

PUBLIC HEARING

before

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

Held:
October 30, 1968
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMISSION PRESENT:

Assemblyman Kenneth T. Wilson [Chairman]
Assemblyman Lee B. Laskin [Secretary]
Senator Matthew J. Rinaldo
Senator Milton A. Waldor

Also:

Monroe Jay Lustbader, Esq., Counsel to the
Commission
Adrian M. Foley, Jr., Counsel to New Jersey
Highway Authority
Bertram Gittler of Harry W. Wolkstein & Co.,
Certified Public Accounts

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D. Louis Tonti Executive Director New Jersey Highway Authority	1 A

have that date, but June 26th, nineteen fifty - no, I'm wrong there.

Q As a Commissioner of the Highway Authority, what is your responsibility? A I am Vice Chairman of the Highway and my responsibility is to attend the meetings at Woodbridge and enter into the decisions that are made at Woodbridge and at other points on the Parkway.

Q In your role of Commissioner, what is your basic responsibility? More or less do you make the final decisions as far as all actions of the Highway Authority are concerned?

A Three Commissioners decide.

Q Under the purpose of the Act which created the New Jersey Highway Authority, what would you say is the purpose of the New Jersey Highway Authority? A It was started in 1952 and at that time, under Governor Driscoll, Ransford Abbott was one of the Commissioners and Harold Giffin was the Engineer on the Parkway at the beginning. It was designed as a Parkway with parks, and I believe at the very beginning there was land purchased at Telegraph Hill which sometime would be developed into some kind of Parkway facility.

ASSEMBLYMAN WILSON: If you will just wait a minute, I would like the record to show that Assemblyman Lee B. Laskin is now present. He is Secretary of the Commission.

Assemblyman Laskin, will you come forward, please. Assemblyman, this is Commissioner Townsend, Vice Chairman of the New Jersey Highway Authority.

Q As a Commission member for such a long period of time and being involved with an autonomous authority, what are the advantages that you as a Commissioner feel there is in the creation of an autonomous authority? A Well, I think the main advantage is that the Authority can do things that the State of New Jersey cannot do, and this was one of the reasons that the Authority was created, because it was impossible to build a road from one end of the State of New Jersey with the funds that the State of New Jersey had. So the State of New Jersey guaranteed bonds and these bonds were sold and this was the start of the Highway, The Highway was a dead-end street at the beginning, and during the time that I came on additional bonds were sold so the road could be pushed up to the New York Thruway, which was called a feeder road, and also the road eventually - I happen to be from the south and look after the south possibly more than the north - and at that time there was some thought that a ferry line would be built to connect with the points south to Washington and, in fact, on down to the southern end of the country. At that time it wasn't feasible for the Highway Authority to do it. It was looked into by boats from the New York area to take them down. So that was deferred but by making the road not a dead-end road, the road started to increase their revenues as a direct result of that.

Q What would you say is the prime responsibility of the New Jersey Highway Authority? A The prime responsibility is the construction of the road which has already been constructed and from then on the work has been

more from a maintenance standpoint. As the road has increased in traffic, it has been a point of the necessity of having more roads, wider roads, putting sides to the roads for the increased traffic, and I might say, if you will let me go on and explain from the southern end: I was to meet with the Chamber of Commerce of the Cape May County and Wildwood area at twelve o'clock noon today, and they are particularly interested in expansion down there which has the bridge that they have over Great Egg Harbor. Last summer it was backed up for several miles on the week ends and during the busy summer season that we had.

The same thing happened at the Exchange at Somers Point. Traffic backed up into the Somers Point Circle and we had to appoint police to handle traffic there. The traffic backed up on into Ocean City, and the Ocean City Chamber of Commerce want me to come up and talk to the Commissioners and see if something can be done about the increasing traffic in the southern part of New Jersey during the summer months.

Q Well, Commissioner, at our last hearing on May 14th I asked the same question of the Chairman of the Commission, Mr. Smith, and his answer was that the main responsibility was to more or less protect the bondholders. Do you agree with this particular statement? A Well, I think the bonds have to be paid out and I think that we have to take care of the money to retire the bonds first, but I still think that we have to maintain the road and keep it in Number One order so that we will have a safe road. If you just build a road and construct it, in six months it is

starting to wear, so we have to have traffic studies made and people hired by our Commission to keep the road up to date.

Q So, therefore, you would say the prime responsibility of the Highway Authority is to operate a safe toll road?

A That's right.

Q Commissioner, I wonder if you could comment at this particular time: There is now a case in which the Department of Transportation of the State of New Jersey is suing the New Jersey Highway Authority over a sum of twelve million dollars, which has to do with the depression of the East-West Freeway. I was wondering in what position is this case at this particular time.

A Well, I think it would be just what you would call a friendly suit. I think that the new road that is contemplated, I guess you would call it the East-West Expressway, or the road that will be built for northern New Jersey as a second road to the Parkway, I would feel, as far as the State is concerned, that these moneys will be used for roads but just where, I don't know, or just when, I don't know.

Q As far as your interpretation, what provision in the enabling legislation that created the Authority allowed the New Jersey Highway Authority to construct the Garden State Arts Center?

A Well, I think that in the beginning, in 1952, when the thought was to create the Garden State Parkway, it was to be a different road from the Turnpike and it was to be a road that would connect all the seashore resorts from Cape May to Asbury Park in the north,

and it would be more or less a road that would be for people who are leisure minded and were coming to visit our State from the other States and not just coming from the Delaware River Bridge to New York City on a straight roadway where they could probably go 70 miles an hour and not enjoy themselves on the Parkway and stop at various places and rest. We have a place that, when the roadway was designed, had a Shoemaker Holly tree in existence that was possibly two or three hundred years old, and the Parkway finally went to one side and left the holly tree there, and it now is an attraction. We have lights on it at Christmas. At one time we had a ceremony there during the Christmas holidays. It has now been developed and has increased in size. We have picnics and people go there. Some of the picnic areas in the southern part of the State are getting too small now for the summer picnic people that go to them.

Q Commissioner, what would you say was the purpose of the construction of the Arts Center, the Garden State Arts Center?

A I think that it was mainly for culture, ballet, for the underprivileged, for the schools, and as a cultural center. I might say that some of my enthusiasm came from a recent trip to Japan where, at Tokyo, I was very kindly allowed to go on that superhighway, and at the present time the toll road there is building an exposition; they are spending many millions of dollars so that the people can go to parks, shrines and expositions in Japan. In other words, I think Japan, if we don't watch out, and Tokyo will be ahead of the United States

very shortly. They are developing this very thing along with their toll roads at the present time. That was one of the things that made me very happy to have these Japanese officials take me in their State car and show me these things that will be developed in 1969, I believe.

Q You said the purpose then was for the development of culture, but also I am familiar with the fact that another purpose of the cultural center was to bring more people, more vehicles on the Garden State Parkway during the off hours, so you would have more cars on the road, then in turn you would have more tolls, and then in turn you could pay off the bonds quicker. Was this also another purpose?

A That's true.

Q What has been your experience this summer as far as traffic is concerned. I have had many letters containing complaints about Saturday night when the show at the Center is finished and the parking lot is empty, about the congestion on the Parkway. Have you experienced these same complaints?

A We have the same thing down at our end, at Egg Harbor and Somers Point, and traffic coming in from Camden and Philadelphia this fall. There are too many cars at the present time.

Q Yes, but I'm referring - A We've got to expand. In my opinion, it's a must for another bridge; it's a must for more space to take care of the expanding traffic.

Q But, Commissioner, I'm referring to the area immediately adjacent to the Garden State Arts Center when the show is more or less over on a Saturday night and there

is added congestion because of the five thousand or so cars that are coming out of the parking lot. I have received letters of complaint. A I was up there to a great many performances and I get up there very fast. I got in immediately and I was out and on the road south always within just a few minutes.

Q Well, I'm talking about the cars that are going north that have been down to the shore during the summer months on Saturdays and get the traffic. A I couldn't quote a particular night. It has just been my experience when I went up there this summer and attended the performance at the Arts Center.

Q O.K. Well, I have received quite a few letters as far as complaints are concerned as to blocking off one of the lanes of the Parkway in order to allow the parking lot to empty.

Senator Rinaldo, do you have a question?

SENATOR RINALDO: Yes, I have one or two. I'll start out my remarks by seeing if I interpreted your answers to a number of questions by Assemblyman Wilson correctly in that you stated that the primary reason for the establishment of the New Jersey Highway Authority was in effect road building. Is that correct? A Yes, the public wanted roads to go to the seashore resorts from one end of the State to the other, from Cape May to Asbury Park.

Q Was there any demand at that time or any thought that these funds would also be used to build the Cultural Center? At the time of the inception of the Authority?

A Yes. I think the road at that time was to be a Parkway

and not a Turnpike. It was for pleasure, for people who were coming to the shore - "vacationers" is the word I want to use.

Q Could you cite the statute that permits a road-building authority, such as the New Jersey Highway Authority - or, more specifically, that permits the New Jersey Highway Authority to build a cultural center? the specific statute?

A We were given, as I understand - I don't have any of that which goes back to 1952; I could look it up for you, but my understanding is that that would be permitted, and in building this arts center it was thought about a long time. We were responsible as Commissioners but you can rest assured that we were in close touch with you, the Legislature, and with the Governor of the State of New Jersey in regard to this, so that they would know exactly what we were doing and in building the road. As you know, it was decided to build what I would say was an arts center commensurate with the Garden State Parkway, and I would say, being a physician, that that was the heart of the Parkway, this cultural center. It is completed and we don't need any more cultural centers in my opinion. The same way with the place at Woodbridge, which we will say is the brains of the Center. As that is built and completed, we don't need another. As far as construction of the Garden State Parkway is concerned, in my opinion there is a great deal to be done due to the increase in the amount of traffic on the Parkway.

Q Well, you stated as your answer to the specific request for you to cite the statute that permitted construction of the cultural center, that you understood that it would

be permitted. A We had legal opinions.

Q That it would be permitted? A From our legal department and the people on our staff and the people who are associated with us, we got that "go ahead," and then we presented this, and I don't know whether you were there or not, but when this cultural center was contemplated there were meetings at Princeton, there were meetings here in Trenton before the Governor. Edward Durrell Stone came and he was consigned to design this place and, of course, with Edward Durrell Stone's designing it, it was to be really a show place of this country, and I think that that's what it is. Now whether we got a little enthusiastic in getting possibly the leading architect in that line to do it - but our enthusiasm was somewhat governed by - I would like to say one other thing to you. I don't know whether you get the magazine "Delaware Valley U.S.A." but I got it yesterday and that includes our New Jersey and Pennsylvania and Delaware, with the Delaware River in the middle. They have now two Delaware River bridges, and I was down to the dedication of that just a few weeks ago. They have so much traffic going over that - traffic from the east on one Delaware River Bridge and to the left on the other - they are going to put up a two hundred million dollar complex hotel-motel in Philadelphia and are going to put a two hundred million dollar plant in Salem County, so I think that in New Jersey, from the standpoint of the arts center we are not in too big a development with the development that's going to happen in the Delaware Valley in the next, we will say, five years.

ASSEMBLYMAN WILSON: Commissioner, would you answer the questions specifically, because so far as time -

DR. TOWNSEND: I am trying to tell you the thinking behind my approving the cultural center.

BY ASSEMBLYMAN RINALDI:

Q All right. Maybe you can answer this question a little more specifically, because there are a few questions I want to ask here to clear up some things in my own mind. Would you say then that there is a possibility that this act by the Highway Authority could be ruled illegal? A Could be what?

Q Could be ruled illegal. You said that -
A There is no possibility in my mind of that at all.

Q Could you cite - I'll ask once again - the statute or the section of the New Jersey Highway Authority Act that gives permission to the Authority to build a cultural center, or could you even, to make it easier, show me any place in the statute where the words "cultural center" are mentioned?

MR. FOLEY: For the record, Mr. Senator, I am Adrian Foley, General Counsel for the New Jersey Highway Authority. The question, of course, is entirely proper in every way. The doctor did state that a legal opinion was furnished to the Commissioners. We would be happy, in order to implement your investigation, to provide details of the legal analysis of this if you care to have them. I would suggest that the doctor, being - not a layman - but a professional or medical man, would hardly be in a position to give

you the specific statute or the details. But we would be very happy to give that to you and whatever details you require. As I say, your question is entirely proper and I say this only to implement this hearing.

SENATOR RINALDO: I was leading up to something else that you will see in a minute. I certainly think your point is also well taken.

Q Commissioner, would you have any objection now, or would you have had at the time that the Cultural Center was originally conceived, to obtaining legislative and gubernatorial approval for a project of this vast magnitude?

A That's what we had in my opinion. We had the "go sign" from the Legislature, from the Governor, and you can rest assured that while I'm a Commissioner if you say "Don't do it," I would be governed very greatly by your decision. There was nobody who at any time said "Don't go ahead" or "You're exceeding your responsibility. You are going beyond it." At no time was there anything brought up that we were doing that. As I say, there is a possibility that in our enthusiasm we may have built a Center a little larger than maybe - although it was filled, as I understand, this year and we had to put people out on the grass, and this was the first year of the Center.

Q To the best of my knowledge, I know of no specific legislative approval. I have looked into the record and I know of no occasion when this matter was presented to the

Legislature. I know of no instance when the General Assembly of the Senate took a vote on this measure; I know of no occasion when any specific legislative document was presented to the Governor for his signature and concurrence, and I think that merely by saying that there was no objection at the time when it was originally conceived, at the time it was announced that it was going to cost, I believe, in the neighborhood of 1.5 million dollars and not in excess of six million dollars, in my opinion is not responsive to the question.

My question, I'll repeat again, was: Would you have any objection to the Legislature and the Governor approving a project of this magnitude of cost, specifically, prior to its inception - and by approving it, I mean legislative approval, where a formal vote is taken in the General Assembly and in the Senate and the enabling legislation is signed by the Governor into law. Would you have any objection to that?

A No. I want to state that I came up here and attended meetings in this Capitol here; the Governor was there and, I presume, members of the Legislature were there. I don't come up here very much; it's on very rare occasions that I attend up here, and I don't know. But in my opinion there was no objection to us at the time when it was presented before the Governor and before the people who were here at that meeting at that time, and there was more than one meeting. No objection was voiced, and up until right now, as far as I know, there has been no objection.

Q Based upon your answer to that question, there is a bill, Senate Bill No. 493, that was introduced this year

that would require legislative approval for any projects that are beyond the ordinary purview of the regular course of business of the New Jersey Highway Authority, it necessarily follows then that you have no objection to this legislation.

Is that correct? A That is correct.

Q Thank you, sir. That's all.

BY ASSEMBLYMAN WILSON:

Q Commissioner, I remember when I asked you a question before, you stated that one of the things you would like to accomplish as far as the Cultural Center is concerned, is to bring more vehicles on the Parkway itself, so you would have more tolls being paid, etc. As I look at a newspaper release of May 12th, 1968, of this year, it says, "Parkway Shifts Into High Speed to Break the Congestion," the congestion that exists on the Parkway. To me, it seems the projects are contradictory of each other - the fact we have a State Arts Center to bring more cars on the Parkway, while on the other hand the Parkway now wants a big expansion program to alleviate the congestion. How would you explain this contradictory situation? A The Garden State Arts Center doesn't

contribute very much to increasing the traffic on the Parkway. It's on off hours; it's been very carefully worked out as to the time of the performances, and in going up and coming back - of course, I don't live in North Jersey - I didn't notice any difference at any of the performances that I attended.

Q Well, you say it doesn't add to the congestion and the performances are at off hours. What about Friday nights

during the summer months around nine o'clock. This summer I traveled the Parkway at nine o'clock going to the shore and I ran into an awful lot of congestion and there were performances scheduled this past summer at nine o'clock in the evening, weren't there? A I can't answer - I understood there was one night that it was blacked out.

Q That was a Sunday night . They couldn't have any performances, according to the contract, after six o'clock at night on Sunday evening. Also there was congestion, and I have received letters on this fact, that around the Garden State Arts Center there was an awful lot of congestion around 11 o'clock at night when people were returning from the shore, because they would block off one lane to let cars out of the parking lot. To me, the two ideas are in contradiction of each other - the fact that you have a Cultural Center, one of the purposes of which was to spread culture throughout the State of New Jersey but also to bring more automobiles on the Parkway, I would think - and this is a statement now, not a question - that we would try to alleviate the congestion first, because, after all, you said this was the prime responsibility of the New Jersey Highway Authority. Then I would go into some other area. Would you like to comment on this? A Yes, if traffic studies showed that there was this congestion that you mentioned and that it was increased due to the Arts Center, I think at that particular time the traffic safety people on the Parkway would do something about that increased traffic.

Q Well, this past season they couldn't because of the fact it was in the contract that they were not able to change performances because they had the acts already booked, so they didn't change it during the summer. So maybe they will learn from experience this summer.

Commissioner Townsend, could you tell me now what is the final cost as of this date, as far as the Cultural Center is concerned? A The only final cost that I have is this \$6,750,000 line, but I can't give you the exact figures. That would be my quotation.

Q Commissioner, as a Commissioner of the New Jersey Highway Authority, you approved all construction contracts, etc., of the Garden State Arts Center? A All the contracts that were brought before me.

Q All the contracts. I would like you to answer this question then. I would like to give you a little bit of information to refresh your memory. The contract for the construction of the amphitheatre was awarded to the Sovereign Construction Company as the low bidder of those companies whose bid was solicited by the New Jersey Highway Authority. Twelve firms were solicited and four responded. Sovereign's bid was \$2,797,100, rounded off. At the request of the Authority, Sovereign suggested "economies" and recommended deletion of \$801,800 from the contract. This was done and the contract was awarded at \$1,995,300. One month later, the Authority restored virtually every item, after the contract was awarded, that was previously deleted, and this was a total of \$775,400. Other deleted items were later

restored. Why was this process followed? Why did you award the contract at such a low bid, relatively speaking, and then restore everything you cut out to begin with? What was the purpose of this? A I can't answer that question. You will have to ask one of the engineers of the Parkway.

Q As a Commissioner, when we are dealing with \$800,000 - we are dealing with almost three million dollars in the original bid - this is not a small sum of money. I am not asking you for minute facts; I am asking you for the philosophy behind it. You were familiar with this transaction, were you not?

A The philosophy behind it, I think is that when you are constructing something - and if I can digress a little to show you my point -

Q No, I would like you to answer this specific question.

A The question is simply that there are items in there that were necessary in the building of this Arts Center to complete the work, and it was necessary to put them in.

Q But when this contract was awarded, as far as the public announcement that would appear in the paper, it was \$1,995,300. Am I correct? That was what the public would actually know was the contract that was accepted. A I would have to see those figures. I wouldn't want to say yes or no without seeing them.

Q Well, these figures are from your books, Commissioner. Yes, they are. A So they are correct.

Q Yes, because Mr. Gittler has been at the New Jersey Highway Authority offices and has gone through your records, and I was just wondering why you would delete -- and we will

go into these items later on - I was wondering why all these items were deleted to a tune of \$801,800 and then, within a month's time, reinstated in the contract.

MR. FOLEY: For the record, Mr. Chairman, again I am Adrian Foley - again your question is entirely proper. I would suggest that the information which Mr. Gittler and others have developed, as well as a review of the entire history of the contract and payments, is much more in the minds of others than of Commissioner Townsend. The doctor, as you know, has had a cataract operation and it has limited his activity, particularly in some degree in reading until he is fitted with his final glasses. The question is proper in every way, but I would suggest for the record that we have other witnesses who would be more familiar with the specific details, and also the doctor if furnished and given time - I am glad he did not contest the accuracy of the predicate of your question, the assumption of it; that is, the figures you state, but he has not had an opportunity to review that in detail and others have, and I think we will be glad to go into that in detail for you.

Q Well, Commissioner, instead of resorting to the actual figures and amount, why was there a deletion in the contract of such magnitude - let's forget the actual amount - and why the following month was it reinstated? Now to me this is a general question of philosophy and he doesn't have to be

familiar with the figures, because, after all, as a Commissioner of the Highway Authority, he should without question be familiar with this. I am not asking for specific figures. I'm asking for the philosophy, why the contract was awarded at such a low bid price and then in turn almost everything that was deleted was reinstated in the contract. To me, I don't think that the Commissioner of a Highway Authority who is supposed to be - or who is, not "is supposed to be", according to State statute, a member of the Board which makes the final decisions on all actions of the Authority.- there are three Commissioners, and they are the ones that actually make the final decisions, and I am concerned about this philosophy and I would like the Commissioner to expound upon it.

MR. FOLEY: Mr. Chairman, I simply call your attention to the doctor's answer, which was that he would have to review the engineer's recommendations at that time.

ASSEMBLYMAN WILSON: As legal counsel, I believe that you can only advise him. You are not supposed to be testifying at this particular time, are you?

MR. FOLEY: I am not testifying - I

ASSEMBLYMAN WILSON: Well, yes, because it is going into the public record.

MR. FOLEY: I simply identified myself for the record , and I also simply repeated the doctor's answer, which was that he would have to review the specific engineering recommendations for these decisions.

Q Well, as far as the statement of the counsel is concerned, Commissioner, this contract was only awarded two years ago, and it was of such magnitude I am concerned that you do not know the basic philosophy behind it. After all, you are the ones who made the decisions concerning this particular contract.

MR. LUSTBADER: Mr. Chairman, I ask that the testimony of Mr. Foley by way of explanation of the answer of Commissioner Townsend be stricken from the record as not being responsive to your question as directed to the witness.

ASSEMBLYMAN WILSON: Would you do so?

BY SENATOR RINALDO:

Q Commissioner, as a member of the Commission, were you aware of any changes in column heights and footings that were made after the initial construction of the Cultural Center?

A I would say there were changes made but at this time I would have to refresh my memory on the questions that you are asking. I'm a physician; I'm not an engineer, and if there were changes needed in the columns, I think that I would have to accept the recommendations of the engineer concerning these changes and say that they were necessary.

Q You would accept the engineer's recommendations, but do you not approve the contracts that are awarded?

A That's right.

Q Do you not approve and set the policy that is established?

A Correct.

Q I'll just throw a figure out; you tell me if this refreshes your recollection. It is my understanding that

the cost of lowering the columns and footings was \$20,000, plus an additional \$97,000 for excavating dirt and backfilling the dirt after the work was completed, for a total cost, additional cost, of \$117,673.27. I believe that was Change Order No. 4. Now I want to ask you a question as to policy, a broad question. I don't think there is any need for any refreshing of memory here. Whose responsibility, in your opinion as a Commissioner, was it for the failure of the columns to be erected within reasonable tolerances? In other words, who was responsible for improperly erecting these columns, because obviously, if over \$117,000 had to be spent to correct this, they were improperly erected. Now who would you, as a Commissioner, say was responsible for this.

SENATOR RINALDO: Mr. Foley, at this point, I would like the Commissioner to answer the question, and if you want to expound on this, when your turn comes, I would certainly welcome it. I feel very strongly that this is a proper question and I am not dealing in specifics, I am not asking him the amount that was spent. I told him that. I'm just asking his opinion as a Commissioner as to who was responsible for this and whether or not he looked into it. Since he admitted that he knows about it, certainly he must have some idea as to who was responsible.

MR. FOLEY: I merely want to ask for clarification in view of counsel's recommendations

as to my questioning the Chairman as to the purport of his questions and also as to making a suggestion as to how to expedite this hearing - I want to know and I want clarification now as to whether this Commission objects to the intrusion of counsel, for instance, in objecting to the form of a question. I would like a specific ruling on that before we go further.

ASSEMBLYMAN WILSON: I, as a Commission member, certainly feel that you have a perfect right to object to the form in which a question is asked, or even to a question if you feel it is an improper question, provided you give the reason therefor. I would say as one member of this Commission, I would object to your answering, of course, any question propounded to a particular witness.

MR. LUSTBADER: Mr. Foley, certainly for the record, I think the Commission will take note of the fact that your capacity here is as counsel and that you have every right to confer with your client and object to any questions that you feel are objectionable. I think to that extent you are entitled to the full benefit of that representation. We only request here today that you do not

give any substantive testimony yourself in response to a question directed to the witness.

MR. FOLEY: Well, so that the record is clear as to my position, I feel that I have not given any testimony in any fashion. I have made a suggestion to the Commission only for the purpose of expediting the consideration of this entire matter. Insofar as the suggestion is made that I might have testified, I did repeat Commissioner Townsend's answer . That, I do not consider as testifying.

Now that this has been clarified as to the right to object, I must, with all due respect, Senator, object to the form of your question because it incorporates your conclusion that you feel - and I won't get bogged down in details - that the changing of elevations, footings, etc., necessarily involves a failure on someone's part. I think that that incorporates improperly a conclusion which has not been established at all. If you want to ask the Commissioner whether he feels that this is a failure or dereliction, that would be a proper question, but to incorporate a conclusion which has not been established in any way is not proper.

SENATOR RINALDO: I certainly think your objection is a fine objection in a court of law, but I don't think we are bound here by the rules

of evidence that would normally be utilized in a court of law. However, I don't have any objection to going along with your suggestion. It will just add another question in my opinion to this line of questioning.

ASSEMBLYMAN WILSON: I would like to ask a question of counsel.

Did Commissioner Townsend come before this Commission of his own free will? Was he subpoenaed or was he invited? Therefore, I think without question, he should be able to answer the questions. Actually this is not a court of law, as Senator Rinaldo has stated. So I think the right of legal counsel is not really needed in this case, is it?

MR. FOLEY: Is that a question addressed to me?

ASSEMBLYMAN WILSON: Yes.

MR. FOLEY: I think the right of legal counsel is available to everyone in every proceeding so far as our basic philosophy and our way of life. I don't suggest that it is needed in the sense that it is needed for Dr. Townsend's benefit. Dr. Townsend is a highly esteemed member of our society, a professional man himself, and I have only interposed an objection when I thought it could be helpful to the Commission.

ASSEMBLYMAN WILSON: All right. I just wanted to clarify that one point.

BY SENATOR RINALDO:

Q All right, now we'll try to get an answer to the original question. Just to refresh you as to where we were, we mentioned the fact that the column heights and footings had to be corrected and this correction cost a total of \$117,000 plus dollars. Do you think that this indicated in your opinion a failure on the part of someone to perform properly.

A I don't think so. I think that probably some underlying thing came up, whether it was the foundation or the mud or whatever it was, which made a change of plans necessary and necessitated doing certain things that were not anticipated originally.

Q All right. Then let me take it one step farther. Did the Commission try to determine or ascertain at any time who was responsible for this error, because obviously it was an error, and who should pay the cost of \$117,000? Was this ever done by the Commission? A Well, I think that's a thing that would come up when the contract was finally settled. If there were certain things that the Commissioners felt shouldn't be paid, I think that they would take them to court and not pay them. If there are certain other things in a change of plans that are due to things that were not under the control of the contractor, then possibly some additional payment should be made.

Q Well, as I understand it, this particular item was paid by the Highway Authority. Wouldn't you say that as good

business practice, it would be more prudent, prior to paying the bill, to determine if there was any fault on the part of anyone, at least for the Commission to arrive at this conclusion amongst themselves? A Yes, if there is any fault, I think that that should be done.

Q Was this done by the Commission? A I can't answer your question.

Q As a member of the Commission, are you saying that you don't know whether or not you - A I can't answer.

Q You don't know? A No, going back two years - not without refreshing my memory and reviewing the minutes of those particular meetings to find out.

Q Do you know whether or not the Commission sued any particular contractor or tried to obtain legal redress against any contractor, to the best of your recollection, for the error in the columns and footings? A I do not know of any suit.

Q That's all, Commissioner.

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

ASSEMBLYMAN LASKIN: Dr. Townsend, I am just going to change the subject for a few minutes. Under the resolution setting up this Commission to investigate autonomous authorities, our basic purpose is to inquire into the advantages and disadvantages of autonomy in general and to determine whether or not additional safeguards have to be placed upon autonomous bodies. So I just want to ask you some basic questions regarding that.

First of all, does the Highway Authority print or publish or make available to the public any record of all moneys spent each year for employees, sub-contractors, professional men, and things of that nature? Is there such a document that is published every year? A There is a yearly audit. The Governor and the Legislature receive a detailed report of the transactions that have taken place during the past year.

Q I understand the audit. Does this audit contain a list of the names and addresses of every employee of the Highway Authority and the salaries paid to them? A That would be sent out to whom?

MR. FOLEY: Excuse me. Are you referring now to the internal audit, or the report that we are required to submit annually to the Legislature and the Governor.

ASSEMBLYMAN LASKIN: The public report.

MR. FOLEY: The report that is submitted to the Legislature and the Governor annually?

ASSEMBLYMAN LASKIN: Yes.

A Not in that detail.

Q Is there a list available of all employees and the salaries paid? A Yes.

Q Is there a list available of all contractors or subcontractors who have received moneys from the Authority?

A Yes.

Q Is there a list available of all professional staff, both full-time and part-time, and the salaries received? A Yes.

Q Do you feel that such a list should be made public each year and submitted along with the audit? A I would think that that would be logical.

MR. LASKIN: I assume, Mr. Foley, you are the counsel for the Authority?

MR. FOLEY: Yes, I am.

Q Dr. Townsend, how many attorneys are on the staff of the Authority? A You mean, internal?

Q Yes. A One - Thomas West.

Q And what do you call the ones who aren't internal? A They are advisory General Counsel.

Q And how many Advisory General Counsel do we have? A Mr. Foley, and if he is not able to be present, he would have somebody else sitting in.

Q Just Mr. West and Mr. Foley? A Yes.

Q Are there any other attorneys who serve in any capacity as advisors or otherwise to the Highway Authority?

A In condemnation, where land is being taken.

Q In condemnation, are payments made to the various municipalities in lieu of taxation when land is taken from a particular municipality or from an individual in such a municipality?

MR. FOLEY: If the Commission would permit it, I would like to suggest the answer to the doctor -

ASSEMBLYMAN LASKIN: That's perfectly all right.

MR. FOLEY: - because it's a matter of a recent court decision.

ASSEMBLYMAN LASKIN: I'd like to hear it.

MR. FOLEY: Recently, in a case involving the State of New Jersey and the New Jersey Highway Authority, our Supreme Court decided - I say "recently" - it was originally decided June 6, 1966, and the final aspects of it were decided within the last four months. We had contested - that is, the State of New Jersey and also the Highway Authority - a determination by the City of East Orange that taxes should be cut off the day of possession. We had taken the position that the exemption to which we are entitled and the State is entitled should be imposed immediately. The City of East Orange alleged in their complaint - and was successfully, I'm sorry to say, upheld by the Supreme Court - and maintained the position that they are entitled to taxes during the balance of the year. So from the date of that decision some few months ago, taxes now must be paid on the entire year.

ASSEMBLYMAN LASKIN: Mr. Foley, I understand that point. I think perhaps I may have been a little ambiguous in the question.

Q Dr. Townsend, should the Highway Authority be required in your opinion, by State legislation, to make payment in lieu of taxation to the municipalities from where this land is taken? Do you understand what I mean. Dr. Townsend?

A Not exactly.

Q Well, if you don't, you may confer with Mr. Foley. I'm not trying to trick you or anything.

MR. FOLEY: For the record, I was the one who was confused. I thought you were talking about the allocation of taxes. I take it that the question merely concerns the doctor's philosophy - if it should be necessary for the Parkway to acquire property, should the Parkway be required to make some payment to the town because they will be losing tax ratables? Is that right?

MR. LASKIN: Correct.

A My answer would be simply that we have acquired most of the property that we will probably need, and I would think an amicable settlement with the parties concerned would be what we should try to work out.

Q Well, you understand, I am sure, that the various municipalities all over the State are very much upset about the loss of ratables not only with the Highway Authority but any autonomous authority, because no payments in lieu of taxation are made, and one of the real reasons for the legislation which authorized this Commission was this hue and cry we heard from the various municipalities. Some of the Commissioners, of course, have very strong feelings about this point. I personally vote against every Authority bill that comes up unless there is a payment in-lieu-of-taxation provision in there. It's a very important basic question relating to the purpose of this Commission. A Well, as far as the Authority is

concerned, we think we are giving the municipalities the benefit of their ratables going up and that they will collect more from the properties due to the fact that this improvement has gone through the State of New Jersey.

Q And then just one last point having to do with another area: Is there any planning and work being performed in your agency regarding mass transit, high-speed transit?

A Not so far as I know in our agency.

Q None at all? A No.

Q Do you have any sort of department in the Highway Authority which would be geared or set up for the planning of a mass transit program? A You mean high speed lines?

Q Yes. A No.

Q Thank you, Doctor.

BY ASSEMBLYMAN WILSON:

Q Commissioner, I understand the interpretation of your enabling legislation which gave the New Jersey Highway Authority the right to construct certain recreational facilities. This is what you interpret the Garden State Arts Center to be, a recreational facility. Is there any other projects, non-related projects, planned by the New Jersey Highway Authority that you know of? A You mean, in the Arts Center?

Q Not as the Arts Center or thereabouts. I heard rumors, etc., of a skating rink, or a ski slope. This is what Commissioner Smith indicated at the last hearing, that there may be something along those lines. Do you know as a Commissioner? A I think that if ski slopes were to

be feasible in the Garden State Arts Center, it might be brought before the Commissioners and discussed. In my opinion now in talking with you, I think we would come to you and say, "Do you like us or don't you like us?"

Q If you were going into another area such as a ski slope or a ski resort, you would come to the Legislature and ask us if we would approve it? A Yes.

Q You would not decide this on your own? A I have always felt that that's what we've done. We were created by you and appointed by the Governor and the Senate ratified us. We were your instruments and we were simply able to do at some time something that the State of New Jersey couldn't do immediately. That's my reaction.

Q You are saying that you came to the Legislature? You made the statement before that you came to the Legislature and they gave you their permission or they said that we condoned the building of the Garden State Arts Center, and the Governor along with it? A That's my reaction.

Q That was your reaction. A Well, I would -

MR. FOLEY: Excuse me, Doctor. I don't like to couch this in the form of an objection, but I think the record is clear that in answer to a question by Senator Rinaldo, the Doctor did say that what he conceived to be, or that he had received tacit approval of members of the Legislature and the Governor's counsel, but he also said in a direct answer to Senator Rinaldo that, no, they didn't come specifically and he knows of no specific

legislation or no specific application to the Legislature and no specific application for gubernatorial approval. I think the record is clear on that.

BY SENATOR RINALDO:

Q I think the record is clear on that. A In other words, I have had no disapproval.

Q I think we've made the point, and the point was further made that you would have no objection to legislation requiring the Authority to come before the Legislature and the Governor for specific approval in the form of enabling legislation.

BY ASSEMBLYMAN WILSON:

Q Along the same line, then you say there is contemplation now of maybe going into another non-related activity such as a ski slope? A These are all related activities. As we interpret the Parkway, that would be what we call an addition to the Parkway for what it was originally designed.

BY SENATOR RINALDO:

Q Commissioner, how many cars are owned by the Authority for the use of the Commissioners and executive employees? By that I mean, how many cars are owned for the people in the classifications that I mentioned, excluding the trucks and other maintenance equipment that is required for the day-to-day operations? A I can't give you that exactly. I would say the Executive Director of the Parkway, the Assistant Executive Director, various members of the staff that have use of the cars.

MR. FOLEY: I was going to suggest that that will be submitted in letter form over the Commissioner's signature.

Q I would certainly like to have the total number of cars owned by the Highway Authority and to whom they are assigned, and also whether or not the people who use them are full-time employees, part-time employees, or merely on a per diem or other salary arrangement. A That could be submitted.

BY ASSEMBLYMAN LASKIN:

Q You don't happen to have a car, do you, Mr. Foley, such as we're talking about?

MR. FOLEY: Well, I hesitate to call down the wrath of the Chairman and counsel, because I'm not supposed to testify.

ASSEMBLYMAN LASKIN: That's all right. I'm just curious.

MR. FOLEY: No, I do not have a car. I have a car which is owned by myself and my partner.

Q Just one question, along the line of attorneys. The Special Counsel or Advisory Counsel is Mr. Foley. Is that correct?

MR. FOLEY: Could we correct that and say my firm?

ASSEMBLYMAN LASKIN: Yes, your firm. Is it Advisory Counsel? Is that the appropriate title?

MR. FOLEY: Well, just to expedite the hearing: Mr. West is titled General Attorney.

We are listed and filed in the Annual Report among the Consultants as General Counsel, and I think the Doctor probably neglected to mention that in bond matters another consultant is the law firm of Hawkins, Delafield and Wood.

ASSEMBLYMAN LASKIN: They are everybody's consultant.

Q Dr. Townsend, the salary for General Attorney, that would be a full-time attorney on your staff. Is that correct? Mr. West? He is paid an annual salary? A Yes.

Q Salaries for General Counsel - is that an annual salary or is that per case or for the time, etc.? A I think it's depending on what he does, what we ask the General Counsel to do.

Q There is no set annual salary for General Counsel? A No, he is not on a fixed salary.

BY ASSEMBLYMAN WILSON:

Q Commissioner, was there any net profit resulting from the operation of the Garden State Arts Center that you are aware of during this past season? A We haven't received a filed report as to this past season.

Q When will you receive that report? Do you have any idea? A I would think, before the first of the year.

Q Will you send a copy of that report to the members of the Commission, please, all of the members? A Yes.

Q Commissioner, I have one other question. The members of this Commission in the Assembly introduced a bill enlarging the New Jersey Highway Authority to five members and

decreasing the terms from 9 to 5 years. We thought that we would have greater representation of the people of the State of New Jersey by doing this and also by appointing a new Commissioner every year you would have maybe a different philosophy of thought. Would you comment on that bill as to your opinion? A I haven't studied it yet. The only thing I can say is that I have been on it about 13 years and, as far as I personally am concerned, the three Commissioners would seem to be sufficient to carry out the things that came up before the Parkway. Whether it would have some merit to it or not, I would want to discuss it more with my fellow Commissioners. It's a new thing to me. I know about it but I haven't had a chance to study it or talk about it.

Q Well, you said that your term runs to 9 years. What is your opinion? Do you think that is extremely long for a term of office? A Yes, I think that's a long period.

Q Would you agree then to cutting down the term in office, say, from 9 to 5? Would you agree with that particular principle? A As I say, I would like to look into it and give you an answer possibly at a later date.

BY ASSEMBLYMAN LASKIN:

Q Regarding attorneys' salaries again, do you know, Doctor Townsend, whether the other major Authorities have General Attorneys and General Counsel similar to what you have?

A They do.

Q They do? A That is my understanding.

Q Do you know whether or not the General Counsel, that is, the non-staff attorney, is paid on a yearly salary in

these other Authorities or whether they get paid for the work that they perform? Do you know the answer to that question?

A I can't answer that.

ASSEMBLYMAN LASKIN: Mr. Foley, do you know? You can answer it.

MR. FOLEY: It varies. Some Authorities have a flat figure and in others it varies within our locality - talking about the Turnpike, the Atlantic City Expressway, Port of New York Authority and the New York Turnpike. Some do it on a flat figure and others or most, I think, do it on a fee basis, so the work is paid for as bills are submitted for the work performed.

ASSEMBLYMAN LASKIN: How long have you been the General Counsel - your firm, that is - for the Highway Authority?

MR. FOLEY: I think since 1954. I could be wrong by a year. 1955.

ASSEMBLYMAN LASKIN: And do you know which of the other Authorities do pay an annual salary to their attorneys?

MR. FOLEY: I'm sorry I said that because I'm not sure whether the Turnpike does. At one time the Turnpike did, but I don't know their latest practice. The Atlantic City Expressway I know pays on the work-performed basis.

ASSEMBLYMAN LASKIN: Do you feel that it's a matter of concern for the Legislature in order to set up general standards for all Authorities

in your opinion?

MR. FOLEY: I would think that from a legislative standpoint, the two philosophies that you have involved would be that in a set salary you have predictability as opposed to a fee basis where you get paid for exactly what you do. You do give up a certain degree of predictability by not having a set figure. But in return, I think you as a legislator would get a great deal more solace from the fact that the payment is made on the basis of duties performed.

BY ASSEMBLYMAN LASKIN:

Q Dr. Townsend, do you feel as a Commissioner that this question of attorneys' fees is one that should be standardized among the Authorities, whether it would be on a fee basis or an annual salary basis? A Well, I think our own General Counsel should be on a standard salary. Of course, if he has increased duties, his salary should be increased, but I think he should be on a yearly salary.

MR. FOLEY: Excuse me, but I think the Doctor is talking about General Attorney.

DR. TOWNSEND: Yes.

MR. FOLEY: Tom West.

Q Let's call it Special Counsel instead of General Counsel. That is the non-staff attorney. Don't you feel that the standards for the payment to the Special or Non-staff Attorney should be generalized with all the major Highway Authorities or with all Authorities?

MR. FOLEY: I would like the record

to note that I am not advising the Doctor in any respect on this answer.

A Well, my own personal opinion is that outside counsel should be paid, depending on how much he is used by the Parkway.

Q And you feel that all Authorities should pay in the same manner? A That would be my answer.

Q The point is that we are trying to get at some standardization for Authorities and this is an area that is not standard by any means. Doctor Townsend, are you familiar with the payments made to counsel over the years? A No, I am not.

ASSEMBLYMAN LASKIN: Mr. Foley, would you care to comment in respect to that or send us a letter indicating the fees received by your firm through the years?

MR. FOLEY: I believe that we have already furnished that, have we not? It was requested, I thought. If it hasn't been furnished, we will be glad to do it, but I thought we already furnished that.

ASSEMBLYMAN WILSON: You did in our last hearing.

ASSEMBLYMAN LASKIN: It was furnished? In letter form?

ASSEMBLYMAN WILSON: I don't think it was in letter form.

MR. FOLEY: Well, I believe it was

supplied but we will supply it in any form you desire - affidavit or any form. It is easily available.

ASSEMBLYMAN LASKIN: I would like to have it. We are questioning the Authorities on this point - the Delaware River Port Authority, though not a New Jersey Authority, has quite a discrepancy too on how they pay the various attorneys, so we would like to have that information.

MR. FOLEY: Might I ask - I think it has been furnished, but could I leave it that, if it has not been, will someone please contact me and we will supplement it.

BY ASSEMBLYMAN WILSON:

Q One general question, Commissioner Townsend: What is the status now of the drainage problem that resulted at the Arts Center this summer? What has been done to alleviate this situation? Would you know offhand? This is just recent.

A I was there both times that the flooding occurred, and I think we are taking steps so that it will not recur.

Q Well, was a contract awarded. Now this is just recent. I believe the contract was awarded in September. Would you be familiar with that contract? A Yes, I think the contract has been awarded and we have to have larger pipes - I don't know the size - to take care of this drainage.

Q I believe the contract was awarded in the amount of \$93,845. Is that correct? A Yes, that is correct.

Q Is the New Jersey Highway Authority taking any recourse

against the architect or his consultants for these additional costs, or the construction firm? A I think they are still open at the present time and I think that that will be entirely investigated, and if there is any recourse the Authority will take it.

BY MR. LUSTBADER:

Q Mr. Chairman, with your permission, just one question of Doctor Townsend. I presume, Commissioner, that you were present when the Telegraph Hill site was acquired - that you were a member of the Commission. A No, I don't think so.

Q You were not. Do you know of your own personal knowledge how the acquisition of that tract took place and the underlying reason for it? A I can't answer that.

ASSEMBLYMAN LASKIN:

Q Doctor, another point about this liaison with the Governor and the Legislature, do you feel that legislation should be enacted which would have a legislative representative or a Governor's representative, or both, each year on the Authority, so he would be the fourth vote or fifth vote? Do you feel there should be some representative of either the Legislature or the Governor on the Authority itself, with full power to make decisions as do the other Commissioners?

A Well, as I understand it, we are appointed by the Governor and by the Legislature concurring, and it would seem to me, in the height of authority that we are in, we should have a latitude of power, and unless we do something wrong that would throw us out of office, I would think that we should be allowed

as we are designated - that we are an Authority.

Q So your answer is no, you do not think there should be an additional representative, either from the Legislature or from the Governor's Office. A That is my reaction.

Q Do you feel that if there would be such a representative, it would jeopardize the continuity or the performance of the Highway Authority? A Yes, I think it would, because we have been functioning as an Authority for about, I think, 15 years or more, and because we are under the Government of the State of New Jersey we can't do certain things that are out of line.

Q How do you feel it would jeopardize the performance of the Highway Authority by having an additional representative or two on the Authority? A I would have to study that. It might not, but we were designated -

Q I understand that. But your reaction is that because you are working so well together, you don't need anybody else. Isn't that really what you are saying? A No, I don't think so. I think we might consider that we might get into conflict of interests and various things. I don't say that there would be, but my reaction is that we can't tell. I don't see that it would of any value for a member of the Atlantic City Expressway to sit on our Authority, or the Turnpike. They have their problems - or the Port of New York Authority.

Q But it may be of some value to have one of these legislators sit there, wouldn't it? A We could get their views and what they are going to do, but just at the present

time, I wouldn't be for it.

BY ASSEMBLYMAN WILSON:

Q Commissioner, this morning I received a special delivery letter from Francis A. Forst, who is the representative of Local 196, and he says that you are not complying with certain laws that have been passed by the State of New Jersey. One law is Chapter 310, P. L. 1967, that says that a public employee has the right to have his Union dues deducted from his paycheck, and to his knowledge the New Jersey Highway Authority is the only public agency that has refused to deduct Union dues. Would you comment on this? A Yes, we know about it and we have met with this gentleman. Our meeting has not been particularly friendly or unfriendly, but I feel that in matters like this we refer it to our outside counsel, Adrian Foley, and we follow his advice as to what we should do or should not do.

Q Well, what you are saying then in essence is that this particular law passed by the State of New Jersey does not mean anything to the New Jersey Highway Authority. A No, I wouldn't say that. No, we're not saying that.

Q Would you clarify it then? A As far as counsel interprets it, if in any way we are disobeying the law in not allowing this Union to be formed, we have to abide by that decision.

Q Would you comment on that, Mr. Foley?

MR. FOLEY: Yes, to a limited extent. Mr. Force is represented by counsel. I have exchanged correspondence with his counsel and have

given him the full copies, as a matter of fact, of the opinions which we have rendered to the Commissioners. We do have a disagreement as to the interpretation of - I believe you referred to both statutes - in addition to Chapter 310, also S-746.

ASSEMBLYMAN WILSON: Yes, I was going to go into that next.

MR. FOLEY: We have furnished opinions to the Counsel and to the Commissioners and also to Mr. Forst's counsel. Presently, I wouldn't like to comment any further because I just received a letter from his counsel in which it is stated that he cannot pursue the matter and that someone else will be substituted, and I don't want to characterize his answer to me, but it is a matter of full disclosure to Mr. Forst and his attorney.

ASSEMBLYMAN WILSON: Well, evidently, then, you are saying that the recently passed law, Senate 746, which is the Public Employees and Employers Association Act, and also the dues - the check-off system - this law does not apply to the New Jersey State Highway Authority.

MR. FOLEY: You are correct as far as Chapter 310 is concerned. We have rendered an opinion as to check-off, that the statute is not applicable to the New Jersey Highway Authority. We did not say that as to Senate 746. S-746, of course, is quite a comprehensive statute, as you know, and

the particular impact of S-746 upon the Authority is presently under study. We have advised the Commissioners that a great many of the things that S-746 calls for have already been implemented in our present procedure. As a matter of fact, we had them prior to the passage of S-746. But you are correct as far as Chapter 310, yes. We have specifically advised that that particular Act is not applicable to the New Jersey Highway Authority. This is correct. But we do not say that as to S-746.

ASSEMBLYMAN WILSON: Well then, on the other hand, it has been applied and it is in use, is it not, on the New Jersey Turnpike Authority, the South Jersey Port Commission. These are also autonomous Authorities and yet they say this act is applicable to them.

MR. FOLEY: I do not know whether they say that, Mr. Chairman. I don't wish to appear to quibble, but the New Jersey Turnpike Authority, if my recollection is correct, has a history of having had check-off prior to the passage of Chapter 310. Chapter 310, if my information is correct and my recollection is correct, is not necessarily dispositive of the question of whether it applies to the Turnpike or not, because I believe the Turnpike had such a procedure long before the passage of 310.

As to the South Jersey Port Authority, I

have no information on that, and I am unable to say.

ASSEMBLYMAN WILSON: I would appreciate if you would keep this Commission informed as to what your decision is regarding S-746, because, after all, the people who do work for the New Jersey Highway Authority are public employees, and after all we did just pass this law over the Governor's veto.

MR. FOLEY: Yes, we will be glad to keep you informed.

ASSEMBLYMAN WILSON: Thank you, Commissioner. We appreciate your coming before this Commission.

We will recess until 1:15 and then we will have the Executive Director of the State Highway Authority, Louis Tonti.

[R E C E S S]

* * * *

Afternoon Session

ASSEMBLYMAN WILSON: We will now continue with the hearing.

I would like to call Executive Director D. Louis Tonti.

D. L O U I S T O N T I, called as a witness, testified as follows:

BY ASSEMBLYMAN WILSON:

Q Mr. Tonti, how long have you been the Executive Director of the New Jersey Highway Authority? A Since March of 1954.

Q Is there tenure in your position? A Yes, there is by operation of a Supreme Court decision in the case of Vito versus Housing Authority in 1955 in the operation of the Veteran's Act.

Q What is your responsibility as Executive Director? A To act as the Chief Executive Officer for the day-to-day operations of this corporate entity called the Highway Authority.

Q And carry out the philosophy of the Commissioners -- A -- who make the policy decisions. Right, Mr. Chairman.

Q What is your salary? A \$29,565.

Q You got a raise since the last hearing. A You are right. I did such a good job the last time, Mr. Chairman, that the Commissioners complimented me with a raise.

Q The last time it was \$28,000. A That's right.

Q That's not bad. A No, I am willing to come to your hearings any time.

Q All right. Do you have an expense account?

A I do.

Q Is it fixed? A No, oh, no.

Q Oh, it's unlimited? A Yes, in both directions.

It can go from zero to anything that can be justified and justified on the basis of being expenses connected with the discharge of my duties for this corporation.

Q Would you know offhand what your expenses were for the last fiscal year? A I have an estimate in my mind

because I remember the budget figures. I think I spent about \$2600.

Q \$2600. A Right.

Q Would you make certain of what it is. A I'd be glad to.

Q And let us know what it is. A Mr. Chairman, I read over the weekend the testimony that was taken last time when I wasn't here. I mean, I was only here in the afternoon the last time. And it occurred to me that it would be helpful to the Commission if I read a brief statement with respect to the brief historical background of both the Arts Center and the Parkway because I think it would make it easier for you to ask questions later and I prepared such a statement and I would like the privilege of submitting it just as the other witnesses did. Is it all right with you, Mr. Chairman?

Q You don't have to read it now. You can submit it as part of the record. A It will help you ---

Q That is what happened last time. A No, Mr. Wolkstein read his statement. I will be willing to stop three-quarters of the way through. I just want to read half of it and the rest submit. The rest is an appendix. But half of it is

pertinent to your hearing this afternoon because it will cover a lot of the questions you asked this morning and we have copies for the Commission.

Q Well, couldn't you give us a copy of it and then we will look it over and we could ask you questions. A I will gladly give you copies.

Q And it will be put in the record. Without question, it will be put in the record. A I will gladly give you copies of it. I came with copies. But I still would like to read the first half of it.

Q How long would that take? A About five and one-half minutes.

[Commissioners confer.]

ASSEMBLYMAN WILSON: What we would like to do is have you submit this statement and we will look at it and we would like to ask you questions. Would that be all right with you? Do we have a copy of your statement now? We would rather do that than have it read in because of the fact that we are interested in asking you questions.

MR. TONTI: Mr. Chairman, if that is the procedure - but I just want you to know when you start asking questions, I will go right to my statement and read paragraphs from it.

ASSEMBLYMAN WILSON: Sure.

MR. TONTI: If it is all right with you, it is perfectly all right with me.

ASSEMBLYMAN WILSON: All right, if we happen to

ask that question, as long as you are specific and to the point.

ASSEMBLYMAN WILSON: Would you like to give the Commission copies of that?

MR. TONTI: By all means. [Mr. Tonti submits copies of his statement which can be found beginning on page 57 A of this transcript.]

ASSEMBLYMAN WILSON: This is five minutes?

MR. TONTI: Well, I am only going to read part of it, a very small part of it.

ASSEMBLYMAN WILSON: Well, we have some questions we would like to ask you.

BY ASSEMBLYMAN WILSON:

Q One of the first questions I would like to ask you as a result of our last hearing has to do with the congestion on the Parkway, due, I believe, to the Cultural Center, itself, particularly on Saturday night. Mr. Tonti, I received letters from individuals claiming that there were traffic jams on Saturday nights when the shows were finished at the Garden State Arts Center?

A Yes, I know the two instances involved. That was two instances on a Saturday night or rather on two Saturday nights during the entire summer when some of our maintenance men committed an error and closed off a lane two and one-half hours prior to the necessity for doing so and closed it off at a point south of the Arts Center, much further south than was necessary. It was an error on both occasions and it was corrected. But by and large, and I mean by "by and large" the other nine Saturday evenings, there were no difficulties

with traffic as a result of the Arts Center operation.

Q Going back to our last hearing, Mr. Tonti, I believe you told me the best time to go to the shore was at eight o'clock on Friday night as far as traffic is concerned - eight o'clock on a Friday night was an off hour. This was one of the problems I thought the Cultural Center was going to create by actually having shows scheduled at nine o'clock, that you were going to create traffic problems. A I said that eight o'clock on Friday nights in July and August would be all right.

Q Well, they weren't. I ran into an awful lot of traffic. I would just like to let you know that and I told you that I would see if this was valid and I hit an awful lot of traffic on the way down. A Was it primarily in sections in Union County, Mr. Chairman, where the difficulty arose? That's what our record shows.

Q Well, yes, also before Union County. A In Essex?

Q Well, yes, in Essex and Union both. A I might point out that when I made that statement in May, I never predicted that we would have in the months of June, July and August a total increase of 9.75 per cent in traffic volumes over the previous year. Our predictions had been somewhere in the neighborhood of 4 per cent.

Q You see, Mr. Tonti, that is why I was concerned with the idea of the Cultural Center to begin with was the fact that you were going to have additional vehicles on the Parkway.

And I think that the Parkway has a sufficient supply as can be attested to by anyone that travels to the shore during the summer months and this is why I was concerned with the idea of a Cultural Center because of the fact, as was established by Commissioner Townsend this morning, that the prime responsibility of the New Jersey Highway Authority is to run a -- A -- a super highway.

Q -- a transportation facility that is free of congestion. A Well, I am equally concerned, Mr. Chairman, and I assume the Study Commission would be with the phenomenon that a lot of our super highways that cost billions of dollars to construct have many hours of unused capacity. That is a concern also. And this traffic congestion you are talking about is not critical and never was critical during the performances at the Arts Center and any impression that anybody gives you otherwise notwithstanding because our records show very clearly that the heavy congested periods take place, for example, in the hours of 8:30 in the morning to 5:00 in the afternoon on Saturdays in the summertime, from 4:00 in the afternoon to 8 o'clock at night on Fridays - these are the heavy periods of congestion - and Sundays from 3:00 in the afternoon until Midnight many times and these are the heavy congested traffic periods - no question about it. But there are many hours on the Parkway where it is only being used at 50 or 60 per cent of capacity. And if we can make the Parkway usable to more people during those off hours, then we are accomplishing something in the public interest.

Q Also after our last hearing I believe you announced to the newspaper that you were hiring a firm to conduct a survey to see if there could be any reduction in the tolls of the Garden State Parkway. Have the results of this ---

A That wasn't as a result of the last hearing.

Q I said "after our last hearing." I'm sorry. I will clarify that.

A What we did on that, Mr. Chairman - as a matter of fact I kept Senator Rinaldo fully informed because he showed great interest in this subject by legislation which was adopted. But going back to the fall of '67 when our computations showed for the first time in Authority history we satisfied the legal requirements of the bond indenture to study reduced rates, we in fact took steps to undertake such studies. I might add that the studies were probably accelerated when Senator Rinaldo got after us a couple of times. But nonetheless, I kept Senator Rinaldo informed and also showed him the detailed contract that we assigned to the internationally-known firm of Coverdale and Colpitts, which gave them the responsibility of complying with the statute as well as our bond indenture in establishing whether this Authority - whether they could certify as engineers whether this Authority could in fact engage in the program of reducing tolls and how to do it.

In that same contract and report I made to Senator Rinaldo - the extensive studies required for that, which are seasonal, by the way, and the last field studies took place just recently - we indicated that oral reports from the consultants and engineers would be available to the Authority in December, with possibly a written report before the end of January.

We checked with the consulting firm within the last few days and found they are on schedule.

BY SENATOR RINALDO:

Q Director Tonti, the specific piece of legislation that you referred to memorialized the Highway Authority to provide for the sale of ticket books or other prepared toll identification to regular users of the Parkway. Is this what is currently contemplated - ticket books? A They are studying many methods. That is one of them.

Q That is one of them. Can you tell me some of the other schemes that are being looked at? In other words, you say ticket books. Is there some other method of identifying regular users so that they can obtain reduced rates? In other words, the purpose of the legislation was not to reduce tolls across the board, but to provide for an incentive to regular users of the Parkway to continue to use it and also make other sporadic users regular users so that there is enough traffic generated by the proposal also to overcome any possible reduction in revenue that would take place, so that it will encourage additional users to the Parkway and those regular users to continue using it in this fashion, and thereby bring in more revenue to overcome the restriction that is in the bonding covenant. A Isn't it interesting, Senator, we talked about congestion just 30 seconds ago and now we are talking about a technique which will encourage more traffic in order to compensate for the reduced income resulting from special rates to regular users of the Parkway. I just point that out as an

interesting and fascinating observation by a man who has to work in this kind of business, which is a tough business - it really is - and that is why it is tough because there are those two factors playing here, but both of them very much in the public interest. What I meant was, there were other methods in doing this because they are looking into, I understand, more modern techniques than ticket books in accomplishing the purpose of giving the regular user special attention. There are electronic machines that will read a specially-prepared card. There is a vehicle identification system which is very sophisticated, which a regular user can place on the side door on the driver's side and the mechanism will recognize him as a regular user. There are many techniques and that is why I say they are looking into all of them.

Q Do you favor one of these particular proposals?

A Could I ---

Q Let me reframe the question, if I may. Do you favor the principle of reduced tolls for regular users of the Parkway? A Personally?

Q Yes. A Of course, you mean personally because the Authority has already taken an official position.

Q I am asking you personally and as Executive Director. A No, I think such a plan is not in the public interest and I think we ought to tell the public the truth sometimes and let them know why it is not in their interest. It is not in their interest because we are encouraging more traffic during the most sensitive congested hours on the operation of any facility when the facility can least afford it. In my book, simply

from a technical point of view now - I am not talking about policy - from a technical point of view, it is much more in the public interest to find methods and techniques to encourage traffic to use a public facility that costs billions of dollars - I am talking about the big bridges and tunnels and turnpikes - much better in the public interest to encourage traffic during the hours when those facilities are not being used to any appreciable extent or below their capacity. That would be in the public interest and I think for once and forever, we ought to tell the public, not only on highways, but on mass transit facilities, that these things do not become feasible economically in the public interest unless we spread out the payloads. And even the great need now for rail transit and mass transit is stumbling forward simply because these facilities are only encouraging and only dealing with great hoards of people an hour and a half in the morning and two and a quarter hours in the evening and the big gap in between creates the great overhead costs which applies to highways the same way. It creates a great overhead cost which we can't lick unless we find a method of spreading traffic not concentrating traffic.

So for that reason you see why technically I am opposed to such a plan. But by the way, my opinion will have no bearing on what the consulting engineers are doing for the Authority because it can't have. They haven't asked my opinion and even if they did, my opinion has no bearing on their findings. It can never have.

Q Who picked the consulting engineers? Who selected them?
A Well, I guess my predecessors did. They have

been with the Authority from the inception.

Q I will reframe the question. Who selected them for this particular assignment to determine whether or not ---

A The Commissioners did.

Q The Commissioners did. A Right.

Q In other words, the three Commissioners decided that Coverdale and Colpitts would handle this assignment. Were any other consultants considered or interviewed? A No, not in this case.

Q They were the only consultants and they were immediately selected. When is their final report due?

A I think before the end of January.

Q How soon thereafter will the Highway Authority be in a position to make their decision on this request? A I can't predict how long it takes the Commissioners to deliberate. They meet once a month, so I imagine they will be taking it up at the executive session of the February meeting.

Q At the February meeting. A Right - which will be the fourth Thursday in February most likely.

Q In the past on numerous occasions I have read articles in the newspaper to the effect that one of the purposes of the cultural center was to attract more traffic to the Parkway also, is this correct? A Yes, but not an important purpose. But important enough to be listed as a factor.

Q If this were not an important purpose, what in your opinion would you say the prime purpose of the Cultural Center was? A To comply with the statute adopted by an enlightened Legislature in 1952 to provide recreational facilities for the

public welfare and in the public interest.

Q I will ask you then the same question that I asked Commissioner Townsend: What section of the statute are you referring to? Are you familiar with the statute? A Yes. The statute is 27:12B-3, paragraph (d), the part that reads, " * * * together with such adjoining park or recreational areas and facilities as the Authority with the concurrence of the Department of Conservation and Economic Development shall find to be necessary and desirable to promote the public health and welfare and feasible for development pursuant to this act." Now that coupled with our entire history involved with this recreational area principle incorporated in the Garden State Parkway statute would give a logical - and you will find in my statement - a rather logical sequence of events which leads up to the reasons why the Arts Center was built at Telegraph Hill Park.

Q Is there any evidence that you possess of any legislative intent that park or recreational areas was interpreted by the Legislature to mean a facility costing in the neighborhood of \$7 million such as the Garden State Cultural Center? A Well, can I take four minutes to answer that question, Mr. Senator, because I will need four minutes and that is the only way a Study Commission is going to study this accurately and objectively? And four minutes is very brief on this subject. Let me point out why and where and how the statute - because it's not just the simple reading of that statute.

Q Quite frankly, I have shown this statute to many competent attorneys who in my opinion feel just as certain as

Mr. Foley feels that this is a legal undertaking that in a court of law there is an extremely good possibility that this extracurricular activity, if I may use that phrase --

A You may, but it is not accurate.

Q [Continuing] -- may be termed illegal by the courts, an illegal undertaking. When I just asked you the prior question, you sort of rested your answer on the part of the statute that started out by defining "project" or "highway project." The entire section, Title 27, Section 12B-3(d), reads as follows: [Reading] "'Project' or 'highway project' means any express highway, superhighway or motorway at such locations and between such termini as herein established or as may hereafter be established by law, and acquired or to be acquired or constructed or to be constructed under the provisions of this act by the Authority, over which abutters have no easement or rights of lift, air or direct access by reason of the fact that their properties abut thereon, together with such adjoining park or recreational areas and facilities as the Authority, with the concurrence of the Department of Conservation and Economic Development, shall find to be necessary and desirable to promote the public health and welfare and feasible for development pursuant to this act, and shall include but not be limited to all bridges, tunnels, overpasses, underpasses, interchanges, traffic circles, grade separations, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communications facilities, and administration, storage and other buildings which the Authority

may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such project." I would certainly think that since the legislation is so specific that they go to the great trouble to list bridges, tunnels, underpasses, overpasses, interchanges, traffic circles, grade separations, etc., that if there was any legislative intent to include within this area a Cultural Center, as a recreational area, a \$7 million facility, a rather expensive proposal that never received legislative or gubernatorial approval in the form of a separate piece of legislation, that certainly I would think that the Legislature in its wisdom would have included it within the statute. I just don't see it there and to my way of thinking this raises a very, very serious question in my mind as to the legality of the entire undertaking.

A I asked for four minutes and I guess I lost five. But that's all right. I'm glad you read all that, Senator, because it sets the stage for my answer. My answer requires not only an awareness of what you read, excluding your legal conclusions, and neither one of us is a lawyer so we are not going to get into a legal argument because we leave that to the lawyers and the courts, but what you did read prior to that is good background, especially when you take into account the administration and the leaders in it who passed that statute. And that was during the administration of Governor Driscoll who proved to the financial community of the Nation that turnpikes were feasible after he got the New Jersey Turnpike so successful that now you see he came to a problem of creating a new authority

which embraced a forward-looking concept of not only producing for the citizens of New Jersey a scenic parkway, but also providing for the development of parks or recreational areas or facilities, found to be necessary and desirable as you read.

Now it seems to me that you should know that under Governor Driscoll's administration and with the legislative leaders at that time, they purchased Telegraph Hill Park and they also assigned four engineering firms to the task of planning facilities at Telegraph Hill Park. Now here are the authors of the bill, assembling at Washington Crossing at conferences - we have all the details on these conferences - with four top-notch firms and they established the principle then that they were going to have four major recreational areas along the Parkway, but the one to concentrate on is Telegraph Hill. And they bought the property and they laid out plans for it.

Now what were the plans they laid out for it - this is important - under the definition of the statute as you read it and promulgated by the authors of the statute with the legislative leaders? They provided sketches and designs which are in my office and can be visited and examined by anybody, which provided at Telegraph Hill a complex, which included two swimming pools, an ice skating area, rest room facilities, restaurants, picnic facilities, 24 tennis courts, baseball diamonds, bridle paths, volley ball courts, observation tower memorial. I haven't heard any of these in the things you read. But this is what they planned engineeringwise in 1953.

Q Excuse me. When you say "planned," who specifically

are you referring to? A I am referring to conferences conducted by the Highway Commissioner in Governor Driscoll's cabinet, Ransford J. Abbott, who was simultaneously Chairman of the New Jersey Highway Authority, the first Chairman, and also speaking about conferences which were attended by Governor Driscoll and attended by engineering firms, Clarke and Rapuano, Arman and Whitney, Parsons-Brinckerhoff, Voller-McDonald, F. E. Harley Associates, and Mr. Bayard L. England, as well as Orrie de Nooyer and others.

Q Now -- A No, I haven't finished my answer.

Q Oh, more people. A Oh, yes. You have to get the feel of this, Senator. You will enjoy it. Watch! So they had all these plans.

Q Excuse me a moment. I want to take one point at a time, if I may, and you will certainly be given your four minutes. You mentioned people who were at conferences and the point I am trying to develop - and maybe we can save some time here - is that nowhere in this statute can I find specific legislative or statutory approval for the building of the Cultural Center. A Senator, ---

Q Please. I didn't interrupt you; now you don't interrupt me. A You did interrupt me. You are on my interrupted minute right now, but go ahead, Senator. I defer to you.

Q Secondly, when you say there were conferences, you mentioned a number of people, but to me the significant fact is that in the listing that you just went over, you didn't say that the entire Assembly, the entire Senate and the Governor

approved it. This is what I am looking for. I am not opposed to culture. I want to make that very clear and get that into the record. I am very fond of it. But on the other hand, I certainly feel very strongly about authorities, the fact that they have no constitutional debt limit, they can exceed it, the fact that in this particular case an authority spent \$7 million which in my opinion is a considerable sum of money, and I can add that I feel just as strongly that when such expenditures are about to take place, legislative and gubernatorial approval should be required regardless of what political parties are in power. And by legislative and gubernatorial approval, I mean specific legislation introduced which states that such a sum may be expended for this specific purpose, passes both Houses, signed into law by the Governor in the normal course of events, or if this isn't done, then it should be included in the enabling legislation and very specifically mentioned, just as the bridges, the tunnels, the overpasses, underpasses, interchanges, toll houses, etc. are specifically mentioned.

But when we say "adjoining park or recreational areas" and then out of this very, very simple phrase say this includes a cultural center, a possible skating rink, flower beds, well, to my way of thinking if you are going to expand a cultural area to that point, then there is no limit whatsoever as to what this Commission can do with toll revenues that they collect because I can think of almost anything that according to a particular individual's concept may fall within the realm of recreation. And I think this is wrong. I think it is completely wrong that a Commission of three men can say how such vast sums

of money can be expended without legislative and gubernatorial approval and that's all I am after. I am not saying that there is anything wrong with culture. I am not even making a decision as to whether or not a ski slope should be built. What I am saying is if you want to build a ski slope, then you should come or the Commission before the Legislature, the bill should be presented, if it passes both houses and is signed into law by the Governor, fine. But I don't think it should be left within the power of just a few people to spend such vast sums of money without specific legislative approval. And as you know, I introduced a bill, Senate Bill 493, to accomplish this particular purpose.

All right, you may continue.

ASSEMBLYMAN WILSON: I have a question I would like to ask Mr. Tonti and it will be along the same line.

MR. TONTI: When do I get a chance?

ASSEMBLYMAN WILSON: You are, Mr. Tonti, without question, going to be able to answer this question.

All right?

BY ASSEMBLYMAN WILSON:

Q First of all, you said when they talked about the plans for a swimming pool and so forth - I am not going to elaborate - it was back in 1953 -- Now you have worked with the Authority since what date? A '54.

Q '54. When the Parkway was first opened, how long did they think this was going to take care of the needs as far as transportation, as far as the north and south route along the

Atlantic coast? Didn't they expect this for a long period of time was going to actually take care of the traffic?

A Until 1975.

Q All right. So at this particular time they thought without question that the traffic would be alleviated, they wouldn't have any problems as far as traffic congestion, so maybe they started to think about a park and recreational facilities and this was just plans at this particular time. Now let us go into the 1960's where we had a congested roadway where traffic was backed up in your summer months. Then is the time that the New Jersey Highway Authority decides to build a cultural center. A Right.

Q At this particular time if I were a member of the New Jersey Highway Authority, my first thought would have been, "What can we do to alleviate the congestion on the Parkway?" So when you read your statement, we also have to take into consideration the times involved - 1953 versus the 1960's, 1964, 1965 and 1966. Would you comment on that statement?

A I would be glad to. That was our first concern in 1961, 1962, '63, and '64, right up to the present day, the first concern being to expand the facilities of the Garden State Parkway. And we came to the Legislature and the Legislature responded eloquently by passing A 16, which would make possible a \$265 million expansion of the Garden State Parkway facilities to serve the public better.

In the meantime, while pursuing that with the Legislature and getting legislative approval - although we ran into some difficulties in Congress by the way - we didn't stop.

We have spent, Mr. Chairman, \$64 million in the last eleven and one-half years expanding the present Garden State Parkway and we have right now in the works expansion facilities of another \$59 million of the present Parkway, for example, \$14 million to expand the Parkway in the area between the New Jersey Turnpike Interchange and the Raritan River Bridge. We are going to spend \$8,866,000 to widen the Raritan River Bridge. Those bids will go out in the next 90 days. We will spend another \$1,600,000 expanding the Raritan toll plaza area, another \$26 million expanding the Parkway from the Raritan River to Keyport - Matawan, another \$21 million expanding the Parkway from Keyport - Matawan to Eatontown, another \$10 or \$12 million from Eatontown down to Toms river, etc., etc. I can provide all those lists. Engineering work is going on in various stages and is staged in such a manner so those areas of greatest priority will get the first attention. We have been doing this regularly and consistently for years and that has always been our primary concern. And our record demonstrates that right now we handle 56 million more vehicles a year than the New Jersey Turnpike does. We did that because we have expanded the Parkway from four lanes to six lanes all the way from Saddle Brook in Bergen County down to Bay Head. That was done in stages out of the funds generated from tolls, regularly year after year. Otherwise you wouldn't be handling 135 million vehicles per year. So, therefore, if you had been on the Commission, which was your question, you would have made undoubtedly the same decisions that we made, namely, expand the Parkway and we are doing it as fast as is physically and legally possible.

ASSEMBLYMAN WILSON: The thing is that I wouldn't have gone into any other venture whatsoever if I had still had a congested roadway.

Senator Rinaldo, do you have another question along the same line?

MR. TONTI: I have to answer Senator Rinaldo. I have to comment on his question.

ASSEMBLYMAN WILSON: I thought you did.

MR. TONTI: No, I never got a chance to finish.

BY SENATOR RINALDO:

Q You are answering the question on legislative approval and I told you what I meant when I said "legislative approval" - "legislative intent." A I know what you told me and I am just waiting for the opportunity to comment on it. That's all.

Q Since I have a couple of other questions, maybe you could give a specific answer as to --- A No, don't tell me how to answer my questions, Senator. That isn't fair.

Q I am not putting any words in your mouth. A You are kind of asking me to not be as eloquent as you are. I know I never will be, but I will be just as lengthy. That's for sure.

ASSEMBLYMAN WILSON: Well, let's just get right down to the facts and let's just have a little question and answer session.

MR. TONTI: I just want to resume my answer.

ASSEMBLYMAN WILSON: All right.

[Witness continuing] My answer then is this: Those facilities that were designed and laid out as a master plan for Telegraph Hill had a total cost of \$9,085,000 - now this is during Governor Driscoll's administration - and by the framers of the bill. All we did at a later date, which was after 1961 when the financial stability of the Parkway was assured - we substituted one type of recreational facility for another. We substituted a Center for the Performing Arts for athletic facilities. I just wanted you to know how we arrived at the decision. We felt we were complying with the mandate which had been promulgated in one form by our predecessors and merely going on and doing this very beneficial project in the recreational field.

Q Excuse me one minute, Mr. Tonti. When you say "we," you mean the Commissioners? A The Commissioners.

Q I wanted to get to the core of this. The Commissioners substituted one project for another. A Right. And interestingly enough when this final decision was made after much research, as you will see in my statement, then the Governor of the State told the Legislature on January 12, 1965, - I don't believe, Senator, you were in the Legislature at that time - but he told the Legislature and then further on January 31, 1965, the Governor sent a note to every member of the Legislature saying, here are some more details on that project that I mentioned in my Annual Message - I am enthusiastically behind it and here it is for your information or comments, or something to that effect.

Q For purposes of the record, I believe Mr. Tonti when he is referring to the Governor in this context, is

referring to the present Governor, Governor Richard J. Hughes.

A Yes. But it is interesting to note the Governor who was in office at the time that this statute, this unique statute, admittedly unique statute, which incorporated not only the responsibility of building a super highway, but also embraced the responsibility in the public interest of constructing and operating recreational areas - that Governor wrote me a letter. It is Governor Driscoll and I want to read it into the record because it is right on the point on all fours with the questions you asked, Senator.

Q Once again I think - and certainly I will allow you to read the letter into the record - I am not opposed to it by any means - I think there should be a full disclosure -- but once again we are getting off the track. We are talking about the Executive. The Executive sent the letter. The Executive told the Legislature. The Executive did this and the Executive did that. When I say "Executive," I want to be precise. I mean the Governor. And I don't care whether it was Governor Hughes or Governor Driscoll because I am not here to play politics. I am here to get to the core of a very, very fundamental principle. What I am looking for, I repeat, is legislative intent. I don't see in the statute anything that says, "Let's go the Cultural Center," although there are many other specific items mentioned. There are the road projects --

A I know what you mean.

Q [Continuing] -- the traffic circles, the grade separations, the interchanges, underpasses and overpasses, and I will repeat them over and over again. I don't see Cultural Center.

I don't see anywhere in your testimony that you presented thus far the legislative intent, legislative approval, if you will, and specifically -- Maybe I should withdraw that question and reframe it. Was there legislative approval in the form of any specific enabling legislation to authorize the construction of the Garden State Cultural Center?

A I am merely indicating that there are some people that think there was - responsible people who think there was legislative approval. And I am merely putting into the record for the benefit of this Study Commission, Senator, a different point of view than the Senator has because I think you want to know both points of view.

Q I definitely do. A Yours I understand perfectly and disagree with vehemently. Now I would like to back up my disagreement with the Senator by demonstrating from a very responsible source that he has a different interpretation of how he looks at this legislation and I would like to put it into the record.

Q Let's get it in the record in the form of a couple of questions first. Outside of the fact that 27:12B-3 gives the Authority the right to build along with the roads, adjoining park or recreational areas, is there any other statute or section of this New Jersey Highway Authority Act that in your opinion refers specifically to the Cultural Center?

A Not to my knowledge.

MR. FOLEY: But for the record so that you can be fully conversant with the impact of the statute, Senator, the statute, which is a legislative expression

of intent, utilizes words such as "project." If you will notice, "project" is used in that statute sometimes with a capital "P", sometimes with a lower case "p". The same is true of the word "State." The same is true of a great many other words. That statute can only be read, to be fully understood, with its counterpart which is the bond resolution under which \$285 million worth of bonds were sold. Every comma, every article in that legislation has a significance to a bond attorney and to the financial world and it can only be read with that in mind.

When you are talking about "project," for instance, it is not just project with the connotation that the layman might give it. I am suggesting to you, only in answer to your question, "Is there any other legislation," this legislation can't be understood unless it is understood in relationship to the bond issue which it intended to support.

SENATOR RINALDO: But once again - and you are not being questioned now, but the comment is appreciated - the bond issue was not approved by the legislative body. As a matter of record, I voted against every authority bill that came before the Senate this year because in my opinion they were too broad, there were too many powers vested in specific individuals. I am not opposed to authorities, per se. They have a definite place in our society. But I think that the unbridled power of certain authorities must be curbed

somewhere along the line. And I am not referring to political parties either. I want to emphasize that over and over again. I am saying that the Legislature and the Governor, regardless of political party affiliation should have the right to pass on a project of this magnitude.

We have two different viewpoints here. It is very, very obvious right at this stage. You and Mr. Tonti feel that "park or recreational areas" as defined in the act encompasses a Cultural Center. I have my doubts about that. I think it is possible. I also think it is possible that the Culteral Center is an illegal act as this could be interpreted. I don't know because no court has ever ruled on it. Maybe if we go far enough, some day a court will rule on it. I don't know. That is not the reason for the questioning. I am not out to close down the Cultural Center. I certainly think we have a need for additional culture in this State. What I am getting at, what I have been hammering at since January, is that the Parkway takes in a tremendous amount of revenue and I think that there should be some curb on how it is spent. Legislative approval should be required for projects that are not part of the day-to-day operation, that are not within what we would consider the ordinary framework of a road-building agency, and I introduced a bill to that effect, Senate Bill 493. Maybe we can get to the core of it --

MR. FOLEY: Let's get to the core of it.

SENATOR RINALDO: [Continuing] -- by asking
Mr. Tonti this question.

BY SENATOR RINALDO:

Q Right now, if you were going to build - one thing that was mentioned was a ski slope - would you have any objection to going before the Legislature for approval in the form of a specific authorization or law that would pass both Houses and be signed by the Governor for this project? A I have no objection, but I don't believe it is necessary. And still on the core of the problem, Senator, the interesting thing is that as you interpret the statute, there are others like Governor Driscoll who interpreted it differently, and I want you to hear what Governor Driscoll told me in this letter.

Q I don't want you to wait any longer. I want you to read that letter into the record. A Ah, that's very kind of you.

BY SENATOR WILSON:

Q First, when was he Governor - fifteen years ago?
A Yes.

MR. FOLEY: Mr. Chairman, the question posed to the witness ---

ASSEMBLYMAN WILSON: Well, I can overrule as Chairman, can I not?

MR. FOLEY: I guess you can.

ASSEMBLYMAN WILSON: All right, fine. Thank you.

Q First of all, I am very interested in hearing this letter and I know that he was Governor fifteen years ago and I think the priorities of our State may have changed since

fifteen years ago and also the outlook of the New Jersey Highway Authority. I think we have an urban crisis and so forth now. A That isn't my problem. That's all beside the point, Mr. Chairman. The Senator is anxious to know what this statute means in terms of doing things other than highways and I am trying to show him that the framers of this statute and the men who created this corporation had something in mind.

BY SENATOR RINALDO:

Q I am waiting with bated breath to hear that letter, but I will object when you say the framers. The letter, I want to state very clearly in the record, is from Governor Driscoll and he was not one of the framers of this statute.

The framers of the statute were members of the Legislature who introduced the enabling legislation that created the New Jersey Highway Authority. A I concede that - right. He says: [Reading] "Dear Mr. Tonti: As I have explained to you and members of the New Jersey Highway Authority on more than one occasion, the Garden State Parkway was planned and designed to be something more than a highway. The New Jersey Turnpike was a necessary workhorse -- the Garden State Parkway was planned for the use and enjoyment of the citizens of New Jersey.

"In my discussions with the legislative leaders, we considered picnic areas," - Let me read that again, Senator. - "In my discussions with the legislative leaders, we considered picnic areas, recreational areas, and protection of wildlife. This is the reason that you will find in Section 27:12B-3 (d) * * *" - the language that both you and I read.

"In our planning of the Parkway," Governor Driscoll goes on, "we always considered Telegraph Hill in Monmouth County to be an unique opportunity for the carrying out of the purposes of the legislative intent. Construction of the Garden State Arts Center and related facilities including nature trails, picnic areas, more than fulfilled our hopes.

"As I travel the Garden State Parkway, I get a genuine sense of satisfaction when I observe the use of the various picnic areas and view the magnificent Arts Center." Signed, Alfred E. Driscoll.

I think this is pertinent to the question.

Q When was it dated, please? A Dated October 29, 1968.

Q 1968. When was the Garden State Parkway built, Mr. Tonti? A It was completed in 1955.

Q 1955. The enabling statute, I believe, went into effect in 1952. A Right.

Q And sixteen years later you read into the record a letter from a Governor that says this is what the legislative intent was? A Sure, because I believe a Study Commission is anxious to find the origins of great ideas.

Q I will add one other point to this. Quite frankly, I know a lot of legislative leaders in the current Legislature have a lot of ideas that I don't agree with. So I don't think this is a true expression of legislative intent - a letter from a Governor sixteen years after the fact, and a couple of years after the completion of the facility in question.

Let me get to the heart of this once again. Are

you personally opposed to Senate Bill No. 493, which would require the New Jersey Highway Authority to require legislative approval and gubernatorial approval for any projects outside their ordinary purview - outside the area of roadbuilding?

A I have no objection really if it doesn't have any conflict with existing obligations that we have under the bond indenture.

SENATOR RINALDO: No, I wouldn't want it to conflict. Well, I am glad we are on the same team.

It has taken us ten months to get to this point.

BY ASSEMBLYMAN WILSON:

Q Good. Now let's change the subject. Let's go now into the Cultural Center and its construction. I have some questions I would like to ask you about the cost and bidding procedures and so forth which the Commissioner did not answer this morning.

The contract for the construction of the amphitheater was awarded to Sovereign Construction Company as the low bidder. Sovereign's bid was \$2,797,100. At the request of the Authority, Sovereign suggested economies and recommended deletion of \$801,800 from the contract. This was done and the contract was awarded at \$1,995,300, which was the public figure. One month later, the Authority restored virtually every item previously deleted for a total of \$775,400.

My question to you, Mr. Tonti, is why this unusual bidding procedure? Why award a contract, take out over \$800,000 and then a month later restore \$775,000 of that particular contract?

A My answer, Mr. Chairman, is that it is nothing unusual at all when it affects a complicated project. Whether an agency of

government engages in the construction of a complicated bridge or a complicated building, it is not unusual that when the bids come in and are in great detail for the agency to temporarily defer a number of items that will not affect the immediate construction in order to re-examine those items in greater detail to see where savings can be effected. This happens every time you have a complicated project. And then in reviewing those items and making changes and substitutions and talking them over with the successful contractor, where even with his cooperation some savings can be demonstrated, then the items that can no longer be reduced in cost, naturally if they are an indispensable part of the building, are restored. You will note in the case that you cited that while you said that they were all items that were restored, that is not quite accurate; there were just a few deleted, but more importantly some were changed and they were changed so that there was a saving resulting to the Authority. So it was worth a month's effort to make those savings. But it is not unusual, Mr. Chairman, at all.

Q Let me ask you another question then having to do with the soil engineers employed for the project. They determined that changes in column heights and footings had to be made at five of the columns supporting the roof. The cost of lowering the columns and footings was \$20,000 plus \$97,000 for excavating dirt and backfilling. The total cost for these corrections was \$117,673.27. It was change order Number 4. Now whose responsibility was it for the failure of these columns to be erected with reasonable tolerances? A Nobody. Nobody failed. Nobody made a mistake of incompetence or anything like that.

Mr. Chairman, in subsurface conditions you are in the greatest mystery area in construction. One way to avert the problem is to take so many borings that you might just as well dig the whole ground out in the first place. But what we do in industry as well as in our Authority, we take sample borings and in those samplings we arrive at certain conclusions about subsurface conditions.

Now with respect to those two columns - as a matter of fact, with respect to all eight columns on this unusual building ---

Q There were five columns in that particular case.

A In that case, but there are eight columns altogether. They all had to meet one criterion. The criterion was an unusual one because of the unusual roof. The criterion was that no column could be constructed here with a tolerance greater than three-quarters of an inch. In other words, no settlement over three-quarters of an inch could be tolerated. Now that is critical to what happened in these two columns. When the excavation took place and the conditions of that soil underneath those columns was fully examined and obviously it was fully revealed that the borings didn't quite give the full story. By then it was obvious that in order to make sure that these columns would meet the criterion of not settling more than three-quarters of an inch, a drastic step needed to be taken of going ten feet lower, removing all of the unsuitable soil and replacing it with suitable soil, which means soil that has a very low, almost zero, compressibility factor. And that

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was done in the interest of maintaining the integrity of those columns which had to hold an unusual post-tensioned roof. And having done this work, that building will stand there for centuries as being engineeringwise of great integrity. And that is what has to be done sometimes. Therefore, it is not an error, Mr. Chairman. As a matter of fact, Mr. Chairman, one of the greatest corporations in this country built a building in New Jersey where again the borings were obviously non-revealing in terms of all the subsurface conditions and that company, that big corporation, spent \$8 million more to correct the subsurface problems to put up their building because of the subsurface conditions which were even worse than this. So I am saying by that analogy that this was in the normal course of events an unexpected subsurface problem which was effectively and intelligently overcome and it cost \$117,000.

Q How many test borings did they have before the construction? A We took two sets and I forget how many borings were in each set. We can supply you with all the boring results and all the boring test data that you would like. We will make it completely available to you.

Q Sovereign Construction Company requested that the site work in their contract be deleted from their contract and the work performed by the site work contractor in order to expedite the completion of the project. Sovereign accepted a \$40,000 reduction in its contract because of this (Change Order No. 8). The site work contractor, Middlesex Concrete Products and Excavating Company, agreed to perform the work for \$122,945, or \$82,945 more than the reduction in Sovereign's

contract. Why was this changed between the two companies with respect to the \$40,000 taken out of Sovereign and then given to Middlesex, and so forth? Is this normal procedure once you award a contract to one company that you take so much out and award it to another? And what about the increased cost for almost the same amount of work? A That's the secret. You said, "For the same amount of work"?

Q Well, relatively the same. A Well, how relative, Mr. Chairman?

Q Suppose you comment on how relative it was. A I will be glad, in this case, since this is a very, very interesting question that I didn't expect — I will write a complete thorough engineering analysis of both figures and what they represent and you will see that the Chairman in his question was comparing apples and oranges. There are two different things only similar with respect to some elements, but we incorporated other things when we gave it to the site contractor to do this job. There were more elements to it than just the work we deleted from Sovereign.

Q The Middlesex change order states that it will perform the work deleted from Sovereign's contract and in addition would do "a large amount of site work under Section 22 of Contract 71-475" that was deferred at the time it was awarded. But all but \$26,400 of the work originally deferred in Sovereign's contract was immediately restored and \$21,000 of the \$26,400 was restored at a later time. So that Sovereign only suffered a \$5,400 reduction for all work deferred and not subsequently restored. Why then did the Authority agree to pay \$122,945 to

Middlesex for work it would have had to pay no more than \$45,400 to Sovereign to perform? According to the Authority's own change orders, none of this work was an extra or a supplement to the original contract bid for by Sovereign, and this is as a result of investigation of your records. A Yes, but I am looking at part of the record. If you are reading Change Order 20, it shows that this was supplemental to the Middlesex contract of \$122,945 and included not only that work deleted from Sovereign, but in addition a large amount of site development work under Section 22 of that contract.

Q That is what I just said. A All right. I don't have the benefit of an accountant going through these figures, but I will gladly make our own analysis of those two figures and supply it to the Committee in writing. I will be happy to do that.

Q All right. Fine. I would like to ask you about your landscaping. Why was the contract awarded through Middlesex Construction Company and not directly to a nursery by bid? A Very good reason. A lot of times we get in trouble, Mr. Chairman, on construction contracts when we introduce contractors on the job for part of the work who are answerable to the Authority because that gives the opportunity to the existing contractors on the site to make a lot of excuses about why their work is being interfered with, especially when the nature of the work is in the same area. And it is a kind of wisdom, Mr. Chairman, that comes from many years of experience that the thing to do in a case like that is, take trees and nursery stock, and right in the area where the contractor is working

on a site with grading and drainage pipes, to say to that contractor, "You get a nursery that we approve of, competent and so on, and with prices that we can check and approve of, and you take on the assignment so that all the work is coordinated." And if anybody gets in anybody's way, we look to that contractor, that prime contractor, to answer to us without any excuses and it works out beautifully.

Q Well, that's good. I am glad to hear that because you mentioned as to checking the prices and so forth. Are you familiar with Princeton Nurseries? A I think we bought a lot of stuff from them years ago.

Q You did? It is funny I just happen to have the book from Princeton Nurseries which actually has the price for trees and so forth and I was concerned why the Middlesex Company actually selected the firm of Lewis and Valentine Nurseries, Incorporated, of Long Island and not a local firm when we have Princeton Nurseries right in New Jersey.

A First of all, that firm in Long Island - I remember the report on it - is one of the most outstanding firms in the country, but more importantly, with respect to the quantities of trees available during that period, it had the quantities of specific items, whereas other nurseries did not because they were supplying the World's Fair. We had a terrible time finding the proper material and trees at that time because it seems that we were late and the World's Fair had purchased up stock in many nurseries, including Princeton Nurseries, in order to take care of their tremendous landscaping program. In other words, even though they bought up the stock, the stock was

still there in the nursery, but we couldn't buy it because it wasn't available to us. So we had a tough time, you know, scrounging around and getting sufficient quantities of the right material during that period.

Q For example, I am not an Authority when it comes to nurseries, etc -- A I am not either.

Q [Continuing] -- but I looked up a simple tree here. You bought 312 little-leaf lindens, which I had never heard of. The price here in Princeton Nurseries, if you bought them directly from Princeton Nurseries, is \$40 apiece for the same size tree and that is a 3 to 3 1/2 inch caliber, as compared to the price of \$165 which you paid Middlesex for. We are talking about a large sum of money. We are talking about \$51,480. I would like to know the discrepancies. You said that you would want to make sure that you get the best possible price. Here - and I just picked up this book yesterday and I turned to the type of tree and the measurements and so forth and for someone to buy direct, as far as a gardener and so forth, \$40 for a tree which you paid \$165 for -- A Was that price in that book that you looked at for the first time yesterday - was that a price in the current market or in the market at the time we bought these trees?

Q Well, let's say, if anything, with inflation, it would be less back in 1967. A Not necessarily, Mr. Chairman. The law of supply and demand in nursery stock has wide fluctuations. You know, if it important to get ---

Q Well, this is fall of '67 - spring, '68. A When did we buy this stock that we are talking about?

Q It's '67. It is relatively the same period.

A It's about the same time?

Q To me, even with inflation, that seems like an awful lot. That's \$125. A I know how to subtract, Mr. Chairman.

Q Very good. A I just want to find out what is more important here than subtraction. I am trying to find out again whether we are comparing apples and apples. Are those trees balled? Are they prepared in a certain way under specifications required by the Authority?

Q You know Princeton Nurseries without question are going to ball their trees. No one sells trees without balling them. A Can we do something to be helpful to you? We will take that catalog with the specifications.

Q Well, you get it. I want this catalog. This is not even mine. A You have an affection for it, I see.

Q You can get the same one. I think it will cost you a dollar. A All right. Give me the date on it and I will get one just like it.

Q Princeton Nurseries, Trade Price List, Fall 1967 - Spring 1968. A Now let me give you a memo on that explaining ---

Q Well, I looked at all your prices on all your trees here and they are all more, a lot more, a tremendous amount more, even figuring a profit for the company, than if you had bought them directly from Princeton. And I was just surprised why no one from the Authority investigated this and said, "Let's deal then directly with Princeton." A I am surprised too, except, I want to tell you, the somebody that didn't

investigate this I am going to have in my office tomorrow morning.

Q This is Melvin J. Kahn who is right behind you -- the letter that I am looking at with the price and so forth.

A But he got it from Larry Dumont who is a landscape engineer.

Q You have a landscape engineer and also you have your own nurseries, don't you? A Sure. That's how we save a lot of trees, Mr. Chairman; you'll be proud of us for that.

Q I am also concerned with the cost here.

A Yes, I am too and I will look into it tomorrow and supply the data to you in writing.

Q Another thing concerning trees, you know, people think this is a small item; we are talking about \$170,000 -- \$188,000. Many of the trees died and these trees were guaranteed for a year from the date of acceptance. Why did Middlesex only replace six of the trees without charge and the Authority had to replace almost 50 of them and we paid for it - I mean, the Authority did? A Well, sometimes we make mistakes too, Mr. Chairman.

Q Oh, this is another mistake. A No, I said this is a mistake. I didn't know about any others we were talking about.

Q I thought maybe with the prices of the trees, that would be a mistake. A No, you jumped at a conclusion prematurely. You can await my memo, I assume.

Q All right. A That's fine. Now let's talk about this mistake. There was a deficiency in the drainage

in the parking area which water-logged those trees that died. After the contractor pointed out that the water-logged trees which died were not their fault, we went ahead and corrected the drainage in the parking lot in that area and we got, you know, a compromise out of them. They replaced six of them? How many, was it? I don't know. They replaced only some because they established that it wasn't their liability and obviously we were at fault. We didn't have sufficient drainage in that section of the parking lot. I bet Joyce Kilmer wouldn't like this kind of a hearing.

Q All right, Mr. Tonti, Change Order No. 3. And we are naturally going by what the accountant did as far as going through the record. I did a little work myself because I happen to have some friends who are in the nursery business. Change Order No. 3 to Sovereign increased the cost of the building by \$39,000 so that white cement could be used rather than natural color cement. In addition a change in the specified sand was made increasing the cost by \$13,907. Was this increased cost justified? A Yes, it was, Mr. Chairman.

Q Why? A Because it is about time that you and I as members of this society pay attention to esthetics. It was done purely for esthetics. And isn't it refreshing that just one time one place somewhere you and I can set aside the mundane things and pay some attention to beauty. It was done simply for beauty and I'll back that up any time as being a worthwhile expenditure when it merely represents such an infinitesimal fraction of the total cost and look at how

beautiful that building is. Go up there, Mr. Chairman, every weekend and you will see 400 and 500 sightseers from New Jersey who have new pride in their State because that building is attractive and is esthetically acceptable. As a matter of fact, it is a shining light in our State which has been criticized so often - as recently as a week ago on a CBS editorial - for being ugly and here is something that is beautiful. Let's not argue against beauty when it only costs \$52,000 out of 6 3/4 million.

Q Let me ask you another question now. Let's talk about \$93,845. Let's talk about the drainage problem that you had. Was not there careful planning of the construction of the Cultural Center? I really felt bad the opening night when it did rain. I did. A No worse than I did.

Q You had my sympathy without question. On the other hand, with years of careful planning and so forth, you would think when you spend 6.7 million dollars for construction of a building, that problems like this you would not have to be concerned with. A That's not true. We are concerned. First of all --

Q Well, I mean, by concerned, the fact you have to pay additional money, say \$94,000. A We are very concerned. As a matter of fact, we were concerned before the Chairman was. And you can see minutes of meetings where we have had every responsible party in, including the architect, the drainage engineers, all the people involved, and the contractors, and also in the interest of not having this happen again, we spent \$93,000 as you said this morning to make the correction. And

here I use the word "correction," correctly because what we did, we by-passed this 12-inch line that was crushed and was only partly effective. We replaced it and by-passed it with a new line which cost us the \$93,000 and put on notice everybody concerned that somebody is going to pay for this. And by the way, the file which is nearing completion will be soon be in the hands of General Counsel for that purpose and this decision was made sometime ago.

Q That's very good to know and I hope you keep us informed as far as that is concerned -- A I will be glad to.

Q [Continuing] -- as to the person who has to pay, etc.

BY SENATOR RINALDO:

Q I just have one final question that I think would be important to this entire record and I will be brief. I don't want Mr. Tonti to say that I was lengthy again. A I don't mind. I was just kidding.

Q You mentioned in your earlier testimony that shortly after the passage of the legislation creating the New Jersey Highway Authority that engineers received the go-ahead to prepare plans for Telegraph Hill and what I would like to know specifically is the name of the individual or individuals who issued that initial order to prepare plans for Telegraph Hill. A I gave you the names of the four engineering firms that got the orders. This is before my time.

Q Do you know the answer to this question? A Sure, I do.

Q All right. A They received their orders

from Ransford J. Abbott and co-signed by Harold Giffin. Mr. Abbott was Chairman of the Authority and Executive Director and Harold Giffin was the first Chief Engineer.

Q Do you have a copy of that letter or transmittal of that order? A No, but I have a report of a conference where those instructions were given by those two gentlemen.

Q Could you make that report available to the members of this Commission -- A I would be glad to.

Q [Continuing] -- with the initial order so that it can be shown on the record by your testimony and also substantiated that this was when the original and first order was given to prepare any type of plans for Telegraph Hill.

A I'll be glad to.

SENATOR RINALDO: That's all I have, Mr. Chairman.

BY ASSEMBLYMAN WILSON:

Q Mr. Tonti, let's go back to this Lewis and Valentine contract. Is it true that they were only paid \$140,000 for this contract which Middlesex was paid \$187,714.50?

A It may be, but I don't know.

Q Why would that be? For example, you pay Middlesex \$187,000 and the nursery is only paid \$140,000 for the trees, so that's a profit of \$47,000 for Middlesex for actually being the go-between? A Well, I don't know whether it is a profit or not, Mr. Chairman. That was your words. But I would explain the difference, which I will not characterize as a profit or anything else -- I would explain the difference simply that if Middlesex had the problem of coordinating this work and had people on the job doing that kind of coordination - because

remember the work on curbs and paving and grading was going on simultaneously with planting trees and so forth - if that is what it took them to do that work, I suppose that explains the difference. But I will gladly look into it and get more detailed reasons why there is a difference between those two costs.

Q All right. A But I am close to this subject and I wouldn't dare arrive at a conclusion that it was profit. I assume that the Chairman will await the written report.

Q O.K. Well, I'll wait then. Sure. Let's change the subject. Let's go into the operation of the Arts Center and let's talk about Nederlander Associates. Why were they hired and who recommended them? A Well, the Authority Commissioners had a difficult policy decision before them some years ago on this project. The decision was whether to operate this Arts Center entirely within the staff of the Authority by setting up a special division, which incidentally I recommended, or by taking the other view which we have taken on other occasions, on other projects, of giving the whole matter over to an outside firm to carry out the managerial duties. This is not unlike the situation where we built millions of dollars worth of restaurants and gas stations and we turned them over to somebody else to operate - a very good analogy.

Now, when the Commissioners made the basic policy decision that they wanted it turned over to somebody else, we explored the field and interviewed and discussed with six outstanding firms in this Nation the prospect of handling this particular project and the Nederlander firm was selected out of

the six. I don't remember the names of all the other firms, but I remember some, Ashley Famous, the William Morris Agency, Judson Biehl, which is another big outfit, and Sol Hurok, who incidentally turned it down flat, but has been very cooperative and what not, but he didn't want any part of managing, and so on. So that's how we went about it generally.

Q What was the actual agreement with the Nederlander Associates? A Well, do you have it before you?

Q Well, I would like it for the record. A Surely. In essence it says that they take over the full responsibility of booking, handling subscriptions in ticket sales and general management of the Arts Center during the summer festival. They would underwrite all costs of the summer festival and then, with a definition, of course, would make available to the Authority one-third of the surplus at the end of the season after accounting was completed on December 1st. Essentially those are the characteristics of it.

Q How much did they receive for the past season? A We don't know yet.

Q Oh, you don't know. Do you have any estimate? Do you have any idea? A I don't want to estimate. All that I know is that the gross is in excess of one million dollars.

Q It says here - and I am again quoting from a news release - "'However, there is hardly any profit. Two-thirds of nothing is pretty low,' Tonti said. He estimated the firm received about \$70,000 for the season." Would that be an accurate figure? A No.

Q They will receive less? A Or more.

Q Or more. And this will be completed in December?

A We tried to get it earlier, but they keep telling us the contract says December 1st, their auditors aren't finished, and, you know, we can't fight that, but we tried.

Q You have cancelled the contract with this firm?

A No, we have not. You believe everything you read in the newspapers, Mr. Chairman. You have been misled.

Q Well, it says here, "'We just cancelled; firing is too strong a word,' he added." A Was that a UPI ---

Q "Louis Tonti, Executive Director of the Garden State Parkway Authority which manages the multi-million-dollar amphitheater, last night said, 'The agents did a good job on bookings, but caused too much pain and trouble in the subscription tickets. We just cancelled; firing is too strong,' he added." This was in the newspaper. I never saw anything to refute this statement at a later date.

A It was corrected in a subsequent story which you obviously didn't see because it was printed on the last page. So don't be misled by that story.

Q You still have the same company? A Yes.

Q Well, I understand that you were now going to handle the bookings with the Parkway. You have changed now and have gone back --- A We have a contract for five years, Mr. Chairman.

Q Oh, is it the fact that you wanted to cancel them and you couldn't because of the contract? A Let's say that we ---

Q It seems to me from this article that you were

definitely dissatisfied with their service. A Well, let's agree that this article is inaccurate. Can we agree on that?

Q Were you dissatisfied with their service?

A I wasn't completely happy with it, not by any means, and I think that I have been rather frank about that on a number of occasions. That is why somebody took the liberty of writing that article. No, I have not been happy with them - not at all.

Q But yet because of a five-year contract, you have to honor it for the next --- A Plus the fact that I assume they are going to make some changes. They are not going to sell subscriptions from Detroit anymore. That we made very clear. The Commissioners laid the law down. And all that work will be handled in New Jersey and New Jersey residents are going to get far better attention than they got in the past and this is a satisfying development for the future, among other things.

Q How about the acoustics in some areas of the Cultural Center? I heard in some areas they are not as good as you would have liked them. Is that so? A Mr. Chairman, that's a good question because it has caused some confusion. There is a difference, Mr. Chairman, I believe, in the terms "acoustics" and "amplification." The acoustics of this Arts Center are magnificent. Now that is not my opinion, but the opinion of people like Eugene Ormandy, Van Cliburn and many others. What happened though is several times this summer visiting artists which really are a whole company of people - I didn't realize it - get to quite a sophisticated stage. They bring their own sound equipment and amplification equipment

which they insist on using. They bring their own sound engineer. And respectfully for those gentlemen that operate those facilities, they never dealt with a theater like this. So several of the visiting companies came with equipment that was either obsolete or inadequate or for other reasons did not project the sound and distribute the sound in a manner to take care of every corner of that round theater. So in several performances we had complaints. I want you to know that in all the instances where the complaints were obviously justified, the money was refunded to the patron.

Q Who handles your concession stands and food preparation? Is that the Highway Authority itself?

A No, that is Nederlander. I think they do it in a sub-contract with somebody - some firm.

Q Did it not cost the Highway Authority approximately \$55,000 for these areas where they are going to have the food stands and concessions. A Yes, but we get ---

Q We expect to get a profit from that, the Highway Authority. A Oh, yes, that's a very profitable operation.

Q I would be very interested in seeing exactly what they get on that. Well, I will get all this in the record. A You will get all that in a breakdown.

Q Also, Mr. Tonti, as you know, there was a bill that passed the Assembly by a vote of 75 to 1 which would give the Governor veto power over the actions of the Highway Authority and the minutes and actions of the Highway Authority. What is your opinion of this bill as Executive Director? A I have mixed emotions about it. I tend not to be overly concerned about

it because I guess there is a natural human tendency to resist that kind of veto power. But in the broad view, I see no harm in it. I only see the possibility that it tends to contravene the philosophy on which the authority instrumentality of government rests. By this I mean that one of the virtues of an authority is that it is insulated - it is insulated. Some people use the word "unresponsive," but I don't believe that. It is insulated from some of the pressures that build up in the areas of the elected officials in government. And some of these pressures are often in contradiction to the technical justification for public works which are really drenched in great technicalities nowadays. So if we start eroding that kind of autonomy, I believe it might have a tendency to frustrate the development of some important projects or at least delay them unnecessarily if pressures build up. But viewing that possibility with the broader view that I mentioned first, I would say that I'd resolve both factors in favor of a veto power.

Q You brought up a very interesting point about autonomous authorities when you said that they can be insulated and not having the pressures of elected officials. And this might be a disadvantage of authorities also -- A I know.

Q [Continuing] -- because of the fact that the elected officials have to be more subject to the problems at the time whereas you say that an authority could be insulated as far as these various problems. To me, when an authority actually puts themselves up in a castle on the top of a mountain and forgets about the problems of a society, this also is a

disadvantage and we have some very large authorities around that would make the New Jersey Highway Authority extremely small. A It's a little baby. I know what you mean, Mr. Chairman, because I have heard that argument before. But in the interest of pursuing that thought because it is important to your Study Commission, let me point out that the authority instrumentality is in fact a public corporation which uses no tax dollars, it uses, in fact, a different technique of financing which has its benefits and maybe some disadvantages, but mostly benefits. And having that kind of characteristic, it is, I believe, a very sound situation that we have in our democracy where the Legislature in the first instance, representing the people of the State, makes a basic policy decision. Let's follow this thought. The Legislature says, "Yes, we want a super highway from Bergen County to Cape May and we want it beautiful and esthetic and we want it to build recreational areas in it and we want it to have these general characteristics, and so forth." Then they say, "In order to do this - we have no tax dollars," - but they set up this corporate entity and give it certain powers, broad powers, and then say, "Go finance yourself and build this thing as a trusteeship and when you pay off the debt, we will take over the facility." Now in order to accomplish that type of financing, it is indispensable to this technique of government that there be no opportunity to erode the autonomy of that body; otherwise, it can't carry out its function with the borrowed millions of dollars effectively because once the broad policy decision was made by the Legislature on behalf of the people, the rest is technical. It is building

bridges and drainage systems and matters of great technical characteristics which can't be handled by the town meeting method. They are tossed in the hands of a competent corporation which gets competent people to do the job. And I see in that sequence of events the prompt promulgation of much needed public works in the public interest which other forms of government using tax moneys have not succeeded in matching, not by a long shot.

Q But also as far as authorities are concerned, you say that they are created with very general and broad terms and maybe that is one of the problems. A I think so. I think that is what is bothering the Commission and other people that talk about this problem.

Q And the terms are too broad. And also just as government, any form of government, whether you are on a local level or a State level or just as an Authority - it depends upon the people filling these various posts as to what is going to be benefitted from this particular government structure or in this case an authority. So, therefore, it wouldn't bother you too much as far as the veto power over the actions of the Highway Authority. A It doesn't bother me.

Q Let me ask you another question. As you know, the members of the Commission in the Assembly have sponsored a bill which would change the structure of the Highway Authority increasing its members, decreasing the terms from nine to five, with the idea in mind of having a greater representation from throughout the State and also having a new member appointed every year so you have a change of ideas or philosophy and again

trying to maybe, using this word that you mentioned, break down some of this insulation that might be in an authority where it would, you know, not be in tune with the problems and times of our society and in this case, particularly our State, which I think is important too. Now I am not against - and Senator Rinaldo made this statement also - I am not against authorities in general. I think that there are definite needs. On the other hand, I think that maybe the structure of some authorities could be changed and also as far as the techniques for reporting back to the elected officials who, as you said before, are subject to the pressures of the people and should be in tune with the problems of our particular State or society. Would you comment on that? A I would like to comment on that, Mr. Chairman, because it is a very fair question. But I have no struggle with the question because I don't believe that the bill by adding two members and reducing their terms will accomplish the objective you described because you described the objective as to making it a little more responsive and to get new fresh ideas in and so on and make it more geographically representative. Then you go back again to this insulation, this autonomy part that you feel could be opened up a little bit by adding two members. But I respectfully point out that you criticized this same characteristic in other authorities that have ten commissioners. Therefore, my point is that if that is your objective, I don't believe that adding two members and reducing the length of the term accomplishes your objective. And by the way, I don't believe that your objective needs to be accomplished

by that method. If only the elected officials in the Legislature would read more of the material the authorities send them, you would know more about authorities in the Legislature. We send all kinds of information to the Legislature to various committees and glad to do it and would gladly send more if requested.

As a matter of fact, Mr. Chairman, we are so proud of some of the things that we do in the authority that nobody pays attention to in the Legislature that we get lonesome, and I mean that. Let me tell you a good example. Nobody in the Legislature, but nobody, knew years ago, like 1963, knew that we did something that deserved a real pat on the back.

Q We made you feel wanted then, our Commission.

A Well, I'll tell you we want you to make us, you know, feel like we belong because nobody paid attention to the fact that without any instructions from the Governor or the Controller of the State or the Treasurer or any member of the Legislature, this little Authority went out and refunded the D and E bonds which you probably studied in all of your paraphernalia. Do you know what that refunding did, Mr. Chairman? It was fascinating. We took a gamble. Nobody told us to do this. We took new bids in a very good bond market and those D and E bonds which we had to pay 4 3/8ths per cent on - as a matter of fact the cost of money was 4.4530 - we took bids in a good market in 1962 and got three bidders and the low bidder was 3.3359. Now what that means, Mr. Chairman, is that between 1963 and 1988 when those bonds are paid off, this little corporation saved \$4,760,000 in interest. Nobody said - not even the newspapers

picked it up - nobody from the Legislature said, "Job well done." And I want to point out that if we hadn't done it, you wouldn't have known the difference. Nobody would have known the difference. The only thing that happened was a distinguished citizen of this State called me on the phone and bawled me out because his bank called him in with his old bonds and gave him new bonds where the interest rate was a lot lower and he was mad as the dickens. And when he took a pause from being angry with me, I finally, you know, got the courage to say, "Instead of being angry, why don't you compliment an agency of government that without any instigation from a committee of the Legislature or anybody else saved \$4,750,000 in interest." I even told this fellow, "if somebody stole \$10 worth of gasoline or bought a tree from a nursery for \$30 more, they would be all looking at it."

Q No, \$125. A Or \$125 more. But there is \$4,700,000 and nobody in the Legislature said, "Good."

SENATOR RINALDO: I followed what you have done very, very closely and quite frankly this got by me, but I think it is an excellent point. And I would really sincerely hope more members of the Legislature would keep apprised of what you are doing and maybe together with Mr. Foley, your counsel, we could work on some legislation that would require more detailed annual financial reports to the Legislature. I am sure this way you would be able to publicize it better - reports that would detail receipts, expenditures, fiscal transactions and financial condition every year

and this would even save you the trouble of sending out a press release by having this Legislature be reminded annually what you have done and each members of the Legislature would get it and we would all know about the wonderful savings that take place from time to time. So this is something that we may want to think about, all of us right here today.

MR. TONTI: I am thinking about it right now, Mr. Senator, because I really believe that the spirit of cooperation need not be legislated. Just by a self-energized Legislature, call us down like you are doing now on a fact-finding basis because I believe this is truly a fact-finding situation, a Study Commission. We are helping you study us. We want to because we are proud of what you will study. And I think that cooperation, whether you meet with Mr. Foley or not or whether you draw legislation up or not, really still depends upon the members of the Legislature being as interested as you are. And I respect your interest. I wish the others would be just as deeply interested as you are in what we are doing. We want you to be because we are proud of what we do.

MR. FOLEY: May I just say that what the Senator suggests is no burden because we already do it for thousands of bondholders who are looking over our shoulders every day. So we would be glad

to do it.

SENATOR RINALDO: Fine. I was wondering what bill I could introduce next year on authorities and you have just given me a good idea.

ASSEMBLYMAN WILSON: When I was commenting on the term of your Commissioners - and I studied authorities throughout the State and none of them are nine years. Most of them are five. I think it is relatively too long.

MR. TONTI: Throughout the country, you are right.

ASSEMBLYMAN WILSON: I was startled by the answer of Dr. Townsend today when I asked him, "When will your term expire," and he ---

MR. TONTI: He feels pretty old these days. He has had a terrible operation and you can understand he is kind of depressed and I was kind of shocked at that answer too.

ASSEMBLYMAN WILSON: Well, that's it, Mr. Tonti. We will have you in again. Thank you very much.

MR. TONTI: You are very welcome. It will be a pleasure to come back.

We will now close the Commission hearing and have another one at a future date.

[Hearing Adjourned]

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STATEMENT OF D. LOUIS TONTI

EXECUTIVE DIRECTOR - NEW JERSEY HIGHWAY AUTHORITY

Before

STATE LEGISLATURE COMMISSION ON AUTONOMOUS AUTHORITIES

At A Hearing In The State House, Trenton, New Jersey

October 30, 1968

Mr. Chairman and Members of the Commission:

In the light of the previous hearing by this Commission on May 14th, we felt a more orderly and complete resume of the background of the Garden State Parkway and its Garden State Arts Center would be helpful. Time tends to erode the memory and obscure the clarity of facts in our swift-moving age, and accordingly we submit the following statement to recount the actual events and circumstances, and bring this whole picture into better focus.

New Jersey, during the administration of Governor Alfred E. Driscoll, had proved to the financial community that the modern toll road was a feasible and beneficial concept. This came about in 1952 when the New Jersey Turnpike was so financially successful. The unusual success of the New Jersey Turnpike made it easier for Governor Driscoll and his legislative leaders to develop legislation in 1952 for a new authority, which embraced the forward-looking concept of not only producing for the citizens of New Jersey a scenic parkway, but also providing for the development of park or recreational areas or facilities found to be "necessary and desirable to promote the public health and welfare". It was in this framework that the New Jersey Highway Authority was established in 1952, and proceeded to complete promptly one of the Nation's safest and most scenic highways, known as the Garden State Parkway.

Under Governor Driscoll's direction, the Authority in 1953, assigned to the following firms the engineering task of master planning one of four major recreational areas contemplated along the Parkway, namely the one at Telegraph Hill Park:

Clarke & Rapuano
Ammann & Whitney
Parsons, Brinckerhoff, Hall & MacDonald
Frank E. Harley Associates

Concurrently, in 1953 the Authority acquired most of the land for Telegraph Hill Park as part of the Parkway Project. The decision to concentrate on Telegraph Hill Park was made December 29, 1952 by State Highway Commissioner and Authority Chairman Ramsford J. Abbott and Authority Chief Engineer H. W. Giffin. It was also decided at this conference that roadside picnic areas where the terrain was feasible would be included along the length of the Parkway. Interestingly enough, during the publicity campaign, preceding the referendum held November 4, 1952, one-half million leaflets were distributed in New Jersey stating that the Parkway, within its broad right-of-way, would offer the motorist a wide variety of recreational facilities. The pamphlet was entitled, "What the Garden State Parkway Means To You".

The sketches and designs of this initial engineering effort at Telegraph Hill Park are still available in the files

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of the New Jersey Highway Authority. The plans show two swimming pools, an ice skating area, rest room facilities, restaurants, picnic facilities, tennis courts, baseball diamonds, bridle paths, volley ball courts, observation tower memorial, overlooks and the Administration Building. In the spring of 1967 a construction cost appraisal of these facilities totaled \$9,085,000. Since the Administration Building was built instead at Woodbridge, New Jersey in 1960 (because of lack of utilities at the proposed Telegraph Hill site at that time), this total should be reduced by one and a half million dollars.

In the early years of the Parkway many pressing problems demanded everyone's attention, and it was decided to defer the development of the Telegraph Hill area until a later date. I recall the decision, since it was made when I joined the Authority Staff in March of 1954.

By 1961 the Garden State Parkway had safely overcome its problem in the early years of continuing as a self-supporting operation, and was well on the road to financial stability. We were faced with the deferred obligation to develop a recreation area at Telegraph Hill Park. Though it was a beautiful site in Monmouth County, it was sparingly used by the public from the time the land had been purchased by the Authority. Our preliminary research showed that as a state-wide facility, the Parkway would not be making a meaningful contribution in the public

interest by providing the kind of athletic facilities contemplated in the original engineering plan. I became acutely aware of the numerous reports which spelled out a growing interest, in New Jersey and the Nation, in the performing arts. When further studies indicated that there was a great public need for facilities of this nature, we merely substituted the present concept for the earlier one, while still complying with our statutory obligation to provide recreational facilities. As you will note later, this substitution was made with the approval of Governor Richard J. Hughes, and additionally carries the endorsement of the former Governor, whose vision produced the Garden State Parkway.

After World War II, the Governor who spearheaded the use of the authority instrumentality of State government in New Jersey was former Governor Alfred E. Driscoll. By the creation of the New Jersey Turnpike Authority and the New Jersey Highway Authority our state pointed the way to many other industrial states to provide desperately needed super highways as promptly as possible. With respect to the uniqueness of the Statute which made the present Garden State Parkway possible, it is interesting to acknowledge in the record a recent letter from former Governor Alfred E. Driscoll.

I trust that this brief history establishes clearly in the minds of those who have forgotten that the development of Telegraph Hill Park followed a natural course of events from the time that Governor Driscoll and the legislative leaders in New Jersey adopted such a forward-looking concept.

The many apparent conflicts in construction figures reported from time to time on the Arts Center are easily explained when the voluminous files dating back to 1962 are examined carefully. The initial effort under this new concept involved economic research as well as Staff planning with the aid of several consultants including Parsons, Brinckerhoff, Quade and Douglas, Mr. Frank Forest of the Empire Music Festival and the Architectural Firm of McDowell-Goldstein Associates. The main thrust of this research demonstrated beyond reasonable doubt that there was widespread interest throughout New Jersey in a center for the performing arts.

In a very preliminary fashion, however, the Staff attempted to locate a modest facility at the Telegraph Hill Park Site and for study purposes developed an amphitheater which would seat about 1800 persons under an aesthetically designed plastic roof. The estimate developed on this project on November 6, 1962 was 1.6 million to 2 million dollars. Of course, since it was very preliminary it did not include parking, area lighting, grading, landscaping, drainage and equipment. This was not announced publicly because no policy decision had been made by this Authority and the Governor, and research indicated that the size was too small. After detailed discussions with the Governor and the Members of his Staff over a period of time a policy decision to proceed with this feasible project was made in 1964. Thereupon six of the leading architects in this Nation were interviewed for the assignment.

In January 1965, the Governor, at a special dinner meeting with the publishers and editors of all our newspapers made the first public announcement although it had been included in his message to the Legislature about ten days earlier. The response that evening was enthusiastic. The following morning, at a Press Conference in the Governor's office with Architect Edward Durell Stone, someone pressed for a cost figure for the building. In response the 1.6 million dollar figure was given, but everyone was cautioned that this was purely a very preliminary estimate of a project which still had to be designed. As a matter of fact, Architect Stone did not begin his work until several weeks later. During the months that followed, Edward Durell Stone and his Associates developed five or six revisions of the project and by January 21, 1966 developed the final budget for the project of \$2,997,655. This did not include stage equipment, nor architectural fees, nor any unusual excavation problems and utility costs. However, it did represent a building with 4,500 seats. The Architect warned that only when final detailed architectural drawings were complete could the cost figures be refined any further.

Soon after this the Chairman of the Authority estimated a \$5,500,000 cost for this facility and, in fact, the budget including all such costs was developed internally on December 14, 1966. Further refinements increased the seating capacity to 5,058 seats. This is an important element in the economic success of the Arts Center, since the costs relating to leading artists

require that audiences in excess of 5,000 be accommodated.

During March of 1967, the project was \$5,995,000, as the Authority encountered additional utility costs, a change in the grading plans of the site, as well as the inclusion of extensive wing walls to complete the acoustical design. During this period it was deemed necessary to increase the size of the rest room facilities, as well as the ticket office and first aid station.

The final budget of \$6,750,000 was arrived at in March 1968 and included the numerous items of equipment necessary to operate a theater which would accommodate the various forms of performing arts contemplated in the program.

There might be some further confusion in the minds of some with respect to the allocation of costs by this Authority within the entire Telegraph Hill Park Area. As you know, the Park is located on both sides of the Garden State Parkway, and on the westerly side includes such extensive facilities as the Central Maintenance Area for the entire Parkway, Maintenance Headquarters for District 4, the Electrical Division, the Sign Shop, Central Facilities for the entire Parkway, Headquarters for the Field Services Division, and Police Barracks accommodating forty troopers. The total personnel working at this location is 169 skilled and unskilled, who operate among other things about a million dollars worth of rolling equipment and tractors.

From the Parkway these facilities have been carefully camouflaged for aesthetic reasons. But the road system, indispensable for these operations to provide both north and south movement, has been available since the Parkway was completed in 1954. Since that time a number of safety improvements have been made by the addition of acceleration and deceleration lanes, as well as the addition of utilities such as water and sewage facilities. The total investment by the Authority in this location other than the Arts Center is \$4,728,000. It was a great advantage to locate the Garden State Arts Center near these facilities in order to make the maximum use of existing facilities with only slight modifications.

Any complicated project of this nature can be expected to have trying and difficult problems in the first year that it is open to the public. In spite of the difficulties, the first season of the Garden State Arts Center was characterized by wide acceptance.

The premier year of the Garden State Arts Center at Telegraph Hill Park on the Garden State Parkway was a banner one in many respects, and the popular criterion of total numbers of people who were there only helps to tell the story of its success.

Some 400,000 people--at least a fourth of whom were youngsters--visited Telegraph Hill Park during 1968 for performances in the Garden State Arts Center amphitheater and tours of the nature trails through the area.

By and large, the greater part of the turnout came during the basic summer season, starting with the invitational preview of the official Arts Center opening on Wednesday, June 12th. Sixty night-time shows were presented by outstanding artists from the classical and popular performing world in that season.

More than 300,000 alone were counted as amphitheater attendees in the roughly twelve weeks of professional performances between June 12th and September 7th, when a two-day Jazz Festival brought the curtain down on the Arts Center's first regular season of music.

But another 55,000 elementary school children and teachers from throughout New Jersey were to see nineteen specially-arranged daytime programs designed for them in the amphitheater during the rest of September.

In addition, approximately 12,000 people witnessed the semi-finals and finals of the Arts Center's 1968 Talent Expo (embracing some 500 young amateurs through local and regional auditions during the summer) on September 15 and 21 respectively, as well as the concert by the United States Army Field Band and Soldiers' Chorus on September 20.

The Monmouth Museum, which supervises the nature trails laid out by the Parkway in coordination with it through some fifty acres of Telegraph Hill Park, estimated that some 10,000 adults and children took the tours during the year. Since they were opened in October 1966 over 20,000 have enjoyed the nature trails at Telegraph Hill Park.

Add to all this the number of Parkway motorists who stopped at the Park for sight-seeing, picnicking and other forms of recreation and relaxation, and the total figure no doubt goes well beyond 400,000 for the year.

A summertime feature was the bussing in of some 30,000 senior citizens and youngsters from disadvantaged areas of the

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State to see and hear day-and-night rehearsals and performances free of charge under the auspices of the Garden State Arts Center Fund, which the New Jersey Highway Authority established with contributions from purchasers of amphitheater box seats for the season. The Fund, together with grants for such purposes from the State Departments of Community Affairs and of Conservation and Economic Development, financed the September school programming as well.

For the fifty-nine paid performances during the summer season, the gross admissions total exceeded \$1-million.

But the greater significance of the Arts Center's initial season was found in the contribution it made to the cultural life of New Jersey communities with unique facilities and diverse programming, both easily accessible and available. The hundreds of letters, telephone calls and personal messages from local authorities and the public at large attest to that meaningful contribution.

Often, reference is made to an alleged deficiency of an authority on the grounds that it is not responsive to the Legislature or the people of New Jersey. This is truly a misimpression created by those who are not familiar with the day-to-day operations of the New Jersey Highway Authority. In its operating life, during the last fourteen years, the Authority has consistently appealed to the Governor and to the Legislature and its various committees for policy decisions, as well as guidance with regard to major problems.

A factual history of these events can be found in the Annual Reports of the Authority to the Governor and to the Members of the State Legislature. A summary is set forth in attached Appendix I.

The New Jersey Highway Authority, therefore, is a creature of the New Jersey Legislature, endorsed by an overwhelming number of our citizens, both by a state-wide referendum in 1952 and by unprecedented use of its facilities in the subsequent years of operation. It is performing its functions with a degree of efficiency which has won the admiration of authorities across the Nation. Surely the members of the Legislature share with us the pride New Jersey feels in the substantial contribution the Parkway is making to the economic life of this State.

With respect to the Garden State Arts Center, it would seem to me that the Legislature would commend--as in fact many members have individually--the efforts of one of its agencies which resulted in producing a facility which has quickly become a very meaningful part of the community life of our State. The following exhibits eloquently demonstrate what the response has been from the citizens of New Jersey, as well as from the youngsters in our schools.

We have a profound respect for the problems constantly facing the New Jersey Legislature. The State Commission on Capital Needs demonstrated in its final report the need for tremendous sums of capital monies required by the State to

produce essential facilities, such as colleges, institutions, transportation facilities, et cetera, so that New Jersey can meet its obligations in these essential areas. When the Authority imaginatively substituted the Arts Center for the original plan calling for athletic facilities, it filled an important need in New Jersey without calling upon any tax funds or creating a further burden on the Legislature.

Since the Authority is a creature of the Legislature, all of us can take credit for this remarkable contribution to the public welfare and recreational climate of New Jersey.



