

PUBLIC HEARING

before

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

on

S-887

(An Act to prohibit employers from terminating or otherwise disciplining employees for refusal to work overtime and providing penalties therefor, and supplementing Title 34 of the Revised Statutes.)

Held:
May 8, 1980
City Hall
Linden, New Jersey

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COMMITTEE MEMBERS PRESENT:

Senator Eugene J. Bedell (Chairman)
Senator John T. Gregorio
Senator James H. Wallwork

ALSO:

Patricia E. Turner, Research Associate
Office of Legislative Services
Aide, Senate Labor, Industry and Professions Committee

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(This transcript was taken from a recording of the proceedings. As a result, there are some omissions and inaudible portions.)



SENATE, No. 887

STATE OF NEW JERSEY

INTRODUCED JANUARY 24, 1980

By Senator BEDELL

Referred to Committee on Labor, Industry and Professions

AN ACT to prohibit employers from terminating or otherwise disciplining employees for refusal to work overtime and providing penalties therefor, and supplementing Title 34 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. No employee shall be terminated from his or her employment,
2 nor shall any other disciplinary or other action be taken against
3 an employee, for refusal to work overtime. For purposes of this
4 act "overtime" means work performed over and above the normal
5 daily hours of work, and "normal daily hours of work" means the
6 employee's normal hours of working time, which in no event shall
7 exceed eight hours per day, unless otherwise specified by a valid
8 collective bargaining agreement.

1 2. This act shall not apply to:

2 a. Employers who employ 50 or less employees.

3 b. Work performed in emergency situations where public health
4 and safety are endangered, nor to emergencies because of unavoi-
5 dabl and unforeseeable circumstances which cause extreme disrup-
6 tion of usual operations.

7 c. Part-time employees primarily engaged in the care and tending
8 of children in the home of the employer.

9 d. Individuals employed in a bona fide executive, administrative
10 or professional capacity.

11 e. Individuals employed during the months of June, July, August
12 or September by summer camps, conferences or retreats operated
13 by a nonprofit or religious corporation or association.

1 3. An employer who violates this act is liable to the employee
2 for damages which result from the termination or disciplinary
3 action, or for the amount of \$1,000.00, whichever is greater. If the
4 court finds for the employee in an action under this act, it shall
5 award the employee the full costs of the action and reasonable
6 attorneys' fees.

1 4. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to prohibit, with certain exceptions, employers from terminating or disciplining employees for refusing to work overtime. Any employer who violates the provisions of this bill is liable to the employed for damages or \$1,000.00, whichever is greater.

SENATOR EUGENE BEDELL (Chairman): The meeting will come to order. Will you call the role please?

MS. TURNER: Senator Bedell?

SENATOR BEDELL: Here.

MS. TURNER: Senator Gregorio?

SENATOR GREGORIO: Here.

MS. TURNER: Senator Wallwork?

SENATOR WALLWORK: Here.

SENATOR BEDELL: The subject of this public hearing is Senate Bill 887. We have a number of people who wish to testify or wish to be placed on the record today. I would deeply appreciate the fact, if you will, when you are called upon to speak, please address the subject directly. Be as brief as possible, but by the same token, I don't want to give the impression that we are trying to limit anyone's right to free speech. But, we do have an extensive list and we would like to extend the courtesy to everyone. With that, I would like to call the first witness, and that would be Mr. James Moran, Local 827, I.B.E.W.

J A M E S M O R A N: Thank you, Mr. Chairman. Mr. Chairman, Senator Gregorio, Senator Wallwork, my name is Jim Moran and I am here representing Local 827, I.B.E.W., who represent the telephone workers in the State of New Jersey.

We appreciate the opportunity to present our views on Senate Bill 887, a bill that would prohibit an employer from terminating or otherwise disciplining an employee for refusing to work overtime.

Mr. Chairman, S-887 contains three main proposals. First, it would make overtime voluntary. Second, it would create certain exemptions and third, it would make provisions for waiver of the Act in emergency situations. Although some might find individual

portions of the Act troublesome, certainly, when they are all combined, the bill should be widely excepted by both labor and industry. We feel that this bill addresses the growth of mandated overtime. While it is true that in today's economy many workers want and need to work as much overtime as they can, workers bitterly resent being disciplined for refusing to work overtime. Passage of this bill will allow workers to manage their work hours beyond the standard workday, without adversely affecting their families. With the increase in the number of working mothers and with the growth of families with both father and mother employed, it is essential that workers be allowed control over their own free time. The elimination of compulsory overtime is designed to eliminate the strain on working parents who are often forced to choose between being fired or neglecting their families. The elimination of compulsory overtime is not designed to eliminate overtime, nor even designed to eliminate compulsory overtime except when there is an extreme emergency. What it is designed to do is to encourage employers and employees to jointly establish a voluntary system, which not only takes into account those working mothers, but also workers who would attend school on a part-time basis or workers with any other good and valid reason for their inability to work overtime on demand in a given situation. Many businesses have established systems of voluntary overtime and these are working well. Some business, however, continue to remain inflexible and workers are aware that they will be fired or suspended if they refuse to work overtime on demand.

Many workers in this country under union contracts now have the right to refuse overtime. Examples are in the auto, graphic arts and wholesale-retail industries. The Bureau of Labor Statistic's report providing statistical information on collective bargaining agreements involving 1,000 workers or

more shows that of July, 1976, there were 280 agreements covering almost 1.5 million workers that said employees have the right to refuse overtime.

I would like to cite examples of an inflexible employer who has brought us here today. It is that employer's policy that overtime be worked on demand. There is arbitration case #1330047379 wherein an associate staff manager cites the policy of the New Jersey Bell Telephone Company. "Question: What is the policy when you have an employee as an installer on the job who does not have enough time to finish that job? Answer: In other words, he has a personal committment that evening? Question: Yes. What would be your normal procedure? Can he relieve himself and report back to the garage. Answer: Not without completing all his work. Question: Not without completing all his work? Answer: Yes, that's right." This is the policy of the New Jersey Bell Telephone Company.

I have examples. They are very numerous. You said that you want to keep it brief. We did submit six arbitration cases for you on February 21. Let me just give you a few more examples of some things. This involves Micheal J. Anderson, splicer for New Jersey Bell, Hwy. 34 in Matawan. In June of '76, Splicer Anderson called his home from the work center at approximately 4:30 PM. On talking to his sister, he was advised that his wife Darlene, who happened to be very pregnant at the time with their first child, was going into labor and that he should come right home. Mike proceeded to his car and was pulling out of the lot when his foreman stopped him and told him that he had to work. Mike explained the situation and the foreman told him again that he will work or he will be disciplined. Another craftsman intervened in the meantime and then Mike was allowed to go home, but only on that intervention. Otherwise, he would have been suspended.

Another example, same work center, another individual, Gary W. Gleitz, "in September of 1978, I was issued a written disciplinary warning for refusing to work overtime. On the day in question, my wife-to-be had come to pick me up at 4:30 PM. We were going to attend our wedding rehearsal at the church and have dinner with our family and friends. Just prior to leaving, My foreman told me that I would have to work overtime or face disciplinary action. Later, he told me that I had received a written warning as opposed to a suspension because of the overriding reason for my leaving."

The suspension of a Wayne G. Lewin, a repair technician in the Laurel Springs District, case #8-150 in our grievance procedure. Mr. Lewin, on 5-17-78, upon returning to the garage, was told that he would have to work overtime. Prior to this, he had informed his foreman that he would like to leave at 5:00 PM, that he had business with the First United Methodist Church in Collingwood, where he worked with handi-capped children. Mr. Lewin was forced to work under penalty of disciplinary action. He did not work and thus received a suspension.

They go on and on. The Deerpark installation, there were suspensions for refusing to work overtime and all the refusals were for valid reasons.

The Shrewsbury installation, Jan H. Von Silius, suspension for refusing to work overtime; George A. Morzowski, splicer, Freehold District, suspension for refusing to work overtime; J.T. Maxwell, splicer, Woodbury District, suspension, refusal to work overtime; Gregory C. Cochanski, splicer, Shrewsbury Avenue Shrewsbury, suspension for failure to work overtime; in the Burlington District, G.J. McGeown, suspension, refusal to work overtime; Dennis B. Guyerson, installer, Plainfield, suspension for refusal to work overtime. They go on and on.

SENATOR BEDELL: What would be the time period of these suspensions? Are we talking about years or months or what?

MR. MORAN: I could cite you the years on them if you want. They range from about 1975 on through the early part of 1980.

As I said before, thousands of times people are threatened and it is a continual thing. People know that they will be suspended if they do not work overtime upon demand and it goes on and on. Sometimes, it is easier to go out and work in today's economy, but they lose a days' pay or a week's pay or whatever. If I were suspended enough for that, I'm sure that I would be fired and I'm sure that the people know that.

SENATOR BEDELL: Do the employees have a collective bargaining agreement with the company?

MR. MORAN: Yes, we do. Although, in our collective bargaining agreement, it says that the company will be reasonable in administering the requirement to work overtime and it will grant those people time off who have personal commitments. Sometimes it doesn't work that way. It is about a fifteen year battle with this employer on this issue and they continue to be inflexible on the subject.

SENATOR BEDELL: In that collective bargaining agreement, do you have a grievance procedure?

MR. MORAN: Yes, we do.

SENATOR BEDELL: And in that collective bargaining agreement, do they follow that grievance procedure?

MR. MORAN: Yes, they did.

SENATOR BEDELL: What was the outcome of it?

MR. MORAN: Most of the time, we lose.

SENATOR BEDELL: On what ground?

MR. MORAN: On the ground that it is an order. In other words, you order me, as the foreman, to work overtime and when I

refuse, the issue is not whether I work or not, the issue is the insubordination of the order.

SENATOR BEDELL: From your point of view, if this is in your collective bargaining agreement, why do you need a law to do this?

MR. MORAN: Okay. I think government has set minimum wage laws, fair labor standards acts, things of that nature that are good for people and affect everyone as a whole. Although some may say that this is a small problem and sweep it under the rug, it is a major problem. It is just that people do not speak up about it. I guess that's about it.

SENATOR BEDELL: (inaudible)

MR. MORAN: That's true.

SENATOR BEDELL: I think that the reason that there are not more grievances is that they feel sort of intimidated that they might lose their job or might lose some time. Otherwise, I think there would be more grievances.

MR. MORAN: Yes, I believe so. It is sort of like the old story, how many times do you need to get hit over head before you know something. Then, you know what the action is going to be against you. In today's economy, you can't lose a day's pay or a week's pay or lose your job completely.

SENATOR BEDELL: (inaudible)

MR. MORAN: Oh, yes. By our executive board and general committee, we wholeheartedly endorse this bill.

SENATOR BEDELL: (inaudible)

MR. MORAN: As I said before, it is about a fifteen year issue between the parties. Again, I think, as a responsible union, do you take all your people out over one item, when all other items are acceptable to you? Economically, for the member, it may not be a sound issue.

SENATOR BEDELL: Just one other question. Do you think

this might be more of a problem with individual foremen who aren't professional enough or do you think it is the general policy of the company?

MR. MORAN: No, as I cited from the arbitration case, that appears, in testimony, to be the policy of that company.

SENATOR BEDELL: Senator Wallwork?

SENATOR WALLWORK: How many grievances do you average a year?

MR. MORAN: As a local union?

SENATOR WALLWORK: Yes.

MR. MORAN: It would depend on what level of the grievance procedure we were talking about.

SENATOR WALLWORK: Well, statewide. You're talking about New Jersey Bell specifically. So, how many grievances would there be per year over the last five years?

MR. MORAN: Let me just say this. Not being the chief officer--he does plan to testify later and perhaps he could better give you an answer on that.

SENATOR WALLWORK: You don't have any statistics, in other words, to know, for example, how many grievances, how many suspensions and how many discharges had occurred annually, let's say, over the last five years, to get a measure of the scope of the problem, right?

MR. MORAN: I brought with me today some thirty grievances that were documented to the top level of our grievance procedure. We did submit arbitration cases for you before. At the lower levels of the grievance procedure, you will have to multiply that substantially and those who never bother to grieve an injustice is hard to say. But, I think it has occurred in the thousands of times per year, where people are intimidated.

SENATOR WALLWORK: Are these seasonal or are they twelve months out of the year?

MR. MORAN: I would say it is an ongoing problem,

probably a little more so during the spring and summer seasons, but it is an ongoing problem that could crop up any day of the week.

SENATOR WALLWORK: In your negotiations, you have written in "reasonable requirement". Your complaint is that "reasonable" has never been delineated in the contract. Is that true?

MR. MORAN: Well, to me, reasonable means reasonable. All of the things that I have cited were for what we thought were reasonable things and those were denied to these people.

SENATOR WALLWORK: But, the hearing officer didn't judge, in his judgement, that they were reasonable.

MR. MORAN: Well, in a grievance procedure, the employer sits here and the union sits here and the union is grieving to the employer. If that is his policy and he continues to carry it out, he certainly is not going to turn a grievance around. Only when we go to an arbitrator is there an impartial hearing officer.

SENATOR WALLWORK: Thank you.

MR. MORAN: If I could just close, we in the I.B.E.W. and certainly in the AFL-CIO believe that it is not only the right of the government to set limitations on compulsory overtime, but we believe it is the duty of progressive government to monitor changing economic conditions and standards of lifestyles and to revise the laws to reflect those changes. Thank you very much.

SENATOR BEDELL: Thank you. Mr. Charles Walano, AFL-CIO?

C H A R L E S W A L A N O: Good morning, Mr. Chairman, Senators Gregorio and Wallwork. I was given short notice on this particular bill. It happens that our President, who I represent, Al Fontana, had very, very critical business to take care of and he asked me to represent him and the AFL-CIO labor council.

I am speaking on his behalf, with the statement from the majority of the delegates and local unions that are affiliated with the labor council that overtime should be on a voluntary basis. We think the person who is asked to work overtime has the right to refuse or accept. They feel that if they have a contract that usually the contract will take care of an emergency, if a person has to work, through the seniority list, through which they can proceed from the top to the bottom and if there are refusals, then they can go through the reverse order and the man with the least seniority could perform the work, within the category it has to be performed.

In looking over the bill, Mr. Chairman, it seems the bill contains the provisions where, if a company exercises the mandatory provisions that a person should work overtime and if he doesn't, the bill will protect that person from being fired or separated from his job and my interpretation seems to be that, under no circumstances, does the bill contain anything to eliminate the company from forcing this man to work. The only thing the bill does is that it will fine the company certain amounts of money and then, if they insist that the person work overtime, then it has to go through the grievance procedure. This is the way I interpret the bill. I might be wrong. Maybe this is the reason, unless something can be done with amendments that will protect the individual from this mandatory exercise of the company, that the only thing we are accomplishing here is to fine that particular company. What I am saying, I am saying on my own as the Vice-President of the labor council in this category. I mentioned to you what the decision of the labor council, that they feel that it should be voluntarily decided by the employee and the company, but I, as Charlie Walano, would say to you that maybe there is a necessity, within the bill itself, to really protect the employee from being fired. This should be

stated emphatically so that it is understood. I think you all agree with me, Senators, that bill says "emergency". What kind of emergencies? There can be interpretations on this bill and it could be a long time. This is why I am saying that that person will be forced to work and the only thing that would happen would be that that company will be fined. I would suggest, if possible, that amendments should be considered to be placed within the bill where you not only protect the employee, but also give him or her the opportunity to voluntarily say, "Yes, I want to work" or "No, I don't want to work."

I believe that completes my statement, Mr. Chairman. If there are any questions, I will be happy to try to answer them to the best of my ability.

SENATOR WALLWORK: If there is an area of give and take here, do you there should be the absolute right of refusal, so far as the employee is concerned or do you think that there should be, let's say, that the employer should not require more than 15% of the time, overtime requirements? In other words, is there a reasonable ground here to strike a balance between the legitimate needs of the employer and the legitimate activities of the employee?

MR. WALANO: Well, Senator Wallwork, I have always felt that there should be some compromise ground in any bill where you just don't take away the liberties from all parties that might be involved. Certainly between the unions and the companies, there should be negotiations and discussion on what grounds, and state them, that a person should work overtime. On the other hand, if that person, that employee has a legitimate reason that would not enable him or her to work overtime or he has the feeling that he wishes not to do so, certainly, as I mentioned before, there is a list, a seniority list, and that could be negotiated between the parties. Certainly, there would be a

middle ground in what you say, Senator, in trying to arrive at a conclusion there and a satisfactory decision that would please the employer and the employee. I hope this answers your question.

SENATOR BEDELL: I would like to read the first paragraph for everybody here, in case everyone has not read the bill. Line 1, "No employee shall be terminated from his or her employment, nor shall any other disciplinary or other action be taken against an employee, for refusal to work overtime. For purposes of this Act, 'overtime' means work performed over and above the normal daily working hours or working time, which in no event shall exceed eight hours per day, unless otherwise specified by a valid collective bargaining agreement." In other words, when you are hired and the union has an agreement and you know that under certain conditions, you have to work overtime, those times are exempt from this bill. It seems to me that that is pretty clear under certain circumstances, you would have to work. But, outside of those specified reasons, no one should be forced to work. I think that protects the employee and it also protects the company. The only company that I heard about today is the telephone company. I hope that a collective bargaining agreement between the company and the employees can solve it, but evidently, there is the telephone company and others, I understand where it does not solve it. So, perhaps, unless they can resolve this, maybe this legislation would be a way of doing it. It is unfortunate, but sometimes, that is why laws have to be passed, to protect certain people if they can't do it themselves. But, Charlie, doesn't that one sentence, sort of, solve the problem that you were talking about?

MR. WALANO: Well, again, you point out emergency situations where public health and safety are in danger. How far do we go there, Senator? That's what I want to know.

SENATOR BEDELL: We're talking about the interpretation.

MR. WALANO: Well, that's a problem and being it is a problem, until they find out what "emergency" really means, that person will still be forced to work.

SENATOR BEDELL: (inaudible) Senator Wallwork?

SENATOR WALLWORK: I have a question. I have received some letters and I assume the other Committee members have also from chemical companies, for example, saying that if this type of legislation passes in New Jersey, absolutely, they will not expand their any more of their operations in New Jersey and, as a matter of fact, they might consider moving some of their operations out of the State. What would be your response to that type of letter?

MR. WALANO: Well, my response as a labor representative, Senator Wallwork, would be that we have too many companies that threaten to leave the area if they don't have things their own way. Surely, there might be some legitimate reasons at times. Let me make this clear. I, certainly, am in favor of the feeling that an employee shouldn't be fired if he does not want to work overtime. The only thing I believe the labor council is concerned with is that it should be on a voluntary basis, as they have decided, and it should be between the employee and the employer. I am quite sure they agree and are certainly behind the premise that the employee should not be fired. Now, what we can do with these companies that write letters and say, "If this bill goes through, then you will force us to leave this area," and certainly the problem there is that they know that they have so many employees and that these employees would be without a job. What they are trying to do is counteract something bad with another thing that is bad. How we overcome this, gentlemen, has to be in your capable hands because I think you can see that if we don't do something about this, we're

going to have more and more companies leave our area because sometimes, you have the wisdom in trying to find some solution to a problem like you are trying to do here. The only thing I am saying, and maybe I'm repeating myself, is that we do have areas in this bill that doesn't accomplish what you want to do and that's why I mention it. I am in agreement with the contents of you trying to protect the employee and I think this is wonderful, it is fine. I'm in agreement with that, but let's make it so that we have a definite and we don't have interpretations by attorney's as to what is "emergency" and what it means.

SENATOR WALLWORK: I want to try to delineate now one area. Are we talking about, is there any overtime, to your knowledge, where people have been injured because of health or because they have been so fatigued that they have had accidents or caused loss of life? To your knowledge, has that been a problem because of overtime requirements? On the other hand, is it basically the need to restrict overtime because of personal reasons, which is a legitimate concern and I think we would recognize that whether it was an employee or employer? Do you know of any instances where overtime has led to improper manufacturing activities that would endanger the lives or the well-being of the citizens of this State?

MR. WALANO: Well, let me put it this way. I have with me no facts, written facts or cases, and being a community services representative for the AFL-CIO in another field, I know of employees in particular companies--and let me mention one, High Roller Bearing and I'm not speaking for the union. You asked me a question and I am only giving you my interpretation. There was a time when they were very busy that there were no if's, and's or but's. If the employee was asked to work, he had to work and that it would be a problem is it did affect his or her health.

It was only the company who made that decision because if overtime was requested, they had to work. Yes, it could be a danger to the health of the person. If the person is sick, it could aggravate it and it does happen in companies, Senator Wallwork. I don't have the facts and I don't have the written testimony for it. I don't know if there is anyone here from the U.A.W. It is too bad that they are not here, but I don't know if that answers your question. My answer is, yes, that it could.

SENATOR WALLWORK: I'm looking for statistics. Unfortunately, I don't believe the State Department of Labor has such information available and the testimony, in general, that we have received in the two Committee hearings that we've had and this morning leads me to believe that the problem revolves, really, around personal leave time requested, personal problems and that's why the person refused the overtime, not so much a violation of the health and safety rules and regulations, which would probably cover that.

MR. WALANO: Well, let me answer that in another way. I will speak about the plant where I work because I happen to be a community services representative. The way we were able to take care of that, because the precedent had been set that if a person had a legitimate enough reason, as I mentioned to you, then the problem was taken care of by following the seniority of the particular employees. Finally, we did take a mandatory action by saying that if they all refused, right down to the last man, that the man with the least seniority was the one that worked. Now, in many cases, when the excuse came up by the employee, it was a legitimate reason why he didn't want to work. But, on the other hand, we also recognized and honored the feeling of the person that he didn't want to work overtime and we felt that the opportunity should be given to the man with the least seniority next to him.

SENATOR WALLWORK: I have just one final question. Do you think there should be a ceiling or something so that an employer doesn't require an employee to work overtime more than 10%, 15% or whatever the percentage would be?

MR. WALANO: Well, let me put it this way. I would like to answer that question by saying, as I said earlier when I first started, I am representing the labor council and I don't want to set any definite answer on my part that would affect the decision of the labor council itself.

SENATOR WALLWORK: What would your personal opinion be?

MR. WALANO: My personal opinion is, as I mentioned before, I'm quite sure, in most cases, that negotiations could be held between the union and the company and they will decide on what the plateau shall be.

SENATOR WALLWORK: Well, that would obviate the need for legislation then.

MR. WALANO: Well, no, it doesn't obviate the need for legislation because, as has been brought out here before by the previous speaker, the danger is there that someone might be fired for refusing to work the overtime.

SENATOR WALLWORK: Well, if you were writing a bill like this or were to suggest an amendment, would you put a ceiling in of 10% or 15%? In other words, it would not be deemed an excessive overtime request if 10% of the time were established as an overtime requirement. More than 10%, the employee has 100% right of refusal and anything less than 10%, unless the request was unreasonable or there were extreme extenuating circumstances, the employee would not be excused. Is that something that would be reasonable or fair, in your opinion?

MR. WALANO: Well, the danger always lies in the interpretation of what 10% might be. I always kind of try to veer off.

If I were negotiating a contract, I would try to place something in that contract that could be interpreted two ways and usually when you try to write something in the contract, the unions have always found that if you are trying to make it simplistic, as you said a little while ago, and are trying to make it definite, the other party is against it. So, it would be very difficult, I would say.

SENATOR WALLWORK: Thank you.

SENATOR BEDELL: Thank you, Mr. Walano.

MR. WALANO: Thank you very much.

SENATOR BEDELL: I would like to call W.K. Davis, New Jersey Bell Telephone.

W. K. DAVIS: Mr. Chairman, Senator Gregorio and Senator Wallwork, I have been before you and testified at great length on two prior occasions. I am not going to impose upon your generosity of allowing me another time to speak by belaboring you with any repetition that has previously been covered. What I would like to do now is answer the questions that you asked of me at the conclusion of our last meeting, and also give you a very few brief comments on some of the words that have been said by my predecessors.

First I would like to correct an erroneous report which was in the newspaper. Unfortunately it was made by a newspaperman who was not at the previous hearing, and it was in regard to discharges grieved. And, I will repeat verbatim from the same piece of paper that I read at that time. "From 1975 to 1979, two employees were discharged for refusal to work overtime. One discharge was rescinded, and one discharge was changed to a suspension."

The other areas that you gentlemen were interested in was, how many arbitration cases were there in the last five years that were directly attributable to refusal to work overtime, and there were a grand total of six. In 1975 there was one. In 1976 there was two. In 1977 there were zero. In 1978 there was one, and in 1979 there were two. I would like to point out that the arbitrators have continually made a point of upholding management's right to require overtime. What they basically do is try to determine the merits of the case and whether the penalty was suitable to the circumstances.

We have to answer another question. We have 13,000 members in the bargaining units in the telephone company, IBEW and CWA. During 1979, approximately 15 cases where the subject was compulsory overtime were grieved. Only one, however, went to the top step in the grievance procedure. The majority were resolved at the lower levels. None of these went to arbitration.

Another question you asked was the average amount of overtime worked. I have to report this by the two groups involved. In operator services, the hours per employee per

week, average for the year 1978, was .36 - less than a half hour; 1979 -.65; and to date in 1980- .40. The average overtime in the plant department for the forty-hour employees, 1978-4.7; 1979-4.5---

SENATOR WALLWORK: Is that 4.5 hours?

MR. DAVIS: 4.5 hours. And, to date in 1980-5.1. And, the 35-hour employees, for 1978-3.6; 1979-4.0; and to date in 1980-3.5. That is substantially less than what Senator Wallwork was concerned about when he asked, was there anything in the vicinity of 15%. So, you can see it is substantially less than 15%, Senator.

The previous speaker who gave testimony was asked about the number of grievances and approximately 200 grievances each year are heard at the top level for the year on every subject. Don't forget we are going back now and talking about 13,000 employees.

There were six arbitration cases that were submitted by Local 827. The arbitrators have agreed that the procedures for working overtime agreed upon by the union and the company are reasonable. For example, one, you ask for volunteers starting at the lowest person in the overtime list.

Two, if no volunteers, the individual is directed to work. Overtime is generally offered on a voluntary basis.

There was one other item that you people asked about because it was brought out and talked about at great length and that was an individual case where a person was reported to have been denied the privilege of seeing his wife who was in the hospital and he was having to work overtime. This gentleman's name, if I recall, was Mr. Cumerford. He was in from the Toms River unit. The facts in the case are, his wife was in the hospital for 30 days as a result of an automobile accident. The request to go and see her was made during the Christmas holidays when we, by the prerogative of the employer, attempt to get everybody we can off, and to accede to their wishes to spend Christmas holiday with their families as much as possible. So, therefore, we were working with our lowest

work force. The gentleman had until eight o'clock to see his wife. We took two orders away from him out of three that he had yet undone and gave them to other people within his group. He did one that was a very short order. I think the proof of the pudding is in the fact that when this was grieved, it never went beyond the first grievance step, and don't forget that is a three-step procedure. It was dropped immediately after that. So, it would seem that while the subject is grievous and I will agree that much has been made about nothing in this particular incident---

The gentleman immediately preceding me gave mention two or three times that he thought that the subject of overtime was a proper subject for the bargaining table, and should be negotiated. I couldn't agree with him more on that. As a matter of fact, the first speaker in referring to the contract did not go far enough. With your indulgence, I would like to read you directly from that contract as it exists now between the company and the union - and is in effect and has been in effect since 1971. The working hours and daily schedules of employees will be arranged to fit the needs of the service. Employees will be required to work overtime and during non-schedule periods, when necessities of the service demands such work, that an administrative requirement to work overtime - the company will make a reasonable effort to excuse employees who have personal commitments. This will not reduce the employee's obligation to work overtime when assigned. However, an employee would be required to work no more than a total of ten hours overtime in any payroll week, during seven calendar months and each of the years '79 and '80 and no more than a total of 15 hours overtime in any payroll week during the remaining five calendar months in those years, except in cases of emergency, long term service difficulties or if the employee consents to such overtime.

Is there any question you gentlemen would like to direct to me?

SENATOR BEDELL: What I think I am getting from this testimony is, people are not complaining about having to work too much overtime, but are complaining they are (inaudible) about the outcome of those grievances (inaudible) if a person has a legitimate reason for not working (inaudible) it is certainly my opinion that as long as there is one case, then we should do something about it, whether it is through legislation or something else. In my opinion, no one should be forced (inaudible)

But, even if it is one case in a year or one case in every five years (inaudible) you know, it is a free country, that should not happen. As long as we (inaudible) the working time and the amount of hours he has worked, then he is required to be paid, the company if it is a big company ought to have somebody else to do that job without forcing someone who doesn't want to.

MR. DAVIS: We do. We exhaust the steps that I previously outlined for you before we have to require a man to work. We do everything possible. I think if the situation were grievous enough, there is no doubt that any employee in the same craft group working within that unit would be more than willing to help his friend out by taking over such portions of work as he could do for him. I have known this to exist right up to the present time. I would also like to say that while we must take into consideration our employees, and we certainly respect them and we value their services, let's say they are a great investment to us, we also must simultaneously respect the rights of the customer, the people at large. I can assure you that we cannot determine what constitutes an emergency. In fact, if we try to, what we might say was not an emergency the customer would insist was an emergency. So, we are caught between two fires in this case and usually we try to reconcile this ourselves, but failing to do so and having made a commitment to the customer, it is our policy to try and, let's say, keep our commitment.

SENATOR WALLWORK: Do you have any examples of where because of overtime there have been safety violations or accidents?

MR. DAVIS: I do not at the present time, Senator.

SENATOR WALLWORK: In your opinion, or your experience, of the statistics that you have, the problem basically is the personal needs, and that is the reason for the problem? In other words safety features---

MR. DAVIS: I have never known the safety to interfere with the telephone company's refusal to stop a job. In fact, we have a slogan that no job that is so important and no work is so urgent that it cannot be done safely and I quote.

SENATOR BEDELL: Mr. Davis, it has been alluded to the (inaudible) the recent work force that people who are being terminated or retire are not being replaced (inaudible) therefore, the amount of overtime (inaudible) is increasing; how do you respond to that?

MR. DAVIS: I would say that we are trying to run the business as economically as possible. Any time when we hire or employ additional people over and above what our current needs are, then we are only in effect imposing the original cost back upon the customer; therefore, we cannot --- We must run a very tight shop. What we cannot do is foresee our workloads. We have a variable workload that responds to a customers need. Usually we know that if the first and the fifteenth of the month we are going to get more orders than we normally would during the rest of the month, however, just as I said before, in building it (inaudible) You can't build for the storm period; you have to build for the time that is the optimum time, the average time. We have to try and gear up for the time that we think we are going to need these people.

If we go and hire people willy-nilly just to respond to that one surge situation, then we would be severely criticized, and I am sure by the BPU and everyone else who looks at our figures in what we are trying to do.

SENATOR WALLWORK: (Inaudible)

SENATOR BEDELL: (Inaudible) I have been informed that the (inaudible) will be considered, and we have been concerned, some of us in the Legislature that we would like to foster the recently (inaudible) in New Jersey. It is a little bit disconcerting (inaudible) that we have the right to usurp the role of (inaudible). But, I am troubled with the notion where those people who are working are hired (inaudible) as a result, these people are indulged to worked overtime. As previously submitted, these figures are average overtime?

MR. DAVIS: Average overtime for the year.

SENATOR BEDELL: The point that you are making is that (inaudible)

MR. DAVIS: What are you speaking of, Senator?

SENATOR BEDELL: That first group.

MR. DAVIS: That is the operators

(Whereupon recording is blank)

(continuing)

MEMBER OF COMMITTEE: Now, these figures appear to be less, but the Committee does not know at this time if you are hitting your major period of overtime (inaudible) So---

MR. DAVIS: As I said before, Senator, we don't have any idea of knowing when we will have our major period of overtime either. But, I will say this: This is like a scale. It is nice to put on more people and help out the economy, and I assure you that when we need them, and only if we need them we will do it. But, by the same token, is it right to impose the additional cost upon the customer, and that is what we would have to do.

Maybe we would be depriving somebody of the essential service they would need to keep their business going, or maybe an essential service for an emergency within their own household.

SENATOR BEDELL: Your fairness is well taken with your employees. (Inaudible) have overtime, and at the present time they are not getting any, I understand (inaudible) They are not getting one and a half times their hourly rate for the thirty or thirty-five hour period (inaudible) that structure is (inaudible) It has been previously developed by this Congress that after thirty-five hours worked, they get overtime at time and a half. It was mandated for time and a half - but it is actually time and a fifth.

So, if these figures hold true, then it pays to work the overtime, rather than requiring these employees (inaudible) involved. Eventually all costs are going to be passed off to the consumer anyway. This is immediate legislation, and taxes are going indirectly (inaudible) passed off to the consumer through the taxpayers, but at this time, I just can't hold that argument as being totally valid. (Inaudible)

MR. DAVIS: Only to a point. I am not an economist,

and therefore I don't want to belabor the fact--- I would just like to say that in the telephone company, as in all utilities, we suffer from what we call a lag, a revenue lag. Even if we do go to the BPU, it is well over a year before we get any consideration at all as to a final order which would increase our rates - or maybe the order might be thrown out. But we don't get any relief. In the meantime, if we spend money, we are going deeper into a hole instead of trying to get out of it.

SENATOR BEDELL: It is my feeling also that it may appear that the bill is a reprimand at Bell Tel's (inaudible) It may well be (inaudible) the sponsor of this bill and the Committee. We plan to get special permission (inaudible)

MR. DAVIS: Mr. Chairman, I have known you for quite a while and I have a great respect for you. I have no intention of thinking that this bill was aimed for that purpose or at us, and the same for Senator Gregorio and all the other members of your Committee.

SENATOR BEDELL: Thank you.

MR. DAVIS: Thank you.

WITNESS: I would like to make a statement with regard to your conversation, Senator. It seems to me that a company should have a right to work in the most efficient and economic manner. If they can keep some people working overtime, rather than hire someone at a (inaudible) rate--- I don't think that is the complaint of the unions, that they are working too much overtime. The complaint is that they are forced to work when they don't want to.

SENATOR BEDELL: It is obvious that there are other issues (inaudible).

Mr. Art Perry, IBEW, Local 827.

A R T P E R R Y: Thank you, Senator Gregorio and Senator Bedell. For the purposes of identification, I am Arthur Perry, Jr, President of the Local 827 which primarily represents employees employed by New Jersey Bell in three of its departments,

the plant and engineering and the accounting department which by slight correction of the previous speaker, we represent some 12,600 members. I believe that although we don't represent that segment, there are some 6,000 to 8,000 members represented by CWA. I am not an economist, but a fairly simple mathematic equation would give you a lot more than 13,000 that are included in the two CWA, IBEW bargaining units. I think that figure would be more closely reflected to be upward of 19,000 bargaining unit people that may - if I understood the previous testimony - cover some of those averages that we spoke to.

I also have another role as Chairman of the IBEW National Council, and my main responsibility there is negotiating the national contract.

I want to thank the Committee for this opportunity to appear, and set the record very clear, I hope from the very beginning, as to our local's desire to come before this Legislative Committee in an effort to relieve a very pressing problem for a goodly number of your constituency throughout the State. That problem, unfortunately, is because of the insensitivity in our opinion at the collective bargaining agreement, something that we have attempted to resolve. Once before this local had to come before the State Legislature and you did aid us in something that was a prime concern in the safety arena, and only after passage of the Senate and the Assembly did Bell Tel. at that time in the manhole safety protection, say, "We would like to bargain the alternative." I would say for the record loud and clear, although I believe this voluntary overtime is an issue that should concern every worker in the State, regardless of whether they are represented by a union or not, for the selfish interests of the local that I have the privilege of representing, I would love to be at the collective bargaining table resolving this problem. I believe that is where all union management problems belong, but when you have the insensitivity in this area that we have been facing, I thank you for at least the opportunity to sponsor the bill, and the opportunity to give you our version of it.

The basic problem, as Senator Gregorio just stated, and our concern is that portion of overtime when it is forced upon an employee. That is our basic concern. I do share Senator Bedell's overall concern of an economy that is so sad and sickened primarily with unemployment that we work in an industry that is running very high in overtime. Averages are very interesting. I suspect if we could get a large enough base, we could make averages do a lot of things. But, if you were an employee--- This is not an "iffy" problem that I am going to refer to. It is taken from actual experiences, that you find an employee whose wage base rate for the year is \$21,000 and last year made \$48,000, I don't think that is the kind of overtime environment going to Senator Bedell's question that seems to be wholly fair for a group of people every week that collect an unemployment check.

So, I don't mean to belabor that point, but we have a real problem in the industry that we are in, because I think they have in fact looked at the one in a fifth penalty versus time and a half penalty and they have allowed the economic pendulum to swing to a point that it is much more economic for our industry to work people overtime, a lot of it on a forced basis, than it is to go out and take some of the people that are on the unemployment line.

Management's rights, we hear a great deal about. I am not here, nor do I go into the contract, to take away management's rights. I do come here, and we go to the collective bargaining agreement to speak very loud and clear for another group of rights that I think everyone in this assemblage is interested in, and that is our human rights, our individual rights. It seems to me that in a society that needs so much help in our civic responsibilities and our church responsibilities that a corporation the size of AT&T, and specifically in our State New Jersey Bell, would be interested in all of our people being active in church affairs, and in other community affairs, and in fact in the legislative and elective arenas and school boards. Yet, we can give you numerous examples, unlike the

previous speaker, maybe they did not end up in arbitration - because you get your hand hit several times, you just don't go to an arbitrator to keep getting negative results--- But, many of our people have been denied the opportunity to get off from work at five o'clock because their son or daughter is participating in a ball program, or school program. Many of our employees and members on a Saturday are unable to participate and go into the functions that they are so proud of their children because they have been forced to work overtime. We have numbers. I can tell you that the average rank and file member in the installation and repair and construction department - that is primarily the telephone man and woman that you meet out in the everyday environment - have average overtime that goes up into the 800 to 1000 hours per year. They are the averages I have to deal with.

If you throw in the janitor and the clerk and those people who by shift work just don't get any overtime, into developing an average, it is very impressive for the papers. I don't think we are getting to our problem.

I respect Mr. Davis and his position with his company. We have a labor relations department we deal with in the company, and if I can, I would like to invite Mr. Davis to sit in on some of our bargaining sessions and grievances. Maybe he would have a little bit more sensitivity to the real problem we have, rather than from the role he properly does a good job in doing, representing the company in the legislative halls. This is a very serious problem. If it is not a serious problem, a union that has been in business for some fifty years would not be coming to you for some relief, because we think it is a relief that society has to be involved with.

I have before me a piece of paper that is distributed in the Monmouth-Ocean area, not unlike directions given to our members throughout the State - and I would like to quote from this, and I would certainly leave it with you. We have many copies. This was handed out by a member of management to a group of people, and I will quote from some of the pertinent

parts of it. It is very short. "Rules to be followed when a repair technician is loaned to installation" - the very group that I have been speaking of - "Number one, if need a 5 P.M. quit, notify installation rule at 8 A. M. with request and any reason, and the 5 P. M. quit will be honored by completion supervisor only according to the need and workload." I want to parenthetically add, that is our problem. This was handed out yesterday. This isn't some 1977 record. If you need to get off at five o'clock, you have to notify management at eight o'clock in the morning that you want to get off at five, and then you will be excused if you can give them a good reason. That, to me, goes to the very basic problem that I think Senator Bedell spoke of. We are talking about now a work force starting in the morning knowing they have to put in eight hours unless they can put in good reason to get off.

I am skipping down to number five. "Any service order work will be completed in its entirety." Our average installer out in the field is loaded up the day before with 12 hours of work. That is what his workload includes. They do that, so that if a customer is not home, they have some washout built into it. I can appreciate that, and that has to be done. But, when each employee going out to do an installation job has four additional hours of work over and above what is usually looked at by the country, as a whole, as an eight hour work day, I think we have identified a very serious problem.

"Any problems with completing a service order, you must call the completion supervisor." I don't have any particular problem with that concept, because management has a right to know where the work is and how things are progressing. The whole intent of this is to clearly indicate that the pressure is put on our people to be ready to work overtime from the morning when they walk into the garage.

The previous speaker spoke of some language in the contract, and I think, if I am correct, that it went back to 1971. I will stand corrected if he did indicate the correction that he spoke of, or the addition, came in 1977. Part of what

he read did come in 1971, where the company would make every effort to let you off. That has not proven too successful. In 1977, our national bargaining did produce that maximum number of hours of overtime that a person could be required to work. That language was not even signed, and management in New Jersey Bell interpreted that as mandatory overtime. We are still having problems with that, and we hope to resolve that in the current negotiations that will be upcoming very shortly.

The previous speaker spoke of 200 grievances. It would be safe to say that in a given year - and I represent only those cases that reach the top level, one step shy of arbitration - we would have 100 to 150 cases that reach the bargaining level. There are on any given day in any work force many, many grievances. What I think unfortunately is being reflected by a non-labor relations environment is to take and say if you don't get it down into written form that there has been no problem. We try to resolve our problems with our first line supervisor and the worker. So, I would tell you without any fear of contradiction, records are what you want to make them. I am not prepared to sit here and belabor your record with the thousands of cases in discussion. I hope that you will take from my testimony the fact that we have a real problem. There are people being forced to work when they don't want to work. The amount of overtime they are working--- If they want to work overtime - and it is voluntary - I can't complain about that, other than Senator Bedell's approach. I think there is another forum that can take care of that, hopefully. I don't think it should be ignored, either.

But, the voluntary overtime aspect, Senator Gregorio, I think you made your point better in much less words than I can. I just can't imagine in the 1980 labor relations environment, whether you have a collective bargaining agreement or not, in this great country of ours with unemployment running rapid, that people should be forced to work overtime hours beyond their voluntary use.

A lot has been said about the emergency aspect. I am proud to come from an industry that I don't believe there is a member carrying a card in our local or an employee of New Jersey Bell that has ever shirked their responsibility in an emergency. When your phones are down and out, we are out there in all kinds of storm conditions. That is the spirit of not only the Bell system, but the members that I proudly represent. I have a great deal of trouble, though, when my member is forced to come out and put on a cord, because somebody wanted to get a five foot cord changed to a thirteen foot cord, only to have the member when they arrived at the door, the customer did not expect to see him for another day. Those kinds of issues, I can repeat over and over again. That is the issue that is before us. That is the issue I hope you will give us the relief that we need. I think it is a concern for the State that the largest non-governmental employer in this State, New Jersey Bell, is so insensitive that we have people that cannot participate in the family, church activities, and civic responsibilities because they don't know a quitting time of their work day.

I thank you very much for this opportunity, and will answer any questions you may have.

SENATOR BEDELL: Thank you very much. Unless specified by a bargaining agreement, you have an agreement, but it is to your satisfaction, but you do have an agreement; do you think this would exempt you from this bill?

MR. PERRY: No, I do not, because the language that we have does not call for voluntary overtime.

SENATOR GREGORIO: I have no questions. Thank you.

SENATOR BEDELL: Burton C. Trebour, APA Transport Corporation.

BURTON C. TREBOUR: Mr. Chairman, Senator Gregorio, my name is Burt Trebour. I am the Director of Labor and Personnel for APA Transport. APA Transport is a Class One common carrier with eleven terminals servicing seven states. We employ approximately 600 New Jersey people at our North Bergen

terminal. APA is the second largest motor carrier in New Jersey whose corporate office is in New Jersey.

Our business is service - service to the customer, which in turn affects the consumer. As a common carrier, we handle all commodities exclusive of liquor and cigarettes. In our industry overtime is a way of life. The abuse of the privilege of assigning involuntary overtime may always be dealt within the grievance procedure.

I quote from the New Jersey-New York area teamster general trucking supplemental agreement to the National Master Trade Agreement, Article 52, Section I, subsection B, "Platform employees, when requested by the employer, are required to work past the regular quitting time at the overtime rates set forth herein. The union shall have the right to file a grievance against employers who consistently require platform employees to work excessive overtime." Please take notice that only platform employees are mentioned in this article of the contract. Truck drivers are not mentioned at all. Could you imagine a truck driver stuck in traffic in New York City at four o'clock, indicating that he would not be able to complete his last three deliveries which might include plasma, or drugs for a hospital, foodstuffs for a large hotel, or miscellaneous perishables, because he did not want to work past his eight hours. We cannot service the customer with this type of restriction.

This bill, if enacted, could place New Jersey employers at great competitive disadvantage. It would impose impossible restraints on New Jersey firms with a distinct possibility of rendering them unable to compete in their markets with other companies in different parts of the country who may not be so good to such legislative restraints. In my twenty years of trucking industry background, I have had only one grievance regarding working overtime. I am not prepared to discuss operations in other industries. However, if this bill became a reality I would ask that service oriented businesses be exempt from same. Thank you.

I would also like to add that we are federally regulated by the amount of hours a driver can work, which does provide for overtime. Thank you.

SENATOR BEDELL: I wanted to again stress that the existing legislation recently produced (inaudible) as testimony came in, we realized and we are certain that (inaudible)

The problem is drafting sufficient language to put in the proper solution so we can again get back to the major premise that within the normal operations of the business that management alone should not make a decision as to when a person should work overtime, and some even take advantage (inaudible)... That is the main purpose of the bill. The emergency clause in there is an indication of where we would like to go on the exclusionary aspect of it. Unfortunately, that kind of (inaudible) That was the area you mentioned before (inaudible) But other than that comment, I am ---

Again, bringing back the agreement you have whereby it is a dispute between management and labor over compelled overtime, and that can be grieved either through arbitration eventually, but the point is that employer cannot be given that incidence back which merely compelled them to say, "I don't want to work overtime." So, it is (inaudible) to an extent, but it doesn't correct the heart of the incident at the point. That is what this bill is all about. Thank you.

MR. TREBOUR: Thank you, Senator.

SENATOR BEDELL: James C. Morford, New Jersey State Chamber of Commerce.

J A M E S C. M O R F O R D: Good morning, Senators. Mr. Chairman, members of the Committee, I am James Morford, Director of Governmental Relations for the New Jersey State Chamber of Commerce.

I want to thank you on behalf of the State Chamber for conducting this hearing on this important bill, S-887. I will present a general statement expressing the views of the New Jersey State Chamber of Commerce and others representing

the business community will share with you during the course of the day more specific examples on the effects of S-887 on individual businesses in New Jersey.

Senate Bill 887, a bill we are certain is offered with the best of intentions by its sponsor is, we believe, unnecessary and undesirable legislation. By curtailing management's flexibility to schedule its employees, the Legislature would be sending out yet another signal to the world of commerce that the State of New Jersey is more interested in restricting business than in promoting it. Enactment of S-887 would result in lower productivity levels of firms in this State and would result in New Jersey being placed at still another competitive disadvantage with companies in other states, some of which, notably California, Massachusetts and Pennsylvania, have recently considered and rejected similar restrictive proposals.

Mr. Chairman, there is no clearly demonstrated need to write new law on this subject of overtime. During the course of two separate committee discussions of S-887 there were only isolated examples of abuses offered in support of the legislation and they came substantially from one union which is currently in negotiations over the successor agreement.

Today you will undoubtedly hear a handful of isolated horror stories, that, while they make good press, are not characteristic of business and industry practice in New Jersey. In our view, it would be most inappropriate for the Legislature to enter into these negotiations on the side of one of the parties. That is exactly what enactment of S-887 would do. The subject of scheduling and performing overtime work has been the subject of collective bargaining for nearly half a century in this country and that is the way it should continue to be. No legislation can hope to anticipate and provide for the multitude of situations that necessitate overtime.

Overtime needs vary from company to company and no single law can fairly deal with all instances. For example, in continuous process operations where work is performed in

a chain-like fashion, employees are needed to work on each unit of production. Frequently reasonable overtime work must be scheduled to complete production already started, or to satisfy important customer needs. In situations like this, overtime work is essential if the operation is to remain efficient or even survive. It would be destructive to put into the hands of any group of workers whose special skills cannot be readily replaced by other workers, the potential power to thwart an entire operation by refusing to work the requested overtime. It is impractical for an employer to maintain a standby group of similarly skilled workers to fill the overtime gap if needed.

It is more economical on occasion for some employees to work overtime for a few hours or even a whole shift, than it would be to hire additional employees. Supporters of S-887 may believe that if overtime is abolished or further restricted, business will be forced to hire more employees. That is not necessarily so. Hiring additional employees for six days or six weeks so no one has to work overtime and then fire those employees after that short period would be grossly unfair to those temporary employees, as well as a poor business and labor practice.

New Jersey business with responsible personnel practices document their policies for assigning overtime. These policies are normally known to employees, are made known to prospective employees upon hiring and are generally acceptable to all concerned. The policies are based on the needs of the individual company and the relationship it develops with its employees. It would be an incredible management impediment to allow employees after they are hired to refuse to perform the overtime work they understood would, from time to time, be required of them when they were employed.

Poor practices are self-correcting. An employee who feels abused because of overtime practices may utilize the grievance procedure in the collective bargaining agreement.

Other remedies may be realized through lowered productivity of the former protest by appeal to the Office of Wage and Hour Compliance in the New Jersey Department of Labor and Industry, or by filing a complaint with the National Labor Relations Board.

Good policies, on the other hand, encourage trust, enhance morale and provide each employee with an equitable means of sharing in additional income through overtime. Permit me, Mr. Chairman, to quote from the Star Ledger editorial of March 8, 1980, "If labor had its way, overtime would be kept to a minimum as a means of creating new jobs. That is an understandable matter of self-interest but it is doubtful that this device would substantially broaden the work force. Overtime provides a degree of management flexibility that becomes a factor in production costs and the cost to the consumer. Excessive overtime can be onerous in physical and mental terms, but it is doubtful that a cost conscious employer would insist on intolerable overtime demands that would have a marked impact on overall productivity. Reasonable overtime should be a management option."

As a consequence of enactment of S-887 for which there has been no substantive need established, a consequence may be still fewer jobs in New Jersey as business either restructures in-state operations to reduce dependency on manpower, or seeks a more favorable climate in other states.

In conclusion, the New Jersey State Chamber of Commerce considers S-887 to be not in the best interest of business and industry which seek to be productive and competitive in New Jersey. And, it is not in the best interests of our labor force, which, in significant numbers, seeks the additional dollar premium paid by business for overtime work.

We urge rejection of any attempts by government to intrude further in the area of regulating or restricting the scheduling of overtime. This matter should remain subject to collective bargaining or the mutual development of policies

between management and employees. Thank you very much.

SENATOR BEDELL: You have made some very good points. When you first started, something struck me, if we have to force people to work overtime when they don't want to in order to stay competitive there is something wrong. The same as there is something wrong with not having minimum wages in order to stay competitive. Companies complain about this also in order to stay competitive. I think we can have minimum wages and still be competitive. You have to give people the right to make their living wage, and I think you have to give the people the right not to work if they don't want to. There should be some way of doing it. I still don't know; I have not made up my mind yet whether this legislation is the way or not. But, it just rubs me the wrong way to say that someone has something important to do - he should not have to work.

MR. MORFORD: May I respond briefly to that? Unless my hearing failed me greatly, some of the examples offered, particularly the first one of this gentleman who was deprived of the right to visit, I believe it was his pregnant wife who was about to deliver, apparently, this person was neither disciplined nor fired from the job. I don't see how it is even a legitimate example to be offered to you.

Nor have I heard of people being dismissed from their jobs. There have been some instances of discipline. We don't know all the facts behind it. We don't know the history of the employee's record. We don't know whether that employee gave due consideration to informing the company in advance of a situation. Certainly an employee who had a wedding rehearsal probably knew it before four thirty that afternoon when his girlfriend came to pick him up. And I would suggest that maybe by informing management some arrangements could be made. I think those instances have occurred, and they are being cited as management abuses, and I don't think they stand up.

SENATOR GREGORIO: There is a chance that might be exaggerated, but there is also the possibility that we are not hearing from a lot of cases of people who are intimidated and afraid to say something.

MR. MORFORD: That may be true, but we are not hearing about the thousands and thousands of employees who want the right to work overtime, and really don't want that so interfered with by law, very frankly.

SENATOR GREGORIO: We do not advise those (inaudible)...

MR. MORFORD: However, Senator, it becomes an inhibiting factor when the legislature starts to legislate in the area, and then rules and regulations start to get promulgated in the area it becomes a whole new very different ball game.

SENATOR GREGORIO: (Inaudible) between labor and management in one area or the other.

Jim, I would like to say that again there have been a host of people in this room I have dealt with over the years, and I respect them, even though they differ with my point of view. I worked very, very closely with your organization when this Committee was drafting the (inaudible) unfortunately, having listened to the policy statement of the Chamber of Commerce on this particular legislation, the honeymoon is now over, and I do not share the philosophical approach taken by your organization. I am (inaudible) . . .

MR. MORFORD: Senator, let me say that in every healthy marriage there are some battles.

SENATOR BEDELL: Again, I do not accept the comments that if we were in a situation where the (inaudible) companies were compelled to hire additional employees which they did not need (inaudible). . . .

MR. MORFORD: Senator, may I respond? I don't want to suggest that this in and of itself is going to cause every company or business in New Jersey to close up and look elsewhere, and you may hear that from other representatives here today. I think what it will suggest is it is one more nail in that coffin, if you will; one more example of a government intrusion in an area that has traditionally been an area of collective bargaining where the response is either going to be, okay, let us try to develop less dependency on manpower, or let us

see if there is more favorable climate, instead of building the new plant in New Jersey, let's build it in another state, and that type of thing may happen; that type of thing is not a mass exodus. It is more like a cancer on the economic system in New Jersey.

I also want to say that effective collective bargaining representatives will and indeed many unions in this state have resolved important issues at the table. It is when they get into a point that it is a lesser issue that the union feels it is important for growth or for recoupment, or whatever, that does not excite the membership enough to take them out on the streets as a strike issue. Then they want to appeal to politicians to solve the problems for them. You know, I have been on that side. I know it.

SENATOR BEDELL: Also, I understand the position of the union by saying that (inaudible) and since about 1971 the (inaudible) in the contract is still the same. The definition of (inaudible) . . . If we just want to take the fact that (inaudible) from 13,000 people and then the bargaining unit (inaudible) official position of that organization, taking into consideration the (inaudible) and there is a substantial portion of the population in New Jersey that are considering this matter, but it has not been able to achieve (inaudible) . . . And, what they are saying to us is, is it preferable for us to come before the Legislature to attempt to achieve legislation to strike a more equitable balance, or is it better for us to take everybody out in the streets, disrupt communications in New Jersey, and encumber (inaudible) . . .

MR. MORFORD: Surely they do, and, Senator, you and I both know from having some past experience in the labor area that if we could take the employees out on the streets, we probably would resolve it that way. If we can't, then we are going to the Legislature to try to have them resolve it for us. I don't fault any union in trying to seek a solution for any kind of problem they perceive to any route that they perceive

possible. I do represent that it is not in the best interest that we feel of business and commerce in New Jersey, nor ultimately in the best interests of all the laboring force, many of whom seek overtime, long for overtime, want overtime, and really are not anxious to see any further intrusion on overtime, because they are satisfied with the relationships with their company, satisfied with the relationship as has been developed through the collective bargaining process.

Now, those people are relatively satisfied, and you seem to be perhaps suggesting an intrusion that may be unwarranted. There may be problems. If in fact there are significant problems demonstrated, we are not convinced that S-887 is the solution.

SENATOR BEDELL: Thank you. Robert P. Kenney,
Vice President (inaudible).

R O B E R T P . K E N N E Y : Mr. Chairman and Senator Gregorio, my name is Robert Kenney. I am Vice President and Personnel Director for Elizabethtown Gas Company and Elizabethtown Water Company.

From a general point of view, this is a bad bill because it will further discourage new business from coming to our State and will hasten the flight of other existing businesses. It further regulates industry in an area where there is really little apparent problem. Instead of creating jobs by spreading work among more employees, it will actually in the long run reduce jobs as it adds to industry's concern for a good business climate. Would this bill encourage a Ford Motor Company to stay in Mahwah?

As far as overtime practices are concerned, most companies ask that employees work a reasonable amount of overtime. This means that they make themselves available with some regularity to perform necessary overtime work. It also means that on occasion they may refuse work for proper reasons. Companies have a right to expect employees to cooperate to meet periodic production peaks, seasonal demands, etc., without having to add people, train new employees, and incur other unnecessary costs.

From the utility point of view, this is a bad bill, generally, as I indicated, but it is also particularly bad with respect to the two utilities that I represent: natural gas and water. We are charged with providing adequate services to our customers. We have employees working round the clock on regular shifts and, in all operations, a good deal of overtime is required. We have some employees on 10-hour shifts, others on standby duties, and some are charged with providing relief to operators who fail to report on an overtime basis. If we could not rely on this overtime, we would have to add more people to our company and our rates would probably go up.

You exclude emergency situations in your bill, but how do you define this? I can see this as a constant source of disagreement, particularly in our industry. For instance,

we could characterize emergencies as people having no heat, no hot water, no water, gas leaks, seasonal shutdowns, discontinuation of service, appliance repair. Our emergency conditions could be defined as going from the extreme of a very rare gas explosion to a case where a family on a Thanksgiving morning has no gas for their gas range.

As a further example of some of the difficulties that this might cause, we have street crews working in the street with open trenches. Would they be required at 4:30, if they want, to be able to leave that job? In fact, our unions have negotiated for the right to stay on that job and not be replaced by incoming shifts.

We also have service men completing appliance repair, much as the telephone company has installation work going on. We have a 10-hour shift as part of our labor contract, which extends from 10:00 P.M. until 8:00 A.M. in the morning. We also have people on standby who are required to come in and work beyond their normal eight hours when we have priority work or certain forms of emergencies.

Presently, we have a good understanding with our people. We do not have formal language in our agreement defining when an employee must work, but our past practices are such that we have very little difficulty in having employees work. Most of them do work reasonable amounts of overtime. We don't abuse our employees. We do consider their individual problems and needs. We don't fire people for failure to work on a specific day or in a specific week. We are only concerned in our disciplinary matters with individuals who consistently refuse to work without a valid reason.

In summary, this is unnecessary legislation and, in fact, will harm industry in New Jersey and in the long run could cause economic harm to other employees. Should this bill be considered further, I believe that utilities - and particularly the two utilities that I represent, namely, gas and water - should be exempted from this legislation. Failure

to do this will require our utilities to add more employees, thus further raising utility rates. Also, the nature of the utility business makes it extremely difficult to implement policies requiring the definition of emergency, etc.

I urge that this bill not be considered further.

SENATOR BEDELL: Thank you very much.

Mrs. Simonetta, New Jersey Conference of Mayors.

J A C K M C C A F F E R T Y: My name is Jack McCafferty Legislative Agent for the Conference of Mayors. I am appearing here for Mrs. Simonetta.

I do not have to tell you Senators the problems the municipalities have with the cap limitations. We have been more or less painted in the corner. Although there are numerous measures before the Legislature now to give the municipalities relief, nevertheless, we are having fantastic budgetary problems this year, as most of you well know.

Unlike the Bell Lab employees who apparently have a Valhalla as far as overtime assignments are concerned, I would like to tell you about a shore union where the employees apparently need the overtime and demand the overtime because they instituted a suit against Belmar claiming that Belmar during the summer months was hiring 30 or 40 Special Policemen, thereby denying PBA Local 50 and its membership overtime. What I am trying to bring out, Senator, is that unless --- we don't have the federal funds, the recession funds, the CETA money coming through, and the revenue-sharing. As you all know, municipality after municipality has been cut on vital services. There is no money anywhere to replace those lost employees. So we will have to schedule overtime, not through emergency (inaudible), but a schedule of overtime. I would like you to take that into consideration. Thank you.

SENATOR BEDELL: Thank you.

Mr. Frank Carroll, State Chairman, Transport Workers.

F R A N K C A R R O L L: My name is Frank Carroll. I am Chairman of the New Jersey State Council, Amalgamated Transit

Union. Our members are employees of Transport of New Jersey.

I would like to say at the outset, speaking on this bill, I could be very repetitious with the previous speakers. However, I will try not to be.

I would like to say that I am very much in favor of the first eight lines of this bill, as well as the last six lines. The part in between, we can forget about.

The thing that worries me is 2 (b), "work performed in emergency situations. . ." It is the nature of our business that we work overtime. I would say that 85 percent of our employees are very happy to do so. However, there are situations where some of our employees have to work overtime because of the way the work is booked out. We have with us in the back of the room four business agents of four different locals in our Council. One of the locals, 819, is the largest local in the State. They also have the general office workers - the girls. These girls may be told maybe two or three o'clock in the afternoon that they have to stay over and work. Many times they say they have to go out someplace that evening. But if they don't stay and work, they are called in the office and given a warning. That warning is on the record for as long as they work for TNJ.

We have another situation in Local 823, which is the Elizabeth Local. This is the business agent who just walked up here now. But he has a situation in the summertime where they book out work to an individual who will work a tripper in the morning - that goes out, let's say, 4:30 in the morning - and then around two o'clock in the afternoon they will give him a charter. The charter might come in at five o'clock at night. Then he will be given another tripper at 5:30 in the evening to go to the Port Authority and back down to Freehold. Then he has to go back to the garage. This means that the driver gets in about 8:30 or 9:00 o'clock in the evening. So, he is out from 4:30 in the morning until 8:30 at night.

We had two grievances by two different employees. One came in after the charter at four or five o'clock and he said he was tired and exhausted and didn't think he should go back out. He was first discharged. We went through the steps of the contract. On the third step of the contract, we did get the man reinstated. However, he was given a 30-day suspension.

We had another similar case and the man was given a 5-day suspension. The reason for that was that his record wasn't as bad as the other fellow's. Here are two cases where one man was suspended for five days, which means about \$300; and the other man for 30 days, which amounts to about \$1800.

I heard Senator Gregorio ask someone if they negotiated anything in our contract. We do have under the maintenance part of our contract that overtime does not have to be worked if there is another man available. But if they can't get the other man, then he has to work. It is pretty hard on these people who are told the same day that they have to work that night because many fellows who work in the office can just pick up the phone and tell the wife they won't be home, but a driver going up the Parkway or the Turnpike can't get out of that bus and call home. He just has to stand his wife up or whoever he has the engagement with. We don't think a person should be compelled to work overtime.

SENATOR BEDELL: Thank you, Mr. Carroll. I think what we are trying to do is (inaudible) other than emergency situations (inaudible) or for particular things that are a key to a particular industry that may arise periodically, not habitually, that there should be certain exclusions along that line. But I cannot escape the fact that we should be doing something about the occasion where management, itself, determines what the workload (inaudible), involving overtime, the man who works 16 hours a day. If the addition of more employees to reduce that --- what I am saying is that the (inaudible) has no right of redress at all in making that determination.

(inaudible) In those cases where it is habitual, where it is the ordinary standard whereby workers are going to be compelled to work overtime, (inaudible) I am not concerned about working overtime once in awhile; but I am concerned about those where decision made by management (inaudible). I think the example you cited of the 16 hours of work by a truck driver is exactly (inaudible).

MR. CARROLL: And I think this work involves summertime. Is that right, Bob?

ROBERT BASGETI: Yes, In June, July, and August when the heavy work comes in, I request to try to split the work up in other areas, not to cause a man to be out 16 hours. I had one man on the same night as that man that got discharged, if I may say this, Mr. Chairman -- that particular night these two men were on the same work in the morning and the same charter. They both came in at 5:00. One man came in and said, "I am exhausted. I just can't do it," and they said, "You work or else you are fired." Well, he went to work. The other fellow said, "I just can't do it." That fellow got discharged. The other fellow was out sick for six days after that because it was one of those rainy days. It was the day when the Pope was here when he was out all day with the charter.

SENATOR BEDELL: Could you identify yourself for the record.

MR. BASGETI: My name is Robert Basgeti. I am the Business Agent for Local 823 of the Amalgamated Transit Union. I represent the drivers, maintenance, and supervisory people in the Elizabeth Garage.

SENATOR GREGORIO: I am addressing this to the present speaker. Do you have a recommendation how a company could solve that problem without having the driver who is on the bus continue to work? Another question you can answer after that is: Aren't there ICC regulations as to the number of hours a driver can work?

MR. CARROLL: Yes, the ICC does govern it, but it has to be so many hours in a day and, like I say ---

SENATOR GREGORIO: Eighteen hours a day is a long time.

MR. CARROLL: Yes, but he is off the buses -- he may be off the bus from 9:00 to 2:00. Then he will go on the bus from 2:00 to 5:00 and then again ---

SENATOR GREGORIO: (Question inaudible)

MR. CARROLL: You can rest assured that TNJ does not violate the ICC. But they are violating the man's health.

SENATOR BEDELL: What is your answer to the original question? How would you recommend that they solve this problem?

MR. CARROLL: Many times we suggested hiring more people. Of course, with the State now acquiring the company, they always claim they can't hire anybody because the State won't let them. We have always advocated more people. As one of the previous speakers said, it is a lot cheaper to pay overtime than hire new people because they don't have to pay them vacations, they don't have to pay holidays, etc.

SENATOR BEDELL: Thank you, Mr. Carroll.

Barbara Brenner, New Jersey Bell Telephone Company, CAW Local 122.

B A R B A R A B R E N N E R: Thank you, gentlemen, for listening to me. I really came unprepared; but, once I heard everyone, of course, I had a lot to say.

I have heard the phrase here today "scare tactic" and I wanted to point out a few things. This is a small sample of the intimidation that we, in labor, receive from management. One company says that some nice old lady is not going to get her telephone. Another company says that a certain family can't cook their Thanksgiving dinner. Another company is going to move out of the state. It is like a bunch of spoiled children stamping their feet and saying, "You are not playing the game by my rules so I am going to take my game elsewhere." We go through this every single day, little innuendos, little intimidations.

I work in the Commercial Department of New Jersey Bell. You call into us if you want a long cord on your phone,

if you want to change the color of your phone, or if you want a decorator set. In no way is anyone's health jeopardized if they don't get these things at a particular time. But we have office indexes - we have what is traditionally called a "two-day due date." Whatever day you call in on, two days later traditionally you will get exactly what you want. But is it really important to force people to work overtime so that you can have an outside jack by your pool? Is it critical that you have one at your cabana at the beach club? These are the kinds of things that we are forced to work overtime for in Commercial.

Yesterday, we had a sales meeting in our office - forced overtime again - and the gist of the entire meeting was: "the push is on to sell" - sell decorator sets, sell touch-tone, sell princess, all kinds of premium equipment. Why do people have to come in to listen to that? Why must we be forced to come into work to listen to something about office reports? If a customer wants a special piece of equipment or there is an emergency, we have never refused to do it. No one has refused to work overtime. What we object to is in the intimidaton and the force.

In fact, I went to management yesterday - it was not an isolate incident either ---

(End of record)

(Start of next record. The first part of next witness's statement was not recorded.)

L L O Y D S U T T E R: We have a pharmaceutical ware and specialized glass plant, two actual physical facilities employing 1586 people in the Vineland area, a rubber syringe, the plunger part of it, and needle cover, the Kimmel Division in Pennsauken; two closure plants, one in Glassboro with 574 people and one in Wayne with 109. The Glassboro Plant also is in continuous operation and manufacturing can ends for the brewery industry. We have at Holmdel, New Jersey, 820 people employed in a Lily Cup manufacturing operation - Kentucky Fried

Chicken tubs, Dannan Yogurt, and that type of thing. I most recently negotiated three labor agreements down there in January and February of this year. We have a paper-corrugated-box operation in Moonachi - three sales offices, one in Saddle Brook, one in East Montclair, and one in Vineland, with 58 sales and related people employed there.

We have labor agreements with the Glass Bottle Blowers of America, with the International Association of Machinists, and with the IUE, with the Plate Glass Workers of America, with the United Paper Workers, and with several other labor organizations.

I will say that we think it is bad for Owens-Illinois' businesses --and I want to give you some particulars of what causes overtime. Owens-Illinois' philosophy is never to schedule for overtime. It costs money. When I talk about the losses to employees, we will see not time and a half, but double time, and in some instances triple time. So we are not becoming the beneficiaries of this. It is an economic penalty. It costs us in the marketability of our product. So we don't try to schedule overtime. However, the number one cause of overtime, when you start balancing the equities of employee versus employer, is absenteeism, unscheduled absenteeism.

Take a glass plant in the forming machine area. It takes two weeks to get that furnace up to the right temperature with molten glass. You can't just shut it off. If you want to shut a glass machine off so that you are just spilling the material into the basement, wasting it, it takes a shift. If anybody walked off the job under your legislation, there would be a serious question about whether the factory would blow up. There would be public safety problems, in my opinion, there.

Our employees have recognized this and I would like to talk in a few minutes about the techniques we use to equalize overtime and to deal with overtime. But the fact of the matter is, if Mr. Smith does not show up to replace somebody, then

the individual there at the end of the eight hours who is on a rotating shift, not expecting overtime, must stay with the machine or we have a paralysis of the operation and a potential safety hazard.

The second reason why we think it is bad for business is probably more traditional to anybody's business: inadequate machine and/or employee productivity. That goes to fine-tuning a machine where there might be a machine problem or an operator problem or a skill question; we are just not getting out enough ware or product. So, in order to meet our customer requirements, we have to work more than we had scheduled for.

The other thing - and I have heard several other companies in the private sector deal with this - is market-demand surges, seasonal instances where you can't hire an individual for a year-round job that is only going to exist for two weeks, or three weeks, or four weeks; and, what I refer to as the "now or never" order, when a customer calls up and says, "If you can put on my loading dock in seven days 100,000 gross of ware, you get the contract. If you don't, we are going to move it up the street to Company X." If we miss those "now or never" orders, the long range implications to the employees, as a whole, are understandable, in reduced work available in business for the company.

We have the same problems everybody has with respect to unforeseen machine breakdowns. I don't consider that in the magnitude of the emergency that your bill looks to. But, certainly, it is a fact of life. Nobody schedules for machine breakdowns.

We have certain types of work, the wax that you dip this in, for example. (Indicating) You cannot perform maintenance on that machine while it is operating. Where we work a fixed shift in this type of operation, we plan for overtime on the weekends and try to spread the work to make it either a non-overtime situation or a minimal amount of overtime, so that when the machine is down and not detracting from productivity, you can clean out the wax, put in new

paraffin, etc.

We have holiday shutdowns where we schedule work - and it may not even be in an overtime context. In that context, it is somewhat of a deprivation of a holiday if an employee doesn't want to work. On the other hand, it is paid at premium time - sometimes double, sometimes triple time, plus the holiday pay. So it can go as high as four and a half times. We really have to want to do that before we bring anybody into work.

Another one, which is the reverse, I think, of what you are trying to do in terms of making work: When we, every three years or so, have to do a furnace redo on a glass house - that's Vineland, Bergen and Bridgeton - we take the furnace down, five machines down, and approximately 100 persons on each (inaudible), from inspectors, to fork-lift operators are out of work. These are specialized companies that work on building furnaces. We make arrangements that all the laboring work, the unskilled work, be performed by these people who are being displaced. And those are 12- and 15-hour days where it is the alternative of these people being on unemployment and out of work or working for compressed periods of time. Sometimes those furnaces go out on schedule. Sometimes you have to do minor modifications. But we work with the building trade and we work with contractors to make sure that our people get as much available work and aren't on the unemployment rolls to the extent we can do anything about it. If that is not available, because of restrictions on overtime, we would have to subcontract that work out to somebody else.

We have a problem in that the key personnel in our operation, which may be true in some industries and may not in others, are extremely skilled and trained people. By that, I don't mean that they go to school for extended periods of time somewhere; they learn it on the job. And we just can't go out on short notice to some pool of unemployed people and pick up anybody who really could do the job. So, the ability to go out and somehow reduce the unemployment by just plucking

people off the street and putting them in for a short period is unrealistic.

Continuous operations, in our opinion, require overtime. If your bill passes, it will disrupt our manufacturing efficiency, particularly in these continuous operation facilities and 7-day rotating and fixed shift operations, and will cripple our ability to be responsive in the marketplace.

One other things that bother us is the exemption for small business of 50 or less employees, which puts our smaller facilities like our plastic products and our (inaudible) products box plants at a competitive disadvantage. These are facilities with 60 to 100 people. They are unionized facilities that are already paying a penalty in the marketplace against non-union and small operations. If you restrict our ability to meet the surges in those two areas, all you are going to do is penalize labor, in our opinion, and penalize our ability to operate.

We think from our business's point of view that this is an unwarranted restrictive workplace intervention.

Now, let's look at why we think it is bad for our employees. The labor organizations with which we deal, particularly the Glass Bottle Blowers' Association --- we have been negotiating with those people since before there was a Wagner Act. We have had an established relationship for over 50 years where we balance premium pay - and I am not talking about time and a half for 40 hours. We have call-in guarantees for 4 hours minimum pay if we call somebody in, interrupting their free time; whether they work a half an hour, or two hours, they are guaranteed four. At the Moonachie Box Plant, if we don't connect up that four with their regular 8-hour shift, they are paid at time and a half. We have time and a half or double time rates at all 10 manufacturing facilities for all time in excess of 8 hours a day, in excess of 40 hour a week, for Saturdays, Sundays, holidays, days off; double time in excess of 12 hours a day or 50 hours a week;

double time for six and seven consecutive days of work. We don't try to schedule that. We only use it when we have to.

One of the interesting things, similar to a couple of the other people's testimony, is that our grievances don't come from forcing the employees to work; they come with respect to equalization of overtime. We have some of the most unique equalization rules, in my opinion, that you will ever see, including the one that I just dealt with trying to get the union to negotiate with the machinists' union in the Holmdel Plant, where we equalize overtime down to one-tenth of an hour per week with machinists down there by skills, the pipefitters, the maintenance mechanics, and other people. In order to get a person, we use a volunteer system, in which, while we have the entitlement to get the person, we have to pick the person who is lowest by any more than one-tenth of an hour. So, in that instance, week by week, we equalize the burden. I think that offsets some of the horror stories that people were talking about perhaps from the union side in other situations.

We have other equalization formulas that go for as long as six months before we equalize them.

We only require overtime when it is necessary, when it is reasonable. We offer it by seniority first, required by junior first, and equalize it by a number of formulas in the stack of papers right here, the key to the respective operations.

In the negotiations I have done with Owens-Illinois - and I have been with them 4 years inside and worked for them 10 years throughout the country, as an outside lawyer - the major concern of our labor organizations is that they have the first right to do the work. They constantly harp on elimination of subcontracts. If you get into the business of allowing groups and percentages of the work force to deprive us of the opportunity to schedule with certainty to meet demands, then in addition to deteriorating our competitive

capability in the marketplace, you are going to compel, in my opinion, resort to subcontract, to the detriment of the overall employee groups, whichever that might be.

Another unique situation that has been overlooked at least to this point in the testimony I have heard and is one of the causes - and I think beneficial causes - for overtime is that there are two ways to schedule vacations in a collective bargaining situation, recognizing seniority. Everybody wants his vacation or a significant part of his vacation in good summer months. Up here, it is no different from any other area of the country. The best way to allow skilled people to get their vacations - and they scratch each other's back in this regard - is to work two people to cover for three people. And these aren't people to avoid employing people; these are two people to cover for the third person by working eight, plus four after, and four before plus eight, for a week, for two weeks, or whatever, so that the entire skilled work force between the 1st of June and Labor Day can get some time at the beach.

There is no way we are going to go outside and hire summer hires with the skills to run a machine of the complexity of the industries that we work in. I think you would be penalizing the overwhelming majority of our workers who negotiated this right if you allow any one of their members to say, "No, I'd rather not work." The alternative to scheduling prime-time vacation in the Christmas or the summer period is to spread it out throughout the entire year so that junior employees --- in our company where we have employees with 37 to 40 or 42 years performing service with the company, an employee with 5 or 10 years would be taking his vacation every year in February. That to me is a negotiated basis, which runs counter to what your bill, in my opinion, would do.

Another problem we have is that we are about to open in East Brunswick a plastic beverage container facility that makes the liter and two-liter containers. As part of our continuing quality of work-life program in our plastic

beverage operations located in five other states, we have determined on the basis of employee input that they prefer a 12-hour, 4-day workweek. The way that thing works is a 3-shift operation, flip-flop 12 and 12 for 4, and the other one backs in behind it. There is no provision in your bill to deal with the new plant. I am not up here saying we are not going to open in East Brunswick if this goes through. But we cannot operate that facility with any of the exemptions that you are talking about. We can't come in and say we have a past practice. We can't come in and say we have a labor agreement or we are involved in a National Labor Relations Act violation. We don't know what union might organize that facility.

I am sitting here and saying that that has decreased absenteeism and increased available free time. That is a rolling shift now, so that the only relief overtime that is necessary is if somebody doesn't show up. Where you are working them 12 hours, you don't want to work them 16 or 18 hours. They know that themselves. So absenteeism has plummeted; productivity has stayed the same; free time has increased. If you put an 8-hour cap, voluntary or otherwise, you are going to destroy all of this type of potential quality of life approach.

SENATOR BEDELL: (Inaudible)

MR. SUTTER: No, sir. These are all plants that have been opened within a year or a year and a half. Two of them, we have had organizing campaigns in, in which the employees have declined representation by the union that was petitioning. The other three are so new that we haven't had any experience in them. It is a brand new industry. It is a unique situation. Quality of work life - I have heard about it emanating out of the auto industry. What these people are saying is: "We'd rather take a larger dose in fewer days and get ourselves more free time."

SENATOR BEDELL: (Inaudible)

MR. SUTTER: My Vineland operation, the pharmaceutical ware, also has a lamp group. We have the same union, the

Flint Glass Workers - it has about ten different departments with 10 different types of work. I would have to go down and look specifically there. I believe there are 3 of those departments making unique types of ware where they have the same type of operations - 48-hour segments.

There is a negotiated pattern, peculiar to 3 departments out of, say, 20 in a unit represented by the same union. So, even departmentalizing, our unions know our business and they know their people. When they go into the political process of deciding what to throw on the bargaining table, they don't come at us at the same way for every department. And we don't go at them the same way. If I have x number of hours that I need work and I am trying to avoid overtime, how they schedule is really something we can (inaudible).

SENATOR BEDELL: What has been your company's experience with complaints about working overtime?

MR. SUTTER: I am unaware of any complaint that has gone to arbitration in the four years I have worked in my present capacity inside the company or in the ten years prior to that outside.

SENATOR GREGORIO: What about the situation that you called a "now and then" order where the company has a chance to really pick up a big order? Yet, that certainly is at the expense of the employees who have to work a little harder and work longer hours. Do you get flak from the employees when that happens?

MR. SUTTER: I don't think we do. You have to understand I am not running the facility. But with these equalization of overtime spreading devices, I think we have eliminated the need to compel anybody but the junior or the low-time person to do this - and it works. I have had no problem where we are talking about economic situation - I don't think my industrial relations director of the department heads has where you bring it to the business agent's attention: "Look, we are going to lose this customer. If we lose this customer, it is going to cost us something." So I think what you are talking about is an attempt at a

quick fix or general legislation to attack a particular foreman who is an obnoxious person, who I am sure exists in everybody's company, mine included. But the grievance process --- I don't know of any in my company right now. But the grievance process at the first level and certainly at the second step handles this. You don't need to get to the plant manager and you never go to arbitration. All of my arbitrations are in the application of these technical formulas. I heard someone talking about how somebody called and nobody was home. The classic one that we get --- and we have departmental local overtime agreements. The supervisor and the steward in that department make a deal that the plant manager doesn't care about for covering, say, holiday overtime. We make a telephone call for a breakdown or a holiday problem and the kid answers. And we get the grievance saying, "I was out cutting the grass and you should have told my kid to go out and get me." We have that kind of situation. It is all fighting over who is entitled to it.

SENATOR GREGORIO: In most of the plants that I have heard, it is bad distribution and not getting enough. I am convinced there are some cases - it might be a minimum amount - where people are dissidents or have good reasons for not wanting to and ordinarily would accept the overtime, but on that particular day they had something very important to do and they were forced or intimidated to work. That is the problem we are trying to solve. I don't know how we are going to.

MR. SUTTER: I submit - and I have represented a lot of big companies, including Eastern Airlines, Greyhound, Sperry and Hutchinson, J. C. Penny, every kind of industry you could ever see, that where an employee says that he or she has a personal need, I don't know of any of those companies or my own company would decline it. It is a scheduling problem. It is a short-notice problem. There is no pool out there of people on the unemployment line that you can call on the telephone 15 minutes after the shift starts and no one showed up to deal with that problem.

I think you are talking about isolated situations and I don't think a bill of general application which has an adverse impact on my type of continuous operation ought to be used like a shotgun where you might need a pea-shooter to knock off a problem.

SENATOR GREGORIO: You have made some very good suggestions. I want to ask you and everyone else listening, if you have any recommendations of something that could be added to this bill that would solve management's problems and still help those few people that need help, we would appreciate it.

MR. SUTTER: Well, I have three other quick points and one of them is going to run right to that question. It is my personal opinion and it is my company's opinion that it is a bad bill. And, even in my company, I can't foresee all of the instances where I could give you a list of 100 exceptions that would cure all the problems in that bill. I think it is a bad bill and I don't think it should pass.

I also note that there is a Section 7 of the National Labor Relations Act that specifies that employees have a right to negotiate with respect to wages, hours, and other terms and conditions of employment. Hours are specified. It is a mandatory subject of collective bargaining and, in my opinion, the Supreme Court of the United States has preempted state intervention in those areas where the federal government in its wisdom has applied legislation of general application. It is my opinion as a lawyer that the regulation of hours is a matter for collective bargaining and not for legislation by the states.

SENATOR BEDELL: If it is a decision made by management alone, where is the redress?

MR. SUTTER: Well, assuming that management has a history of other than isolated instances of abuse of overtime, you can wind up either amicably or through the strike process with negotiated ---

SENATOR BEDELL: (Question inaudible)

MR. SUTTER: I am not going to sit here and indite Bell Tel. I don't know a thing about their labor relations. But assuming it is a single company and a single union problem, I don't think you need a law in the State of New Jersey to solve that particular problem. It then impacts upon people like our company who spent 50 years negotiating.

SENATOR BEDELL: (Question inaudible)

MR. SUTTER: I think that they ought to address, in my judgment, the type of device - and I am not trying to sell something to people who have enough trouble negotiating with the wage/price guidelines and all that garbage intervening --- but I say that the equalization of overtime provisions that seniority for volunteers and the reverse seniority for the unique instances when you can't handle it any other way is the way to go about it. I think if these people are professionals from labor's side and from management's side, then they know their industry and, heaven knows, I don't believe that I know mine sufficiently to put myself to write a bill like you are trying to write of general application. Those people ought to sit down - and nobody negotiates that I know of with the intent of causing a strike on either side. Nobody wins strikes.

But the last time I saw published - and it was in the Wall Street Journal - anything where the question of reversion from voluntary overtime to mandatory overtime was the issue - it was International Harvester and it was the longest UAW strike in (inaudible). And those people who didn't want to strike kept that situation. Now, where you have mandatory overtime --- and our contracts - and I will submit the provisions to you - speak to mandatory in application. In other words, management has a right to meet its needs. It has got to have it or it doesn't have the flexibility. If you shift that right to veto it to the employees, you take away management's scheduling and flexibility capacity. When you take that away, it is impossible to plan. I can hire double the work force with an alternate for every employee if I could support it in the marketplace and still guarantee that I am always going to cure every single

instance of inequity that might arise.

With that, I will be happy to file a formal summary of this. (See page 4x for summary of Mr. Sutter's testimony.)

SENATOR BEDELL: (Inaudible.)

MR. SUTTER: I will be happy to send you a copy of the applicable provisions.

SENATOR BEDELL: Thank you.

SENATOR BEDELL: Mr. William Saller, Public Service Electric and Gas Company.

W I L L I A M S A L L E R: Mr. Chairman, Senator Gregorio, I will just present copies of my report and then emphasize some of the key points in it.

I am Bill Saller, General Manager of Governmental Affairs for Public Service. We appreciate the opportunity to comment on Senate Bill 887.

Public Service employs over 13,000 employees in the State of New Jersey, and we feel this bill would prohibit mandatory overtime, and would have a major impact on the utilities in this state and their customers.

The bill allows for emergency overtime, and I think it is recognized that in our situation emergencies would be considered to be times when customers are out of service, and where there are hazards to the public. However, there are many other types of situations that may not be considered emergencies by someone - a union or a legislator - looking at the situation.

We, as a company, and all of our supervisors try to minimize overtime, and we only work overtime when it is absolutely necessary. You don't work overtime for the sake of working overtime, nor to satisfy someone's financial needs.

In addition to the emergency situations then, we have a number of other reasons for working overtime. On occasion, business or industries require a change in the service equipment that supplies them -- and this is either on the gas or the electric end. To accommodate these customers, and to assist them in meeting the demands of their operation, we arrange for the equipment to be placed at a time when it is convenient and economical to both the customer and the Company. By that I mean that rather than shut them down during the week, causing them to send a few hundred people, or more, home, we will do the work on Saturday or Sunday, on an overtime basis, and that means working overtime. Also, a backlog of new service orders,

resulting from conditions beyond the Company's control - such as a major storm which ties up our people for a couple of weeks and results in a large backlog of service to new customers who are waiting to move into their new homes, or apartments, and so forth, or to a new business that is going to move in - may also require overtime so that customers can take occupancy on a given day, as planned.

Also, equipment that is out of service, even though no customers are out of service, must often be returned to service as soon as possible, otherwise subsequent failures could result in major service interruptions. We are concerned about maintaining the integrity of the utility's system, both electric and gas, at all times. So, if we lose a line or a piece of equipment, we want to get that back in service, so that if a second failure occurs, we will not have a major area out of service. Someone may not consider this type of overtime as an emergency.

Also, we try to provide electricity at the lowest cost possible. For this reason, efficient, low-cost, generating units must be returned to service as soon as possible after an outage. Since the cost of replacement power for a nuclear unit may exceed \$600,000 a day, you can see why we are very anxious to get large generating units back in service as quickly as possible. Even though all of our customers are in service, it is economically advantageous for the customers in the long run to get this equipment back in service.

Many of our employees are shift employees who do not leave their work location unless they are properly relieved. And, when a shift employee is absent for any reason - jury duty, vacation, a day off for personal reasons - overtime work may than be necessary in order to cover his shift. Our control room operators, our dispatchers, our trouble men -- these are all shift jobs, and they have just been trained that way: They don't leave until they are properly relieved, the same as when

you are in the Navy. But, yet, this is the type of activity where once in a while you may have to force someone to work overtime.

Employees come to work for our company and they accept the positions that they are applying for with the full understanding that overtime is required. Our business is a seven day operation, twenty four hours a day, fifty-two weeks a year, and the job application form for the company, used for the new employee, includes a question on the willingness to work overtime. So, we start right with the job application form.

Also, in the IBEW contract, in the job specifications - in the preamble - it includes the willingness to work overtime. And, this is an obligation that all employees, who are bound by the union contract, have to follow since it is part of the contract.

We are not arbitrary in assigning overtime and we do so in accordance with all the company-union agreements, letters of understanding that we have with the union, and the resolutions of any grievances that we have had over the years in connection with this subject.

We distribute overtime equitably among qualified employees. I think some companies mentioned they do it by seniority in a given classification. We distribute the overtime equitably amongst all the employees in that classification.

I would just like to read a few excerpts from our contract in order to give you an idea of how we do operate. The next two sentences have been part of our contract for 28 years:

"The union assured the company of its cooperation in obtaining employees acceptance of overtime assignments." Also, "The company assured the union that, within the limits set by work requirements, it would continue to consider the personal plans and desires of individual employees."

It is only after voluntary measures have failed that overtime assignments become compulsory or mandatory, and then we select the low man on the overtime list and he is generally given the assignment. Even at this step, though, the company takes the employee's plans into consideration.

In our union contract it again states that: "Requests from relief from overtime assignments will not be considered to warrant disciplinary action unless they are determined to be excessive."

We feel that it is absolutely necessary that management retain the right to take disciplinary action for refusal to work overtime whenever it is necessary.

Again, I would like to quote from an arbitrator in one of the cases that did go to arbitration. He stated: "It seems to me that if the foregoing general requirement" - and he was referring to our preamble - "is to have any purpose, it must be enforceable. And, when efforts at persuasion fail, I know of no way to enforce it, except by discipline." That now has become an accepted part of our labor-management agreement. Although the management retains the right to take disciplinary measures, these actions are also subject to a full grievance procedure, which includes arbitration.

Overtime is clearly required as a condition of employment and is covered by our contracts. We have had very few grievances filed over this issue, or filed in connection with our overtime practices. I think most of the grievances we have had have been because of who got the overtime, or they didn't get enough overtime.

In conclusion, Public Service believes that the assignment of overtime remains a labor-management issue, and one which should be settled at the bargaining table, rather than by legislation. The rest of my remarks you have as part of my written submission. (see page 11x)

I would like to raise a question here. I know of your concern for the employee, but what happens when a business reaches the point where no one volunteers after you have exhausted, say, all of the employees in a particular job classification, and no one wants to work overtime? You might have 50 other people standing around ready to put a large generating unit back into service and one or two key personnel say no. What do you do? Do you leave that out then for a number of days? Do you send the other 25 or 50 people home? These are decisions that have to be made by management, and I think these are the problems that we are faced with. I think it has been recognized over the years that that is when we have to say to the low men, "You must work overtime."

SENATOR BEDELL: (first portion of question inaudible)
If you ask about 50 people and they refuse to work, do you say they should be forced to work if they say no?

MR. SALLER: Yes. If it means--

SENATOR BEDELL: In other words, their alternative is to quit, right?

MR. SALLER: Well, here again, when they work for us-- First of all, as part of our contract it depends on their reasons. That is why I read the sentences that were appropriate. But, there again, someone has to work overtime, otherwise the customers are going to have to wind up paying for excessive replacement power costs. It could affect the reliability of the electric system.

SENATOR GREGORIO: (inaudible) That kind of a situation, as far as I am concerned, as long as it is not a routine decision of management that they are going to do something on an overtime basis because it pays them to do so, and if it is a thing that happens by happenstance and it is not routine, then it clearly should not be (inaudible)

MR. SALLER: Well, we have routine maintenance of

our generating units. When they come out once a year, or once every couple of years, we put as many people as possible on to maintain them and to get them back in service. Or, if a transformer has failed at a substation, or at a switching station, we want to get it back into service, again, for that same contingency, so that if another one fails, we don't have to shut a whole town down. And, we work--

SENATOR GREGORIO: Don't you think that should really be exempt from overtime? The saying is that there are instances in industry today whereby it becomes the practice of management to compel people to work overtime on an on-going basis, on things that could be done by hiring more employees, because it is cheaper to have people work overtime than it is to hire employees. That is the problem. It is not emergency situations, or situations that are a one-time shot, or situations that arise unexpectedly - even if it is, as you say, an important order - it is something that the company would do normally on an on-going basis that we are concerned with. Now, whether that could be covered by legislation, I don't know.

MR. SALLER: Well, I want to make the point that there are many situations that may not be considered emergencies, but which we feel are very important to our customers, cost-wise.

SENATOR GREGORIO: (inaudible)

MR. SALLER: Historically - let me put it this way - our past record, for the last 35 years that we have had unions on our property, shows that we have had very few grievances. With the IBEW, which has over 4600 members, in the last 30 or 35 years, we have had only 14 grievances on this subject. That is one every two years. In the Plumbers Union, which represents most of our gas employees, we have maybe 8 or 10 in the last 10 or 15 years. So, we are talking one a year, or one-half of one every two years.

MEMBER OF COMMITTEE: (inaudible)

MR. SALLER: It is the other way around; they want to work.

MEMBER OF COMMITTEE: (inaudible)

MR. SALLER: Yet, it affects 8,000 of our bargaining union employees.

MEMBER OF COMMITTEE: How many employees do you have?

MR. SALLER: Thirteen thousand.

MEMBER OF COMMITTEE: (inaudible)

MR. SALLER: Thank you very much.

SENATOR BEDELL: Bill Baker, New Jersey Hospital Association.

W I L L I A M H. B A K E R: Senator Gregorio, I am Bill Baker, Vice President of the New Jersey Hospital Association, and Director of Government Relations. I am not going to read my statement. I am just going to take a few thoughts out of it.

You have heard today from other industries that they are 24 hours a day, 7 days a week, 52 weeks a year -- well, hospitals are no exception to that either.

We have carefully reviewed S-887 and, frankly, we think it is a bad bill. I wish sometimes that we had the advantage of coming from out of state so that we didn't have to look at you guys all the time after we have told you we are looking at a bad bill, but, unfortunately, that is not the case. That is what we think about this one, anyway.

I will tell you some of my reasons as to why we think it is a bad bill. Hospitals, traditionally, have used a voluntary overtime concept, and that is to ask volunteers to work overtime. Normally, overtime requirements can be filled by volunteers. But, there are times, however -- and it is made a part of the pre-employment indoctrination for the prospective employee -- where we indicate to employees that occasional overtime will be required if staffing needs direct it.

In our industry, as in many others, you don't simply go out and pick up somebody off the street to fill a nurse's job, or a medical technician's job, or an x-ray technician's job. You have to have trained people. In addition to training, in many situations in our industry-- And, incidentally, our industry employs about 90,000 people in this state. It is probably the second largest industry in this state. And, it is probably has more unique characteristics to it than many industries -- or most industries, I might say.

There are times, however, when we need a particular qualification in a person if someone doesn't show up for a succeeding shift, for instance, and somebody will be required to work. Generally, this would be the person who is on the job the preceding shift. You will ask that person, first of all, and if there is someone else qualified and the first person refuses, then you try to get someone else who is qualified and is available. But, in the final analysis, if you can't find someone else who is qualified, you are going to have to - in our industry, we take this position - require that person to work.

We have some question about the wording of the bill -- as to whether or not the hospital industry would be exempt under the emergency provision of the bill. That certainly is not clear. If I were a disgruntled employee, I think I would take the position that hospitals have been around for a long time and that the day to day operations of the hospital are not an emergency. There are emergencies that arise, however, and I think that everybody will recognize those. There are a lot of grey areas, though, where I am sure there will be conflict. You know, "is this an emergency, or is it not"? Is everything that goes on in the emergency room an emergency?

We believe that the hospital management and supervisory personnel have the authority, and most retain the authority,

to assign overtime work when it is necessary. We think good management practice calls for it, and common sense dictates it.

Admittedly, there are times when the very life of the patient is at stake, and I don't think that anybody, in good conscience, could quarrel that in that kind of a situation a person should not be directed to work overtime, if indeed a life were at stake. I think the emergency provisions would probably cover that. But, again, there would be questionable areas. When is a person's life at stake?

I had a little note on my cover here. Some operations - you know, if you go in for an operation - take more than 8 hours. I have been in on one. You don't let the operating team walk out of the operating room at the end of 8 hours and bring in a new team and say, "here, guys, take over; he is laying there on the table."

SENATOR GREGORIO: That is an emergency. That one is simple.

MR. BAKER: No, it may be a routine operation; but it may take a long time.

SENATOR GREGORIO: Couldn't you lay it over until tomorrow?
(laughter)

MR. BAKER: I would hate to be laid over until tomorrow, I'll tell you that.

Back to the point of staffing -- even if trained, or licensed, people are available, or even if the licensure requirements can be fulfilled, in our industry anyway, there are not sufficient people out there to pull in in order to fill a vacuum. We have a severe shortage in nursing right now. You know, we have had a substantial shortage of doctors for some time. That seems to be coming to an end. So, the point that has been made by Senator Bedell and you, earlier today, about hiring additional people to fill vacuums, or

to lighten the workload so that overtime is not necessary, doesn't particularly pertain in all instances. I would submit to you that ours is one of those instances.

There are a couple of other comments that came to my mind. The bill says that-- Let me read it. On lines 7 and 8 in Section 1 it talks about: "...unless otherwise specified by a valid collective bargaining agreement." The point was made earlier about 30% of the employees, or the workforce, in this state being organized. That figure is about true for hospitals too. About 30% are organized. About 70% are not organized. That would presuppose unequal treatment as between the organized versus the non-organized employees. I don't think that-- We agree that the collective bargaining mechanism is the proper mechanism to work out the kinds of problems that have been put forth here today. We do not believe that legislation is the proper way to do it. The gentleman from Owens-Illinois, who left, I think probably said it better than I can, and I won't repeat it.

There are a couple of other instances in our industry where problems would arise with this kind of legislation. We have certain categories of personnel who are what we call on-call - x-ray technicians, lab technicians, and things like that - who, on night shift, if the lab is operating above a certain level, will be off but on what we call "on call." That means they have to be near a telephone and if they are called because of a need - if there is an accident, or if there is an emergency of some kind - they would be required to come in. Again, that would fall under the emergency conditions of the bill. That, again, is not clear to me.

But, the point I wanted to illustrate was, there are a lot of unforeseeable kinds of situations, and some that can be foreseen, where overtime is required in a life-threatening situation, or simply to keep staffing levels. By state regulation, we are required to keep certain staffing levels. We have to

have at least one R.N. on each nursing unit, twenty-four hours a day. That means if a gal, or a guy, doesn't come in on the 11 to 7 shift at night, we have to get somebody in there, or else we will be in violation of the law. We would submit to you that while that is not an emergency--

SENATOR GREGORIO: Aren't those people considered professionals -- an R.N.?

MR. BAKER: No, not under the definition of the Fair Labor Standards Act. Most of them are not paid on a salary basis. Most of them are paid on an hourly basis, so they would not qualify as professionals.

Well, I think I have told you enough of what our story is. I am not trying to suggest that hospitals are--

SENATOR GREGORIO: I think we can both admit that hospitals are certainly a unique thing, and maybe they ought to be exempt. In my opinion, with a hospital, the whole thing is an emergency.

MR. BAKER: Well, much of it is. But, even if you take that approach, then you go beyond the hospital walls and how about the doctors' offices? How about the mental health clinic? How about the planned parenthood groups?

SENATOR GREGORIO: (inaudible)

MR. BAKER: Probably most of them would, yes.

SENATOR GREGORIO: What has been your experience with complaints about -- (inaudible)

MR. BAKER: Well, we have had one case that we were able to document in preparation for this hearing, where a person was discharged for refusal to work overtime. That is the only case in our recorded history that we could find. And, out of 90,000 employees - and that covers a period of probably 10 years - that covers a lot.

SENATOR GREGORIO: Do you think that most of them are dedicated and they know that they are going to have to

work if they are needed?

MR. BAKER: Yes, it is pretty generally acknowledged that in the health care industry you are going to be required, where emergencies occur, or even in the normal course of business, to work overtime, even though it is contrary to what your personal life would dictate.

That concludes-- Again, I would hope that you would not release the bill.

SENATOR GREGORIO: Well, it won't be released today.

MR. BAKER: That concludes my remarks. I would be happy to answer any questions, if you have any. (see page 15x)

SENATOR GREGORIO: Thank you.

Mr. Clark Martin, New Jersey Restaurant Association, Local 401.

C L A R K M A R T I N: Good afternoon. My name is Clark Martin, and I speak for the New Jersey Restaurant Association, Hotel/Motel Association, and Milk Industry Association -- the dairies -- but my remarks are generally applicable, I think, to a variety of other businesses which would be affected by the bill.

We believe that the bill fails to consider the realities of what it takes to successfully respond to market demands, at least in the three industries I enumerated. This is because the bill would prohibit mandatory overtime, except for emergencies, or for emergencies due to circumstances which cause extreme disruption of usual operations. As you have heard so much today, that phrase is vague and undefinable, and we think that in most cases it would lead to arguments and refusal to work overtime, instead of cases where the employee would respond to the employer's need.

For example, during last year's milk strike in New York, New Jersey dairies increased production and deliveries to supply milk to outlets both in New York and in bordering

towns in New Jersey. To the people in New York, the milk strike was considered an emergency, but we wonder whether New Jersey dairy workers, called on to work overtime during those months, would also have agreed that they were faced with "circumstances which caused extreme disruption of usual operation."

I can think of circumstances in the restaurant and hotel industries where the employer would feel compelled to require his people to work overtime, but where the employees might dispute whether the "extreme disruption" test would apply. For example, suppose a chef doesn't report to work on a busy night, and the restaurateur has to ask another chef to stay beyond his usual eight hours? Or at a hotel, serving a convention, suppose a number of waitresses were out with the flu and the banquet manager has to ask other waitresses to fill in by working overtime?

We are fearful that the bill would deny us an essential that we need to serve public demand, and that is trained, reliable help. From our point of view, the question of required overtime is best left to an agreement between the employer and the employees, regardless of whether they are organized. You have had a lot of discussion about the organized language here. In most hotels and restaurants, the employees are not organized. If, at the outset, the employer tells a prospective employee that the nature of the work is such that from time to time he may be called on to work overtime, and if the employee takes the job with that understanding, then we think this agreement should prevail.

If the prospective employee tells the employer that under no circumstances will he ever work more than eight hours a day, or more than 40 hours a week, or past a certain hour of any day - like my secretary, for example, because she has to pick her child up from nursery school and she can't work past 5:30 any day, no matter what the situation - and if the

employer agrees to that, then that understanding should prevail. We don't think that New Jersey needs a state law to interfere with, or restrict, such agreements, and since the provisions of S-887 were not inspired by complaints in the hotel, restaurant, or dairy industries, we think it is safe to say that the employees of these industries haven't felt the need to call on the legislature to rewrite their overtime conditions.

So, we respectfully ask the committee not to report the bill.

SENATOR GREGORIO: (inaudible)

Mr. Frisby Euell.

F R I S B Y E U E L L: Mr. Chairman, members of the Committee, I appreciate the opportunity to come down and testify today.

In the interest of time, you have my statement, and I would like to just paraphrase some of the points that are made in that statement. (see page 19x)

SENATOR GREGORIO: The whole statement will be read into the record, and in the interest of time, we would appreciate that.

MR. EUELL: Okay. I will just add one or two points that have occurred to me as I sat here.

I am Frisby Euell, Manager of Employee and Community Relations, General Electric Company in Paterson. I am representing the other General Electric plants and offices in New Jersey. We have six plant locations, and other service center sales distribution offices. The total employees are in the area of 3,000.

We have a service shop...

(whereupon tape goes blank)

TAPE RESUMES:

...they are available on a seven-day-a-week basis. When some of the equipment goes down, it is crucial that somebody be there to fix it because somebody needs it very badly. So, that operation

depends very heavily on overtime.

In our own business, where I work manufacturing gear motors, half the business is a high-production, volume activity; the other is a job shop, where frequently we are replacing the gear motor that is crucial to the operation of somebody's factory. Here again, when we call on people for overtime, it is usually because we have promised a customer delivery for a certain time and we are in danger of missing that shipping date, and the consequences usually are that he doesn't get his operation going and it risks his shutting down and putting a bunch of people out of work.

In General Electric in New Jersey, we do not abuse the use of overtime. In my particular plant, we worked less than 2% so far this year. We recognize that overtime is costly and carries with it a 50% premium, so we make every effort to avoid it.

I might add, we have had minimal problems with employees who feel pressured to work overtime. In my particular plant - and I have been there now for almost five years - there has been no instance of any issue, where anybody was disciplined for refusal to work overtime.

The problem that concerns us is that we have had a problem this winter with what we refer to as concerted action. Our business was down and it was necessary for us to lay off some 65 people. The union then took the position that if you have that number of people on layoff, this means that you don't have a need to work overtime. So, the employees as a group consistently refused. Now, we believe that discipline is something that you use as a last resort, and we have not used any discipline. We look for ways to become more efficient and to operate without having to work a lot of overtime.

MEMBER OF COMMITTEE: (question inaudible)

MR. EUCELL: Well, we have become more efficient. We have found ways to schedule better and to get the product out

in 40 hours. But, we feel that we need the right to exert some discipline in that arsenal, if the situation requires us to use it.

I have heard the question put to people, repeatedly, today: "What do you do with a person who doesn't want to work overtime? Should he be forced to"? I think the answer to that is, each of those situations should properly become the subject of discussion between management and the union, and we have union representation in all of our plants in New Jersey. Because what has to be decided is, what are the consequences of not working, versus what are the employees' reasons for not wanting to work. All those things are a little different in every single case.

So, we feel that these kinds of matters can best be solved through collective bargaining, and we would urge that you-- We think it has worked well in our businesses in the State, and we would urge you to leave it as it is.

MEMBER OF COMMITTEE: Thank you.

MR. EUCELL: Thank you.

MEMBER OF COMMITTEE: Mr. Paul Samperi, President, Samperi Restaurant Services.

P A U L S A M P E R I: Mr. Chairman, my name is Paul Samperi. I run a restaurant service, which gives information, help, and guidance to restaurants throughout the state.

We are quite disturbed with Senate Bill 887. We feel it would be an added burden put on the shoulder of the restaurateur. There are times, due to illness, absenteeism, and customers just staying late, when an employees, such as a counter girl, a waiter, a waitress, or a cashier, is required to stay a little bit longer. If the employee has the right to refuse, it can create havoc. To give you an example, if a chef doesn't show up, or if a counter girl doesn't show up, or if a waitress doesn't show up, it could produce a problem.

Also, there are restaurants and taverns who work their bartenders nine hours per shift, some six days a week, some five

days, some staying within the 40 hours. Now, what has my organization concerned is the wording of the bill which states, "in no event to exceed 8 hours." If the employer has to go out and hire another person to take over the additional hours, this too is a burden in today's business, where economy and operation is the watchword, especially in the restaurant industry.

Now, let us look at the kitchen operation with cooks, dishwashers, broiler men, salad people, et cetera, many working 42 to 48 hour shifts per week. Are they to be limited to shorter hours just to comply with this law? Or, if they are to accept shorter hours, some of these people will just quit, I am afraid. No one wants to make less money if he is put on an eight-hour shift. Now, if there is a hidden message in this proposed law, which in effect says, go out and hire more employees to make up for the lost hours, then it is very unfair to the employer and the employee. It is not that easy to get competent part-time help today, especially in the restaurant industry. The hospitality industry is in a recession. Customer counts are down; food prices are up; profits are down and costs of operating is up.

This proposed law can do more harm than good. We feel it is ill-conceived and badly timed. That is why we are giving you our views.

Senator Bedell, you mentioned at the last meeting I attended that you didn't want any harm to come to industry in New Jersey; that you wanted to get the views of all and make a very fair judgement. We ask you to please be considerate of our hospitality industry. Thank you.

SENATOR BEDELL: Let me ask you a question. (Inaudible)

MR. SAMPERI: I have in my organization clients, restaurants, taverns, hotels -- the hospitality industry.

SENATOR BEDELL: They are speaking of (inaudible)

MR. SAMPERI: I would say it is about half in my organization.

SENATOR BEDELL: (Inaudible) . . .

MR. SAMPERI: No. I would say about half would have (inaudible).

SENATOR BEDELL: So, if (inaudible)

MR. SAMPERI: No. It is true that we have some, but a majority of them are medium sized or smaller restaurants.

SENATOR BEDELL: I can see (inaudible) small where it would be (inaudible)

MR. SAMPERI: Yes, but I heard some of my restaurateurs mention if it is 50 or less-- One said he had 52 or 53 employees and that he would knock off a few employees. Now, that is putting people out of work, and we don't want to see that.

SENATOR BEDELL: Well, no. I think if they (inaudible) We can modify this bill sufficiently among (inaudible) It is not those injustices that may necessarily be going on (inaudible) I emphasize the fact that we do have a very real and very apparent problem (inaudible) We have a sizable amount of employees who are all saying that they (inaudible) to work against their wishes on an overtime basis, and that there is (inaudible) And, that is the kind of thing that (inaudible) I am hoping we can get some kind of compromise. (inaudible)

I want to thank you very much for appearing here today. Is there anyone else who would like to speak before this Committee?

MEMBER OF THE AUDIENCE: I believe I was on the list.

SENATOR BEDELL: What is your name, sir?

MEMBER OF AUDIENCE: Norman Hughes.

SENATOR BEDELL: Yes, you are listed as being here for the Motor Truck Association.

N O R M A N H U G H E S: Well, anyhow, good afternoon, Mr. Chairman, and Senator Gregorio. Let me compliment you two on your tenacity by staying here. The only concession I will make is, I bet your chairs are softer than the ones we have been sitting in down here.

SENATOR BEDELL: (Inaudible)

MR. HUGHES: If I stay here too long you will know it is because I don't want to sit in that chair again.

Well, anyhow, I am Norman Hughes, Managing Director of the New Jersey Motor Truck Association, a trade organization

of nearly 1400 company members employing some 210,000 people in New Jersey. This statement, which represents the position of the association members, opposes S-887 as introduced.

The industry I represent is regulated by Title 39, Chapter 9 of the State of New Jersey and by part 393.3 of the Federal Motor Carrier Safety Regulations, as to the hours an employee may be permitted or required to work. The suggestion I would make at the outset is, if S-887 is to move, that included in the exemption would be an industry, any industry, the hours that could be worked, controlled by government regulation.

Now, you see in that presentment I gave you an actual copy of those two areas of regulation under which our industry operates. And, you will note in Chapter 9 that it says our people are permitted to work 12 hours, and any consecutive 16, and then must have 8 hours off. You will notice in 39.3, which is the federal regulation under DOT--- Earlier you heard someone say the ICC. They no longer control this area. It is now DOT. You will note there that our people are permitted to drive 10 hours and to be on duty 15 hours, after which time they must have 8 hours off duty. And, they are also permitted to work 60 hours in any 7 consecutive days, and 70 hours in any 8 consecutive days if the organization functions every day in the week, which our industry does.

The other detail I won't speak about here. Furthermore, since 1966, as attested to again by an attached letter there from Mr. William Clark - who at the time that letter was written was the Director of the Wage and Hour Bureau in the State of New Jersey - he accepts the fact that employees regulated as above are not subject to the jurisdiction of the New Jersey Minimum Wage and Hour Statute. Thus, our industry, which is constructed to function under these stipulations since 1945, would experience catastrophic situations if subjected to the restrictions of S-887. Our industry is built on running during those hours - performing during those hours - and if suddenly we were restricted to 40,

giving permission to employees to quit at that time, we would have a very, very serious situation.

I am sure you know, as Mr. Trebour pointed out, when our people leave a terminal, they are on their own. They could be 100, 200, or 300 miles away and say, "my 40 hours are up", call in and say, "the truck is sitting out here on Highway #1", and we would have a very serious problem. Thank you very much.

MEMBER OF COMMITTEE: (inaudible)

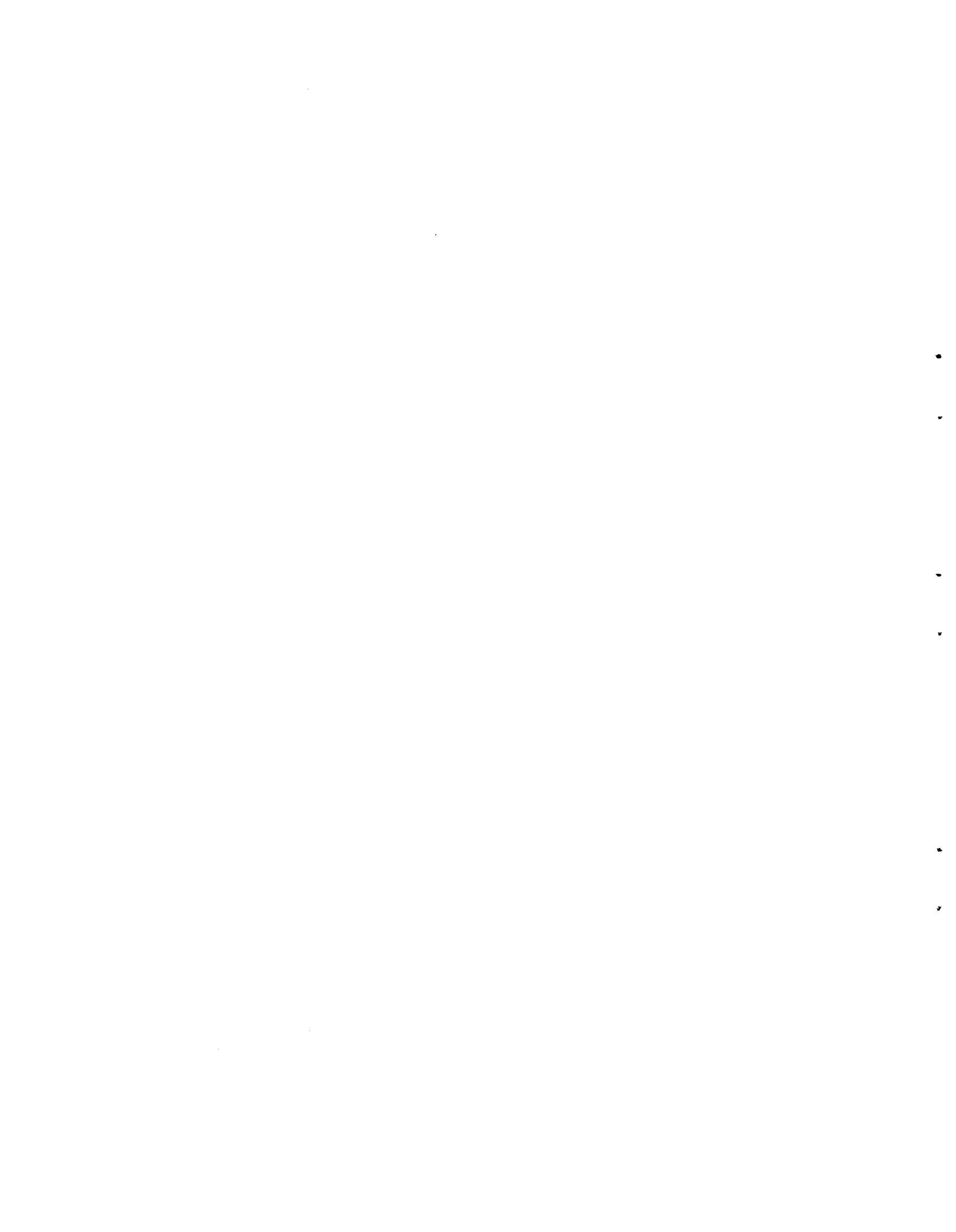
MR. HUGHES: Our problem is the other way, Senator. Our people want to work overtime. As I just said, when they are out there on their own, it is very hard to control them so that they don't take a little longer than they should and get some overtime. We are the other side of the coin.

MEMBER OF COMMITTEE: Thank you very much.

MR. HUGHES: Thank you.

SENATOR BEDELL: Is there anyone else who wishes to speak before the Committee at this time? (no response)
Hearing no response, I declare this Public Hearing on S-887 concluded.

(hearing concluded)



Statements Submitted By Individuals For
Public Hearing On Senate - 887

William J. Irons
Installer, N.J. Bell
Terrace Avenue, Toms River

In August of 1976, I requested a 4:30 p.m. quit to attend a baseball game in Philadelphia with my father. He had bought the tickets through our church men's club, and I was looking forward to this family outing.

I told my foreman several days in advance and again on the day in question. The work that was assigned to me on that day could not be completed in the regular work day.

At 4:00 p.m. my foreman came out to my job and told me I would have to complete the work or, I would be disciplined. I then had to call my father and tell him I would not be able to make it and the reasons why. I knew he had trouble understanding this.

My foreman came out to a job I was working on a week or so later and stated "He didn't understand my needs" this was in response to a complaint I had lodged with my Union.

The apology was nice but the opportunity to spend some time with my dad was lost forever.

Robert S. Morse
Splicer, N.J. Bell
Shrewsbury Ave., Shrewsbury

In mid August of 1974, I reported for work, and informed my foreman that I did not feel well and I was not sure if I would make it through the whole day. At 4:30 p.m. I returned to the work center upon completion of my days work.

My foreman approached me and told me I would have to work overtime. I replied I still did not feel well, and did not feel I could continue to work safely. He said, "That's too bad, your suspended". At this time I had the highest amount of overtime work in the work center.

Michael J. Anderson
Splicer, N.J. Bell
Hwy. #34, Matawan

In June on 1976, Splicer Michael J. Anderson called his home from the Matawan Work Center. On talking with his sister he was advised that his wife, Darlene, who was very pregnant with their first child, was going into labor and that he should come right home.

Mike was pulling out of the parking lot when his foreman, Rudy Maurer, stopped him and told him that he had to work, as he was the low man on the overtime list.

Michael J. Anderson -continued

Mike explained that his wife was in labor and that working was out of the question. His foreman told him that he would be disciplined for refusing to work.

Another craftsman, Tom Donadio, overheard the conversation and intervened, to try and reason with the foreman. Maurer wanted to call Mike's home to verify that his wife was in fact in labor, and that Mike wasn't lying. Mike refused, saying that he didn't want his wife upset by such a call.

Again, Mike was threatened with disciplinary action if he didn't work; but a compromise was agreed to by Donadio and Maurer that if Mike could canvas his fellow workers he could go home. After asking, someone agreed to work for Mike and he was allowed to go to the hospital, where his daughter was born.

Kevin Monahan
Installer, N.J. Bell
Hwy. #34, Matawan

On January 20, 1973, while employed by N.J. Bell, I had the unfortunate experience of being suspended for refusing to work overtime. My wife and I both worked 8 a.m. to 5 p.m. On this particular day she rode in with a co-worker who works part time. At approximately 4:00 p.m. I phoned my wife and informed her I would be in by 5:00 p.m. and would pick her up. I finished work at 4:45 and called in to close out my time. A foreman came on the line and informed me I had to go back out and do another job. I informed the boss that I had to pick up my wife. I was told employment before family. After 5:00 p.m. there was no way I could reach my wife as she would be outside waiting for me. It was a 20 minute ride which she would be standing, waiting for me. I explained that if I did the job it would be a least an hour before I would arrive without her knowing of the delay, besides freezing. I was suspended for refusing to work overtime, it was later revised to insubordination when it was found out I was high man on O.T. list and last years high man. I also asked that I might be able to go pick up my wife and come back to do the job, this was turned down and I was suspended.

Gary W. Gleitz
Splicer, N.J. Bell
Hwy. # 34, Matawan

In September of 1978, I was issued a written disciplinary warning for refusing to work overtime. On the day in question, my then wife to be, came to pick me up at 4:30 p.m. We were going to attend our wedding rehearsal at church and have dinner with our families, and friends. Just prior to my leaving my foreman told me I would have to work overtime or face disciplinary action. Later he told me I received a written warning as opposed to a suspension because of my overriding reason for leaving, and that in the future I would have to work to meet the company demands or I would face more severe action.

Michael Crane
Installer, N.J. Bell
11th Avenue, Neptune

On November 28, 1979, I requested of my foreman that I go home at 5:00 p.m. to attend a birthday party for my wife and grandmother. It was to be held early as it was a school night and the children had to go to bed early.

At 4:45 p.m. my foreman told me I would have to work overtime or be suspended. I did not arrive home until after 7:30 p.m. and everything was over by this time. This type of treatment is an ongoing problem and has been for many years.



Robert C. Donovan
Regional Public Affairs Director

May 19, 1980

Senator Eugene J. Bedell, Chairman
Senate Labor, Industry & Professions Committee
New Jersey State Senate
New Jersey State House
Trenton, New Jersey 08625

Dear Senator Bedell:

Attached is Lloyd Sutter's letter summarizing his testimony given at the Linden Public Hearing of May 8 in opposition to S-887, the Compulsory Overtime Prohibition Bill.

The labor agreements requested by Senator Gregorio and yourself are being sent to you under separate cover.

Should you desire any additional information or commentary, please feel free to contact me at 201-368-9434 or Lloyd Sutter at 419-247-1943.

Yours very truly,



Robert C. Donovan
Regional Director
Public Affairs

cbw

Attachment

cc: Senator J. T. Gregorio
Senator A. Scardino, Jr.
Senator B. T. Kennedy
Senator J. H. Wallwork
Lloyd Sutter, Senior Attorney, Owens-Illinois, Inc.
C. Lee Nelson, Vice President and Director, Public Affairs,
Owens-Illinois, Inc.



Lloyd Sutter
Senior Attorney

May 14, 1980

Honorable Eugene J. Bedell
Chairman
Senate Labor, Industry
& Professions Committee
New Jersey State Senate
New Jersey State House
Trenton, New Jersey 08625

Re: Owens-Illinois, Inc. Opposition
to Senate Bill No. 887

Dear Senator Bedell:

I appreciated the opportunity to appear before the Committee on behalf of Owens-Illinois, Inc., to explain why we believe S. 887, the proposed overtime prohibition bill, would: drastically reduce our ability to operate our New Jersey facilities to the degree of efficiency necessary to compete successfully with our own or competitive operations located outside the state; detrimentally affect our New Jersey employees; prove to be legally unsound and unwarranted.

Enclosed, as Senator Gregorio and you requested, are copies of the 12 collective bargaining agreements which cover our New Jersey hourly-paid employees. The relevant portions discussed at length during the hearings are identified in Attachment A.

Again please allow us to highlight the reasons we object to S. 887:

S. 887 Would Be Destructive
of O-I's New Jersey Businesses

Owens-Illinois, Inc., is a private sector company which, unlike the regulated industries such as utilities and trucking companies, cannot pass on to its customers through governmental agency approved rate increases the costs of improvident legislation.

5x

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Owens-Illinois, Inc. Opposition
to Senate Bill No. 887

S. 887 would seriously and in some cases critically diminish our ability to respond to "now or never" order opportunities and would significantly reduce the manufacturing flexibility we must have to meet existing and potential commitments. It seems probable that a reduction in employment and employment opportunities would follow any anticipated volume reduction as present and potential customers become aware of this restriction.

We avoid overtime if at all possible. It costs too much money in light of "premium pay" requirements in our labor agreements. What causes overtime requirements? Primarily, employee absenteeism which, in a continuous manufacturing operation such as Bridgeton, North Bergen, Vineland, Glassboro (can end operation), and Holmdel (foam operation), requires us either to hold over a prior shift employee with the requisite skill or to call in early another scheduled to work a later shift or on a day off. In such circumstances, the primary cause of any imposition on the employee required to work overtime is a fellow employee, not the Company.

Other causes of overtime include unforeseen breakdown of machines essential to continued production, the requirement to perform preventive maintenance on equipment when it is not in production (e.g., weekends and holidays for non-continuous production operations), and major repairs where minimum production lost time is critical to company and laid off employees (e.g., furnace rebuilds and equipment installation or modification).

The principal problem with a statutory "voluntary overtime" system, in our opinion, is that without knowing that we can obtain necessary coverage in the rare instance where no one volunteers, there is absolutely no way to schedule adequate

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Owens-Illinois, Inc. Opposition
to Senate Bill No. 887

coverage for short notice causes of overtime need. Furthermore, in continuous operation glass production processes such as Bridgeton, North Bergen, and Vineland, production cannot be stopped or delayed with a flip of a switch. Refusal to volunteer under a bill like S. 887 would expose glass production facilities to equipment destruction and unacceptable employee safety risk.

S. 887, moreover, will do nothing to increase employment - a secondary purpose ascribed to the bill - where the causes of overtime are beyond the Company's capability to schedule. O-I is not understaffed. Its overtime requirements call for short notice, short duration work by personnel who have the right skills at the time they are needed. The time required to train someone who is unemployed to perform our unscheduled overtime needs is simply not an option.

Finally, S. 887 would injure our smaller, unionized operations by excluding from the bill's coverage small competitors with 50 or less employees.

S. 887 Would Be Detrimental
to O-I's New Jersey Employees

The labor organizations with which O-I has bargaining relationships (some of which have existed for 40-50 years) know their employee-members' desires and the Company's business needs better than do legislators. "Premium pay" is considered by our employees to be an opportunity for them to enhance their earnings. These unions vigorously resist subcontracting of work they believe they should be allowed to perform even if overtime is required. Over the years, O-I and these unions have developed for each manufacturing

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to Senate Bill No. 887

plant, as well as particular departments within each, unique and complex formulas for the equalization of overtime and for the appropriate rate necessary to balance Company needs with employee inconvenience.

Moreover, we suggest the Committee consider the fact that compulsory overtime, at least in O-I facilities, is a source of last resort for necessary, skilled personnel. Overtime is routinely offered when required on a voluntary basis: senior first, subject to the equalization formulas. When no qualified volunteer requests the necessary overtime, then junior qualified is required to work.

As many testified, O-I likewise has grievance-arbitration provisions in each labor agreement. These provisions can better police the isolated case of alleged compulsory overtime abuse than can legislation of general application.

Finally, two "quality of work life" issues should not be overlooked when considering how S. 887 would adversely affect O-I's New Jersey employees:

First, overtime is a means of scheduling - at a cost penalty to O-I - vacation relief so that a greater number of employees may enjoy "prime time" vacations, i.e., in a three or four shift operation, distribution of the vacationing employee's work between non-vacationing employees on a piecemeal overtime basis avoids the necessity of employing (if such was possible and it is not) personnel for summer months then laying them off or, worse, the necessity of spreading vacations throughout the year where junior employees (often with 10 or more years'

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seniority) would be eligible for vacation only at undesirable times of the year.

Second, O-I will open in East Brunswick during August 1980 a new plastic beverage container manufacturing plant. These plants in other locations throughout the Nation have acceded to employee desire for 12 hour, 4 day shifts, resulting in increased employee free time, satisfactory productivity, and decreased absenteeism. S. 887 would eliminate our ability to offer this innovative work schedule to the anticipated 200 new Jersey employees.

S. 887 is Legally Unsound
and Factually Unwarranted

Section 7 of the National Labor Relations Act, 29 U.S.C. §157, allows employees to select union representation for purposes of collective bargaining. Sections 8(a)(5) and 8(b)(3) of that Act, 29 U.S.C. §158(a)(5) and 158(b)(3), compel employers and unions to bargain in good faith. Section 8(d) of that Act, 29 U.S.C. §158(d) makes a mandatory subject of such collective bargaining "wages, hours, and other terms and conditions of employment." Where the parties such as O-I and the unions representing its employees have done so, the U.S. Supreme Court has held that the States are preempted from legislating with respect to such subject matter. San Diego Bldg. Trades Council v. Garmon, 359 U.S. 236, 245-46 n.4 (1959). Disputes, such as contractual resolution of overtime problems, are exclusively the subject of NLRB, not State, jurisdiction. Likewise, resort to the grievance-arbitration process to resolve individual treatment disputes is required by Federal law. Steelworkers trilogy, 363 U.S. 564, 574, 593 (1960).

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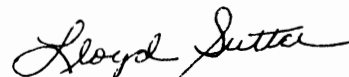
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S. 887 also unbalances the State and Federal wage-hour laws and their intent: the overtime pay provisions allow employers to work employees overtime, but require "premium pay" for all such hours worked beyond 40 a week. By labor agreement, O-I's "premium pay" exceeds that required by law, i.e., premium rates (at 1-1/2 or double the regular hourly rate) are paid for all hours over 8 per day and frequently for Saturdays, Sundays, holidays, days off, and consecutive work days after 5 in a week.

Finally, it seemed apparent during the hearing that the principal pressure for S. 887 arises from difficulties experienced by the IBEW in negotiating overtime provisions in its labor agreement with the Jersey Bell System. In our opinion, a statute such as S. 887 or any modified version thereof is unnecessary and unwarranted under the circumstances. Attempts to exempt certain industries would raise questions of fairness and constitutionality. Attempts to rationalize exceptions for certain types of overtime (e.g., what would be a bona fide "emergency"?) would be impossible for O-I to suggest, not to speak of for the legislature to divine, to cover the unique requirements of all the different types of businesses in New Jersey.

For the foregoing reasons, Owens-Illinois respectfully suggests that S. 887 is an unsound and unwarranted workplace intervention and should be altogether rejected by the Committee.

Respectfully,



Lloyd Sutter
Senior Attorney

LS:jmm
Enclosures

COMMENTS ON SENATE BILL 887
BEFORE THE SENATE LABOR,
INDUSTRY AND PROFESSIONS
COMMITTEE - MAY 8, 1980

PUBLIC SERVICE ELECTRIC AND GAS COMPANY APPRECIATES THE OPPORTUNITY TO COMMENT ON SENATE BILL 887. I AM WILLIAM SALLER, GENERAL MANAGER - GOVERNMENTAL AFFAIRS FOR PUBLIC SERVICE.

SENATE BILL 887, IF ENACTED, WOULD "PROHIBIT EMPLOYERS FROM TERMINATING OR OTHERWISE DISCIPLINING EMPLOYEES FOR REFUSAL TO WORK OVERTIME ...". IN EFFECT, THIS BILL WOULD PROHIBIT MANDATORY OVERTIME AND WOULD HAVE A MAJOR NEGATIVE IMPACT ON THE UTILITIES IN THIS STATE AND THEIR CUSTOMERS.

PUBLIC SERVICE AND ALL UTILITIES ARE REQUIRED BY STATUTE "TO PROVIDE SAFE, ADEQUATE AND PROPER SERVICE" TO THEIR CUSTOMERS. THIS MEANS 24 HOURS A DAY SERVICE, 365 DAYS A YEAR. IN ORDER TO COMPLY WITH THIS MANDATE, PSE&G MUST, ON OCCASION, REQUIRE ITS EMPLOYEES TO WORK OVERTIME FOR ANY NUMBER OF REASONS. THE MOST OBVIOUS REASONS FOR REQUIRING OVERTIME ARE AN EMERGENCY SITUATION WHERE CUSTOMERS ARE OUT OF SERVICE OR WHERE A HAZARD TO THE PUBLIC EXISTS. THE MOST RECENT EXAMPLE OF A MAJOR TYPE OF EMERGENCY WAS TROPICAL STORM DAVID. WITH MANY CUSTOMERS OUT OF SERVICE AND WITH MANY WIRES DOWN IT WAS NECESSARY FOR THE COMPANY TO REQUIRE ITS TRANSMISSION AND DISTRIBUTION EMPLOYEES AND OTHER QUALIFIED PERSONNEL TO WORK "AROUND-THE-CLOCK" TO RESTORE SERVICE AND REMOVE ANY HAZARDS TO THE PUBLIC.

IN ADDITION TO EMERGENCY SITUATIONS, THERE ARE MANY OTHER REASONS WHY OVERTIME IS REQUIRED. ON OCCASION, BUSINESSES OR INDUSTRIES REQUIRE A CHANGE IN THE EQUIPMENT SUPPLYING THEIR SERVICE. TO ACCOMMODATE THESE CUSTOMERS AND TO ASSIST THEM IN MEETING THE DEMANDS OF THEIR OPERATIONS,

PSE&G MANY TIMES ARRANGES FOR THE EQUIPMENT TO BE REPLACED AT A TIME CONVENIENT AND ECONOMICAL TO BOTH THE CUSTOMER AND THE COMPANY. A BACKLOG OF NEW SERVICE ORDERS RESULTING FROM CONDITIONS BEYOND THE COMPANY'S CONTROL MAY ALSO REQUIRE OVERTIME SO THAT CUSTOMERS CAN TAKE OCCUPANCY OF THEIR HOMES ON A GIVEN DAY AS PLANNED.

IN ORDER TO COMPLY WITH ITS MANDATE TO PROVIDE SAFE, ADEQUATE AND PROPER SERVICE, THE INTEGRITY OF THE UTILITY'S SYSTEM MUST ALSO BE MAINTAINED. EQUIPMENT THAT IS OUT OF SERVICE MUST OFTEN BE RETURNED TO SERVICE AS SOON AS POSSIBLE, OTHERWISE SUBSEQUENT FAILURES COULD RESULT IN MAJOR SERVICE INTERRUPTIONS. THE COMPANY ALSO DESIRES TO PROVIDE ELECTRICITY AT THE LOWEST COST POSSIBLE. FOR THIS REASON, EFFICIENT, LOW-COST GENERATING UNITS MUST BE RETURNED TO SERVICE AS SOON AS POSSIBLE AFTER AN OUTAGE. SINCE THE COST OF REPLACEMENT POWER FOR A NUCLEAR UNIT MAY EXCEED \$600,000 PER DAY, YOU CAN SEE WHY THIS IS A MAJOR OBJECTIVE.

MANY OF OUR EMPLOYEES ARE SHIFT EMPLOYEES WHO DO NOT LEAVE THEIR WORK LOCATION UNLESS PROPERLY RELIEVED. WHEN A SHIFT EMPLOYEE IS ABSENT FOR ANY REASON, OVERTIME WORK MAY BE NECESSARY TO COVER THE WORK OF THE SHIFT.

THESE REASONS FOR OVERTIME DID NOT DEVELOP RECENTLY IN THE UTILITY INDUSTRY. ITS EMPLOYEES ACCEPT CERTAIN POSITIONS WITH THE FULL UNDERSTANDING THAT OVERTIME IS REQUIRED. THE COMPANY'S JOB APPLICATION FORM INCLUDES A QUESTION ON THE WILLINGNESS TO WORK OVERTIME.

THE UNION HAS ALSO ACCEPTED THE NECESSITY OF OVERTIME IN ITS CONTRACT. THE JOB SPECIFICATIONS OF THE IBEW CONTRACT INCLUDE THE WILLINGNESS TO WORK OVERTIME WHICH IS AN OBLIGATION ALL EMPLOYEES BOUND BY THE UNION CONTRACT SHARE.

THE COMPANY IS NOT ARBITRARY IN ASSIGNING OVERTIME AND DOES SO IN ACCORDANCE WITH THE COMPANY-UNION AGREEMENT, LETTERS OF UNDERSTANDING AND RESOLUTIONS OF GRIEVANCES.

AT PSE&G OVERTIME IS DISTRIBUTED EQUITABLY AMONG QUALIFIED EMPLOYEES IN EACH JOB CLASSIFICATION. OVERTIME RECORDS ARE MAINTAINED AND POSTED PERIODICALLY. DURING THE 1952 NEGOTIATIONS THE FOLLOWING BECAME PART OF THE UNION CONTRACT AND I QUOTE:

"THE UNION ASSURED THE COMPANY OF ITS COOPERATION IN OBTAINING EMPLOYEES ACCEPTANCE OF OVERTIME ASSIGNMENTS."

ALSO, "THE COMPANY ASSURED THE UNION THAT, WITHIN THE LIMITS SET BY WORK REQUIREMENTS, IT WOULD CONTINUE TO CONSIDER THE PERSONAL PLANS AND DESIRES OF INDIVIDUAL EMPLOYEES."

IT IS ONLY AFTER ALL VOLUNTARY MEASURES HAVE FAILED, THAT OVERTIME ASSIGNMENTS BECOME COMPULSORY AND THEN THE LOW MAN ON THE OVERTIME LIST IS GENERALLY GIVEN THE ASSIGNMENT. EVEN AT THIS STEP, THE COMPANY CONTINUES TO TAKE THE EMPLOYEES' PLANS INTO CONSIDERATION.

THE UNION CONTRACT STATES:

"REQUESTS FOR RELIEF FROM OVERTIME ASSIGNMENTS WILL NOT BE CONSIDERED TO WARRANT DISCIPLINARY ACTION UNLESS THEY ARE DETERMINED TO BE EXCESSIVE."

HOWEVER, IT IS ABSOLUTELY NECESSARY THAT THE MANAGEMENT OF A COMPANY RETAIN THE RIGHT TO TAKE DISCIPLINARY ACTION FOR REFUSAL TO WORK OVERTIME, IF THIS SHOULD BE NECESSARY. A PAST ARBITRATION AWARD INVOLVING THE IBEW STATES: "IT SEEMS TO ME THAT IF THE FOREGOING GENERAL REQUIREMENT IS TO HAVE ANY PURPOSE, IT MUST BE ENFORCEABLE. AND WHEN EFFORTS AT PERSUASION FAIL, I KNOW OF NO WAY TO ENFORCE IT

EXCEPT BY DISCIPLINE." THIS HAS NOW BECOME AN ACCEPTED PART OF THE LABOR-MANAGEMENT AGREEMENT. ALTHOUGH THE MANAGEMENT RETAINS THE RIGHT TO TAKE DISCIPLINARY MEASURES, THESE ACTIONS WOULD BE SUBJECT TO THE FULL GRIEVANCE PROCEDURE WHICH INCLUDES ARBITRATION.

SINCE OVERTIME IS CLEARLY REQUIRED AS A CONDITION OF EMPLOYMENT AND IS COVERED IN THE COMPANY-UNION AGREEMENT, VERY FEW GRIEVANCES HAVE BEEN FILED OVER THIS ISSUE. IN THE IBEW, WHICH REPRESENTS OVER 4,600 PSE&G EMPLOYEES, VERY FEW GRIEVANCES HAVE BEEN FILED IN CONNECTION WITH OVERTIME PRACTICES. A SIMILAR RECORD EXISTS FOR THE OTHER UNIONS WHICH REPRESENT PSE&G EMPLOYEES.

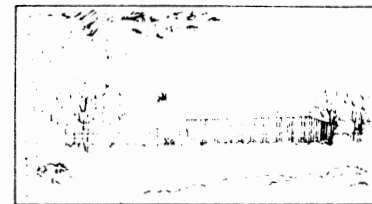
IN CONCLUSION, PSE&G BELIEVES THAT THE ASSIGNMENT OF OVERTIME REMAINS A LABOR-MANAGEMENT ISSUE AND ONE WHICH SHOULD BE SETTLED AT THE BARGAINING TABLE RATHER THAN BY LEGISLATION. RESTRICTIVE LEGISLATION SUCH AS THIS WILL ONLY SERVE TO HURT THE BUSINESS CLIMATE IN NEW JERSEY. PSE&G SUGGESTS THEREFORE THAT THIS LEGISLATION NOT BE RELEASED BY THIS COMMITTEE FOR CONSIDERATION BY THE FULL SENATE. I HAVE BEEN ASKED TO STATE FOR THE RECORD THAT THE NEW JERSEY UTILITIES ASSOCIATION WHICH INCLUDES THE ELECTRIC, GAS, WATER AND TELEPHONE UTILITIES IN NEW JERSEY CONCURS AND AGREES WITH THE CONCEPTS INCLUDED IN THE ABOVE STATEMENT.

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR VIEWS.

New Jersey Hospital Association

At the Center for Health Affairs,
Seven hundred sixty Alexander Road CN 1
Princeton, New Jersey 08540

(609) 452-9280



Jack W. Owen, president

STATEMENT OF THE
NEW JERSEY HOSPITAL ASSOCIATION
BEFORE THE
COMMITTEE ON LABOR, INDUSTRY AND PROFESSIONS
NEW JERSEY STATE SENATE
MAY 8, 1980

Mr. Chairman and members of the Committee, I am William H. Baker, Vice President and Director of Government Relations of the New Jersey Hospital Association. We are pleased to have the opportunity to present our views today on Senate bill 887, to prohibit employers from terminating or otherwise disciplining employees for refusal to work overtime.

The New Jersey Hospital Association represents all of the 118 hospitals in New Jersey which employ in excess of 90,000 people. The Association has reviewed S-887 carefully and has concluded that passage of this bill would not be in the best interest of the people of New Jersey nor the hospitals of New Jersey. We would recommend to this committee that S-887 not be released and that it be held for further study of the potential impact it would have on employment in the state.

As the representative of health care facilities across the state, our concerns relate to several specific aspects of this proposed legislation.

Our major concern is whether any need has been established for this type of legislation in the hospital setting. Hospitals, of course, operate twenty-four hours a day, seven days a week. Historically hospitals in New Jersey have relied on a policy of voluntary overtime and today few, if any, hospitals have a mandatory overtime policy in effect. By the nature of being a hospital, where the medical needs of patients have no relation to a time clock, there are frequent occasions where employees and staff may have to put in additional time. When nurses and other key personnel are hired, it is made a part of the employment process to inform these new employees that on occasion they may be asked to work overtime to fill a temporary staffing need or patient care need. When such a situation arises enough employees are usually willing to volunteer to work overtime that patient care needs are satisfied. By the way, I should point out that many nurses and other personnel actively seek this opportunity to work overtime to add to their income. In addition, staffing shortages, when they occur, are usually known far enough in advance that opportunities for overtime work can be posted for those who wish to volunteer or temporary services can be procured through local private nursing service organizations.

As you know, Mr. Chairman, many of the staffing problems that do exist in hospitals relate to the difficulty of finding personnel who desire to work night shifts and weekends. From this standpoint and others, there exists today a definite shortage of certain personnel, particularly registered nurses, in New Jersey.

Thus, while a significant shortage of well-qualified registered nurses and other personnel continues to be a problem for many hospitals in meeting their staffing needs, the use of overtime has

remained a voluntary rather than mandatory means of resolving the problem. As an indication that the present system is working satisfactorily, we know of no more than one case over the past three years where a hospital employee has been terminated for refusal to work overtime.

Nevertheless, and this is the key to our opposition to this bill, hospital management and hospital supervisory personnel must retain the authority to assign overtime work when it is necessary. Good management practice calls for this and common sense dictates it. Where the very life of patients may be at stake, the hospitals must be able to require employees to work overtime in situations where no other alternative exists. There is no problem now but if this bill became law we can foresee where it could become a very serious management problem in our institutions.

It may be suggested that any problems that may arise could be alleviated by the hospitals simply hiring more people. Let me say that with the nursing shortage we currently face, the hospitals find it extremely difficult to find enough qualified registered nurses to fill present staffing needs. It is an oversimplification to think that they can just go hire additional RNs. The availability is just not there. Further, hospitals are under severe budget limits imposed by the state and additions to present staffing complements are not necessarily accepted as good cost containment.

Our second area of concern with S-887 lies in Section 2(b) of the bill which attempts to exempt from the bill's provisions, "work performed in emergency situations where public health and safety are endangered" and "emergencies because of unavoidable and unforeseeable circumstances which cause extreme disruption of usual operations."

It is not clear to us from this language whether the bill would apply to work performed in hospitals since much that takes place in a hospital is of an emergency nature and the public's health and well-being are certainly often at stake in such circumstances.

If the bill does apply to work performed in hospitals except that deemed to be of an "emergency" nature, then we foresee great difficulty in trying to administer this proposal. Who would determine what is an "emergency situation"? Would only work performed in the hospital's emergency department be deemed to be of an "emergency" nature? How would potential disputes over the meaning of this section of the bill be resolved without placing in possible jeopardy the safety of hospital patients?

These and other questions have led us to the conclusion, Mr. Chairman, that S-887 is inappropriate in the hospital setting. Further, the more we study it the more we think it is inappropriate in many other employment settings as well. We feel that issues of overtime work are more appropriately left to traditional methods of employer-employee relations and not to the legislative process. We have found no need for this type of legislation in the hospital field and we urge you again not to release S-887 from this Committee.

Thank you for the opportunity to present these comments and if you have any questions, I will be happy to respond to them.

Testimony on Bill S-887

Before New Jersey Senate Labor, Industry and Profession
Hearing at Linden City Hall, May 8, 1980 by Frisby Euell,
Manager Employee and Community Relations, General Electric
Company, 845 E. 25th St., Paterson, New Jersey.

General Electric in New Jersey, as an employer of approximately 3000 employees at six plant locations, plus many other Service Centers, Sales, and Distribution Offices, believes the S-887 is not in the interest of the State of New Jersey and its business climate.

The requirement for overtime for business employees differs from business to business and the determination of overtime rules properly belongs in the Bargaining Agreement where it is right now.

Our North Bergen, New Jersey Apparatus Service Shop is designated as the New York Service Shop and does repair work on Shipboard Propulsion Equipment, Turbines, all kinds of electric machinery and railroad equipment for businesses that need quick repair work on machinery that affect their operations and their employees' jobs. Overtime is a way of life with this plant of 400 or so employees. We compete with New York repair businesses for this work, and in New York there isn't a law such as this.

Anyone in a seasonal business, or a business that has peaks and valleys, has an impossible task without being able to depend upon overtime. Most of us prefer to work some overtime rather than hire employees for a short time and lay them off and then join with the State in paying unemployment benefits. The very seasonal employers in New Jersey are the unemployment fund deficit employers, and they need to put their money into overtime whenever possible.

Overtime has been around for a long time and GE's unions aren't clammering for a law like S-887. We can understand that everything isn't perfect and there can be some abuses, but these things can be and should be worked out at the Bargaining Table.

General Electric and most other employers we know try to stabilize employment and work some overtime before hiring more people for short periods and then laying off. All of these things have to be balanced, keeping in mind the cost of hiring and training the 50% premium on overtime (more in some cases) and the cost of layoff, such as unemployment payments and extended employee benefits during layoff.

In the General Electric plant where I work in Paterson, we manufacture for stock and to order, gearmotors for special applications. There are also other manufacturers in this business and in order to compete in this industry we have to be competitive - when we get a rush order from one of our customers who needs a special gearmotor in a hurry, we have to respond in a hurry. That often involves working overtime. We are reasonable in assigning overtime, averaging less than 2% a week, but it would be a problem if we couldn't get anyone to work overtime because of a Bill like this.

We believe that there are always opportunities to try to work those things out at the Bargaining Table rather than New Jersey having an overtime-restriction Bill.

I do know that bills somewhat similar to S-887 have been considered in other states, Wisconsin and Illinois, to name two states, but to our knowledge none has passed a bill such as this.

We aren't saying that this Bill will result in a sudden exodus by business from New Jersey, but when companies are looking for new plant sites or when considering expanding present plant locations, a state with a law like S-887 won't be a drawing card.

STATEMENT OF
GENERAL MOTORS CORPORATION
to the
NEW JERSEY SENATE COMMITTEE
LABOR, INDUSTRY AND PROFESSIONS
concerning
SENATE BILL 887

Submitted on May 8, 1980

Senate Bill #887 is a variation of similar legislation which has recently been introduced in a few states which has the effect of prohibiting employers from scheduling mandatory overtime hours in excess of prescribed limits. It is assumed that the proponents of such legislation are hopeful that by imposing limitations on the hours of work that an employer can schedule and require employes to work, then the hours that would otherwise exceed the overtime limitations would not be scheduled at overtime but would be shared at straight time by more people, thus increasing employment in the state. Also, the introduction of legislation of this type which would make overtime voluntary to the individual assumes or implies that employes would prefer to work less rather than more overtime. As will become apparent, both of these assumptions are erroneous. Following is a discussion of the issues regarding restrictions on mandatory overtime including a discussion of the reasons and necessity for mandatory overtime in the automobile industry.

REASONS FOR OVERTIME

The main reasons for overtime in manufacturing and assembly industries in general can be classified into four categories as follows:

- 1) Emergency overtime
- 2) Cyclical fluctuations
- 3) Seasonal fluctuations
- 4) Changes in customer preference.

Three additional reasons for overtime which are not necessarily unique to the automobile industry but are amplified by the production system utilized in the auto industry include:

- 5) Integration of production processes
- 6) Tooling periods and model changeover
- 7) Lack of capacity to store inventory

As shown below, overtime is often the only practical and workable alternative in these situations.

Emergency Overtime

Throughout the course of a model year, a variety of emergency situations inevitably arise which usually can be met only by working overtime hours. These include situations such as equipment breakdown, excessive absenteeism, necessary engineering design changes, production bottlenecks, and maintenance work which must be performed when equipment is not being used. Even assuming that workers with the necessary skills to handle emergency situations at straight time are available, it is obvious that it would be impractical to hire new employes in the event of an emergency since these

employees would have to be laid off as soon as the emergency situation is corrected. And if the employees needed to meet emergencies did not work overtime, large numbers of other employees would lose straight time work.

Cyclical fluctuations

The timing and magnitude of economic fluctuations in the country's economy cannot be forecast precisely. Forecasts of overall automobile industry sales, which are partially based on expected business conditions in the economy, are still more difficult and imprecise. Wider cyclical swings than in industry as a whole are a basic characteristic of the automobile business since automobiles are a large item in the consumer's budget. Most difficult of all are sales forecasts for individual companies and the particular models they produce. Flexibility to schedule reasonable and necessary overtime must be available to adjust to fluctuations. In order to attract investments and jobs, a state must allow manufacturers this flexibility. Without it, manufacturers would have to build-in excess capacity that could not be utilized during cyclical downswings. If manufacturers were to plan facilities and manpower sufficient to meet the years of peak demand at straight time, excessive costs for unused facilities would be incurred and employees would be laid off in other years. The expense of maintaining unused and excess capacity would be prohibitive so as to make a state which restricts mandatory overtime economically unattractive.

Seasonal fluctuations

Seasonal fluctuations in automobile sales result in a variety of patterns of overtime and undertime for the many groups of employees who contribute to the enterprise. Typically, in the auto industry, car assembly plants are scheduled on a two-shift basis with plant maintenance being performed during the daily and weekend hours when the assembly lines are not running. In peak periods, many of these plants are normally scheduled for six days a week with bottleneck operations working additional overtime. Under legislation restricting mandatory overtime, these schedules would have to be cut back. This would cause a reduction in the productive hours and utilization of facilities resulting in a permanent economic loss to the economy of a state prohibiting or restricting mandatory overtime.

It has been argued that manufacturers have the alternative of adding temporary employees during peak production periods rather than scheduling regular employees on overtime. However, the use of temporary employees unfamiliar with the work would detrimentally affect the finished product. To maintain quality standards, it is necessary that each employee understand the specific tasks assigned to his station on each type of unit that comes down the line and the proper methods of performing them. Absorbed in the costs of production is an initial training and familiarization period for new employees. It obviously is impractical to hire temporary employees that must be trained rather than schedule regular employees overtime. Also, scheduling overtime is clearly preferable to hiring temporary employees to meet the demand by straight-time production and then laying them off after the sales peak has passed.

Changes in customer preferences

Each automobile manufacturer attempts to predict the approximate number of each model that will be sold during each sales period. Production schedules are then based on these predictions as well as a number of other factors. Discrepancies between what a manufacturer thinks customers will prefer and what they actually buy inevitably occur so that production schedules must be continuously adjusted throughout the production period. Overtime is often the only practical means of contending with these market conditions. This is true not only for final assembly but also for the production of options and other parts.

Customers are generally impatient for delivery once they have ordered a new car. If delivery cannot be made within a reasonable time, the sale is lost. Thus, if the demand is present and the restrictive schedule imposed by proposed legislation prohibiting mandatory overtime would not permit building the cars in a state with such legislation, they simply would have to be built elsewhere.

Integration of production processes

The production of automobiles - from the raw product stage to the finished product - is a tightly integrated process. The flow of parts is closely timed and precisely integrated within departments and between departments within a particular plant. The flow of materials between plants is likewise tightly integrated. Production is totally dependent upon the manufacturer's ability to get all of the parts and sub-assemblies to the right place at the right time. A break in the system that interrupt the flow of essential parts can quickly cause a stoppage of the entire system. In many instances, overtime must be scheduled in order to produce sufficient parts to permit another department or another plant to operate on a normal schedule.

If overtime could not be scheduled when the needed parts are required, short work weeks for many employees would result. Limiting management's ability to operate on overtime schedules on various operations at various times would remove the flexibility essential to keep the manufacturing system in balance and to keep employees at work on reasonably normal schedules.

Suppliers have the same problem as manufacturers. The flexibility to schedule extended hours must be available to each and every supplier if final production schedules and delivery dates are to be met. If suppliers are unable to timely provide the parts necessary for this integrated process because of restrictions on overtime, they will be at a competitive disadvantage with suppliers located in states where freedom from like restrictions is to be found.

Tooling periods and model changeover

Annual model changes, beginning with tooling programs early in the year and ending with the introduction of new models in the fall, involve a substantial number of what might be called inherent penalty premium pay hours. First of all, the tooling program which precedes model changes must be compressed into a relatively short period of time in order to meet critical deadlines. An alternative to working penalty premium pay hours

on this program would require an excessive supply of skilled workers during periods of high activity. This would result in unemployment for many of these workers who would be laid off during the long periods of low activity.

The plants must be changed-over and rearranged for new model production in the late summer and early fall. During the model change-over period, a substantial number of employes must be laid off. Skilled maintenance men such as millwrights, pipefitters and electricians needed to complete the model change, work overtime in order to reduce this period of layoff and thus provide straight time jobs for a far greater number of employes as quickly as possible.

Even if it were feasible to hire or train a sufficient number of skilled tradesmen to complete a model changeover without overtime, the result would be large-scale layoffs after the completion of these programs and much lower annual earnings for permanently employed skilled tradesmen.

Lack of capacity to store inventory

There is virtually no inventory of parts maintained at any stage of the entire manufacturing and assembly process. There are about 15,000 parts in a automobile all of which are essential for its manufacture and sale. And because of the proliferation of models, options, accessories, interior trims and colors, there is no practical way to maintain an inventory sufficiently large to support continued operation of assembly plants. In most instances, the only "bank" of parts is that contained in boxcars or trucks in transit between a supplier plant and a receiving plant.

If a key stamping plant, or foundry, or parts plant, even one owned by an outside supplier, were to shut down or could not meet production requirements because of restrictions on mandatory overtime, the assembly plants would quickly grind to a halt. This is evidenced by the truckers' strike and railroad strikes which bring many auto plants to a stand still and result in massive layoffs when they occur. In order to avoid such stoppages or to make up for lost production, a manufacturer must frequently resort to extensive overtime.

EMPLOYEE RESPONSE TO OVERTIME

Bills restricting mandatory overtime usually provide limits beyond which overtime would be optional with each individual employe. To suggest that overtime could be made voluntary to each individual employe is inconsistent and unrealistic. If it must be done, it cannot be optional. It would place the power in the hands of very few individuals to thwart the will and desire of the vast majority of their fellow employes who do want to work the premium hours, and in many instances to work even full straight time. Also, scheduling would become a problem of detailed record examination, individual canvassing, and efforts to find volunteers when employes opted not to work.

There is no evidence showing that overtime has been a hardship on employes any more than has the requirement to report during regular working hours or present valid excuses for absences. Our employes generally recog-

nize the need for, and even welcome the opportunity to work overtime. It is doubtful that employes affected by legislation restricting mandatory overtime would feel that taking measures to curtail overtime would be in their best interest. A great many complaints are received from employes claiming they did not receive overtime to which they were entitled. Complaints of too much overtime are the exception. Also, many employes in an ordinary year experience short-time and periods of layoff during slack periods and are able to work a full 2,000-hour year by working overtime premium hours during peak periods. Thus, an important function served by overtime is to accomplish precisely what has been frequently urged in the past, that is, to stabilize employment and assure a full year's earnings for workers already in the industry thus avoiding the necessity of hiring large numbers of new employes only to lay them off after a brief period of employment.

Agreements with labor unions have long recognized that the nature of the automobile industry often requires overtime operations. The issue is one that has been dealt with in the negotiation of each contract since the beginning of collective bargaining in the automotive industry more than forty years ago. Elaborate rules have been worked out under collective bargaining agreements to assure that every employe gets his fair share of overtime work. Free collective bargaining has worked out and should continue to be free to work out provisions which balance the desires and needs of all employes with all employers.

At General Motors, our policies regarding overtime require that employes should be given as much advance notice of overtime as is practical so that they can make personal arrangements. An individual employe's needs should be recognized and given careful consideration. When it is possible, those who do not wish to work overtime are excused. Employes are notified as far in advance as possible when their requests to be excused from overtime are granted so they can make personal plans. Any cancellation or change in the arrangements to excuse an employe are made only with his consent. Generally, employes find this approach fair and workable. The fact that many overtime assignments are handled in this manner, however, in no way diminishes the ultimate responsibility which rests upon management to have the required people in the right place at the right time to do the work that has to be done. The vast majority of employes of General Motors expect this -- and properly so.

The point is that people are highly dependent upon each other for their continued employment. This is true of overtime hours and straight time hours. For that reason, a system providing for overtime on a voluntary basis by each individual employe would be intolerable for employes and unworkable for management. Half an assembly line cannot elect to work and the other half elect not to work, and both have their way. There would be no assurance that those who wanted to work could do so, and no assurance that necessary and vital work would get done. If every twentieth man needed to do the work elected not to work, the other ninety-five percent could not work even if they desired to do so -- whether the hours in question would be compensable at straight time, time and one-half or double time.

CONCLUSION

In conclusion, a system limiting overtime work to employes who volunteer for such work is not practical in the automobile industry. Overtime is scheduled in a variety of situations in which avoiding the overtime would be impossible, impractical, inefficient or work a hardship on General Motors and its employes. Mandatory overtime is essential to keep the tightly integrated manufacturing system in balance; to accomplish the annual model change and tooling associated with it; to adjust production in response to changes in customer preferences; to handle emergency situations; to account for seasonal and cyclical sales fluctuations; and to make up for lack of inventory capacity. Also, many employes are able to work a full 2,000-hour year only by working overtime premium hours during peak periods, and putting overtime work on a voluntary basis would give a small minority of employes the power to frustrate the desires of the majority to increase their income through overtime work at premium pay.

Excessive overtime is undesirable from the standpoint of both the employe and the Corporation. Overtime is expensive under existing law. No additional incentive or penalty is needed. General Motors exercises continuous efforts to control this cost by working only essential overtime.

The problem is not confined to final assembly operations, nor to periods of peak customer demand. The problem is that by the very nature of the entire process of building automobiles, overtime is inherent, it is unavoidable, and it occurs in various phases of the entire process at different times -- often unpredictable -- and in varying amounts. If manufacturers were prohibited from solving these problems through necessary overtime work, the effect would be to prevent them from making full productive use of its facilities in a state limiting mandatory overtime and to make out-of-state facilities relatively more attractive to operate. The extra costs and capital requirements and reduced flexibility and reduced efficiency caused by restrictions on overtime scheduling would likely result in lower incomes for many as well as reluctance on the part of employers to build or expand facilities in a state restricting overtime.

General Motors' position is that states should not attempt to restrict the use of mandatory overtime. Unions and employers, through free collective bargaining, should be permitted to work out agreement provisions which fit employes' desires and employers' needs. This has been and continues to be a sensible, reasonable and practical way of reconciling the interests of all concerned.

It is vitally important to the continued operation of the General Motors facilities in New Jersey that this legislation be reported unfavorably. General Motors thanks you for providing this forum to discuss our problems and concerns with you regarding this proposed legislation.

W.J. Neely
General Motors Corporation

Senator Bedell and Members of the Committee:

My name is Walter Ellis, and I am here today in behalf of the New Jersey Farm Bureau, a volunteer organization of more than 4,000 farm families in New Jersey.

We have some concerns regarding S 887, and its effects on agricultural production, if it becomes law.

Part I of the Act, prohibits any disciplinary action for an employee's refusal to work overtime. It defines overtime, as time over and above "normal daily hours of work". It then stipulates that in no event shall that time exceed eight hours.

We appreciate the attempt to provide exceptions for special circumstances that are covered in part 2 of the Act, but, by its very nature, agricultural work must be done to conform to many conditions which are beyond the control of the employer.

Some of these conditions are:

1. Seasonality. Some crops are very seasonal in nature so that producing a sufficient volume to be economical requires that a great deal of work must be done within that short season. An example of such a crop might be strawberries that are available for harvest for only about 20 or so days in an average season.

2. Weather. Many times, weather conditions will not permit work to be done on a regular schedule. Excess rain may hold up an operation for days, and then that time must be made up, if planting or harvesting schedules are to be maintained and seasonal constraints observed.

3. Crop Maturity. Crops must be harvested at the proper maturity. Weather conditions affect all crops to a large degree, so that scheduling is, at best, an exercise in approximations. Proper maturity for picking peaches for shipment is measured in hours. (About 72) Sweet corn has only one, or at the most, two days, that it is at its best and delays can only result in poor quality.

4. Market Demands. The ultimate boss for any business is the buyer of the product of that business. This is never more true than with agriculture, and its marketing system, which reacts so quickly and so greatly to every small fluctuation in supply. There may be a sale for a load of peaches today, that will be only a lost opportunity if the order cannot be filled right now.

A farmer cannot delay long with a perishable product, whether that be a peach or an order.

To restrict a farmer's ability to require longer hours of work, when it is necessary to respond to unavoidable conditions, would be intolerable.

We believe that because of the unique character of agricultural work, when so many factors are beyond our control, as employers, we must ask that agricultural employment be excluded from this Act.

Thank you for the opportunity to express my views.

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GIVEN TO [unclear]

[Redacted]
(LOAN 021 - JHEW)

RULES TO BE FOLLOWED WHEN REPAIR TECH. IS LOANED TO INSTALLATION.

- X 1. If need 5PM quit - notify installation wheel at 8AM with request and reason and the 5PM quit will be honored by completion supervisor only according to need and work load.
2. Okay service order after every job to dispatch wheel.
747-9917 Red Bank
431-9917 Freehold
3. Notify dispatch wheel on any job that you expect to overrun by 15 min. over estimate on service order with expected completion time and reason.
4. All jobs will be pre-installed and tagged in terminal if it is held for facilities.
- X 5. Any service order work ~~on~~ will be completed in its entirety.
- X 6. Any problems with completing service order call completion supervisor.

TESTIMONY OF LEROY DUCKWORTH
ON SENATE BILL NO. 887
PRESENTED TO THE SENATE
LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE
May 8, 1980

Good afternoon. My name is LeRoy Duckworth and I am the Acting Manager of Government Relations for Jersey Central Power & Light Company. I appreciate this opportunity to address the Committee regarding Senate Bill No. 887.

At the outset, I would like to point out that Jersey Central Power & Light Company (JCP&L) provides electric service to an area comprising 43% of New Jersey, including 236 municipalities and almost 700,000 customers. The company's transmission and distribution wires are over 57,400 miles in length and are supported by over 518,100 poles and towers. The company operates seven electric generating stations. The company employs approximately 2,600 regular hourly employees, many of which are involved in the daily operation and maintenance of the electric generating, transmission and distribution facilities.

I. As a public utility operating under a franchise granted by the State, JCP&L has a duty to provide its industrial, commercial and residential customers with safe, adequate and proper electric service which is vital to their twenty-four hour needs. This public duty does not begin at 8:00 a.m. and terminate at 4:30 p.m.. On the contrary, it requires the company and its employees to perform work over and above the "normal daily hours of work" referred to in Senate Bill No. 887 on a regular yet often unpredictable basis. Although much of the overtime work is not "emergency" work in the sense contemplated by Senate Bill No. 887, it is such when viewed from the standpoint of the customer who is without electric service after the hour of 4:30 p.m.

Similarly, the twenty-four hour nature of the company's public duty mandates that management require employees to work overtime in order to prevent "emergency situations" as defined in the Bill from arising. One of many examples of this is the scheduled or unscheduled outage of an electric generating station. The company must have the authority to require employees to work on a schedule so that the generating station can be brought back on line as quickly as possible. In order to accomplish this goal at the lowest cost to the customer, the Company must have the authority to require employees trained in a specific area to continue working on a particular assignment where such work will extend beyond "normal daily hours of work" for those particular employees. However, Senate Bill No. 887 in essence would enable employees to refuse to continue working beyond "normal daily hours of work" and thereby require the company to maintain a separate work force of employees qualified to continue the work. Such other employees, if available, would not only have to be qualified for the particular work, but they would have to be coached and instructed by the employees being relieved as to the status of the job, problems encountered and suggestions on how to proceed. Such an approach would result in lost time, increased rates to the customers and a greater potential of an "emergency situation" arising due to extended outages.

The inefficiencies and obstacles presented by Senate Bill No. 887 are not limited to outages. They apply to work

which must be performed by line crews and other employees in order for the company to fulfill its public duty to avoid potential "emergency situations". It is interesting to note that in the year 1979, JCP&L hourly employees worked a total of 396,172 hours of overtime, or an average of 2.9 hours per employee per week. If the employees had refused to work this overtime, the company would have been required to procure a separate work force of 190 full-time qualified employees. Thus, the right of employees to refuse to work overtime would impair this Company's ability to supply a service vital to the public and would certainly result in significantly higher rates to the customer. Therefore, JCP&L must have the authority to impose sanctions for an employee's refusal to work a reasonable amount of overtime.

II. Another issue which must be addressed is the impact of the proposed Bill on the rights of employee unions and management to enter into collective bargaining agreements tailored to meet their individual needs. JCP&L believes that the objective to be achieved by the proposed Bill will have a detrimental effect on the operations of many businesses, their respective collective bargaining agreements, and the ability to obtain qualified people to work overtime. We believe that where employees in a company are being required to work an unreasonable amount of overtime, the situation can and will be remedied through union grievance channels, arbitration and appropriate union-management negotiations. Employee unions are very responsive to their members' complaints and maintain a strong voice at the bargaining table. The require-

ments of both management and employees vary from industry to industry and from business to business. Employee compensation and benefits for working overtime are themselves subject to negotiation, just as are sanctions for refusal to work overtime. It is for these reasons that JCP&L believes that any policy with respect to sanctions imposed for refusing to work overtime is best left to negotiations between management and the employee representatives and should not be the subject of generic legislation.

III. Senate Bill No. 887 as it is currently drafted does not apply to "work performed in emergency situations where public health and safety are endangered, nor to emergencies because of unavoidable and unforeseeable circumstances which cause extreme disruption of usual operations" (Senate No. 887, Section 2.b.). This provision of the Bill gives no guidance whatsoever to the employer as to what constitutes a danger to public health and safety or what constitutes an extreme disruption of usual operations.

This provision will receive as many interpretations as there are employers. An employer, based on the circumstances, may feel that an employee refused to work overtime in an emergency situation and therefore believe he is justified in taking disciplinary action. The employer may later find that the Court disagrees with his interpretation and find himself liable for damages up to \$1,000, plus costs and attorneys' fees payable to the employee for violating the Act.

On behalf of our customer who, through an increase in the rate base, will ultimately bear the unreasonable expense generated by this Bill, we urge this Committee to reject Senate Bill No. 887.

TESTIMONY
OF
WILLIAM S. COWART, SENIOR VICE PRESIDENT
OF
ATLANTIC CITY ELECTRIC COMPANY
BEFORE THE
SENATE COMMITTEE
ON
LABOR, INDUSTRY AND PROFESSIONS
REGARDING SENATE BILL 887
MAY 8, 1980

Mr. Chairman, my name is Williams S. Cowart and I am Senior Vice President of Atlantic Electric. We are most appreciative of the opportunity to share some of our thoughts with you on Senate Bill 887. I intend to be brief, and, I hope, to the point.

The intention of the legislation is, I'm sure, well-meaning. No one could be in favor of unreasonable and excessive overtime requirements which affect the welfare of workers.

But despite such good intentions, the bill cuts at the very heart of current industrial practice; instead of correcting possible abuses, it paints with a broad brush and threatens to do more damage to business operations than the supposed problems it seeks to correct.

Employers are permitted to require an employee to work reasonable amounts of scheduled and unscheduled overtime upon proper notice. This practice has been upheld in many arbitration decisions as not violative of workers rights.

Without the ability to require such overtime work, we, as an electric utility required by law to provide reliable service, would find ourselves in very difficult straits. Our obligation to restore service quickly and effectively whenever interruptions occur is one of the highest priorities we have. And our employees know this, and recognize their obligation to work a reasonable amount of overtime. If each does his or her fair share of the work, the overtime is kept at a reasonable level. Of course, there are times when employees are not willing to assume the obligation. And on those occasions when the refusal of a reasonable overtime assignment affects production schedules or our ability to restore service, disciplinary action may be used. But even here it is important to note that any such action is done within the careful structure of our labor contract and that the employee's rights are protected each step of the way. Further, discipline for our company is constructive - it is not in our interest to punish when our aim is to improve performance and get the job done. Often counselling and discussion will be enough to correct the situation.

Now, it might be thought, since S. 887 specifically exempts emergencies "where public health and safety are involved" and cases of "extreme disruptions of usual operations," that we would have nothing to worry about. But what counts as an instance of such exemptions is bound to be a matter of constant dispute. When are disruptions "extreme"? How many people need to be out of service before we can say that "usual operations" are disrupted? How can we know what effect on public health and safety even the smallest outage of service will bring? And what of power plant overhauls? When any unit is shut down for required maintenance, our aim has to be to get it back on line as soon as possible. Every day it is not making electricity for our customers can increase the cost of their service. Our people have always understood and accepted this "fact of utility life." But such overhauls do not clearly qualify under the exemptions, and our ability, therefore, to get

power plants working efficiently and reliably would be severely impaired.

The conditions under which overtime is assigned in our company are the result of many years of collective bargaining. The option of filing a grievance is always available where an employee feels he or she has been forced to do more than a reasonable amount of such overtime. But it is interesting to note that in our experience most grievances involving overtime are not charges of excess - they are claims that the employee is not getting enough of it.

Let me say a few final words about the climate S.887 will produce - the psychological climate within which both employer and employee have to reach their mutual objective. As I have said, our people understand and accept their positive obligation to pitch in to meet the goals of safe, reliable and cost-effective electric service. S.887, however, introduces a note of negativism and puts the burden of proof on the employer. Instead of assuming that employer and employee have a common objective, S.887 plays on a discordant note, implying that it is only in the employer's interest to see overtime work assigned. If S.887 becomes law, it will not be long before the understanding we have reached in the collective bargaining process becomes eroded and the common obligation we have to customers is no longer shared. The impetus to refuse overtime work without good reason will grow. And high quality service in our franchise will be the victim.

Again, our thanks for the chance to express our views. I urge you to seek some other way of correcting problems that may occur in the isolated operating experiences of some companies, and not to unwisely intrude into demonstrably proper and workable industry practices. S.887 should not become law.

Statement on
Senate Bill No. 887

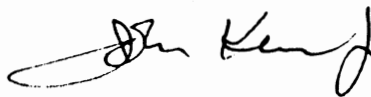
"An Act to prohibit employers from terminating or otherwise disciplining employees for refusal to work overtime."

The investor-owned water utilities in New Jersey represented by the New Jersey Chapter of the National Association of Water Companies, are very concerned about Senate Bill No. 887 which has been referred to the Committee on Labor, Industry and Professions. It is our feeling that there is absolutely no need for such a bill inasmuch as it could serve no useful purpose and would certainly be detrimental to New Jersey public utilities' ability to maintain high standards of service at reasonable costs to their customers.

Even the exemptions for emergency situations could be interpreted many different ways to the detriment of customers. The use of occasional overtime, for example, that might be required for the convenience of customers or to satisfy Public Utility Commission regulations are not covered. This bill, if enacted, will create no end of grievances. For example, can it be deemed an emergency if a utility is unable to read a customer's meter due to employee illness or inclement weather? However, the Board of Public Utilities has mandated that each meter have an actual reading after two consecutive estimated billings. Certainly failure to read a meter does not endanger public health or safety, but we are required by edict to physically read the meter. This is only one of dozens of examples indicating the problems that would be created by passage of S-887.

Senate Bill No. 887 is a bad bill in that it is clearly a case of overbill.

Very truly yours,



John Kerr, Jr.
Chairman
Government Relations Committee
National Association of
Water Companies
New Jersey Chapter

TESTIMONY OF DONALD S. BROOKS
OF
MERCK & CO., INC.
BEFORE THE
SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE
CONCERNING
SENATE BILL 887

Mr. Chairman and distinguished members of the Senate Labor, Industry and Professions Committee: My name is Donald S. Brooks and I am the Executive Director of Corporate Employee Relations for Merck & Co., Inc. In this capacity, I am responsible for the labor and industrial relations of the Company. I am accompanied by Theodore D. Kaufman, a member of our corporate Legal Department.

Merck & Co., Inc. is one of the world's foremost manufacturers of pharmaceuticals, employing approximately 28,000 employees worldwide including almost 4,000 in the State of New Jersey. Merck's corporate headquarters is situated in Rahway, New Jersey. Merck maintains substantial research and manufacturing operations at the Rahway site, in Linden and in Hawthorne, New Jersey. In addition, Merck maintains a facility in Branchburg, New Jersey.

Today, I would like to briefly present to you the views of Merck concerning Senate Bill 887, a bill which would impose restrictions upon an employer's right to require its employees to perform overtime work.

In our view, Senate Bill 887 is not in the best interests of employers or employees in New Jersey. If enacted, the Bill may have a significant adverse impact on New Jersey employers, it may adversely affect the opportunity of New Jersey employees to supplement their incomes with overtime earnings and it may improperly interfere with longstanding collective bargaining relationships between employers and unions.

Let me use Merck as an example of how an employer would be adversely affected by Senate Bill 887 and how this would have an adverse impact on employees as well. Merck's research activities and manufacturing operations at Rahway take place around the clock. For example, laboratory animals involved in our pharmaceutical research must be fed and cared for on a twenty-four hour basis and their life support systems must be constantly monitored. In the production area, many of Merck's operations are scheduled on a continuous three shift basis because we have found that it is impractical to shut down and start up operations each day and because our chemical manufacturing processes require continuous operations in order to achieve maximum effective production. Through the use of overtime, as required, Merck ensures the continuity of research activities and production operations by skilled employees despite interruptions caused by temporary fluctuations in the Company's workforce due to absence or tardiness.

Senate Bill 887 would require Merck to hire and train an additional force of standby employees. As a result, the increased cost would, in our view, diminish our competitiveness with the non-New Jersey companies whom we must compete against on a world-wide basis.

In addition, at our Rahway facility, there are overtime practices dating back some thirty years. When we need an employee to work overtime, we first attempt to assign the overtime work on a voluntary basis. If the number of volunteers is not sufficient, the Company selects employees for overtime work on the basis of inverse seniority, but gives the more senior employees the right of first refusal. The Company is required wherever possible to give 24 hours' notice of overtime work and to equally distribute overtime assignments insofar as is practicable in order to allow all employees to share in the opportunity to earn overtime premium pay. These procedures are incorporated, in part, into a collective bargaining agreement between the Company and the Union representing Merck's production and maintenance employees.

Overtime work is thus an integral and essential part of Merck's manufacturing and research operations. On the other hand, Merck's employees have the opportunity to augment their incomes with a reasonable amount of overtime work. As a matter of fact and contrary to the claim that employers abuse their right to require overtime work, those grievances concerning overtime at Merck generally involve employees who claim they were unreasonably denied

the opportunity to work overtime. The overtime procedures at Merck work because they are fair, and I am certain that most employers in this State follow similarly reasonable procedures to distribute overtime work. If the purpose of Senate Bill 887 is to correct management abuses, I have not seen sufficient justification of the need for such a remedy.

Most importantly, many of our employees are represented by labor unions. We support the collective bargaining process as a means of settling problems in the workplace with our organized employees. However, Senate Bill 887 represents an unwarranted State intrusion upon the collective bargaining process. The Bill does not take into account the variations in labor contracts and the trade-offs from which overtime and other procedures developed. To inject into this carefully-negotiated labor relations equation an undue restriction upon an employer's flexibility without regard to the other conditions and limitations in a collective bargaining agreement, would inevitably cause serious labor difficulties. Moreover, within the collective bargaining context, Merck's organized employees have a means of testing the Company's exercise of its right to select employees to work overtime, through the contractual grievance machinery. Senate Bill 887 undercuts this important dispute-resolution process.

In addition to the foregoing, Senate Bill 887 does not take into account the differences among companies in terms of size,

geography, industry, method of operations, etc. There is no across-the-board panacea relative to overtime, such as Senate Bill 887, which can cover all possible situations and still enable a company to operate with desired efficiency. Thus, we believe this is not an area where the State should intervene -- particularly where a clear need for State intervention has not been shown.

In conclusion, therefore, it is the position of Merck that, if it is enacted, Senate Bill 887 may weaken the competitive position of New Jersey employers, deprive New Jersey employees of overtime earnings which often comprise a substantial part of their family budget, and unduly upset the stability of the collective bargaining process. Indeed, if a large and successful company like Merck perceives this Bill as potentially harmful, it may well be assumed that the Bill's adverse impact will be magnified many times with respect to small and marginal companies in this State.



**Business
Industry
Association**

50 Park Place, Newark, New Jersey 07102

201-623-8359

TESTIMONY
OF THE
NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION

PRESENTED TO:

NEW JERSEY SENATE
LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

ON

S-877 (BEDELL)

A BILL WHOSE PRIMARY IMPACT WOULD BE COUNTER PRODUCTIVE TO NEW JERSEY'S PUBLICALLY AVOWED INTENT TO ENCOURAGE PRESENT BUSINESS TO REMAIN AND EXPAND AND PROVIDE AN ENCOURAGING ATMOSPHERE FOR NEW INDUSTRY TO LOCATE IN NEW JERSEY.

MAY 8, 1980.

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS LESTER KURTZ AND I AM ON THE STAFF OF NEW JERSEY BUSINESS AND INDUSTRY ASSOCIATION WHICH REPRESENTS MORE THAN 13,000 NEW JERSEY EMPLOYERS, IN ALL 21 COUNTIES OF THIS STATE. SOME OF THESE INDUSTRIES ARE REPRESENTED BY COLLECTIVE BARGAINING AGENTS WHILE OTHERS OPERATE UNRESTRICTED EXCEPT FOR LABOR RELATED LAWS AND THOSE CONDITIONS OF EMPLOYMENT AGREED TO BY THE EMPLOYEE AT THE TIME HE ACCEPTS THE OFFER OF EMPLOYMENT. THESE INDUSTRIES REPRESENT MORE THAN 13,000 EMPLOYERS WHO, ALONG WITH THIS ASSOCIATION, HAVE WORKED VERY DILIGENTLY TO PROVIDE EMPLOYMENT FOR NEW JERSEY RESIDENTS AS WELL AS PROVIDING TAX BASE TO PAY FOR STATE PROGRAMS. IT SHOULD BE COMMON KNOWLEDGE TO ALL MEMBERS OF STATE GOVERNMENT THAT BUSINESS AND INDUSTRY HAS HAD, AND CONTINUES TO HAVE, A DIFFICULT TIME JUSTIFYING CAPITAL EXPENDITURES IN A GOVERNMENTAL ATMOSPHERE THAT ATTEMPTS TO LEGISLATE WITH A FORKED TONGUE, I.E. SPENDING MANY TAXPAYER DOLLARS TO PROMOTE THE DESIRABILITY OF NEW JERSEY AS A STATE IN WHICH TO REMAIN, EXPAND OR LOCATE WHILE AT THE SAME TIME SPENDING MORE TAXPAYER DOLLARS TO ATTEMPT PASSAGE OF LEGISLATION SUCH AS SENATE BILL NO. 887 WHICH WOULD MOST CERTAINLY CREATE MORE, NOT LESS, UNEMPLOYMENT IN NEW JERSEY.

SENATE BILL NO. 887 WOULD EXCLUDE APPLICATION OF ANY LANGUAGE IN A COLLECTIVE BARGAINING AGREEMENT WHICH WOULD PROVIDE FOR MANDATORY OVERTIME ASSIGNMENTS. YET IT TOTALLY IGNORES THE TERMS AND CONDITIONS OF EMPLOYMENT UNDER WHICH AN EMPLOYEE VOLUNTARILY ACCEPTS EMPLOYMENT WHERE NO BARGAINING AGREEMENT EXISTS, WHEREIN THE INDIVIDUAL EMPLOYEE ACCEPTS THE ASSIGNMENT OF OVERTIME AS PART OF

HIS CONDITIONS OF EMPLOYMENT. THE STATE NOW APPEARS TO BE SAYING THAT IF THE EMPLOYEES OF AN INDUSTRY OR BUSINESS JOINS A UNION AND NEGOTIATES SPECIFIC OVERTIME LANGUAGE, MANAGEMENT IS FREE TO MAKE SUCH ASSIGNMENTS BUT THAT IF IT IS A NON-BARGAINING UNIT COMPANY, ANY ARRANGEMENT MADE BY MANAGEMENT WITH THE INDIVIDUAL EMPLOYEE AS PART OF THE TERMS AND CONDITIONS OF EMPLOYMENT ARE NULL AND VOID AS THEY RELATE TO THE MANDATORY ASSIGNMENT OF OVERTIME. THIS PLACES THE EMPLOYER AND THE OPERATION OF HIS BUSINESS AT THE DISCRETION OF THE EMPLOYEE. IT IS OUR OPINION THAT THIS IS AN EXTREMELY DISCRIMINATORY POSITION ON THE PART OF THE STATE OF NEW JERSEY.

WE FEEL IT APPROPRIATE TO REMIND THE SENATORS THAT MANY OF THE INDUSTRIES LOCATED IN NEW JERSEY ARE OF THE TYPE THAT REQUIRE CONTINUOUS OPERATIONS AROUND THE CLOCK, SEVEN DAYS A WEEK, AND THAT EMPLOYEES ENDING A SHIFT ARE FULLY AWARE THAT IF THE EMPLOYEE SCHEDULED TO WORK THE FOLLOWING SHIFT IS LATE AND/OR ABSENT, THE EMPLOYEE CONCLUDING HIS SHIFT IS EXPECTED, AS A CONDITION OF EMPLOYMENT, TO REMAIN ON THE JOB ON AN OVERTIME BASIS UNTIL ADEQUATE COVERAGE CAN BE ARRANGED BY MANAGEMENT. TO CREATE LEGISLATION TO ALLOW AN EMPLOYEE UNDER THESE CIRCUMSTANCES TO ELECT, AT HIS OPTION, TO LEAVE HIS POST WITHOUT AN ADEQUATE REPLACEMENT COULD AND, IN FACT, WOULD RESULT IN DAMAGE TO THE PRODUCT AND EQUIPMENT AS WELL AS ENDANGERING THE SAFETY OF THOSE OTHER EMPLOYEES INVOLVED IN THE OPERATION,

PLEASE TAKE A MOMENT TO UNDERSTAND SOME OF THE REASONS WHY MANY NEW JERSEY EMPLOYERS FIND IT NECESSARY TO WORK OVERTIME:

1. TIME REQUIREMENTS NECESSARY TO MEET CUSTOMER COMMITMENTS. IF A NEW JERSEY BUSINESS OR INDUSTRY CANNOT SATISFY CUSTOMERS REQUIREMENTS WITHIN A TIME FRAME REQUIRED BY THAT CUSTOMER, THE BUSINESS WILL GO OUT OF NEW JERSEY TO THAT INDUSTRY OR BUSINESS THAT CAN MEET THOSE TIME REQUIREMENTS.
2. PENALTY CLAUSE FOR FAILURE TO DELIVER ON TIME. MANY CONTRACTS, INCLUDING THOSE WITH THE FEDERAL GOVERNMENT, CONTAIN CLAUSES THAT RESULT IN A SEVERE FINANCIAL PENALTY TO A BUSINESS OR INDUSTRY IF IT FAILS TO MEET SPECIFIC TIME PARAMETERS.
3. ACTS OF COMMISSION OR OMISSION BY AN EMPLOYEE CAUSING DAMAGE TO THE PRODUCT REQUIRING TIME SPENT ON REWORK OR SALVAGE. THIS IS AN AREA OBVIOUSLY WHERE MANAGEMENT HAS LITTLE CONTROL OTHER THAN ITS CHECKS ON QUALITY CONTROL AND ONCE IT IS DETERMINED THAT A PRODUCT DOES NOT MEET QUALITY SPECIFICATIONS, VALUABLE TIME MUST BE SPENT REWORKING OR SALVAGING THOSE PARTS.
4. BREAKDOWNS OF EQUIPMENT. WHEN KEY MACHINES OR OPERATIONS BREAK DOWN MANY TIMES THE ONLY WAY AN EMPLOYER CAN MAKE UP FOR THE LOST TIME IS BY WORKING OVERTIME.
5. THE NATURE OF THE PRODUCT. MANY OF THE INDUSTRIES IN NEW JERSEY REQUIRE A CONTINUOUS FLOW OF MATERIALS, CHEMICALS AND/OR

PRODUCTS THAT WOULD BE SEVERELY DAMAGED IF THE CONTINUOUS FLOW WERE INTERRUPTED.

6. MACHINE UTILIZATION. MOST INDUSTRIES HAVE CERTAIN KEY MACHINES WHICH ARE ABSOLUTELY NECESSARY TO THE FLOW OF MATERIALS THROUGH THEIR OPERATIONS, IF THESE MACHINES ARE ALREADY UTILIZED ON A THREE SHIFT FIVE DAY WEEK BASIS MANAGEMENT HAS ONLY TWO ALTERNATIVES - BUY ADDITIONAL MACHINES WHICH REQUIRE EXTENSIVE CAPITAL OUTLAYS AND PERHAPS CANNOT BE JUSTIFIED FOR THE LONG RUN OR TO UTILIZE THE EXISTING MACHINERY ON AN OVERTIME BASIS.

7. EXCESSIVE ABSENTEEISM OF EMPLOYEES. HERE AGAIN MANAGEMENT HAS MADE COMMITMENTS TO ITS CUSTOMERS BASED UPON A PROJECTED NUMBER OF MAN HOURS AVAILABLE FOR WORK. IF THE EMPLOYEES DO NOT PRESENT THEMSELVES DURING THOSE HOURS OF WORK THE EMPLOYER MUST WORK THE EXISTING LABOR FORCE ON AN OVERTIME BASIS.

NOTHING IN SENATE BILL No. 887 WILL CHANGE THE NEED FOR OVERTIME IN THE ABOVE NAMED INSTANCES! WHAT IT WILL DO IS SEVERELY EXACERBATE THE PROBLEM OF PRODUCTION BY LEGISLATING THE ELIMINATION OF A LONG STANDING MANAGEMENT RIGHT TO REQUIRE THE WORKING OF OVERTIME AS A CONDITION OF EMPLOYMENT.

THE MEMBERS OF THE NEW JERSEY SENATE MUST BE PAINFULLY AWARE THAT IN THE LAST DECADE NEW JERSEY'S INDUSTRIAL BASE HAS BEEN CRUMBLING AND ALONG WITH IT THE STATE'S PRIME TAX BASE. IN 1970 MANUFACTURING JOBS COMPOSED OVER 47% OF THE TOTAL PRIVATE SECTOR EMPLOYMENT. IN 1979 MANUFACTURING JOBS REPRESENTED LESS THAN 1/3 (32.2%) OF PRIVATE

SECTOR JOBS IN THE STATE OF NEW JERSEY. THIS TYPE OF DOWNWARD PLUNGE MUST BE CHECKED IF NEW JERSEY WISHES TO TAKE ITS RIGHTFUL PLACE AMONG THE TOP INDUSTRIAL STATES IN THE NATION. JUST AS THERE CAN ONLY BE ONE CAPTAIN MAKING THE FINAL DECISION IN THE RUNNING OF A SHIP, SO THERE CAN ONLY BE ONE RESPONSIBLE PARTY MAKING MANAGEMENT DECISIONS NECESSARY TO RUN AN INDIVIDUAL BUSINESS. THE ALTERNATIVE IN THE FORMER IS MUTINY AND IN THE LATTER ANARCHY LEADING TO "WORKER RUN INDUSTRIES" -- A FAR CRY FROM THE PRINCIPLES OF CAPITALISM THAT HAVE MADE US THE ENVY OF THE INDUSTRIAL WORLD.

IN CONCLUSION, THE BILL, IF PASSED, WOULD RESULT IN A NEW LOW IN STATE LABOR LEGISLATION WITH THE ULTIMATE IMPACT BEING TO DRIVE EXISTING BUSINESS AND INDUSTRY OUT OF THE STATE AND WOULD RESULT IN THE DUBIOUS DISTINCTION OF PLACING NEW JERSEY AT THE TOP OF THE LIST OF THOSE STATES CONSIDERED LEAST DESIRABLE IN WHICH TO START UP A NEW INDUSTRY AND/OR MAINTAIN AN EXISTING INDUSTRY. IN FACT, THE MERE EXISTENCE OF PROPOSED LEGISLATION OF THIS TYPE, EVEN IF DEFEATED, AS IT SHOULD BE, IS ENOUGH TO CAUSE COMPANIES CONSIDERING NEW JERSEY AS A NEW BUSINESS LOCATION, TO RETURN TO THE DRAWING BOARD AND RECONSIDER THE OPTIONS AVAILABLE TO THEM. LET THERE BE NO DOUBT IN ANYONE'S MIND THAT IF THIS BILL IS PASSED, THE INDUSTRIAL COMMISSIONS OF THOSE SUN BELT STATES AGGRESSIVELY PURSUING NEW JERSEY INDUSTRIES WILL APPLAUD THE LOUDEST AND WILL GLEEFULLY SPREAD THE WORD, WITH ASTOUNDING SPEED, TO THOSE

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BUSINESSES HEADQUARTERED IN OTHER STATES PRESENTLY CONSIDERING
NEW JERSEY AS A PLACE IN WHICH TO RELOCATE OR ESTABLISH A NEW
FACILITY.

WE CANNOT URGE TOO STRONGLY THE NEED TO DEFEAT THIS TYPE OF LEGIS-
LATION BEFORE ITS PRESENCE BECOMES WELL KNOWN AND CAUSES IRREPARABLE
HARM TO THE NEW JERSEY BUSINESS COMMUNITY.

STATEMENT FOR INGERSOLL-RAND COMPANY

PUBLIC HEARING, May 8, 1980 S-887

Good Morning.

My name is G.H. Putnam and I represent Ingersoll-Rand Company.

First I wish to thank the Committee for permitting me to appear before you today.

Ingersoll-Rand is a multinational corporation that employs about 47,000 people worldwide. Our corporate headquarters is at Woodcliff Lake, N.J. We have several other facilities located within the state including sales offices, warehouses, a research center near Princeton, and one of our largest manufacturing plants at Phillipsburg. Total employment within the state exceeds 5000. We consider New Jersey to be our home state and hope that it will continue as such indefinitely.

Fortunately, we don't think that we have many serious problems associated with overtime work. That is not to say that we don't have any problems with overtime, because on occasion we do. Most, if not all, of those problems have to do with the distribution of overtime that is available.

First of all, we, like other manufacturers, continuously strive to minimize the amount of overtime that is required. Nevertheless, we find that some overtime is essential even under the best of circumstances, no matter how well we plan, if we are to maintain our commitments to others under widely varying and fluctuating conditions. As a consequence specific procedures have been developed over many years for the purpose of equitably and fairly distributing the overtime that is available to those who are eligible to participate in overtime work. Implementation of the procedures requires extensive record keeping and adherence to specific rules. If an error is made or a misunderstanding arises for any reason, then other established procedures are followed to resolve any such misunderstandings. We believe that the system works and to the mutual benefit of all concerned.

Although rare, it is conceivable that there can be circumstances under which overtime work is necessary when all of those who are qualified to do the work prefer not to do so. Under those circumstances we believe that management should retain the prerogative of making the decision as to whether the circumstances warrant directing one or more persons to perform work on overtime.

It stands to reason that management should weigh the factors involved in such circumstances. It also stands to reason that to ignore the legitimate interests and preferences of employees as a matter of practice

would place an undue strain on employee relations. Thus it is incumbent upon management to use common sense with respect to this subject just as it is with all other aspects of operating a business.

The passage of S-887, on the other hand, would negate management's ability to weigh the factors involved and to make decisions based upon the merits of particular circumstances. It would place a further restriction on management and in effect it would substitute legislation in place of the decision making process.

I suspect we would say that there is no good time to place further restrictions on management, but I am sure we would say that this is definitely not a good time to do so.

We respectfully suggest that S-887 not be released from Committee. We believe that the best interests of the State as a whole will be served by not allowing this bill to become law.

May 7, 1980

Testimony on Bill S-887

Before New Jersey Senate Labor, Industry and Profession
Hearing at Linden City Hall, May 8, 1980 by Frisby Euell,
Manager Employee and Community Relations, General Electric
Company, 845 E. 25th St., Paterson, New Jersey.

General Electric in New Jersey, as an employer of approximately 3000 employees at six plant locations, plus many other Service Centers, Sales, and Distribution Offices, believes the S-887 is not in the interest of the State of New Jersey and its business climate.

The requirement for overtime for business employees differs from business to business and the determination of overtime rules properly belongs in the Bargaining Agreement where it is right now.

Our North Bergen, New Jersey Apparatus Service Shop is designated as the New York Service Shop and does repair work on Shipboard Propulsion Equipment, Turbines, all kinds of electric machinery and railroad equipment for businesses that need quick repair work on machinery that affect their operations and their employees' jobs. Overtime is a way of life with this plant of 400 or so employees. We compete with New York repair businesses for this work, and in New York there isn't a law such as this.

Anyone in a seasonal business, or a business that has peaks and valleys, has an impossible task without being able to depend upon overtime. Most of us prefer to work some overtime rather than hire employees for a short time and lay them off and then join with the State in paying unemployment benefits. The very seasonal employers in New Jersey are the unemployment fund deficit employers, and they need to put their money into overtime whenever possible.

Overtime has been around for a long time and GE's unions aren't clammering for a law like S-887. We can understand that everything isn't perfect and there can be some abuses, but these things can be and should be worked out at the Bargaining Table.

General Electric and most other employers we know try to stabilize employment and work some overtime before hiring more people for short periods and then laying off. All of these things have to be balanced, keeping in mind the cost of hiring and training the 50% premium on overtime (more in some cases) and the cost of layoff, such as unemployment payments and extended employee benefits during layoff.

In the General Electric plant where I work in Paterson, we manufacture for stock and to order, gearmotors for special applications. There are also other manufacturers in this business and in order to compete in this industry we have to be competitive - when we get a rush order from one of our customers who needs a special gearmotor in a hurry, we have to respond in a hurry. That often involves working overtime. We are reasonable in assigning overtime, averaging less than 2% a week, but it would be a problem if we couldn't get anyone to work overtime because of a Bill like this.

We believe that there are always opportunities to try to work those things out at the Bargaining Table rather than New Jersey having an overtime-restriction Bill.

I do know that bills somewhat similar to S-887 have been considered in other states, Wisconsin and Illinois, to name two states, but to our knowledge none has passed a bill such as this.

We aren't saying that this Bill will result in a sudden exodus by business from New Jersey, but when companies are looking for new plant sites or when considering expanding present plant locations, a state with a law like S-887 won't be a drawing card.

STATEMENT

BY

NEW JERSEY MOTOR TRUCK ASSOCIATION

AT

PUBLIC HEARING ON S-887

May 8, 1980

Linden, N.J.

I am Norman Hughes, Managing Director of the New Jersey Motor Truck Association, a trade organization of nearly 1400 company members employing some 210,000 people in New Jersey. This statement, which represents the position of the Association members, opposes S-887.

The industry I represent is regulated by Title 39, Chapter 9 of the State of New Jersey, and by Part 395.3 of the Federal Motor Carrier Safety Regulations as to the hours an employee may be permitted or required to work.

As follows:

Chapter 9. HOURS OF DUTY OF OPERATORS OF CERTAIN MOTOR VEHICLES

Section.

39:9-1. Citation of chapter.

39:9-2. Hours of duty limited; hours off duty; emergencies.

39:9-3. Repealed.

39:9-4. Violations of chapter; punishment; enforcement; remedies; procedure; revocation of certificate.

39:9-1. Citation of chapter. This chapter shall be known, and may be cited as the "hours of service law of 1936."

Source: L. 1936, c. 190.

39:9-2. Hours of duty limited; hours off duty; emergencies. It shall be unlawful for any person to drive, or to require or permit any person to drive, any commercial motor vehicle, omnibus, motor bus, or tractor, while moving upon the public highways of this state after such person has been continuously on duty in such service, whether performed within or without this state, for a longer period than twelve hours, nor after he has been on duty for more than twelve hours in the aggregate during any sixteen consecutive hours. When any such person shall have been continuously on duty for twelve hours or shall

have been on duty for twelve hours in the aggregate during any sixteen consecutive hours, he shall have at least eight consecutive hours off duty. The periods of release from duty herein provided for shall be spent at such place and under such circumstances that rest and relaxation from the strain of the duties of driving may be obtained; provided, however, that in case of accident or emergency, a person driving any such motor vehicle may complete his run or tour of duty, and such driver or the person who requires or permits such person to drive for such longer period shall not be deemed to have violated the provisions of this chapter.

Source: L. 1936, c. 190.

39:9-3. Repealed by L. 1956, c. 51, p. 102, § 1.

39:9-4. Violations of chapter; punishment; enforcement; remedies; procedure; revocation of certificate. Any person violating any provision of this chapter shall, upon summary conviction by a court of competent jurisdiction, be sentenced to pay a fine of \$25.00 for the first of-

fense and, in default of payment thereof, shall undergo imprisonment for not more than 5 days; and for each subsequent violation shall be sentenced to pay a fine of \$50.00 and, in default of such payment, shall undergo imprisonment for not more than 10 days.

The provisions of this chapter shall be enforced and all penalties for the violation thereof shall be recovered in accordance with the provisions of the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.), and in addition to the provisions and remedies therein contained, the following provisions and remedies shall be applicable in any proceeding brought for a violation of any of the provisions of this chapter:

a. The several municipal courts shall have jurisdiction of such proceedings in addition to the courts prescribed in said Penalty Enforcement Law;

b. The complaint in any such proceeding may be made on information and belief by the director, any motor vehicle inspector, or any police or peace officer of any municipality, any county or the State;

c. A warrant may issue in lieu of summons;

d. Any motor vehicle inspector or any police or peace officer shall be empowered to serve and execute process in any such proceeding;

e. The hearing in any such proceeding shall be without a jury;

f. Any such proceeding may be brought in the name of the Director of the Division of Motor Vehicles, in the Department of Law and Public Safety or in the name of the State of New Jersey;

g. Any sums received in payment of any fines imposed in any such proceeding shall be paid to the Director of the Division of Motor Vehicles and shall be paid by him into the State treasury;

h. The director or any magistrate before whom any hearing under this chapter is had may revoke the license of any person to drive a motor vehicle or the registration certificate of any motor vehicle owned by any person, when such person shall have been guilty of such willful violation of any of the provisions of this chapter as shall in the discretion of the director or the magistrate justify such revocation.

Source: L. 1954, c. 76.

PART 395.3

§ 395.3(d)

axles and whose gross weight, as defined in §390.10, does not exceed 10,000 pounds, unless such vehicle is used to transport passengers or explosive or other dangerous articles of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Hazardous Materials Regulations, §177.823 of this Title, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations: *Provided further, however*, That this section shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries for retail stores during the period from December 10 to December 25, both inclusive, of each year.

(d) In the instance of drivers of motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(e) A driver who is driving a motor vehicle in the State of Alaska must not drive or be permitted to drive more than 15 hours following 8 consecutive hours off duty. A driver who is driving a motor vehicle in the State of Alaska must not drive or be permitted to drive after he has been on duty for 20 hours or more following 8 consecutive hours off duty. A driver who drives a motor vehicle in the State of Alaska must not be on duty or be permitted to be on duty more than—

(1) 70 hours in any period of 7 consecutive days. If the carrier for whom he drives does not operate every day in the week; or

(2) 80 hours in any period of 8 consecutive days,

§395.3 Maximum driving and on-duty time.

(a) Except as provided in paragraphs (c) and (e) of this section and in §395.10, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive more than 10 hours following 8 consecutive hours off duty or drive for any period after having been on duty 15 hours following 8 consecutive hours off duty: *Provided, however*, That drivers using sleeper-berth equipment, or off duty at a natural gas or oil well location, may accumulate the aforementioned total of at least 8 hours off duty in two periods of at least 2 hours each, resting in a sleeper berth, as defined in §395.2(g), or resting while off duty in other sleeping accommodations at a natural gas or oil well location.

(b) Except as provided in paragraph (e) of this section, no motor carrier shall permit or require any driver used by it to be on duty, nor shall any such driver be on duty, more than 60 hours in any 7 consecutive days as defined in §395.2(c) regardless of the number of motor carriers using the driver's service. *Provided, however*, That carriers operating vehicles every day in the week may permit drivers to remain on duty for a total of not more than 70 hours in any period of 8 consecutive days. *Provided further, however*, That the limitations of this paragraph shall not apply with respect to any driver-salesman whose total driving time does not exceed 40 hours in any 7 consecutive days.

(c) The provisions of paragraph (a) of this section shall not apply with respect to drivers used wholly in driving motor vehicles having not more than 2

Furthermore, since 1966, as attested to by the attached letter from William J. Clark, then Director Wage and Hour Bureau, it is accepted that employees regulated as above are not subject to the jurisdiction of the New Jersey minimum wage and hour statute.

Thus our industry, which has been structured to function under such stipulations since 1935, would experience a catastrophic situation if subjected to the restrictions of S-887.

Thank you.

FROM: Office of the Director
Wage and Hour Bureau
New Jersey Department of Labor and Industry
Trenton, 25, N. J.

December 14, 1966

Mr. William O'Connor
Suite #423
744 Broad Street
Newark, N. J.

Dear Mr. O'Connor:

The Honorable David J. Goldberg, Counsel to the Governor, referred your letter of November 17th to this office with a request that we advise you concerning it. There is no specific exemption in Chapter 113 of the laws of 1966 for the employees about whom you inquire. However, it is my opinion that any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service pursuant to the provision of Section 204 of the Motor Carrier Act of 1935, are not within the jurisdiction of the New Jersey minimum wage and hour statute.

Very truly yours,

William J. Clark
Director Wage and Hour Bureau

cc: David Goldberg, Counsel to Governor
Donald Altman, Deputy Attorney General

