

PUBLIC HEARING

before

AD HOC COMMISSION ON LEGISLATIVE ETHICS AND CAMPAIGN FINANCE

"To allow members of the public and members or representatives
of organized groups to give their views on the major
problems raised by the current system of legislative
ethics and campaign finance"

June 20, 1990
State House Annex
Room 334
Trenton, New Jersey

COMMISSION MEMBERS PRESENT:

Dr. Alan Rosenthal, Chairman
Albert Burstein
Michael Cole
Patricia Sheehan
Thomas Stanton, Jr.
Senator Carmen Orechio
Senator Donald T. DiFrancesco

ALSO PRESENT:

Marci Levin Hochman
Office of Legislative Services
Assistant Legislative Counsel

* * * * *

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PUBLIC HEARING

before

THE COMMISSION ON LEGISLATIVE PROCEDURE AND GOVERNMENT FINANCE

to which members of the public and members of representative organizations are invited to give their views on the problems raised by the current system of legislative ethics and campaign finance.

June 15, 1990
State House Annex
Room 115
Trenton, New Jersey

LEGISLATION FINANCE COMMITTEE

Mr. Alan Gewanter, Chairman
Albert H. Berman
Richard Cook
Richard D'Amico
Thomas S. Gorman
Richard J. Hughes
Richard J. Hughes
Richard J. Hughes

ALSO PRESENT

Richard J. Hughes
Director of Legislative Services
Legislative Council

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New Jersey State Legislature

AD HOC COMMISSION ON LEGISLATIVE ETHICS
AND CAMPAIGN FINANCE

Alan Rosenthal
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Michael Cole
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Thomas Stanton, Jr.
Carmen A. Orchio
Senator
Donald T. DiFrancesco
Senator
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Assemblyman

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General Assembly

PUBLIC HEARING NOTICE

TO: MEMBERS OF THE AD HOC COMMISSION ON LEGISLATIVE
ETHICS AND CAMPAIGN FINANCE

FROM: ALAN ROSENTHAL, CHAIRMAN

SUBJECT: COMMISSION PUBLIC HEARING - June 20, 1990

Anyone who wishes to testify at the public hearing or seeking further information on the commission's public hearing should contact Marci L. Hochman, Aide to the Commission, at (609) 292-4625.

The Ad Hoc Commission on Legislative Ethics and Campaign Finance will hold a public hearing on Wednesday, June 20, 1990 at 9:30 a.m. in Room 334 of the State House Annex, Trenton, New Jersey.

The purpose of the public hearing will be to allow members of the public and members or representatives of organized groups to give their views on the major problems raised by the current system of legislative ethics and campaign finance and to allow them an opportunity to offer any solutions to these problems that they may have developed.

As of June 12th, the persons scheduled to speak include Former State Senator Ray Bateman, lobbyist Karen Kotvas, Mr. Jim Schroder of the NJEA and Mr. Rob Stuart of New Jersey PIRG.

Any member of the public or member or representative of an organized group who wishes to testify should register with commission staff prior to the hearing so that arrangements can be made to allow the maximum number of persons to testify. Advance copies of testimony or prepared statements by persons unable to attend the public hearing should be submitted to commission staff prior to the day of the meeting.



TABLE OF CONTENTS

	<u>Page</u>
Rob Stuart Program Director New Jersey Public Interest Research Group (NJPIRG)	7
John Torok President Torok Group Representing the New Jersey Dental Association	32
Frederick M. Herrmann, Ph.D. Executive Director Election Law Enforcement Commission New Jersey Department of Law and Public Safety	67
 APPENDIX:	
Statement submitted by Rob Stuart	1x
Statement and other materials submitted by John M. Torok	5x

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(HEARING OPENS AT 9:45 a.m.)

DR. ALAN ROSENTHAL (Chairman): We will get under way at this June 20th meeting of the Ad Hoc Commission. Marci, will you call the roll, please?

MS. HOCHMAN: Yes, I will. Dr. Rosenthal?

DR. ROSENTHAL: Here.

MS. HOCHMAN: Mr. Burstein?

MR. BURSTEIN: Here.

MS. HOCHMAN: Mr. Cole?

MR. COLE: Here.

MS. HOCHMAN: Ms. Sheehan?

MS. SHEEHAN: Here.

MS. HOCHMAN: Mr. Stanton?

MR. STANTON: Here.

MS. HOCHMAN: Senator Orechio?

SENATOR ORECHIO: Yes.

MS. HOCHMAN: Senator DiFrancesco?

SENATOR DiFRANCESCO: Yes.

MS. HOCHMAN: Assemblyman Deverin? (no response)
Assemblyman Haytaian? (no response) Mr. Chairman, you have a quorum.

MR. STANTON: You'll have to look under the desk for those guys.

SENATOR DiFRANCESCO: Yeah, they had a tough night.

DR. ROSENTHAL: There are no excuses, no excuses for not attending. (laughter)

MR. BURSTEIN: If they're not here, put it down.

DR. ROSENTHAL: Put it down.

MR. BURSTEIN: One more absence, and they're gone.
(laughter)

DR. ROSENTHAL: We have -- as you can see in the materials that have been distributed to you -- we have two witnesses who will be testifying today. I assume that each of

the witnesses will take about 15 to 20 minutes, and we'll have some questioning of the witnesses. And so we will probably get done with the testimony by about 11:00. I would like then, with the permission of members of the Commission, to get into a discussion of an area that we haven't spent much time on, and that is ethics and conflicts of interest: To begin to discuss that amongst ourselves, and the kinds of issues that exist in those areas and some of the possibilities, and really take that discussion as long as it seems fruitful, and then adjourn.

In two weeks we will have some academic experts on campaign finance in here visiting with us: Herb Alexander from the Citizen Research Foundation at the University of Southern California, Larry Sabato from the University of Virginia, Ruth Jones from University of Arizona, and Steve Salmore from Eagleton at Rutgers. And I drafted a memo to them focusing them on certain kinds of issues that I think would be of interest.

We'll really conduct that session in kind of a loose fashion, just questioning them on different topics, but not having any prepared statements. And I asked them to really focus on what they think are good ideas, or good kinds of changes that could be made in the area of campaign financing, and also what is the experience of other states insofar as whether these things are working or not. So, we'll try to see what we can accomplish in those three hours.

And then at the July 25th meeting, as I mentioned earlier, I would like to begin a discussion among members of the Commission on reaching some agreements on campaign finance, and to see if we can bring some of the issues to a vote at that July 25th meeting; not necessarily to finish up a discussion of campaign finance, but at least to get it underway, and to get some provisional votes taken, and then in our subsequent meetings, to go and revisit with ethics and conflicts of interest. Does that-- Yes, sir?

MR. BURSTEIN: Alan, I noticed that the people that have been invited, the outside experts, all are people who are focusing on the campaign finance aspect of the study.

DR. ROSENTHAL: Right.

MR. BURSTEIN: We don't seem to have anybody to talk in terms of the ethics aspect. And I don't know whether there is any expert, frankly, that is available to discuss that kind of subject.

DR. ROSENTHAL: Well, we've been looking into that and we may schedule such a discussion for later on. One of the issues is really budget, and being able to bring people in.

MR. BURSTEIN: You can use--

DR. ROSENTHAL: The biggest-- Until the Legislature votes on the income tax and sales taxes we can't spend any money on this Commission. But I think after the vote we'll be able to--

SENATOR DiFRANCESCO: There will be plenty of money--

DR. ROSENTHAL: --go wild. We'll, you know, travel all over. But it is the budget.

Now, I have indirectly talked with Assemblyman John Vasconcellos of California, who is kind of a leader in the ethics area, and he would be willing to come, but we haven't nailed that down because we're trying to figure out a budget. And Marci has been talking with some people in this area: New York, Pennsylvania, and what have you. So, that would be our intention, if we could pull it off.

SENATOR ORECHIO: Alan, I have a question.

DR. ROSENTHAL: Yes, Senator.

SENATOR ORECHIO: It would seem to me that if you're looking for the so-called expert that Alan referred to, that wouldn't you want to look at the ethics laws in the various states, and then determine from those laws which laws -- how they're working and so forth. And getting someone from that particular state who is in the Legislature, maybe who is the prime mover--

DR. ROSENTHAL: Right.

SENATOR ORECHIO: --of legislation and determine if it would work in New Jersey?

DR. ROSENTHAL: Yeah, that's why I was talking to Vascansellas in California, because they have really done a lot in California in terms of enacting ethics legislation. I'm not sure how effective it has all been. Vasconcellos is, you know, a legislator. He's, you know, enacted the laws, and he's lived under the laws, so I think from that point of view he would be good. And there could be, you know, some other people that we might get from nearer by who could give us a sense of--

SENATOR ORECHIO: I guess we'd use the resources of the CSG--

DR. ROSENTHAL: And CSL.

SENATOR ORECHIO: --and CSL. Okay.

DR. ROSENTHAL: Yeah, that's a good idea. I think maybe we'll get in touch with NCSL and ask them if they can bring in a legislator or two to visit with the Commission. We can do that. That's a pretty good--

MR. BURSTEIN: This fellow from California is not one of the ones who was recently indicted and convicted for--

DR. ROSENTHAL: Yes, he was.

MR. BURSTEIN: --legislative bribery?

DR. ROSENTHAL: Yes. No, no. (laughter)

MR. BURSTEIN: They had a couple.

DR. ROSENTHAL: I know. No, no. Only one, Montoya.

MR. BURSTEIN: Oh, Montoya.

SENATOR ORECHIO: Did you say New York was a leader in ethics reform?

MS. HOCHMAN: I was in touch with the people from New York yesterday, as a matter of fact, and their new ethics law has only been in effect since '89. Some of the things that we were looking into is their financial disclosure, and I did

receive copies of their financial disclosure forms and the instructions, which are rather voluminous in what they have to disclose.

Then I followed up with some discussions about how this ties into personal interest, and whether members can participate in legislation. And the strange thing is they have a very elaborate financial disclosure form that they file. But in terms of tying this in to the legislation that they actually participate in, there's no restriction, at all, on what they can participate in in New York. They said that there are some, you know, informal agreements among legislators if there's a direct and substantial personal interest that the member may not participate in it, but as part of their law, they do not have something even analagous to the personal interest statute that we have, or require any filing from their members that, in fact, they do have a personal interest, but not withstanding that personal interest, they could cast a vote.

Some of the other states have provisions that are very similar to ours, that they do have personal interest definitions. But they have provisos that you don't have a personal interest if you would gain or lose to the same extent as any other particular person who is part of that profession or occupation, in much the same way that we do. Some require some formalized filing, that notwithstanding what would appear to be a financial interest or a personal interest, that you could cast a fair and objective vote, and those are very much parallel to what we have here.

DR. ROSENTHAL: Do you think you would favor bringing in some legislators who have been involved in this legislation and lived under it? Or would you be more interested in bringing in staff people on commissions that have--

SENATOR ORECHIO: I think the former, probably.

DR. ROSENTHAL: You'd be more--

SENATOR ORECHIO: Yeah, because they probably would be-- If they sponsored the laws, then there were reasons that they themselves determined a need for the law because of circumstances. As a matter of fact, on the way in today, I heard a report that the Speaker of the House in New York is going to be indicted; Mel Miller.

DR. ROSENTHAL: Mel Miller.

SENATOR ORECHIO: I don't know what for, I just heard the name.

MR. STANTON: From what I heard, that it's for actions unrelated to his legislative duties.

SENATOR ORECHIO: Oh, is it?

MR. STANTON: For things that occurred before he became Speaker. It has to do with his real estate operation.

SENATOR ORECHIO: Oh, okay. He's a lawyer.

MR. BURSTEIN: Yeah, you don't have to overemphasize that. (laughter)

SENATOR ORECHIO: How can I-- Somebody was also referring some new book out, and I forget who the author was, but it was "Lawyers and Thieves," is what it was dubbed. I just want you to know that. I mean, I don't believe in that, but--

MR. BURSTEIN: Thank goodness.

SENATOR ORECHIO: --a lot of people out there do.

DR. ROSENTHAL: Lawyers and thieves; it's redundant. (laughter)

SENATOR DiFRANCESCO: Well, at least they've separated the thieves and the lawyers.

SENATOR ORECHIO: Did you hear what he said: redundant?

DR. ROSENTHAL: Do you people agree with the Senator's suggestion, that we try to bring in a couple of legislators with their--

MS. SHEEHAN: I think it would be good to hear from a legislator, particularly if we have a state where they have been active in this arena, but that the legislation isn't brand new.

DR. ROSENTHAL: Isn't brand new.

MS. SHEEHAN: Is not brand new. I mean, I'd like to hear how they're living and working under some kind of--

SENATOR ORECHIO: And whether or not the quality of the Legislature has changed as a result of the law.

DR. ROSENTHAL: All right. Well, we'll pursue that, and we'll pursue it, particularly, through NCSL, and they may be willing to foot the bill for bringing in a legislator or two, and that would be delightful.

We will move on to the testimony, and the first witness is Rob Stuart, Executive Director of New Jersey PIRG. Thank you, just pass them around? (referring to statement that the witness just handed to the Chairman)

R O B S T U A R T: I guess. There's 10 there, I have more.

DR. ROSENTHAL: Did any--

SENATOR DiFRANCESCO: It's short.

MR. STUART: It's double sided; source reduction. It's four pages, actually. Duplex copying is actually a key to cutting down on paper generation.

Good morning, my name is Rob Stuart. I am the Program Director for New Jersey PIRG. And for those of you who aren't aware, New Jersey PIRG is the largest nonprofit, nonpartisan consumer -- environmental and good government research and advocacy organization, with about 70,000 members. And on behalf of those members and other contributors, I want to thank the Commission and Chairman Rosenthal for affording me the opportunity to present our views on this timely and important subject of legislative ethics and campaign finance reform.

We have an interesting role representing a public interest organization in that we both work in the Legislature

on issues -- some very controversial in the environmental area and in the consumer area -- and thus work within the current system, although we also have been longtime advocates, And I have worked as a lobbyist on voter rights issues, and on campaign finance reform issues. And thus, we really are pleased that, in fact, this Commission is established, and look forward to its recommendations and the legislative debate that will follow after the Commission makes its recommendations.

I think the most important thing I can say this morning, is through our experience and that is that the public, number one, understands that there is a problem, and the public is ready and willing to support reforms. And I say support, even to the point of increased money so that the government is, in fact-- They're more confident the government is acting in their interest rather than in other interests.

I guess we would like to say that the reforms are out there -- and I'll mention a few of the specific ones -- but, I guess, the most important thing I can say is that, really the time for discussion is over, and the time for action is now.

We can disagree over the extent of the problem, whether it's the fault of the lobbyists, legislators, the press, groups like mine who expose and talk about the problem, but I don't think blame, shame, fault are really what this Commission should focus on. Instead, it should focus on how we can restore and protect the public trust of this representative system and how we can increase the involvement of an enlightened and active citizen.

I used the word "restore" because our experience on doorsteps across the State every night-- And you should know that our organization spends most of its resources going door-to-door, on doorsteps talking about issues of the day, specific legislation, getting people involved. We even went to Senator DiFrancesco's house--

SENATOR DiFRANCESCO: Comes to my door. We argue all the time.

MR. STUART: --earlier this month. And it tells us that people, some people, have lost confidence in their elected officials and in their government. Public opinion polls, those done by Eagleton, may provide snapshots, views of the level of public discontent. But what I believe this Commission should address is the eventual decline in public respect of institutions, and thus, the laws of the State if this dissatisfaction is continued to be fed with reports of unethical behavior and campaign spending practices, which really serve to turn people away from government, and off on government, rather than towards government--

We believe that the time is right for New Jersey to take the new strides toward reforming the campaign finance practices and restoring the public trust in the ethical sensitivity of the legislative members. Full disclosure of lobbying and expenditures will isolate problems, and we support that. Contribution limits, spending limits and public financing for legislative races will address concerns that the Legislature is for sale, and that they spend most of their time in the market. I also think it would provide a more level playing field in terms of those people that would otherwise not seek to become an elected official because of what it means in terms of cost and capital to get in the race.

Finally, an enforced code of ethics on the State, county, and local levels will not only prevent the potential abuse, but it may actually encourage more citizens to get involved in those positions, and seek those offices.

Really, when I sat down last night, after watching a lot of what was going on yesterday and the day before to write this, was that the reforms that we recommend here in this session should not only be considered for the next election cycle or after the next set of lines are drawn, but they should be put in place for the next generation.

It's important to the strength of our democratic system that young New Jerseyans respect their government officials and hope that they may aspire to be one. Reports of personal private ambitions driving public policy and the outrageous amounts of money spent to finance largely negative elections choke and chill participation of publicly spirited individuals. Some might not develop that public spirit. Others that do may just go to interest groups, to charities, to socially responsible businesses, and they probably won't see the value in participating in casting their vote.

And I know I had numerous conversations just this past primary with people that -- reporters and others who just said, "I'm not voting. It's not worth my time, and it won't make a difference." We meet people every day who do not think government, and specifically the Legislature, care a bit about their problems, and don't think that taking the time to write a letter or sign a postcard on a particular issue will make a bit of difference. We believe that most of those people are wrong. That's why we do the work that we do.

But we believe the recommendations that you put forward and that are adopted by the Legislature and the Governor, should establish a system which proves those individuals wrong time after time, and hopefully ends, you know, that debate.

We've endorsed the package of reform legislation in the last session, put forward by Assemblyman Schluter and Senate President Lynch. We echo the calls made by Common Cause for contribution and spending limits, as well as full legislative and lobby disclosure. And finally, a point that was raised by Mr. Stapleton and others, is that the question of ELEC and making sure that it is funded to a level that it can, in fact, enforce the laws as well as be the diligent agency it needs to be, in terms of providing information when it's relevant, such that it can, you know, serve its role.

We believe that the funding mechanism for ELEC should probably be taken out of the standard operating budget, and instead, we invite the Committee to look at the possibility of a political committee registration fee, and possibly even a PAC tax which would be based on the revenue raised, as well as, spent by the political action committees, as a way to raise more money, as well as provide a stable funding mechanism, such that the agency wouldn't be subject to political whims or tight budgets.

In conclusion, we encourage this Commission to act in a dramatic fashion needed to address the serious issues facing the Legislature and the State. We believe by weighing the long-term risk of maintaining the status quo versus the short term and long-term gain of increased public spirit, we believe that you will recommend changes that, in fact, in the end protect the virtue of our representative system.

We look forward to the recommendations that you come forth with, and we stand ready to help in any way the Commission may request. I can start by answering any questions you might have.

DR. ROSENTHAL: Rob, did-- You're in favor of public financing?

MR. STUART: Yes, I think one needs only to go out in the parking lot, in many ways, to see the types of people that are drawn and are capable of moving towards being an elected official. It is becoming more restrictive and less the citizen Legislature that I believe the State Legislature was intended to be. I believe public financing in both primaries and general elections, may level the playing field, and, in fact, curtail the percentage of long-term incumbency that we see; not that we don't like the legislators that are here, but I think to even consider running for election, and running for the State Legislature, you've just got to be, you know, either very independently wealthy or have a large bankroll provided by, you know, various interests.

DR. ROSENTHAL: Do you think that the citizens, the kinds of people that you go door-to-door visiting, would be in favor of using taxpayer funds for political campaigns?

MR. STUART: Yes, we have heard that both directly, and then one of the things I've taken to do lately is, as I'm driving, listen to this new radio station, which is the New Jersey talk radio station; oftentimes fairly conservative issues being discussed. They're are always-- You know, they read The Trentonian stories and comment on that. And unsolicited, there was widespread agreement that, in fact, the presidential checkoff system should be moved to the State level and that voters would want to pay the extra dollar to know that the legislators were working in their interest, as opposed to the special interests as the debate went.

So, I was actually quite shocked on that side of, you know, the spectrum in terms of what that radio station has most of the time -- the perspective that comes forth. But also, I think the opinion polls and the informal polls that we see, suggests that the public is willing to spend a bit more, in order to get what they believe would be more direct-- And I think it's also becoming a question of time. I mean, people are now starting to do the calculations as to how much money per week does a legislator have to raise. I think on the Federal level it's getting more outrageous. I think the latest figure I saw was Senators have to raise \$12,000 per week for six years.

And I think that's translating down to people realizing that if legislators are spending so much time going to fund-raisers, having to think about raising all this money, then they're not able to do the public's business. And again, that's, I think, why there is a growing realization that to get quality legislative activity the public is going to have to pay for that.

DR. ROSENTHAL: Questions? Yeah, Pat.

MS. SHEEHAN: I'm interested in your organization. You say you have 70,000 members. I assume that's in New Jersey?

MR. STUART: That's correct.

MS. SHEEHAN: I know I'm a little bit familiar with how, for example, the League of Women Voters establishes a study and takes a position, and then lobbies or educates the public in that regard. You know, when you speak for public financing, and where you've made some of the other suggestions that you've made, how does that reflect the sentiment of the 70,000 members? I mean, do you have some way, or is it just--

MR. STUART: Yes, half of the membership approximately come through the involved and active students at, mainly Rutgers University, but college campuses, and within that structure there comes the decision making and policy review and policy establishment, and there are local boards and eventually a State board of directors which adopts positions in support of particular legislation in particular areas; mainly, the environmental, consumer protection, and good government areas. So the Schluter package has been, you know, on our docket and been approved as an issue for us to be, you know, working on for several years now.

The interpretation and the testimony is not necessarily approved by all those boards.

MS. SHEEHAN: No, I know, just--

MR. STUART: That's left up to the professional staff and myself as Program Director. But that's basically the system and how it works.

MS. SHEEHAN: And you're--

MR. STUART: And then the way the positions are basically confirmed is literally on, you know, doorsteps. And you know, we get a sense, very clearly, if people like what we're doing; you know, they become members and support us and become more active. If they don't, they don't. And you know in that way we are very confident that, in fact, the positions

that we take-- If you took a public opinion poll most people would be in support of what we're supporting.

MS. SHEEHAN: And the legislative office here in Trenton, that's your office? That's the lobbying office where--

MR. STUART: That's correct.

MR. STANTON: Many of your members though are checkoff on the tuition bills, are they not?

MR. STUART: That's correct.

MR. STANTON: So that, probably most of them are fairly passive.

MR. STUART: Well--

MR. STANTON: It's part of the--

MR. STUART: Oh sure, I mean, it would take an incredible organization maintaining--

MR. STANTON: Yeah, exactly. I mean, 70,000 members is a very impressive number. But from an active role, that's probably a very large number.

MR. STUART: Well, on the citizen side, in fact, it depends on your definition of active. But a lot of those, about 40,000, you know, at least write a check once a year and at least get involved in a discussion once or twice a year, you know, and are actually involved in a number of our campaigns. We would like to do more with those members and seek to do it. That's why we-- That's basically our function.

MR. STANTON: Well, I know when I pay some tuition bills that \$5 for PIRG, it doesn't look like very much against \$14,000 to pay Georgetown or something. But, I mean, that does give you a very large base of people who haven't actively taken the step to go ahead and join your organization.

MR. STUART: That's correct.

MR. COLE: Rob, have you given any consideration to, in terms of costs of campaigns and fund-raising, whether you could solve the problem simply by imposing contribution limits,

making it more difficult to raise money, particularly if you have limits that are 1500 or \$1000? Wouldn't that go quite far towards solving the problem?

MR. STUART: I think it's certainly a step in the right direction and, you know, if the Commission, you know, recommends that, that's something we would look at supporting. It's very interesting to do the analysis of what incumbents raise versus challengers, and to look at the contributions.

I did that for the 1985 legislative race, and it was just, at times, shocking to see, you know, where the contributions were coming from, and the levels in terms of, you know, the percentage raised by incumbents versus challengers in the -- let's say the business PAC, the union PAC, the individual sectors. And I think what we saw was just a great disparage. And the amounts of money being able to be raised by incumbents and not a lot-- You know, the contributions themselves were not that high, but it was just the volume. Everyone gave to the incumbents -- all of the various registered PACs -- whereas very few gave to the challengers. And that was born out in terms of who won.

So, I see public financing as a way to, you know, level the amounts of money that can be spent.

MR. COLE: Except if you looked at those -- that analysis-- Did you look at it separately for competitive districts as opposed to all districts, because, as you know, there are -- what? -- 12 or 15 districts that are considered competitive out of all of them. So, you would expect incumbents in safe districts to really raise quite a bit, more easily, than any challenger, simply because there is really no contest. I'm wondering if you've ever seen an analysis of just the competitive districts, and--

MR. STUART: I think I can break it out because I still have it on the computer, but--

MR. COLE: I suspect you might find it's a little closer in those districts.

DR. ROSENTHAL: Yes.

MR. BURSTEIN: I'd just like to ask you a couple of questions about an intriguing idea you advanced on political committee registration fees and a tax on PAC money raised. Have you plotted out what that would mean in dollars, based upon most recent years?

MR. STUART: Obviously, it depends first on how much Fred Herrmann can justify. He should be able to justify--

MR. BURSTEIN: Well, is it geared solely to Fred Herrmann's budget? Is that the objective?

MR. STUART: Well, no, I think you could also--

MR. BURSTEIN: Because he has grandiose ideas.

MR. STUART: Yeah.

MR. BURSTEIN: I'm not sure if we want to go that high. (laughter)

MR. STUART: I mean, I think a modest registration fee, you know, given the number of political committees that have been formed, would, in fact, raise a sizable amount. It might also then limit the amount of political committees that are formed, because they would be more than just a submission of a name and a treasurer's address, which, I think, given -- having done some of this analysis and seen the various names and not being able to track down some of these addresses, I think that that's a side benefit.

I think that's, you know, really up to the Commission to examine. Obviously, you don't want to set it so high as you're restricting the people's ability to, in fact, be involved in the political process. Though I don't believe that even a modest fee would do that.

MR. BURSTEIN: You're distinguishing between political committees and PACs. Can you define what kinds of political committees you're talking about?

MR. STUART: Well, I mean, you have the ongoing-- I guess the way I looked at it is that-- And you could have the PACs register, as well, though, I think the intriguing nature of the PAC tax is that its (indiscernible) as it relates to the amount of money that is being raised. Continuing political committees, you know, require a fair amount of work to keep track of. They're the ones that report, every year, and actually do quarterly reporting. So, it would be the various committees for good government, and ongoing political committees. I guess, in the end, those would also include your lobbying groups, as we are, which are subject to the annual report of lobbying activity.

But again, you know, it's just an idea that -- really driven by the fact that it's clear that in order to have a agency that is fairly independent, and thus could make the tough political calls and decisions, you want to create a stable funding mechanism. This is, I think, the decade of stable funding and independent user fees, and revenue enhancers, and things like that, and this is just an extension.

MR. COLE: This is the '80s.

MR. STUART: Was that the '80s? Oh, I see.

DR. ROSENTHAL: Senator Orechio, do you have a question?

SENATOR ORECHIO: Yeah, I have a couple of questions. You indicated from your doorstep surveys that the public has lost confidence, and that's a line that you hear time and time again.

MR. STUART: Some of the public.

SENATOR ORECHIO: But I think you've got to realize there are tens of thousand of public officials, elected and appointed. And when you read about some from time to time indicted, convicted, and so forth, and sent away, measuring the number out there potentially that could be involved in that

same thing and aren't convicted-- We still live in America, a democracy, and you're innocent until proven guilty.

MR. STUART: That's right.

SENATOR ORECHIO: I also think that dishonest politicians or dishonest public officials who are perceived to be -- are generally turned out of office by the public. I mean, that's the final marker, in a way, and I think you've just seen that in the number of elections that were held statewide this year in various cities in the State. And, you know, many times I will hear comments about so and so being a crook and a bum, and this and that and so forth, and these groups, for the most part, are special interest groups, from my experience, who maybe felt because somebody didn't vote their way in their interests, now uses this brush -- this broad brush -- to stain the reputation of a public official and say that we've lost confidence.

I mean, I think the best way, as I indicated before, for the public to register their views on whether or not a person is serving in the public's best interest, is the ballot box. Another point is that, if we have the strictest ethics code in the country, I still feel there are still people making charges about people being on the take, or whatever. You know, that's not going to stop calling public officials, appointed or elected, bad or not good for public service.

I mean, there's ingrained in the minds of many people that no matter what you do, you're bad, and they use all these -- you know, with the broad painted brush today; and with what's tolerated, a lot of yellow journalism out there today, a lot of misstatement of facts, distortion, absolute misrepresentation of facts, that people consume to be the truth.

And I think some of these surveys that you're basing a lot of your opinions on, sometimes have to be taken with a grain of salt.

MR. STUART: Well, I didn't say it as clearly as I think I believe it. And that is, I think, in many ways, public officials are victims of the system, as well, because there isn't clear information, because it's not necessarily-- You know, you can make the charges about a particular contribution or a particular lobbying effort related to a certain bill because you cannot necessarily prove that it wasn't that case. We don't have the consistent reporting forms. I think that was discussed at the last public hearing, and would be a very -- a way in which you could attack, you know, those types of charges. I think if we, in fact, had, you know, the types of strong ethics codes and had the disclosure such that when attacks were made, one would have that as a protection, if in fact--

To address your first point, whether or not that that is, in fact, a legislative protection. Yes, people are going to charge-- It seems we're on the verge of negative campaigning, and I guess, I would say the way the public sees it, then in an election, it's the lesser of two evils. And what I'm suggesting is that in the long term -- not in the short term, not in any particular district -- that is unhealthy for, you know, the representative system because no one wants to be the lesser of two evils. Someone wants to do something, you know, positive and good. It was not that long ago that public officials, you know, were, in fact, you know, treated with a great deal of respect. And I think there are --

Obviously, that feeling is still there, though, I think, given the fact that there aren't these protections, there's not clear disclosure. You can make the charges that have been made; that that hurts the overall system. And I think that whether or not the actual situation is as bad as some people feel it is, is not as relevant to debate as how do we put in place the protections, both for the public, but also for those elected officials? So, they can, you know, walk with

heads high, and the public can feel as though, you know, they are proud of the people that are serving -- in public service.

I don't think the public wants to feel that, you know, their legislators are on the take and they're only discussing the businesses of business. They want, in fact, the Legislature to, and those people, to be the upstanding citizens that in most cases they are. You know, I go back to the fact that a lot of people -- most people probably, given the opportunity, would like the experience. You know, we go back to the political theory and the De Tocqueville. I mean, actually being part of the decision making structure, at one time or another, is actually a very important part of a healthy democracy. And I guess, there is-- What we're seeing is, because there aren't these protections, because there's not clear information, because people spend most of their time running against someone, and create this, you know, negative atmosphere where both candidates are bad and you just kind of figure out who is the lesser. That, overall, doesn't put us on a path towards, you know, strong government.

SENATOR ORECHIO: The comments you made before that Mr. Cole responded to about a level playing field--

MR. STUART: Yes.

SENATOR ORECHIO: --for a challenger and an incumbent: It seems to me, that incumbent who has been doing his or her job over the years is able to register a high confidence -- I'm talking the electorate that they serve -- it seems to me that based on the fact that maybe they produced in the forefront of good government, good public policy. That person who contributes to that candidate or incumbent, basically is attracted because of the public record.

Now, what you're saying is if this guy gives his blood, sweat, and tears to his job, in a very conscientious way, you're saying now a challenger taking him on should be on a level playing field.

MR. STUART: A more level playing field, not necessarily equal amounts of money. I think we have to recognize that there are various, you know, forces and interests that would like to maintain, you know, the status quo. And if they've got past commitments or argued things out such that, you know, the present set of legislators, or the legislator in that district is basically unwilling to hear or want to debate a particular issue, they are content with providing, you know, the majority of funds to that person, because they know that person, and they know where they stand.

So, I think, just given the fact that it's without strong financial backing, again, that has to come from somewhere, it's just very unlikely. And, you know, past experience has shown that we are getting the average citizen to look upon the State Legislature as a place that they can do public service. I think public financing should be examined.

The exact formulas: I think, you know, there are experts more than I, that can talk about what is fair in terms of the incumbent. You know, one could argue -- but I'm not going to do that -- that because the incumbent has been there a lot longer they have the high name recognition. The challenger, you know, should be compensated for that.

But, you know, again, this is-- You have more expertise here, and you're planning to bring more expertise in to discuss this issue.

SENATOR ORECHIO: You're almost, in effect, indicting the public at large, though, aren't you? I mean, I like to think that the independent voter basically plays a major role in the outcome of elections, we're not being wed to either candidate.

And it would seem to me that what has gone on in terms of record, and what is produced through the media, is something that is generally absorbed and conclusions made by a very gullible electorate, that are swayed by the money that is spent

with respect to what they produce, in terms of trying get somebody to vote for a particular candidate. You don't give any credit, or you don't give any thought to an informed public that it might be making a decision based on the facts and on a person's public record.

MR. STUART: Well, I think I give the public a lot of credit. And I guess the heart of what we see as reform is increasing the information, increasing the quality of information, increasing the speed by which the information gets to the public in a fair way, not necessarily as part of, you know, political literature though that is a lot of how information does get disseminated; but to newspapers, as well. And I would hope that you would agree that fuller disclosure, complete disclosure, timely disclosure, would help the public--

SENATOR ORECHIO: I have no problem with any of those--

MR. STUART: --and ultimately, you know, you know-- An informed public, I have to believe is going to make better decisions. I would argue, though, that because of the system we have now, we are not sure that, in fact, the public-- I mean, I'm sure the public isn't totally informed because we know where the loopholes exist, you know, and we have to wonder whether or not that's a good thing in the end in terms of the decisions that they're making, and the people that are coming forth to want to fill these seats.

SENATOR ORECHIO: Senator DiFrancesco is waiting with baited breath. He has something to ask.

SENATOR DiFRANCESCO: Is it all right to ask?

DR. ROSENTHAL: Go ahead. Sure.

SENATOR DiFRANCESCO: I hope I'm not repeating what was said while I was at another Commission meeting next door for a couple of minutes. Rob, you've been around for a few years, and I wasn't at the last meeting, but I noticed that the representatives of the League of Women Voters and Common Cause both testified and indicated their support for public

financing. I know you've just had a discussion about that. And I don't know if anyone has brought this up today, but let me, again, bring up the point to you so that you can think about it, and perhaps we can have a side discussion about it. Gubernatorial financing, or financing of elections on a statewide basis, or public financing is one matter, but I have to tell you, I probably shouldn't-- Mike would probably, if he was a political advisor, tell me not to bring this up, but in my 1987 election I never met my opponent. He called me the day before the election and congratulated me on winning the election. Nice guy, never met him, still haven't met him.

He never appeared at any debates. I don't even know if he ever spent any money because I never checked that. I'm not necessarily unique in that I believe there are probably in my conference in which there are -- 17 members?

MR. COLE: Seventeen members.

SENATOR DiFRANCESCO: Seventeen members. Of course, Wayne hasn't been there for a while so really we have 16 active members. But probably 13 or 14 of those members would enjoy that same-- I don't think Wayne Dumont had opposition that year. I'm only raising this question because public financing for those districts where an incumbent, like myself-- And I could bring up the fact that there are probably 16 or 17 Democratic districts on this map, and no matter how we draw this map, it's going to wind up like that again, where you have only, you know, 10 or so -- at the most 10, 12 districts that are competitive. I'm not sure that I could support a system of paying public funds to Don DiFrancesco from the 22nd District. And I want to leave you with that, because that's what disturbs me the most about public financing is giving the money to people who really don't need it, will be elected no matter what, because we have a strong two-party system in New Jersey, and this goes back to your citizen legislator comment and the

parking lot comment. I know you meant by the cars in the parking lot. Al's not here anymore, so I'm surprised to hear you say that.

MR. BURSTEIN: Oh yeah, I'm right here. Maybe you ought to have a need based system of campaign finance.

SENATOR DiFRANCESCO: Sometimes Carmen has three or four cars down here so, you know--

SENATOR ORECHIO: Alan, can I interrupt a minute?

SENATOR DiFRANCESCO: What did I do wrong already?
(laughter)

SENATOR ORECHIO: No, what I want to say is I think he's apologizing for the fact that he doesn't have a competitor, or he's not in a competitive district. What I think we should do next, should we redistrict, is make sure you have a competitor. (laughter)

SENATOR DiFRANCESCO: Then my problems are over, I'll raise more money that way, right?

SENATOR ORECHIO: He might change his view on public financing of legislative elections.

SENATOR DiFRANCESCO: I've been in the Legislature for 15 years, I respectfully disagree, because I don't see much difference in those 15 years between the make-up of the Legislature in terms of wealth. I think it's getting the nomination for a party is the most important thing that can happen in most of these districts, Rob.

MR. STUART: Right.

SENATOR DiFRANCESCO: And that is not based on wealth, that's based on your ability to work in the party structure. You may have been a mayor, you may have been a freeholder, you've got a pretty good base, and, you know, one way or another this person becomes a candidate. I honestly don't think money generally plays a part in getting that nomination.

And as I just said, in my district getting the nomination is the key to winning the district. So, I just want to make that comment. And again, we can discuss that.

But let me ask you about the gifts, and that's the last thing I'm going to bring up. Do you support, or would you support the concept of prohibiting groups, organizations, individuals, from making gifts to legislators?

MR. STUART: I don't think we've taken a specific position on that. I read the testimony. I read some of the discussion.

SENATOR DiFRANCESCO: How do you feel about--

MR. STUART: I think it probably causes problems for legislators more than it, you know, provides so much--

SENATOR DiFRANCESCO: Does your organization contribute money?

MR. STUART: No, no.

SENATOR DiFRANCESCO: So, you're not involved in making contributions?

MR. STUART: No, we don't contribute money, we don't give gifts. So, I mean, and--

SENATOR ORECHIO: What does your organization do?

SENATOR DiFRANCESCO: They go door-to-door to collect money.

MR. STUART: No, what we do is--

SENATOR ORECHIO: Well, he mentioned that in the statement.

MR. STUART: --do research. You know, examine issues that have already gotten to a point where there is some level of public concern; identify solutions that could, in fact, be implemented; and then advocate for those solutions; use the law where, in fact, there's a problem and bring suit and seek to influence the Legislature through activating public and visibly making it clear that constituents are informed, educated, and supportive of a particular measure. We don't utilize our member's money for contributions or gifts.

SENATOR DiFRANCESCO: Well, I really wasn't sure one way or another, that's why--

MR. STUART: So, I mean, I guess I believe that that's not a good thing.

SENATOR DiFRANCESCO: But let me repeat the question. There's two things: You're making a strong point about reporting and disclosure. On the other hand, the idea of prohibition of gifts-- You're reluctant to say that you would support that.

MR. STUART: I think I probably would, because I don't see-- There's really no value, besides the personal value to the Legislature. And the only reason that person is getting that gift is because they've been elected by the public, you know, and should be acting in the public's trust.

SENATOR DiFRANCESCO: Well, let's define what a gift might be. Let me give an example of a gift-- Well, I better not even give examples. You're taken out for dinner by a lobbyist, and the lobbyist pays for a dinner, and your share of the dinner might be \$50 or \$60. That's a gift.

SENATOR ORECHIO: Is that at Lorenzo's?

SENATOR DiFRANCESCO: Well, if it's at Lorenzo's it's \$100 because they overcharge there.

MR. STUART: I see that as a lobby expense by the--

SENATOR DiFRANCESCO: But it's a gift to the legislator. That's what I'm intending to say: Is that a prohibition on gifts-- We're not talking about campaign contributions here. We're talking about entertainment, things that -- trips, anything other than campaign contributions where, theoretically, you know, you're trying to persuade a legislator at the same time that you are, perhaps, buying dinner. Would you prohibit that?

MR. STUART: In an ideal state, probably yes. I mean, you know, our sense of it is that, you know, the legislator should be spending, you know, time out with its constituents, and not necessarily put in the position where you're having to

take, you know, a gift from a special interest where there -- you may, in fact, feel as though you have to return the favor. And that might be in contrast to where you want--

SENATOR DiFRANCESCO: Well, let me give you another example: A major bank in the State buys a table of tickets to a charity ball, and invites three or four legislators to attend the charity ball, and tickets cost \$500 a piece. Should I go?

MR. STUART: Well, you're not receiving the money, the charity is receiving it and you're just-- So, basically--

SENATOR DiFRANCESCO: In every instance I'm really not referring to you actually giving me money. I'm talking about--

SENATOR ORECHIO: Buying a ticket.

SENATOR DiFRANCESCO: --things that are, you know, paid for. Inviting you to the-- What do you call those boxes, Al, you have all the money; super boxes?

MR. STANTON: Yeah, at the arena, or Giants Stadium or the Brendan Byrne Arena.

SENATOR DiFRANCESCO: The Giants Stadium or Arena tickets? I'm trying to get a flavor for how you would feel about whether that's a big deal. Maybe you don't feel that is, in any way, important in this discussion.

MR. STUART: It shows that to discuss some of these things is really to examine what goes on, and to think about changing those, is fairly radical.

SENATOR DiFRANCESCO: Well, would you let me know, eventually, how you feel?

MR. STUART: Yeah.

SENATOR DiFRANCESCO: Specifically. Maybe I shouldn't be asking you to take a--

MR. STUART: Well, it's fine to ask, and I'm thinking about it. I think ultimately that if the business of the Legislature is about discussing public policy based on what's of concern to the public and the issues facing the State, that those instances are really not relevant and thus should really

be, you know, the exception, and, thus, be curtailed if, in fact, they are more the rule. And I think what I've seen, I spent this year -- because we've just been -- getting such to a point where people invite us to go to various things to give presentations. So, I have spent more time seeing the activities that go on outside of the legislative arena this year than I've ever seen in the past. You know, they're not bad things, and the discussions are not immoral or such that, you know, the public would be outraged.

But, then again, is it really in the best interest of the State that basically all the legislators and all of the lobbyists spend a lot of their time together outside of the legislative arena? I would suggest probably not.

SENATOR DiFRANCESCO: Well, let's go back to disclosure.

MR. STUART: So, we'd want to curtail this.

SENATOR DiFRANCESCO: Full disclosure of everything will disclose that Mr. Stanton wants to buy me dinner at Lorenzo's, right? Full disclosure of everything, you know, your goal about full disclosure--

MR. STUART: Right.

SENATOR DiFRANCESCO: --will reach that end, and those things will be disclosed by the organization.

MR. STUART: And they can be used, you know, in Senator Orechio's campaign, and thus, the public can get a clearer view of how you're spending your time. I guess what I'm concerned about is disclosure only takes you part of the way. Maybe you need to limit the amount of the gifts and the other types of -- ultimately, constraints that are going to be put on legislators. But again, this is, you know-- I think there are other people -- other states that have done this and people that have reviewed this, but my sense is that that's one of the reasons, I mean, the public is feeling more disaffected and dissatisfied -- that the legislators are them. I mean, the

legislators are people that, you know, communicate to them through, you know, mailings every two years largely about how bad their opponent is.

SENATOR DiFRANCESCO: The wonderful things we've done.

MR. STUART: Well, some are we've done good things, and we're certainly going to do better than the guy that's running, because he's a -- you know, he's never had any experience and, you know, he supports all these bad things.

SENATOR DiFRANCESCO: Okay.

DR. ROSENTHAL: Now, Rob, you wouldn't prohibit a legislator from buying a meal for a lobbyist, though? That would be okay?

MR. STUART: I depends on--

DR. ROSENTHAL: That's right.

MR. STUART: I'd prefer not to have the money be coming out of the legislator's-- What account--

DR. ROSENTHAL: I didn't-- It's not likely to happen, so it's a hypothetical question.

MR. STUART: Probably not.

DR. ROSENTHAL: Any other questions?

SENATOR ORECHIO: Yeah, I have a question.

DR. ROSENTHAL: Senator.

SENATOR ORECHIO: You know, apparently--

SENATOR DiFRANCESCO: You're really worked up here.

(laughter)

SENATOR ORECHIO: --there's a-- In some quarters, in the general opinion that lobbyists are an evil influence, and basically, if they make a contribution to a legislator they, you know, they have them, and so forth. Of course my view, and I'm sure Donny and most of the legislator's view is, whether someone contributes or not, I mean, we have an obligation to give them access to our office.

Now recently I-- I a have construction lien bill which had some difficulty in the last session, and there were a

number of groups that had some issues about some of the provisions of the bill. Well, about six weeks ago I get a call from a lobbyist who now represents builders and the group, and they wanted to take me to lunch. I said, no, I don't have time for lunch; come to my office. And they came to my office, and about an hour of debate and so forth we finally got the bill squared away, and I introduced another bill.

The point is that in terms of good public policy, the bill has been amended and assisted by the work of the lobbyist with the lawyer, and so forth, and is now on a track for a good bill and a good law eventually. So, from my experience -- and I think Donny can probably say the same -- that I always look at lobbyists as those who are assisting good public policy and good government, and they're not necessarily evil characters out there, you know, making a living hoping to twist our arm, take us to dinner, and romance us. It may happen in some cases, but I think, by and large-- And the thing, for example, with the super box at the stadium--

SENATOR DiFRANCESCO: I don't want people like John Torok romancing me. (laughter)

SENATOR ORECHIO: He knows your not that kind of guy. But talking about a super box, for example -- and we had a case or an incident that involved somebody on the BPU being entertained by somebody in the utility business; well now, that's a regulatory body and I can see, certainly on the surface, that doesn't give a good appearance -- but I think a legislator invited to a box to see a game, I see no problem with that, especially if you have your own ticket. We have our own tickets, and we use our own tickets.

SENATOR DiFRANCESCO: Well he didn't really make a big point about that.

SENATOR ORECHIO: I know, I just wanted to amplify that.

MR. STUART: Well, sure.

DR. ROSENTHAL: Any further questions, challenges to the--

MR. STANTON: Well, I'll just say one thing about lobbyists: I mean, there are lobbyists and there are lobbyists. I think the legislators find out, after a track record, who is really giving it to them straight, and who is telling them just exactly the way it is, and what the language is and not trying to be devious about it. Those lobbyists that are devious don't last very long, in my opinion. They're not as effective lobbyists.

DR. ROSENTHAL: Thank you, Rob.

MR. STUART: Thank you. Yeah, I mean we obviously play and see a value in being part of the system and registering as lobbyists.

SENATOR DiFRANCESCO: An effective one.

SENATOR ORECHIO: One final question, Al?

DR. ROSENTHAL: One final question. The Senator has been denied his opportunity to ask questions.

SENATOR ORECHIO: So you endorse candidates in all the districts?

MR. STUART: No.

SENATOR ORECHIO: You don't endorse anybody?

MR. STUART: No endorsements, no political contributions.

SENATOR ORECHIO: Nothing at all, okay.

SENATOR DiFRANCESCO: That's a myth-- There's (inaudible) of misconceptions out there about your organization.

MR. STUART: There's a lot of misconceptions about a lot of things in the world.

SENATOR ORECHIO: No, I was under the impression you did.

MR. STUART: I'm glad we clarified that.

SENATOR DiFRANCESCO: And he was Senate President.

DR. ROSENTHAL: Thank you. John Torok, Dental Association.

J O H N M. T O R O K: Good morning. Mr. Chairman, members of the Commission, my name is John Torok and I'm the President of the Torok Group, a North Brunswick based firm. The company represents a number of clients before the New Jersey Legislature. Additionally, we have been in the forefront of political action committee development. I have served as Chairman of the PAC Roundtable and have over the past 20 years, served as an advisor to most of the major PACs that are operational in New Jersey. With one of these entities, the New Jersey Dental Political Action Committee, we have a contractual relationship to manage them. Part of that contract provides that I serve as its Executive Director. It is in that capacity that I will respond to testimony previously given before this Commission by Assemblyman Schluter. However, before I do so, I hope you will give me the opportunity to talk about campaign financing and PACs in general.

Almost everyone agrees that there is a problem with the current system of campaign finance, but there is far from a consensus about what the problem actually is, much less what should be done about it. Some say that the core difficulty is the growth of so-called special interest financing of electoral campaigns, a development represented by the rapid and spiraling growth of political action committees. They see PAC monies as buying legislative favors and as a response, propose drastic limits on PAC contributions and/or the use of taxpayer money. Some would like to ban PACs altogether.

Of all the resources of political power, none entices suspicion quite as surely as money. When the source of the money is different, well organized, and above all, widely thought to be politically effective, suspicion turns quickly to apprehension or even fear. That, in brief, seems to explain the preoccupation with PACs in the past two decades.

PACs did not dent the consciousness of most until the late 1970s, but they had existed for almost 50 years before

then. Throughout the history of political action committees, those three words have been used with a certain looseness. It is not uncommon for the phrase to be used synonymously with "lobbyist" or "interest group."

In 1907 Congress enacted the Tillman Act which prohibited direct contributions to candidates or parties by national banks and corporations. During World War II, the prohibition against the direct use of funds were extended to labor unions. The Congress of Industrial Organizations (CIO) responded almost immediately in 1943 with what most agree was the first PAC. With the merger of the American Federation of Labor and the CIO in 1955, the AFL-CIO created its Committee on Political Education (COPE). This PAC became the model for all political action committees. PACs which have been developed by corporations and trade and professional associations date only from the late 1950s and '60s.

PACs really started to grow in the 1970s in part as a result of the diminished role of political parties. Most will agree that the real stimuli was Watergate and the abuses it spawned. In response to these abuses, Congress passed the Federal Election Campaign Act in 1971. It was the first comprehensive regulation of campaign finance since the 1920s.

The rapid growth of PACs has engendered strong criticism, yet many of the charges are exaggerated and dubious. While PACs are relatively new, special interest money has always been involved in politics. Prior to the reforms of the 1970s, contributions took place in less traceable and far more disturbing and unsavory ways. While PACs contribute large sums to candidates, it is not altogether clear that there is proportionately more special interest money in the political system than before. James Madison, in the Federalist Papers, explained that interest groups will always play a substantial role in United States politics. The health of the American Democracy is dependent on active and diversified interest group

participation. Theoretically, as long as many interest groups are active they will check one another, and none will dominate the system. PACs are a product of the development of group politics in our democracy, not the culprits which created what is called fragmented "special interest" politics.

PAC critics claim that political action committees are the reason that it is more expensive to run for office. Yet, according to Assemblyman Schluter's testimony of May 16, 1990 before this Commission, the average contribution to a legislative race in 1987 was "\$936." Mind you, he didn't say this average contribution of \$936 came only from political action committees. So in reality, a portion, maybe a substantial portion, of these monies came from individual contributors. Mr. Schluter went on to say that, "It is not unusual in a tightly contested legislative race for each side to spend over \$300,000." Three hundred thousand dollars is far less than the annual advertising budget of a cosmetics company promoting the right shade of lipstick. Simply put, it is expensive to communicate these days, irrespective whether the message is political or commercial. Polling, electronic media time, direct-mail pieces, campaign consultant fees and other campaign expenditures have soared. Television advertising costs have increased an average of four times the consumer price index in the last two decades, and between a third and a half of every dollar raised, is devoted to producing and airing campaign commercials.

The cost of campaigns was best exhibited in a 1989 Assembly candidate's fund-raising letter: "In order to continue as an effective representative in Trenton, I am seeking your financial support. I must build up my treasury in order to pay campaign obligations throughout 1989. Contributions will also enable me to pay other ongoing expenses connected with being an effective legislator -- to attend conferences, to be present at political functions throughout my district, to

communicate more extensively with constituents, and to lend individual support in heavily contested races throughout the State.

"With the filing of a Democratic opponent in the September 20th deadline, I have geared up to run an aggressive, vigorous campaign. Through this effort, I expect to establish an even stronger presence representing the 23rd District. And this means money for signs, leaflets, direct mail -- the typical expenses of a re-election campaign." The candidate that wrote that letter was Assemblyman Bill Schluter.

Again in 1989, Mr. Schluter mailed out pledge cards, it said, "I am enclosing a contribution to the Committee for Bill Schluter. I support Bill Schluter -- Republican Assembly candidate in the 23rd District." Below that were check-off boxes for \$100, \$250, \$500 and other amounts. I find that interesting considering the letter and pledge card was sent to a lobbying representative of a so-called special interest organization. Mr. Schluter testified on May 16, 1990 before this Commission that, "when the need for campaign funds increases, the most popular source to tap -- the source that finds it almost impossible to say "No" -- is the lobbyist, and contributions from special interest lobbies do not care without a price." Now I believe Mr. Schluter to be a honest man, a man with integrity. However, I'm left with the impression that he'd really like you to believe what he says, rather than what he practices. Perception has been, and always will be, the problem in soliciting dollars for political campaigns.

I firmly believe that the current campaign expenditures are not out of sync with today's economy. A \$1000 contribution to a candidate is currently worth only about \$530. Yet, while the buying power of the dollar has decreased, the costs of many of the things campaigns have to buy have increased dramatically, surpassing the rising cost of items to which the consumer price index is structured.

More and better communication is required between candidates and an electorate that are, all too many times, horribly uninformed and who consequently fail to vote. Let me give you an example of voter turnout for the 1987 state legislative races in several municipalities: Alexandria, 36.2%; Bethlehem, 43.8; Califon, 45.3; Clifton Township, 43%; Flemington, 35.8; Readington, 31.1; Chester Township, 30.1; Mt. Arlington, 30%; Washington Township 31%.

All of these municipalities are within the 23rd Legislative District which Assemblyman Schluter represents. The overall turnout for his district in 1987 was a miserable 40.5% of the vote.

There can be any number of reasons for low turnout. The candidates could be simply boring or the candidates may not have effectively utilized all of the resources available to them, thus not able to reach the maximum voters. There is no result producing way to market a product or a candidate's platform without expending money. Marketing is most effective when, among other things, it is repeated. It is that repetition that is costly.

The most often and serious charges directed at PACs is that they succeed in buying the votes of legislators on issues important to their respective constituencies. But the "vote-buying" charge is generally not supported by facts. PAC contributions do make a difference, at least in securing access, but those accusations are not nearly as frequent as anti PAC spokesmen suggest. Current campaign abuses and unethical conduct in Washington, D.C. cannot be traced to political action committees. Charles Keating did not use PACs to exert the influence of savings and loans on members of Congress, nor were those dollars publicly disclosed and reported as are PAC dollars. Keating's contributions were channeled through State and local political party committees. U.S. Senator David Durenburger currently under investigation

by the Senator Ethics Committee, accrued hundred of thousands of dollars through book sales to various groups -- this activity did not occur through a political action committee. Yet Congress, as well as some in this State, has singled out PACs as the culprits for these and other failings of the system, and wants PACs eliminated, or at the very least, severely restricted.

The most overriding factors on how a legislator votes, includes party affiliation, ideology, issues generated by the media, and constituents' needs and desires. If party loyalty can have a stronger pull than a PAC contribution, then surely the views of a legislator's constituents can also take precedence over those of political action committees. If an incumbent is faced with the choice of either voting for a PAC backed measure that is very unpopular in his or her district, or rejecting the PACs money, I would venture to say that any politician who depends on a majority of votes to remain in office is going to side with his constituency. Witness the recent action by the New Jersey Legislature when it moved against the position of the National Rifle Association. Clearly, State polls were saying that the vast majority were opposed to the NRA's position. PAC contributions are a means to an end: re-election. If accepting money will cause a legislator embarrassment, then he will simply reject it. If a PAC's parent organization has many members such as the COPE of the AFL-CIO, the legislator is much more likely to vote the PAC's way, not because he receives PAC dollars, but because the parent group accounts for an important part of his electorate.

In Assemblyman Schluter's testimony of May 16, 1990, revised May 22, 1990, he gave as a "case study" the relationship of political money and legislative votes as it related to the vote on A-2598. A-2598 passed the General Assembly with 47 votes in favor, 11 opposed, 15 abstentions, and 6 absent, one vacancy in the Assembly.

The bill provides for the establishment of an internship program for the training of registered dental assistants and limited registered dental assistants. The bill directs the New Jersey State Board of Dentistry to develop and monitor satisfactory internship programs. As Mr. Schluter indicated, dental assistants and hygienists were opposed to the bill. Supporting the measure are such respected organizations as: the New Jersey State Board of Dentistry, New Jersey Academy of General Dentistry, New Jersey Association of Orthodontists, New Jersey Podiatric Medical Society, New Jersey Pharmaceutical Association, New Jersey Dental Laboratory Association, New Jersey Optometric Association, and the New Jersey Dental Association.

Let me correct a misstatement by Mr. Schluter. He stated that, "the dentists' PAC favors the measure." The New Jersey Dental Political Action Committee is not a lobbying unit and, therefore, takes not positions on legislation. The New Jersey Dental Association is the lobbying arm of the dental community in New Jersey. To my knowledge, the only political action committee in the State that is not only a PAC, but is also a lobbying unit is LEGAL.

Mr. Schluter's so-called case study does not state a conclusion. He only talks about a "perception problem," obviously, his own misperception.

Let me say that A-2598 was not, and is not a "core issue" to the dental community.

Mr. Schluter's "study" covers only contributions made by NJDPAC from April 1, 1989 through March 31, 1990. Obviously, this was an arbitrary and maybe a convenient time span established by Mr. Schluter. NJDPAC's disbursement from the 1989 State legislative races began much earlier than April 1, 1989. A closer review of the NJDPAC State filings would have shown that a number of legislators who either voted no, or who abstained on A-2598 had received NJDPAC contributions.

What Mr. Schluter conveniently neglected to tell this Commission, is that A-2598 was the second attempt by the dental community to pass such a measure. An identical bill, A-4653, had been introduced during the 1988-89 session. The bill passed the Assembly in 1989 by a vote of 55 to 9 with 16 no votes. However, the bill failed to move through the Senate and died there.

Interestingly, when one compares the voting record of both bills, and specifically analyzes switch votes, you discover some startling data. The average contribution of those who switched their vote from yes in 1989 to no in 1990 was \$727. Whereas, the switch from no to yes averaged out to only \$300. There are 66 Assembly persons who currently serve in the Assembly that were also there during the 1988-89 session. Using those 66 individuals, and comparing both of their votes, we find that there were 14 negative vote changes from the 1989 to the 1990 vote, and only 5 yes vote changes.

Using Mr. Schluter's data, 16 Assembly persons abstained during the 1990 vote. I need not remind this Commission that when you are attempting to move legislation, an abstention is a negative position. NJDPAC's average contribution to these 16 individuals worked out to \$461.

Using Mr. Schluter's statistics, he claims NJDPAC contributed \$24,500 to various party committees. These committees in turn contributed to legislative candidates. I'm sure that they contributed to candidates that voted yes on A-2598 as well as to those that voted no. Contributions were probably also made by these committees to non incumbents. Some of these challengers NJDPAC supported, some they did not. In reality, Mr. Schluter's case study doesn't offer a conclusion, because none can be made from the arbitrary and abstract data he based his analysis upon.

Also, let's not forget the bill is currently in the Senate. Only time will tell if it passes that house, or meets the same fate as A-4653.

Two recent legislative actions that could be called "core" issues for dentistry, were the Initiative and Referendum, I & R legislation of 1986 ACR-53, and the Medical Waste legislation -- S-2343 -- of 1989. With both bills, the New Jersey Dental Association felt that there was a direct and critical impact on dentistry and the dental consumer.

With respect to I & R, the concern was that critical health issues would be debated and resolved via the ballot box. The ACR-53 had been drafted so that virtually any issue could be placed on a November ballot.

Ninety-some entities shared NJDA's concern and a Coalition was formed. Among the prestige organizations that comprised the Coalition, were the AFL-CIO, the New Jersey Business and Industry Association, and the New Jersey Education Association. It was estimated that the Coalition represented hundreds of thousands of New Jerseyans. Additionally, many of the organizations had very active political actions committees. If a review was made of the State filings for these PACs, you would discover that almost every Assembly person had received some type of contribution from one or more of these political action committees. Yet after saying all of that, the official record for ACR-53 shows it having moved through the Committee process and onto the Assembly floor during the first six months of the session. A vote was taken on June 12, 1986, and quite simply put, the Coalition lost. The bill passed the Assembly 41 to 36 with three abstentions. If Mr. Schluter wanted to present a "case study," ACR-53 would have been the perfect example. But of course he didn't use it as an example, because all the classic anti-PAC innuendos would not have applied.

The I & R legislation was introduced by the then Assembly Republican Majority. The proposal was part of their platform pledge. They wrongly, in my opinion, perceived that the proposal was supported by a vast majority of the

population. As I said earlier, any politician who depends on a majority of votes to remain in office is going to side with his constituency. That's what the Assembly Republicans thought they were doing when they expedited the bill through their house.

The second "case study" that should have been used was the medical waste legislative battle of 1989. Because of the repeated wash-up of medical and other waste along the Jersey shore in 1988, and because of strong environmentalist pressures to clean up the environment in general, A-2343 (sic) was introduced.

The New Jersey Dental Association -- NJDA -- concurred with the general concept of the legislation, though it strongly disagreed with several provision of the bill. They were especially concerned with a section which called for strict liability for the generator. In addition, NJDA was opposed to the fines that are \$50,000 per day per occurrence. The Association further opposed the lumping of all generators, irrespective of size, together for annual fee purposes. It further sought an amendment to establish a small generator category.

A number of other health and consumer organizations including, but not limited to the New Jersey Hospital Association, the New Jersey Podiatric Medical Society, the New Jersey Veterinary Medical Association and the New Jersey Funeral Directors Association formed a Coalition. As in the previous case, the Coalition represented quite a large constituency. Also, almost every organization had a political action committee associated with it. Yet the legislative record shows that S-2343 passed the Senate 39-0 and the Assembly 74-0 with none of the amendments that we sought -- with none of the amendments being adopted that were sought. In other words, unanimously it passed. Again, I feel that the Legislature voted for what they felt was the consensus of the

larger constituency. In their opinion, the Medical Waste Coalition though substantial in number, did not represent the majority viewpoint.

PACs are both natural and inevitable in a free, pluralist democracy. In fact, the vibrancy and health of a democracy depends in large part on the flourishing of interest groups and associations among its citizenry.

The appearance of corruption can be as damaging to the political system as the reality because it may have the same staining effect on the body politic by increasing public cynicism and alienation.

There is an obligation on the part of society's watchdogs -- the news media -- to be responsible in exercising their critical oversight function. A public service that is all too rarely performed is distinguishing between real and apparent corruption for a generally inattentive citizenry that is readily inclined to believe most bad things about politicians.

It is an irresponsible use of influence to unnecessarily add to public cynicism by labeling acts corrupt when they are not. At least, therefore, public overseers have an obligation to refrain from using publicity generating rhetoric or making unsubstantiated charges. I have been amazed over the years to see which legislators have called for reform or for the demolition of political action committees. Normally, they have been legislators from safe districts, where opposition is minimal or even nonexistent. We have even seen former legislators who, while they were in office, raised and distributed substantial dollars and who after leaving office, became a modern day St. Paul on the road to Damascus.

Campaign reform should be founded on three principles of fair campaign practices:

First, changes in the election laws should have as their purpose stimulation of citizen participation in election

campaigns through volunteer assistance to candidates and informed voting. The value of proposed changes should be measured by their capacity to broaden citizen participation in the electoral process.

Second, campaign law should mandate full financial disclosure by both candidates and contributors, thereby assuring that candidates will be accountable to the public for the extent and sources of their funding.

Third, campaign law should be impartial, favoring neither incumbent nor challenger, but treating both equitably. Changes to current law should be designed to correct inequities that now provide undue advantages to incumbents.

PACs serve a vital institutional function in broadening citizen participation in the political process. Their capacity to contribute to election campaigns is directly dependent upon their ability to involve their citizen members; to convince them that they had a stake in, and responsibility for, the electoral process, that election results directly affect them, and that it is their duty to be informed of the candidates' positions on the issues. Accordingly, I believe that changes to campaign finance should preserve and encourage this legitimate and valuable method of citizen involvement.

In regard to campaign reform, I offer the following observations and proposals: Many critics of the election system maintain that campaigns have become too lengthy and that fund-raising places inordinate demands on the time of part-time officeholders. In order to address these problems, contributions to candidates for the State Legislature from all sources -- including PACs -- should be restricted to the current election cycle, and a brief period following the general election for campaign debt retirement.

Both campaign contributors and recipient candidates should be held fully accountable for the flow of campaign funds. Currently, some contributors many give to so-called

"leadership of pol PACS" which redistribute funds to other candidates. This practice raises questions of undue influence. Such practices may also drive up overall campaign spending levels. These problems may be addressed by limiting each candidate to a single authorized political committee which can make expenditures relating only to the office for which the candidate has declared. Candidates should not be permitted to control additional political committees nor disburse monies given to their campaigns to other candidates for elective office. In Assemblyman Schluter's October 1989 campaign fund-raising letter he encouraged such a practice when he spoke about his needing contributions in order, "...to lend individual support in heavily contested races throughout the State." Mr. Schluter has no legal obligation at any time to announce, advise, nor to obtain a consent from contributors to his campaign with respect to the spending of those dollars. It is highly plausible he in turn made contributions to candidates that his contributors were totally opposed to.

Candidates should be required to eliminate their campaign treasury at the end of each campaign. A review of the New Jersey Election Law Enforcement Commission records will indicate a number of incumbents that are sitting on huge reserves of dollars. Clearly, this places a challenger at a funding disadvantage. The challenger in all probability will start his fund-raising efforts in the election cycle he chooses to run for office. Whereas, the incumbent has had a number of election cycles to raise his dollars. What I'm suggesting, is starting the race at the same time for both incumbent and challenger. Similarly, any person who raises funds to run for office but who ultimately withdraws from the race should be required to dispose of any unexpended funds in a defined manner. No personal use by any candidates of unexpended funds should be permitted. The statutory definition of "campaign expenditure" should be refined to eliminate ambiguities and to prohibit current expenditures.

Some charge that sources of campaign funds have fallen out of balance, with a disproportionately greater share coming from PACs and a correspondingly lesser share from individuals. Reducing the participation of PACs in the process is not an appropriate response; rather, this Commission should consider appropriate State tax credits for certain contributions. The credits should be available for contributions to candidates and to appropriate party committees. Incentives for voluntary campaign contributions are vastly preferable to taxpayer financing which, whether by voluntary check-off or other means, place a burden on all taxpayers and diverts revenues from other competing uses.

Additionally, I suggest: A prohibition on the use of legislative staff for campaign purposes. Penalties should be increased for such violations. That legislation be introduced that would mandate public debates for certain campaigns.

The name of a political action committee should accurately reflect the industry or individual that it represents.

All contributions made by a corporation to political campaigns or to legislative receptions should be filed quarterly with the New Jersey Election Law Enforcement Commission. Additionally, annual lobbying reports should be filed quarterly. Currently, quarterly reports reflect only the legislative agent's activity with respect to what bill has been worked on and which legislator have been contacted. It does not reflect financial activities of the legislative agent, nor the lobbying unit, nor whether monies had been given to legislators. All reports should be filed with one central agency. Presently, some lobbying reports are filed with the legislative agents' desk within the Department of Law and Public Safety, while others are filed with the New Jersey Election Law Enforcement Commission -- ELEC. It is my opinion all should be field with ELEC.

There should be a prohibition on incumbent officeholders utilizing facsimile legislative letterheads. Presently, stationery which looks like official stationery can be used for campaign purposes, as long as it indicates that it was not paid for with public monies.

Finally, I believe it's time for an in-depth study of whether or not legislators should be limited to the number of terms that they may serve. We are seeing the creation of an American monarchy in the United States Congress. The House of Representatives' re-election rate is 98%. I regret to say, the New Jersey Legislature is not far behind. There currently exists only 10 out of 80 Assembly seats, that are somewhat competitive. In the Senate, possibly five out of 40 seats.

The dictionary defines influence as "power to sway or affect based on prestige, wealth, ability or position." In short, influence means power, the power to make things happen.

Unfortunately, the word influence has become synonymous with "influence peddling." That's unfortunate, because influence peddling means the inappropriate use of influence, either influence wrongly used, or used for personal gain.

In reality, influence is an indispensable part of everyday life. Used ethically, influence is a formidable skill. Without influence, organizations could not succeed, consensus and coalitions could not be built, and attitudes would never change.

The use of influence is itself not negative. It can often lead to a great good, like any powerful force -- from potent medicines to nuclear power -- it is the morality with which influence is used that makes a difference.

I want to thank the Commission for giving me the opportunity to appear before it today and to offer my opinions.

DR. ROSENTHAL: Thank you. Al?

MR. BURSTEIN: Mr. Torok, first a general comment: What you have Schluter's specific-- Have you given him the opportunity of taking a look through your presentation, or will you?

MR. TOROK: No, sir.

MR. BURSTEIN: You will not?

MR. TOROK: No, I will. Yes, I'm sorry, I thought you said, "had I?"

MR. BURSTEIN: I gave you your alternative.

MR. TOROK: Oh, I will.

MR. BURSTEIN: You will, because I think he should have the opportunity of making some response to some of the things that you have in there.

The picture that you draw of PACs, generally, is a benign one. You've emphasized those defeats that the PACs have had in several areas of legislation in recent years. Your campaign reform recommendations seem to want to impose restrictions on everybody else: Campaign treasury has to be completely wiped out at the end of a campaign, not a bad idea. The PACs -- PAC contributions or all source contributions should be restricted to that current election cycle. Another good idea I think. The matter of the leadership PACs is something that you have raised some question about. But as I go through all of these various recommendations I see nothing that focuses upon the very organizations that you have been here to represent, or at least be, generally, in behalf of, beyond the Dental PAC. Don't you think that there is any value in having restrictions as an example on individual PAC contributions per candidate, or per political party?

MR. TOROK: Well, I think I answered that very early on. I said I don't agree that there is too much money in the system. I think it's how it's being used and how it's being perceived. As far as PACs and restrictions, contrary to popular opinion, there has been, in my opinion, adequate

reporting over the years. There are quarterly filings to be done with ELEC. There is disclosure. Above all else, I think there has to be 110% disclosure by political action committees and candidates, for that matter. I don't disagree with that.

I disagree with Mr. Stuart's comments on a tax on PACs, and I think he was specifically addressing PACs. Though I would probably received it more warmly if he would have talked about any political committees, including the State Democratic/Republican committees, because then you're talking about a substantial amount of dollars that can be generated from such a tax.

But when we raise those dollars via the PACs, we have a fiduciary responsibility to those contributors to give those monies specifically to candidates or political activities. Now we're talking about not only paying Federal tax and the interest collected on them, we're talking about user tax on the State. I'm not quite sure how that works. I'm sure Mr. Stuart was talking about a sliding scale, depending upon the size of the PAC, or total dollars in that committee, and not a blanket or specific amount across the board for all entities. But I was hoping, and I do hope he was talking about, if such a program is instituted, to apply across the board, including to county and State political party committees.

MR. BURSTEIN: Mr. Torok, you -- and I don't mean to make an invidious comparison -- but you sound a little like some witnesses that I had in recent litigation where I ask a question and I get an answer that I try to equate with my question, but find difficulty in doing so. I asked the simple question of restrictions upon PAC contributions. I don't think I got a response from you. I don't have any problem with the existence of PACs. And I quite agree with your argument that PACs are a part of the information system, as it were, for legislators and for others. But what I am talking about is not only the perception, but the actuality of PAC contributions

having increased measurably over the years, and whether or not you see a value in restricting the per candidate, or the per party PAC contributions?

MR. TOROK: I'm sorry, Mr. Burstein. I thought I immediately answered you by saying that I didn't believe there was -- that the total amount of money was disproportionate to what it should be out there. So I thought I did answer you by making that statement. But let me be more specific; no, I don't agree that there should be limitations.

MR. BURSTEIN: Okay, now I've got the answer. Thank you.

DR. ROSENTHAL: Can I ask you, Mr. Torok, what is the purpose of the Dental PAC? You mentioned that, at the very most, the PAC contribution enables the association or the representative to gain greater access. But how do you, as the director of a PAC, describe the purpose of that particular PAC? Isn't it to exercise influence?

MR. TOROK: No, I think I also said that in the testimony, and I think you've repeated it. It's access. If a PAC does anything for a parent organization, is to supplement those legislative efforts, to raise dollars, and quite simply, to disperse them to candidates that have similar thinking to that parent organization's legislative program. The sole function of a PAC is to act as a fund-raising apparatus, and then to review those candidates, incumbent challengers, and to make decisions on where those dollars are to go.

DR. ROSENTHAL: But, basically--

MR. TOROK: So, it is access.

DR. ROSENTHAL: Basically to obtain and to improve access.

MR. TOROK: But, I may add, access doesn't only come about through political dollars. I think I also said in my testimony that access is available to those that either generate the kind of issues that society is thinking --

concerned about at the moment, or have large constituencies. The AFL-CIO statewide -- and I may be wrong on this -- but as a few years ago virtually had no political action dollars in-state. And yet, in my opinion, they wield tremendous amount of power by virtue of their constituency -- very large constituency. But they got access to that legislator because there was large numbers of them, not because there was large dollars.

DR. ROSENTHAL: Let me just ask: In filing a report on PAC contributions, do you specify the number of contributors to a PAC?

MR. TOROK: Yes.

DR. ROSENTHAL: That is a requirement, the number of contributors?

MR. TOROK: And specifically over, I believe, \$100. We're being very specific as far as name -- address of that contributor too.

DR. ROSENTHAL: Thank you. Michael?

MR. COLE: Mr. Torok, I was interested in your comments on ACR-53, I & R, and your description as that as a defeat for the special interest groups, PACs, who were opposed to it. My recollection is that that legislation passed with a bare majority in the Assembly, and not the super majority needed to put it in position to go on the ballot, isn't that correct?

MR. TOROK: It passed by 41, I believe I said, sir.

MR. COLE: Right. Yeah, not the super majority, and never did pass in the Senate.

MR. TOROK: It failed by one vote in the Senate, yes.

MR. COLE: And never passed again in the Assembly.

MR. TOROK: Well, and I think I addressed that by saying I felt the Republicans wrongly perceived that a majority of the citizens out there were responsive to that proposal. First of all, in the first six months there's no doubt in my

mind it was part of the Republicans' platform. They felt they had to move it. And in considering the speed in which it moved, in my opinion, in those first six months, there was no doubt in my mind that this was a platform pledge they were trying to live up to. I think when it finally reached the Senate, which started to happen, the coalition that we were part of, jelled.

We started to gather information. We had individuals testifying, including Mr. Rosenthal. And I can tell you, I think then, and only then, what you started to see was the Senators saying, "Well, no, we're wrong. It's not that large of a constituency." That the coalition maybe represents the true sediment in this State, and thus, the vote that came out of it. It failed by one vote.

But nevertheless, it did pass the Assembly, and did go into the Senate, and only by one vote did it finally fail.

MR. COLE: Or one may observe that the 41 votes in the Assembly the first time was not nearly as significant as when we make it out, given the fact that we have to go through again, given the fact that a number--

MR. TOROK: Well--

MR. COLE: --of members, I think, were quoted as saying they voted for it once but would not vote for it a second time.

MR. TOROK: But I think you have to also agree, conversely speaking, that if PACs at all, in light of 90 organizations with the large numbers it had, and the large dollars, according to anti-PAC spokesmen, it shouldn't have passed at all, sir, I submit to you. But it did; bare majority.

MR. COLE: Well, I might submit that you make a unique case, and probably not a good case for a case study.

MR. TOROK: I could give you--

DR. ROSENTHAL: There may not be any good cases for a case study.

MR. TOROK: Given time, I could give you more.

DR. ROSENTHAL: Questions?

SENATOR DiFRANCESCO: I have a question about--

DR. ROSENTHAL: Senator.

SENATOR DiFRANCESCO: John, I know that you must have an opinion on this. I don't know what the opinion is, but -- whereas-- The loophole-- The loophole in the lobby disclosure law, the expressly clause, what's your opinion?

MR. TOROK: Well, I've always had a problem with that. Besides being a lobbyist, I've obviously got relationships with legislators outside of this State House. As a matter of fact, one of the current legislators was best man at my wedding for God's sake. The problem I would fact is every time I would speak to him I'd have to report the fact that I spoke to him, irrespective if it was--

SENATOR DiFRANCESCO: Not now.

MR. TOROK: No, no.

SENATOR DiFRANCESCO: If we close this loophole.

MR. TOROK: That's right. That's right. That's right. So, I don't agree in changing that.

SENATOR DiFRANCESCO: So you oppose that?

MR. TOROK: I oppose it, yes. I mean, the disclosure to the consumer out there, or to the voting population, must be those activities you worked on, specifically on legislation. I'm afraid if you amend that section, and now broaden it, anytime you speak to a legislator on any matter, it's going to have to be. And, you know, what you start to develop there is voluminous files that the public can have access to. The question is, do they want to, and will they? And I think that should be the yardstick also.

SENATOR DiFRANCESCO: I agree, John, that it could be burdensome. It could be onerous with regard to, you know, anybody. I mean, Tom called -- let's say he calls on the phone, or you know, some inadvertent act that maybe was not reported. But--

MR. STANTON: How did you like the Pistons the other night, you know.

SENATOR DiFRANCESCO: On the other hand -- because I want you to address this -- on the one hand, if we go-- You and I, we go to lunch-- I know I keep bringing up these lunches and things. (laughter)

MR. TOROK: Who's paying? You're paying or I'm paying?

SENATOR DiFRANCESCO: You're paying for this lunch because why should I pay? You know, you want to take me to lunch to talk about a piece of legislation that the Dental Association, Dental Society -- I know you're confused by the terms now, because you projected this distinction--

MR. TOROK: Actually the law did.

SENATOR DiFRANCESCO: --has an interest in. And we discussed that bill and you report it.

MR. TOROK: Yes.

SENATOR DiFRANCESCO: And it costs \$50, perhaps, for the two of us. Now, on the other hand, we are in Seattle, Washington, NCSL Conference and you rent a yacht, and you take me, my wife, John Russo, his wife, Carmen Orechio, his friends, and others on this yacht. You wine and dine us. We never talk legislation. It costs you \$5000, let's say, and you don't have to report that in the same manner as you have to report the lunch that costs \$50. How do we address that? Maybe that's not a problem. I mean, first, do you think that's a problem?

MR. TOROK: It goes back to--

SENATOR DiFRANCESCO: People say it's a problem. I'm bringing it up, because let's put the cards on the table.

MR. TOROK: Well, to a certain extent, too, you know, you get back to the question of morality, overall morality. I mean, you've got to take a look at what that perception is going to be. If a reporter sees you going on, is there a negative perception to it? Are you required by law to report

it? No, if legislation isn't directly discussed. Though there may be, if I'm not mistaken, a threshold for actual dollars expended, irrespective of the amount. There may be--

SENATOR DiFRANCESCO: You mean you may have to disclose--

MR. TOROK: Yeah.

SENATOR DiFRANCESCO: --that you spent the money, but not on who?

MR. TOROK: Well, there's always been a debate with the State Chamber of Commerce and their Washington trip on whether that's totally reportable or not reportable, and yet thousands are spent there. The perception there is that there is, I think -- there is an interfacing among the variety of individuals: business, trade associations, labor, media, and legislators. If the individual citizen out there wants to take a look and see \$30,000, \$40,000, \$50,000 have been spent on that affair, the perception would be, my God, there has to be something absolutely wrong with that system with those individuals for participating.

I don't think that's bad. I don't think it's wrong. I think it's up to the individual legislator to decide how does this look? If you feel bad about the situation, you refuse to go. There's no lobbyist or lobbying unit out there that's holding a club to somebody and saying, you must come, for one thing.

As far as the \$50 lunch, if I can you buy you for 50, somebody can buy you for 51. I think it's ludicrous.

SENATOR DiFRANCESCO: Well, I mean, you have to report that. That's the law today.

MR. TOROK: Sure.

SENATOR DiFRANCESCO: If you're talking about a bill with me--

MR. TOROK: Right.

SENATOR DiFRANCESCO: --whether it's, I suppose, a cup of coffee. But, you know, the complaints that come to us are that we are permitting this loophole to exist where much more money can be spent on entertainment for legislators and not be disclosed by those people doing the spending. And I'm, you know, not singling out any particular group. I'm sure Business and Industry spends a lot of money. I know that in New Orleans at NCSL we went on a big paddleboat with Nabisco. They paid for the boat. Everybody in New Jersey-- Democrats, Republicans, children, mothers, fathers, everybody was invited. Of course we didn't talk about any bills. I didn't even see a lobbyist, I don't think, on the boat. Gary Hart was there, but that's another story.

SENATOR ORECHIO: Was he alone?

SENATOR DiFRANCESCO: I have to throw that in, you know. That boat-- You know, that might have cost \$20,000, for all I know. I have no idea what it would have cost that company. And I don't necessarily mean that it's wrong, but it's not disclosed. I think that's the point, the disclosure.

DR. ROSENTHAL: Why shouldn't that be disclosed, as well, because that it obviously was done in order to improve access? And the purpose of access is to eventually advantage one's legislative program.

MR. TOROK: Well, I can tell you where we've had occurrences like that with any of the groups we represent, where either we've had a reception or we've gone out to dinner with legislators. We've made it a practice not to talk about legislation; to not talk about it.

DR. ROSENTHAL: Right.

MR. TOROK: We feel there's times to talk about it and there's times to just socialize.

DR. ROSENTHAL: But even so, but the purpose is to-- You wouldn't be going out with these people were they not

legislators. I mean, you wouldn't be at the NCSL annual meeting unless there were legislators meeting there. It's a social occasion--

MR. TOROK: Well, I don't know if I agree with that.

DR. ROSENTHAL: --but it's a business--

MR. TOROK: I don't know if I agree with that.

DR. ROSENTHAL: It's a business purpose.

MR. TOROK: No, I don't necessarily--

DR. ROSENTHAL: I'm not saying the purpose is to build up access and to accomplish a legislative program.

MR. TOROK: Sure, it's the same--

DR. ROSENTHAL: And there's nothing wrong with that.

MR. TOROK: Bad example, but the closest I can get is the PTA in this State -- the State PTA, for example, needing access to a legislator. Inviting him down to one of their meetings, for example, and--

SENATOR DiFRANCESCO: Convention.

MR. TOROK: I'm sorry.

SENATOR DiFRANCESCO: A convention.

MR. TOROK: At a convention, at a convention. You're not talking with the PTA, for example, having thousands and millions of dollars -- of campaign dollars to expend. What they're doing is what the so-called special interest groups are doing, and what they're attempting to do is to socialize, to interface. So at a later date, one could sit down and talk. Clearly, I can assure you, at a cocktail party where you have a drink in one hand and a plate of food in the other hand, you're not going to get into very specific legislation -- difficult legislation. It may very well be several days later.

DR. ROSENTHAL: Right.

MR. TOROK: I don't disagree-- Let me put it another way: I'm not disagreeing that it would be bad to have disclosure like that. I guess what I'm saying is, why? Why? Is there a public need? I guess there had to be a yardstick, a

barometer to say, we can do this. You can disclose everything, but is there absolute need to have that? Is there a dying need for that public, before it starts to vote, before it decides I want to vote, and then who I want to vote? Is there a need to have this sitting in some State House or State office? And that's what's going to happen.

I can tell you now, ELEC talked about the '89 election before you started this meeting; its Executive Director. It spoke about cartons they haven't even gotten to yet.

Now, the public could very well go there and find out who received money from what group. But will they, is the question? And I guess that's such a yardstick that should always be applied: Is there an absolute need before someone makes the determination whether you're corrupt or you're innocent, and whether I'm going to vote for you or not vote for you.

DR. ROSENTHAL: It may be that-- I'm just suggesting it may be that there needn't be an absolute need, but one should err on the side of providing the information, if, in any event, there may be a need. To err on that side rather than to require an absolute need.

SENATOR DiFRANCESCO: Well, I think--

DR. ROSENTHAL: Yes.

SENATOR DiFRANCESCO: --John raises the point of the inadvertent problem, the problem of where you have friends in the Legislature.

MR. TOROK: Yeah.

SENATOR DiFRANCESCO: To what extent do you report your activities?

DR. ROSENTHAL: But I think you're to report -- expenditure of funds. I think you're talking about the expenditure of monies. Where money is expended at a social function, you report that expenditure. And even though it may not involve the express discussion of legislation, if you're

dealing with a friend, if you're going to a ball game with a friend and there's no expenditure of funds on you, I don't think there's any need to report.

MR. STANTON: Is there a threshold-- We have a lot of conventions in the State -- all type of groups -- often invite legislators to come and address the convention; do not pay them a fee to speak, but pay expenses down: maybe a hotel room; maybe you play golf when you're down there; there's, you know, all those types of expenses. Obviously, that takes money depending on where these are. Usually these conventions these conventions aren't held in Hoboken. (laughter)

SENATOR DiFRANCESCO: The birth of baseball.

MR. STANTON: So, I mean, that, I think-- I can see that as somewhat of a problem.

SENATOR DiFRANCESCO: Well, I mean-- I think -- and John would agree -- maybe 95% of the conventions are held in Atlantic City. Maybe that's a little high.

MR. STANTON: Yeah. Maybe a lot of them are here, obviously, but would you-- Is there anything that has to be said to ELEC, A1, if you spend over "X" number of dollars.

MR. TOROK: Maybe what should have been said by me or others for that matter, is that there's two reporting mechanisms where there's actually been direct legislation conversations taken place and then some kind of expenditure. One would be the actual disbursement by that entity reporting, and the other by that--

SENATOR DiFRANCESCO: Tom, there is a threshold.

MR. TOROK: --candidate or legislator receiving it.

SENATOR DiFRANCESCO: We report the so-called reimbursement. Let's say in Atlantic City--

MR. STANTON: I thought there was. I just didn't know the--

SENATOR DiFRANCESCO: If it exceeds \$250.

MR. TOROK: That's it. And that's what I meant before by the actual dollar amount.

MR. STANTON: So that does get on the record.

DR. ROSENTHAL: So, if you went-- If you were invited to a convention of the New Jersey Banking Association in Boca Raton--

SENATOR DiFRANCESCO: Please, you have to bring this up. (laughter)

DR. ROSENTHAL: Is that where you go? You wind up reporting that.

SENATOR DiFRANCESCO: Yes. Oh, absolutely, and I have, and I've read about it many times. As Tom knows-- You know, well, Palm Beach, was one.

DR. ROSENTHAL: An honorarium--

SENATOR DiFRANCESCO: You're talking about even the other conventions. Now, let's assume that I was invited--

MR. STANTON: Anybody. I mean, the American Bar Association.

SENATOR DiFRANCESCO: --by the League of Municipalities.

MR. STANTON: I mean, I've been a guest of the American Bar Association. I mean the New Jersey Bar Association. I'm not a lobbyist, but there were legislators who also--

SENATOR DiFRANCESCO: You know, if they stay a couple of days, it basically becomes a reportable item for the legislator, because of the \$250 threshold.

MR. STANTON: I thought there was some reporting, but I wasn't sure of the specifics.

SENATOR DiFRANCESCO: But if you go one night, I think that you might not reach that threshold.

MR. TOROK: You know, and also take a look at some of the other reporting mechanisms. Back, again, to NJDPAC as a political fund-raising unit versus NJDA as a lobbying unit. In

both instances-- And I've heard repeatedly before this Commission, and other committees in the past, that there is no reporting on those entities. That's not true.

First of all, from a lobbying standpoint we have quarterly filings. And it's every lobbying unit is doing those filings after \$2500, and some many hours, I believe, of lobbying. But most of the major ones fall into that, and they're filing quarterlies, then the annual, the annual, not only by the legislative agent, but also by the lobbyist, which is normally the association or the corporation you're representing. And that's filed with ELEC. One would assume that it's now filed with ELEC, those reports, so as to match up the monies that an association may disperse in a given year for legislative receptions. But that would be for lobbying purposes versus the political action committee expending dollars for a political purpose. And that's not to say there's not total monies involved.

But on the one case the association who is filing with ELEC on its annual report of dollars spent for legislative purposes for direct lobbying, is doing it for lobbying purposes where the PAC's doing it, filing those quarterlies, just for political purposes.

DR. ROSENTHAL: Al?

MR. BURSTEIN: You have indicated that you don't believe in public campaign financing, and I don't know whether that refers specifically to legislative races which has been a part of the suggestion made by previous witnesses, or as a generality? If it's the latter, would you propose repealing the present gubernatorial campaign finance law?

MR. TOROK: Well, I've always had a problem with public finance. On the national level, by the way, checkoffs, it's 25%. Twenty-five percent of Americans agree, via the income tax form, of that dollar checkoff to participate in that system.

The first year that gubernatorial finance thing was enacted, you had what, 20-some candidates out there?

MR. STANTON: Yeah.

MR. TOROK: And granted, there has been revisions since then, an upward spiraling of what that bottom is. I think there's a problem. First of all, what you're doing in public financing is taking dollars from somewhere else and using it for this purpose. Taking them, maybe, in a mandatory way when citizens don't want to participate. There's no way-- I mean, one of the accusations against PACs for years was that the PAC committee evaluates the candidates, and makes the determination without any consultation by the contributors. Well, I submit to you the State would be doing that under public financing. It would be--

As long as you could reach a certain threshold, no matter what your ideology was, no matter what your party affiliation, the State would give that individual monies.

Well, I may not agree with that. I may not want to have you give monies to a Democrat or a Republican or to a Socialist, for that matter. Yet, I would have no say as a taxpayer, once that program was instituted.

I'm opposed to limitations also because I don't believe a \$1500 limitation in Hudson County with a Democrat candidate running has the same buying power in Morris County, for example. I think there's an automatic inequity involved because of geography.

I also think \$1500 to an incumbent is a hell of a lot more money than \$1500 to a challenger. Not everybody, first of all, out there, that's a challenger, started and built himself up from a councilman, to a freeholder, to God knows what, before he decides to run for Senate or Assembly. He may be, for whatever reason, a civic minded individual; somebody well recognized. That political party says we're going to nominate you, and you're able to start to run. But he runs against some

formidable odds. That incumbency is formidable. The trackings of office, the very fact that as you get up there, you have the ability to say, this Assembly candidate so-and-so, or Senator DiFrancesco. The fact that you can use that, the title itself, generates free publicity, or publicity that's given a lot faster than to a challenger.

So, I don't think all is equal when it comes to public financing or when it comes to limitations. I don't. I think it depends upon geography and it depends upon individuals, and you can't across-the-board say, \$1500 to him is the same buying power as \$1500 to her.

MR. BURSTEIN: I take it though the answer to my question is, "Yes."

MR. TOROK: (laughs) I'm sorry.

MR. BURSTEIN: The answer to my question is, "Yes," you would do away with public financing. You do understand that many of us as taxpayers pay for many policies in government that we don't agree with. I didn't agree with the Vietnamese War participation by the Federal government, but paid income tax nonetheless. Isn't that something that happens all the time?

MR. TOROK: Sure. I would think so. I would think so. And each day, sir, as you start to limit my ability to express myself, it becomes even more and more to say you fought the democracy. I think there comes in time where you've got to say, you as a citizen, "What do you think?" And I'm not talking about plebiscites, and I'm not talking about bumper sticker democracy, via I & R proposal.

MR. BURSTEIN: You're against I & R, right?

MR. TOROK: That's right. I'm not supportive of that. But I think there comes-- There's a basic right. That right is to say I'm for this candidate, and I'm going to vote for this candidate, or I'm not going to. You're talking about eliminating that. You're talking about mandating monies from a

taxpayer, and then taking that money and giving it to whomever you please as long as that individual qualifies for it. I mean, I'd agree with you. But I have no say any longer.

You know, again, to get back to the accusations on PACs, and not getting back to the constituencies. I can tell you, for example, the Dental PAC, we have a laborious process in screening candidates. It starts months in advance of an election. We go back into those local districts. We have representatives from those local districts who are providing input to us on candidates; challengers and incumbents. And we, ultimately, sit down with this information; ultimately sit down with this intelligence data we've picked up over these many months, and then make a determination.

So, there is input into that process. And there's participation by individuals, I submit to you, that would have never participated in any fashion in campaigns if it wasn't for political action committees.

DR. ROSENTHAL: Mr. Torok, I'd like to discuss a little bit your recommendations, particularly on the campaign cycles and campaign funds. What would the normal cycle then be in which monies could be raised?

MR. TOROK: Well, and again, this is my opinion: From the time of declaration of candidacy to the actual election, and then for a brief period after that, for debt retirement. Now what you're talking about, it's possible for me to make a contribution right now to a Senate or Assembly campaign, as long as that Senator or Assembly has his re-election committee in place, and most of them do. It's an ongoing thing.

DR. ROSENTHAL: And this would be for incumbents and challengers as well?

MR. TOROK: Yes, yes.

DR. ROSENTHAL: So, the earlier you declare, the earlier you can start raising money?

MR. TOROK: No, no, I'm talking about legally declaring.

DR. ROSENTHAL: Oh, okay.

MR. TOROK: Going down and submitting those petitions; from that point on.

DR. ROSENTHAL: Okay.

MR. TOROK: I'm not saying arbitrarily somebody in December of the year before declares, and he or she can start raising dollars. That's an absolute -- ridiculous. Then you get into a time race on who's going to announce first, in order to get the dollars.

DR. ROSENTHAL: But this would not restrict political party functions and the raising of money by political parties.

MR. TOROK: It couldn't necessarily in my opinion, because of the diversity of campaigns you're talking about, and the kind of campaigns they contribute to. I'm specifically addressing State legislative races. You're talking about municipal elections, you're talking about school board elections. Well, political parties couldn't on that. But municipal -- county races, any number, any given time taking place. So, I would not necessarily restrict party committees to that.

DR. ROSENTHAL: And then in terms of PACs: A candidate could only have one PAC, and there would be no transfer of funds by candidates. So the only transfer of funds then would be by party PACs.

MR. TOROK: Yes.

DR. ROSENTHAL: Not leadership PACs--

MR. TOROK: That's right.

DR. ROSENTHAL: --but the state party PACs. Yeah.

SENATOR DiFRANCESCO: In that vein, John, restricting PAC contribution to candidates to that time frame between when they file in the primary and when the election takes place is what you're referring to?

MR. TOROK: PAC, PAC.

SENATOR DiFRANCESCO: Okay, now--

MR. TOROK: Political contributions. Political contributions.

SENATOR DiFRANCESCO: Oh, contributions, I'm sorry. All contributions to the election can't occur--

MR. TOROK: To that election, yes.

SENATOR DiFRANCESCO: --until you filed your petitions, okay.

MR. TOROK: Yes.

SENATOR DiFRANCESCO: I like that. I win. I organize a PAC, which you know exists extensively, and I want to have a fund-raiser to raise money for that PAC. What do we do about that? Let's carry this out to that. Now we have a fund-raiser.

MR. TOROK: Well, under my proposal--

SENATOR DiFRANCESCO: It's not a campaign fund-raiser.

MR. TOROK: --you would have a brief period of time, and I don't have a specific time. It could be months -- weeks, months, whatever is ultimately determined. But after that, you would not be able to then fund-raise again until that next cycle.

SENATOR DiFRANCESCO: So you really wouldn't be able to organize a PAC, is what you mean?

MR. TOROK: Well, sure. For the election cycle you could. When you say PAC, you're talking about your individual re-election?

SENATOR DiFRANCESCO: My individual PAC.

MR. TOROK: Your re-election campaign committee.

SENATOR DiFRANCESCO: No, as distinguished from my re-election--

MR. TOROK: Oh, I'm sorry. Well, maybe I misunderstood you.

SENATOR DiFRANCESCO: I start a PAC.

MR. TOROK: All right.

SENATOR DiFRANCESCO: And the PAC raises money.

MR. TOROK: For you and other candidates?

SENATOR DiFRANCESCO: Yeah.

MR. TOROK: Oh, okay.

SENATOR DiFRANCESCO: What should we do about that, because that would be the easy way out of your first proposal?

MR. TOROK: Well, if you remember, in my proposal I talked about eliminating leadership or pol PACs, so as to not--

SENATOR DiFRANCESCO: Okay, I couldn't-- I would not be able to do that.

MR. TOROK: That's right.

SENATOR DiFRANCESCO: Okay.

MS. SHEEHAN: Because he says, don't have any money at the end.

DR. ROSENTHAL: What happens with the leftover funds, or is the incentive then, if you eliminate the PAC at the end of the cycle, or just after the election, the incentive then is to spend everything you have in your candidate PAC? What would--

MR. TOROK: Well, there are states that zero down. There are states that have zero down afterwards, and in a variety of ways where those monies were then transferred, it could be very well transferred into ELEC for management purposes.

SENATOR DiFRANCESCO: Some crazy person-- (laughter)

DR. ROSENTHAL: I think that every witness had argued for Fred Herrmann's budget I have never seen--

F R E D E R I C K M. H E R R M A N N, PH.D.: Just coincidence.

DR. ROSENTHAL: --a campaign quite as effective as this one. I thought we might have gotten through one witness, but not a chance.

MR. TOROK: No, you know, all joking aside, it's something that I didn't address. And I think it's something that--

SENATOR DiFRANCESCO: Into the party. You mean, like to the Republican party. I can take my \$5000 leftover money and put it into--

SENATOR ORECHIO: State Committee.

SENATOR DiFRANCESCO: Give it to the State Committee, or something like that. Is that what you mean?

MR. TOROK: Either zero it out-- Yeah, it could be any number of--

SENATOR DiFRANCESCO: Or to the church, or--

MR. STANTON: Charity.

SENATOR DiFRANCESCO: Well, yeah.

MR. TOROK: See, one of the problems I think I have with leadership and pol PACs, and for that matter, any candidate taking dollars and disbursing them out to others in districts in need, is that there is a loss taking place. The ability to track becomes greater and more difficult. So, one doesn't know where the source is ultimately, of the dollars coming in. That bothers me.

The purpose for leadership PACs and pol PACs is quite simple. It's not re-election. It's not re-election to that Senate or Assembly office. It's re-election to that Speakership, that Senate Presidency, that Majority position, or Chairmanship position, plain and simple.

DR. ROSENTHAL: Any other further questions? (no response) Thank you very much.

MR. TOROK: Thank you.

MR. STANTON: Thank you.

DR. ROSENTHAL: I think if we have a little time, and with the Committee's indulgence, we might just address -- some of the issues came up already, but address some of the issues that we haven't been very attentive to, such as conflict of interest and the situation with conflict of interest in New Jersey, and the situations in other states. And maybe, Marci, you would sort of run us through, particularly the conflicts of interest.

MS. HOCHMAN: There is a memo, hopefully in your folders which you might want to follow along. I tried to outline some of the common public criticisms that exist in the area of ethics regulations. I reviewed an article -- this was by a former member of the Legislature, Betty Wilson in the Seton Hall Legislative Journal. That was a 1975 article, and some of those criticisms are still valid today. We also reviewed some current newspaper articles which raised some ethical concerns and some concerns that exist in our law.

Some of the problems involved financial disclosure. We currently require financial disclosure of members of the Legislature via our Code of Ethics. And currently what is required to be disclosed are sources of income, not amounts, but sources of income, earned income totaling more than \$1000, which the member receives in terms of salaries, bonuses, royalties, fees, commissions and profit sharing. We also currently require unearned income from any source which is more than \$1000 received from rents, dividends and income from named investments, trusts and estates.

We require the disclosure of sources of fees and honorariums which are more than \$100; sources of reimbursements totaling more than \$100 for travel, subsistence or facilities provided in kind. And the sources of gifts--

MS. SHEEHAN: Excuse me, did you say 100?

MS. HOCHMAN: One hundred for reimbursements, 250 for gifts. The difference being a reimbursement would mean that you set out--

SENATOR DiFRANCESCO: We have a running battle as to what--

MS. HOCHMAN: We do.

SENATOR DiFRANCESCO: --the difference is between a reimbursement and a gift. I'll make that clear for you because I keep referring to 250 as a reimbursement, and Marci keeps referring to as a gift. I don't see the distinction, but--

MS. HOCHMAN: Well, what we have tried to explain to some of the members when this issue comes up, and it isn't clear. It's not clear in the Code. But the distinction that we've tried to make when the forms come in to the Joint Committee is that a reimbursement would generally mean you set out that money yourself. You prepaid your own expenses out of your own pocket, on your own credit card, and then some entity reimbursed you for that; whereas prepaid expenses we would classify as a gift, and the only difference being that the threshold would be different.

Why? The rationale to this? I don't want to comment on the rationale.

SENATOR DiFRANCESCO: I classify the prepaid expenses to Atlantic City as a reimbursement. That's the way I treat it on my form too.

MS. HOCHMAN: That's true. But regardless, whichever line you might write it on the form, it should be there in terms of disclosure that the member actually received that. Some of the problems--

MR. BURSTEIN: Excuse me, is this a regulation or it's the Code, isn't it?

MS. HOCHMAN: This is in the Code of Ethics. It is not required--

MR. BURSTEIN: Yeah, it's not statutory.

MS. HOCHMAN: --by the Conflicts of Interest Law.

MR. BURSTEIN: Yeah, okay.

MS. HOCHMAN: I believe, you know, in terms of the executive branch, they have it pursuant to Executive Order. I think it's Executive Order No. 1, supplemented by No. 9 this year. And their financial disclosure is somewhat more involved than what's currently required under our own Conflict of Interest Code.

Now, the criticisms some people have raised, is that this is insufficient. Another problem is that criticisms say

that self-policing does not work. Our own Conflicts of Interest Law creates the Joint Legislative Committee on Ethical Standards which governs and guides the ethical behavior of members of the Legislature and officers and employees in the legislative branch. This is comprised solely of members of the Legislature. They are four members from each house, equally divided by party. And four of our members serve on this body as well. There are no public members currently. Criticisms that have been raised are that public members should be included.

Another problem is that of personal interest. Now, currently the Conflicts of Interest Code and the Conflicts of Interest Law define "personal interest" as the legislator believes he will derive a direct monetary gain or loss from the enactment or defeat of the legislation. There's a proviso to that, however, that a member does not have a personal interest in legislation if the benefit or detriment which accrues to him as a member of a business, occupation or group.

What that means in plain language is that if you are, for example, a pharmacist and you are also a member of the Legislature, and some bill is pending that affects pharmacists, you would not have a personal interest in that particular piece of legislation unless it affected you differently than it would affect pharmacists in general.

DR. ROSENTHAL: How frequently are there personal interest cases?

MS. HOCHMAN: Personal--

DR. ROSENTHAL: Or that someone has a personal interest?

MR. COLE: Someone declares.

MR. BURSTEIN: Yeah.

DR. ROSENTHAL: Well, has or declares, right.

MS. HOCHMAN: The statements that are filed, in many instances, our experience has been that they say that they

don't believe they have a personal interest as that term is defined in our Law and our Code. But not withstanding that, they feel that they should abstain.

MR. COLE: What's the volume of filings, Marci, for every year, annually?

MS. HOCHMAN: I would say that-- That's difficult to gauge. There could be 20, there could be five.

MR. COLE: And most of them are an abundance of caution type of filing. I don't have the problem, but I'm--

MS. HOCHMAN: The vast majority do not come out and say, "I have a personal interest, and therefore I'm abstaining." The vast majority say that, "I don't believe that I have a personal interest as that term is defined, but not withstanding that, I wish to let the public know, and I wish to abstain from it." And those statements would be filed both with the Joint Committee and with the respective either, you know, Clerk or Secretary.

DR. ROSENTHAL: Does the Joint Committee give advisory opinions?

MS. HOCHMAN: What the Code of Ethics provides -- as distinguished from the law-- All the law requires is that even if you do have a personal interest, as that very term is, you can file a statement that says, notwithstanding that fact, I can cast a fair and objective vote and participate in that particular piece of legislation. The Code of Ethics tightens that up. And by filing a statement to that effect with the Joint Committee, the Joint Committee would have the ability to investigate what gave rise to the filing of that statement. And if they would determine that there is a substantial appearance of conflict by the member's participation, they could instruct that the member, you know, should not participate in that. And that's only through the Code.

MR. COLE: Has that ever happened?

MS. HOCHMAN: To my knowledge-- In my experience with the Joint Committee I do not believe that that--

MR. COLE: I don't believe that it has either.

MR. BURSTEIN: Marci, we're dealing now with specific items of legislation, and very frequently you won't know that something's coming up on the board until very late in the game. Ordinarily, your board list is not out, except perhaps five or seven days in advance of the actual legislative session. How speedily does the Commission act -- the Joint Legislative Ethics Commission -- act with respect to an application made by a legislator, or are these filed so far in advance -- if he sees a bill moving through, the legislator sees that there perhaps might be a vote coming up on it, and gives it in a timely fashion?

MS. HOCHMAN: Well, as I said, the vast majority of these say -- don't say they have a personal interest, so it doesn't really--

MR. BURSTEIN: They don't care.

MS. HOCHMAN: --kick in that way.

MR. BURSTEIN: Yeah.

MS. HOCHMAN: What happens is they say that the way the personal interest is actually defined, just because you happen to be an attorney, or doctor, or a physician, and legislation in that particular -- dealing with that profession comes up, you would not have a personal interest, and the Joint Committee would not have to look into that.

I would assume that if someone actually filed a statement that -- with the Joint Committee -- we would bring it to the Chair immediately, and then, if the Chair made a determination that this would warrant -- and Senator Orechio could speak to it. I'm assuming that if you felt that there was a need for the Joint Committee to convene, you would convene it as soon as possible to make a determination.

SENATOR ORECHIO: Yes. We had a situation in point regarding a doctor, whose name escapes me, who is as Assemblyman, Republican, who chairs a committee, the Health Committee. And there was a bill that would have mandated that physicians accept whatever Medicare would allow for a fee; balanced billing. And there was a complaint made by a senior citizens group saying because he was a doctor he had a personal interest.

And because of the generic aspect, the fact that it wouldn't affect any other physician any less than him at this point, that there was no-- You know, we had a closed case on him, nothing sustained. And that's a typical sort of situation which happens from time to time.

MS. HOCHMAN: The area of personal interest seems to generate complaints from time to time, and then they're heard publicly. But complaint being different than just a filing of a statement.

MR. BURSTEIN: Yeah, but the point that Michael made before is the bulk of these things don't find legislators saying, "I find a personal interest conflict coming up."

MS. HOCHMAN: That's true.

MR. BURSTEIN: And then abstain from a vote or seek some kind of advisory guidance or something of that sort. So-- Well, okay. All right.

DR. ROSENTHAL: Well, can one expect that legislators dealing with 20 or 30 bills on the board a day, and not much advance notice, and a lot of other stuff going on, will be able to, you know, kind of scan for that?

MR. BURSTEIN: Well, I think that's part of the problem, because of the volume of legislation that goes in. And God knows you're not going to look in the Legislative Index and pick out those things where you think there's going to be some potential conflict if the bill is going nowhere. So, that it becomes a more last minute sort of process, I guess, that if

you're going to have legislators in a self-policing way, say, I really see a conflict coming on. And how well we can adopt to that is, perhaps, a problem.

DR. ROSENTHAL: But in effect then, if, given the generic language, it's very difficult to have a conflict of interest. It's very difficult to benefit personally more than somebody else in your category unless you're really voting on a bill that singles you out. And that's--

MR. BURSTEIN: Yeah, that would be a rare--

DR. ROSENTHAL: --pretty unlikely.

MR. BURSTEIN: That would be a rarity.

DR. ROSENTHAL: Yeah. I mean, I could be in the Legislature and there could be a large budget increase for Rutgers--

MR. BURSTEIN: God save us.

DR. ROSENTHAL: --that goes into salaries, and I wouldn't have a conflict of interest--

MR. BURSTEIN: No, there would be no conflict. That would be voted down.

DR. ROSENTHAL: --under the provision.

MR. COLE: I have another question. Marci, has OLS ever done any research on the ability of the Legislature, through rules, ethics, Code of Ethics, to deprive someone of the right to cast a vote?

MS. HOCHMAN: You mean, in a legal--

MR. COLE: In a situation where you have a conflict, and the legislator says, "I may have a conflict, but I want to vote on this bill because it's important to my district," or "I want to represent my constituents." And has anyone every looked at whether you can constitutionally tell that person you may not vote?

MS. HOCHMAN: I don't know of any opinion, any legal analysis that has ever been done. I guess, generally, because

the way our law is structured, you're saying, notwithstanding that I can cast a fair and objective vote sort of resolves the issue for you.

MR. COLE: But I thought you said the Code provided for--

MS. HOCHMAN: The Code does.

MR. COLE: --that the Committee may, nonetheless step in? And I thought you said, could stop them from voting?

MS. HOCHMAN: Well, they could say that we think that this would raise--

SENATOR ORECHIO: It's an advisory, basically.

MS. HOCHMAN: --public concern. But it would be in an advisory mode.

MR. BURSTEIN: Yeah, but the question being raised, and I think it's an important one, is can you legally prevent a member from voting, irrespective of what is deemed to be conflict? I don't think there's any constitutional way to do it.

MS. HOCHMAN: We have not done a legal analysis of it.

MR. STANTON: It's almost like an SEC thing. You can do outrageous things, as long as you disclose it.

MR. BURSTEIN: Yeah, exactly.

MR. COLE: Well, the theory is, as Senator Orechio said earlier, ultimately the ballot box determines whether or not you've operated correctly.

MR. BURSTEIN: Sure.

SENATOR ORECHIO: I had a bill several years ago, in fact, it's reintroduced. I don't own a travel agency anymore, but I had a bill that provided for licensure for travel agents. As a result, a lot of these fly-by-night travel agents who bilked the public, took deposits and, you know, closed their shop up. And I had someone say, "You know, you shouldn't sponsor it. You have a travel agency." I said, "No, I have no problem in telling the world I own a travel agency." I mean,

I'm aware-- I had this agency for over 30 years. I was aware of the myriad of problems that occurred over a period of time. I felt I was best qualified to say, "Hey look, we need a licensure law in New Jersey."

MR. BURSTEIN: Well, that's why I--

SENATOR ORECHIO: I had no problem with it.

MR. BURSTEIN: --feel that Betty Wilson went, perhaps, overboard when she said you couldn't have a Chairman of a committee who was a doctor, as an example, on the Health Committee. The people who know most about the subject would be foreclosed from giving their expertise. That's one of the reasons people, I assume--

SENATOR ORECHIO: Or a lawyer, the Chairman of Judiciary.

MR. BURSTEIN: Sure.

SENATOR DiFRANCESCO: A citizen Legislature, isn't that what Rob said?

MR. BURSTEIN: I'm sorry?

SENATOR DiFRANCESCO: Rob said it was a citizen Legislature, so, therefore--

MR. BURSTEIN: Well, you can make it--

SENATOR DiFRANCESCO: --you're going to have exactly that.

SENATOR ORECHIO: Well, you wear two hats.

SENATOR DiFRANCESCO: That's what you're going to have.

MR. BURSTEIN: I think we ought to have a completely retiree Legislature. Only people who have retired can be--
(laughter)

DR. ROSENTHAL: No, academics. (laughter) Maybe because they're retired.

MR. BURSTEIN: Much doubt about that.

SENATOR ORECHIO: I don't think we ready for a geriatric Legislature.

MR. COLE: Not at three in the morning.

SENATOR DiFRANCESCO: What are we talking about, personal interest?

SENATOR ORECHIO: What would life be--

SENATOR DiFRANCESCO: Is that what we're talking about?

SENATOR ORECHIO: I never know. (laughs)

SENATOR DiFRANCESCO: Conflicts of interest, yeah.

DR. ROSENTHAL: Does anybody have any suggestions along these lines in the area of conflicts of interest?

MR. STANTON: Maybe because I've sort of grown in the area of disclosure. I you say that there's-- You know, you disclose, you meet the test, I think, in most instances. Then you take the consequences of your own action, really. If someone thinks you've acted improperly, then that's something your opponent or the press or anybody else can beat you up on. If you don't disclose, I think you have a problem. Once you come out and say this is--

DR. ROSENTHAL: You mean a declaration. Disclosure that--

MR. STANTON: Declaration, yeah. As I say, almost like an SEC deposition. I mean, it can be outrageous things, and proxy material and things like that, as long as they're disclosed.

DR. ROSENTHAL: But the thing is, right now there is financial disclosure. Secondly, there is a declaration, but it seems to me you don't have to make that because it's very unlikely that you're going to benefit personally more than somebody else in a category.

So, it really-- It all rests on the disclosure statement, financial disclosure statement, and then the press, the opponent, or the public making whatever inferences it wants to make.

MR. STANTON: Hold your--

MR. COLE: You could consider-- I haven't thought this through, but you could consider just eliminating that

proviso, and people disclose. You disclose that you're a teacher, and if the new minimum salary bill for teachers passes you'll benefit, but you won't benefit to any lesser or greater extent than members of the class, and you're going to go ahead and vote on the bill. In other words, just increase the number of disclosures that legislators make.

DR. ROSENTHAL: Well, let's just take that, because I was thinking a little bit about that, and you know, play it out. You can play that out so that-- In other words, counting not-- Getting rid of the generic, so that if I'm a university professor in the Legislature and something has the effect of increasing Rutgers' budget, I better disclose.

Now, that means you've got to be attentive to all of the legislation coming through, because conceivably you might benefit from something, and you don't know about it; I mean, something that isn't completely obvious to you, right.

Suppose you're a municipal official, suppose you're a mayor? What are the conceivable conflicts between you're being mayor of New Brunswick and legislation?

MR. BURSTEIN: Urban aid.

MR. COLE: Any urban aid bill.

DR. ROSENTHAL: And maybe other stuff, as well.

MR. BURSTEIN: Sure. But urban aid has certainly been a generic benefit.

DR. ROSENTHAL: I guess what I'm suggesting is that you're going to be spending a lot of time--

SENATOR DiFRANCESCO: Staff time. The staff will do it.

DR. ROSENTHAL: Staff time.

SENATOR DiFRANCESCO: Staff will wind up telling you when you might have a--

DR. ROSENTHAL: Hiring more staff and more lawyers to, you know, kind of warn you to declare.

MR. STANTON: But you have a--

DR. ROSENTHAL: That may be a better-- A blanket declaration for everything.

MR. STANTON: I mean you have a quick reference with the Legislative Digest. The Legislative Digest has it by category. I mean, I used to pick a few moments to look at the Legislative Digest every time it came out. There are things in the category that I might be interested in.

MR. BURSTEIN: The trouble is, those things--

DR. ROSENTHAL: But you could still miss things.

MR. STANTON: My people who work for me, work to be careful, look out for some things. You have a short synopsis of the bill, and then you have to go dig a little bit more to find out. But I mean, it's not as though you have to read--

MR. COLE: Alan, what does that give us? Assume that everybody had to disclose about every other income, what do we gain by having them do that?

DR. ROSENTHAL: I don't know.

MR. BURSTEIN: I think there are certain areas, however, that are, perhaps, a little more problematic. Getting back to the series of pieces that were in The Bergen Record some months back, where they showed--

SENATOR ORECHIO: Were you in that? (referring to Senator DiFrancesco)

MR. BURSTEIN: No, Donny was out of that, I think. I don't recall anymore.

MR. STANTON: This is the bank charters?

MR. BURSTEIN: There were certain legislative actions, and either during the course of them -- it depends on the skew of the bill -- or after the bill was adopted -- I don't recall which now -- the legislator who either sponsored the bill or was the prime mover of the bill had been doing business with whoever the beneficiary was of the legislation. Now there you get a little more narrow a problem, it seems to me, and what the disclosure ought to be in those circumstances, I'm not sure about. I think that problem exists.

And it has also to do with lawyers who represent developers who are affected by wetlands, or environmental legislation. How far should they go in the disclosure phase of things?

DR. ROSENTHAL: Beyond sponsorship--

MR. BURSTEIN: Beyond--

DR. ROSENTHAL: You're talking about sponsorship, or any kind of--

MR. BURSTEIN: Beyond sponsorship or just voting on legislation.

SENATOR DiFRANCESCO: The primary thrust and actual, you know, obligated to throw this at it, is that the legal profession-- You know, you could be a lawyer and represent certain kinds of clients, completely different than another lawyer representing other types of clients, different than a dentist who does one basic kind of thing.

So if I had a law practice, and I had three or four clients but they were all insurance carriers, I think the thrust of the argument is that ought to know that your law practice is substantially based upon doing, let's say, defense work for insurance companies, or work for developers, whatever that means, or workers' compensation work, where it's a substantial part of your practice. I think that was the gist of what I gleaned from the articles; that the public ought to know. And it's not shown on the financial disclosure statement, because we only say that I derive income from a law practice, and you give the name of the law practice.

The problem with identifying specific clients -- I think Paul Contillo brought that up -- I think becomes a problem of Supreme Court rules.

MR. BURSTEIN: Well, not only that, but also the matter of confidentiality, and the client, and this we discussed--

SENATOR DiFRANCESCO: Suppose you're a matrimonial attorney, you know, and you're--

MR. COLE: Or a client may have consulted you to look at the possibility of a lawsuit in confidence.

DR. ROSENTHAL: It seems to me that it is difficult to have, in the ongoing process, people constantly declaring that there may be a conflict of interest given the pace of the process, the volume of legislation, considering, you know, leaders who are scheduling bills for the board. You know, I mean, everything that they touch, you know, may be conflict.

So, it would seem that you may have to get to this through disclosure through the regular disclosure form. Then what is the possibility of legislators being advised to disclose categories of interest that they may have that might potentially produce, with regard to one or another piece of legislation, some conflict? So that the disclosure is there. .

In addition to income, somebody who thought there might be a problem would disclose, I work for real estate. I represent real estate companies, to get at the--

MR. BURSTEIN: Yeah, but then it becomes a matter of definition. I enjoy the theater. There is a bill that comes up to provide money for the arts in the State of New Jersey. Do I have to disclose the fact that I go to the theater often, or that I have friends in the theater?

DR. ROSENTHAL: No.

SENATOR ORECHIO: Unless you act.

DR. ROSENTHAL: You are employed by, have clients who are, or derive income from people who might be affected by legislation.

MR. BURSTEIN: But I think that really raises the larger issue of what influences are brought to bear upon a legislator when they vote? And in my opinion, frankly, they go far beyond these very narrow issues that we're talking about. You could have friends who are in a particular industry--

DR. ROSENTHAL: Oh, absolutely.

MR. BURSTEIN: --who could -- off the record -- who could influence--

MR. STANTON: Relatives.

MR. BURSTEIN: --your vote on this specific issue; has no relationship to disclosure or whatever.

DR. ROSENTHAL: No, no, I'm just suggesting that there may be a conflict, and you were declaring there may be an appearance of a conflict, but I feel that I can handle the position. But I want it stated there may be the appearance, and I am recording that. For example, I would-- If I were in the Legislature, I would declare that I am a university professor, and therefore I could benefit from budgetary increases for the university, any part of which might be used for salary increases, but despite, you know, being in that position, I think I can vote objectively, and I'd put that on my declaration statement, so it's out there.

And that would cover the most egregious conflicts for me. You know, there might be other ones.

SENATOR ORECHIO: Alan, you--

MR. COLE: What do you do if you're a lawyer, Alan, and you have several hundred clients; each may have 12 or 15 different interests and you may only represent them in one aspect of their business, but other aspects of their business may be as important or more important to that particular client--

DR. ROSENTHAL: Sure.

MR. COLE: --and you want an ongoing relationship?

MR. BURSTEIN: Tom was talking about looking at the Legislative Index in the banking section.

MR. STANTON: Yeah.

MR. BURSTEIN: Lawyers would look starting with A and going to Z.

MR. COLE: You just follow the Index.

MR. STANTON: Well, I mean banker is a jack of all trades, master of none. I mean, there's practically no aspect of commerce you don't touch if you're in the banking business law, from the smallest consumer issue to the largest corporations.

SENATOR ORECHIO: Alan, we're talking now about a declaration if you're going to vote on a bill. If you abstain on the bill, there's no explanation necessary, right?

MR. COLE: The abstention may be--

DR. ROSENTHAL: Well, an abstention is--

MR. COLE: the right vote for the interest involved.

DR. ROSENTHAL: --could be the equivalent of a vote.

SENATOR ORECHIO: Talk about the conflict of interest, I'll give an illustration wondering what the reaction would be. And this is actually something that happened in one of the cases. Somebody -- because of a unique qualification, or because this person or company had equipment that he was part of -- for 12 or 15 years did work for the State. He now becomes a legislator, and he's the only bidder to provide this service. Should he be exempt from bidding on that State business?

SENATOR DiFRANCESCO: Prohibited, you mean?

SENATOR ORECHIO: Yeah.

MR. COLE: Isn't there a provision of--

SENATOR ORECHIO: Pardon me.

MR. COLE: Isn't there a provision in the statute covering--

SENATOR DiFRANCESCO: It's publicly bid, you know.

SENATOR ORECHIO: Yeah.

SENATOR DiFRANCESCO: That's covered. You know, you can do it. The problem arises if it's not a public bid.

MR. BURSTEIN: Yeah.

SENATOR ORECHIO: And there's only one bidder. Professional service; expand that a little.

MR. COLE: Well, if it's publicly bid, even if there's one bidder--

DR. ROSENTHAL: Sure.

MR. COLE: --it's still a public bid.

MR. BURSTEIN: Was it--

SENATOR ORECHIO: We did the right thing. (laughter)

MS. HOCHMAN: Well, if it's-- In terms of the way the-- The law provides that any contract in excess of \$25 is generally proscribed, except under certain circumstances. And one of those circumstances is where it would be competitively bid. And in that case, the legislator who had the business, or whatever, who wanted to compete, would have to get the approval of the Joint Committee prior to bidding, and then prior to accepting the award. Normally, that's the way--

SENATOR DIFRANCESCO: I'm not sure I agree with that, by the way. I'm not sure that a legislator, once he becomes a legislator, should have contracts with the State, public bid or otherwise. If we're talking about this perception that they're talking with a lawyer--

SENATOR ORECHIO: So the legislator has to give up his interest, huh?

SENATOR DiFRANCESCO: Hey, you don't have to run for office.

SENATOR ORECHIO: Well, you should stop practicing law then. You're a legislator.

MR. COLE: We'll have a very small--

SENATOR DiFRANCESCO: I don't do work for the State of New Jersey. I don't practice law for the State of New Jersey. I can't even practice law against the State of New Jersey.

MR. COLE: If you can't practice against the State you might as well practice for. (laughter) Keep narrowing the universe from whom the pool of candidates can be selected. I mean, very few major contractors, construction contractors could exist without some kind of State highway work or DEP work

or some other kind of work. You'll take them out of the equation, I guess you could take car dealers out of the equation.

SENATOR DiFRANCESCO: Labor leaders.

MR. COLE: Labor leaders out because they work on public buildings.

SENATOR DiFRANCESCO: I like this, this is--

MR. COLE: We get down, and we will be lucky to have retirees, because some of their pensions--

SENATOR DiFRANCESCO: Strictly wealthy people.

SENATOR ORECHIO: We'll have to go to nursing homes to select people to serve.

MR. BURSTEIN: We may have to do away with the Legislature entirely.

MR. STANTON: Well, look what happened when they came out with the regs on casinos. Anybody who had anything to do with the State could not do business with a casino. Literally hundreds of people resigned from boards all over the State, in the most obtuse ways; State college boards and everything else. It was a wild scene. And that was finally changed.

SENATOR DiFRANCESCO: Al, did you sponsor that bill?

MR. BURSTEIN: I'm sorry?

SENATOR DiFRANCESCO: Did you sponsor that one?

MR. BURSTEIN: Which one? Oh, that one. No, that was the craziest bill I ever heard.

MR. COLE: The initial conflicts bill drove all of the--

MR. STANTON: Took 38 people from my bank's firms.

MR. COLE: --from large firms--

SENATOR DiFRANCESCO: Yeah.

MR. COLE: --law firms out of the Legislature, because under that bill they cut out their State practice, their tax practice.

MR. BURSTEIN: Exactly.

MR. COLE: Everything else. And the Chief Justice was the most notable to resign, but that eliminated a substantial segment--

SENATOR DiFRANCESCO: He might not be Chief Justice if he didn't do this. You never know how these things work out.

DR. ROSENTHAL: Well, I guess we have had good discussion.

MR. BURSTEIN: Well, we solved that problem.

SENATOR DiFRANCESCO: What did you resolve? What did you conclude?

DR. ROSENTHAL: We don't have to resolve it yet.

SENATOR DiFRANCESCO: No, but it sounded like you're talking about moving towards a more expansive financial disclosure form.

DR. ROSENTHAL: No, I was just--

SENATOR DiFRANCESCO: I mean, that sounds like that easy way to do it.

DR. ROSENTHAL: I don't know.

MR. COLE: What about public participation on the Ethics Committee? I don't have any problem with that. And that could be financial or the legislative--

SENATOR DiFRANCESCO: I think that's a give-me, Mike. I think that's a give-me. The question is, how many?

DR. ROSENTHAL: That's come up a number of time.

MR. BURSTEIN: How many? And then, what happens with the mechanism itself? In other words, how regularly are they going to meet? Is the public member going to feel as if they're a useless appendage?

SENATOR DiFRANCESCO: Well, maybe they ought to control it. Maybe there should be more members than legislators.

SENATOR ORECHIO: Isn't that the same as the executive ethics body?

MR. BURSTEIN: I don't know that we can do anything about the executive side.

SENATOR ORECHIO: We can write a law and proscribe it, couldn't we?

MR. BURSTEIN: Subject to veto, of course.

SENATOR DiFRANCESCO: They're not doing much about the executive side these days.

SENATOR ORECHIO: We wouldn't do it now.

MR. COLE: Well, you know there's been another aspect on that, is who represents that committee. That's been a debate that's been ongoing, I guess, for eight to 10 years. At the executive branch level, whether the AG should represent that committee, or whether they should have independent counsel. I think there were bills kicking around. I think Zimmer had a bill a few years ago on that. And I guess OLS now provides representation, Marci, to the Legislative Ethics Committee.

MS. HOCHMAN: By statute the Legislative Counsel in the Office of Legislative Services serves as the legal counsel for the Joint Committee.

DR. ROSENTHAL: Well--

MR. COLE: Does anybody have a problem with that?

MR. BURSTEIN: I don't think so.

MS. HOCHMAN: One of the other last things that does come up from time to time is a problem we touched on a little bit before, would be whether legislators should be allowed to accept gifts from lobby groups, or from anybody who might have an interest in legislation. That's another criticism that arise from time to time.

MR. COLE: Do you have a De minimus level?

MS. HOCHMAN: That would be something for the Commission to decide.

MR. STANTON: You know, a great many corporations have addressed that, and put a dollar amount on it, or De minimus,

as you say. I think in our bank it's \$50. You know, like at Christmas time people who are tellers and people like that, they get all kinds of things; a bottle of whiskey or something like that. The regulators, at one point were going -- you know, nothing. But we finally got around-- I think it's \$50. Maybe it's a little higher. But we put a dollar amount.

SENATOR DiFRANCESCO: Which is only worth 25, according to John.

MR. STANTON: Yeah, something like that, yeah.

MR. BURSTEIN: If one teller got a lot of gifts, I would worry about that one teller. (laughter)

MR. STANTON: Listen, you go in there at Christmas time, some banks, you'll see all the stuff that's behind those windows. But they're not influencing the bank's policy. But, you know, a lot of companies do have that in written policy. It is a written policy at our bank.

DR. ROSENTHAL: Any further discussion? (no response)
I guess we will adjourn a little early today and come back in two weeks.

(HEARING CONCLUDED AT 12:20 p.m.)

APPENDIX:



NJPIRG

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**TESTIMONY BEFORE THE AD HOC COMMISSION
ON LEGISLATIVE ETHICS AND CAMPAIGN FINANCE
Presented by Rob Stuart, Program Director
June 20, 1990**

Good morning, my name is Rob Stuart, I am the Program Director of the New Jersey Public Interest Research Group. NJPIRG is the state's largest non-profit, non-partisan environmental consumer and good government research and advocacy organization with over 70,000 members. On behalf of our members and contributors, I want to thank the Commission for affording me the opportunity to present our views on the timely and important subjects of legislative ethics campaign finance reform.

Representing a public interest organization whom has worked in the legislature on a variety of issues including voter rights and campaign finance reform, my experience for the last seven years has been both as a lobbyist operating under our current system as well as an advocate for critical reforms which we believe will ultimately strengthen our representative system.

The most important thing I can say this morning is that the public understands that there are problems in the area of legislative ethics and campaign finance and the people are ready to support reform. Specific proposals have been introduced for sessions and were reiterated last hearing; I will mention a few later in my testimony. The time for discussion is past, it is now time to act.

Members can disagree over the extent the problem, whether it is the fault of the lobbyists, legislators, the press or groups like ours. Blame, shame, fault, we can all have our opinions as to where it rests, I would hope the commission focuses its energy on how we restore and protect the public trust of our representative system and how we increase the involvement of enlightened and active citizens. I used the word restore because our experience on doorsteps across the state night after night tells us some people have lost confidence in their elected officials and in their government. Public opinion polls may provide a snap-shot view of public discontent, though what this commission must address is the eventual decline in public respect of the institutions and thus the laws of our state if this dissatisfaction is continued to be fed with reports of unethical behavior and campaign spending practices which only serve to turn people off to government.

NJPIRG believes the time is right for New Jersey to take new strides toward reforming our campaign finance practices and restoring the public trust in the ethical sensitivity of the legislative members. Full disclosure of lobbying and expenditures will expose and isolate problems. Contribution limits, spending limits and public financing for legislative races will address concerns that the legislature is for sale and spends all its time on the market. New political action committee registration and reporting will shed much needed light on who is influencing our government and why. Finally, an enforced code of ethics on the state, county and local levels will not only prevent potential abuse it may encourage more citizens to seek such offices.

The reforms you recommend should not only be considered for the effect they will have in the next election they should be put in place for the

next generation. It is important to the strength of our democratic system that young New Jerseyians respect their government officials and hope that they may aspire to be one. Reports of personal private ambitions driving public policy and the outrageous amounts of money spent to finance largely negative elections choke and chill participation of publicly spirited individuals. Some won't develop public spirit. Those that do will go to interest groups, to charities, to socially responsible businesses, and they probably will not see a value in casting their vote.

We meet people everyday who do not think government and specifically the legislature care one whit about their problems and do not think writing a letter or signing a postcard on a particular issue will make one bit of difference. In most cases, we believe those people are wrong, otherwise we would not do the work we do. The recommendations put forward by this commission and adopted by the legislature and the Governor should establish a system which proves them wrong time after time.

NJPIRG has endorsed the package of reform legislation introduced by Assemblyman Schluter and Senate President Lynch. We echo calls made last session by Common Cause for contribution and spending limits as well as full legislative and lobby disclosure. Finally, we share the concern raised by ELEC and others that the funding of the agency responsible for enforcing these important government protections not be subject to possible political whim or tight budget years. Thus we would suggest the commission review the possibility of political committee registration fees and a PAC tax on revenue raised and spent as a viable stable funding mechanism for this important agency.

In conclusion, NJPIRG encourages this commission to act in a dramatic fashion to address the serious issues facing our legislature and our state. By weighing the long term risk of maintaining the status quo versus the short term and long term public spirit benefit of reform, we trust you will act to recommend changes that protect the virtue of our representative system. Our organization looks forward to your recommendations and stands ready to help in any way the commission may request.

Testimony Presented To:

ADHOC COMMISSION ON LEGISLATIVE ETHICS

AND CAMPAIGN FINANCE

Room 334 - State House Annex

Trenton, New Jersey 08625

June 20, 1990

By: John M. Torok

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OUTLINE

- I. Preface
- II. PAC History
- III. Charges Against PACs
- IV. A-2598
- V. ACR-53
- VI. S-2343
- VII. Reform

Mr. Chairman, members of the Commission, my name is John Torok and I am president of The Torok Group, a North Brunswick based firm. The Company represents a number of clients before the New Jersey Legislature. Additionally, we have been in the forefront of political action committee (PAC) development. I have served as Chairman of the PAC Roundtable and have over the past twenty years, served as an advisor to most of the major PACs that are operational in New Jersey. With one of these entities, the New Jersey Dental Political Action Committee, we have a contractual relationship to manage them. Part of that contract provides that I serve as its Executive Director. It is in that capacity that I will respond to testimony previously given before this Commission by Assemblyman Schluter. However, before I do so, I hope you will give me the opportunity to talk about campaign financing and PACs in general.

I. Preface

Almost everyone agrees that there is a problem with the current system of campaign finance, but there is far from a consensus about what the problem actually is, much less what should be done about it. Some say that the core difficulty is the growth of so-called special interest financing of electoral campaigns, a development represented by the rapid and spiraling growth of political action committees. They see PAC money as buying legislative favors and as a response, propose drastic limits on PAC contributions and/or the use of taxpayer money. Some would like to ban PACs all together.

Of all the resources of political power, none entices suspicion quite as surely as money. When the source of the money is different, well organized, and above all, widely thought to be politically effective, suspicion turns quickly to apprehension or even fear. That, in brief, seems to explain the preoccupation with PACs in the past two decades.

II. PAC History

PACs did not dent the consciousness of most until the late 1970s but they had existed for almost fifty years before then. Throughout the history of political action committees, those three words have been used with a certain looseness. It is not uncommon for the phrase to be used synonymously with "lobbyist" or "interest group."

In 1907 Congress enacted the Tillman Act which prohibited direct contributions to candidates or parties by national banks and corporations. During World War II, the prohibition against the direct use of funds was extended to labor unions. The Congress of Industrial Organizations (CIO) responded almost immediately in 1943 with what most agree was the first PAC. With the merger of the American Federation of Labor (AFL) and the CIO in 1955, the AFL-CIO created its Committee on Political Education (COPE). This PAC became the model for all political action committees. PACs which have been developed by corporations and trade and professional associations date only from the late 1950s and 60s.

PACs really started to grow in the 1970s in part as a result of the diminished role of political parties. Most will agree that the real stimuli was Watergate and the abuses it spawned. In response to these abuses, Congress passed the Federal Election Campaign Act (FECA) in 1971. It was the first comprehensive regulation of campaign finance since the 1920s.

III. Charges Against PACs

The rapid growth of PACs has engendered strong criticism, yet many of the charges are exaggerated and dubious. While PACs are relatively new, special interest money has always been involved in politics. Prior to the reform of the 1970s, contributions took place in less traceable and far more disturbing and unsavory ways. While PACs contribute large sums to candidates, it is not altogether clear that there is proportionately more special interest money in the political system than before. James Madison, in the Federalist Papers, explained that interest groups will always play a substantial role in United States politics. The health of the American Democracy is dependent on active and diversified interest group participation. Theoretically, as long as many interest groups are active they will check one another, and none will dominate the system. PACs are a product of the development of group politics in our democracy, not the culprits which created what is called fragmented "special interest" politics.

PAC critics claim that political action committees are the reason that it is more expensive to run for office. Yet, according to Assemblyman Schluter's testimony of May 16, 1990 before this Commission, the average contribution to a legislative race in 1987 was "\$936.00." Mind you, he didn't say this average contribution of \$936.00 came only from political action committees. So in reality, a portion, maybe a substantial portion, of these monies came from individual contributors. Mr. Schluter went on to say that, "It is not unusual in a tightly contested legislative race for each side to spend over \$300,000." \$300,000.00 is far less than the annual advertising budget of a cosmetics company promoting the right shade of lipstick. Simply put, it is expensive to communicate these days, irrespective whether the message is political or commercial. Polling, electronic media time, direct-mail pieces, campaign consultant fees and other campaign expenditures have soared. Television advertising costs have increased an average of four times the consumer price index in the last two decades, and between a third and a half of every dollar raised, is devoted to producing and airing campaign commercials.

The cost of campaigns was best exhibited in a 1989 Assembly candidate's fundraising letter:

"In order to continue as an effective representative in Trenton, I am seeking your financial support. I must build up my treasury in order to pay campaign obligations throughout 1989. Contributions will also enable me to pay other on-going expenses connected with being an effective

legislator—to attend conferences, to be present at political functions throughout my district, to communicate more extensively with constituents, and to lend individual support in heavily contested races throughout the State.

"With the filing of a democratic opponent in the September 20th deadline, I have geared up to run an aggressive, vigorous campaign. Through this effort, I expect to establish an even stronger presence representing the 23rd District. And this means money for signs, leaflets, direct mail—the typical expenses of a re-election campaign."

The candidate that wrote that letter was Assemblyman Bill Schluter.

Again in 1989, Mr. Schluter mailed out pledge cards (see Appendix #1), it said, "I am enclosing a contribution to the Committee for Bill Schluter. I support Bill Schluter—Republican Assembly candidate in the 23rd District." Below that were check off boxes for \$100, \$250, \$500 and other amounts. I find that interesting considering the letter and pledge card was sent to a lobbying representative of a so-called special interest organization. Mr. Schluter testified on May 16, 1990 before this Commission that, "when the need for campaign funds increases, the most popular source to tap—the source that finds it almost impossible to say NO—is the lobbyist, and contributions from special interest lobbies do not care without a price." Now I believe Mr. Schluter to be a honest man,

a man with integrity. However, I'm left with the impression that he'd really like you to believe what he says, rather than what he practices. Perception has been, and always will be, the problem in soliciting dollars for political campaigns.

I firmly believe that the current campaign expenditures are not out of sync with today's economy. A \$1,000.00 contribution to a candidate is currently worth only about \$530.00. Yet, while the buying power of the dollar has decreased, the costs of many of the things campaigns have to buy have increased dramatically, surpassing the rising cost of items on which the Consumer Price Index is structured.

More and better communication is required between candidates and an electoral that are, all too many times, horribly uninformed and who consequently fail to vote. Let me give you an example of voter turnout for the 1987 state legislative races in several municipalities.

Alexandria	36.2%
Bethlehem	43.8%
Califon	45.3%
Clifton Township	32.0%
Flemington	35.8%
Readington	31.1%
Chester Township	30.1%
Mt. Arlington	30.0%
Washington Township	31.0%

All of these municipalities are within the 23rd Legislative District which Assemblyman Schluter represents. The overall turnout for his district in 1987 was a miserable 40.5%.

There can be any number of reasons for low turnout. The candidates could be simply boring or the candidates may not have effectively utilized all of the resources available to them, thus not able to reach the maximum voters. There is no result producing way to market a product or a candidate's platform without expending money. Marketing is most effective when, among other things, it is repeated. It is that repetition that is costly.

The most often and serious charge directed at PACs is that they succeed in buying the votes of legislators on issues important to their respective constituencies. But the "vote-buying" charge is generally not supported by facts. PAC contributions do make a difference, at least in securing access, but those accusations are not nearly as frequent as anti-PAC spokesmen suggest. Current campaign abuses and unethical conduct in Washington, D.C. cannot be traced to PACs. Charles Keating did not use PACs to exert the influence of savings and loans on members of Congress, nor were those dollars publicly disclosed and reported as are PAC dollars. Keating's contributions were channeled through state and local political party committees. U. S. Senator David Durenberger, currently under investigation by the Senate Ethics Committee, accrued hundreds of thousands of dollars through book sales to various groups - this activity did not occur through a PAC. Yet Congress, as well as some in this state, has singled out PACs as the culprit for these and other failings of the system, and wants PACs eliminated, or at the very least, severely restricted.

The most overriding factors on how a legislator votes, includes party affiliation, ideology, issues generated by the media, and constituents' needs and desires. If party loyalty can have a stronger pull than a PAC contribution, then surely the views of a legislator's constituents can also take precedence over those of political action committees. If an incumbent is faced with the choice of either voting for a PAC backed measure that is very unpopular in his or her district, or rejecting the PAC's money, I would venture to say that any politician who depends on a majority of votes to remain in office is going to side with his constituency. Witness the recent action by the New Jersey Legislature when it moved against the position of the National Rifle Association (NRA). Clearly, State polls were saying that the vast majority were opposed to the NRA's position. PAC contributions are a means to an end: re-election. If accepting money will cause a legislator embarrassment, then he will simply reject it. If a PAC's parent organization has many members such as the COPE of the AFL-CIO, the legislator is much more likely to vote the PAC's way - not because he receives PAC dollars, but because the parent group accounts for an important part of his electorate.

IV. A-2598

In Assemblyman Schluter's testimony of May 16, 1990 (revised May 22, 1990), he gave as a "case study" the relationship of political money and legislative votes as it related to the vote on A-2598. A-2598 passed the General Assembly with 47 votes in favor, 11 opposed, 15 abstentions, and 6 absent (1 vacancy in the Assembly, see Appendix #2).

The bill provides for the establishment of an internship program for the training of registered dental assistants and limited registered dental assistants. The bill directs the New Jersey State Board of Dentistry to develop and monitor satisfactory internship programs. As Mr. Schluter indicated, dental assistants and hygienists were opposed to the bill. Supporting the measure are such respected organizations as the:

- New Jersey State Board of Dentistry
- New Jersey Academy of General Dentistry
- New Jersey Association of Orthodontists
- New Jersey Podiatric Medical Society
- New Jersey Pharmaceutical Association
- New Jersey Dental Laboratory Association
- New Jersey Optometric Association, and the
- New Jersey Dental Association.

Let me correct a misstatement by Mr. Schluter. He stated that, "the dentists' PAC favors the measure." The New Jersey Dental Political Action Committee is not a lobbying unit and, therefore, takes no positions on legislation. The New Jersey Dental Association (NJDA) is the lobbying arm of the dental community in New Jersey. To my knowledge, the only political action committee in the state that is not only a PAC, but is also a lobbying unit is LEGAL.

Mr. Schluter's so-called case study does not state a conclusion. He only talks about a "perception problem." Obviously, his own misperception.

Let me say that A-2598 was not, and is not a "core issue" to the dental community.

Mr. Schluter's "study" covers only contributions made by NJDPAC from April 1, 1989 through March 31, 1990. Obviously, this was an arbitrary and maybe a convenient time span established by Mr. Schluter. NJDPAC's disbursement for the 1989 state legislative races began much earlier than April 1, 1989. A closer review of the NJDPAC State filings would have shown that a number of legislators who either voted no, or who abstained on A-2598 had received NJDPAC contributions. What Mr. Schluter conveniently neglected to tell this Commission, is that A-2598 was the second attempt by the dental community to pass such a measure. An identical bill (A-4653) had been introduced during the 1988-89 session. The bill passed the Assembly in 1989 by a vote of 55 to 9 with 16 no votes (see Appendix #3). However, the bill failed to move through the Senate and died there.

Interestingly, when one compares the voting record of both bills, and specifically analyzes switch votes, you discover some startling data. The average contribution of those who switched their vote from yes in 1989 to no in 1990 was \$727.00. Whereas, the switch from no to yes averaged out to only \$300.00. There are sixty six (66) Assemblypersons who currently serve in the Assembly that were also there during the 1988-89 session. Using those 66 individuals, and comparing both of their votes, we find that there were 14 negative vote changes from the 1989 to the 1990 vote, and only 5 yes (positive) vote changes.

Using Mr. Schluter's data, sixteen Assemblypersons abstained during the 1990 vote. I need not remind this Commission that when you are attempting to move legislation, an abstention is a negative position. NJDPAC's average contribution to these 16 individuals works out to \$461.00.

Using Mr. Schluter's statistics, he claims NJDPAC contributed \$24,500.00 to various party committees. These committees in turn contributed to legislative candidates. I'm sure that they contributed to candidates that voted yes on A-2598 as well as to those that voted no. Contributions were probably also made by those committees to non-incumbents. Some of these challengers NJDPAC supported, some they probably didn't. In reality, Mr. Schluter's case study doesn't offer a conclusion, because none can be made from the arbitrary and abstract data he based his analysis upon.

Also, let's not forget the bill is currently in the Senate. Only time will tell if it passes that House, or meets the same fate as A-4653.

V. ACR-53

Two recent legislative actions that could be called "core" issues for dentistry, were the Initiative and Referendum (I & R legislation of 1986 ACR-53) and the Medical Waste Legislation (S-2343) of 1989. With both bills, the New Jersey Dental Association (NJDA) felt that there was a direct and critical impact on dentistry and the dental consumer.

With respect to I & R, the concern was that critical health issues would be debated and resolved via the ballot box. The ACR-53 had been drafted so that virtually any issue could be placed on a November ballot.

Ninety some entities shared NJDA's concern and a Coalition was formed. Among the prestige organizations that comprised the Coalition, were the AFL-CIO, the New Jersey Business and Industry Association, and the New

Jersey Education Association. It was estimated that the Coalition represented hundreds of thousands of New Jerseyans. Additionally, many of the organizations had very active political action committees. If a review was made of the State filings for these PACs, you would discover that almost every Assemblyperson had received some type of contribution from one or more of these political action committees. Yet after saying all of that, the official record for ACR-53 shows it having moved through the Committee process and onto the Assembly floor during the first six months of the session. A vote was taken on June 12, 1986, and quite simply put, the Coalition lost. The bill passed the Assembly 41 to 36 with 3 abstentions (see Appendix 4). If Mr. Schluter wanted to present a "case study," ACR-53 would have been the perfect example. But of course he didn't use it as an example, because all the classic anti-PAC innuendos would not have applied.

The I & R Legislation was introduced by the then Assembly Republican Majority. The proposal was part of their platform pledge. They wrongly, in my opinion, perceived that the proposal was supported by a vast majority of the population. As I said earlier, any politician who depends on a majority of votes to remain in office is going to side with his constituency. That's what the Assembly Republicans thought they were doing when they expedited the bill through their House.

VI. S-2343

The second "case study" that could have been used was the Medical Waste legislative battle of 1989. Because of the repeated wash-up of medical and other waste along the Jersey shore in 1988, and because of strong environmentalist pressures to clean up the environment in general, S-2343 was introduced.

The New Jersey Dental Association (NJDA) concurred with the general concept of the legislation, though it strongly disagreed with several provisions of the bill. They were especially concerned with a section which called for strict liability for the generator. In addition, NJDA was opposed to the fines that are \$50,000 per day per occurrence. The Association further opposed the lumping of all generators, irrespective of size, together for annual fee purposes. It further sought an amendment to establish a small generator category.

A number of other health and consumer organizations including, but not limited to the New Jersey Hospital Association, the New Jersey Podiatric Medical Society, the New Jersey Veterinary Medical Association and the New Jersey Funeral Directors Association formed a Coalition. As in the previous case, the Coalition represented quite a large constituency. Also, almost every organization had a political action committee associated with it. Yet the legislative record shows that S-2343 passed the Senate 39-0 and the Assembly 74-0 with none of the amendments that were sought (see

Appendix #5). In other words, unanimously. Again, I feel that the legislature voted for what they felt was the consensus of the larger constituency. In their opinion, the Medical Waste Coalition though substantial in number, did not represent the majority viewpoint.

VII. Reform

PACs are both natural and inevitable in a free, pluralist democracy. In fact, the vibrancy and health of a democracy depends in large part on the flourishing of interest groups and associations among its citizenry.

The appearance of corruption can be as damaging to the political system as the reality because it may have the same staining effect on the body politic by increasing public cynicism and alienation.

There is an obligation on the part of society's watchdogs—the news media—to be responsible in exercising their critical oversight function. A public service that is all too rarely performed is distinguishing between real and apparent corruption for a generally inattentive citizenry that is readily inclined to believe most bad things about politicians.

It is an irresponsible use of influence to unnecessarily add to public cynicism by labeling acts corrupt when they are not. At least, therefore, public overseers have an obligation to refrain from using publicity generating rhetoric or making unsubstantiated charges. I have been amazed

over the years to see which legislators have called for reform or for the demolition of political action committees. Normally, they have been legislators that come from safe districts, where opposition is minimal or even nonexistent. We have even seen former legislators who, while they were in office, raised and distributed substantial dollars and who after leaving office became, a modern day St. Paul, on the road to Damascus.

Campaign reform should be founded on three principles of fair campaign practices.

First, changes in the election laws should have as their purpose stimulation of citizen participation in election campaigns through volunteer assistance to candidates and informed voting. The value of proposed changes should be measured by their capacity to broaden citizen participation in the electoral process.

Second, campaign law should mandate full financial disclosure by both candidates and contributors, thereby assuring that candidates will be accountable to the public for the extent and sources of their funding.

Third, campaign law should be impartial, favoring neither incumbent nor challenger, but treating both equitably. Changes to current law should be designed to correct inequities that now provide undue advantages to incumbents.

PACs serve a vital institutional function in broadening citizen participation in the political process. Their capacity to contribute to election campaigns is directly dependent upon their ability to involve their citizen members; to convince them that they have a stake in, and responsibility for, the electoral process, that election results directly affect them, and that it is their duty to be informed of the candidates' positions on the issues. Accordingly, I believe that changes to campaign finance should preserve and encourage this legitimate and valuable method of citizen involvement.

In regard to campaign reform, I offer the following observations and proposals:

- Many critics of the election system maintain that campaigns have become too lengthy and that fundraising places inordinate demands on the time of part-time officeholders. In order to address these problems, contributions to candidates for the state legislature from all sources (including PACs) should be restricted to the current election cycle, and a brief period following the general election for campaign debt retirement.
- Both campaign contributors and recipient candidates should be held fully accountable for the flow of campaign funds. Currently, some contributors may give to so-called "leadership or POL PACs" which redistribute funds to other candidates. This practice raises questions of undue influence. Such practices may also drive up

overall campaign spending levels. These problems may be addressed by limiting each candidate to a single authorized political committee which can make expenditures relating only to the office for which the candidate has declared. Candidates should not be permitted to control additional political committees nor disburse monies given to their campaigns to other candidates for elective office. In Assemblyman Schluter's October 1989 campaign fundraising letter he encouraged such a practice when he spoke about his needing contributions in order, "...to lend individual support in heavily contested races throughout the state." Mr. Schluter has no legal obligation at any time to announce, advise, nor to obtain a consent from contributors to his campaign with respect to the spending of those dollars. It is highly plausible he in turn made contributions to candidates that his contributors were totally opposed to.

- Candidates should be required to eliminate their campaign treasury at the end of each campaign. A review of the New Jersey Election Law Enforcement Commission records will indicate a number of incumbents that are sitting on huge reserves of dollars. Clearly, this places a challenger at a funding disadvantage. The challenger in all probability will start his fundraising efforts in the election cycle he chooses to run for office. Whereas, the incumbent has had a number of election cycles to raise his dollars. What I'm suggesting, is starting the race at the same time for both incumbent and challenger. Similarly, any person who raises funds to run for

office but who ultimately withdraws from the race should be required to dispose of any unexpended funds in a defined manner. No personal use by any candidate of unexpended funds should be permitted. The statutory definition of "campaign expenditure" should be refined to eliminate ambiguities and to prohibit current expenditures.

- Some charge that sources of campaign funds have fallen out of balance, with a disproportionately greater share coming from PACs and a correspondingly lesser share from individuals. Reducing the participation of PACs in the process is not an appropriate response. Rather, this Commission should consider appropriate state tax credits for certain contributions. The credits should be available for contributions to candidates and to appropriate party committees. Incentives for voluntary campaign contributions are vastly preferable to taxpayer financing which, whether by voluntary check-off or other means, place a burden on all taxpayers and diverts revenues from other competing uses.

Additionally, I suggest:

- A prohibition on the use of legislative staff for campaign purposes. Penalties should be increased for such violations.
- That legislation be introduced that would mandate public debates for certain campaigns.

- The name of a political action committee should accurately reflect the industry or individual that it represents.
- All contributions made by a corporation to political campaigns or to legislative receptions should be filed quarterly with the New Jersey Election Law Enforcement Commission. Additionally, annual lobbying reports should be filed quarterly. Currently, quarterly reports reflect only the legislative agent's activity with respect to what bill has been worked on and which legislators have been contacted. It does not reflect financial activities of the legislative agent, nor the lobbying unit, nor whether monies had been given to legislators. All reports should be filed with one central agency. Presently, some lobbying reports are filed with the legislative agents' desk within the Department of Law and Public Safety, while others are filed with the New Jersey Election Law Enforcement Commission (ELEC). It is my opinion all should be filed with ELEC.
- There should be a prohibition on incumbent officeholders utilizing facsimile legislative letterheads. Presently, stationary which looks like official stationary can be used for campaign purposes, as long as it indicates that it was not paid for with public monies.
- Finally, I believe it's time for an in-depth study of whether or not legislators should be limited to the number of terms that they may serve. We are seeing the creation of an American monarchy in the

United States Congress. The House of Representatives' re-election rate is 98%. I regret to say, the New Jersey Legislature is not far behind. There currently exists only 10 out of 80 Assembly seats, that are somewhat competitive. In the Senate, possibly 5 out of 40 seats.

The dictionary defines influence as "power to sway or affect based on prestige, wealth, ability or position." In short, influence means power, the power to make things happen.

Unfortunately, the word influence has become synonymous with "influence peddling." That's unfortunate, because influence peddling means the inappropriate use of influence, either influence wrongly used, or used for personal gain.

In reality, influence is an indispensable part of everyday life. Used ethically, influence is a formidable skill. Without influence, organizations could not succeed, consensus and coalitions could not be built, and attitudes would never change.

The use of influence is itself no negative. It can often lead to a great good, like any powerful force - from potent medicines to nuclear power - it is the morality with which influence is used that makes a difference.

I want to thank the Commission for giving me the opportunity to appear before it today and to offer my opinions.



I am enclosing a contribution to the Committee for Bill Schluter. I support Bill Schluter
---- Republican Assembly candidate in the 23rd District.

\$100 \$250 \$500 Other

Please return this card, with your pledge, to the Committee for Bill Schluter, PO Box
2541, Flemington, New Jersey.

Many thanks for your support.

Paid for by: Committee for Bill Schluter, Adam Siodlowski, Treasurer

APPENDIX #2

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A-2598 Passed in Assembly 05-14-90 03:39 PM #221 Yeas: 47 Nays: 11 N/V: 21

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<N> Adubato	Y	Farragher	<N> LoBiondo	Y	Rocco
- Albohn	Y	Felice	- Marsella	Y	Roma
- Arnone	<N>	Ford	<N> Martin	Y	Rooney
- Baer	Y	Foy	- Mattison	<N>	Russo
<N> Brown	-	Franks	- Mazur	Y	Salmon
Y Bryant	-	Frelinghuysen	<N> McEnroe	Y	Scerni
- Bush	Y	Gill	Y McGreevey	<N>	Schluter
Y Charles	-	Hardwick	Y Mecca	-	Schuber
Y Cimino	Y	Haytaian	- Menendez	Y	Schwartz
Y Cohen	Y	Hudak	Y Moran	-	Shinn
Y Colburn	Y	Impreveduto	- Mullen	<N>	Shusted
<N> Collins	Y	Jacobson	- Naples	Y	Smith
Y Connors	-	Kalik	- Ogden	Y	Smith
Y Cooper	Y	Kamin	Y Otlowski	Y	Spadaro
- Crecco	Y	Kavanaugh	Y Pascrell	-	Stuhltrager
Y DeCroce	Y	Kelly	Y Patero	Y	Villapiano
Y Deverin	Y	Kenny	Y Pelly	-	Watson
Y Doria	Y	Kronick	Y Penn	Y	Zangari
Y Doyle	<N>	Kyrillos	Y Randall	Y	Zecker
Y Duch	Y	Littell	- Roberts	-	VACANCY

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APPENDIX #3

BSN:1382

NEW JERSEY ASSEMBLY

A 4653 3-RDG

1989 SESSION

09/28/89 07:47 PM

55 YEAS 9 NAYS 16 N/V

Y	ADUBATO	Y	FELICE	N	KYRILLOS	N	RILEY
Y	ALBOHN	X	FOY	Y	LITTELL	X	ROBERTS
Y	ARNONE	Y	FRANKS	N	LOBIONDO	Y	ROCCO
X	BAER	X	FRELINGHUYSEN	X	MARSELLA	Y	ROMA
Y	BROWN	Y	GENOVA	Y	MARTIN	X	ROONEY
Y	BRYANT	Y	GILL	Y	MATTISON	Y	SALMON
Y	BUSH	X	GIRGENTI	Y	MAZUR	N	SCHLUTER
Y	CHARLES	Y	HARDWICK	N	MC ENROE	Y	SCHUBER
Y	CIMINO	Y	HAYTAIAN	Y	MENENDEZ	X	SCHWARTZ
X	COLBURN	Y	HUDAK	Y	MILLER	X	SHINN
N	COLLINS	Y	IMPREVEDUTO	Y	MORAN	Y	SHUSTED
Y	CONNORS	Y	KALIK	Y	NAPLES	N	SINGER
Y	COOPER	Y	KAMIN	Y	OGDEN	Y	SMITH, J.
Y	CRECCO	X	KARCHER	Y	OTLOWSKI	X	SMITH, R.
Y	DECROCE	Y	KAVANAUGH	Y	PALAJA	Y	SPADORO
Y	DEVERIN	Y	KELLY	Y	PASCARELL	N	STUHLTRAGE
Y	DORIA	Y	KENNY	Y	PATERO	Y	VILLAPIANO
Y	DOYLE	N	KERN	Y	PELLY	Y	WATSON
Y	DUCH	X	KLINE	X	PENN	X	ZANGARI
Y	FARRAGHER	Y	KRONICK	X	RANDALL	Y	ZECKER

APPENDIX #4

BSN: 292

NEW JERSEY ASSEMBLY
ACR 53 3-RDG

1986 SESSION

41 YEAS 36 NAYS 3 N/V

06/12/86 04:49 PM

Y	ADUBATO	N	DORIA	X	KLINE	Y	RAFFERTY
N	ALBOHN	N	DOYLE	Y	KOSCO	Y	RANDALL
Y	ARANGO	Y	FELICE	Y	LITTELL	N	RILEY
N	AZZOLINA	N	FOY	Y	LOVEYS	Y	ROCCO
N	BAER	Y	FRANKS	N	MARSELLA	Y	ROONEY
Y	BENNETT	Y	FRELINGHUYSEN	Y	MARTIN	Y	SCHUBER
N	BOCCHINI	Y	GARGIULO	N	MAZUR	N	SCHWARTZ
N	BROWN	N	GARVIN	N	MC ENROE	Y	SHINN
N	BRYANT	Y	GENOVA	Y	MILLER	Y	SHUSTED
Y	CATRILLO	N	GIRGENTI	Y	MORAN	Y	SINGER
N	CHARLES	N	GORMAN	Y	MUHLER	N	SMITH, J.
Y	CHINNICI	Y	HARDWICK	Y	MUZIANI	N	SMITH, R.
Y	COLBURN	Y	HAYTAIAN	N	NAPLES	N	STUHLTRAGER
N	COLLINS	Y	HENDRICKSON	Y	OGDEN	N	THOMPSON
Y	COOPER	N	HUDAK	N	OTLOWSKI	Y	VILLANE
Y	CRECCO	N	KALIK	N	PALAI	N	WATSON
Y	DARIO	N	KARCHER	N	PATERNITI	Y	WEIDEL
N	DEVERIN	N	KAVANAUGH	N	PELLECCHIA	X	ZANGARI
Y	DI GAETANO	Y	KELLY	N	PELLY	X	ZECKER
Y	DONOVAN	Y	KERN	N	PENN	Y	ZIMMER

APPENDIX #5

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S-2343 Passed in Assembly 01-26-89 01:39 PM #899 Yeas: 75 Nays: 0 N/V: 5

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Y Adubato	Y Foy	Y Kyrillos	Y Riley
Y Albohn	Y Franks	Y Littell	Y Roberts
Y Baer	Y Frelinghuysen	Y LoBiondo	Y Rocco
Y Bennett	Y Genova	Y Marsella	Y Roma
- Brown	Y Gill	Y Martin	Y Rooney
Y Bryant	Y Girgenti	Y Mattison	Y Salmon
Y Bush	Y Hardwick	- Mazur	Y Schluter
Y Charles	Y Haytaian	Y McEnroe	Y Schuber
Y Cimino	Y Hendrickson	Y Menendez	Y Schwartz
Y Colburn	Y Hudak	Y Miller	Y Shinn
Y Collins	Y Impreveduto	Y Moran	Y Shusted
Y Cooper	Y Kalik	Y Naples	Y Singer
Y Crecco	Y Kamin	Y Ogden	Y Smith, J.
Y DeCroce	- Karcher	Y Otlowski	Y Smith, R.
Y Deverin	Y Kavanaugh	Y Palaia	Y Spadaro
Y Doria	- Kelly	Y Pascrell	Y Stuhltrager
Y Doyle	Y Kenny	Y Patero	Y Villapiano
Y Duch	Y Kern	- Pelly	Y Watson
Y Farragher	Y Kline	Y Penn	Y Zangari
Y Felice	Y Kronick	Y Randall	Y Zecker

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74285
194



