counsel to the Governor, you had, I take it, submitted to you the minutes or the resolutions or actions of the Port Authority, the Garden State and other autonomous agencies. To your knowledge at any time during your period of service as counsel to the Governor, did the Governor ever exercise the veto power that is given him, as I understand it, over the actions of any of these agencies?

MR. GOLDBERG: I don't recall an incidence where the veto was actually applied, although I think there was a veto in the Delaware River and Bay Authority, one veto there. There

is a misconception about how the veto works in reality. It is true that rarely does the Governor of New Jersey or the Governor of New York, for instance, veto the minutes of the Port of New York Authority. There is a reason for that, however. If there is a policy objection to what an agency is doing, a Governor is in a strong position to request the authority to reconsider or review their proposed action and rarely does that authority pursue that course of action to the point where a veto becomes absolutely necessary. And there have been a number of occasions where in fact the threat of a veto was sufficient to at least shift the action contemplated by the authority.

There was, for instance, the incident concerning Newark Airport and the use of jets and Governor Meyner at that time indicated that he would object to the Port Authority introducing jets unless it was worked out on a suitable basis and before the Port Authority went ahead, they did revise considerably what was originally their program for that area.

There was one time when the Port Authority was indicating a desire to abandon Teterboro Airport and I think Governor Hughes indicated that he would not favor that action by the Port Authority. As a result of that position by the Governor, the Port Authority reconsidered that and worked out the agreement they now have with Pan American.

So, sure, it is true that if you want to count the number of occasions where a veto has actually been applied, they are relatively rare. There are, however, a great many

occasions where the Governor by virtue of his ability to veto is able to change or influence or modify authority action and it is in that area that the veto has a very real power.

ASSEMBLYMAN WILSON: How long have you been the Commissioner of Transportation?

MR. GOLDBERG: I became Commissioner in December, 1966.

ASSEMBLYMAN WILSON: Senator Waldor mentioned the amount of money spent for public relations. Do you think we might be able to get that figure?

MR. GOLDBERG: From us?

ASSEMBLYMAN WILSON: Yes.

MR. GOLDBERG: I am sure you can. It is a matter of record on the budget appropriation anyway, but I will provide you with the breakdown.

ASSEMBLYMAN WILSON: I would like to ask you a question about the Tri-State Transportation Commission, of which you were Chairman - was it last year?

MR. GOLDBERG: Yes. I have just finished a term of one year as Chairman.

ASSEMBLYMAN WILSON: How is the membership of that Commission determined? It seems to me that New Jersey is not adequately represented as compared to the other states. I think it is a little top heavy as far as Connecticut is concerned.

MR. GOLDBERG: No. There is equal representation from the three states. Each state has five representatives.

There is at the moment one or two vacancies in New Jersey membership. The reason for that vacancy is that the Tri-State Transportation Commission legislation provides that it will have to be re-enacted by the Legislature by next March or it will terminate. We have had discussions with the several states about the format of a continuation of the Authority. There has been a great deal of interest expressed in broadening the membership of the Authority and in order to maintain a maximum amount of flexibility the Governor has not moved to fill the existing vacancies so that it will be possible to adjust the actual membership in whatever way it is finally agreed to, not only by the Governor but ultimately by the Legislature. But each state has the same amount of members. In addition, it requires a quorum of the total membership from each state in order to carry out action. So we have a full voice in that Commission.

ASSEMBLYMAN WILSON: I just received a list and I saw New Jersey was minus a few and I was concerned.

Now, when you were Chairman of the Tri-State Transportation Commission, did you ever actually have the opportunity to sit down with the members of the Port of New York Authority as far as developing regional plans? After all, they do control and have a lot to do with the traffic between New Jersey and New York.

MR. GOLDBERG: Yes. During the past year, we have had series of conferences with the Port Authority both in my capacity as a member of Tri-State and in my capacity as Commissioner of Transportation. And I would say that we have

good communications with the Port Authority in terms of our ability to discuss with them our programs and their willingness to discuss with us the ideas that they are formulating. These kinds of meetings take place fairly frequently between all of the parties concerned.

ASSEMBLYMAN WILSON: I would like to ask you a question also about a coordinated effort between our authorities of this State, such as the Turnpike Authority and the New Jersey Highway Authority. Do you as Commissioner of the Department of Transportation ever sit down with, say, the executive directors or the commissioners of these authorities to actually coordinate some of the problems as far as transportation is concerned?

MR. GOLDBERG: Yes. We have meetings with them quite often. The meetings generally are related to specific points at issue. I have a conference, for example, tomorrow with Mr. Flanagan of the Turnpike Authority about several projects that concern both me and him. I have in my hands some correspondence from Lou Tonti concerning some construction where both of our agencies are involved. Therefore, it is very common where we have either points of agreement or points of conflict to have meetings as high as the Executive Director level. Very often these meetings are conducted between our staff members as well. In fact, there are considerable meetings during the course of a year between my Department and every transportation authority, both interstate and intrastate in New Jersey.

ASSEMBLYMAN FEKETY: In line with that cooperation between agencies, I am familiar with one case - that is the Turnpike hookup - where the Port Authority and your Department are sharing expenses of \$3 million for a hookup between the Turnpike and Highway 169. Is that correct?

MR. GOLDBERG: The Port Authority isn't involved in 169.

ASSEMBLYMAN FEKETY: I should have said the Turnpike.

MR. GOLDBERG: The Turnpike and the Department are involved in that 169 connection. That is correct.

ASSEMBLYMAN FEKETY: Do we have any other cases where these agencies share the expense?

MR. GOLDBERG: Oh, yes. There are many cases. For instance, the interchange at Newark Airport, which is the termination point of Interstate 78, involves participation between my Department, the Port of New York Authority and the Turnpike Authority and all three agencies, as well as the Federal government, share the cost on an agreed-upon ratio.

We have Route 440 in the vicinity of Perth Amboy where it will interchange with the Garden State Parkway and we have agreements there with regard to the Garden State Parkway on sharing of costs.

We have some understandings with the Atlantic City Expressway. Indeed, much time and effort is devoted by my Department in order to get these agreements resolved and in order to get a mutually-acceptable basis for sharing of costs where there is an interchange or an interconnection between the highway network and these autonomous agencies.

ASSEMBLYMAN FEKETY: So what it amounts to is that some of these agencies are spending funds that are related in some sense, but actually are not part of, say, the Turnpike Authority or the Garden State. They are helping defray the expenses of the State Highway Department.

MR. GOLDBERG: Well, generally the basis of the agreement is they contribute that portion which is of benefit to their authority. For instance, if we connect a State highway to a toll agency, they get a benefit in terms of increased traffic and since they are receiving a benefit from this construction, we believe that they ought to pay a proportionate share of the cost of the construction. So in each of these instances where there is a physical relationship between the State highway system and a toll agency, we work out an agreement. The agreement relates to who builds the structure and it relates to who pays for a portion of the cost.

ASSEMBLYMAN FEKETY: I see. Now back to the 169 hookup - what is the latest on that where the agreement is between your Department and the Turnpike Authority?

MR. GOLDBERG: I mentioned that I am meeting tomorrow with Mr. Flanagan and that is the purpose of tomorrow's meeting.

ASSEMBLYMAN FEKETY: O.K. One other question - as the Commissioner of Transportation, do you feel that the Port Authority should expand its rail transportation facilities in this State?

MR. GOLDBERG: I do not think it is possible to make a

policy judgment on that question at this time. I think that the State of New Jersey in the very near future, within the next several years, will have to focus on this question as to what the future of rail transportation, particularly a mass transit type of rail transportation, is to be. There are certain advantages and disadvantages to the construction of a mass transit system. As I say, I don't think that we are prepared to answer the policy questions and by "we," I don't mean just the Department of Transportation because we are not going to make these policy judgments in the final analysis. They are going to be made by the Governor, by the Legislature or ultimately perhaps by the people.

If there is a policy decision to substantially expand mass rail transportation on the New Jersey side of the Hudson River, then it seems to me highly likely that the Port Authority will have a role to play in that expansion. However, the extent of that role, I would say, it is too early to delineate at this point.

ASSEMBLYMAN WILSON: Commissioner, one thing that really concerns me is the fact that at this particular time you are involved in legal action with the New Jersey Highway Authority. I am bothered about the amount of money being spent for legal assistants, etc. The amount, I believe, is over \$12 million that you say that the New Jersey Highway Authority owes the State of New Jersey as far as the Department of Transportation is concerned. I would like you to comment on that, please.

MR. GOLDBERG: It is true that as Commissioner of

Transportation, I requested the Attorney General to institute a suit against the Garden State Parkway or the New Jersey Highway Authority for a sum of money which the Department believes under the law we are entitled to. We are being represented in this suit by the Attorney General. In fact, Deputy Attorney General Biederman who is here today with me is handling the case for me and he is a salaried employee of the Attorney General's Office assigned to me. So there is no unusual expense from our standpoint in terms of prosecuting the suit.

ASSEMBLYMAN WILSON: I mean as far as the courts being used and the backlog, etc.

MR. GOLDBERG: The suit relates to an incident that occurred in Essex County - and I think Assemblyman Caputo touched on it in part of his testimony. It grows out of legislation that was enacted in the early 1960's which required the Department of Transportation in the construction of Interstate 280, which is the so-called East-West Highway, to depress it under the Garden State Parkway. The act of depressing it, of running it underneath the Garden State Parkway, which itself is depressed at that location, necessitated a much more expensive type of construction than would have been necessary if it had been overpassed and at the time that this was being decided, the Federal government had indicated that it would not pick up its customary share of that construction since they did not believe that it was essential to the building of the road. As a result of this problem, an over-all arrangement was worked out between the

Highway Department and the Garden State Parkway whereby the Garden State Parkway agreed that it would provide the difference in cost between an elevated and a depressed highway to the State Highway Department so that the Department would be able to carry out this legislative mandate and would have the funds to do it. This estimated additional cost was approximately \$13 million and the legislation that was passed specifically provided that the Garden State Parkway would make this payment up to the cost of \$13 million for the incremental expense of a depressed highway.

At the time that the legislation was passed, as I indicated, it was clear that the Federal government would not pick up its customary 90 per cent share on this highway and it was for this reason that this was worked out. As part of working it out, the Garden State Parkway was authorized to impose the additional tolls in Essex County that Assemblyman Caputo mentioned and this was done as part of an over-all package.

Now what happened was that Commissioner Palmer was successful in accomplishing something that at that time nobody thought he could. He ultimately got the Federal government to agree that it would participate in the full cost of the road even though the cost of the road was going to be substantially higher because of the depressed section and it thereby became possible for the Department to recover from the Federal government some of the money that it spent for depressing the East-West Freeway.

We in the Department, however, believe that this

windfall of Federal funds which Commissioner Palmer was able to develop after the legislation was passed should not deprive the Department of the benefit of the funds which the Garden State Parkway originally pledged itself to pay and that if anyone were to be the beneficiary of this unexpected Federal participation, it ought to be the State Highway Department and not the Garden State Parkway. The Garden State Parkway has taken the position that under their reading of the law they are not permitted to make this payment because of this unanticipated development. And while I do not think there is any disagreement between the agencies as to the facts and I do not believe there is any disagreement on the part of the Parkway that they always were intending to use this money to pay to the Department, they have reached a legal conclusion that they are unable to pay this money. The purpose of the suit, therefore, is to resolve the legal question that has developed as a result of this unexpected factual circumstance which was not specifically contemplated at the time the law was drafted. Therefore, the law itself is not as clear on this point as you would want it to be if you are going to work it out amiably between the parties.

ASSEMBLYMAN WILSON: I believe, just to set the record straight, that the depression was not just under the Garden State Parkway, but it started up in West Orange, on through the Oranges into Newark.

MR. GOLDBERG: Well, there is a whole section, but the major point of depression, the low point, was the Garden State Parkway.

ASSEMBLYMAN WILSON: Of this amount of money, approximately \$13 million, how much has been paid by the New Jersey Highway Authority to the Department of Transportation?

MR. GOLDBERG: Approximately \$1 million was received by the Department before the Parkway concluded that it could not provide additional money.

ASSEMBLYMAN WILSON: Therefore, since the ten-cent tolls were part of a package deal and they have not paid this money to the Department of Transportation, I question the ten-cent toll. Could you comment on that?

MR. GOLDBERG: Well, I think there is no question that they have the right to impose the tolls under the legislation and in addition I believe that the bonds that they issued do contemplate a certain toll structure on the Parkway. So it would appear that legally the toll question is being handled correctly by the Authority. But we do believe that since they are getting the benefit of the tolls, the Department should get the benefit of the funds which were originally intended to come to the Department.

ASSEMBLYMAN WILSON: As the Commissioner of Transportation - and this is the Commission studying autonomous authorities - would you give your comments concerning transportation authorities?

MR. GOLDBERG: In New Jersey we probably have resorted to the use of transportation authorities to a greater extent than any other state and there are reasons why this was desirable. First of all, a great number of our authorities are interstate in character and when you have a question of interstate

movement, the most satisfactory method for resolving that kind of jurisdictional problem seems to me to be an authority and I think we have been basically well served by the Port of New York Authority and the Delaware River Port Authority and the other interstate agencies.

We have in New Jersey, however, gone beyond interstate agencies into intrastate agencies and here the problem is not a jurisdictional one and the reason for the authority, as I understand it, is not jurisdictional. The reason is that New Jersey, particularly back in the late 1940's, made a policy decision - its governmental leaders made a policy decision - that they would try and develop at least some of their highway requirements through autonomous agencies because it would thereby be possible to build these roads without the use of tax revenue, but through the use of revenue bonds and toll collection.

Now the benefit to New Jersey is obvious. We got roads constructed, very often we got them constructed quickly, and we got them without the imposition of taxes. This is I think an advantage. We paid a price for it, however. The price is that these roads are operated by separate governing bodies, that they are operated on a toll basis so that you cannot use them unless you are willing to pay for that privilege, and since the money to build them was borrowed, the governing bodies of these agencies have a prime responsibility to the lenders to protect their investment. And in formulating their policy, it is incumbent upon the governing bodies of these authorities to make their decisions based upon the financial

integrity of their operation and very often, therefore, they must decide on one hand between a move which will maintain or improve their financial condition and a move which in abstract might be beneficial from an over-all transportation situation.

From the Department's viewpoint, these authorities have done an excellent job within the limits of their mandate. However, they operate in a manner which is not related to the over-all transportation problems of New Jersey because neither their financial liabilities nor their legislative mandate permits or requires them to hold that viewpoint and, therefore, they make their policy judgments from a relatively narrow standpoint. I don't say this by way of criticism because I do not believe that anyone who serves as a member of the New Jersey Turnpike Authority, for example, has any other choice. But the effect of doing this is to have within the State a number of agencies which are making transportation judgments not from an over-all perspective, but from a much closer viewpoint and this complicates the responsibilities of a department such as mine which is obligated under the law that we have to take a more comprehensive view. And it is in this sense that I say that you pay a price for using these kinds of autonomous authorities.

So on one hand they have great advantages: the ability to get projects built without relying upon tax resources. On the other hand they have certain disadvantages and that is primarily they are forced by their very structure to pursue their aims from a relatively narrow standpoint. I know of

no way that you can get the one benefit without getting the same kind of disadvantage that I have mentioned.

ASSEMBLYMAN WILSON: Would you comment then as far as the transportation authorities moving into different endeavors, such as the Port of New York Authority with the World Trade Center and now the New Jersey Highway Authority with the Cultural Center?

MR. GOLDBERG: With the Port Authority, the answer is relatively simple. They do not move into new endeavors without legislative authorization from both states. Therefore, before they build a World Trade Center, before they take over an operation of H and M, before they get involved in building ports, for instance, they must get a policy judgment from the states that this is desirable. Now once the states make the policy judgment, it seems to us, that we are more or less bound to recognize that this is what we have told the agency to do. And if we are in disagreement with the idea of the agency expanding beyond what it is now doing, the simple answer is not to authorize any further expansion. But in almost every case, what the Port Authority has sought to do has been ratified or encouraged or in many cases originally promoted by the states themselves. And I don't, therefore, think that the Port Authority can be criticized for abusing its powers since it is merely exercising those specific powers that the states have given to it.

ASSEMBLYMAN WILSON: Would you comment on the New Jersey Highway Authority? You mentioned the Port of New York Authority.

MR. GOLDBERG: On the New Jersey Highway Authority, I must admit I am not really very familiar with the policy judgments that that agency made at the time that it decided to go into the Cultural Center. I do not believe that the commitment to go into the Cultural Center in any way adversely affected its ability to carry out its primary responsibility with regard to the Garden State Parkway and I understand that they believe that that installation will in fact more than pay for itself through the traffic that it will generate as a result of the functions held there.

ASSEMBLYMAN WILSON: Do we need traffic on the Garden State Parkway?

MR. GOLDBERG: You need traffic there. The whole trick is to encourage traffic at the right times because there are obviously times of the day or times of the week when that road operates at capacity. But there are many other times when it is perfectly free-flowing and if the events are coordinated to take place at a time when the capacity is there, this is not an undesirable development.

ASSEMBLYMAN WILSON: What about nine o'clock on Friday during the summer and also nine o'clock on Saturday?

MR. GOLDBERG: Again I am not an expert on the Cultural Center. I only know pretty much what I have read about it and the decisions on it were made before I became Commissioner of Transportation. But I had the impression that the Authority had scheduled the events at this Center so that they would not conflict with their major traffic flows. This is the impression I have.

ASSEMBLYMAN WILSON: Commissioner, in your particular position, you have a \$1.2 billion bond issue you are proposing for transportation. Doesn't that bother you that, say, \$6.7 million goes into the building of a Cultural Center when we have so many dire needs so far as transportation in the State of New Jersey which you have expounded in connection with your bond issue, which I have studied?

MR. GOLDBERG: Well, I wouldn't say that it doesn't bother me. I don't think that this action by the New Jersey Highway Authority either assists or adversely affects the Department with regard to its problems, financial and otherwise.

These autonomous authorities are not legally permitted to utilize any of their surplus revenue capacity for the benefit of my Department. If in fact, the revenues of these agencies were available to the Department, then obviously we would have a great deal of interest in how they utilize their surplus funds. There were two attempts made in the past to in fact turn over to the then State Highway Department the surplus revenue capacity of the New Jersey Turnpike Authority in both 1959 and 1963. The bond issues in those years were predicated on a method whereby the surplus capacity of that agency could be made available to underwrite transportation programs. Both of those issues for various reasons, a combination of reasons, were defeated and the net result is that we now have a situation where these revenues aren't available to our Department so in a very real sense, their disposition of their revenues are irrelevant to my problems.

We do have an interest in developing our own revenue position. I have pointed out that if it makes sense for the Turnpike to spend \$400 million for widening, which is the estimated cost of their widening program, and if it is necessary for the New Jersey Highway Authority to spend in excess of \$200 million to upgrade that road, which is, I believe, what that Authority has indicated recently, then I do not believe that the Department of Transportation is being unduly optimistic in terms of our responsibilities when we indicate that over the next ten years we ought to spend figures in the magnitude of \$1.2 billion for transportation, considering the fact that we have a 2,000-mile network that we must maintain and upgrade and considering the fact that there are a great many areas which urgently require the construction of new corridors in order to absorb the traffic that is there. And Assemblyman Caputo again touched on this. He pointed out the fact that the Garden State Parkway is really the only north-south corridor that Essex County has and by that he means, I believe, a freeway corridor and that is true. But, I am sure, Assemblyman, you know that one of the major projects that the Department has on its books is the so-called mid-town connector in Newark and that road is designed to provide a complementary north-south corridor which would give to Newark and to those who are coming in and out of Newark the advantages that will come from the construction of Interstate 280 and Interstate 78.

Now these are the kindsof roads that can't be built by autonomous authorities no matter how you feel about them philosophically. These are the kinds of roads that will

either be built by the Department of Transportation or not built at all and it is these kinds of projects that we feel very strongly have to be built in New Jersey if we are going to contend with what is happening and you know what is happening - we all know what is happening. The present road network is year by year becoming more and more obsolete and we know that our people are going to buy more and more cars. We know that we are going to have more and more people. And we either have to recognize the necessity to provide additional capacity for all of our citizens or we are going to have to become used to the kind of congestion and the kind of highway safety problems that will be far worse than what we see today on our highways.

ASSEMBLYMAN WILSON: If the outstanding bonds of the New Jersey Highway Authority and the New Jersey Turnpike are paid off, what would happen to these roads?

MR. GOLDBERG: Well, the law for the Turnpike Authority was amended, I think, in 1965, fairly recently, and that amendment did several things. The first thing it did was it imposed for the first time the veto power on that agency. Before that there was no veto power on the Turnpike Authority and there still isn't, by the way, on the Garden State Parkway. The Governor does not have a right of veto over that. And that law also provided that when that highway became debt free, it would continue as a toll road, but the toll revenues would become available to the State of New Jersey.

As a practical matter, since the Turnpike Authority, following the '63 bond defeat and the '64 legislative report, has gone into a widening program and it does not seem to me

that that agency will again approach debt-free status for another 20 to 30 years at the best, that is pretty remote.

The Garden State Parkway is in a similar position. If it carries out this improvement program that it has publicly discussed, it too will not become debt free for another 20 to 30 years, although as far as I recall the law concerning the New Jersey Highway Authority merely provides that that becomes a free road which then is turned over to the Department of Transportation to operate as an ordinary State highway.

ASSEMBLYMAN WILSON: The more it gets in debt, the longer it will be autonomous.

MR. GOLDBERG: There is no question about that.

ASSEMBLYMAN WILSON: You mentioned with regard to the over-all transportation picture, as far as the authorities are concerned, they are naturally narrow in their viewpoints because they are only concerned with their immediate corridors. I feel the take-over of these roads by the Department of Transportation would help the over-all picture as far as the State is concerned. Would you agree with that statement?

MR. GOLDBERG: I didn't quite follow it, Assemblyman. Could you repeat that for me?

ASSEMBLYMAN WILSON: Yes. You mentioned the narrow scope of the individuals that are actually running these toll roads. If the Department of Transportation could at some time in the future when the bond issues are eventually redeemed or paid take over these roads, this would more or less improve our whole transportation picture so far as the

State is concerned, would it not? Would there be an advantage to the Department of Transportation to have these roads in their jurisdiction, other than just the increased revenue?

MR. GOLDBERG: Well, I do not believe that as a practical matter these roads will be within the Department's control as free roads for such a considerable period of time that it will make a great deal of difference in terms of our transportation planning. I think our basic decisions on our transportation network and the implementation of those decisions will be carried out during the period of time that these roads will probably remain in debt, in other words, in the next 20 to 30 years. And we will have established whatever our road network is going to be long before they become debt free.

I will say this, that it is a policy decision for the Legislature and the Governor to make, but I think it would be fair to state from my viewpoint as the Commissioner of Transportation that it would be highly desirable if the Department of Transportation were at least represented on these agencies while they continue in their toll status because while the Department would not necessarily run these agencies because we would have merely one vote out of the many there are, it would insure, I think, a closer degree of coordination and cooperation by virtue of that kind of representation. I do believe that that would assist the Department and I think it would be of value, for that matter, to the agency itself to have that kind of inter-relationship. That is sort of an interim point between total autonomy and total

supervision by the Department.

ASSEMBLYMAN WILSON: You are talking about representation on the Board of Commissioners?

MR. GOLDBERG: On the Board of Commissioners.

ASSEMBLYMAN WILSON: There are only three on the New Jersey Highway Authority.

MR. GOLDBERG: The size of that is controlled by law.

ASSEMBLYMAN WILSON: You are talking about maybe expanding the number of the Commissioners?

MR. GOLDBERG: That is one possibility. I am saying this is a basic policy decision. If it were decided by the Governor and the Legislature that this is a desirable move, you can arrange for representation of the Department by expanding the membership or by substitution of membership, whichever seems to be the more desirable way to carry it out. I don't think it is terribly important which way you do it.

ASSEMBLYMAN WILSON: I want to thank you very much for appearing before the Commission and we may call you again in the future. Thank you very much.

MR. GOLDBERG: Thank you.

ASSEMBLYMAN WILSON: The hearing is now adjourned until 1:30 when Commissioner Smith, the Chairman of the Commission for the New Jersey Highway Authority, will be here.

[Recess for Lunch.]

(Afternoon session)

ASSEMBLYMAN WILSON: We will now open the afternoon hearing of the Autonomous Authorities Commission. Mr. Smith, will you please come forward.

Good afternoon, Mr. Smith. What is your position so far as the New Jersey Highway Authority is concerned?

S Y L V E S T E R C. S M I T H, JR.: I am Chairman of the New Jersey Highway Authority and, of course, a member - Chairman as designated by the Governor.

ASSEMBLYMAN WILSON: What is the responsibility of the members of the New Jersey Highway Authority?

MR. SMITH: The responsibility is defined in the law which created the Authority. They are non-salaried. They are sworn and some members have to put up a bond for the faithful performance of their duties, and, of course, they are the Directors of the Authority and also in charge of the management and operation of the Authority, as the supervisor, subject to the usual execution of their policy matters by the staff.

ASSEMBLYMAN WILSON: And how long have you been a Commissioner?

MR. SMITH: I was appointed in late June of 1955 by Governor Meyner and was sworn in in the early part of August after confirmation by the Senate.

ASSEMBLYMAN WILSON: As Commissioner, could you tell me what is the responsibility of the New Jersey Highway Authority itself?

MR. SMITH: Well I think it's very clear, as a lawyer,

that we are to carry out the purposes of the Act passed in 1952, which is to conduct and manage the affairs of the Highway Authority in accordance with the provisions and powers of that Act. And we are sworn, as all of the members of any authority or even members of the state government and the Legislature, to support the Constitution and carry out our duties in accordance with the authority granted to us.

ASSEMBLYMAN WILSON: Well, what would be the prime responsibility, what would be spelled in your particular act that was created by the Legislature which set up the Highway Authority?

MR. SMITH: I'm sorry, I didn't get that, Senator, I'm a little hard of hearing.

SENATOR WALDOR: He is not a Senator, Mr. Smith.

ASSEMBLYMAN WILSON: I'm just an Assemblyman.

MR. SMITH: I mean, Assemblyman.

ASSEMBLYMAN WILSON: That's all right. It makes us feel good every once in a while.

What was the purpose of the act which created the Highway Authority? What was the responsibility given to the New Jersey Highway Authority?

MR. SMITH: The act was passed in 1952, in the administration of Governor Driscoll, and was subject to referendum on the guarantee of the bonds, the full faith and credit of New Jersey, in the fall of 1952. This proposal came about a year after, two years after the proposal of Governor Driscoll to create the New Jersey Turnpike Authority which was one of the first steps and which was headed by Paul Troast. This act came after that by Governor Driscoll

and at the time, as I recall, and I've looked it up, he said that he proposed the building and construction of the most beautiful and safest highway for high speed to serve the people of New Jersey from New York State to Cape May.

The purpose there was, of course, consistent with the creation of all authorities that there was to be a governmental body assigned but autonomous because it had to raise money, it had to float bonds subject to the guarantee of the State, if the people approved, and, of course, the members, commissioners, are named in terms.

Now this was not the first of the authorities. The Turnpike Authority of New Jersey followed very generally the plan of the Pennsylvania Turnpike Commission and, of course, much of it was related to the authorities that had to raise money.

In order to finance - and, of course, I speak as former General Counsel to Prudential Insurance Company, which is an institutional lender -- in order to finance any kind of a project for an authority you have to deal with the people who lend the money where the tolls and the income are to pay off the bonds and finance it. And so many of the powers in this authority, I'm sure in Governor Driscoll's day, were named and evaluated and expressed in the law based upon the experience and the fact that in order to sell revenue bonds - a very important thing, you couldn't finance them otherwise - you would have to have all of the powers, authorities and independence, an autonomy. And, of course, Governor Driscoll, when he proposed and suggested the law, the New Jersey

State Highway Authority, he was fully aware of the great difficulty that Paul Troast, who did a magnificent job with the Turnpike Authority, had in financing the Turnpike bonds. If it hadn't been for the Prudential Insurance Company of America, of which I was Counsel, and I dealt with this very personally, - if it hadn't been that they had taken up the bonds after another, at least, three big companies had declined to take the bonds, the Turnpike would never have been built.

So all the authorities, the powers, that are related in that bill, I am sure were dictated by the requirements in order to float the bonds, that is to issue the bonds and get the money so they could build the facility they were authorized to construct.

ASSEMBLYMAN WILSON: Other than a transportation problem and improving the transportation problem in the State, what would be also the auxiliary functions of the Highway Authority itself?

MR. SMITH: Well, in the case of the New Jersey State Highway Authority, the Authority was to create something different than the Turnpike which was a road across the State of high transportation, including truck traffic, - what I would call the traffic that went from state line to state line. Governor Driscoll, and I think this was the Legislature at the time, conceived of a road that would service the people of New Jersey, particularly the southern part of New Jersey, and perhaps in the central part of New Jersey, particularly the metropolitan area and that, therefore, they would have to rely on tolls from that

section.

I think that at the time - and I have no reason except that it sounds logical knowing the difficulty we had in financing the New Jersey Turnpike - they had to include, on the recommendation of their financial advisors, all of those powers that were necessary to make a parkway a success. And for that reason I think there was included in the original act, and it's still there, the power to develop recreational and other areas in connection with the Department of Conservation and Development, and that that was included because the traffic prospects below the Raritan River were considered, what I would call, summer traffic business. I've sometimes heard it called Coney Island business, summer traffic, but they had to see whether they couldn't include greater powers and they included in that a definition - I think I have the act here. It says that the project should include together with such adjoining park and recreational areas and facilities as the Authority, with the concurrence of the Department of Conservation and Economic Development, shall find to be necessary and desirable to both promote the public health, the welfare, and feasible for development pursuant to this Act.

That's the phrase and that's in the original act and it's still there, it's never been changed.

I think that was included in here because I think Governor Driscoll, with the advice of others and also with the support of the original chairman of the Act, Ransford Abbott, who was the first Director and Commissioner of Highways under Mr. Driscoll, had a very strong feeling that

this was necessary to develop the traffic south of the Raritan River in view of the engineering and consultant advice that they got.

I didn't write the Act. All I know is that I supported the Act and the referendum that went to the people that year and I'm sure that this must have been included by the Legislature and Governor Driscoll for a very specific reason.

ASSEMBLYMAN WILSON: Who is your legal counsel?

MR. SMITH: Thomas West is the General Attorney and our General Counsel and outside consultants is the firm of Pindar - well, Adrian Foley is the member of the firm, in the City of Newark.

ASSEMBLYMAN WILSON: For how long have they been counsel to the New Jersey Highway Authority?

MR. SMITH: When I came on in 1955 that law firm was headed by a man who is now a federal judge, Judge Shaw, and they've continued from that time down to the present.

ASSEMBLYMAN WILSON: And what moneys are appropriated for this particular expenditure for legal counsel?

MR. SMITH: What do we appropriate?

ASSEMBLYMAN WILSON: Yes.

MR. SMITH: Well, I don't have the present budget before me but we appropriate whatever is needed and we pay them on a basis of the services rendered. There is no general retainer fee.

ASSEMBLYMAN WILSON: Well would you happen to know last year how much money was spent on this?

MR. SMITH: You're asking me figures and I couldn't tell you that. I can get them for you and will be glad to furnish them to you.

ASSEMBLYMAN WILSON: I would appreciate it if you would.

What is the salary of the Executive Secretary?

MR. SMITH: I might say, Assemblyman, that the services of outside counsel depend largely upon the problems that arise. Some of them are in connection with the services rendered for what we call capital improvements, some are rendered in connection with the current operations, and I am sure that in the last two or three years we have had very unusual demands on general counsel for opinions and legal services in order to properly guide the Authority. So that they vary from time to time. But there is a very accurate record kept of the time rendered by outside counsel and the bills are itemized and passed upon by our auditors of the Authority.

ASSEMBLYMAN WILSON: What is the salary of your Executive Director?

MR. SMITH: What do we pay him?

ASSEMBLYMAN WILSON: Yes.

MR. SMITH: I think I'm right, it's \$28,000 a year.

ASSEMBLYMAN WILSON: What company do you carry your insurance with, the New Jersey Highway Authority. Which company carries the insurance for the New Jersey Highway Authority?

MR. SMITH: I don't know. We have a council or

insurance counseling committee, advisory committee, that meets with the comptroller, which is in charge of that. So long as I have been on there we've made practically no changes. We take the advice from them. I know the Frelinghuysen Firm was one of the original. I think we've made very few changes except where it was to the advantage of the Authority for a lesser rate. The Authority always gets the reports from the insurance advisory committee and it takes the recommendations from them.

So far as I know, we've made very, very few changes, if any, in the over-all insurance program. All of those reports come to the Commissioners and we pass upon them. I think within the past year we made one change where we found it was to the advantage of the Authority to save money at a lesser rate and changed from a company to another company on the recommendation of the insurance committee.

ASSEMBLYMAN WILSON: Would you happen to know the companies you have your insurance with?

MR. SMITH: You're asking me - I could get that. That's all in the reports, but it seems to me it went from the Insurance Company of North America to another company that offered a lower rate. And it would appear in the minutes of the Authority because such a change is authorized there. It may be administrative, it may be an administrative act but that's the way it's handled.

So far as I know, and I've been on since 1955, there have been very few changes and I know the Frelinghuysen Firm is one of the biggest writers of the business of the Authority.

ASSEMBLYMAN WILSON: How many companies do you buy your salt from?

MR. SMITH: Our salt?

ASSEMBLYMAN WILSON: Yes. Would you know that?

MR. SMITH: Our salt is bought on the basis of bids that are publicly received and it's granted to the lowest bidder. The records show that clearly.

ASSEMBLYMAN WILSON: Well, do you have many companies that you have purchased from?

MR. SMITH: Oh, yes. We advertise for bids and we get bids and we award the bids to the lowest responsible bidder. The record will show that.

ASSEMBLYMAN WILSON: Commissioner Goldberg, this morning, brought up a very interesting point where he mentioned the fact that in a toll road situation their interest is very confined because it only concerns where that one particular road is rather than the over-all pattern of transportation throughout the State, and he suggested that it might be a good idea to increase the size of the New Jersey Highway Authority, so far as the Commissioners, and have one of the Commissioners be a representative from the Department of Transportation. Would you comment on that?

MR. SMITH: I will, very readily.

The first Commissioner was Ransford J. Abbott. There is a constant conflict between a toll road where the Authority members have to look solely with an idea of protecting the credit of the State or protect the State of New Jersey taxpayers who are paying the dues, with that of an agency where

everything is based upon appropriations by the State Legislature.

Now there is - and I think this was the view of Governor Meyner and I think it's been the view of others, that there is a great deal of question as to whether or not, where you have this conflict, there shouldn't be independent judgment.

I doubt very much if that would serve the interest of it.

Let me give you a little illustration of it. Let's take the cost of an improvement of an interchange or Route 78. The original plans that came from the State Highway Department, well conceived by the consulting engineers, were much more expensive and we had the view of protecting our people because if we were to put the money in we wanted to make certain that we would get enough revenue from that interchange to protect the bondholders and the people and not erecting at an excessive expense. Therefore, we were in opposite positions.

Wherever there's a conflict of interest in governmental things, it ought to be resolved in the interests involved in it. We have to protect the bondholders which includes the citizens of New Jersey that guaranteed the bonds.

Well in that case we took a different position from that of the Highway Authority. If the Highway Authority member had been there, he would have been in the anomalous position, in my opinion an unethical position, of trying to represent two people, the State, in his sense the administration, and we representing the interest of the bondholders operating

a facility in an independent position.

So that in my opinion I do not agree with the recommendation. I think that these conflicts were one of the great problems of Ransford J. Abbott, who was a very able man, and the Highway Commission. And some of the problems that arose and have been faced by his other people arose out of this anomalous position of trying to serve two masters.

My opinion is that this is not a good suggestion for an autonomous authority. I say it's autonomous. We are responsible to the Legislature, to the Governor, we report to them and since I've been on the Authority - and I am sure that is true prior to that - we've been in constant communication with them to advise them what we're doing. We send the reports to the Legislature and any member of the Legislature can get information from us without any difficulty.

But I think one of the great conflicts in government today is the ethical conflict of trying to represent two sides at once and balancing it. I think it's a mistake. And I think that's one of the ethical problems that the government of the United States and any democracy must face.

ASSEMBLYMAN WILSON: You said the fact that you are responsible to the Governor, but does the Governor have the right to veto so far as the New Jersey Highway Authority is concerned?

MR. SMITH: He does not, under the present law.

ASSEMBLYMAN WILSON: It seems surprising that the Legislature overlooked the New Jersey Highway Authority. After all, they just added the right of veto, I believe, to

the Turnpike, didn't they, when was it in '65 or '66?

MR. SMITH: I don't think there's any difference between the two Authorities and I have some reason to believe it since I worked on the agreement, the funding of it. I think there's no veto authority, except with the Port Authority, that I know of in the authority legislation. That's my opinion. I may be wrong.

ASSEMBLYMAN WILSON: I was surprised when I was looking through the records at the fact that when I came to a simple item like a typewriter there were, I believe, - and this happened to be in '64, I think, 21 Royal typewriters were asked to be purchased from a specific company without advertising, and so forth. I was just wondering, how did they ascertain that the Royal was the best? Why did they not advertise competitive-wise as far as the bidding was concerned?

MR. SMITH: Well I leave that to the staff. I'm sure that there was an explanation at the time because our policy basically is to advertise and receive bids. We try, however, to do this - we try to keep uniformity of equipment, whether it's trucks or something else, because the service cost is less. That's not unusual. That's done in any good business organization and the best companies - Public Service, all the big companies have that policy.

Now I don't know anything about it but I'm sure that if you want the records the staff will give you the records to explain why that action was taken because I know when Mrs. White was Chairman we were always questioning any award without advertising unless there was a proper explanation.

These explanations are given and frequently they are given to the members of the press present at the meetings.

ASSEMBLYMAN WILSON: Could you comment on your recent plan to purchase the 13 mile free section from the New Jersey Highway Department?

MR. SMITH: Before I ever went on the Authority, I made an examination of this for Governor Meyner and Commissioner Palmer of the Authority. I was then with Prudential but I did this because of my lifelong friend, Governor Meyner. I found very clearly that the law, as conceived, and I had spoken for the referendum, that it contemplated one thing - and I am sure this was written in the law - the acquisition of the state-owned sections.

That section of the law has really never been changed. It's been augmented only by explanation by recent amendment.

And under that, I am convinced that it was the contemplation of Governor Driscoll and the Legislature, there would be one Garden State Parkway that would go the length of the State to Cape May that would be under the control of the Authority. And it was because of that that in 1955 Governor Meyner faced with the facts - I was not on the Authority at that time -- faced with the facts and with Commissioner Palmer persuaded the then Commissioners of the Authority to agree to put up an amount of about a million dollars with matching federal funds to add one extra lane south and one extra lane north on the condition, as the agreement states, that when the two public sections,

five and six, as we call them, were acquired the Highway Authority would receive credit for the money that they had advanced. And that agreement still stands. This is one of the things.

The difficulties arise in a number of positions in our consideration. First, let's take just the clearing of snow. The Highway Authority, which operates and cannot operate and should not operate over the State sections except for transport, stops its trucks, clearing snow, at the line. Let's take the section in my summer county of Ocean. They stop at the line, they raise the plows and go on to the next section. And the same thing happens in Cape May. The fact is that it's practically impossible to efficiently operate this, and remember that the Act defines the road.

The Garden State Parkway ran originally from Paramus to Cape May and included the State sections. Now, of course, when we had taken up we found these difficulties. And, furthermore, this is the problem that faced us, and we get it from the staff. The congestion on the public owned sections became so great that many of us on the Authority heard from citizens of Essex and other places that something should be done to improve it.

Well, the people always thought this belonged to the Highway Authority, we had the responsibility. There was little explanation that this was the State's job. And we came to the conclusion, in the Authority, that we had to improve it and widen the lanes if we were to have the traffic. Our consultants, when we issued bonds and contemplated it, advised

us very definitely that sooner or later this congestion, unless there were great improvements made by the State Highway Department, would be such as to affect adversely the revenues of the State Highway Authority. And, therefore, we became interested, with the Governor and others, in trying to develop a plan that would relieve this situation.

In the meantime what had happened was this. The Legislature, not with my seeking nor that of my fellow-commissioners, had enlarged the duties and placed upon us the burden of looking into the feasibility of what we now call the Garden State Thruway, which was a new toll road facility to go to Toms River and New Brunswick. When we got into that we found that we could not undertake that unless we had acquired and were able to meet the conditions of the bond resolution - acquired the publicly owned section.

That's what led us to our position that we had to state to the Governor and to the Legislature what the situation was. It was up to them.

I say for my fellow-commissioners, we're not seeking powers, we're trying to administer this Authority in a businesslike way for the interests of the people of the State.

ASSEMBLYMAN WILSON: Well before you mentioned the fact that the Commissioners' main responsibility was to more or less protect the bondholders. I believe you mentioned that, did you not?

MR. SMITH: That's right.

ASSEMBLYMAN WILSON: Is that your prime responsibility?

MR. SMITH: Well I think the primary responsibility

is to manage the roads so that the taxpayers of New Jersey will never have to fulfil the guarantee of the State-owned bonds. That's the way I feel, personally.

I think, second, we've got to operate it so that we will carry out the full faith and credit of the Authority to those who've loaned us the money to make this improvement.

And the third thing I think we ought to try, in doing so, is to render the service we have at the lowest possible cost consistent with safety and with developing the road and keeping it in the condition it is in.

Anyone who has studied turnpikes and systems of the country knows that the failures of them - and there have been hundreds of them in New Jersey that we had in the old toll roads - was due to the neglect of keeping the facility modern. And as a result, Governor Driscoll and the bond resolution provided that we shall have to continue and keep on improving the facilities, the road and other facilities that we have.

ASSEMBLYMAN WILSON: If and when you acquire the 13 mile free section, is there any plan concerning increased tolls?

MR. SMITH: I can't hear you.

ASSEMBLYMAN WILSON: If and when you acquire the 13 mile free section, is there any plan in the future as far as adding more tolls for that particular section of the road, whether they be 10¢ or a quarter?

MR. SMITH: Yes. The Authority has made plain, and people are going to understand it, one thing. The people who pay the present tolls will have no additional tolls. The

local service people who get on Route 22 and get off in that area would have the tolls. The same way coming north, if they got on after they passed the thing and got off, they would pay tolls. But those who are already paying tolls in Essex County, Union, any of those places, or at Raritan, and go through on that, would pay no additional tolls. That's the basis upon which every plan that we have conceived has been considered. We were not going to increase any of the tolls for people who are through travelers.

ASSEMBLYMAN WILSON: Well, along the same line, the 10¢ toll, I believe there was a contract signed with the New Jersey Transportation Department involving the depressing of the Freeway and the fact that this cost was going to be paid by the Highway Authority and in doing this service they were then given permission to charge a 10¢ toll. Is this correct, the way I understand the package? Would you elaborate on that, Mr. Smith?

MR. SMITH: The background of that was this: Living as I do in West Orange and in Essex, there was a great demand that the East-West Freeway should be depressed. The conversations indicated clearly that if it was elevated, as originally planned, the New Jersey State Highway Authority could not construct any interchange because we had no cost and could not justify it under our authorities in the bond resolution.

Later, after conferences with Commissioner Palmer and the Governor, we were asked what we would do, and the proposal was worked out that we would contribute up to the amount of the extra cost, which was not going to be allowed

in the 90-10 theory by the Federal Bureau of Roads, up to that amount only, and that we would do that.

We discussed this with the Governor and made that announcement and we agreed and the administration prepared the bill in accordance with the agreement. And that's the way in which we did it, we proposed it, only that we would go that far.

Now there were several reasons for this. This was a feeder road construction. It meant that we would have to make substantial improvements and also build the interchange. The interchange is a very expensive interchange. It's been completed and I'm sure you've used it. As a result of this, we had to get a justification in feasibility and it was when we got that that we were able to float \$40 million in bonds with this condition in it. That is the basis upon which we entered into any agreement with them.

ASSEMBLYMAN WILSON: Did not the Federal Government change its interpretation and decide to pay for the depression of the Freeway and, therefore, you stopped payment to the Department of Transportation. Is this correct?

MR. SMITH: I learned subsequently, and all of us did, suprisingly, through a newspaper editor that this arrangement had been made. We were not so advised by Commissioner Palmer, the State Highway Department, until several months afterward. We knew nothing about it, and at the present time this is a matter in dispute.

ASSEMBLYMAN WILSON: So, therefore, this matter is now involved in the courts so far as whether you owe the State

Department of Transportation or the State of New Jersey, I believe the sum is close to \$12 million dollars?

MR. SMITH: As Commissioner Goldberg said, this is a matter in dispute and since it's in court and, being a lawyer, I must decline to comment on the case itself.

ASSEMBLYMAN WILSON: Well, could you comment on the 10¢ tolls? Why do you need them now if this is not being used for the depression of --

MR. SMITH: Why do we need them?

ASSEMBLYMAN WILSON: Yes, because to me it looks like you came out \$12 million ahead.

MR. SMITH: We have \$40 million of bonds, money lent to us by the bondholders with the agreement that we would raise this money and pay off these bonds by additional revenues through the charge of tolls in the Essex County area. And, therefore, what we're doing is this. We do need the bonds. We've spent the money, all except \$13 million. \$27 million has been spent. And we have to provide the interest and retire these bonds and pay off so much every year beginning in 1972. So that, actually, we need the tolls to pay off the balance of the bonds. \$27 million requires a lot of 10¢ tolls in order to retire the bonds.

So to say that the tolls aren't needed is a mistake. They are needed. They are essential. And any bondholder, a number of them, would challenge any attempt to change that agreement.

ASSEMBLYMAN WILSON: I understand this, about the bonds and so on, but I would say - would you agree that you did do very well as far as that contract was concerned, due

to a different interpretation by the Federal Government?

Are you not \$12 million ahead of the game, so to speak?

MR. SMITH: No, we're not.

ASSEMBLYMAN WILSON: You're not?

MR. SMITH: Because if you read the bond resolution you will find that the disposition of the unused funds is required to be applied - it's required under our interpretation, the State disagrees -- it's required to be applied either to the main project or to the early retirement of the outstanding bonds. That's the problem that's facing us.

ASSEMBLYMAN WILSON: What provision did you use for the construction of the Cultural Center?

MR. SMITH: What?

ASSEMBLYMAN WILSON: What provision, in the law which created the Highway Authority, did you use for the creation of the Cultural Center?

MR. SMITH: Well, I'm not quite certain that I understand your question, but may I state it this way.

At the time the original bonds were issued, pursuant to the \$285 million guarantee by the State and others, the original plans contemplated the acquisition of Telegraph Hill under this section that I've read to you. As a matter of fact, the record should indicate that the Commissioner of Conservation and Development, Mr. Charles Erdman, a very able man, recommended that the original commissioners acquire 500 acres at Telegraph Hill. Actually the then Commission, composed of Ransford J. Abbott, Bayard England of Atlantic City, and Orrie deNoyer, acquired approximately - I can't give you the thing --

260 acres. At that time they, the original Commissioners, engaged engineers, in New York and other places, to plan for and develop Telegraph Hill pursuant to the authority. I have a list of the things that they did. We have a picture of what they planned at that time, and we have some things for the record. It's interesting to find out what was planned.

A general layout of the development of Telegraph Hill area - they contemplated 497.7 acres. We may come to that but we have nothing like that now. And they had here a framed rendering of the proposal of these people. We have this in the Authority there. It included an amphitheater type of swimming pool, a skating rink with concession and lounge facilities, an observation plaza, mall leading to a semi-circular restaurant with provisions for double-deck service and outside services, promenades, ample parking facilities, landscaping, etc.

Now then I'm only telling you what's one. Then Parsons-Brinkerhoff, who were the consulting engineers and were for many years while I was there, also had a plan. I could go into detail and tell you. We have others there. The observation tower, cost \$400,000, is one of them.

Then there was another property map, Aaron and Whitney. And our Engineer Consultant, Mr. Stephan, when he got into it, and we were advised, said it also included, by the way, an administration building at Telegraph Hill on the western side of it there. Of course, we built one somewhere else. But the total cost would be a little over \$9 million - \$9,200,000, for these improvements.

Now the fact is that what happened was this.

Basically these plans were approved by our predecessors because they thought this was good. However, by reason of the fact that the Parkway itself cost more money, action was deferred on the recommendation of the engineers until a later date. And when I came on the Authority, this was one of the unfinished projects of the original commission. As a matter of fact, I'm quite certain that Governor Driscoll is not only aware of these plans but, as I look back on it I think this was perhaps, with Charlie Erdman and others, the first concept of Green Acres in New Jersey.

But you ask about it. When we came into this proposition and I was on the Commission under the Chairmanship of Katharine White we came clearly to the conclusion that swimming pools were competitive with the swimming pools and swimming facilities on the Jersey Coast; and that we didn't want high-priced restaurants with people in private business there; and that the playing fields and other facilities were such that ought to be close to the people in the community, particularly playing fields for these small young baseball teams and other things, rather than have them travel on tolls for them. So we began looking around for another development at Telegraph Hill. And it was following that that we changed and discarded these plans for what we thought were better plans for the development of the Hill.

ASSEMBLYMAN WILSON: How many authorities throughout the United States have a development like we have in New Jersey now with the Cultural Center? How many of these

authorities that are designed for transportation primarily have this type of offshoot as a cultural center or even some of these other plans, such as a swimming pool and so forth? Are there any?

MR. SMITH: I don't know but I can only say this, that I didn't draw the law nor did the present Commissioners. This was the concept of Governor Driscoll and the people who passed the law in the beginning, and I think we're probably unique. We're only trying to carry out what the Legislature authorized us to do.

ASSEMBLYMAN WILSON: Well, when I look at the law, Commissioner Smith to me it looks like a broad interpretation, when I read the law myself which says, "together with such adjoining parks or recreational areas," - to me this would be picnic areas and things along these lines. As far as an interpretation of "recreational areas" into a cultural center or into a swimming pool, as in some of the other plans, to me would be a broad interpretation of this existing statute.

SENATOR WALDOR: Is that a question? because --

ASSEMBLYMAN WILSON: No, this is a statement.

SENATOR WALDOR: -- because Mr. Smith was President of the American Bar Association and I imagine he has an interpretation of the law, as I do too. I don't know whether that's a question that requires an answer or --

ASSEMBLYMAN WILSON: No, it's just a statement.

MR. SMITH: We didn't enter into this lightly. We have Counsel. We have Counsel that advises us, but I supposed recreational facilities did include band concerts

and a number of things like that.

Now just because we call it a cultural center and put emphasis perhaps on more of the classical and perhaps went a little bit broader, simply meant that we were carrying it out.

I think this law has a provision that its to be interpreted liberally. I think that's in the present act that was passed in 1952. But we didn't act upon this except upon proper advice of Counsel, and felt that the concept of providing a facility where people could come for recreation is well within the meaning of the law.

Of course, I want to say this, we have already provided other things there. For instance, we have the nature trails which are being operated by the Monmouth County Museum for three years. And there are thousands of children that go to the classes and go there. That's private. They are using a house that we purchased. We have picnic tables there. We've had people who have used this for skiing for a time, not very sufficient. But I don't know of anything more recreational nor more educational than perhaps having the cultural and performing arts. And I think there is quite a book published by the Rockefeller Foundation on that which emphasizes that we're well within that definition, Assemblyman.

ASSEMBLYMAN WILSON: Well, it's interpretation, that's what it boils down to, whether it's interpreted as a park or recreational area.

MR. SMITH: The real test there, I think, sir, depends upon whether this would be feasible, whether or not

the additional tolls we'd raise, over a reasonable period of time, would retire the money which we were spending for that purpose. And we found it was feasible on the reports of the proper people to make the investigation.

ASSEMBLYMAN WILSON: Well we had an individual testify this morning and one of the statements he made, and I would like you to comment on this statement, - he said, "Too often a public authority is given a mandate in but general terms and improvises on this mandate as the agency grows older and then is more routinely accepted and is then overlooked by the public and creating governments." And I would just like you, if possible, to comment on that because you have been involved in an autonomous authority since 1955, I believe. Could you comment on that statement as to whether you think there is any validity?

MR. SMITH: I'm convinced that if this were not in the law or in the concept of it that we would never have attempted to exercise this and perform this obligation that we felt we had.

We acquired these acres and we thought they ought to be used for the public good. It was the Legislature that created the Authority and set these powers. We're not assuming, in my opinion, any provisions beyond it.

I think you ought to be aware of the fact that we've already spent \$2 million on our picnic areas and we do not have the ordinary highway facilities. We provide restroom, sanitary and other facilities, and do a great deal more policing so that the people who pay tolls will have

better picnic areas and an increase in the use of those. It is very, very encouraging, the fact that the tollpayers appreciate what we're doing for them.

ASSEMBLYMAN WILSON: Commissioner, I heard the statement that one point in favor of the Cultural Center would be the fact that it would bring cars on to the road during the lull in traffic and thereby helping to pay off the bonds quicker. Is this part of the philosophy of the Cultural Center?

MR. SMITH: I don't think I got your question, sir, again. You say someone made some statement?

ASSEMBLYMAN WILSON: No. I've heard the statement and I've read it in the paper that one purpose of the Cultural Center is to bring more people on the Garden State Parkway during the off hours so you will have more cars on the road and, in turn, have more tolls and, in turn, pay off the bonds quicker. Is this one of the philosophies of the Cultural Center?

MR. SMITH: Oh, yes, anything to induce traffic with us is important, particularly below the Raritan River, and, therefore, we feel that that is good. And, of course, that's what the reports indicate and the experience of other centers, where they have entertainment of this kind, indicates that the toll roads have profited thereby. So, of course, that's a consideration. That's what we mean by the word "feasible," because it helps retire the money that we put into it.

ASSEMBLYMAN WILSON: I believe that your performances are going to be scheduled at 9 o'clock. I see by your

advertisements and so forth.

MR. SMITH: I think that is a managerial proposition. Some may start earlier but, basically, they will be later.

ASSEMBLYMAN WILSON: They will be later than 9 o'clock?

MR. SMITH: They'll be later rather than earlier. Nine o'clock is a good hour.

ASSEMBLYMAN WILSON: Then, in turn, they will bring more cars on the Parkway. Is that not correct?

MR. SMITH: That's right.

ASSEMBLYMAN WILSON: How many more cars do you estimate that would bring on the Parkway?

MR. SMITH: Well, I don't know. I can't tell you but I would imagine if you have 5,000 people or 10,000 people there, the maximum would probably be about 5,000. I think probably about 3,000 cars at a maximum on a particular evening.

ASSEMBLYMAN WILSON: And I believe the performances are going to be scheduled between the months of July and August?

MR. SMITH: Yes, except they'll start in June, this year, but normally it will be in July and August.

ASSEMBLYMAN WILSON: Have you been on the Parkway on Friday and Saturday nights during these months?

MR. SMITH: Yes, indeed, regularly.

ASSEMBLYMAN WILSON: Ever around 9 o'clock or 8:30?

MR. SMITH: Oh, yes.

ASSEMBLYMAN WILSON: Because the people would be starting from home, say North Jersey about 8 o'clock or a quarter of eight. What has been the condition of the road would you say on Friday nights during July and August?

MR. SMITH: My opinion? Our surveys and studies that we've made are very complete and would indicate that except on Friday, when there will be no performances, and on Sunday night, when there will be no performances, and at this particular time the road capacity will be less than 100% by far. We have studies to that effect.

ASSEMBLYMAN WILSON: Did you make the statement that there won't be any Friday night performances?

MR. SMITH: No Friday night performances, sir.

ASSEMBLYMAN WILSON: No Friday night performances. And also this will be during July and August that there won't be any Friday night performances?

MR. SMITH: July and August there will be no Friday night and no Sunday night performances.

ASSEMBLYMAN WILSON: Well it doesn't say that in the contract. When I look at the contract it says that the only time that they will not schedule performances is after six o'clock --

MR. SMITH: After what?

ASSEMBLYMAN WILSON: Six o'clock on Sunday. That's the only time that they can't schedule performances.

MR. SMITH: The policy has been set by the Authority. We have the authority and control.

ASSEMBLYMAN WILSON: I've been looking at some of your advertisements and I thought or was sure that they had Friday night and Saturday night - that they were going to have performances.

MR. SMITH: Saturday nights, yes, not on Friday or Sunday.

ASSEMBLYMAN WILSON: Not on Friday. Also there is not additional traffic of people that go down to the shore for one day --

MR. SMITH: What?

ASSEMBLYMAN WILSON: During the summer months wouldn't you say there are a lot of people that go down to the shore just for one day and then come back that evening?

MR. SMITH: We have one-day traffic.

ASSEMBLYMAN WILSON: Would you say that on Saturday night it's rather crowded on the Parkway or do you say it's an off-hour?

MR. SMITH: Every study indicates that the traffic on Saturday night would not be there. As a matter of fact, I've just been advised that traffic on Friday night during July and August is not bad after certain hours.

We have great traffic counts carried on by the staff and our people there constantly to find out what it is and we get these reports and, of course, we're guided by these facts that we find.

Our principal problem is Sunday nights and in June - in June on Friday nights we get these people coming down from the schools who have homes at the shore and they get out of school late in the afternoon. So that on Friday in June and in September, that's true, we have very heavy traffic on Friday, late in the evening, and coming back on Sunday.

ASSEMBLYMAN WILSON: Friday night late in the evening.

MR. SMITH: During June and September.

ASSEMBLYMAN WILSON: But not during July and August.

MR. SMITH: No, strangely enough, you don't have it, the travel back and forth at that time. They're the week-enders.

ASSEMBLYMAN WILSON: From my experience on the Parkway on Friday there have been quite a few people going down on that particular night but I guess I exactly don't know how many cars.

MR. SMITH: The records would indicate very clearly. Of course, this is up to us and we still have the control. If we find it's going to interfere, we will have to arrange our performances accordingly.

ASSEMBLYMAN WILSON: I'm glad you brought that point up about the fact that if you find it is crowded on the Parkway on Friday nights that you can possibly change provided that no acts are booked up for that particular time. And from looking at your advertisement, it looks like the whole season is already booked. So I doubt very much that you will actually be able to change your time as per your agreement in the contract. So even if your traffic counts happen to be off, you will not be allowed to change the time of the performance. Is that correct?

MR. SMITH: Well, there is nothing like experience to tell us but I am convinced that we made a pretty careful study of it and I don't think, except as I say, these two nights - I think Sunday night is out at all times.

ASSEMBLYMAN FEKETY: Commissioner, as you indicated, your interpretation of the law that created this body allows you to go on to these non-related projects, non-related to the toll itself, would we be able to expand it to say that

there is such a possibility, under your interpretation of the law, that the Authority can create a racetrack?

MR. SMITH: As what?

ASSEMBLYMAN FEKETY: A racetrack can be created by the Garden State people?

MR. SMITH: No. That may be very recreational but let's be reasonable.

ASSEMBLYMAN FEKETY: I'm asking you under your interpretation.

MR. SMITH: I think the Legislature would have to authorize the racetrack business specifically. They already have authorized tracks and they will continue to do that. Furthermore, there's more than one law. I don't think we can establish a racetrack and I don't think it was ever intended to do so. I think that's too broad an interpretation.

ASSEMBLYMAN FEKETY: Then you are restricted in the intent of the law.

MR. SMITH: Oh, we're restricted. That's the reason why these performances have to be of an educational and cultural and recreational nature, and I think they are.

ASSEMBLYMAN FEKETY: Do you foresee going into any other non-related activities?

MR. SMITH: Well, I don't know of any non-related. I think, for instance, additional picnic tables there. I can readily see that one of the things, for instance, that has been handled by park authorities has been the creation of a skating rink. There is quite some demand for that. We haven't contemplated it except in the broadest terms. We

are thinking of those things, whatever will induce traffic and be justified as feasible of that nature we would go into.

The Essex County Park Commission is an authority and they've erected a skating rink, two of them, as a matter of fact, and have been very successful. And I think that's true in Union County, if I'm not mistaken.

ASSEMBLYMAN WILSON: The only difference is that the Essex County Park Commission is a commission established for recreational purposes. I believe the prime responsibility of the New Jersey Highway Authority is to provide transportation in north-south routes throughout the State. So I don't think the two equate.

MR. SMITH: You see, Assemblyman, you're interpreting the law without taking in the whole picture of what this says. The Legislature in 1952 included this other phrase. If they hadn't, there would have been no Telegraph Hill. So we are taking over the situation created by the Legislature. They're the ones that wrote the authority in and they included, and you compare some of the language in the Park Commission law and you'll be surprised how similar these phrases are. As a lawyer I have to look and see where the source of this thing came from. So that if the Legislature authorized this, as they did, that's something and it's there, and this is the law that was submitted to the voters in 1952 and approved by them, if you read that referendum.

All of these authorities were discussed, you know. I don't know whether you realize it but I spoke in behalf of this referendum. If you look up the records, you'll find

there were 32 disciples, as they called them, to speak for it, and the referendum carried two to one, over 900,000.

ASSEMBLYMAN FEKETY: One other question. Commissioner, in light of this project on Telegraph Hill, is there any consideration being given to the community in reference to loss of ratables?

MR. SMITH: I suppose you are speaking now of the loss of ratables to the Township of Holmdel?

ASSEMBLYMAN FEKETY: That's right, sir.

MR. SMITH: I know of nothing to that effect because the amount that we've acquired - as a matter of fact, we have a very good relationship with the Township of Holmdel. We have an agreement whereby we're connecting with their sewage disposal plant in order to provide their -- they have a new school building and their sewer system -- we work with them very closely.

Of course, we've only acquired a very limited amount of land since the original Commissioners did. We have now about, I think, 340 acres and we probably may get more later on to come up to what was recommended by Commissioner Erdman in the Driscoll administration. But this is really park land. It's not the kind of land that would effect a loss of ratables.

ASSEMBLYMAN FEKETY: But you are providing something in lieu of taxes to the town.

MR. SMITH: No, we're not. We're non-taxable. We don't pay any taxes.

ASSEMBLYMAN FEKETY: What's this about the sewerage? What's this about the school?

MR. SMITH: We've never had any complaint from Holmdel that I've ever heard of.

ASSEMBLYMAN FEKETY: I'm not saying anything about a complaint but are you providing something in lieu of?

MR. SMITH: I don't know of anything if we are, no, I couldn't say so. We've never been asked to and I don't know of anything. We're non-taxable. That's what the Legislature created.

ASSEMBLYMAN FEKETY: Right. Well, what were the remarks pertaining to the sewerage and the school in Holmdel?

MR. SMITH: Well I'm not able to answer that. I would say that the amount of land we have there in the park area is very small compared with the Township - it's very much larger and very much developed. Of course, you have the Bell Labs right near there, a number of things like that.

ASSEMBLYMAN WILSON: Commissioner, you are now talking about a Parkway expansion program, so far as widening the Parkway. Is that correct?

MR. SMITH: The Authority has authorized our consultants on two things in the capital budget, the widening of the bridge over the Raritan River and also the widening and additional lanes from 117 north, perhaps south, so as to increase the lane mileage to that area. And we've authorized the consultant engineers to prepare detailed plans for both of those improvements.

ASSEMBLYMAN WILSON: And what would be the cost of that?

MR. SMITH: Now you're asking me questions on figures

but I think the cost of the bridge, the total cost, would run somewhere between \$9 million and \$9.5 million. I think the other cost, over-all, when it's completed, would run close to \$14 million. Of course it's never in one year, it's done gradually.

ASSEMBLYMAN WILSON: So it should be \$14 million, you would say, the total cost?

MR. SMITH: No, the \$14 million would be the widening from Keyport on up. There are bridges and other problems there and, of course, probably we would do it north first so as to relieve the traffic congestion. Of course, the problem is this, if we dump it on a state-owned section that doesn't have enough lanes for the load, including the local traffic, without any improvements why, of course, it just means that this will go on some other facility and it won't do it. But, of course, we're looking after what we think is the future of the Authority as a whole.

ASSEMBLYMAN WILSON: Well, along those same lines, I'm thinking of the fact that if you were - this is a statement, not a question - if the Cultural Center hadn't been constructed we would have had say \$6 million which you might have been able to use for actually widening the Parkway to begin with.

MR. SMITH: We'll have the money.

ASSEMBLYMAN WILSON: Oh, I know you'll have the money.

MR. SMITH: We're not worried about that. That isn't it. We haven't deferred this. We only face problems as we come to them. The future planning committee of the staff works on it constantly and our plans now are looking as far

as seven and eight years in advance, which is the only way in which you can properly operate any kind of business. Having been in the business world, I know something about future planning.

ASSEMBLYMAN WILSON: Well, Commissioner, I am glad you made the statement that you will have the money because we have a very serious problem, I guess you know, as far as the state government is concerned, relating to money. It seems in your position I envy you and you are quite lucky to have the money at your disposal for widening of roads and so forth.

MR. SMITH: The reason I say that is a very simple one and that is that under this plan and under any plan there has to be future planning and application and that is the concept of the original Commissioners, and these funds are being provided under the bond resolution. So we've already spent \$50 million of this money for improvements in the highway up to the present time. We will spend a little over \$8 million this year under the capital budget. And this is all contemplated, this was in the original plan, this isn't new, I'm not authorizing it. This is the way in which competent authorities plan and develop themselves and keep their facilities in first class condition.

ASSEMBLYMAN WILSON: Would you say that the Cultural Center was built with public funds?

MR. SMITH: No.

ASSEMBLYMAN WILSON: Well, what type of funds? How would you classify those funds?

MR. SMITH: I think the Cultural Center originally was planned and the funds that were assigned to it really were in the original bond issue. They were deferred. They're coming out of what we call the general and modernization fund of the New Jersey Highway Authority, the general fund, part of it, and they weren't all spent at one time.

ASSEMBLYMAN WILSON: Let me ask this question. Who owns the Cultural Center? Would you say the citizens of the State of New Jersey?

MR. SMITH: What?

ASSEMBLYMAN WILSON: Who owns the Cultural Center?

MR. SMITH: The title to the Cultural Center is in the New Jersey State Highway Authority, a corporate body of the State of New Jersey.

ASSEMBLYMAN WILSON: So, therefore, you would say all the citizens in the State in a sense would happen to own this Cultural Center. Is that correct?

MR. SMITH: Well I suppose that if you put it in the long sense, we're operating a public facility and the public has an interest in it. From a legal point of view, I think it's a wrong statement.

ASSEMBLYMAN WILSON: Well, not being a lawyer and naturally you being President of the Bar Association and so forth --

When I looked at your circular I was rather surprised that you have an official piano for the Garden State Art Center, the Baldwin. To me, this is free advertising for a company and I would just like you to comment on this.

MR. SMITH: You are speaking about the Baldwin piano?

ASSEMBLYMAN WILSON: Yes, it says in the corner, right here on your brochure, the Baldwin is the official piano of the Garden State Art Center. To me that's an advertisement for the Baldwin Piano Company, is it not?

MR. SMITH: Well, Assemblyman, we have a manager there and a great many of these people, including some very fine places, have to have a piano of one type and it so happens that the recommendation was that this be a Baldwin because the Baldwin is popular with some of the people that are going to preside there and they won't play and they won't appear unless they have a Baldwin or some other piano. So, therefore, this is just part of the administrative proposition of having these productions there.

I want to tell you this, I don't know what Van Cliburne uses. He's going to play but he's going to play on a Baldwin.

ASSEMBLYMAN WILSON: Well the reason why it's advertised is so that the citizens will know that a Baldwin piano is being used and they will buy tickets more readily?

MR. SMITH: This recommendation came to us from the staff and from our very able man there that this was what we should do. And, of course, this is a picayune proposition with us and I have no doubt this comes because most of the performers do this.

And I want to say this, some of you will remember when President Truman took a trip through the White House -

he's a great pianist himself - he went over and he played a Baldwin and he said, "This is my favorite piano." So I don't know, but we did this on a recommendation. We have to make these decisions.

ASSEMBLYMAN WILSON: I know, Commissioner. The only thing is it looks like free advertising and I don't think it should be on a public brochure.

MR. SMITH: I think you'll find this, as I've seen it, - I don't know but at all concerts that I go to they always have Steinway or Baldwin or something like that. That's part of the game. I'm not in that. I'm just a plain ordinary lawyer.

ASSEMBLYMAN WILSON: All right. Would you tell me now what the total cost of the Cultural Center is.

MR. SMITH: Well I would say the amphitheater section there will be less than \$6,750,000, --

ASSEMBLYMAN WILSON: How much less?

MR. SMITH: -- including a great many of the things that I would say are not really a part of the building itself. The amphitheater itself will run about \$3,150,000. But the 2,000 parking places, the grading, the sanitary facilities, the sewer and other facilities, that's the difference between it. That's about the cost of it.

ASSEMBLYMAN WILSON: So you say the total cost, and there won't be any additional cost now so far as the Cultural Center is concerned, will be \$6.7 million.

MR. SMITH: So far as what I would call the amphitheater and facilities surrounding it, that will be the limit

of it. We'll be within our budget.

ASSEMBLYMAN WILSON: I read so much about it in the paper, the fact that they state the original cost is going to be \$1.5 million - you know, I hear people say it's been misquoted and so forth, and this constantly is reiterated in the paper. I would like you to comment on that.

MR. SMITH: I'm glad you asked me that question.

ASSEMBLYMAN WILSON: I knew you were prepared, so I didn't want to disappoint you, because Mr. Tonti started to smile when I asked that question.

MR. SMITH: This was made in a report and this was an original plan submitted to us by the engineers for what looks like a band shell facility. We studied it, considered it and got in a feasibility report on it. It provided seats for between 1500 or 2000, and it showed that this would not be a feasible project, and furthermore we had grave doubts. In a very rough estimate one time that proposal came out and they said about \$1.6 million. And this was unfortunately reported one day at a conference in the Governor's office. But at that very same conference I said to the reporters that we're only announcing we're retaining Edward Durrell Stone and his associates to plan and design this thing and that no one could predict the cost because we were only announcing he was authorized. When we submitted the other plan on this side - that isn't it, there's another one there, at a press conference at headquarters -- you may keep this one --

ASSEMBLYMAN WILSON: No, I have a copy. I have that. Thanks anyway.

MR. SMITH: This is the other one. At that time I was again asked and I said we've only had a preliminary, this is a preliminary, and we've just authorized them to prepare the detailed plans. And I, in the presence of the press, and it was covered by the press, most of it, except those that don't like us, - I said, "No one can give an estimate of this but we generally feel that this is going to be somewhere between \$5 million or more dollars." I made that statement. And nobody ever used the words "a million-six" with the authority of any of the members of this Commission. I've said that many times and repeat it. We never contemplated it. Nor could it have been done nor could we have made any development in pursuit of our duties on that basis.

SENATOR WALDOR: Mr. Smith, I just want to inject at this point - I want to give our Chairman who has been working hard a little rest. I just want to say this, that I think the Garden State Parkway should be complimented to the extent that the tolltakers - since we've gotten into Baldwin pianos and traffic on Saturday nights and Sunday nights, - that the tolltakers on the Garden State Parkway are the only ones that say "thank you" when you hand them the money and I think that's a very wonderful thing and should be a part of this hearing.

Mr. Chairman, do you have any comment?

CHAIRMAN WILSON: Yes, on the Turnpike they said the same thing on the way down this morning.

MR. SMITH: May I say, Senator, that a great deal of this is due - and I want to give credit where it's due - when I came on the Parkway I found it was due to a policy

established by the staff under the leadership of Lou Tonti, our Executive Director. And the cooperation that we've gotten from the toll collectors is remarkable.

SENATOR WALDOR: I was being a little facetious.

MR. SMITH: And I think we've been noted for it.

I want to say this to you distinguished members of the Legislature - and I don't get a salary and I devote my time because although I was opposed to authorities generally, I have found since that this is one of the most exhilarating experiences I've ever had because of the concept, originally with my prior Commissioners and Katharine White and the present Commissioners, that we are trying to serve the public and we've taken anything else but a public-be-damned attitude. And I certainly have been persuaded that it's possible to get things done if you have well constituted authority.

SENATOR WALDOR: Has there been contemplated, based on the price of the tickets to the Cultural Center, that eventually this may be a somewhat self-sustaining operation? I roughly calculated that based on a \$30 average for a seasonal performance, 6 or 7 performances, - and I haven't the advantage of all the brochures or the literature or anything of that nature - that there would be a return of something like - approximately a gross return of about \$150,000 which would seem to me would eventually produce somewhat of a net profit, irrespective of how small it might be, which would make the project possibly self-sustaining over a period of time. Has this been considered as a possibility?

MR. SMITH: Every projection that we've had and every

study would indicate that eventually we will get a return. It will be reasonably modest but it will help further development. But I want to say this, in the presence of my colleagues and staff, that the response that we have gotten has been astounding. We are getting interest that I never expected, way beyond my conservative views on the thing, and we are conservative on it. And few people realize the interest of the people of New Jersey in these cultural entertainments.

And, Senator, may I point this out, that this facility will have, under the policy established by the Authority with the approval of the Governor and his administration, - we will have over 2,000 parking spaces that are free. And there isn't a facility in the United States, except the Garden State Parkway, and we charge tolls, that will have free parking facilities of that nature.

I am sure when you come, and you will be at our preview, you will be astounded at what we've been able to do with what I think a limited amount of money in regrading and developing a tremendous facility for the State of New Jersey.

There is one other thing I would like to call your attention to. We have a young man, Mr. Crocker, who has been a teacher in the public schools in Newark and then teaching at Eatontown, who is Assistant to Mr. Tonti. He is a Negro. He is very able, a graduate of Westminster College, and he is working now on educational programs for the Board of Education and others. And we are going to

justify this beyond any reason for anybody as a great educational center for the people there. And we will have programs, before and after, for what I think is going to meet a great need in the State of New Jersey, for the development of cultural entertainment for the people who are underprivileged.

SENATOR WALDOR: The opening of your books and your annual audit is a matter of public record, is it not?

MR. SMITH: Yes, sir, and it's submitted to the members of the Legislature. And our meetings are open, in spite of anything. The press is there. It's been there ever since I've been there. If they ask embarrassing questions, we try to answer them. But there is nothing secret in the operation of the New Jersey Highway Authority so far as the public is concerned, particularly the Legislature. We've always felt, at least I have, that we were responsible to the Governor and his Commissioner of Transportation as a direct communication, but also to the members of the Legislature. And every one of them can get anything they want from us.

ASSEMBLYMAN WILSON: We will take a five minute recess.

(Recess)

(After recess)

ASSEMBLYMAN WILSON: Commissioner, I have a few questions concerning your budget, the budget for Garden State Arts Center.

MR. SMITH: All right.

ASSEMBLYMAN WILSON: I see here there is \$41,000 for a model at the World's Fair?

MR. SMITH: What's that?

ASSEMBLYMAN WILSON: \$41,424.79 is that for a particular model? I believe Mr. Foley will give you a copy of the budget.

MR. SMITH: No. That was part of our promotional expense. This is at the World's Fair that you're speaking about, Item A.

ASSEMBLYMAN WILSON: Yes.

MR. SMITH: Yes, that was part of a promotional expense.

ASSEMBLYMAN WILSON: What is this Consulting Services 1965-1967 under your Promotional, \$55,675.00?

MR. SMITH: Can you get me the item.

ASSEMBLYMAN WILSON: Yes, it's item D. What is involved in that consulting services?

MR. SMITH: I'm sure that that had to do with technical situations in connection with the construction or perhaps performances and other things.

ASSEMBLYMAN WILSON: Well this is in promotional so it wouldn't be construction, would it?

MR. SMITH: No. This probably had to do with surveys

that we had made of other facilities, consulting with people who had represented other facilities and had the problems that we're facing. This is all the kind of things that you get into in order to be fully advised and informed so you can make some reasonable judgment on it.

The staff could give you a breakdown on it. These matters came before us from time to time in order to get this done. For instance, we wanted to know what was being done at some other facilities, like Tanglewood or Saratoga. That would be included, I'm sure, in that.

ASSEMBLYMAN WILSON: If you look at the promotional again, you have your display, and I already mentioned the display at the World's Fair, \$41,000.00, and then I see your other costs - Exhibits Statewide, \$7,776. Why is there a difference? Was it the same type of model that was passed around, or what?

MR. SMITH: Oh, yes, we've had the model around, I'm sure. The staff could give you more information about that than I could but this is part of the thing that you do. It's just like the Newark Airport exhibit. That was in the Prudential Lobby on Broad Street in Newark for some time. And I am sure the expense of bringing it in and putting it up was paid by the Port Authority at the time. This was the new development of it there. That's part of the cost.

ASSEMBLYMAN WILSON: Is that the same model that you had at the World's Fair?

MR. SMITH: Oh, no. This was the model for the development of the Newark Airport. They do these things.

This is generally the pattern.

ASSEMBLYMAN WILSON: No, Mr. Smith, I'm talking about the display at the World's Fair. This has to do, I guess, with the model of the Cultural Center, right?

MR. SMITH: Well, when you went to the World's Fair you had high expenses, you know. They went broke anyway. I have no doubt there were charges over there for setting it up. It was a big display. You were probably there. I'm sure I was there.

ASSEMBLYMAN WILSON: No, I wasn't fortunate enough to make the World's Fair. I'm very sorry I wasn't able to be there.

MR. SMITH: It was in the New Jersey Building.

It seems to me that we had some kind of a record that explained some of these things there. That's all included in this as part of it. The staff could tell you more about it than I can.

ASSEMBLYMAN WILSON: Part 2, Engineering, Line B - James Roper. Who is James Roper?

MR. SMITH: James Roper is an Architect at Red Bank, New Jersey. Besides having our people, we have to have people to inspect to make sure - we have a direct representative of the Authority there, what we would call in a big project such as the Prudential in Boston, Clerk-of-the-Works, and these are representatives. He's a very well-known architect.

ASSEMBLYMAN WILSON: That's \$67,000?

MR. SMITH: Yes. This would be - probably a contract was awarded on a proposal made by him. It is probably on a

cost-plus basis, as most of these supervising architects do, and his representatives, competent people, were there at that time. They were checking with the Edward Durrell Stone people and on thing with which Edward Durrell Stone had nothing to do.

ASSEMBLYMAN WILSON: And he was considered clerk-of-the-works, is that right?

MR. SMITH: I would say it's more like clerk-of-the-works. It's a very reasonable amount.

ASSEMBLYMAN WILSON: Does the Highway Authority have its own engineering staff?

MR. SMITH: We have a very limited engineering staff, as a matter of fact. We have a chief engineer. It's a very small part of our personnel organization.

ASSEMBLYMAN WILSON: Well how many people would you say you have in your engineering staff?

MR. SMITH: I couldn't give you the exact number but Philip May is the Chief Engineer and I think we have two - we have six in the staff. It's very small.

ASSEMBLYMAN WILSON: And one of them could not, for this particular project, more or less coordinate the construction?

MR. SMITH: No. Our staff is so busy looking after the over-all problems that we didn't have anyone. This is architectural and our people are highway engineers. This had to do with construction work of a different nature. Our people are more directed toward drainage, sanitation, roads, highway construction and other things. The Chief Engineer,

Philip May, is a very able young man. Having had a little civil engineering education myself, I can say that we're very proud of him.

ASSEMBLYMAN WILSON: Edward Stone was your architect. I see you have \$4,308.33 for travel expenses.

MR. SMITH: Yes?

ASSEMBLYMAN WILSON: Where did he travel? Is this to the site, he got paid so much for coming to the site or did he go to other parts of the country or --

MR. SMITH: I have no doubt that this is probably travel back and forth from the office to New York and some other places to the site down there for those of his top men that come there. It's a limited amount. Our vouchers would show it. I would have to ask the staff to give you the detail of it, but this is over a period of almost three years so it's a very reasonable amount.

ASSEMBLYMAN WILSON: Is this normal procedure that you would pay an architect travel expenses?

MR. SMITH: Oh, yes, we pay expenses, travel expenses to our consultants. That's in all the contracts pretty nearly today. That's normal. You see, there is a reason for it. This isn't taxable income. If they charged it and paid it themselves they would have a different proposition. This is undoubtedly due to the way they form the contracts today. It's a normal contract.

ASSEMBLYMAN WILSON: Would you turn over to the first page, miscellaneous items?

MR. SMITH: Yes.

ASSEMBLYMAN WILSON: That's number 3, Not-in-Contract items - Miscellaneous items, and you see line f, it has Switchboard rental first year anticipated - \$5,000. How big is that switchboard?

MR. SMITH: You are speaking, I understand, Assemblyman, about 3 f.

ASSEMBLYMAN WILSON: Yes, switchboard rental.

MR. SMITH: In making up a budget, the staff frequently puts in items that they have as a cost and I would prefer you to ask the staff about that cost of \$5,000. I'm not able to tell you because this is a small item in a budget of \$6.750,000.

ASSEMBLYMAN WILSON: Well, Commissioner Smith, you approved this budget, isn't that correct?

MR. SMITH: I'm sure we did, yes.

ASSEMBLYMAN WILSON: Well you would have to approve it because, after all, any action --

MR. SMITH: We approved the budget.

ASSEMBLYMAN WILSON: You approved the budget. And on some of these expenditures, for example, I think that you as a Commissioner and Chairman of the Commission should be quite knowledgeable because this is just recent.

MR. SMITH: I'm sure that we went over this item by item at the time, I know we did, and we had the Not-in-Contract items to make certain we were covering the things. Now, for instance, seats - we got bids, we decided on the seats and that contract was awarded. The outdoor lighting fixtures, they were all awarded under contracts at meetings of the Board. They were not in these other two contracts, A and B.

And these other items - for instance, I can tell you the Counterweight System has to do with the stage apparatus. These are all items that were awarded under contract. F, for instance, is an item that was probably explained to us because it was small. But G and these other things all came in as merely estimates. We asked if they were sufficiently large, - this is the budget - and apparently the actual cost will be less than that anticipated.

ASSEMBLYMAN WILSON: I want to thank you, Commissioner, for being very cooperative and appearing here today. We may invite you in again some time.

MR. SMITH: Assemblyman, I might say you were very kind and very pleasant and on behalf of my fellow Commissioners I want to say there isn't anything that either you or any member of Legislature wants to know about this that we are not willing to give whatever information we have as to our position in the thing.

We're non-salaried. I want to say for my colleagues that they devote a great deal of time to this work and they are very dedicated, as was Mrs. White and I know Bayard England and the other Commissioners. And I can only say that I appreciate your courtesy to me.

ASSEMBLYMAN WILSON: Thank you.

Mr. Tonti, would you come up here, please.

Mr. Tonti, we are just going to ask you a few questions and we would like to maybe reserve a future date when we can spend a longer time together.

D. L O U I S T O N T I: It would be my pleasure.

ASSEMBLYMAN WILSON: First of all, are you going to have Friday performances?

MR. TONTI: This year, in July and August, Mr. Chairman, simply because our traffic volume studies over the many years that we have been operating the Parkway indicate an interesting phenomenon, Friday nights in June and September have a longer saturated traffic volume period than they do in July and August. The traffic patterns change because of the schools being out. And, therefore, for the first year we contemplated no Friday night performances in June and September but we will in July and August after nine o'clock because that's when our traffic volumes fall to about 75% of capacity. The balance of capacity is sufficient to take care of 3,000 additional cars. However, the contract with Neiderlander provides and gives the Commissioners of the Authority full right to modify this at any time should unexpected conditions dictate. By that I mean, nothing prevents the Authority from setting curtain time on Friday nights at 10 o'clock if conditions warrant. But, in the meantime, starting off this year, based on all previous studies, Friday nights will be available only in July and August, and no Sunday nights at any time.

ASSEMBLYMAN WILSON: This is only if those acts are not already booked because the contract says that you may change the time only when they're not booked and I believe you have almost -- do you not have the whole summer booked already?

MR. TONTI: Practically. There are a number of dark nights.

ASSEMBLYMAN WILSON: Friday nights?

MR. TONTI: Friday nights are dark in June and September.

ASSEMBLYMAN FEKETY: That's a race track expression, isn't it?

MR. TONTI: Dark nights? I thought that was show biz.

ASSEMBLYMAN WILSON: I would like to ask you some questions about the budget.

MR. TONTI: Surely, Mr. Chairman.

ASSEMBLYMAN WILSON: For the Garden State Arts Center. We turn to Edward Stone. I asked a question before about this - travel, \$4,308.33. Could you explain that, please?

MR. TONTI: Yes. Provision in a lot of architectural contracts separate travel. This provides not only for travel of the key members of the Stone Firm to reach Telegraph Hill for special conferences but also travel to points of origin where specialized equipment is being made and it has to be inspected by the architects to make sure it has the designed integrity called for in the plans and specifications.

It also provides for travel to points where special structural engineering conferences took place. You may know that this was an unusual structure with a unique type of roof. As a matter of fact, the structural engineers were from California. And some conferences were held at places other than New Jersey to accommodate two or three experts that had

to get together.

Under the contract, we pay for those travel expenses, as required. And, notice, by doing it that way the architect does not get a loading on that figure, he doesn't make any profit on it or put any overhead on it and so on. It's just a straight out-and-out expense and then he's not subject to income taxes for it and the Authority saves money by having such an arrangement.

ASSEMBLYMAN WILSON: Is this the total fee that was paid to the Architect, this \$698,799.89?

MR. TONTI: Yes. You will note it includes an anticipated figure of \$56,000 which was our estimate of the balance of the architectural contract.

ASSEMBLYMAN WILSON: So far as the cost of the cultural center, there will be no further cost.

MR. TONTI: No. As a matter of fact, as the Chairman pointed out, we will be within that figure of \$6,750,000.

ASSEMBLYMAN WILSON: Very close too. What is it \$21,000?

MR. TONTI: Oh, no. Notice in the same budget that you are looking at, under Construction Item A, there is an \$84,000 figure. Not all of that is going to be consumed. Notice that under B \$105,000 figure - well, a good part of that will be but there is still going to be money left in those two items. And then the other big figure which might attract your attention is the one next to the last line on page 3, which is Contingencies at \$200,000. And that is not going to be all used up.

ASSEMBLYMAN WILSON: Well, haven't you spent quite a little bit of that? In your letter that you sent me, I think about \$83,000 of this has been spent.

MR. TONTI: So there will be about \$1,000 left there.

ASSEMBLYMAN WILSON: Leaving a balance of \$21,000.

MR. TONTI: Oh, both items. Then there will be a balance in that \$200,000 also that you have to add to it to get the total amount of possible savings out of \$6 3/4 million.

ASSEMBLYMAN WILSON: Let me ask you, where do you have the amount of money that you're using to pay for those full-spread advertisements, the Newark Evening News, the Ledger, I believe they're in the Times. How much does it cost for a full page ad in the Times?

MR. TONTI: I think it's \$6,800.

ASSEMBLYMAN WILSON: \$6,800. The Newark Evening News?

MR. TONTI: Oh, that's less and it's worth every bit of it.

ASSEMBLYMAN WILSON: Well, where is that money?

MR. TONTI: Oh, that's in the promotion budget which was announced at an Authority meeting in February where the Commissioners showed that they were allocating \$290,000 which would meet it as a non-recurring expense to promote the Arts Center in the first year. That's in the operating budget for 1968.

ASSEMBLYMAN WILSON: Oh, but it's not included in this.

MR. TONTI: Not this.

ASSEMBLYMAN WILSON: That's \$290,000?

MR. TONTI: That's what was allocated but it doesn't look like we are going to spend anywhere near that. We're cutting back on advertising due to the tremendous response to ticket sales.

ASSEMBLYMAN WILSON: Page 3. Who is Peter Lawrence?

MR. TONTI: Peter Lawrence was the first administrator that we hired on the staff who helped us and who was really liaison between my office and the office of Edward Durrell Stone during the early stages when the schematics of the Arts Center were being prepared. Peter Lawrence, by virtue of his experience with many art centers on the East Coast, notably one up in New Hampshire and up in New England, was able, on behalf of the staff, to translate some of the things that needed to be incorporated in the design of the stage and the facilities to make it workable. We found that after being with us for about 10 months he had completed his work pretty well and he left us at that time. Mr. Stone then assembled another group of top-notch consultants who then specifically went into the design of the stage and the seating area and so on, the acoustics, etc.

ASSEMBLYMAN WILSON: Look at Organizational and Make-Ready - payroll, photographs and framing, and so forth, communications, advertisement, memberships, and so forth, and this is included in the budget, - why wouldn't that \$290,000 be included in the budget?

MR. TONTI: Well, the comptroller felt that since under the contract with Neiderlander we had an obligation to

provide that type of advertising, and so forth, it should properly be reflected not in a capital budget but in an operating budget because it was an operating expense for the year 1968. So we put it in the 1968 operating budget which was publicly adopted in January and in February the Commissioners adopted the operating budget for the Arts Center for 1968, in the operating budget of the whole Authority. It was the recommendation of our Comptroller who is head of our Finance Department.

ASSEMBLYMAN WILSON: The only thing is, though, you have many items here that are included in the budget that would be considered - wouldn't you say they would be in your operating expense, and so forth?

MR. TONTI: No. You see, there's a big difference, Mr. Chairman, because the figures of promotion that you see here, like at the World's Fair in the early stages --

ASSEMBLYMAN WILSON: No, I'm not even referring to that. I'm referring to Organizational and Make-Ready, and so forth. This is more or less getting ready for the actual operation of the Arts Center, isn't it?

MR. TONTI: Well, I think that's arguable. You have a point. And maybe those costs ought to be taken out of there and put in the other operating budget. It's an arguable thing. I see accountants argue about that all the time and then, you know what they do, they end up making decisions where I think they compromise, put some items here and some others in the operating budget.

ASSEMBLYMAN WILSON: Yes, because if that amount were

included in this budget that would make it up over \$7 million.

MR. TONTI: Or the other way - if these items were taken out of here and put over there this would be lower than \$6.5 million.

ASSEMBLYMAN WILSON: We had a swimming pool built in West Orange and the town did the same thing to keep the figure at a certain level.

MR. TONTI: Well I'm sure that that was not designed for that purpose here because here you're talking about a cost that went over a period of three years and the other cost will only affect the year 1968.

ASSEMBLYMAN WILSON: Mr. Tonti, will you comment on this - it seems like a minor thing but you know that Baldwin thing, to me it looks like free advertising.

MR. TONTI: Well, I think maybe you're right. But I think there is nothing wrong with a government agency exploiting an opportunity to save \$8,400, because you see as a result of putting that little line there, which is done by every cultural center or great musical institution in the country, we were able to save --

ASSEMBLYMAN WILSON: That is governmentally owned?

MR. TONTI: Pardon?

ASSEMBLYMAN WILSON: That is owned by the government. I mean, this was done at the cultural center. Well, this is the difference.

MR. TONTI: But this is an Authority. The Authority is anxious to save money and I think it's commendatory that an Authority saved \$8,400 by taking a little line and printing

in "Baldwin Piano" particularly when a lot of the artists request it.

ASSEMBLYMAN WILSON: Well, that's not even a New Jersey outfit, is it?

MR. TONTI: I don't know.

ASSEMBLYMAN WILSON: I don't think so. What is our local piano outfit called? I think it's Lauder, isn't it?

MR. TONTI: I don't know.

ASSEMBLYMAN WILSON: Well, we have a bill right now in the Legislature that would encourage government agencies, and so on, to buy New Jersey products. And, you see, here you're advertising an outside firm which I don't think is good practice.

MR. TONTI: I'm sorry you brought up the intention of the Legislature because I think it's more important to see that an Authority buys the cheapest it can for the quality it wants anywhere. I think state boundaries are mythical because the converse could happen. If a lot of other states said they didn't want to buy in New Jersey, a lot of our industries in New Jersey which export out of the State would be in terrible shape. So the converse of that argument can be very dangerous to New Jersey. I like the broader argument that by buying cheapest and most economic is to the greatest advantage to a government agency because then it's discharging its public responsibility in a very mature fashion.

ASSEMBLYMAN WILSON: Do you think that the cultural center will be self-sustaining?

MR. TONTI: Yes. Two years ago I would have hesitated a little bit because at that time our studies indicated that it would break even in four years. I think in view of the fact that we now have a half million dollars in checks in the bank on early sales, which very far exceeds anything that Saratoga has been able to do, which is an older institution by three years, and also because of the fact that checks keep coming in every day and there is a tremendous interest in this Arts Center, I think it's going to be self-sustaining long before four years.

ASSEMBLYMAN WILSON: Well here you have two sidewalk superintendent sheds, one for about \$600 and the other for \$1,327. What is the need for two?

MR. TONTI: Well, one was located at Telegraph Hill. Oh, it's the same shed but again the accountants had a great conference there where they divided the cost between two items. It's the same shed. It's on the overlook at Telegraph Hill. Many people on Saturdays and Sundays stop there and get information and see what is happening at the very site that they're examining. So the cost was just divided between two items.

ASSEMBLYMAN FEKETY: Mr. Tonti, the Commissioner previously mentioned something pertaining to a student program that you're looking into. Is this a pilot program worked through the Department of Education with anticipated federal aid?

MR. TONTI: Yes. We're working it two ways - that's one way - under Title 3 and Title 1, I think, of the Federal Act. We've contacted the Department of Education several times,

and we thought of this about two years ago, and found a very enthusiastic response. Now, very shortly, we'll be in touch with every superintendent of every school district to find out which ones want to become actively engaged. And beginning this fall, and then every spring and fall thereafter, under that program, we will have several concerts a week where from one school district we'll bring in 5,000 grammar school children, under this cooperative program, and give them an exposure to the performing arts. That's one part of the educational program.

The other part which will take place this summer is presently being vigorously pursued, whereby we will have programs in the daytime hours, one or two days a week, where from a lot of our large cities, like Newark, Elizabeth, Paterson, Camden, we will bring in youngsters - we're working with the various poverty groups on this - bring in youngsters to spend a day at Telegraph Hill, to go over our nature trails and then see a performance. We'll have some of the great stars - we're negotiating with Belafonte to perform in the daytime for the children, and other stars, - to give them the excitement not only of the performing arts but to spend a day in the country.

So there is a twofold program, one is a summer program and one is the educational program which will become part of the school life of the children of New Jersey in any school district that wishes to participate in the program.

ASSEMBLYMAN FEKETY: I think we ought to invest a little money in advertising this because there are quite a

few school districts that are not aware of this program at all.

MR. TONTI: They will have a letter by June 5th or 10th, between June 5th and 10th every school district will have a letter outlining the entire program.

We've had to do a lot of research on it because we didn't know a great deal about it. We hired this man, Clinton Crocker, and he's completing the research. He's quite familiar with the educational aspects of it because that's what he's done for 12 years, and he's been a great help, and we'll have a complete package, a story to tell the superintendent of each district and the boards of education as to just what we will have and also welcome their suggestions on modifying the program and asking them if they will express their intention of participating, and then we'll set up schedules.

ASSEMBLYMAN FEKETY: I see. Now this will go to the extent that school buses will allowed on the Parkway --

MR. TONTI: Right.

ASSEMBLYMAN FEKETY: -- toll free.

MR. TONTI: Well, I don't know whether - yes, it will be toll free, probably. I don't know how the tolls are going to be handled but certainly the children are not going to pay for it.

ASSEMBLYMAN FEKETY: The bus will.

MR. TONTI: Well, I don't know the mechanics of that exactly. We have to comply very, very rigidly with the regulations now existing with respect to the payment of tolls but in some way or other they'll be reimbursable and possibly

payable under that Title 3.

ASSEMBLYMAN FEKETY: Very good.

ASSEMBLYMAN WILSON: In your budget you have \$642.80 for photographs under promotional and you also have \$547.69. Doesn't the Parkway have its own photographers?

MR. TONTI: Part-time. We lost one at one time so we had to go outside and get some. But invariably for special types of photographs for magazines and what-not, we have to retain special photographers to do that, including photographs that are taken from the air - special photographers are retained for that purpose.

ASSEMBLYMAN WILSON: Let me ask this question. You say this won't happen. Suppose the Cultural Center runs into a deficit, where will you have the funds to cover the deficit, where will the funds come from?

MR. TONTI: Out of the operating budget of the Authority. But then, of course, the surpluses will go back to the same budget. And the studies originally showed that that would happen in the fourth year and the prospect now is that it will happen much sooner. This happens on any interchange on the Parkway. For a number of years it loses money but as it starts to make surpluses it goes back into the same pot. And in the studies determining its feasibility that was all proven out because we always make these studies over a span of 25 or 35 year amortization.

ASSEMBLYMAN WILSON: I would like to ask what are the prices for tickets? If a person goes down and buys an individual ticket, what's the price?

MR. TONTI: An individual ticket. Let me put it in its proper perspective. Individual tickets to Telegraph Hill are cheaper, cost less to the buyer than Saratoga or Ravinia or Berkshire Festival.

ASSEMBLYMAN WILSON: What is the cost?

MR. TONTI: \$6.90, top. The cheapest seat is \$3.00 and \$2.00 on the grass.

ASSEMBLYMAN WILSON: \$2.00 on the grass, \$3.00 if you want a seat, up to \$6.90.

MR. TONTI: Right.

ASSEMBLYMAN WILSON: How does this compare with the prices of the others you mentioned.

MR. TONTI: I'll be glad to give you those, Mr. Chairman. Up at Ravinia it goes up to \$7.50.

ASSEMBLYMAN WILSON: It goes up to \$7.50. And what is that? Is that a --

MR. TONTI: That's up in Michigan. It's very similar to this.

ASSEMBLYMAN WILSON: It's a public facility?

MR. TONTI: Yes. Saratoga, which is a good example - \$7.50 at Saratoga for the Philadelphia Symphony Orchestra, which is \$6.90 at Telegraph Hill, and \$3.50 for the cheapest seat at Saratoga, which is \$3.00 at Telegraph Hill.

Now at Tanglewood, Berkshire Festival, it's \$7.50 to \$3.50 - \$6.90 to \$2.00 at Telegraph Hill.

Lambertville, which is right near here, has different prices on weekdays and weekends - let's take the weekends - at Lambertville, it's \$6.95 and ours is \$6.90.

ASSEMBLYMAN WILSON: But that's not owned by the public, is it?

MR. TONTI: Oh, no.

ASSEMBLYMAN WILSON: Well, that's what I'm concerned with.

MR. TONTI: Oh, is there a difference?

ASSEMBLYMAN WILSON: Well, I think there is. I would say, for example, something that is built by public funds - we already established that it was owned, you know, by the State Department of Transportation.

MR. TONTI: I don't think the Chairman admitted that.

ASSEMBLYMAN WILSON: Oh, I think the Chairman - he's the one that made the statement that it is a public facility, it's built with public funds, and so on. So in most cases the prices would be down a great deal. I mean, you could compare a municipal swimming pool with a private swim club. You're going to pay more at the private swim club than at a municipal swim club so, therefore, the price should be a lot less, in my opinion.

MR. TONTI: Well, that's a good way to lose money.

ASSEMBLYMAN WILSON: Well, I didn't think we were interested in making money. I thought we were interested in spreading culture throughout the State of New Jersey and to get more people acclimated to this type of program.

MR. TONTI: I think it's important for us to do both, Mr. Chairman. I think we have to get acquainted with the fact in government that sometimes services that are desperately needed, recreation which obviously is very much in demand by

the public should be provided but should be provided in a manner that the user pays for it. This is a great principle. Why should other people, non-users, be burdened with a cost in which they don't participate in terms of sharing the benefit.

ASSEMBLYMAN WILSON: For example, Tanglewood, and so forth, they're privately owned concerns, aren't they? When I say a public facility I mean a facility that is --

MR. TONTI: Saratoga is a better example. Saratoga is a public facility.

ASSEMBLYMAN WILSON: That is owned by the public?

MR. TONTI: The State of New York poured money into it, in addition to the fact that the Rockefellers themselves poured \$1.3 million into it. But essentially it's a public facility because the State of New York contributed so much money and used publicly-owned lands.

So I think the cost is very favorable. As a matter of fact, that goes right to the very heart of the Chairman's testimony about how this became a 5,000 seat amphitheater. A 5,000 seat amphitheater was much more feasible because it was able to bring the ticket prices down to a point where the average person could buy the tickets. The same person living in suburban New Jersey has a difficult time seeing these events in New York and Philadelphia and now it won't be so difficult.

ASSEMBLYMAN WILSON: I would like to ask another question about Promotional - the \$41,000 for the display at the World's Fair. Could you elaborate on that?

MR. TONTI: Yes. You will remember, the World's Fair display had 21 platforms representing 21 counties. We took over one because I guess they couldn't sell all of them. And in that exhibit we not only exhibited the Arts Center but to the people across the country who visited the World's Fair we also exhibited many of the virtues of the Garden State Parkway as a great artery of transportation. The exhibit covered three walls, three of the four walls. It had all kinds of data on the Parkway and also a great deal of information about the great resort industry of New Jersey which is served by the Parkway, and was designed essentially not only to extol the virtues of the Parkway but to extol the virtues of the industries along the Parkway. Therefore, it rendered a great public service in that respect and it was money well invested. I think it's unfair to charge all of it to the Arts Center because a lot of it was for the resort industry of New Jersey, and relating that New Jersey was a great place to locate industries because the Parkway provided such fine transportation, and so forth. It was that type of exhibit. By the way, there were people manning the exhibit and that's included in that \$41,000, too, and that was two summers.

ASSEMBLYMAN WILSON: Mr. Tonti, are you interested in bringing people on the Parkway during the summer months?

MR. TONTI: During off hours? Any time.

ASSEMBLYMAN WILSON: And you say 9 o'clock is an off hour.

MR. TONTI: Yes, sir. As a matter of fact, Saturdays, Mr. Chairman, - and I heard you refer to Saturdays before -

Saturdays are the biggest days on the Parkway, in any year of operation, and yet the four biggest Saturdays, which are always in July, after 7:30 in the evening we're only operating at about 70 or 75 percent of capacity, every one of those Saturdays, because the peaks on Saturdays begin at 9:30 in the morning and continue to about 5:30, 6:30 or 7 o'clock in the evening, no later. It dies right off. It's an interesting phenomenon.

ASSEMBLYMAN WILSON: Well I'll be going down to the shore this summer and I'm going to --

MR. TONTI: Oh, don't ever come down on Saturday morning.

ASSEMBLYMAN WILSON: No, I'm going to go about 8 o'clock.

MR. TONTI: In the morning?

ASSEMBLYMAN WILSON: No, at night. Then there won't be any problem.

MR. TONTI: You'll have no problem. If you do, please call me.

ASSEMBLYMAN WILSON: I will. I definitely will.

Now you're interested actually in bringing more cars on the Parkway during, you say, off hours. Aren't your winter months, say, not even winter, from September to say May, wouldn't you say that this is where you would want the additional cars rather than actually having them in the summer?

MR. TONTI: Yes.

ASSEMBLYMAN WILSON: Because to me this is very irritating, and to most people, during the summer months

where they are backed up and, you know, traffic almost stops. But I'm going to try your advice during the summer. Now I know. I'm glad I talked to you on this.

MR. TONTI: But in the other months of the year, in northern Jersey we still have heavy volumes. That's why the Parkway now has tremendous yearly volumes because the rest of the year the northern end of the Parkway is still very crowded. In Monmouth County there's a big fall-off after Labor Day, no, really after October 10th is when you get the biggest fall-off and it doesn't start up again until Easter time.

Now, during those months you point out one of our biggest problems for the Planning Committee and, for that reason, we're doing everything to encourage the Monmouth Museum, which is now operating our nature trails at Telegraph Hill. And each year they enlarge the season because last year at our nature trail at Telegraph Hill Park - it escapes the attention of everybody but I think this is a great public contribution -- last year 10,100 youngsters and adults went through those nature trails, and last year it was from May to October and this year it will be from March to the end of November. You will notice we're enlarging the season to get more of those Boy Scout groups and the nature study groups to come down in the off-season, meaning after Labor Day and prior to the Fourth of July, to make use of those splendid facilities. We have two miles of nature trails which the botonists tell us include some of the most unusual variety of natural plant life in the State of New Jersey. We have classes up there in an old building

that we acquired, which happened to be on that property, and in the fall the Monmouth Museum, on our behalf, will have classes in plant life and botony, reptiles, and so forth. And these are going to be encouraged. And now we're thinking of other things that might be helpful in encouraging activities in November, December and January.

ASSEMBLYMAN WILSON: Are you contemplating a skating rink, ice skating rink? Commissioner Smith said that you were.

MR. TONTI: Well, it was contemplated in 1953. I know that Commissioner Smith mentioned it because in 1953 that's what Commissioner Erdman and --

ASSEMBLYMAN WILSON: Well, now are you contemplating it?

MR. TONTI: Well, it's in the list of many things that could be done at Telegraph Hill but we're not doing anything about it at the present time.

ASSEMBLYMAN FEKETTY: How about a ski resort?

MR. TONTI: Well, that's been mentioned also but nothing is being done about it at the present time.

ASSEMBLYMAN FEKETTY: You mentioned about the volume of sales of tickets. How much of it represents residents south of the Hill?

MR. TONTI: The division is very interesting. It's about one-third and two-thirds, one-third south.

ASSEMBLYMAN FEKETTY: How much out of State?

MR. TONTI: So far we haven't received but very few but ever since the New York Times advertisement some have come in from out of State. All the previous ones that came

in from out of State where held in abeyance in order to give New Jersey citizens first priority on the tickets available at Telegraph Hill. This was in accordance with the announcement by the Chairman of the Authority and the Commissioners made some months ago.

ASSEMBLYMAN WILSON: Mr. Tonti, I was just thinking, if I come down to the cultural center from, say Essex County, if I get a \$6.90 seat I also will have to pay, I believe, - how many tolls would that be?

MR. TONTI: From Essex County?

ASSEMBLYMAN WILSON: Yes.

MR. TONTI: Do you duck the first toll or do you pay it?

ASSEMBLYMAN WILSON: Oh, I pay it without question. I like that 10 cent toll in Essex. You know the one we're talking about.

MR. TONTI: I thought you were fascinated with the 10 cent toll.

ASSEMBLYMAN WILSON: Well Assemblyman Caputo commented on that today. We like that one up in Essex, you know that.

MR. TONTI: Yes, I know you do. That means you pay 60 cents, one way.

ASSEMBLYMAN WILSON: That means then that I'd be paying \$7.50, wouldn't I?

MR. TONTI: Yes, but --

ASSEMBLYMAN WILSON: And then going back. I pay 60 cents going back. So, therefore, for that same ticket it's now up to \$8.10.

MR. TONTI: Good. Now, let's compare that --

ASSEMBLYMAN WILSON: Good?

MR. TONTI: Right. Follow this comparison. I leave Monmouth County to go to New York and I pay the same tolls, a little more than you just paid, and I get to New York and the ticket is not \$6.90 but usually \$9.90, or maybe more, but let's say it's \$9.90, and then I park my car - this just happened to me within the last couple of weeks - and now in New York it seems that every time I park the car for over three hours it's \$4.00, and usually I have to walk four blocks to get back to the theater, after I park the car. If I total that up against the bargain I get at Telegraph Hill, you and I never had it so good.

ASSEMBLYMAN WILSON: Okeh. I think you're in the wrong business.

MR. TONTI: No, I'm in the right business.

ASSEMBLYMAN WILSON: You should be a salesman.

MR. TONTI: I'm in the right business.

ASSEMBLYMAN WILSON: What? Selling?

MR. TONTI: Well, yes, selling the Arts Center. I'm trying to sell you.

ASSEMBLYMAN WILSON: Mr. Tonti, let's go back to that 10 cent toll. If you live in Essex County, what is the amount of toll that you pay, as far as a resident is concerned? Would you say 35 cents would be the average that they would pay? Once they get on the Parkway they generally have to pay what? 35 cents, wouldn't you say that?

MR. TONTI: Yes, that is if you're going south.

ASSEMBLYMAN WILSON: Well if you're going north, you hit Bloomfield.

MR. TONTI: Well, if you get on at Bloomfield to go north, you are still paying the same toll that you always paid before that ten cent toll went in there. So those people don't pay any more toll.

ASSEMBLYMAN WILSON: Isn't this one of the highest per mile?

MR. TONTI: No. Oh, no. That's a myth that's been spread during certain political campaigns. The highest toll per mile --

ASSEMBLYMAN WILSON: I believe it was Senator Giblin. He campaigned on that last year.

MR. TONTI: I don't remember. The highest toll per mile, Mr. Chairman, on the Parkway, is in Bergen and Passaic Counties.

ASSEMBLYMAN WILSON: Well, Mr. Tonti, it was very nice to have you here today but we will call you at a later date.

ASSEMBLYMAN FEKETY: I have a question.

ASSEMBLYMAN WILSON: Oh, I'm very sorry, Assemblyman Fekety.

ASSEMBLYMAN FEKETY: What is your opinion of the commuter ticket?

MR. TONTI: Well, at this time my opinion is irrelevant because the Authority has just authorized its consulting engineers to examine the entire matter of commuter tickets on the Garden State Parkway, in conformance with all the statutes

and bond indentures now existing. And the Commissioners authorized that at a recent meeting and the Authority has complied certainly very effectively with SCR 36. And this study is under way and it should provide us all with the answers regardless of how I or anyone else feels about it. The prospects are based on the studies and recommendations by the consulting engineers, as provided for in the bond indenture, and I think this will be forthcoming in the future and I think we will all benefit from those findings. I have no idea what's going to happen, either.

ASSEMBLYMAN WILSON: I have another question for you now.

What do you think of Commissioner Goldberg's idea of increasing the size of the New Jersey Highway Authority and have say a representative from the State Government as one of the members so that there could be some rapport. I mean, he would be outvoted and so forth, I mean because it would be four to one but, on the other hand, to me it would seem like a fairly good idea.

MR. TONTI: I'm not inspired by it simply because, Mr. Chairman, it doesn't seem to make any constructive contribution to the present functioning of either the State Department of Transportation or the Authority. There is great community of interest in both agencies, a very intimate exchange of ideas, and I recall that earlier today you mentioned something about some litigation. Wouldn't it be interesting, in the current litigation that you referred to, in that if Commissioner Goldberg were sitting on the Authority

he would be now suing himself instead of suing a public corporation called The Highway Authority and remaining in the present posture of complete objectivity. No, I think the present, current, intimate relationship and exchange of ideas is sufficiently wholesome, as has been sufficiently demonstrated over the years, that to make this suggestion at this time doesn't seem to me to provide any constructive contribution in the public interest.

ASSEMBLYMAN WILSON: Will you comment on this statement, please? "The public authority is given a mandate in but general terms and improvises on this mandate as the agency grows older, is more routinely accepted, and is then overlooked by the public and the creating governments." This statement was made this morning.

MR. TONTI: Well, I don't know who made it but I certainly take issue with the word "improvises." A much better word would be to substitute the phrase that the authorities, as time goes on, by their very nature keep alert to new and pressing demands, are very responsive to new conditions as they arise and, therefore, are agile and alert enough to meet new conditions and do so, and that's one of their virtues. If that's what he meant by referring to the changes that take place during the history of an authority, then I would prefer my wording to his.

ASSEMBLYMAN WILSON: Then as far as the power that was given The Highway Authority, which says, - the statement is, together with such adjoining park or recreational areas and facilities as the Authority, with the concurrence of the

Department of Conservation and Economic Development - this statement had the intent to develop the Holmdel site, Telegraph Hill as a cultural center. This was always the intent of this particular piece of legislation. This was not a recent interpretation.

MR. TONTI: No. It was always the intent, obviously from the very framers of that --

ASSEMBLYMAN WILSON: To develop some facility, cultural center or a swimming pool or --

MR. TONTI: A recreational facility. Those are the words "recreational facility." Now, an imaginative Authority found out that building those \$9 million worth of swimming pools and tennis courts wouldn't produce any income of any consequence, nor make it a meaningful contribution to New Jersey and replaced it with something which was recreational but would do something else, supply a great need, pay for itself and make a much more meaningful contribution to the community life of New Jersey. I think this should be applauded.

ASSEMBLYMAN WILSON: Anything else?

All right, fine, thank you.

MR. TONTI: Thank you.

(Hearing concluded)

(Remainder of statement submitted by Harry W. Wolkstein)

Is this an activity which seeks to convey images and engineer consent?

Is it proper for the Port Authority to enjoy such exceptional autonomy that direct legal access to this agency, on other than tort cases, is virtually impossible?

Should the public funds of the PA be used for the encouragement of private industry?

Should the PA be permitted to engage in a constantly growing list of private business ventures that are in no way connected with the PA's original statutory functions, namely, the coordination and development of the terminal and transportation facilities of the Port of New York area?

As we all know, the Port Authority has increasingly expanded its activities into proprietary ventures in direct competition with taxpaying private enterprise to the point where I think its industrial activities can no longer be ignored, particularly in view of its claim to the privilege of Federal income tax exemption on its bond interest, as well as its claim to the privilege of Federal income tax exemption on its annual net income from its commercial enterprises and, too, let us not overlook the Port Authority's claim to an exemption from real estate tax and personal property tax.

It is my considered opinion that the Port Authority's past and current plans for subsidizing private industry have already gone beyond the point of reasonableness, that they

represent an unhealthy mode of competition with taxpaying private enterprise and that its plans for the future constitute a serious threat to our basic system of free competitive enterprise, unless they are brought under proper control.

The States of New Jersey and New York, together, had constructed the Holland Tunnel and opened it in 1927, not the Port Authority, with the agreement that tolls would be charged only as long as needed to amortize the construction cost of the tunnel.

History tells us that in 1930, however, the two state governments transferred legal title to the Holland Tunnel to the Port of New York Authority and the Port Authority, and I say so with all due respect, proceeded to ignore legally this bi-state agreement.

The George Washington Bridge was also built under a similar bi-state agreement to the effect that tolls would be charged only until the construction costs were paid for, but the Port Authority continues to charge tolls for this bridge, long after the construction costs had been paid for. The George Washington Bridge has earned more revenue for the Authority than all of its other bridges and tunnels.

It would appear that the state governments of New York and New Jersey have defaulted, and I say so respectfully, on their responsibilities in neglecting to exercise their proper supervision and controls over the Port Authority. The policy of the U. S. Congress, for one thing, has always been to limit tolls on interstate bridges to the period of amortization

of construction costs. It should be noted that both the Holland Tunnel and the George Washington Bridge were built with the approval, the specific approval of the U. S. Congress, which, I think you will agree, has final authority in interstate commerce.

In recent years the PA has become even more aggressive in circumventing the original purposes for which it had been originally created by the States of New Jersey and New York. The Authority has engaged in a constantly growing list of business ventures that are in no way connected with its original statutory functions, namely, the coordination and development of the terminal and transportation facilities of the Port of New York area.

To list but a few of such commercial enterprises, the PA currently owns and leases a large office building for rental purposes, possibly more than one; it owns and leases a grain elevator building in Brooklyn; it owns and leases warehouses; it owns and leases at least one hotel, if not more; it owns and leases truck terminals; it has owned and leased a miniature golf course, a drive-in movie, bowling alleys; it owns and leases restaurants; it owns and leases many commercial buildings, and it lends millions of dollars of its public funds to commercial enterprises, such as airlines, for the purpose of earning interest income thereon.

I think it important to note that the United States Supreme Court has ruled in Federal income tax cases of past years involving the States of New York, South Carolina and Ohio, and I quote, "Wherever a state engages in a business of

a private nature, it exercises non-governmental functions, and the business so conducted by the state is not immune from the exercise of taxation which the Constitution vests in Congress."

And I might cite the case of Saratoga Springs Commission, whereby the United States Supreme Court ruled that the State of New York must pay Federal income taxes to the Internal Revenue Service with regard to its annual net income thereon.

The States of New York and New Jersey, I believe, did not give the PA any taxing powers or any other important sovereign power to distinguish it, the Port Authority, from any ordinary public utility company that does pay Federal income tax on its annual net income.

Certainly, I believe that the present functions of the Port Authority cannot be defined as a duty for sovereignty. There is ample legal authority, I believe, for the proposition that public funds may not be used for the encouragement of private industry, such as the construction of the new World Trade Center.

It might be pertinent, at this point, to note that on September 23, 1959, I personally filed a taxpayer's suit in the United States District in Newark, New Jersey, to compel the Port Authority to file annual federal income tax returns with the Internal Revenue Service, the objective of my lawsuit being to test legally the federal income tax exemption status of this bi-state agency, with the view toward effecting a just and uniform administration of our Federal Income Tax Laws.

THE MANY PROPRIETARY VENTURES OF THE PORT AUTHORITY, THAT ARE BEYOND ITS PROPER SCOPE OF GOVERNMENTAL FUNCTIONS, HAVE BEEN PRODUCING AN ESTIMATED ANNUAL TOTAL NET INCOME OF MORE THAN \$12 MILLION FOR THE PORT AUTHORITY - THAT HAS BEEN ESCAPING ANNUAL FEDERAL INCOME TAXATION, WHICH IS UNJUSTLY COMPETITIVE WITH PRIVATE ENTERPRISE.

BACK IN 1961, I PERSONALLY URGED THE CITY COUNCIL OF NEWARK TO ATTEMPT TO RENEGOTIATE ITS 50-YEAR LEASE WITH THE PORT AUTHORITY PERTAINING TO THE NEWARK AIRPORT AND PORT NEWARK, UNDER WHICH LEASE THE P.A. HAD BEEN PAYING A NOMINAL ANNUAL RENTAL OF BUT \$128,000. TO THE CITY OF NEWARK. AS A RESULT OF SUCH URGING ON MY PART, THE NEW CITY ADMINISTRATION DID IN FACT BRING SUIT IN COURT AGAINST THE PORT AUTHORITY SEVERAL YEARS LATER, IN WHICH SUIT MY ACCOUNTING FIRM WAS ENGAGED AS INDEPENDENT CONSULTANTS FOR THE CITY. THE RESULT OF THE SUIT, WAS THAT THE PORT AUTHORITY AGREED TO RENEGOTIATE ITS ANNUAL RENTAL UPWARD TO \$1 MILLION PER ANNUM.

MAY I TAKE THIS OCCASION TO REFER YOUR COMMISSION TO THE TESTIMONY WHICH I PRESENTED BEFORE THE NEW YORK STATE SENATE STANDING COMMITTEE ON THE AFFAIRS OF THE CITY OF NEW YORK ON OCTOBER 27, 1965. THIS COMMITTEE CONCERNED ITSELF WITH THE PROBLEMS OF INDEPENDENT PUBLIC AUTHORITIES AS THEY AFFECT THE CITY OF NEW YORK AND THE METROPOLITAN AREA AS A WHOLE. (SEE TRANSCRIPT OF PROCEEDINGS-PAGES 4 TO 48).

IT SEEMS TO ME THAT THE ABOVE MINIMAL PROGRAMS MUST BE UNDERTAKEN BY THE U.S. CONGRESS, IN THE CASE OF "INTERSTATE AUTHORITIES", AND BY OUR STATE LEGISLATURES IN THE CASE OF "INTRASTATE AUTHORITIES", TO TAKE A FIRST STEP TOWARD EFFECTIVE CONTROL AND LIMITATION OF THIS BURGEONING PHENOMENON - WITH THE FOLLOWING ADDED RECOMMENDATIONS TO BE ADOPTED:

1. EACH PUBLIC AUTHORITY MUST BE COMPELLED TO FILE WITH ITS "MOTHER" GOVERNMENT ITS PERIODIC AUDIT REPORTS, NOT IN THEIR OWN OFFICIAL ESE, BUT IN PRESCRIBED STANDARD FORM, WHEREBY THE EXACT ANNUAL NET INCOME OF EACH AUTHORITY, ACCORDING TO SOUND ACCOUNTING PRINCIPLES, IS DISCLOSED. IF OUR STATE AND LOCAL GOVERNMENTS CAN ACCOMPLISH THIS WITH PUBLIC UTILITIES AND OTHER DIVERSE BUSINESS ORGANIZATIONS, THE SAME CAN BE ACCOMPLISHED WITH OUR PUBLIC AUTHORITIES.
2. AUTHORITY MEMBERS AND THEIR STAFF EMPLOYEES MUST BE SUBJECT TO STRICT PUBLIC CONTROL, AND TO THE RIGHT OF IMPEACHMENT AND RECALL FOR DERELICTION OF DUTY, CONFLICT OF INTEREST, AND SO ON.
3. THE ANNUAL PROFITS OF THE PUBLIC AUTHORITY SHOULD BE PROMPTLY REMITTED TO THE "MOTHER" GOVERNMENT AT THE CLOSE OF ITS FISCAL YEAR.
4. ANY PUBLIC AUTHORITY THAT HAS FULFILLED ITS STATED FUNCTION MUST BE DISSOLVED FORTHWITH. AN AUTHORITY MAY NOT EMBARK ON A NEW FUNCTION WITHOUT PRIOR STATE LEGISLATIVE APPROVAL.
5. CHARGES MADE BY THE AUTHORITY FOR ITS SERVICES TO THE PUBLIC, AND ITS RELATIONSHIP WITH THE GENERAL PUBLIC MUST BE MADE THE SUBJECT OF STATE LEGISLATIVE APPROVAL.
6. WE MUST ADOPT THE BASIC PRINCIPLE THAT THE FEWER THE NUMBER OF INDEPENDENT PUBLIC AUTHORITIES, THE BETTER; AND AUTHORITIES IN RELATED AREAS OR RELATED FUNCTIONS SHOULD BE COMBINED FOR THE PURPOSES OF AND WITH THE OBJECTIVE OF OPERATING ECONOMIES, STREAMLINING OF FUNCTION, ETC.
7. "WATCHDOG" COMMITTEES SHOULD BE ESTABLISHED IN EACH LEGISLATIVE BODY FOR THE CONTINUING SUPERVISION OF EACH AUTHORITY ESTABLISHED BY THE MOTHER GOVERNMENT.
8. THERE SHOULD BE SUBMITTED TO THE APPROPRIATE LEGISLATURE AND TO THE GENERAL PUBLIC A COMPLETE BUDGET AND OPERATING STATEMENTS IN THE SAME FASHION THAT LOCAL GOVERNMENTS ARE COMPELLED TO DISCLOSE THESE FACTS PERIODICALLY.

OUR U.S. CONGRESS AND OUR STATE LEGISLATURES MUST BE SERIOUSLY CONCERNED WITH THE FACT THAT IN TOO MANY CASES WE HAVE GRANTED UNTO THESE PUBLIC AUTHORITIES "POWER IN PERPETUITY". THEY TEND TO CONSOLIDATE THEMSELVES IN POWER, EVER INCREASING THEIR SCOPE AND FUNCTION, UNTIL THEY PLACE THEMSELVES BEYOND THE POWER OF TERMINATING THEIR ORIGINAL OBJECTIVES. THE EXPANDING GROWTH OF SO MANY AUTONOMOUS PUBLIC AUTHORITIES RESEMBLES NOTHING SO MUCH AS THE EMERGENCE OF PERMANENT AUTONOMOUS KINGDOMS WHO RULE BY DIVINE RIGHT, AND OVER WHOM THERE IS NO EFFECTIVE SUPERVISION, OR CONTROL, OR WHAT IS MOST IMPORTANT, EFFECTIVE ELECTORAL RECALL.

MAY I STATE THAT IT IS IN THIS CONTEXT THAT THE FORMATION AND FUNCTION OF YOUR INVESTIGATIVE COMMISSION BECAME TO ME A WELCOME EVENT. A COMPREHENSIVE INVESTIGATION OR PROBE OF ALL INDEPENDENT PUBLIC AUTHORITIES, A THOROUGH AIRING OF THEIR ABUSES TO WHICH THEY ARE INHERENTLY SUBJECT, AND THE PROMPT ENACTMENT OF EFFECTIVE CONTROLS AND RESTRICTIONS UPON THEIR DAY-TO-DAY OPERATIONS, ARE DESPERATELY REQUIRED NOT ONLY IN THE STATE OF NEW JERSEY BUT THROUGHOUT OUR COUNTRY. IT IS THEREFORE MY SINCERE BELIEF THAT YOUR COMMISSION CAN PERFORM A VITAL AND MUCH-NEEDED PUBLIC SERVICE TOWARD THAT END.



