

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

before

ASSEMBLY AND SENATE COMMITTEES
ON AIR, WATER POLLUTION AND
PUBLIC HEALTH

on

ASSEMBLY BILL NO. 2181 and SENATE BILL NO. 2069
(NOISE CONTROL)

Held:
April 6, 1971
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEES PRESENT:

Assemblyman Kenneth T. Wilson (Chairman,
Assembly Committee)
Assemblyman John I. Dawes
Assemblyman John F. Fay, Jr.
Assemblyman Henry F. Gavan
Assemblyman Herbert H. Kiehn

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ASSEMBLYMAN KENNETH T. WILSON (Chairman): I would like to start the public hearing to be held jointly by the Senate and Assembly Committees on Air, Water Pollution and Public Health. Senator Wallwork who is the Chairman of the Senate Committee will not be in attendance, so I will chair the meeting.

Today's hearing is on Assembly Bill 2181 and Senate Bill 2069 which concern noise control.

I would also like to mention that this Committee held a hearing on September 24, 1969, in the Assembly Chamber on noise control. At that time, we had many individuals testify as to what the harmful effects are of excessive noise and the Committee at that time ascertained that regulation in this State should be required.

Our hearing today will deal with the technicalities of the two bills and what is the best method of actually combatting noise.

I would like to introduce the members of my Committee. We have Assemblyman Kiehn from Union County, Assemblyman Fay from Middlesex County, and Assemblyman Gavan from Union County will be here shortly. I am the Chairman, Kenneth T. Wilson from Essex County.

Our first witness will be Mr. Bradley from the New Jersey State Chamber of Commerce.

Before Mr. Bradley testifies, I would like to announce that the record will remain open until Friday, which is April 9th. The reason for this is that there are many public hearings scheduled and we want to act on some type of noise legislation at this session. So I had to schedule the hearing with only two weeks' notice. Therefore, the record will remain open until April 9th. Mr. Bradley --

W I L L I A M R. B R A D L E Y: Assemblyman Wilson and members of the Committees, my name is William R. Bradley. I am a resident of Tenafly, New Jersey, and head my own firm of environmental health consultants located in the same municipality.

I appear before you today, however, as Chairman of the Air Pollution Control Committee of the New Jersey State Chamber of Commerce. As you undoubtedly know, the Chamber's membership consists of industrial and business concerns - small and large - located throughout the State.

We wish to commend your Committees for scheduling today's public hearing on these two bills, Assembly No. 2181 and Senate No. 2069, which both seek to establish a program for the control of noise in New Jersey. We hope these bills will receive thorough analysis by many parties because this entire question of noise level control has become an increasingly frequent topic of discussion not only by governmental officials and the various communications media, but also by the general public (although up to now at least, to a somewhat lesser degree).

The two bills which are the subject of today's hearing represent diametrically opposite philosophies in approaching this matter of noise control. Because this whole question of controlling noise is so new it is not yet even defined very clearly. This is why we feel it is in the public's interest to air fully at this time both the pros and cons of these opposing control philosophies. We feel it is important that the State of New Jersey approach the development of any noise control program with complete objectivity and with continuous emphasis upon utilizing the most up-to-date scientific knowledge and the best technological skills that are available. Our State Department of Environmental Protection has no person on their staff competent in the community noise evaluation field who has been certified by the American Board of Environmental Health. Who will set standards in this highly scientific field of the physics of sound and its effect on the human body?

Several small communities in New Jersey have adopted in the past ordinances that seek to control neighborhood sounds. At one such hearing in the city council offices where a charge was made of a violation of the city ordinance, the noise level in the council chambers was in itself so great that it violated their own city ordinance. You see this type of setting regulations, levels, standards, without knowledge of what the sound really is, without understanding that sound is on a logarithmic scale of increasing decibels, does not make sense unless it is done scientifically.

If it is deemed advisable that New Jersey enact a state-level program for controlling noise, our State will once again be in the position of pioneering development of both criteria and control mechanisms--just as we were more than a decade ago in the field of air pollution control. It is of utmost importance, therefore, that the task be approached factually and without that often-powerful but seldom objective influence of emotionalism. Although it is obviously not a wise thing for the State of New Jersey to base any kind of regulatory code, having the effect of law, upon public emotion rather than facts, this is an ever-present possibility.

The central problem in any program imposing environmental controls is, in the final analysis, a matter of balancing health objectives on one hand with the inexorable laws of economics on the other. Not only must any proposals involving noise control be weighed in the context, for example, with those of New Jersey's already-established air and water pollution control

programs, they will have to be weighed also in terms of priorities among a vast range of health, social and economic programs that confront human society in New Jersey and the nation today. And we have no doubt that a program of noise control will have a pronounced, sometimes strongly adverse impact upon New Jersey's economy.

Because the question of noise control is so new and, from a state regulatory level at least, still largely unexplored, the two bills in question today were carefully considered by a special committee of State Chamber members who, by virtue of their business or professional responsibilities, are exceptionally knowledgeable on the subject of noise. We have supplemented their views with those of non-committee members whose professional background is very largely in this still-embryonic field of noise control.

Comments on Senate Bill No. 2069

In their combined review of S-2069, it quickly became apparent to our group that this bill is patterned after the existing statute governing air pollution control in New Jersey. S-2069's approach to noise control thus is based on the assumption that the problems involved are similar.

They are not, however.

Air pollution control deals very largely with chemistry of our atmospheric environment and its influence upon human health. When criteria have been established, control then becomes largely a matter of dealing with specific values. But noise control, on the other hand, despite some obvious health aspects involved in extreme cases, remains largely undefined and thus largely a matter of aesthetics. There are several reasons for this.

There appears for example, to be a dearth of knowledge regarding the specific effects of noise upon the human anatomy -- not merely what noise levels may cause a measureable effect but, more importantly, what frequencies of sounds and in what duration may inflict what types of harm. What combinations of frequencies may be more damaging than others (which may actually be aesthetically pleasing)? And, in view of the virtually numberless combination of frequencies that are the components of most noises, how can these be measured and analyzed "instantly" for purpose of control law enforcement? And even if they could be so measured, on what basis would an "offender" be able to defend himself in the resulting enforcement proceedings except that he also possesses elaborate sound monitoring equipment and keeps a permanent record?

Let us face the facts! New Jersey has today over 50,000 teenagers of the rock and roll noise era who are permanently, partially deaf.

How did they get this way? From pleasing sound apparently. But, nevertheless, this sound is of such intensity that they are permanently partially deaf.

When your noise bill is enacted into law, industry must begin audiometric testing and no teenager or returning Vietnam War veteran will be hired if they show any loss of hearing. Think about these environmental facts and determine, if you will, what noise standards you will set. Remember that the New York subway rider is exposed to 100 decibels of sound intensity. When he gets home at night he listens to 80 decibels of television. His power lawnmower creates 80 to 100 decibels of sound intensity on Saturday morning. Jet liners to Europe give riders 80 decibels of sound for six to seven hours. We live in a noisy age.

Moreover, these are environmental factors which will also have to be measured "instantly" for enforcement proceedings -- the size of the noise source, for example, and the distance of the "victim" from that source; the wind speed and direction at the instant of the "offense", the barometric pressure and/or altitude of both the "offender" and the "victim", the humidity of the atmosphere and the levels and harmonic characteristics of other noises radiating between the "offender" and the "victim".

In other words, unlike the problem of air pollution control, the matter of noise control presently lacks objectively-developed and meaningful criteria upon which to base a control code. And the complexities of noise analysis are such that enforcement, except possibly upon the sole basis of the volume of sound, would appear to entail a very specialized, costly and perhaps uneconomic control mechanism, administered by untrained and unqualified state inspectors.

Under such circumstances, there is an obvious need to approach the question of enforcement procedures with a clear understanding of the need for reasonableness and an appreciation of what may or may not be -- at the outset of a control program at least -- within the realm of technological and economic feasibility.

In the light of these complexities and because emotionalism could so readily take the place of objectivity in the development of a control program, S-2069 incorporates what is, in the Chamber's view, a very dangerous philosophy of control. It would make the Department of Environmental Protection -- an administrative agency of the State -- the lawmaker, prosecutor, judge and jury in noise level control matters. Not only would such a setup lend itself to -- even encourage -- bureaucratic abuse, it is a concept that is repugnant to that valid and highly respected concept upon which all government in this country has always been based; that legislative, admin-

istrative and judicial branches of government are kept separate as an essential element in our system of governmental checks and balances.

S-2069 directs the Department, after consultation with the Director of the Division of Motor Vehicles, to formulate and promulgate, amend and repeal codes, rules and regulations establishing standards and requirements for the control of community noise, and noise from motor vehicles, and establishes a completely separate and lower penalty system for infractions of motor vehicles noise control standards--lower, that is, in comparison with penalties elsewhere in the bill for all other infractions.

By what form of logic should these penalties be lower? It would certainly be easy to extend such a rationale. Why not, therefore, establish a separate penalty system for the construction industry? The manufacturing industry? (Or, for that matter, any industry that might emit noise?)

If a noise is objectionable, and violators of noise control standards are to be penalized, why have a discriminatory penalty system that is based either upon the type of activity or industry involved? Is noise from motor vehicles less objectionable than noise from other sources?

The penalty provisions of S-2069, also patterned after the State's air pollution control statutes, provide that the Department may levy fines up to \$3,000 for each violation of community noise standards. And if the violation is of continuing nature, each day it continues after the department-ordered elimination would constitute an additional offense. A 75% rebate of penalty is provided, subject to conditions imposed by the department. In view of the obviously primitive state of the art of noise analysis and enforcement control, these are clearly excessively stringent penalty provisions.

Moreover, the rebate provision, in our view, is mere tinsel. To our knowledge the department has yet to rebate any substantial penalty it has levied under the amended air pollution control statutes which have been in effect since 1967.

Another feature of this bill, which is also included in A-2181, is that the department is empowered to require the registration of persons involved in operations which may result in noise and their filing of detailed reports. This feature, of course, is taken from the existing air pollution control statute and for fledging noise control program, it is, in our opinion, clearly not necessary. Noise and air pollution are not the same. Both the abatement and control methods are different. Furthermore, industry already is saddled with a multiplicity of governmental regulations which require the filing of reports, some of which may be at least partially useful but far more of which serve no purpose and are simply filed and forgotten. We do not feel that yet another report--such a clearly unnecessary one--would contribute in any way toward the reduction of community noise.

Of equal concern to us is a related provision which empowers the department to enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected source of noise and ascertaining compliance with any rule or regulation of the department. Again, we note that this provision is derived from the existing air pollution control statutes, and again we question whether such a provision is necessary. In-plant noises under both these bills are not to be measured within the plant, but at or beyond the plant boundary. What, therefore, is the rationale of inspecting the noise source when the noise itself is to be measured elsewhere? It is just like following a fire truck down the street with a noise meter or chasing butterflies with the same instrument.

We do commend this bill for its laudable intent; for its provision that the department conduct research on noise, and for its provision that the department conduct programs of noise control education. However, we feel that on balance, its basic design for a noise control program has enough important defects that the measure is rendered unacceptable. To us it appears to have been written without any consultation with persons having scientific knowledge and experience in the physics of sound.

Comments on Assembly Bill No. 2181

In comparing S-2069 with the other bill on today's hearing agenda, A-2181, we feel that the latter measure offers a sounder approach to dealing with noise problems as we find them in New Jersey.

Essentially, S-2181 provides for a consultative body of appointees, the Noise Control Council, which would review such rules and regulations as may be found necessary to control noise levels, with a qualified veto over the issuance of noise control regulations promulgated by the department. At this point, members of the American Industrial Hygiene Association who have been qualified and certified in this field should be a party to the setting of the regulations and should be represented on the Council. Also a physician member should be a practicing member of the American Academy of Ophthalmology and Otolaryngology. Those two organizations are the two scientific bodies that set the standards and criteria for the effect of noise on the human body. Enforcement of the restricting rules and regulations would be in the hands of the department. This proposal thus tends to preserve the long-held and almost universally-accepted concept of regulatory control so inherent in our democratic form of government. It provides at least some measure of checks and balances that are basic in any control mechanism's ability to treat fairly and impartially any citizens, corporate or individual, that

might come under its control powers. This concept of control, I might add, is embodied in the State's Worker Health and Safety Act. In that law, the Industrial Safety Board assists in the formation of rules and regulations governing the implementation of healthful and safe working conditions for all employees, yet collectively has veto power over any rules and regulations promulgated by the Commissioner of Labor and Industry.

Because the definition of noise will be such a key element in setting up any noise control or abatement program, this definition must be worded with extreme care and with full knowledge of the wide variety of situations in which it will be exerting regulatory control. The definition contained in A-2181 does represent a cognizance of this responsibility, and we agree that noise which is deleterious to the health and safety of New Jersey citizens should be subject to control. We do not, however, believe that noise deleterious to the comfort of the people of New Jersey as stated in the definition, is either a proper or practical area for control. It is too nebulous and would thus be easily subject to abuse.

We note that this bill also has registration, and enter-and-inspect provisions similar to those contained in S-2069. Our views on these points as given above in connection with S-2069 apply, therefore, equally to A-2181.

We do not believe the concept of zoning is properly considered in either bill. To provide equitable treatment for many variable situations, and to provide maximum flexibility in the administration and enforcement of a noise control law, such a concept could be invaluable. The major impetus of a control program might best be directed toward noise sources located in or adjacent to residential areas, but modifications should be permitted in circumstances such as with industries located in a mixed land use zone classification, industrial and/or commercial, or in a straight industrial zone.

One final thought: Because this is, on a state level, pioneering legislation, and because we have very little to refer to in the formation of such a control mechanism, we feel strongly that an element of reasonableness must prevail throughout this first attempt to legislate the control of noise in New Jersey. We believe that any legislation proposed should encourage the utilization of every available resource, particularly persons with technical experience. It should also recognize that it is a first attempt at an extremely complex regulatory task and, as such, allow for modifications to be made as man's knowledge and experience in the field increases.

In our opinion, it would be an abdication of the Legislature's responsibility if it were to take the course of least resistance and enact an initial noise control statute devoid of the checks and balances necessary to assure fair and equitable administration and enforcement.

To sum things up: In our opinion, S-2069 offers an over-simplified and excessively bureaucratic approach to noise control. A-2181, on the other hand, does offer the opportunity to formulate a program based objectively upon the best available knowledge and technology and a program that also reflects the primacy of separating the governmental responsibilities of rule-making and rule-enforcement.

We appreciate this opportunity to present our views.

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ASSEMBLYMAN WILSON: Before we have any questions, I would like to say that Assemblyman Dawes from Monmouth County is now present.

Mr. Bradley, on page 4 of your statement you say we live in a noisy age and you mention the decibels a subway rider is exposed to and the decibels someone watching television is exposed to, and the decibels generated by a power lawn mower and jet liners. On the other hand, when you say we live in a noisy age, do you mean, well, it is a noisy age and that just happens to be it and what else can you do, or do you agree that there should be regulation along these lines?

MR. BRADLEY: We certainly agree there should be regulations and, as pointed out, Mr. Wilson, the regulations should be directed at the point of health or causing damage to persons by extensive sound and not particularly for comfort. There certainly is a wide area where community noise can be quieted. With this, we agree. This will come and it has been proposed and been tried out in many areas of the country. The big problem is that no one has yet been able to set scientifically levels of noise criteria that will be meaningful.

ASSEMBLYMAN WILSON: Also, Mr. Bradley, you mentioned that neither bill has any mention of zoning. If you look on page 2 of Assembly Bill 2181, it says under "d", line 14, "Zonal provisions which restrict particular noise-making activities to specified areas..." The areas are not listed and yet this can be promulgated. But it does make reference to zoning, does it not?

MR. BRADLEY: Yes, it does, and it is very commendable that it is in there. I didn't note that it had been spelled out to set down what the zones might be.

ASSEMBLYMAN WILSON: I feel that this would be the responsibility of the Noise Council along with the Commissioner in establishing these various zones.

MR. BRADLEY: That's right. The Chicago code a long

time ago set forth five zones. It was found to be much more workable than just one zone.

ASSEMBLYMAN WILSON: Assemblyman Gavan, do you have a question?

ASSEMBLYMAN GAVAN: Yes. Mr. Bradley, I have known you for a good many years when you were on the Air Pollution Committee when it was in its infancy.

MR. BRADLEY: I was Chairman of the Air Pollution Committee for ten years.

ASSEMBLYMAN GAVAN: You worked on that when it was in its infancy. You were the chairman. That goes back a good many years. I remember you doing some outstanding work and I would like to commend you for that particular work that you did in those years.

MR. BRADLEY: Thank you.

ASSEMBLYMAN GAVAN: However, on page 2 you say, "Because this whole question of controlling noise is so new, it is not yet even defined very clearly." Would you mind telling me what you mean by so new? Because, back some years ago, if you remember, Preston Shimer was in the State Health Department doing work at that time.

MR. BRADLEY: Yes.

ASSEMBLYMAN GAVAN: I don't have the dates or the information with me now. But if you remember there was the Chicago code and another code developed, I think, in Michigan. There were some anti-noise codes developed in various areas at that time. You probably also recall that they did take some decibel readings on the noise of a typewriter in an office and other things.

To the best of my knowledge this might even go back about ten years. So I would like to know why you say it is so new.

MR. BRADLEY: Well, the development of criteria and definitions of noise of industrial plants that could cause permanent partial deafness is not new, but the development of a definition for community noise is new. It hasn't been successfully done. That's why I say ---

ASSEMBLYMAN GAVAN: Wait a minute. Just let me stop you right there. You say it wasn't successfully done. In other words, you felt as though when they first started this in Chicago and these other municipalities who worked out codes -- I don't have the codes with me right now, but I can get them. I think you are aware of some of these codes.

MR. BRADLEY: The Warwick Code ---

ASSEMBLYMAN GAVAN: That was one of the first ones developed which the State used to use when they went around making different evaluations. Why do you feel this is so new when these things have been worked on and you know right here in New Jersey that we are reaching a point where we do have to do something about controlling these outside noises. I live in Linden. I am possibly in the pattern of the jets that take off from Newark Airport. If you sit in my backyard during this particular takeoff time, your conversations will be interrupted.

Do you feel that we should put up with these existing conditions by saying that we are living in a noisy age and that noise is so new?

MR. BRADLEY: No, sir. I am afraid that perhaps my statement is misinterpreted a little bit. You asked about three questions in one.

ASSEMBLYMAN GAVAN: There are about three. If you want me to go back, I can go back. We'll start with "new".

MR. BRADLEY: The first one on the code - we find that the Warwick Code in Warwick, Rhode Island, was established when Warwick was just a little tiny community and they wanted to keep it a little tiny community. Then the economics in Warwick were such that the industry moved there from Providence and the code no longer became applicable. When the Warwick Code was proposed and used to some extent in New Jersey, the people in Warwick had already abandoned that code because it wouldn't work.

The Chicago Code was set out in five different zones.

They found in Chicago that perhaps three zones would be sufficient, that five zones could not be maintained. We must realize that all of these codes that were developed there and the so-called Detroit code were done before the jet age and before we had jet-powered airplanes. I am sure if Warwick, Rhode Island, had jet aircraft back 30 or 40 years ago when that code was proposed, it would have been a lot different than what it is today.

What I say is new is we must take into account what is the economics in trying to control noise. We have got to realize that there must be controls, of course, on jet aircraft and there will be and they are being developed. But a noise code is going to be broken, I am sure, if a jet has to swing around over one little municipality when the code in the municipality says that over-all noise shouldn't exceed 70 or 80 decibels because it does. I have measured it many times and it does exceed it. You are certainly right when you say that jet noise can be very much of a nuisance.

ASSEMBLYMAN GAVAN: On page 3, you say, "And we have no doubt that a program of noise control will have a pronounced, sometimes strongly adverse impact upon New Jersey's economy." Would you clarify that for me?

MR. BRADLEY: Yes. When restrictive criteria on sound level at various octave band frequencies are set up in a municipal ordinance where it is impossible for even an industry to operate, then this ratable is going to have to leave.

ASSEMBLYMAN GAVAN: You mean the ratable of that particular industry.

MR. BRADLEY: You are not relating it to airplanes and jet planes.

MR. BRADLEY: No. I am speaking about industry itself.

ASSEMBLYMAN GAVAN: You are just talking about an industrial plant located in a certain area --

MR. BRADLEY: That's right.

ASSEMBLYMAN GAVAN: (Continuing) -- without a buffer zone.

MR. BRADLEY: Right. And the reason why we plead that we go easy to begin with is that we are in the infancy of developing industrial source control. We need to go a lot farther and a lot more research needs to be done, a lot more trial and effort, to develop industrial noise control so that our industrial areas can be quieted. When they approach cities and residential communities, advantage needs to be taken of what has been done already and what will be done in the future.

ASSEMBLYMAN GAVAN: Now will you agree with me that people are entitled to have, for example, clean air and an atmosphere without any particular noise, not going into an area of, say, looking for a panacea or a utopia? But since people are entitled to have pure water with standards set as to the potability, which go back a good many years, I think you would agree - and if you disagree, I would like to hear an elaboration on it - that the people are entitled to have industry in an area throughout the State whereby they would not come into the confines of what may be termed as a public health nuisance.

MR. BRADLEY: Yes, I certainly agree with you. This is being brought home to industry even more clearly with the new Walsh-Healy Act and the new Federal Public Health and Safety Act where the standards have been set at 90 decibels on the A-scale. Pardon me for using that technical language.

ASSEMBLYMAN GAVAN: That's quite all right.

MR. BRADLEY: But that is the limit that has been set by the Federal government and administered by the Department of Labor in Washington and being adopted in this State by our Department of Labor. And when industry is quieted to that extent that there is no possible chance for permanent-partial loss of hearing in industrial employees, we will find our communities are going to be quieter.

Again I say that you are absolutely right. We need to have comfort as far as noise is concerned. Then, on the other hand, if we set a code that says 60 decibels and people

inside their homes are using television at 75 and 80 decibels, it seems a little bit incongruous.

ASSEMBLYMAN GAVAN: That's right. I agree with you.

Now on page 4, you say: "Let us face the facts! New Jersey has today over 50,000 teenagers of the rock and roll noise era who are permanently, partially deaf."

Did you do any sampling or how did you arrive at these figures here? Was this something that you got from schools or any testing agencies? How did you come to this conclusion?

MR. BRADLEY: These figures are not exact - that is true - whether it is fifty thousand and one or forty-nine thousand and so forth, but it is an estimate based upon studies that have been done by otolaryngologists around the country on teenagers of the particular age of rock and roll music and their permanent-partial deafness is in special octave-band frequencies where it seems to the physicians who made audiometric tests on these people that they no longer could hear well the rock and roll music at that frequency and so they had to keep turning up the sound noisier and noisier to people who weren't used to it. They were becoming permanently-partially deaf in that one frequency. That will stay with them the rest of their lives. They will not recover that nerve deafness. This is based on actual audiometric testing here and there about the county.

ASSEMBLYMAN GAVAN: As we know, in our schools today they do use audiometric testing of the children. Now could you tell me where some of this sample testing was done?

MR. BRADLEY: No.

ASSEMBLYMAN GAVAN: The average individual wouldn't know about what you have here.

MR. BRADLEY: That's right.

ASSEMBLYMAN GAVAN: You had to obtain this technical knowledge.

MR. BRADLEY: Much of this sampling was done by these physicians in various parts of the country and they report as a percentage. So the figure here is simply a

percentage figure, but it is a figure of concern.

ASSEMBLYMAN GAVAN: On page 4 of your statement, you say, "Moreover, these are environmental factors which will also have to be measured 'instantly' for enforcement proceedings," which I agree with, "the size of the noise source. . ." At the present time I know that they can do some enforcement. For example, a State Trooper can take a clock and run a check on a diesel truck coming over the hill and take a picture of the reading and the vehicle at the same time. What is your opinion of this type of testing of diesel trucks on the highways?

MR. BRADLEY: For noise?

ASSEMBLYMAN GAVAN: Yes.

MR. BRADLEY: Well, I am not really the one to answer your question. I am not experienced enough in that to have an opinion at this point. I have an opinion as far as the man who operates a diesel and the sound level within the cab. Where the measurement is outside and as to the effect it would have on the community and the people in vehicles that follow, I am not really the one to answer that question.

ASSEMBLYMAN GAVAN: O.K.

MR. BRADLEY: There isn't enough data in my personal opinion to justify that.

ASSEMBLYMAN GAVAN: Would you say basically there is much difference between the speed of sound or noise after dark as compared to during the daytime?

MR. BRADLEY: The speed of sound is the same, regardless of whether it is light or dark. The intensity may be the same, but the recognition may be greater in the evening because background noises are less.

ASSEMBLYMAN GAVAN: Would you say that you would have had in your work alone more complaints in the evening hours concerning noise than in the daylight hours?

MR. BRADLEY: Yes, sir.

ASSEMBLYMAN GAVAN: Would you care to elaborate on

that at all and give us any examples, without naming names or any areas?

MR. BRADLEY: I am not about to recite the case histories or names of places because I have made lots of measurements. Many times, in fact most of the time, they are made at night in communities. Because at night in a community is when people can be disturbed. The background of noise is lessened.

There is one thing in this bill that amuses me greatly.

ASSEMBLYMAN WILSON: Which bill is that?

MR. BRADLEY: It is in A 2181, line 7, page 2. "Antidegradation provisions which establish existing exposure levels as a matter of record and prohibit the worsening of the quietude." That puzzled me when I got to that point. I couldn't figure out what those words meant. Is this what you are referring to?

ASSEMBLYMAN GAVAN: No. But you made the point quite clear. Most people do complain about it when they are lying awake. Maybe they have problems and can't sleep and they will hear more things at night than they will in the daytime when they are more occupied.

MR. BRADLEY: Except the man on the night shift and he complains because he can't sleep in the daytime.

ASSEMBLYMAN GAVAN: That's right, and you have the reverse of that. They complain about a construction job or someone riveting.

MR. BRADLEY: It is very easy to complain and it is less easy to set a standard of noises.

ASSEMBLYMAN GAVAN: In other words, it takes intelligence to give constructive criticism.

MR. BRADLEY: Well, you can be an ecologist without being a scientist.

ASSEMBLYMAN GAVAN: That's right.

ASSEMBLYMAN WILSON: Assemblyman Kiehn, do you have any questions?

ASSEMBLYMAN KIEHN: I would just like to ask Mr. Bradley if he is a doctor.

MR. BRADLEY: No, sir.

ASSEMBLYMAN KIEHN: I understand in checking some of the items that I read on hearing impairment, that 9 out of 10 Americans are so affected; this is a statement made by a Dr. Phillip Rosenberg from Temple University. I was wondering if you might have any recommendation from your research on this for the New Jersey Chamber as to what can be done in New Jersey to probably help us in the problems that we have.

MR. BRADLEY: Yes, I would be very glad to consult directly with your committee. I wouldn't want to take the time at this hearing to do it, but I will make myself available to your committee. You are certainly right that many people are affected and it is a known fact that a person beginning at age 39 to 40 loses one-half decibel of sound acuity in hearing until they are age 65 or 70. So we do at age 65 lose 15 decibels of our ability to hear. Of course, this is on the logarithmic scale and that is a lot of noise intensity. But this is a natural phenomenon and everyone is subjected to it.

ASSEMBLYMAN KIEHN: I realize that ear development has come over a period of millions of years and it was originally under quiet environment. I was just wondering, once your hearing is damaged, that's about it for the rest of your life, but what effect in the event this SST program goes through - would that have a very detrimental effect upon the hearing of the people in our country?

MR. BRADLEY: There would be a hearing loss of a temporary nature for people who were close by landings and takeoffs. This type of once-in-a-while excessive noise can be overcome. The type of noise which results in permanent-partial deafness is the type that is insistent and continuous, say, for eight hours a day, etc. But there would be a horde of complaints in this country wherever the SST landed and took

off. There is no question about that. I don't think there would be much in the way of permanent deafness, however. I am sure the plane can be quieted so that people on board would not suffer. I have measured noise on planes many, many times in different parts of the plane, and it is amazing how noisy these airplanes really are, actually up to 90 decibels, sometimes even higher than the limit.

ASSEMBLYMAN KIEHN: I understand that our ears really depend on oxygen for survival more than any other part of our body. Actually then, noise and air pollution almost go hand in hand. Is that true?

MR. BRADLEY: Well, they certainly do affect our ability to enjoy life. And we should have permission to enjoy life, I agree.

ASSEMBLYMAN KIEHN: From your testimony then, you really are in favor of establishing some noise control here in our own State of New Jersey.

MR. BRADLEY: Yes, we are, but it should be done properly and we feel that 2181 is a much better bill because it gives a separate group of scientific people a chance to sit down with the people who will carry out and promulgate the rules as they are made.

ASSEMBLYMAN KIEHN: Then you really feel too that 2181 is a good bill, but it probably should have some amendments to it.

MR. BRADLEY: Yes, I do. I mentioned the two important amendments and, that is, putting on your council, and specifying it, people of scientific background and experience in this field. This is a highly technical physical science and one shouldn't deal with it lightly by just saying, if 70 is too much, let's make it 60, because it doesn't work that way.

ASSEMBLYMAN KIEHN: All right. Thank you very much.

ASSEMBLYMAN WILSON: Mr. Bradley, I would just like to clarify one point. In your statement on page 9 you said,

"We do not, however, believe that noise deleterious to the comfort of the people of New Jersey as stated in the definition, is either a proper or practical area for control." And you seem to dwell on "comfort." On the other hand, under questioning of Assemblyman Gavan you said that every person should be able to expect comfort as far as noise control is concerned in their home and in their environment. You made this statement and I believe it is in the record. Would you clarify that point?

MR. BRADLEY: Yes, sir. I used the term comfort rather loosely both times. There has to be some leeway here. What is comfort to one person is discomfort to another and it is pretty hard to define and qualify comfort. There are many cases of complaints of noise from one neighbor where his next-door neighbor is having a backyard picnic in the summertime. This is a question of whether it is actually comfort or whether it is simply irritation without leading to any deafness. It is simply a nuisance. I did misuse the word "comfort" because I can't define it really. In one sense what is comfortable to somebody is discomforting to another. It is a confusing word. I should not have used it possibly.

ASSEMBLYMAN WILSON: Assemblyman Fay?

ASSEMBLYMAN FAY: Mr. Bradley, I would like to stay on the point of loss of hearing and near deafness or even deafness. Obviously we can debate for the rest of our lives the matter of comfort. Throughout your report I got the feeling that you are calling for objectivity and you are calling for more scientific study, etc. Correct me if I am wrong, but I got the feeling you felt the Department of Environmental Protection wasn't objective enough - you didn't believe they could be objective enough to enforce this.

MR. BRADLEY: No, I don't believe that they should set the standards for community noise quality criteria. If they are the group that is going to enforce the laws or the codes, they should not be the group that sets the standards. This is a difficulty that we have today in the philosophy--

ASSEMBLYMAN FAY: But you mentioned the Walsh-Healy Act and you mentioned that some of the communities in our State already have local ordinances. Could you name a few of these communities and give us the history of their enforcement of the local codes?

MR. BRADLEY: Well, a few of our smaller communities have adopted codes and some of them adopted the Warwick Code, which is a very limited code, and some adopted the Chicago Code, which is much more meaningful. It has not been generally adopted by any community. I think most city fathers have somehow thrown up their hands when it comes to constituents' complaints because it is hard to distinguish whether it is neighbor against neighbor or whether it is person against sound.

ASSEMBLYMAN FAY: Are there any other states in the Union or any other communities in the Nation that you could suggest that our committee look to where there are, say, stronger codes or more workable codes as far as the Chamber is concerned?

MR. BRADLEY: No. Most cities that have codes have adopted them on the Chicago Code level or even higher. I think that Hoboken adopted a code which was less restrictive than the Chicago Code and they seem to have gotten along all right. But I don't think anybody has gone out in Hoboken to measure the sound to find out whether the code is holding or not. Most cities and communities that are coming into this idea of controlling community noise are faced with the problem of developing a new code. There is nothing today that really works. As I say, you gentlemen are pioneering and you are going to have to think about developing a new code.

ASSEMBLYMAN FAY: I know I am a layman, but having lived half of my life in Elizabethport and the rest of my life in Linden, I feel that I can speak with some knowledge about noises. Can't we define noise that is injurious to health? Let's not even try to get into the comfort aspect, but define noise that is injurious. Figures can be brought in that x number of teenagers who have been listening to electrified

music and the radio turned up to the highest volume have been affected. You can come in with figures like this which show a certain number of decibels after a certain number of months or years will have an effect on a person's hearing, who would not have had a serious loss of hearing. Why can't we come up with something like that on one level - (a) - this is injurious to health - these particular decibels, these particular noises? Then possibly a separate bill or a separate study on the matter of discomfort or comfort could be made.

MR. BRADLEY: Yes, sir, we can; in fact, it has been done. The criteria for safe sound, if you would accept that idiom, is 90 decibels for an eight-hour day, 92 decibels for a six-hour day, and 95 decibels for four hours. When you get up to 100 decibels, I don't think a person should even experience it, even though the Federal government says you can experience that for an hour and then recover your sound. To some people - and there is individual susceptibility - there would be a definite discomfort.

ASSEMBLYMAN FAY: Would this be a matter where you have had workmen's compensation cases?

MR. BRADLEY: Yes.

ASSEMBLYMAN FAY: Thank you very much.

ASSEMBLYMAN DAWES: Mr. Bradley, on page 10 you make reference to an element of reasonableness. Are you speaking of reasonableness of fines, of enforcement, a level of noise control - what do you mean? Reasonableness in what areas?

MR. BRADLEY: I am speaking here of being reasonable in trying to design and develop a code or a piece of legislation on community noise. Being reasonable means that we should take into account what is available in the field of knowledge on this subject, what is available in the history of trying to live with codes that are too restrictive, also being reasonable in putting scientists at work in designing the criteria and separating the administrative branch of

the government from the judicial branch and from the code-writing group.

ASSEMBLYMAN DAWES: How are the zones designated in the Chicago Code? Is it possible for you to tell me very briefly how the zones are designated?

MR. BRADLEY: There are five zones. There is one zone which is strictly residential. There is another zone which is a buffer between residential and a class of industry which is considered commercial. Then there is a third zone which is a buffer between commercial and heavy industry. There is a fourth zone between industry which is extremely heavy and residential which may be nearby, and a fifth zone for industry alone.

ASSEMBLYMAN DAWES: I have no further questions.

ASSEMBLYMAN WILSON: Mr. Bradley, we want to thank you very much for testifying and we appreciate your interest in the bill.

MR. BRADLEY: It has been a great pleasure.

ASSEMBLYMAN WILSON: I would like to call Mr. Feibel, New Jersey Builders Association.

A L F R E D S. F E I B E L: Assemblyman Wilson and gentlemen: My name is Alfred S. Feibel and I appear before you today as First Vice President of the New Jersey Builders Association and as a concerned citizen of New Jersey. Our Association represents some 1300 firms involved in residential, commercial and industrial building throughout the entire State of New Jersey. We welcome this opportunity to speak with you about a problem which, we feel, presents a great threat to the environmental protection of the health, safety and well-being of the citizens not only of New Jersey but throughout the country. I am referring to noise pollution.

We are on record as having an awareness of this menace that exists as a contributing factor towards the inconvenience, discomfort and poor health of each citizen. Our awareness and concern is such that we are constantly studying the relationship of home and community design to man's esthetic, physical and sociological requirements and needs. One of our aims

in the building industry is to lend in the environmental areas our ideas and expertise that make for the emotional and economic well-being of everyone from the single family to the entire community.

The members of our Association, both those that are builders, as well as those in related fields, are involved in excavation and general contracting; all of which involves machinery such as compressors, bulldozers, pumps, etc.; anyone of which may emit noise. In this respect, our industry is definitely involved in the effect of any action that may result from the enactment of the legislation on which we are testifying today. May I again state that the building industry has, is and will in the future go on record as being opposed to pollution, whether it be air, water or noise.

However, any act relating to the control and abatement of noise should emphasize the language of reasonableness. By this, I mean that there should be standards set for the reasonable reduction of noise levels. Once an illogical or unreasonable restriction is placed upon an industry, and in our case the building industry, an economic consideration enters into the picture. Such a restriction will affect the ultimate cost of a residential dwelling. Suffice it to say, the consumer will bear the additional cost resulting from an unreasonable noise control regulation. We all know that improvements cost money but once you are concerned with such restrictions as curfews and acoustical refinements, the cost of building drastically increases. The increase in the cost of housing will definitely add to the severe

housing crisis in New Jersey. We can ill afford to let this happen. Again, the key word is reasonableness. One cannot expect 90% reduction of noise or 80% or 70%. Standards such as these are not only unreasonable but impossible. But reasonable standards that will, for instance, only increase the price of machinery 5% or thereabouts are methods of noise abatement that are indeed reasonable.

In respect to Assembly Bill 2181, we would offer the following comments: This is a good bill that we feel purports to remedy the menace of noise pollution. There are a couple of areas in which we have concern, however; the first being the makeup of the Noise Control Council. Inasmuch as we in the building industry are directly involved in this area, for the reasons mentioned previously, we feel a representative of the industry should sit on any council so organized. The technical expertise of the industry would be a most valuable asset on this council. At this time, we would like to state that we are in favor of the veto power embodied in 12 (i) of Assembly Bill 2181 and feel it is definitely in the best interest of all concerned.

Secondly, we feel that a respondent should have the right to appeal and, in all cases, should be furnished a copy of the complaint. So ends our comments on Assembly Bill 2181.

In regard to Senate Bill 2069, our comments are brief. We are opposed conceptually to this bill on the basis of the all inclusive power vested in the Department of Environmental Protection. We are also opposed to any registration fees (10c) as well as the right of

the Department of Environmental Protection to initiate complaints (10e). The penalties prescribed in this bill are also much too exorbitant.

In summary, we in concept support Assembly Bill 2181 with the aforementioned exceptions while we conceptually are opposed to Senate Bill 2069.

These, then, are our remarks. We offer them to you as an industry deeply embroiled in the problems you are considering. If we can at anytime be of aid or assistance to you, we so offer it here today.

In addition, ours is a business that makes a lot of noise. It is impossible to put up any kind of dwelling without it. So naturally any regulations that would affect our hammering and moving heavy machinery are of great interest to our industry. Thank you.

ASSEMBLYMAN WILSON: Does anyone have any questions? Assemblyman Fay?

ASSEMBLYMAN FAY: Mr. Feibel, why is your organization against the Department of Environmental Protection initiating complaints?

MR. FEIBEL: We felt that the Assembly Bill was set up better because it sets up a special body to take care of the entire problem of noise control rather than dropping it into the over-all department, even though the department is involved in it. In other words, we prefer a separate body composed of a council that would be in charge of noise control.

ASSEMBLYMAN FAY: But again, why couldn't and why shouldn't the Department of Environmental Protection when they find infraction of the law initiate a complaint as well as any other local agency or county agency?

MR. FEIBEL: Probably because of the fact -- well, somebody I guess would have to initiate, so it would be their

department if they were in control of it.

ASSEMBLYMAN FAY: Yes. This point about 5 per cent cost - why that arbitrary figure of 5 per cent?

MR. FEIBEL: From checking into it, as far as heavy equipment is concerned, it would be possible to put on noise suppressors, to use an over-all term. That would cut down the noise that our heavy equipment does make and this would be at the factory end rather than at our end.

ASSEMBLYMAN FAY: Has your industry done any investigations or any studies of some of the decibel counts on some of your jobs?

MR. FEIBEL: No, that we haven't done. We know in our industry when lunchtime comes, the lack of noise is definite.

ASSEMBLYMAN WILSON: Particularly from the power saws.

ASSEMBLYMAN FAY: Being aware, and I am aware, that your industry is having problems - the housing problem in our State has been documented so often - but we have just heard testimony -- in fact, Assemblyman Wilson in drafting this has documented the "fact of life" that people are losing their hearing, that noise is and is continuing to be a serious health hazard. I don't know what to say. I can't see myself saying, yes, we are going to try and attack this problem and then at the same time say, we can't go above a 5 per cent figure. Perhaps some type of State aid or some type of new invention will be the answer. Possibly your own industry and the specialists who work for you should engage in research so that you could make some recommendations. I, myself, am sympathetic, but I don't see when it comes to voting for a bill, after we have proven we have a health hazard and with the responsibility to do something about that health hazard, how that kind of an argument could sway anyone to vote against the bill.

MR. FEIBEL: We had felt that possibly some kind of regulations regarding heavy machinery might be advisable.

This would be something that could be done at the factory, such as they are doing with cars today with pollution. The same could be done, I think, if some kind of teeth were put into it.

ASSEMBLYMAN FAY: By the manufacturer?

MR. FEIBEL: The manufacturer would do it. The cost to us at that point would be very, very slight. It is the kind of cost that can be absorbed easily over the life period of a piece of machinery.

ASSEMBLYMAN WILSON: Assemblyman Kiehn?

ASSEMBLYMAN KIEHN: Do the firms that your Association represents build office buildings and plants as well as homes?

MR. FEIBEL: Yes, they are involved in the whole facet of the building industry.

ASSEMBLYMAN KIEHN: Then it would seem to me that the problem of noise from your angle should be taken care of at the plant where the particular bulldozer or crane or rivet might be manufactured, just as in the automobile industry. That would eliminate some of the noise problems that you cause.

ASSEMBLYMAN WILSON: Assemblyman Dawes?

ASSEMBLYMAN DAWES: No questions.

ASSEMBLYMAN WILSON: Thank you very much. We appreciate your testimony.

Before our next witness, I would like to state for the record that since these bills were introduced by Senator Bateman and myself and since the announcement of the public hearing, I have received numerous letters from citizens throughout the State and so has Senator Bateman, dealing with this subject, and many of our citizens have great concern with the problems of noise pollution and many consider this a step in the right direction and, in turn, are very anxious for some type of regulation to be initiated on the State level. I have received a great many letters on this and I think that fact should be entered on the record.

I would now like to call as our next witness the

Commissioner of Environmental Protection, Commissioner Sullivan.

R I C H A R D J. S U L L I V A N: Thank you, Mr. Chairman.

I filed a statement for the record which represents the official views of our department concerning the matter under discussion here, but I would like to paraphrase that, making a few comments here, rather than reading the statement if that is agreeable to the Committee.

ASSEMBLYMAN WILSON: That is fine. The whole statement will be made a part of the record.

(Written statement submitted by Commissioner Sullivan can be found beginning on page 62.)

COMM'R SULLIVAN: Very good. If there are any questions concerning the statement or my comments, I would be very glad to respond to them.

Our department received a mandate from your Legislature almost a year ago when we were set up to restore and protect the environment. I have discovered, I can assure you, in my first year of office if I didn't know it before, I know it now, that the environment in New Jersey is subject to a considerable number and variety of assaults. Some of these have been dealt with by the Legislature in the intervening time. I would point specifically to the Wetlands Act and the Solid Waste Management Act, which are two significant pieces of legislation.

The Legislature is also being called upon now to deal with other issues, such as pesticides, accidental oil spills, one-way containers, detergents, ocean dumping and the protection of our dwindling open space.

There is another environmental problem that has not yet been dealt with by the Legislature or by government in general and that is community noise. In my judgment the current levels of community din represent an unacceptable assault upon the environment and I think the noise levels

should be regulated by State government.

I congratulate the sponsors in both Houses of legislation in which they are taking the initiative to set up some kind of a regulatory framework in which noise can be put under reasonable controls.

I personally find it a soothing experience to extinguish unnecessary noise. I like to turn off car radios and kitchen fans. I think that the noise that I most like to turn off is the one put out by the TV in my house, which spreads its noisy trivia throughout the whole house to the exclusion of civilized activity. I suppose, given my own occupation and the fact I have six kids, tranquillity will continue to be an illusive condition. I don't think it need be quite as noisy as it is.

I would strongly urge the Legislature to move ahead and adopt proper controls and set up a framework by which we can through administrative regulation set standards that can, in fact, be achieved and which, if achieved, will bring about a substantial reduction in unnecessary noise.

In our opinion, as I have set forth in my formal statement, the legislative framework for the regulation of noise should follow that which is already in effect and proves workable in the air pollution control statute. The essential elements, we feel, are a definition of community noise so that it is clear we are not talking about noise created as an occupational hazard; the power to make rules and regulations which would set forth administrative standards for the various categories of noise; the additional power, in consultation with the Motor Vehicle Division, to provide for similar standards to regulate on-the-road vehicles; straight-forward, simple, workable enforcement procedure, and with a retention of the power of local government to control noise sources itself.

I would like to talk to a couple of these for a moment.

We find that the ingredients that I have just mentioned

are adequately set forth in Senate 2069 and the administration's position is that this is the form in which the legislation should be adopted and on behalf of the administration, I urge its favorable consideration by your Committee.

In my judgment, the public is more likely to get the kinds of rules and regulations that the problem calls for if the department is made the rule-making body rather than some representative council. I have had the opportunity before your committee on other occasions to discuss the issues of councils. I have served on councils myself in my career with the State. I now have the benefit of the advice and assistance of 18 of them in the Department of Environmental Protection. It seems to me that if the department is to be given the responsibility to deal with the problem of community noise, it should also be given the legal authority to set rules and to carry out enforcement procedures necessary in order to carry out the purposes of the statute and that it should not be hamstrung by a group of people representing various interests who of necessity will seek to protect those interests, who will meet once a month to either frame regulations or have the power to veto them.

As I look ahead, if legislation such as S 2069 is in fact framed, we would find it necessary to organize ad hoc groups, representing the various interests, to deal with specific categories of noise rather than to have an all-encompassing council that would be expected to provide the expertise to deal with noise from whatever source. I can foresee, for example, our setting up a group to assist in the framing of regulations to restrict noise from construction industry equipment. I think that might be a different group than the one that might be called upon to advise as to appropriate standards for heating, ventilating and air conditioning equipment.

I can foresee setting up groups representing manufacturers of various kinds of equipment, such as out-board motors or snow mobiles or whatever else.

From my point of view as the potential administrator of this legislation, I think this would be a much more productive system than organizing the council with the right to veto legislation.

So far as the enforcement procedure is concerned, it seems to me, after having practiced with the Air Pollution Control Act, that this is both a reasonable and effective means of enforcing a remedial statute. It provides for investigation, a cease and desist order if a violation is discovered, and summary court proceedings if the order's requirements are not met on a timely schedule. I find the enforcement procedures embodied in Assembly 2181 not to be sufficiently streamlined to make it possible to carry out this kind of administration.

These are my essential comments on the bill. I would be very glad, gentlemen, to answer any questions you may have about the particulars.

ASSEMBLYMAN WILSON: Commissioner, I have a few questions concerning the Council. This is where, I think, the bills differ a great deal.

In a statement this morning from Mr. Bradley of the State Chamber, he said our State Department of Environmental Protection has no person on their staff competent in the community noise evaluation field who has been certified by the American Board of Environmental Health. He asks: Who would set the standards in this highly scientific field of the physics of sound and its effect on the human body? Will you comment on this statement? This is one thing that troubles me.

COMM'R SULLIVAN: Mr. Bradley's statement is correct. We have no one on our staff who is skilled in the control of noise because the department has no responsibility whatever to deal with noise as a problem. Just as would be the case if responsibility is given to us in other areas, we would hopefully add to the staff people with qualifications such as have been referred to. We have no authorization to

seek through appropriation the employment of people to carry out a program for which we have no responsibility.

ASSEMBLYMAN WILSON: You say "hopefully." Let us go back to the Clean Air and Water Division which you headed. How long did it take you as Director of that division to actually adequately staff it and have enough people with expertise so they could in turn enforce the law that was passed by the Legislature quite a few years ago?

COMM'R SULLIVAN: It took time. But there we had the advantage, at least, of starting off when that division was organized of having staff in those programs already. The staff in the air pollution program doubled to about 155 in the three years in which I was with that division. The water pollution staff had grown from 35 to 60, a number I still consider seriously inadequate during that period. There were times in the early stages of development when we experienced difficulty in employing people in any capacity. The employment market has changed recently and we find that it is an employers' market right now.

It seems to me altogether reasonable to expect if legislative responsibility is given to us that we would add a few people with a modest budget that would have training and skill in this area and that we would not add any such persons to our staff unless and until that responsibility is handed to us.

ASSEMBLYMAN WILSON: I remember your stating to me back in 1968, one of the reasons you found it so difficult to get people in the Division of Clean Air and Water was because you couldn't find people that were skilled enough.

Now this is a major problem and we are going to be one of the first states to regulate noise, one of the first, if this legislation goes through the Legislative process, are we not?

COMM'R SULLIVAN: There are other states that are involved in noise control, but the number is small.

ASSEMBLYMAN WILSON: The number is small. Where then are we going to get the people with the expertise if

the department is going to handle the responsibility themselves to undertake the promulgation of rules? If this field is in its infancy, where are we going to find people with such high technological backgrounds?

COMM'R SULLIVAN: I don't want to underrate the difficulties the government has in all of its areas in hiring technical specialists. But it seems to me that in any case where new enforcement responsibility is given to an agency, it will simply have to staff up in order to meet the responsibility, whether there is a part-time advisory council or there isn't. We will have that problem in either case. We will try to find the best people we can within the limitations imposed by the budget. In terms of actually finding employees right now, things are a lot better than they were a year ago. Or things are a lot worse than they were a year ago, therefore, there are more people available to us.

ASSEMBLYMAN WILSON: In connection with the bill proposing the Noise Council, you mentioned the various interests of people in their particular areas and the fact that they might more or less combat any rules being promulgated that might bring about correction as far as noise is concerned. But if you look at the proposed Noise Council, you would have four members that are members of the Governor's Cabinet or their designees and I can't think of any special interest they would have to block anything. We also have four public members and we hope that when these people are selected and are nominated by the Governor that they would be people that would not represent specific interests, and one has to have a medical background. Then we have one member from the New Jersey State League of Municipalities and I can't see what interest he would have other than improve the noise so far as municipalities are concerned. There is one member from the New Jersey Freeholders Association, which is an organization of government officials, and I can't see their interest. So when we come to interest, out of the 13-member council, we have the New Jersey State Chamber of Commerce,

the New Jersey Manufacturers Association and the New Jersey AFL-CIO, which would be looking to safeguard the workers. So of the 13-member council, there would only be two that would be worrying about safeguarding their interest. Would you agree with this statement?

COMM'R SULLIVAN: I don't mean to imply that all the members of the proposed council would come in representing narrow interests. My position is, first, that a council is unnecessary; second, that wherever there are councils, the Governor's appointment authority should not be restricted by the naming of groups to be represented on these councils. In my judgment, the councils that we now have should be modified to give the Governor absolute freedom to appoint those he thinks can best represent the public interest. But beyond that, I intend no criticism of the groups represented on the council. They all have legitimate interests to protect anyway.

I think a council is unnecessary and I would strongly urge that legislation not be enacted that would cause any council to participate, to have power, in the rule-making process.

ASSEMBLYMAN WILSON: Commissioner, as a legislator and chairman of this committee, what type of legislation would you suggest to me should be enacted so that I can be assured we are going to have representation from a cross-section of the State on the Council if we don't enumerate various groups? If you have a Governor from the southern or the northern part of the State, you could end up having all your appointments from the southern or the northern part of the State from one particular industry. How can I as a legislator be assured we are going to have a representative group on these councils, such as Clean Air and Water and perhaps Noise Council, etc.?

COMM'R SULLIVAN: I don't think it is necessary to have representatives of groups or special interests serve on these councils. I think if a council is to be formed in

any area, the Governor should have the opportunity to look to the personal interest and talent of the potential council members so that the best possible advice can be given the agency concerned.

Again I think a council is altogether unnecessary in this legislation and I personally am opposed to the formation of administrative regulations by councils. I think it is an inefficient, ineffective way to run a government.

ASSEMBLYMAN WILSON: Would you be more or less for doing away with all councils - Clean Air, Water, and Solid Waste Advisory Council, etc.?

COMM'R SULLIVAN: In my opinion there is no need for regulatory councils. The councils to which you have referred are purely advisory in their function and have performed some useful functions for us.

As I mentioned in my earlier comments, we will surely find it necessary to call upon groups to deal with aspects of this and other problems that we face. But I am opposed to having administrative regulations, either written by councils or having them subject to veto by councils, because I think we come up with regulations that are less than what the problem requires.

ASSEMBLYMAN WILSON: Then you would not be opposed to an Advisory Noise Council?

COMM'R SULLIVAN: I think an Advisory Noise Council is unnecessary, but I would find it far less objectionable than one that would have legal participation in the formation of the rules.

ASSEMBLYMAN WILSON: In May 1970, we created a Solid Waste Advisory Council. If what you are saying is true, why did we create another council? It consists of 11 members. Have any members been appointed to this council?

COMM'R SULLIVAN: No, there haven't been.

ASSEMBLYMAN WILSON: Are there going to be members appointed?

COMM'R SULLIVAN: I assume there are.

ASSEMBLYMAN WILSON: This was created in May of last year.

Also Assembly Bill 1386, which is the Pesticide Bill.- I believe this is the administration's bill regarding pesticides, is it not?

COMM'R SULLIVAN: Yes.

ASSEMBLYMAN WILSON: (Reading) "There is hereby created in the department," and this is your department, "a Pesticide Control Council, which shall consist of nine members. . . .," and it lists who they are to be. If we have been asked to consider an administration bill creating a Pesticide Control Council, why does your department object to a Noise Control Council?

COMM'R SULLIVAN: With regard to the Pesticide Council, the reason that the council is contained in that bill is because that is the product of a compromise conference with a number of groups of people that had different views as to what form the legislation should take. I think pesticides in New Jersey could properly be regulated without a council. But it appeared to us that there was a sufficient number of groups and individuals who felt so strongly about the council that if it were left out, we probably wouldn't have any bill at all. I would much prefer a Pesticide Bill with a council in it than no regulation of pesticides.

ASSEMBLYMAN FAY: I know you are surprised to hear that the Chamber of Commerce came out against your bill this morning. I just want to refer to a few of the questions that they posed and let you reply to them.

One thing that bothered them was the point on the rebate provision and they made note of the fact that to their knowledge your department has yet to rebate any substantial penalties levied under the amended Air Pollution Control statute, which has been in effect since 1967. Is that a valid statement?

COMM'R SULLIVAN: We have made rebates, but we have not

rebated substantial portions of penalties collected, no.

ASSEMBLYMAN FAY: What would be the reason for that?

COMM'R SULLIVAN: The use of that system is discretionary. Also its use depends on whether or not the person who paid the penalty achieved timely correction of the problem. We have in recent months much more substantially involved ourselves in that rebate process by attempting to make it an affirmative tool and where the courts have imposed very substantial penalties in the form, you might say, of a performance bond, under which substantial moneys will in fact be rebated if there is timely compliance. It is in here and there are cases where it can be used. I don't regard the rebate system as a very important tool for enforcement purposes.

ASSEMBLYMAN FAY: Commissioner Sullivan, twice this point is made, that the administration bill is drawn with no person on the staff competent in the community noise evaluation field certified by the American Board of Environmental Health - that is number one - and that this bill appears to have been written without any consultation with persons having scientific knowledge and experience. Is this true that the bill doesn't have any real expertise behind it and is just more philosophical at the beginning?

COMM'R SULLIVAN: I think what we are addressing ourselves to, Mr. Fay, is a kind of remedial legislation to deal with a public problem. It is hardly the place, it seems to me, to infuse the scientific expertise. We have not attempted to deal, nor should we, in enabling legislation with questions of actual noise levels or the methods of measurement or anything of the kind. I don't regard drafting a remedial bill as the work of a noise scientist.

As I mentioned before, it is true we don't have people on our staff to work in this program because we have been given no responsibility to deal with the problem.

ASSEMBLYMAN FAY: The point about the veto power - this was also brought up in dealing with the Commissioner of

Labor and Industry as to the Industrial Safety Board and their veto over the Commissioner of Labor and Industry - do you find this contradictory that this department uses it and would you just as soon repudiate that as well as the others?

COMM'R SULLIVAN: Well, throughout State government there are a variety of techniques for the formation of administrative regulations. We have councils or commissions with absolute rule-making power. We have those that can frame regulations, but they are subject to veto by the department head. We have those where the department head can frame them, but they are subject to veto by a council or commission. It is my opinion that our department will best be able to carry out the responsibilities of legislation such as this if the council, if there be one, not be involved in the legal process of putting out administrative regulations.

ASSEMBLYMAN FAY: Thank you.

ASSEMBLYMAN WILSON: Assemblyman Kiehn?

ASSEMBLYMAN KIEHN: Commissioner Sullivan, I heard all that has been said and practically all the questions have been answered that I had in mind. But has anything been done by your division about noise control or don't you think it is as important as air and water pollution control?

COMM'R SULLIVAN: I think it is very important and that is why I would urge your committee to favorably report on legislation to allow something to be done. The only work that has been done by state government to date was done by the State Department of Health, which had people in their industrial hygiene organization who had experience with noise work inside factories and when complaints were received about community noise problems, they sent out those people because they knew how to make measurements and were aware of some of the scientific aspects of it. In a number of cases, they did succeed in eliminating point sources of objectionable noise. In a number of instances, they also persuaded municipalities - I think about 70 of them - to adopt local

noise control ordinances. But in my judgment the State has not been responsive to the problem, recognizing its total dimension, and we need remedial legislation that deals with this subject.

ASSEMBLYMAN KIEHN: I realize that most all communities now have their zoning ordinance where they would divide, say, residential from industrial or business zone. But is there anything being done now where industry might be within a residential zone that has existed prior to zoning ordinances in those municipalities for the control of noise for the protection of the residents in that area?

COMM'R SULLIVAN: Not by State government, no, nothing at all. As a matter of fact the man who did the work for the State Health Department has retired and I think that no one employed by the State now has any official responsibility to deal with community noise and I think this is a big mistake.

ASSEMBLYMAN KIEHN: Thank you.

ASSEMBLYMAN DAWES: What would be some of your other objections to Assembly Bill 2181 outside of the regulatory council? What are some of your other objections to that bill?

COMM'R SULLIVAN: Well, I will highlight a couple. I think it should not be necessary, as the legislation implies, to make a positive finding of harmful effects of noise before it can be regulated. I prefer the definition in the Senate Bill, along the lines of the air pollution definition, which makes it broader and allows the regulation of noise that is or may tend to be harmful to people.

I have some problem with the concept of the anti-degradation provision which seems to suggest, to me at least, that regulations can be expected that will say, well, you have gone far enough with your noise - you can't go any further. It seems to me rather obvious if the community noise problem is to be dealt with, it is going to have to be regulations that will require existing noise sources to be less noisy.

In the enforcement procedure, I find that if a case

begins with a complaint, an investigation is authorized, and then action is to be initiated if a violation is found. I assume that action is notification by letter or something of that kind. Then after time passes and the condition is not corrected, a written notice of a hearing has to follow and a hearing held before the real enforcement procedures can be undertaken.

Frankly I find the necessity for waiting this time and for holding a hearing in each case to be a cumbersome enforcement procedure which did not work in the Air Pollution Control statute and therefore was taken out.

It seems to me the sequence ought to be, if a violation is found, an order should be issued for correction and if time passes and correction is not achieved, the State should have available to it sanctions, including Superior Court injunctions, without going through an administrative hearing.

Last year, our department issued about 1200 administrative orders for the correction of air pollution. If we had to hold an administrative hearing in every one of those cases, we more likely would have issued 50 orders.

I find the penalty of \$500 in this day, 1971, to be too limiting. I think there are cases in which more substantial penalties should be authorized. And I have already given my views concerning the council.

ASSEMBLYMAN DAWES: Should that person have a right to appeal though after the administrative order?

COMM'R SULLIVAN: Yes. As is the case with air pollution orders, anyone who is aggrieved by the order has the right to an administrative hearing to present his side of the case and I am in favor of that.

ASSEMBLYMAN GAVAN: Commissioner Sullivan, I agree with you about those fines. I happen to have a bill that has passed the Assembly and it is over in the Senate at the present time which increases the fine to \$1,000 and also attaches jail sentences to it.

ASSEMBLYMAN WILSON: Commissioner Sullivan, in

view of the fact there is such little expertise in your department as far as people knowledgeable in noise is concerned, would not a Noise Council of an advisory nature that had qualified capable individuals be an asset to your department or would it be a liability? This is one with no veto power; I am saying "advisory."

COMM'R SULLIVAN: I would prefer the latitude to set up specific groups to deal with various categories of noise as the occasion arose to regulate them and have the benefit of their advice at that time. We obviously can't make regulations in the privacy of the office without consulting these people. I would prefer that technique to an over-all council embodied in the statute, representing the various groups and associations. I think a number of the people who would be appointed to that council, by the nature of the council, would not be experts in noise prevention either.

ASSEMBLYMAN WILSON: Commissioner, again I want to repeat this: You have a Clean Air Council, a Clean Water Council, a Solid Waste Advisory Council - that's not quite the correct term - and, if the bill passes, a Pesticide Council. Why would the field of noise be different than all the others?

COMM'R SULLIVAN: I don't know that it is fundamentally different. I think if we were doing all these pieces of legislation over, I would express a similar view on the others. I am distressed that there is a feeling that it is necessary to have a statutory council on every aspect of the environment. I am a little bit afraid after a while we are going to spend half our time taking care of the councils instead of doing the work we have to do. But my principal objection with regard to the council is its participation in the rule-making process itself.

ASSEMBLYMAN WILSON: All right, Commissioner. Thank you very much.

COMM'R SULLIVAN: Thank you very much, gentlemen.

ASSEMBLYMAN WILSON: Mr. Fields of the New Jersey Farm Bureau.

C. H. F I E L D S :

Members of the Committees, ladies and gentlemen:

My name is C. H. Fields of Trenton, New Jersey. I appear here today as executive secretary of the New Jersey Farm Bureau, a voluntary association of more than 4,000 farm families in 20 counties in this state.

Since we speak for a group of people who live in the country, rather than in the cities, you may wonder why we would be concerned about any legislation that seeks to control and regulate noise.

New Jersey's remaining 6,000 commercial farmers are attempting to farm in the midst of the most urban community in this nation and among one of the most dense populations to be found anywhere. These farming operations are being conducted in communities that are on the receiving end of the suburban migration that continues to take place at a rapid rate.

One of the reasons people move from the cities to the country is to escape noise; but quite often, they discover that modern farming operations also create noise. We no longer use draft horses for motive power. We use tractors, and many of them are large, powerful and somewhat noisy. We no longer depend upon natural rainfall to water the crops. We irrigate, and that requires mechanical pumps and engines to run the pumps. Modern crop spraying techniques call for the use of low-flying aircraft or helicopters; and in order to prevent millions of dollars in damage to some crops, this Legislature has passed special legislation to permit the use of certain noise-making devices to scare away marauding blackbirds.

It is true that the noise problem that these bills seek to control is not primarily a rural situation; and that troublesome noises are seldom a problem in the country;

but we wanted to point out that modern farming does involve a certain amount of noise and farmers are thus concerned about laws and regulations that would prevent, control or stop the creation of noise.

We have studied both of these bills, and we greatly prefer the passage of A-2181. We believe that S-2069 would create broad authority to control noise and place it solely in the hands of the Commissioner of Environmental Protection. Assembly Bill 2181, on the other hand, more clearly defines the term "noise", and more explicitly delineates the activity subject to rules and regulations.

But the most important provision of A-2181 is the Noise Control Council, which would have the power to review rules and regulations about to be promulgated by the Commissioner, and to veto any such rules or regulations the Council did not deem to be in the public interest.

We want to point out that the Legislature proposes to move into a relatively new and unexplored area of regulation. We believe the creation of a council with review authority over proposed regulations would be an excellent safeguard against over-ambitious or unreasonable regulations by the enforcement agency and would tend to keep such regulations within the bounds of reason and public necessity.

We are not particularly concerned about the make-up or appointment procedure of the Council. It would perhaps be just as well not to require that nominations for the five positions on the Council come from the organizations designated. The important thing is that the Council should be broad-based, representative of all affected groups, and contain thereon experts in various phases of business and community life who can make a contribution to the workability of the proposed new area of regulation. We do

suggest that the Secretary of Agriculture be added to the list of state officials who would serve ex officio, since Section 10 of the bill mentions the Secretary of Agriculture as a cooperating agency.

We would also like to request that the bill contain a provision to make it clear that it would not repeal 23:4-63.5 of the Revised Statutes. This is the law that provides for the use of the noise-making devices to control the destruction of crops by marauding birds and other wildlife.

I might interject that we have no other method at the present time of stopping this destruction except by the use of noise-making devices.

In our opinion, the bill should also indicate the desirability of creating noise-control districts in the state, so that the Department could concentrate its regulatory power in the communities where the level of noise is currently a problem.

I might add to the prepared statement that there has been a discussion here this morning that continues to be a dialogue in the State of New Jersey and elsewhere on the question of the philosophy in government involved in whether we have councils or we place complete power in the hands of appointed state officials. I think we can have honest differences of opinion on this philosophy of government. However, in our opinion, it is an asset to the State to have these various councils that have on them experts in their various fields. We think this is a form of participation in the affairs of government that should be encouraged rather than discouraged. It certainly is in tune with the thinking of youth today of participation in government. We think it would be a shame to eliminate the councils we already have where the State is getting this expertise with relatively little cost and to instead go in the direction of concentrating more and more power over the lives of our citizens and over our businesses and over our economy in the hands of fewer and fewer people.

We appreciate the opportunity to present our views.

ASSEMBLYMAN WILSON: Assemblyman Dawes?

ASSEMBLYMAN DAWES: No questions.

ASSEMBLYMAN WILSON: Assemblyman Keihn?

ASSEMBLYMAN KEIHN: I would just like to inquire about a few things. I visited the farm section down in Vineland during the last picking season. I noticed that the blueberries in particular are being picked now by machines. Is there any way of muffling those machines?

MR. FIELDS: I really don't know. I presume that there are ways or there will be ways of reducing the noises that these machines are causing. But you have pointed out an area that I didn't even mention here, that we are moving more and more to mechanization of all of the harvest of these crops.

ASSEMBLYMAN KIEHN: I imagine too then that your problem would be the same as the builders, in that you would rely on the manufacturers to muffle the noises.

MR. FIELDS: Yes, and hopefully it wouldn't add too much to the cost because those machines already cost the farmer \$35,000 to \$40,000 apiece.

ASSEMBLYMAN KIEHN: I understand they are in that vicinity.

MR. FIELDS: So we are concerned about how much it would increase the cost, of course.

ASSEMBLYMAN WILSON: Assemblyman Gavan?

ASSEMBLYMAN GAVAN: No questions.

ASSEMBLYMAN WILSON: Thank you, Mr. Fields.

I would now like to call Mr. Finger to testify. He is going to testify as a private citizen. I would like to enter into the record a copy of a letter that I received from him.

(Copy of Mr. Finger's letter can be found beginning on page 66.)

F R E D E R I C K P. F I N G E R: Mr. Chairman and members of the Committee: I am Frederick Finger testifying

as a private citizen. I live in Bergenfield, Bergen County.

I do not have a copy of your bill, Assemblyman Wilson, but I did come at the invitation of Senator Bateman. I had written to him and he sent me a telegram to come down and attend the hearing and testify, if possible.

I come as a private citizen. I don't represent any special group. I guess you don't have enough private citizens coming down here to let you know what their problems are sometimes. Today it is a bad one - it is noise.

Particularly I speak of noise from automotive and motor cycle exhausts because I have a particular problem on that. I know there are problems on the municipal level of enforcement of laws. Sometimes you have a law that cannot be enforced. Sometimes you have an ordinance that they don't want to enforce for any number of reasons. I don't say that with a chip on my shoulder. I know whereof I speak.

I have served in elective office as Councilman. I was Finance Chairman for four years. I was President of the Council. I was Acting Mayor in a community of 30,000 residents. So I know we can have problems. When you get a citizen that creates a problem, this is the one that has to be dealt with. And when you get a community that cannot or will not deal with it on the local level, then you must look to the State for control. And I have corresponded with Commissioner Sullivan. You have a copy of my letter to you. You are permitted to enter all or any of my correspondence in your record for use. I corresponded with Senator Bateman also.

Noise levels, especially with automobiles - you heard representatives of the industry here say that at the manufacturing level they should put noise abatement controls on bulldozers, etc. Take the automobile side of the problem. You have the youngsters today -- and I have a young neighbor that has caused a particular problem, very vicious problem -- who add units onto the exhaust that magnify and amplify the exhaust noises from automobiles. This is entirely useless. This is vicious noise pollution. This is something that

should be controlled in your legislation, no matter what method you use to do it.

As I said, I don't have a copy of your Assembly Bill, but I notice in Senate 2069, inspections are to be made at the local Motor Vehicle Inspection Stations. Now what would stop an individual from going over to the Inspection Station, but before he goes, taking off the noise-producing thing he has on his exhaust, whether it is a glass pack or whatever?

The problem I have is with one of my neighbors. Our houses are close together. We have lived there for 34 years and just recently acquired this neighbor. He has a small foreign car and he has added some kind of contraption on the exhaust. When he comes home and takes off with this thing, you would think you were at the Indianapolis Speedway. We have tried to control the thing. I have complained on the local level. I say this not with a chip on my shoulder. It has cost us several hundred dollars of expense. We have had him in court. The court has ordered him to stop the noise from the exhaust. He refused to do it. We went back to court. I hired another attorney. The attorney I had had to drop the case because he was appointed a judge in Bergen County. I had to engage another attorney. He went back into court and asked the court to reduce the verdict to writing. The court refused to reduce it to writing. I appealed to the Bergen County Bar Association. They came back and said, "The man is now a judge. You can do nothing about it." I said, "This doesn't satisfy me." We went back into court with the attorney and asked the court to reduce it to writing. The judge said, "No, I cannot do it in writing." I sent it back to the Bergen County Bar Association. It got kind of sticky. It is now down with the Administrator of the Courts in Trenton. They are waiting for me to write down for an appointment for a conference.

This is typical of some of the problems you can have with noise pollution. It is deliberate; it is vicious; and it should be controlled. These devices that are added

to motorcycles and cars are so utterly useless and abusive that they should be controlled, prohibited, outlawed - whatever method you want to use.

I notice in 2069, 10 (d), it says they can enter and inspect any building or place except a private residence. I suppose under the law you don't have the right to go into a private residence. Gentlemen, this is where your noise is generated very often. The police have come down to the house of this man I was talking about. They say without a written order from the court, they can do nothing. I have gone to the Board of Health. They have a sanitary code which says unnecessary noise is a nuisance, a public nuisance. Who is to say what is unnecessary noise when you don't have a decibel counter? I have gone to the Board of Health, but they will do nothing. They say their hands are tied. I have complained to our Borough Counsel - I won't mention his name, but he sat in this Assembly and he sat in the Senate - that we don't have an effective noise curfew law and you cannot put pressure on to put an effective curfew law in.

To put the icing on the cake, my neighbor is a relative of a contractual borough employee. I am fighting politics and I was in politics. I was ten years on the County Committee and I served on the Borough Council and I served as Acting Mayor.

I come down here to place before you this problem, that we do have a noise problem, and while you say it is hard to define it, here is one incident and I imagine there must be innumerable residents throughout the State that have the same problem.

ASSEMBLYMAN WILSON: Mr. Finger, I stated for the record I had received numerous letters from citizens throughout the State who were concerned with this problem, and I am sure Commissioner Sullivan has and Senator Bateman has.

Is there anything else you would like to say?

MR. FINGER: No, just that I offer my services. I came down here voluntarily to testify. I know you have a

problem. I just want to speak as a private citizen. If there is anything I can do to help your committee, let me know because I am retired and I am free.

ASSEMBLYMAN WILSON: Thank you very much.

MR. FINGER: Are there any questions you want to ask?

ASSEMBLYMAN FAY: I would like to say that Mr. Wilson and myself are both high school teachers so we are more than aware of the type of cars and the motorcycles you are talking about. You are absolutely correct.

MR. FINGER: He is not a youngster and because we have taken him into court, we have vicious property damage, vandalism, windows smashed, acid poured on shrubbery, and a 30-year-old pine tree viciously damaged. He trespassed on the property. The court said he shouldn't have done it and just slapped him on the wrist. You can't get anything done. So there has to be State control. If the local community won't do it, it has to come from Trenton.

ASSEMBLYMAN FAY: That's exactly why we are meeting here.

MR. FINGER: I hope so.

ASSEMBLYMAN WILSON: Thank you very much.

The next witness and I believe the last witness - I don't believe anyone else has registered - is Mr. Cordiano, New Jersey Manufacturers Association.

J O S E P H J. C O R D I A N O:

Mr. Chairman, members of the Committee, my name is Joseph J. Cordiano, Vice President of U. S. Metals Refining Company in Carteret. I appear today as Chairman of the New Jersey Manufacturers Association Committee for Air and Water Quality. We appreciate this opportunity to present our views.

WE RECOGNIZE THAT EXCESSIVE NOISE IS A PROBLEM.

The public has traditionally viewed noise as a source of irritation, often depending more on who was making it rather than the actual noise itself. The

neighbor's radio, automobile horns, jet planes - are all viewed with attitudes of varying degrees of annoyance. For the most part, few thought or would believe that ill health other than loss of hearing could in fact result from prolonged exposure to too much noise.

Recently, however, the problem of noise has received increased attention from sociologists and medical experts. Their findings indicate that certain health hazards may exist in urban areas where residents are subjected to unusually severe doses of noise. Excessive noise (together with high population density) is being held responsible by some experts for the dramatic increases in our urban crime rates.

Our Committee recognizes the need to consider the problems of noise and its effects on the quality of life. We urge, however, that attempts to deal with it be in keeping with the unusual nature of the problem.

NOISE SHOULD NOT BE DEALT WITH AS JUST ANOTHER FORM OF POLLUTION. IT IS A LOCALIZED PROBLEM.

Noise, unlike air or water pollution, has localized effects only. While persons in the immediate area of unwanted sounds may be offended, those further away - perhaps only a matter of several hundred or thousand feet - may never be aware that noise is being made. On the other hand, contamination of the air or water - even by a single isolated source - can have an effect on the quality of air or water many miles away!

THE CUMULATIVE EFFECT OF NOISE IS LIMITED.

Contaminants from a variety of sources can have a cumulative effect on the quality of air or water over great distances. Pollutants which remain airborne will be added to those emitted along the way in a given air corridor. A river

is not polluted at its mouth solely by the sources of pollution at that point. Rather, municipal sewerage and industrial wastes dumped into the river all along its route accumulate and account for the river's poor condition as it enters the sea.

Noise, however its many sources may combine to make a local spot unbearable, does not accumulate in the same manner. Chances are noise created in one location won't even be heard a short distance away.

Locating a source of air or water pollution can be an extremely difficult job. In many cases, complex monitoring systems are needed to identify the true source. Imagine, if you will, the difficulty in pinpointing a particular source of sulphur dioxide in an area with many suspected sources.

Tracing sources of noise, however, would appear to be quite simple by comparison. Any citizen with normal hearing can identify a source of excessive noise. (With this in mind, we question the need for registration as provided in both Assembly Bill 2181 and Senate Bill 2069.)

CONTROLS ON NOISE ALREADY EXIST.

We wish to call your attention to one further distinction. Whereas in most cases extensive controls on sources of air and water pollution did not exist until the State moved in, such controls on sources of excessive noise are already in existence. We refer to the limits on noise imposed on airplanes by the Federal Aviation Administration; state regulations prohibiting defective mufflers on automobiles; Walsh-Healey regulations governing in-plant noise; municipal ordinances limiting such noise as automobile horns, sirens, heavy trucking through residential areas, etc. And, of course, there is the age-old remedy at law of the common law nuisance suit.

THE PROPOSED LEGISLATION.

Assembly 2181 and Senate 2069 share many of the same shortcomings. Both bills attempt to deal with noise as a single source problem on a Statewide level warranting the addition of a new State administrative function complete with growing staff and budget requirements. What's more, in S-2069, the Department of Environmental Protection would apparently be permitted the broadest grant of regulatory power ever provided a State agency for any purpose! (We submit that such a grant may even be unconstitutional.) As a result of S-2069, the Department would not only become prosecutor, judge and jury but it could perform all these functions without any public participation.

We feel that the public should be encouraged to participate in governmental decision making. The success of our democracy can be attributed at least in part to the role played by the average citizen. As a government of the people, this citizen participation is especially vital. In an era of increased alienation from government, where "the government" seems further and further away from "the people" such participation should be encouraged at all levels.

Unfortunately, in some areas of government - notably the regulatory - the prevailing notion seems to be "leave it to the professional regulator." Public participation is to be reduced - if allowed at all. And by all means, keep the regulated from having any real say in how his actions are to be controlled. Carried to its logical extreme, this current trend towards total elimination of the governed from governing regulatory bodies could lead to the exclusion of most citizens from all forms of government.

It is to the credit of the sponsors of A-2181 that a strong Noise Control Council is included as an integral part of that legislation. It is because of this inclusion that our Committee would lend its support to that particular bill.

In giving this support, our Committee believes certain specific changes in Assembly 2181 would be in order. They are as follows:

Section 4a: provides a unique requirement to maintain existing noise levels. Prohibiting the "worsening of the quietude", while highly desirable, is unworkable on its face. Any increase in human activity is bound to be accompanied by an increase in noise levels.

Section 4e: would permit the Department to designate just what equipment must be used to control noise. We suggest that for flexibility and over-all effectiveness, maximum noise levels be set, leaving the responsibility for meeting the standards to those controlling the source.

Section 4f: would permit the Department to grant licenses and permits, a cumbersome procedure considered unnecessary by our Committee. The provision implies that a fee will be required before a license will be granted for the installation or operation of machinery in the conduct of noise-making activities.

Section 5c: would permit the registration of persons involved in operations which may result in noise and the filing of reports by them. This also seems to be an unnecessarily burdensome requirement, almost registration for registration's sake.

As a general comment, we submit that the matter of zoning has not been properly considered in either bill. Nowhere is there provision for situations which exist where industrial operations are located adjacent to or in the middle of a residential area. To avoid injustice, there should be consideration of economic feasibility in these instances. We feel that the full force of the law should be directed toward new industries which seek to locate in or adjacent to residential areas. More emphasis should be placed on effective land use planning and development.

COMMITTEE RECOMMENDATIONS.

If we must have State regulation of excessive noise, our Committee would favor Assembly Bill 2181. We suggest, however, that better alternatives do exist:

- 1) A State model code should be prepared for municipal use.
Municipalities would be urged to adopt the code, adapting it to their own particular situations.
- 2) An aggressive educational and publicity campaign would be undertaken by the State to prompt local residents to support the adoption of model noise ordinances.
- 3) The State should be given the authority to intervene in certain instances where a complaining citizen or municipality seeks correction of a noise problem existing in a neighboring municipality.

On behalf of the Committee for Air and Water Quality, thank you very much for this opportunity to present our views.

ASSEMBLYMAN WILSON: Mr. Cordiano, before the State became involved in air and water pollution and established the Division of Clean Air and Water, were there not local ordinances regarding air and water pollution, which were enforced at the local level?

MR. CORDIANO: Yes.

ASSEMBLYMAN WILSON: How effective was enforcement at the local level?

MR. CORDIANO: I don't think I can answer your question as an expert. I know in many instances, of course, they weren't.

I know your local fire and plumbing codes and all of the types of codes that are existing on a local level have been enforced.

ASSEMBLYMAN WILSON: Would you say now, by and large,

with the State enforcing the air and water pollution regulations established by the State Legislature, you have better enforcement as far as air and water pollution infractions are concerned?

MR. CORDIANO: Certainly, because the pollutants you are talking about go beyond local levels. That is one of the points we are making here, to distinguish between air and water pollution and noise pollution.

ASSEMBLYMAN WILSON: Don't you think, as far as enforcement with your local ordinance, you would almost get the same type of enforcement that you got in the past of air and water pollution codes?

MR. CORDIANO: Again I am not an expert.

ASSEMBLYMAN WILSON: That is one reason you study history. You can look at what happened in the past and make sure it doesn't happen in the future.

MR. CORDIANO: I think that what the Committee is recommending is that a model ordinance be developed by the State for use by municipalities.

ASSEMBLYMAN WILSON: That is fine as long as it is going to be enforced on a local level. If they have the personnel to enforce it and the mechanism of bringing people to court, similar to what the State has, that's fine. This is what I am trying to bring out. Prior to the State getting involved to the depth it has on air and water pollution, I don't think we had too much enforcement on the local level. And with noise, I think if we left it to the local municipalities, I don't think we would have the level of enforcement needed.

MR. CORDIANO: We suggest that the State be given the authority to intervene in cases where a citizen or a municipality seeks correction of a noise problem.

ASSEMBLYMAN FAY: Mr. Cordiano, you mentioned that you find the administration bill unconstitutional. What do you find to be unconstitutional in the bill?

MR. CORDIANO: That was a general statement to draw

emphasis to our position. I am not a lawyer.

ASSEMBLYMAN FAY: I would like to make one point on the model code. I feel that logic would tell us that the model codes are not so model because they just haven't worked in the State. Too often the problems we are talking about are not limited to a township or a city. Say we have adjoining cities and one adopts a code and the other doesn't and the problem is coming from the place that doesn't have a code. Therefore they are affecting the neighboring towns around them.

MR. CORDIANO: We recommend that the State have the authority to step in in such cases.

ASSEMBLYMAN FAY: Why shouldn't the State, therefore, just have the authority to begin with? Maybe you know something I don't know. But my logic tells me that the only way we can meet this is the way we met all of the other major problems that weren't solved on the local level, and that is by the State going into it. In noise pollution, two or three towns are affected by one large plant or an airport. I know in North Elizabeth I lived on Runway 4. Newark had the code and Elizabeth didn't. Therefore, the problems there would not have been solved on the local level.

MR. CORDIANO: We are saying that there should be local regulations for the local problems and that in those instances where the problem extends beyond the local level, then the State should step in and have the authority to intercede. But we are making the point that noise pollution is not similar to air and water pollution. It does not affect wide areas and in those instances where there is noise that affects wide areas, we do have regulations trying to control those noises.

ASSEMBLYMAN FAY: Could you give me an example of where the State wouldn't need to be there?

MR. CORDIANO: That would not need the State?

ASSEMBLYMAN FAY: Yes. You are assuming there will be local codes, but some towns will not adopt one because

they don't need one.

MR. CORDIANO: I am suggesting and the committee is suggesting that the State develop a model code and try to get the municipalities to adopt such a model code, with some provisions for adapting it to local use if there are certain circumstances in a particular locality. In addition, we are suggesting that the State do all in its power to publicize and urge the local residents to adopt the model code for that municipality and in this way we will have participation at the grass-roots level from the individuals in the locality to enforce the rules and regulations in that locality, rather than having some outside body coming in and urging or enforcing a regulation which they would try to resist as not being conducive to the way they want to live in that locality, but still have the control of a model ordinance which has all of the requirements that are needed to establish noise levels that are acceptable.

ASSEMBLYMAN FAY: Thank you.

ASSEMBLYMAN KIEHN: Mr. Cordiano, you being an executive with U. S. Metals Refining Company in Carteret, do you notice any excessive noises within your plant that might be detrimental to your employees?

MR. CORDIANO: Yes, of course. We supply equipment to protect the individual when they are in areas where there is excessive noise.

ASSEMBLYMAN KIEHN: I see. In other words, to protect their hearing.

MR. CORDIANO: That's right.

ASSEMBLYMAN DAWES: If Assembly Bill 2181 did not have a Noise Control Council, would your association be opposed to it?

MR. CORDIANO: Not necessarily. I don't know what the committee thinks, but I have a feeling they would not necessarily be opposed to it.

ASSEMBLYMAN DAWES: Because you underlined that on page 4, "It is because of this inclusion. . ."

MR. CORDIANO: We would have to see what would be put in as a substitute for the Council. That's why I say, not necessarily.

ASSEMBLYMAN DAWES: That's all I have.

ASSEMBLYMAN WILSON: All right. Thank you, Mr. Cordiano.

I believe there is no one else who wishes to testify. I would like to announce that the record will remain open until Friday. The hearing is now adjourned.

(Hearing Concluded)

258 3 1971

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION
TRENTON

RICHARD J. SULLIVAN
COMMISSIONER

COMMISSIONER'S STATEMENT ON NOISE CONTROL
BEFORE THE MEETING OF THE
JOINT COMMITTEE ON AIR AND WATER POLLUTION AND PUBLIC HEALTH

UNWANTED SOUND, OR NOISE, RANKS WITH AIR AND WATER POLLUTION AS A DANGEROUS AND GROWING THREAT TO THE ENVIRONMENT. IN CARRYING OUT THE MANDATE OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION TO PRESERVE, PROTECT, AND ENHANCE THE ENVIRONMENT OF THE STATE, WE HAVE TAKEN STRONG MEASURES TO CONTROL AND PREVENT AIR AND WATER POLLUTION. I THINK THAT WE ARE ALL AGREED THAT THE CITIZENS OF THE STATE HAVE A RIGHT TO CLEAN AIR AND CLEAN WATER. THEY ARE ALSO ENTITLED TO AND SHOULD BE ASSURED AN ENVIRONMENT THAT IS QUIET AND TRANQUIL.

NOISE IS AN ODORLESS, TASTELESS, AND INVISIBLE FORM OF POLLUTION THAT ASSAULTS US CONSTANTLY AND EVERYWHERE. THE PEACE AND QUIET OF OUR HOMES IS INVADDED BY THE TUMULT OF TRAFFIC. THE QUIET EFFICIENT HUM THAT SHOULD CHARACTERIZE OUR OFFICES IS SHATTERED BY THE TEETH RATTLING STACCATO OF THE JACKHAMMER. THE RIGHT TO TRANQUILITY SHOULD BE PRIZED AS HIGHLY AS THE RIGHT TO BREATHE CLEAN AIR, YET THE STATE HAS

NOT TO DATE TAKEN ACTION TO GUARANTEE THAT CITIZENS MAY ENJOY THE BEAUTIES OF QUIET CONTEMPLATION FREE FROM THE DISTRACTING AND OFTEN UNHEALTHY INVASIONS OF THE STENTORIAN PRODUCTS OF MODERN SOCIETY.

COMMUNITY NOISE IS ANY SOUND WHICH TENDS TO BE INJURIOUS TO THE PUBLIC HEALTH OR WELFARE, OR WHICH UNREASONABLY INTERFERES WITH THE ENJOYMENT OF LIFE OR PROPERTY. THE LEGISLATURE HAS ALREADY PROTECTED EMPLOYEES FROM DEAFENING NOISE LEVELS IN THE WORKPLACE, AND THUS HAS RECOGNIZED THE FACT THAT NOISE DOES HAVE A DELETERIOUS EFFECT ON HUMAN HEALTH AND WELL-BEING. IT IS ALSO NECESSARY TO EXTEND THIS COVERAGE TO THOSE IN THE GENERAL COMMUNITY AS WELL AS TO PROTECT THEM FROM CONTINUAL OR INTERMITTENT EXPOSURE TO LOWER LEVELS OF NOISE WHICH DEGRADE THE QUALITY OF LIFE.

PHYSIOLOGICAL RESEARCH ON THE EFFECTS OF NOISE IS STILL IN ITS INFANCY. NEVERTHELESS, INVESTIGATORS HAVE POINTED OUT NOT ONLY THE OBVIOUS RELATIONSHIP BETWEEN NOISE AND DEAFNESS, BUT ALSO SUBTLER RELATIONSHIPS BETWEEN NOISE AND SUCH AILMENTS AS HIGH BLOOD PRESSURE, HEART DISEASE, AND NERVOUS TENSION ARISING FROM INTERFERENCE WITH NORMAL ACTIVITIES.

AT THE PRESENT TIME SEVERAL MUNICIPALITIES ARE ATTEMPTING TO CONTROL LEVELS OF NOISE IN THEIR COMMUNITY. THE ENFORCEMENT OF THESE LOCAL LAWS HAS IN SOME INSTANCES AMELIORATED THE MOST SEVERE LOCALIZED NUISANCES, BUT THEIR

TOTAL IMPACT ON A MOST PERVASIVE PROBLEM HAS BEEN MINIMAL. THE STATE SHOULD BE AUTHORIZED TO ADOPT REGULATIONS WHICH WILL CONTROL THE EMISSION OF NOISE OF SUCH LEVELS OR DURATION THAT ADVERSELY AFFECT THE WELL-BEING OF THE COMMUNITY.

IT IS NOT ENOUGH FOR THE LEGISLATURE TO FIND AND DECLARE THAT NOISE IS HARMFUL TO THE PEOPLE OF THE STATE. IT MUST ESTABLISH A FRAMEWORK FOR THE ADOPTION OF REGULATIONS AND THEIR ENFORCEMENT WHICH IS DESIGNED TO ACCOMPLISH THE DESIRED OBJECTIVES. THE AIR POLLUTION CONTROL ACT, AS AMENDED, SHOULD BE LOOKED TO AS A MODEL. PURSUANT TO THE PROVISIONS OF THIS STATUTE AND REGULATIONS ADOPTED UNDER IT, THE STATE'S BUSINESS COMMUNITY HAS BEGUN TO CORRECT THEIR AIR POLLUTION PROBLEMS, AND THIS EFFORT HAS RESULTED IN AN IMPROVEMENT OF AIR QUALITY. IN THOSE INSTANCES WHERE THE NECESSARY CORRECTIVE ACTION HAS NOT BEEN FORTHCOMING, PENALTIES AND INJUNCTIONS HAVE BEEN IMPOSED.

THERE HAS BEEN MUCH DISCUSSION OF THE PROPER ROLE OF SPECIAL COUNCILS OR COMMISSIONS IN THE EXECUTIVE DEPARTMENTS OF STATE GOVERNMENT. IT HAS BEEN MY EXPERIENCE AS A MEMBER OF SUCH A COMMISSION, AND NOW AS THE RECIPIENT OF THE ADVICE OF EIGHTEEN COUNCILS AND COMMISSIONS, THAT FOR THE MOST PART THE RIGHT FUNCTION FOR THEM, IS ADVISORY OR REPRESENTATIVE, AND NOT AS REGULATORY BODIES. WE DO NOT BELIEVE THAT AT THIS

TIME THE CREATION OF A NOISE CONTROL COUNCIL IS REQUIRED. THE DEPARTMENT INTENDS TO CONSULT AND SOLICIT THE ADVICE OF EXPERTS AND MAKE FURTHER RECOMMENDATIONS FOR ADDITIONAL LEGISLATION IF IT BECOMES NECESSARY.

WE BELIEVE THAT SENATE NO. 2069 INCORPORATES THE TIME-TESTED AND EFFECTIVE ENFORCEMENT AND REGULATORY PROVISIONS OF THE STATE'S AIR POLLUTION CONTROL ACT. THROUGH THE ENFORCEMENT OF THIS LEGISLATION, WE WILL BE ABLE TO TAKE THE NECESSARY STEPS TO PROTECT THE PUBLIC'S RIGHT TO A QUIET AND TRANQUIL ENVIRONMENT. AND WITHOUT A QUIET ENVIRONMENT, THE CLEAN SURROUNDINGS WE ARE ATTEMPTING TO CREATE THROUGH OUR AIR AND WATER POLLUTION CONTROLS CANNOT BE ENJOYED AS IT SHOULD.

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LETTER FROM FREDERICK P. FINGER

73 Beechwood Street
Bergenfield, N.J.
April 3, 1971

Assemblyman Kenneth Wilson
State Assembly Chambers
Trenton N.J. 08625

Dear Mr. Wilson:-

The Sunday News reported on your efforts to help control noise pollution. Your activity is not only commendable but also sorely needed. Not satisfied with the cacophony created by industry, construction and transportation, some people with utter disregard for their fellowman deliberately add to the rising noise decibels with needless noise producers. I make pointed criticism of mechanical devices added to automotive and cycle exhausts to amplify exhaust noises to nerve shattering proportions.

I have previously addressed communications to Commissioner Richard Sullivan, also to Senators Bateman and Sears who are sponsoring Senate Bill #2069.

We have lived 34 years in a nice residential zone that was basically quiet until we acquired a new, young neighbor two years ago. Employed as an auto mechanic, he proceeded immediately to use his first-owned home as a base for auto and cycle repairs at all hours of day and night, seven days a week. Reportedly a Volkswagen employee, he added a mechanical device to his VW exhaust. When he departs or arrives, his roaring exhaust sounds like a racing car and can be heard blocks away. While on his driveway, either coming or leaving, he always guns the engine ridiculously (we have counted up to 32 consecutive loud spurts). This is a deliberate and utterly useless contribution to noise pollution.

Our neighbor converted his small one-car garage into a repair shop complete with air compressor, air conditioner and telephone. When we objected to repair and exhaust noises and fumes extending past midnight, he became orally vulgar and we became the target for vicious vandalism and property damage. At appreciable personal expense we engaged counsel and had him in Court several times and he was directed by Court verdict to cease the repair work and exhaust noises. However, the Court has refused to reduce the verdict to print. Without it our neighbor flaunts his defiance and the local police claim inability to act without a written supporting Court order.

April 3, 1971

Appeals for help from Borough Departments have been frustrating and unfruitful due to questionable interpretation and enforcement of applicable zoning and health ordinances. There is a general recognition and quoting of a 10:00 P.M. noise curfew but not even the police can base any positive and effective action on any local ordinance that would hold up under legal pressure.

Not only that we are the continuing victims of this vicious abuse and nuisance but also because of the generally increasing public noise problems, we support the pollution campaign. Control and enforcement are long overdue. We have more than a passing knowledge of the abuses for we have been living a nightmare. Devices added to magnify exhaust noises should be outlawed and violators severely fined.

For you and/or your committee we repeat our offer to help by letter or direct personal testimony. We have also offered the use of our property as a possible site for an actual noise test. We endorse your efforts toward noise controls. I do not think our several offers are competitive. The main objective is the ultimate goal and we offer our help where it is needed and can do the most good. Our proffered testimony stems not from hearsay; it is unimpeachable, first-hand, bitter experience and can be verified from Borough, police and Court records. It is yours for the asking. I also have a complete supportive file of correspondence and records.

Sincerely,

Frederick P. Finger

FPF:f

STATEMENT ON BEHALF
of the
NEW JERSEY CRUSHED STONE ASSOCIATION
and the
NEW JERSEY ASPHALT PAVEMENT ASSOCIATION
before the
JOINT PUBLIC HEARING ON APRIL 6, 1971
of the
SENATE COMMITTEE ON AIR, WATER POLLUTION AND PUBLIC HEALTH
and
ASSEMBLY COMMITTEE ON AIR, WATER POLLUTION AND PUBLIC HEALTH
regarding
SENATE BILL 2069 and ASSEMBLY BILL 2181
THE CONTROL AND ABATEMENT OF COMMUNITY NOISE LEVELS

Submitted in Writing on:
April 8, 1971

On behalf of the New Jersey Crushed Stone Association and the New Jersey Asphalt Pavement Association, representing 150 operations in the State of New Jersey, we take this opportunity to present our views concerning proposed noise control legislation, being Senate Bill 2069 and Assembly Bill 2181 of the 1970 Legislature.

Both Associations welcome the State's desire to improve the environment for its citizenry by endeavoring to make certain that the populace of this State will be protected from injurious noises. With that in mind, we would fully support legislation having that effect. Therefore, in general we endorse the principles set forth in both Senate Bill 2069 and Assembly Bill 2181. We do, however, offer the following comments to your Committee for their consideration in determining the final form noise control legislation should take in this State.

Both bills provide for annual registration for all persons, which would include corporations and firms. We feel that this registration and reporting requirement is unnecessary and not in conformity with existing patterns of pollution regulations presently existing in the State of New Jersey. We feel that without this additional requirement placed upon industry the noise control program would operate in a manner as effective as without this legislative requirement.

As regards the provision in Senate Bill 2069 concerning penalties imposed on motor vehicles for failing to meet acceptable noise control standards, we feel that the same provision

should apply as presently applies under the New Jersey motor vehicle inspection system; that being that failure to comply will result in failure to pass inspection and, therefore, no right to use the vehicle.

We endorse the rebate provision set forth in Senate Bill 2069 as regards penalties. We feel that such rebate provisions operate as an incentive to industry to comply without the burden of undue financial loss.

On the other hand, we strongly endorse the provision of Assembly Bill 2181 providing for a Noise Advisory Council composed of representatives of industry, local government and the public at large. We feel that such an Advisory Council will give the Department of Environmental Protection the opportunity of getting the voice of the community and industry as regards noise pollution regulation.

We hope that your Committee will consider our comments before reaching any final decision as to the form of noise control legislation in the State of New Jersey.

League for Conservation Legislation

Box 605, Teaneck, N.J. 07666

Senate Committee on Air and Water Pollution and Public Health

We wish the following statement to be added to the hearing record on an Act concerning the control of community noise levels, Senate, No. 2069, introduced by Senators Bateman and Sears.

Because it is a beginning in the long process of arresting the rising din of noise evident in almost all of New Jersey by recognizing that the problem exists and identifying the Department of Environmental Protection as the agency through which the majority of the work will be performed, the League of Conservation Legislation, a citizens' coalition group, endorses this bill.

It is very important to recognize, however, that a bill such as S 2069 should not be regarded as an attempt by the legislature to evade all responsibility by turning it over to the Department of Environmental Protection. We are sure that the authors of the bill intended no such evasion; nevertheless, the legislature must demonstrate strong support for the goals of this bill by drafting legislation on specific aspects of noise control in order to give the department immediate guidance in formulating the initial regulations.

For example, it is very important at this stage to establish ceilings on noise and also to establish the principle that these ceilings must and will be lowered with time, to compensate for the rapidly rising number of noise sources within the State.

To this end, the League for Conservation Legislation makes the following suggestions, any of which could be incorporated within S 2069 or made the subject of additional legislation within the near future. (Some of the specifics of these suggestions are open to qualifications by the expert knowledge of acousticians, such as whether to measure noise in perceived noise decibels, or on the "A" scale, etc., but these refinements could be worked out within the Department.)

(1) As in Assembly 2132, supplementing the Air Pollution Control Act of 1954, any noise whatsoever in excess of 108 PN db (perceived noise in decibels) shall be considered to be prima facie evidence of air pollution.

(2) During the hours of 7 PM to 7 AM, any noise above 50 decibels, as measured from any room of any private dwelling nearest the noise, shall be illegal. This restriction, also, shall apply regardless of the duration of the noise.

(3) During the hours of 7 AM to 7 PM, construction and other community noises may not exceed 75 decibels for more than 5 minutes in any one-hour period. In cases where such noises are caused by a multiplicity of noise sources, the loudest contributor, regardless of the magnitude of its noise output, shall be considered the violator of the law. Measurements for this purpose can be made from the entrance to any place of business or residence.

(4) During the hours of 7 AM to 7 PM, noises exceeding 60 decibels for more than 20 minutes of any one-hour period shall be considered illegal under the same conditions as in (3) above.

(5) Where vital construction and transportation projects demand that the above limits be exceeded, the noise producer must apply for a permit, which would be granted on condition that the noise producer inform all hospitals, businesses and residents in the area where the limits will be exceeded, of the nature, time and duration of the excessive noise.

(5) Because of the unusual nature of noise pollution (its "invisibility" and lack of enduring evidence) as compared to air and water pollution, and also because of the great expense of noise measuring instruments compared to the relatively simple and cheap methods of sampling and testing other forms of pollution, provision should be made to aid citizens and citizens' groups in making the necessary noise measurements to help enforce the above requirements.

Submitted by Frank J. Oliver, President
and George Schindler, Vice President
LEAGUE FOR CONSERVATION LEGISLATION

