

PUBLIC HEARING  
SUBCOMMITTEE OF THE SENATE COMMITTEE ON LOCAL GOVERNMENT  
CALIFORNIA STATE LEGISLATURE

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Held in  
Room 4203, State Capitol  
Sacramento, California

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Monday, November 24, 1969

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Committee Members

Senator John G. Schmitz, Chairman  
Senator Alfred E. Alquist, Vice Chairman  
Senator Clark L. Bradley  
Senator Tom Carrell  
Senator William E. Coombs  
Senator Mervyn M. Dymally  
Senator Milton Marks  
Senator John A. Nejedly  
Senator Nicholas C. Petris  
Senator H. L. Richardson  
Senator Albert S. Rodda  
Senator Robert S. Stevens  
Senator James Q. Wedworth

Committee Staff

Richard W. Whittaker, Committee Consultant  
Lucile I. Armitage, Secretary

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**SUBJECT:** State Building Standards Commission  
and Building Standards (SR 358 & SR 369)

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MONDAY, NOVEMBER 24, 1969, 10:30 O'CLOCK A.M.

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CHAIRMAN SCHMITZ: Even though there are some technical problems to be ironed out due to the change of room, we did have two more committee members that were here and stepped out temporarily, and so that we make maximum use of our time available, I'm going to proceed with the meeting. We have a large list of witnesses and a not so large amount of time available so I'm going to begin the testimony.

Just one preliminary statement here. The purpose of this meeting is to provide an opportunity for State and local agencies and other interested individuals to discuss both the activities and functions of the State Building Standards Commission and the writing of construction regulations and building standards enforceable by State agencies. More specifically we will be reviewing the subject matter as contained in Senate Resolutions 358 and 369 by Senator Coombs, limited copies of which are located at the lower table.

The committee is equally interested in receiving testimony from both governmental agencies and industry representatives alike concerning whatever hardships they may feel exist as well as any suggested solutions they have to offer. I am apprised by our consultant that the number of potential witnesses at this hearing far exceeds what time will permit, so we will do our best, and we have already changed rooms here so we shouldn't have any problem with the capacity.

I would like to just ask one favor of the witnesses, that as you hear other groups or representative individuals testifying

here on much of the same material that you had intended to cover, if you will just state so when you testify and save time; in other words, there is nothing that uses up more time and causes the committee members to lose interest than when we hear a redundancy of information.

With that we'll start our testimony. We have several representatives of the California Council of American Institute of Architects, and I'm going to ask Mr. Gordon Fleury, Attorney, to come up and lead off. I understand one of the witnesses that follows Mr. Fleury will give a rather basic run down of just exactly what the subject matter is in your discussion and some of the ABC's as it were, basics of the whole industry.

MR. FLEURY: Thank you, Senator Schmitz. I am Gordon Fleury, the attorney for the California Council of American Institute of Architects, and in keeping with your time schedule and seeing the list of witnesses, I'm just going to introduce you to the president of the California Council of American Institute of Architects, Mr. Edward A. Killingsworth, an architect who resides in Long Beach, California, and ask him to make a short statement, and then introduce Mr. Jasper Hawkins, who is chairman of our Code Committee and can give you the basics of the material that you have asked for, Senator.

CHAIRMAN SCHMITZ: All right.

MR. KILLINGSWORTH: Thank you, Gordon. As Gordon said, I am Edward Killingsworth, president of the California Council of American Institute of Architects, representing around 3,000 architects in the State. I'm here today to briefly tell you the dilemma of the architects and other design professions

brought about by the activities of the State Building Standards Commission as presently constituted. After my remarks, which will be very short, I should like to have you hear from Mr. Jasper Hawkins, head of the California Council of Architects Code Committee who is an expert in the field and who has spent countless hours in the various committees searching for the correct answers to perplexing problems.

As you perhaps know, the California Council of American Institute of Architects was one of the primary groups in the 1950's which led the drive to set up the Building Standards Commission. Also you perhaps know that our organization further helped to encourage the State Building Standards Commission to become active after it remained dormant for about three years. It was our hope then and is our hope now that the State Building Standards Commission would help to clarify and simplify the multitude of regulations related to building development developed by various agencies in the State. Unfortunately this has not happened during the years the State Building Standards Commission has been active. Instead of clarifying and simplifying the code problems of the State, the State Building Standards Commission has compounded the problems by developing countless new regulations or slightly different ones. This has produced problems which are infuriating and almost impossible to cope with.

It is for this reason that the architects of the State appeal to you for a solution and suggest that a proper direction could be the simple adoption by reference of a widely accepted uniform building code. If this could be done, then the

activities of the State Building Standards Commission could be directed in other channels and the unhappy situation which now exists would be eliminated.

As an example of our problem, I have here before me a stack of building regulations created by the State Building Standards Commission. This is the stack over here. This is the regulations as created by the State Building Standards Commission. To keep these current, and these are of course amended monthly and from time to time, to keep these current, to keep actually current with these as an architect is almost impossible.

In contrast with this vast amount of material, I also have here with me the Uniform Building Code. This balances that. The dilemma of the design professions is a great one which may be clearly stated as follows:

Can the design and construction industries in the State operate efficiently and economically for the public good by the simple implementation of the Uniform Building Code, or must they strive to survive the countless regulations and mass of material created by the State Building Standards Commission?

I appreciate the opportunity to appear before you to introduce the problem of the architects. I would now like to have Mr. Jasper Hawkins, who is head of our Code Committee explain it to you further. Thank you very much.

CHAIRMAN SCHMITZ: Are there any questions of Mr. Killingsworth?

SENATOR MARKS: Might I ask one question?

CHAIRMAN SCHMITZ: Before we have questions, I might

introduce the committee members who are at hand. We have Senator Marks on my right from San Francisco, and on my left, your right, Senator Richardson from Arcadia, and Senator Coombs from San Bernardino or Rialto. A question from Senator Marks.

SENATOR MARKS: I'm not sure I understood your statement with reference to adoption of a single code.

MR. KILLINGSWORTH: Yes, the Uniform Building Code. I think Mr. Hawkins will explain that further, what our problem is. If it were possible for a simple building code to be adopted in the State without having to go through all the gyrations we are going through now, this would be the proper way in our opinion. Now, Mr. Hawkins will explain this very carefully.

SENATOR MARKS: What effect would this have say upon the chartered cities?

MR. KILLINGSWORTH: Well, many of the cities and counties and so forth at the present time are operating under the Uniform Building Code.

SENATOR RICHARDSON: All of them are operating, you say?

MR. KILLINGSWORTH: No, many of them are.

SENATOR RICHARDSON: What about the ones that are not, what impact would it have upon them?

MR. KILLINGSWORTH: Actually, I'm not sure I could answer that correctly. I think Mr. Hawkins possibly could. It would be the same thing as what our Title 24 is doing now. The thinking is, of course, that this would be adopted by reference, I mean it would be referring to the Uniform Building Code, so

any change which you would adopt applying at the State level would be adopted into the Title 24 as a reference to the Uniform Building Code.

SENATOR RICHARDSON: Thank you.

SENATOR MARKS: You are going to elaborate further on this point?

MR. KILLINGSWORTH: Yes, sir, that is right.

SENATOR MARKS: San Francisco because of its geographical size may have certain problems that other areas may not have. I assume you are going to elaborate as to that?

MR. KILLINGSWORTH: This is, I know, a very complicated problem and Mr. Hawkins was going to try to examine it with you since he has gone into this very carefully, our code group through the years has worked very carefully with all the building officials to make sure everything is very simple, and I would like to have him discuss this with you.

CHAIRMAN SCHMITZ: Yes. Why don't we hear from Mr. Hawkins. Thank you very much.

MR. HAWKINS: I am here to represent --

CHAIRMAN SCHMITZ: Would you just repeat for the record your name and title?

MR. HAWKINS: Jasper Hawkins, Chairman of the CCAIA Code Committee. I am here to represent the viewpoint of the California Council of the American Institute of Architects. The Council represents 95 percent of the architectural firms in the State of California. We are one of the many design professions, such as the structural engineers, mechanical engineers, electrical engineers, civil engineers, sanitary

engineers, environmental designers and interior designers, who are vitally affected by the promulgation of rules and interpretations set forth by the State Building Standards Commission.

However, the architect is unique today. He is one of the few generalists left. He is not a specialist. Therefore, his knowledge and experience are more diverse than the other design professions.

This means that he is involved with all of the aspects of total environmental design, including building regulations.

The members of the American Institute of Architects are users of the building codes. The CCAIA does not represent an organization that designs all the buildings in the State of California. We do represent more people who design more buildings than any other group. As a result, our organization has the most intimate contact with building regulations as a user of building codes.

Building officials themselves have the most intimate contact from the administrative and enforcement side. Therefore, it seems to us that those intimately acquainted with these regulations should make their position known, and if possible give you some solutions to the problem.

The CCAIA's position is that of a professional society with no vested interest in aspects of code writing which have bearing upon the use of building products within the scope of building regulations. We are opposed to any legislation, administrative regulation or standardization that would tend to retard the progress of building design. Architects must be



free to exercise their abilities and judgment at all times in advancing the profession of architecture.

The CCAIA has advocated the adoption of the Uniform Building Code within the State, and the National AIA has advocated the adoption of any one of the four model codes within local regions according to familiarity and use of them.

The following recommendations were unanimously adopted by the CCAIA Code Committee, CCAIA Health Facilities Committee and CCAIA Schools Committee as long ago as 1967. There are four main conditions and I'll read these to you. I think they explain our position.

1. In order to reduce proliferation of building regulations by still another State agency, the State agencies of California should limit their activities to the development of administrative, operational and planning requirements and placing them in Title 24.
2. As the best means available for eliminating overlapping requirements and achieving uniformity in accordance with the expressed intent of the State Legislature in its creation of the State Building Standards Commission, the State should adopt by reference the technical and construction requirements of the latest edition of the Uniform Building Code, placing only necessary deviations therefrom in Title 24.
3. Where State agencies feel that changes in the Uniform Building Code are necessary, they should cooperate

with the International Conference of Building Officials in submitting necessary changes as proposed Code changes and actively participate in considering and acting on their adoption, as well as submitting them to the State Building Standards Commission with adequate time for review and public consideration.

4. The State should be urged to provide remedies for all who might be aggrieved through an appeals board, including within its membership competent professionals, in order to prevent improper decisions due to ignorance or misunderstanding.

The National AIA Committee on Building Regulations prepared a statement on codes which represents the feeling of the architects:

"The AIA believes that codes and regulations relating to building must provide for reasonable protection to life, health, property and general welfare while permitting the exercise of individual initiative on the part of the architect in selecting and improving design, materials, equipment and methods of construction in buildings."

The overlapping of codes and authorities does create innumerable problems for the design professions. The overlapping does create less than acceptable design solutions that without constriction would have been to the advantage of the public. We have state codes, county codes and municipal codes. The areas of jurisdiction are generally clear, but there are definitely overlapping jurisdictions which are the result of conflicting codes and regulations. I will give you an example

to better clarify our position and substantiate that we do not need another or one more building regulation, whether it be Title 24 or something of another name.

The City of Los Angeles, for example, has a building code, they have an electrical code, they have a plumbing code, a grading code, a fire code, a heating code, a ventilating and air conditioning code, a refrigeration code and an elevator code, all administered by the City Building Department. The Fire Department also enforces Title 19, the State Fire Marshal's law, but only in places of public assembly.

Picture our problem as design professionals when we have a restaurant on the fifth floor of an office building. The exits from the restaurant must follow Title 19; if the restaurant seats more than 50 persons, it becomes by definition a place of public assembly. The office building must comply with the various codes administered by the local Building Department, the ones I just referred to previously. The restaurant must also comply with the County Health Code which has jurisdiction over food establishments. Then, of course, we have Title 8, administered by the State Department of Industrial Relations, which claims jurisdiction over all "places of employment" and has many requirements that conflict and overlap other codes. Title 24 was an attempt to resolve this problem. The State Building Standards Commission can resolve the problem simply by adopting the Uniform Building Code and requiring all agencies under their jurisdiction to follow suit. The Uniform Building Code has been adopted by approximately 500 local municipal or county agencies within the State. It basically is the

universally adopted code throughout the State of California presently. If an architect designs a building according to the Uniform Building Code, and we have done this, he can reproduce that building 90 percent of the time in this State without any major modifications. It's a good code; not perfect, but the best of what has been produced to date. It is democratically administered and subject to annual review by hundreds of qualified persons. As a matter of record, the Uniform Building Code has numerous subcommittees within their present organization already. They are staffed and manned by competent, knowledgeable individuals who consider each and every proposed code change in detail. In turn each subcommittee's report is submitted to their code changes committee. This committee makes recommendations to the membership based on public hearings that are held throughout the State in various locations.

In turn these recommendations of this code changes committee of the Uniform Building Code, are voted on democratically by each and every building official at an annual business meeting. This year's CCAIA was represented along with some 500 to 600 building officials all voting independently on each and every proposed code change. This system works compared to the State Building Standards Commission which has a small staff and they have to consider tremendous technical information and they hold hearings and the final decision is arrived at by that commission, not by hundreds of individuals in the building and regulations field. The treatment by the State code establishment that we receive in the

design professions is amply described by the following example: Take the typical fraternity initiation. The applicant must run the gauntlet of his brothers to be -- if the paddle line is too long, what comes out the other end is probably not worth saving.

It is only a matter of time until architecture will be too bloodied to create anything for the public. The treatment described is due to the numerous conflicting building regulations throughout the State and the subsequent difficulty of all agencies endeavoring to enforce their overlapping regulations.

Our profession must design. That is our calling. Our whole society lives in an environment created by people for people. To illustrate, take our typical commission, the architect has to go through these ramifications:

1. He obtains a survey to advise him of the size and shape of the property.
2. He requires a foundation investigation to determine the bearing and value of the soil and level of the water table.
3. A corrosivity analysis and sometimes an agronomy evaluation are based on the client's requirements.
4. He determines the location and capability or capacity of public utilities along with storm or flood history in the area. In some instances he is required to run traffic counts. He must always check zoning, both land and fire. He must check highway and/or freeway development and/or widening and

sometimes approach patterns, if near a major airport.

This is only part of the job. If we don't check building, fire and health codes, we can become derelict in our service to the client. The architect must expend innumerable expensive man hours in comparing one regulation with another to determine the most stringent requirements. All of these things are variables within the present State code regulations versus local regulations and interpretations.

Adoption of the Uniform Building Code by the State Building Standards Commission is the present answer. It will without doubt create a maximum of uniformity within this State. This State must have a policy of uniformity of regulations. The Uniform Building Code is the best administered, enforced at the local level building regulations that we have produced in California to date. The State Building Standards Commission has already agreed in principle by adopting, not by reference, but by written word the same regulations. Title 24 is without doubt basically the same regulation. Mr. Killingsworth, president of our organization, I think very aptly described the variation in difference between that group of books and this group of books, and they do not agree entirely, even though basically this Title 24 has tried to follow the Uniform Building Code.

Now, I can't see any reason why our profession or anyone should be saddled with one more code based on the misnomer that we must reprint at the taxpayers' expense, the same building code that is available to all citizens in every professional bookstore throughout this State. Why has this

happened? I'll tell you. The State Building Standards Commission is under the misunderstanding that you, the legislature, has set hard and fast rules that cannot be modified due to contemporary conditions. This in my opinion is not true. The very meaning of democracy is to hear the people and act accordingly. The people of this State need, want and require a hearing. That's what we are here for today.

There are additional solutions to the problem that we would like to offer beyond just the adoption of the Uniform Building Code. This is only one of the many steps to be undertaken which will lead to an efficient, well-organized system of building regulations for the State of California.

The question of adoption of the Uniform Building Code by reference is presently before the State Building Standards Commission on two different issues.

One is the outright adoption of the Uniform Building Code by reference as proposed by the Building Standards Coordinating Council which is composed of all the major code promulgating departments in the State.

Secondly, a proposal by the Department of Housing and Community Development in concert with the State Fire Marshal to adopt the Uniform Building Code within their separate titles.

The legislature should support these actions immediately with legislation, if necessary. The commission should be re-directed in order that they can get on with their original business of eliminating overlapping and conflicting regulations

within the State.

Legal opinions and interpretations are usually based on the method by which the legal question is posed. As the result, the State Building Standards Commission has for years fretted over adoption by reference and numerous other policy considerations due to numerous and conflicting legal opinions. You, the legislators, can dispell all of this by the passage of clear, concise legislation that will be the positive result of these hearings. At this point, when you have given the commission a set of building regulations, the Uniform Building Code, already accepted throughout the majority of the State and already provided with the means to be modified and kept up to date, and you have clarified the means of appeal open to the public which is required by our law, and you have provided for local enforcement and interpretation of these regulations, similar to the State Fire Marshal's delegation of enforcement to local fire officials, you could provide the commission with additional tools to further implement their activities by restructuring the membership of the commission.

I don't know whether any of you have perused the minutes of the commission recently. If not, you should. The myriad of detailed technical considerations which come before the commission is astounding.

The present commission membership is as follows: One architect, one structural engineer, one contractor, one labor representative, three officials from local government, and three representatives from the general public.

The commission must be structured with more members from



the construction industry in order to more efficiently and intelligently consider the technical problems that confront them. The design professions, all of them, would welcome the opportunity to serve. In this day and age of technology that puts man on the moon, we cannot stand still or regress with the down-to-earth problems of constructing buildings and the regulations that govern this activity. In conclusion, we have presented our case. You will hear additional testimony today from others. Their solutions may be different, but their problems are not.

Provide the commission with the power to adopt by reference, clarify the appeals, promulgation, enforcement and administrative directives of the commission and provide the commission with a membership, if not wholly professional, at least numerically sufficient to intelligently consider problems of a highly technical nature. Thank you.

CHAIRMAN SCHMITZ: Senator Marks has a question.

SENATOR MARKS: Mr. Hawkins, your office is in San Francisco, correct?

MR. HAWKINS: No, Los Angeles.

SENATOR MARKS: The office of the association?

MR. HAWKINS: Yes, it is.

SENATOR MARKS: And you pointed out on page 5 of your survey, that the architect has to determine the soil level, the water level and things of that kind. Do I understand that you are advocating that an architect who builds a building in San Francisco and say an architect who builds a building in the desert should operate under the same building code or should

there be a difference?

MR. HAWKINS: I think local modifications may be necessary. You have made a very distinct comparison which is not the case normally; in other words, from a rural area to an urban area, there are definitely other considerations.

SENATOR MARKS: Would this Uniform Code allow for differences in soil and water?

MR. HAWKINS: Yes, very definitely.

SENATOR MARKS: Earthquakes and various other things?

MR. HAWKINS: Yes, it does that.

CHAIRMAN SCHMITZ: Any other questions? I might take this opportunity to introduce another member of the committee, Senator Tom Carrell of the San Fernando Valley has just come in. Welcome aboard, Senator Carrell. Are there any other questions? Senator Marks is going to return in a little while. He has an appointment with the Governor. Senator Richardson.

SENATOR RICHARDSON: I just have a comment. On page 7 of your presentation you say, "You, the legislators, can dispell all of this by passage of clear, concise legislation that will be the positive result of these hearings." I'm complimented that you think we are capable of passing clear, concise legislation. Secondly, you have to understand that the legislature and a committee is often nothing more than institutionalized mediocrity. I just wanted to get that as a matter of record.

CHAIRMAN SCHMITZ: Any other questions of Mr. Hawkins? If not, we thank you very much.

MR. HAWKINS: Thank you very much.

CHAIRMAN SCHMITZ: Gordon, we have one other name, Mr. Ferris.

MR. FLEURY: Oh, this is plenty.

CHAIRMAN SCHMITZ: Thanks very much. We have some representatives of the State Building Standards Commission. I will just follow our tentative schedule here. Mr. Wesley T. Hayes. I might just call you all up at once, Mr. Gordon Powers, both of whom are commissioners; Harry Cobden, executive secretary, and Alfred F. Smith, commissioner, and you can testify in whichever order you have established among yourselves.

MR. HAYES: Mr. Chairman, Mr. Powers should come on first because he leads off with some history of the commission.

CHAIRMAN SCHMITZ: Mr. Gordon Powers, Seal Beach, California.

MR. POWERS: Anybody named "Gordon" can't be all bad. I'm Gordon Powers, a member of the AIA and an architect from Long Beach also. I'm also the architect member of the State Building Standards Commission.

I would like to just give you a brief history of the commission. The commission was created by law in 1953; however, the budget was not accepted until 1959. The commissioners between 1953 and 1959 were agency heads. The commission was reorganized by law in 1962 at which time the construction industry, labor, local governmental bodies and the public were specifically given a place and a voice on the commission.

Again in 1965 the law was revised to write Title 24. This law provided the minimum code for the State of California and

encompassed all codes involved in the construction industry including all 25 agencies enforcing building regulations.

The State Building Standards Commission controls the writing of, but not the enforcement of, Title 24. The Appeals Board within the commission was limited to only the interpretation of the Code. This Appeals Board must be strengthened and not allowed to only interpret, but to see that their decisions are enforced by the agencies involved. This is a very very vital point as expressed by the previous speaker.

My following comments will be directed to Senate Resolution 358. It is true that the construction industry and the design professions are very vitally affected by Title 24 which is of course controlled by this commission.

Title 24 now includes all the following agency titles, which you can see an abundance of over there on the desk: Title 9, Agriculture; Title 5, Education; Title 8, Industry and Industrial Relations; Title 9, Mental Health; Title 16, Professional and Vocational standards; Title 17, Health and Welfare, which includes hospitals and convalescent homes; Title 19, the Fire Marshal; Title 21, Schools and Public Works; Title 22, Social Welfare; Title 25, Housing and Community Development.

Now, all of these titles which control those agencies have building regulations within them and of course they are large titles also. All rules and regulations included in any of the above agencies' codes are now part of 24. That was what the commission was charged with in the last couple of years to do. The controversy affecting the funding of the

State Building Standards Commission is propelled by the State agencies who wish to write and enforce building codes unbridled by the scrutiny of this commission. A condition such as this produces no control over the over-zealous personnel within such agencies and naturally causes a major concern to the construction industries and the design professions. We agree 100 percent with the need and the study of the State Building Standards Commission and believe a reorganization of the writing and enforcing authorities is vital.

Title 24 must be continually revised and updated and this requires continuous funding and staffing. A draft of an outline for the reorganization of the functions, actions, and financing of the Building Code writing and enforcing will subsequently be presented.

At this time I would like to tell you of the functions of the Appeals Board. The Appeals Board is made up of three members of the State Building Standards Commission who sit as a body to hear any appeal from the construction industry and the interpretation of the code being enforced by the personnel of a State agency. The Appeals Board makes a decision and duly notifies everyone concerned. This is a very vital and necessary function of the commission and without the Appeals Board the construction industry could be hamstrung by autocratic people within the State agencies. Among the benefits the State Building Standards Commission has enjoyed are the abundant labors of the advisory panels, and I would like to say here the previous speaker is part of my private advisory panel. We have three architects on the advisory

panel and Mr. Hawkins is a member of that advisory panel.

Among the benefits of the State Building Standards Commission are the abundant labors of these advisory panels. Mr. Wesley Hayes, the commissioner representing the construction engineering will detail these benefits that the State enjoys.

Thank you very much, gentlemen.

CHAIRMAN SCHMITZ: Any questions of Mr. Powers by any members? If not, we'll hear from Mr. Hayes.

MR. HAYES: Mr. Chairman and members of the committee, my name is Wesley Hayes, structural engineer and commissioner on the State Building Standards Commission. Prior to that I served for three years on a structural advisory panel. My statement today has to do with the progress of the State Building Standards Commission toward the development of a single State Building Code.

In addition to the duty of acting as an appeals body for interpretation of the State Building Code, the State Building Standards Commission was given the responsibility by the California Legislature of developing a single State Building Standards Code. This is set forth in Section 18902 of the Health and Safety Code known as the "State Building Standards Law."

The demand for a single State Building Code providing for acceptable minimum safety standards in buildings had come from many sources, building contractors in all categories, building design professionals in all fields, building products manufacturers of all kinds of building products, and many local

code-enforcing authorities. The State Building Standards Law has been designed in response to these demands.

Over the past six years the commission has made significant progress in the development of this code called officially "Title 24, California Administrative Code." Specifically the code's status at the present time is as follows: The total code is now essentially formulated but about 25 percent of it needs updating. Some of the parts needing updating have not been changed for many years. Building code material approximating 2,000 pages has been processed and adopted by the State Building Standards Commission over the past six years and is now in force.

This progress has not been made in many cases with the most desirable speed, nor have several of the code sections been considered to be perfect after adoption. However, commendations to the commission by those who have had long experience with building codes have been received in great enough number that the commission, its staff members, and advisory panels of experts who serve the commission have, in general, been heartened and have become convinced their work has not been in vain.

The development of any particular part of Title 24 is currently attained along the following lines:

1. An agency or agencies that enforce this particular part become aware by their enforcement work or are warned by the State Building Standards Commission that this portion of code is so out of date that it must be updated by the agency or the commission

will proceed with the updating in accordance with its authority under the State Building Standards Law. If the commission issues the warning, it must, according to the State Building Standards Law, give the agency 180 days to present the draft of the updating to the commission before the commission can take over the code revision.

2. The updating revision is written by the agency and/or the commission. The commission is assisted by advisory panels of specialists to guide it in this phase of the code work. Public hearings of necessary duration and in accordance with the California Administrative Procedures Act are then held in which the commission participates with the agencies involved. Written comments received at the public hearings are given due consideration by the agencies and the commission, and the proposed regulations are changed in accordance with these considerations.
3. After careful editorial check by the agencies and the commission, the draft is presented to the commission in a regular scheduled meeting for adoption or rejection. If adopted, the document then goes to the Secretary of State for filing, and this step completes the process of making the revision into law. Many of the code revisions have been initiated by the commission under the "180 day notice procedure."

Over the past six years, a very conservative estimate for



the value of donated time of panel members, commissioners, and many other volunteers who have participated in code review, research, meetings, et cetera, totals at least \$5,000,000. The value of donated time expended by the 16 advisory panels that serve the commission has been obviously quite considerable also.

However, in spite of the great effort of many volunteers not on state payroll, this system of code development for Title 24 has proven to be very cumbersome and slow. The rate of code updating has not been rapid enough to keep up with new developments of new construction material and new methods of design and construction. Much time has been lost by controversy between the enforcing agencies, but by far the greatest delaying factor has been friction between certain of the major code enforcing agencies and the commission itself.

The undersigned believes that the time has come to completely revise the entire system of code procedure, not only the writing, but the enforcement and the hearing procedures. This should be done so that these three goals are attained:

1. Title 24 providing minimum safety standards shall be completely evolved and maintained updated at a rate consistent with the development of new construction materials and new construction and design methods.
2. The minimum safety standards thus developed shall be adequately and uniformly enforced throughout the State of California.

3. Adequate, just, impartial and rapid appeals machinery shall be maintained at all times and that this appeals machinery shall be kept immediately accessible to all who believe they have been unjustly treated by the State or local systems of building code procedure which involves the enforcement of Title 24.

Respectfully submitted, Mr. Chairman.

CHAIRMAN SCHMITZ: Are there any questions of Mr. Hayes?

SENATOR CARRELL: I would like to ask a question.

CHAIRMAN SCHMITZ: Senator Carrell, before you do, let me introduce Senator Rodda from Sacramento here who has just joined our committee. Go ahead, Senator Carrell.

SENATOR CARRELL: Is the purpose that we finally do have a Uniform Building Code enforced by the State rather than local governments, is that what you are trying to say?

MR. HAYES: No, Senator, I'm merely saying that the enforcement procedure as it now exists is not uniform and not adequate whether it is done by State agencies or local enforcement groups.

SENATOR CARRELL: Well, do you not think that the State should supersede the local codes?

MR. HAYES: I think the State should establish a minimum safety standard for buildings which the local --

SENATOR CARRELL: It is a nuisance for anybody who is trying to build a building or any kind of a thing to have the State and the local and everybody else coming in with different ideas, and I just don't see any reason -- either we should have one code, don't you think?

MR. HAYES: Yes, Senator Carrell. We should have one code is uniform throughout the State. However, there are local conditions which may require certain sections to be more restrictive than others.

SENATOR CARRELL: Don't you think the State could handle that?

MR. HAYES: Absolutely.

SENATOR CARRELL: Without having the local enter into it because I know in my experience in the buildings I want to do, by the time you get the State and everybody else involved and the local, it almost makes it prohibitive. Every one of them takes a lot of extra time, the time of builders --

MR. HAYES: Well, that is correct, Senator. I believe that the hearing procedure would tend to correct this if it were always available to anyone who felt that the local enforcement was not right. Then the full impact of the State could be brought to bear.

SENATOR CARRELL: Why is it necessary to have two jurisdictions in this procedure?

MR. HAYES: Well, if the State were to do all the enforcement, it would require an enormous staff of inspectors.

SENATOR CARRELL: Would it require any more in the end than it does to include the local ones?

MR. HAYES: Well, I've not made any great study along that line, but I suspect it would.

SENATOR CARRELL: There ought to be some method where we can put the two together?

MR. HAYES: That's right. And I believe there's going to

be a plan submitted today that proposes just that.

SENATOR CARRELL: I hope so because it certainly is a mess as it is now.

CHAIRMAN SCHMITZ: All right, thank you very much. Any other questions? O.K. Mr. Hayes, we thank you very much.

MR. HAYES: I have copies of the statement.

CHAIRMAN SCHMITZ: By the way, when you have copies -- I thought you were going to read all that to us. I was a little worried for a while when I saw that.

MR. HAYES: That's what I thought you would think.

CHAIRMAN SCHMITZ: If you have statements, the committee members like to have them while the statement is being given. So any further witnesses, if you will hand them in ahead of time, if you will give them to Mr. Whittaker here. Mr. Cobden, do you want to go on next, or Mr. Smith?

MR. COBDEN: My name is Harry Cobden. I am the executive secretary of the State Building Standards Commission. I will be very brief. But I am here to answer any technical questions such as were brought up by the different senators. I would like to make one thing clear, Senator Schmitz. This is Title 24. This includes --

CHAIRMAN SCHMITZ: That's not your presentation?

MR. COBDEN: That's not my presentation, no, sir. This includes the building code which we heard about today, the mechanical code, the electrical code, the plumbing code, and Title 21 having to do with schoolhouse construction which is entirely preempted by the State. No local jurisdictions have anything to do with public schools. That perhaps would answer

Senator Carrell's question in that.

SENATOR CARRELL: That just answers one of them. That doesn't answer the others about all this thing that you have to go through to do a building. If we can do it school-wise I don't know why we couldn't do it otherwise.

MR. COBDEN: That has been the big question. With local home rule being very strong in this State, it has always bucked doing it, but there will be a presentation, Senator, today, whereby this could be overcome like it is in the Motor Vehicle Code, for instance. The locals enforce it. The State preempts the field, writes the regulations or the law, and the locals enforce it, administer it.

CHAIRMAN SCHMITZ: Senator Richardson has a question.

SENATOR RICHARDSON: If I accept that premise that since State has preempted the field in school construction --

CHAIRMAN SCHMITZ: Do you want a UN building code?

SENATOR RICHARDSON: Well, I thought it would be nice to have a federal building code and eliminate the state and go to the federal and make it all the easier.

MR. COBDEN: That has been suggested.

SENATOR RICHARDSON: I wouldn't doubt it.

MR. COBDEN: I would like at this time, if there are no other questions to me, to save time -- this is Title 24, that is not. That involves, that five foot shelf, all the administrative regulations of other State agencies. If you want to ask any questions on adoption by reference, the commission has attempted to adopt by reference, but the attorneys and the courts have ruled that it is a wrongful delegation of

legislative authority or power to delegate rule-making or law-making authority to a private proprietary body.

CHAIRMAN SCHMITZ: Namely what body?

MR. COBDEN: The International Conference of Building Officials who write the code.

CHAIRMAN SCHMITZ: Senator Marks.

SENATOR MARKS: The same basic question I have been asking before: How does the code differentiate between different parts of the State of California which have different geographical and physical conditions?

MR. COBDEN: The State regulations, Senator Marks, are minimum regulations. Any city or political subdivision can make different and more restrictive regulations, but they can't go lower. That means that in an earthquake zone like the City and County of San Francisco --

SENATOR MARKS: Or Long Beach.

MR. COBDEN: Or Long Beach, they can write more restrictive regulations than are found in Title 24. Does that answer your question?

SENATOR MARKS: Yes.

MR. COBDEN: The same with snow country or desert country.

SENATOR CARRELL: Is there any reason why the State couldn't write those laws and let it be handled locally?

MR. COBDEN: I know this is going to be hearsay and I'll probably have a million knives in my back. The answer is, no, the State certainly could.

SENATOR CARRELL: It just occurs to me we keep talking about housing, and I don't see how you could build houses and

deliver them to the job with all these 1500 jurisdictions and try to keep up with the code. I don't see how we can ever get the cost of housing down.

SENATOR COOMBS: We fixed that last session.

SENATOR CARRELL: How is that? I don't remember that.

MR. COBDEN: The Wilson Bill on factory built housing will perhaps take care of that. I would like to point out that I have been in this construction business all my adult life and I have reached the age where I am going to state some facts and the fact is that our house is our most necessary commodity.

CHAIRMAN SCHMITZ: Excuse me, what age do you get to when you start to state facts?

MR. COBDEN: Eighty.

CHAIRMAN SCHMITZ: I'm going to watch --

MR. COBDEN: A page right out of your book, and stand up to be counted. The most expensive commodity that mankind has to buy, and if we bought our automobiles, Mr. Carrell, on the same ratio, none of us would be riding in automobiles, I assure you, because the blacksmith would charge \$50,000 for the end product. We are still making houses, gentlemen, as we made them 2,000 years ago and one of the reasons, not all of them, is the archaic building codes.

SENATOR RICHARDSON: Or could it be that in the automobile industry there was an absence of state and federal regulation?

MR. COBDEN: There was an absence also in the aviation industry or we would never have gotten off the ground.

SENATOR RICHARDSON: That's also one of the reasons why

it's almost impossible to buy an airplane today because of the exorbitant cost of governmental overhead in owning an aircraft.

MR. COBDEN: That is correct.

SENATOR RICHARDSON: O.K., we agree.

SENATOR CARRELL: Who wants to own an airplane?

MR. COBDEN: At this time if there's no more questions, I would like to introduce Commissioner Alfred Smith.

CHAIRMAN SCHMITZ: Alfred F. Smith.

MR. SMITH: Not Alfred A. Smith. Thank you, gentlemen, for your precision. I am indeed Alfred Smith. I am a member of the Building Standards Commission and I am the lonely building contractor member of it. Several of our members have felt for some time that certain basic weaknesses do indeed exist in the present ways we bring about and administer the State Building Code. We feel, as you apparently do, that a fresh and thorough investigation of building code administrative costs and procedures is strongly indicated, and I mean by this an investigation which would include the broadly dispersed code functions of the multiplicity of agencies and other State entities that are now engaged in this work. It is the conviction of many of us that the present structure conceals a mass of duplications and overlaps, and that a major consolidation will uncover enormous budgetary savings.

Furthermore, it has been our observation too often that in the area of building code, the classical concept of check and balance and of accessible mechanisms for appeal do not exist. Too often promulgators of this kind of law are at the



same time their own judiciaries and enforcement bodies. This certainly has an unfortunate tendency to increase both the cost of government and the cost of buildings to the consumer.

I feel strongly that this State is now well out in front in code work with the superb job that General Lolli's organization has done on Title 24. However, this will always be a continuing function of enormous importance to consumers and one which is critical to some of our greatest industries.

I must say that I'm very impressed with the idea of consolidating code functions into a promulgating board, and enforcing board and an appeals board. I feel the plan to do this will encourage professionalism in code work, and I like the principle of returning a large portion of inspection and enforcement to local jurisdictions. The whole idea sounds like a good government to me. As is my strong feeling that the present \$12,000,000 annual cost of code work could be reduced to less than half of that amount.

I would strongly urge you gentlemen to give serious consideration to the plan that will be presented next by Mr. Elmer Botsai. I thank you very much.

CHAIRMAN SCHMITZ: Mr. Smith, may I ask a question? I didn't ask either one of the other commissioners, but we have a variety of representatives on the board as commissioners. When each of you speak, is there pretty much unanimity among divergent commissioners on the needs and changes requested by the individual members? In other words, are you divided into factions on the board or are you pretty much unanimous in your outlook?

MR. SMITH: Senator, may I ask you relative to what type of issues?

CHAIRMAN SCHMITZ: Well, the issue at hand here, for example, relative to your specific testimony here, your recommendations?

MR. SMITH: This represents my own opinion as to these matters, Senator. I believe, however, that the commissioners who are present today concur with me in almost all of my commentaries.

CHAIRMAN SCHMITZ: O.K.

MR. SMITH: As to material, as to detailed material within the code, that generally does not become a matter for discussion or consideration within an open commission session as most of the material and the language of course is promulgated either by an agency or other promulgating bodies, and is considered almost in total and resolved almost in total by the panels themselves.

CHAIRMAN SCHMITZ: Mr. Hayes and Mr. Powers apparently concur.

MR. POWERS: Yes.

MR. HAYES: Yes, Mr. Chairman, these sixteen panels that I mentioned involve possibly 300 or 400 experts from all over the nation everywhere, structural engineers, architects, mechanical and electrical engineers, and I suspect that the commission will take up this matter.

CHAIRMAN SCHMITZ: Senator Marks has a question.

SENATOR MARKS: In your statement you say "Major consolidation will uncover enormous budgetary savings." Has the commission made any kind of study or estimate as to what we are

talking about in dollars and cents as to what you consider will be the savings?

MR. SMITH: We are presently in the process of looking more closely as information becomes available to us, but we have done some amount of analysis. Of course, a large amount of the savings that would be hoped for fall into the area of duplication in the area of enforcement and inspection. We hope of course that a great deal of this can be delegated downhill to local jurisdictions. That's a very important portion of this concept.

CHAIRMAN SCHMITZ: O.K. Thank you very much. Senator Coombs.

SENATOR COOMBS: Mr. Smith, I believe it was you who gave me a presentation here of your plan wherein it shows that you would save substantial money by going the route that you have outlined. Am I understanding that correctly?

MR. SMITH: That's correct, Senator Coombs. With reference to that particular plan I believe in the interest of time Mr. Botsai is going to consider that in some detail. The question might properly be referred to him.

SENATOR COOMBS: Thank you.

CHAIRMAN SCHMITZ: If there are no further questions, let's hear from Mr. Botsai. He is a representative of the AIA and also represents the San Francisco Chamber of Commerce. Thank you very much for your testimony, gentlemen.

MR. BOTSAI: Mr. Chairman and members of the Senate Committee on Local Government, my name is Elmer Botsai. I am an architect with the San Francisco firm of Botsai, Overstreet

and Associates. I am appearing today on behalf of the Greater San Francisco Chamber of Commerce and its building code committee.

The San Francisco Chamber of Commerce became interested in the subject matter before this committee early this year when a proposal was made to eliminate the budget of the State Building Standards Commission. We opposed that proposal and met with representatives of the administration in an effort to prolong the current status of the State Building Standards Commission for at least another year. At that time we suggested a review of state activities in the field of code writing, code enforcement, and code appeals by professionals would be in order and offered the services of our building code committee to make such a review.

At the outset of our study two basic flaws in state building code activities became apparent. First, we found the state efforts are widely scattered, tend to be lacking in coordination, and are costly to the taxpayers. Second, we discovered that the administration of the state building codes violates the basic principles inherent in our legal traditions.

Taking those points in order, we learned that there are seventeen departments in State Government and more than thirty agencies within those departments which write and enforce building codes. In addition, hundreds of cities and counties in the state duplicate much of the same work. The cost of these efforts is substantial. The efforts by the state alone run into the millions of dollars each year. In spite of the amount of time and money expended by numerous departments and

agencies, the result is still confusing and lacking in coordination. This confusion is costly to the people of California.

Let me digress for a moment to point out that building codes are laws and affect every citizen of California as directly as any other laws of the State. Codes have direct impact upon the citizen in that they affect the cost of housing, the cost of commercial construction and as a result the cost of goods and services provided by industry, the ease and convenience of the public, and the safety of the people of California. Because of the tremendous impact that codes have upon our daily lives, it is important for code administration to be efficient, fair and equitable.

This leads me into the second major flaw which we discovered in State code activities. Although codes are laws and directly affect the citizen, the traditional division of authority for making the law, enforcing the law, and adjudication of disputes arising under the law is totally lacking when it comes to building codes.

In California, it is common practice for the same agency which writes the code to put that code into effect, enforce the code, and rule upon disputes that arise as a result of interpretation and enforcement.

We believe the people of California are entitled to the same fair and equitable procedures in the area of code activities that are guaranteed in other laws. The situation which exists today would be analogous to permitting a local police department to write the laws defining criminal conduct, to enforce those same laws, and to act as a judge and jury as

well in determining guilt or innocence under the same laws. In the criminal law field, the inequity would be immediately apparent. Although the inequity in the building code administration is not as immediately apparent, it is nevertheless an inequity.

We believe that better codes, better code enforcement, more equitable adjudication of disputes arising out of code interpretation and enforcement, as well as substantially reduced costs to the taxpayers, would result from a reorganization of State code activities. To that end we offer the following broad outlines of a three-point reorganization plan.

1. The State should remove code preparation responsibilities from existing agencies and departments. A new division of code preparation should be established. The division of code preparation should be guided by a policy board composed of representatives of the design professions. The division could be staffed from the technical and professional personnel presently engaged in code writing in the various agencies and departments of State government. The division of code preparation should receive proposals and recommendations regarding codes from all sources, individuals, professional associations, local units of government, or state agencies. It should engage in the basic research and testing where adequate information is not available from outside sources for the purpose of evaluating proposed

regulations. After conducting basic research and testing, the division of code preparation should prepare proposed codes for adoption. A moderate sized technical and professional staff, drawn from existing personnel, would be adequate to perform these responsibilities.

2. The State should establish a division of hearing and appeals. This division should be governed by a civilian commission, similar in composition to that of the present State Building Standards Commission. The division of hearings and appeals should conduct public hearings on code proposals received from the division of code preparation. Following the public hearings, this division would adopt code proposals or return them to the code preparation division together with a statement of reasons for rejection. The division of hearings and appeals should also be responsible for acting as an appeals body on State building codes, with authority to adjudicate disputes arising out of interpretation and enforcement of the codes.
3. The State should establish a division of code enforcement. This division should also be governed by a commission, basically comprised of local building officials and professionals from the building industry. Responsibility for enforcement would be delegated to local government wherever possible. The sole responsibility of the division of code enforcement

would be the establishment of minimum standards for local enforcement. Where it is necessary for the State to undertake the actual enforcement of codes, and there are such areas in the State, this division should undertake that responsibility with a charge of actual costs back to the local unit of government. It should be made perfectly clear that this division would be responsible for the establishment of minimum standards of code enforcement only, leaving the broadest possible discretion to local units of government.

We believe such a reorganization of State building code activities would result in savings of several millions of dollars each year. We do not propose that the State immediately cut back payrolls, but instead permit attrition to take its course, resulting in even greater savings in the future.

A major step toward greater efficiency and elimination of duplication, overlap, and waste was taken earlier this year with the establishment of a coordinating council of the State's five major code-writing agencies. We believe the creation of this coordinating council was a logical interim step toward the major reorganization we feel is vitally needed. Mr. Chairman, and members of the committee, on behalf of the Greater San Francisco Chamber of Commerce, I want to express our appreciation for this opportunity to testify.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Botsai. I have a couple of questions if there are no other members that want to ask a question. I would like to just ask, on page three of your testimony you say, "In California, it is common practice for the



same agency which writes the code to put that code into effect, enforce the code, and rule upon disputes that arise as a result of interpretation and enforcement." Just for the sake of the committee members, could you give us an example of this?

MR. BOTSAI: Well, I will pick on what I consider one of the best agencies in the State. That is the State Fire Marshal. They propose regulations and in their case they are farsighted enough that they delegate the bulk of the responsibility to local agencies, but in submitting plans for say a hospital, they do review these documents and if there is something that they disagree with in essence you appeal to that agency for relief if you disagree with their interpretation. Now, there has been appeals recently taken to the State Building Standards Commission, and unfortunately this has resulted in even a bigger hurrah over whether or not the commission has the authority to hear such appeals, and I believe I am correct in stating that even if the commission does have the right, there's no legal language that says the agency must follow their findings. As I say, this is my understanding. I won't vouch for that, but what we are saying is that this is just contrary to good legal practice and that we think that building codes are laws that should have the same separation of powers that any good form of government gives its citizens in any other law.

CHAIRMAN SCHMITZ: Thank you. The other one, on page five of your testimony you say, "Where it is necessary for the State to undertake the actual enforcement of codes, and there are such areas in the State ..." based on your experience what are

the areas of the State?

MR. BOTSAI: Generally they are the rural counties. Our own office did a building in Alpine County where the county had requested that the State undertake their responsibilities. Well, it's our feeling that where a local jurisdiction is unwilling to properly perform the task that can in our opinion best be performed in a local area, they should not be given a free ride on the State and the State should charge for those services and their charges should be commensurate with their costs.

CHAIRMAN SCHMITZ: Thank you. Senator Marks has a question.

SENATOR MARKS: Mr. Botsai, you outlined the basis under which a code would be adopted and the appeals procedure that would take place. If after the code was adopted it was desired to change the code subsequently, how would that operate?

MR. BOTSAI: The same procedure, Senator. I would like to digress a little bit because there has been a lot of discussion here about adoption by reference or writing. We would want to point out that this proposal would be valid for either case and that codes are in constant need of upgrading. Our industry, our techniques are constantly evolving and we cannot write a code that will even be good for frankly sixty days after it is written if it is good the day it was written. Codes are a compromise of various sources. They are just like any other law you write and therefore codes have to be constantly reviewed by the professions, by the State, by local government, to see that they are upgraded in the best interest and this is a yearly continuing dirty, grubby job, but it has to be done and we would propose that this procedure stay in

effect permanently.

SENATOR MARKS: And the division of code preparation would make changes?

MR. BOTSAI: Right.

SENATOR MARKS: Amendments or whatever you want to call them to the code, and then the people would have an opportunity of coming before the appellate division to argue for or against such amendments, is that not correct?

MR. BOTSAI: That is correct. I would like to also in that same area, we talk about basic research, and so that there is no misunderstanding there of the possible ramifications of reference adoption, certain basic areas that have no proprietary interest for any of the industries to engage in their development, are left in status quo. They are in limbo. A couple of minor ones such as, I haven't seen any research done on basic nail requirements for structural buildings because there's no way, at least no one has come up with a proprietary nail they can sell for one mill more than a common nail, so there is no research done on it. This is the type of area I think the State could in a vacuum step into and do a great public service.

SENATOR MARKS: Have you discussed this proposal with representatives of building trades, unions and things of that kind to see what their feelings area?

MR. BOTSAI: Yes, sir. Well, first of all, I being a member of the AIA, secured the endorsement of the Northern California Chapter of the American Institute of Architects, which constitutes 20 percent of the American Architects in

the State, that is AIA architects in the State. We also discussed this with the Building Trades Council and they did not take any formal position, but their original reception was that it seemed quite a reasonable approach. In fact they asked what they could do to help. I told them at that time nothing, let's wait and see how the hearings turn out. They may scream like an eagle. We have been in discussion with various chambers around the State. It is our understanding that -- unfortunately our finalization of this document came really too late for any formal action by anyone, but we do not believe that it is in violation of anyone's basic beliefs.

SENATOR MARKS: Thank you.

CHAIRMAN SCHMITZ: O.K. Senator Coombs.

SENATOR COOMBS: I wonder if you could bear down a little more on just how the taxpayers would save money on this plan?

MR. BOTSAI: Senator Coombs, basically we feel that if these agencies or these functions were combined there would be a tremendous ultimate reduction in manpower. We would believe that simple mundane things as overhead, office space, secretaries, agency heads, second in command, all these things add up considerably when you are dealing in an organization that does expend \$10,000,000 to \$12,000,000 a year. We feel that it's perfectly proper for the local governments to take over this work since they run parallel functions now and this would again result in savings, but I wish to reiterate we are not in favor of any wholesale manpower cuts. We think the history shown at the office of the State Architect is pertinent to this issue. It's my understanding that in the past eighteen

months they have had a reduction of some 30 percent in manpower and are still turning out as much work, so I guess a tribute is in order to the State Architect. But it is this type of consolidation and elimination of duplication that we are speaking of.

SENATOR COOMBS: One other question: Have you encountered in your professional practice instances where building materials or building techniques which would be preferable or more economical were denied use because of the existing codes?

MR. BOTSAI: Yes, I have. I have found it at both the local and State level, and I have also found it at the federal level. I think they are all guilty.

CHAIRMAN SCHMITZ: Senator Carrell has a question.

SENATOR CARRELL: Mr. Botsai, I'm looking at your statement here. I'm trying to find it. Did you say that the State should write just a minimum code?

MR. BOTSAI: Well, that word "write" I don't want to get into the middle of a hassle that's going on, but I do wish to say the State should adopt a minimum code. It is my --

SENATOR CARRELL: Why a minimum code? Why couldn't the State write the complete code?

MR. BOTSAI: I do not personally believe, Senator, that any single agency, whether State, Federal Government, or an autonomous organization is capable of writing a code that covers local conditions. I'll give you a couple of examples. I have yet to see anyone take on a serious vein a matter of fire zones which govern our basic forms of construction. We have such discrepancies as height, area, congestion, fire

department, water supply, terrain, climatic controls, and all of these things vary from community to community. If you can give me a comparison between the congested area of San Francisco and say Gilroy, and say that they're Fire Zone 1, 2 or even 3 have any real relation to each other, then I would personally back up, but I don't see this. I don't think the State can establish snow load requirements based upon elevation conditions because an elevation of 6,000 feet at Lake Tahoe is a completely different snow level than elevation of 6,000 farther down the State. You have outside forces. The Pacific Fire Bureau I believe rates cities and they control the economic life of a city by their insurance rates. If things are not done that secure for that city the lowest possible city classification, you can cost those citizens of that city literally millions of dollars in insurance premiums. These are ramifications that to my mind so far as so encompassing and broad to find that they really defy a central source accomplishment.

I just think that with today's knowledge and technology we don't have it to do a proper job. I'm sure we can do it to satisfy all rural areas, perhaps part of the urban areas, but to do it across the board I don't think we have the know-how.

SENATOR CARRELL: Maybe the State should go out of the business altogether then and leave it to the local to do their own because we are supporting it double.

MR. BOTSAL: This is why we use the word "minimum." We do believe, and I personally strongly believe, the State has the

right and the obligation to set a minimum floor. Unfortunately we have certain areas in this State that without a minimum floor would have no code requirements. There are certain communities or counties or areas that have such a major industry tax base that they would be unable to regulate that industry without putting themselves out of business. So I think the State has an obligation to establish these minimum requirements, but beyond that point personally then I think it is a local situation.

SENATOR CARRELL: But the State does have a lot of uniform laws and does preempt the field in many areas like police and forestry state laws and generally in most cases traffic laws are all the same.

CHAIRMAN SCHMITZ: I think, Senator Carrell, you have a different situation. The State has preempted the school building field, but one of the reasons is the State furnishes the lion's or a good share, maybe not the lion's share, but a good share of the money in the construction of the school, but when you get into an area in which the State does not have the financial interest, I think you are mixing apples and oranges.

SENATOR CARRELL: I don't understand that because what we have these codes for is for health and safety regardless of --

CHAIRMAN SCHMITZ: When you are paying the bill you have a lot more say so than when you are not.

SENATOR CARRELL: Well, I don't know. Of course the public is paying the bill, and that's the very sad thing about it because you get these guys coming around here from all angles. It's just --

CHAIRMAN SCHMITZ: For example, take the Field Act, the justification of the Field Act is that you have a compulsory education law and you are forcing a student to attend a school. Then you have an obligation to assure the safety of that person you are forcing into the school. But you are not forcing any person to go to a particular restaurant or any restaurant as far as that goes and --

SENATOR CARRELL: You still have an interest in the health and safety of the person.

CHAIRMAN SCHMITZ: That's right, but there is a difference when the State law tells someone to go in and when the person goes in of his own free will. In other words, philosophically, and we can stay at this all day, but philosophically there are different levels of control. You have an obligation to insure the safety of a student whom you are forcing to go to school as a State, but do you have the same obligation to assume, for example, in the State law we don't apply the same rules in the Field Act to higher education because a person is not forced to go to higher education. But in that area where we have a compulsory education law, then we feel a compulsion to protect to a greater level than we do to protect a person in junior college or higher education.

SENATOR CARRELL: Isn't this true of the local lawmakers? After all they don't pay the bill either.

MR. BOTSAL: Well, Senator, might I answer your question? I would hate to have to make a choice between the two, but if I had to make a choice I would say, get the State out. But I really believe that there is room in our government to have a



proper marriage which will give the benefit of both sides. I sincerely believe this.

SENATOR CARRELL: I can see very easily where the local government can enforce. I see nothing wrong with that, but having all these confusing codes, it's --

MR. BOTSAI: I don't believe if this basic format were followed, I don't think you would have that much confusion. I would like to personally somewhat put to rest this confusion of codes. There is a lot of confusion of words and in my opinion there is a terrible procedure, but the basic codes, the basic actual facts, I don't believe there's that much difference throughout the State. I'm sorry, but I have not seen anyone who has been willing to prove that there are these great varieties of codes and I have been involved in codes as much as any architect in the State. This is something that I have heard in all governmental reports of the Federal Government, that we have got to have Washington do it because we have this wide discrepancy. This is not true. When you get down to the actual meat and potatoes of the code, there is a great deal of similarity.

SENATOR CARRELL: Of course, you get different inspectors and you will find they all read it differently.

MR. BOTSAI: That is enforcement, sir.

SENATOR CARRELL: And so I don't know, you say they are easy to understand. Maybe these inspectors are just too dumb or something.

MR. BOTSAI: No comment.

SENATOR CARRELL: Every one that I have ever had any

experience with gave a different interpretation of what the code means .

MR. BOTSAI: I will quote my mechanical engineer who says we are all people, so we put on our pants one leg at a time.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Botsai. Unless anyone else has any questions -- I would like to ask, not Mr. Botsai a question, but is Mr. Cleon Janos in the crowd? Are you ready to testify now? It might fit in better now than at the end. We have you under the open category, but since you also represent a Chamber of Commerce, maybe we ought to take you up at this time to sort of keep some sort of general category going here. Might I ask, is Walter Dahl in the audience? There he is. I'm going to try to take Mr. Fred Hummel and Walter Dahl before lunch as they may or may not want to come back and then take the industry representatives, industries, trades and professionals, this afternoon, and that might be a little preview of coming attractions for those of you who are trying to plan the afternoon. If there is anyone representing industry, trades and professions, that has to catch an early plane, 3:00 o'clock, 3:30 flight, you might let Mr. Whittaker know before we break for lunch so we can take you early this afternoon, and I would like the committee to try to make it back here by 1:30 so that we can -- I think we'll be able to leave here soon after 12:00. It depends on the testimony. That will make a difference, yes. Mr. Janos.

MR. JANOS: Thank you, Mr. Chairman. My name is Cleon Janos. I am manager of the construction industries department of the Los Angeles Area Chamber of Commerce.

In numerous cases during the past years, the Los Angeles Chamber of Commerce has gone on record supporting the State Building Standards Commission and its scope of activity.

As far back as 1948 the Chamber of Commerce supported legislation that would eliminate, as much as possible, the overlapping which existed in building regulations between the many state agencies.

In 1955 the Chamber recommended that the State Building Standards Commission proceed immediately with the compilation and publication of a single code of all administrative regulations of the various state agencies defining building standards.

In 1961 the Chamber supported legislation that would coordinate the building regulations for the State of California by writing a single code of all administrative building regulations relating to building standards that are enforced by State agencies.

In 1964 the Chamber strongly urged that the State Building Standards Commission continue its purpose of eliminating overlapping jurisdiction and technical differences in building codes between the several State agencies involved in construction.

In March, 1969, the Chamber of Commerce again expressed concern that the commission might be abolished if no funds were provided in the 1969-70 State budget, and recommended that funds be provided so that the commission could continue to perform its authorized functions and activities.

The Chamber feels that the work of the State Building Standards Commission is far from completion and recognizes that

building codes constantly need updating.

The Chamber believes that the commission work should continue to carry out the intent of the legislation establishing the commission. We believe that the commission is necessary to act as a referee or umpire to keep the various autonomous State agencies from issuing a multiplicity of rules and regulations.

In addition the Chamber recommends, above all, that the advisory groups from industry be retained in updating and integrating the various regulatory programs and in assisting the commission to carry out its authorized functions.

The State Building Standards Commission evidently is accomplishing the many tasks set for it by the State Building Standards Law. This progress could not have been made without the continued support of the construction industry. The organizations and individuals representing a myriad of different trades, professions and manufacturers concerned with the industry have helped the commission make California the leading State in the nation in the area of building standards.

The Chamber realizes that there are many problems yet to be solved. The need for continual revision and updating of the code will be increased as new methods and materials of construction are developed. Appeals for interpretation will increase as the code becomes more widely used. Uniformity of regulation must rely on uniform enforcement. And still, on the State level, there is a multiplicity of regulator agencies with varied and often overlapping authorities. This problem may only be solved by reorganization.

We are fully aware of proposals now under study for a reorganization of the commission. Unfortunately, the Chamber does not have such a proposal under study, but we have been requested, and are willing, to cooperate in working in a joint effort with other organizations for a reorganization proposal for the State Building Standards Commission.

Finally, in view of the fact that so much of construction in the State of California occurs in Southern California, we would recommend that a public hearing on this subject be held in Southern California to provide our construction industry groups an opportunity to testify to this important matter. Thank you, Mr. Chairman.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Janos. Any questions from members of the committee? Senator Marks.

SENATOR MARKS: Are you in a position either personally or in your official capacity to comment on the presentation made by Mr. Botsai?

MR. JANOS: Not officially.

SENATOR MARKS: Or personally, either way.

MR. JANOS: I am familiar with it, and we did have a group -- I can testify to this extent, we did have a group that did meet with the San Francisco Chamber of Commerce group and reviewed this proposal, not in its final form. We did meet and I have nothing to say concerning the proposal, but we are very familiar with it.

SENATOR MARKS: You have no opinion on it? I don't want to put you on the spot. I'm just curious to know if you do have an opinion?

MR. JANOS: I can tell you that the group was asked to review this with the San Francisco Chamber of Commerce and the Chamber is not at this point ready to endorse or support the proposal, even though we think we can work out a proposal that would be agreeable to both sides.

SENATOR MARKS: Thank you.

CHAIRMAN SCHMITZ: O.K. If there are no further questions, we would like to thank you, Mr. Janos, for your testimony. And I would like to call upon a couple of representatives of State agencies. First, Mr. Fred Hummel, State Architect.

MR. HUMMEL: Mr. Chairman and members of the committee, my name is Fred Hummel, State Architect, for California, and I would like to thank you for providing the Department of General Services with the opportunity for presenting testimony relative to Senate Resolutions 358 and 369. In this statement, the official position of the Department of General Services is presented for your information and consideration.

To most effectively implement and enforce rules and regulations pertaining to public construction, this department proposes the following action:

1. That the State of California retain a State Building Standards Commission for the purposes of:
  - (a) Approving building regulations and standards already formally adopted by promulgating agencies and
  - (b) Serving as a body of final appeal after other procedures have been exhausted in appeals to State agencies which have primary enforcement responsibility.

We believe that the basic --

SENATOR COOMBS: I would like to ask a question.

CHAIRMAN SCHMITZ: Senator Coombs.

SENATOR COOMBS: Mr. Hummel, I note in subparagraph (a) you make as one of the functions approving building regulations and standards already formally adopted by promulgating agencies. Now, if they are going to approve them, is that a rubber stamp approval or can they actually make a change in them?

MR. HUMMEL: It would be either approving or not approving, let's say, so that would mean that there would have to be some agreement before an approval could be made.

SENATOR COOMBS: What happens if they don't approve?

MR. HUMMEL: Then I think they have to go back and do them over.

CHAIRMAN SCHMITZ: I think what Senator Coombs is getting at, if they can hold up approval until the right change is made then that's the same as making changes, kind of like the Supreme Court appointments.

MR. HUMMEL: I don't think all groups working toward the same goal would operate in that manner. I would hope not because they are all operating in the same direction, we hope, to achieve the simple minimum State standards to government construction, and I don't see why anyone would, even if they had that strength or that right, stand in the way of establishing the building standard minimums that need to be established.

SENATOR COOMBS: Suppose you have an irreconcilable difference, who prevails?

MR. HUMMEL: Irreconcilable difference? I don't know

exactly, Senator.

SENATOR COOMBS: There is, you must admit, a possibility of these two groups having a difference of opinion that they can't reconcile by negotiation?

MR. HUMMEL: Well, there would have to be some way to resolve the difference, there's no question about it. The promulgating agencies are the people who have a great deal of background in the information with which they deal, and I feel certain that a well-organized State Building Standards Commission would be able to work out these differences. We meet these differences every day in all walks of life, not just in the construction industry and the design professions, and they become resolved.

SENATOR COOMBS: Would you anticipate then that the appeals function would cover this particular issue?

MR. HUMMEL: Where people have a request for appeal to the promulgating agencies, and do not feel that they have received the proper treatment, they should have the right to appeal the decision of the agency to a higher body which would be the Standards Commission.

SENATOR COOMBS: Well, the appeals procedure wouldn't exactly reach this problem, would it?

MR. HUMMEL: I don't think so, no.

CHAIRMAN SCHMITZ: Continue, Mr. Hummel.

MR. HUMMEL: We believe that the basic concept which led to establishment of this type of body is appropriate. A Building Standards Commission can effectively serve as a vehicle for coordinating the promulgation and adoption of



building regulations by the various State agencies which exercise control of public construction. Through this process duplicate, overlapping and conflicting building regulations are eliminated.

A second role, a logical extension of the primary commission responsibility, should be that of a final appellate review body. This responsibility would take advantage of the single authority concept by ultimately referring conflicts over standards to the approving organization, the State Building Standards Commission, for resolution.

SENATOR MARKS: May I ask a question at this time?

CHAIRMAN SCHMITZ: Senator Marks.

SENATOR MARKS: As I understand, one of the objections that has been made is that the same people that promulgate the regulations are going to be the ones that hear the appeals. Isn't that what you are talking about? Would you continue that procedure?

MR. HUMMEL: Yes, but to retain an appellate body above the promulgating agency to resolve, as Senator Coombs said, irreconcilable differences between the person asking for the appeal and that agency.

SENATOR MARKS: Who in effect does the promulgating? Who in effect would do it?

MR. HUMMEL: The various agencies which control that portion of the building construction.

SENATOR MARKS: Like what, for example?

MR. HUMMEL: Well, the State Fire Marshal where fire regulations are involved would establish and promulgate those

regulations. They would then go to the State Building Standards Commission for approval, and in the cases of disagreement or right of appeal, if they were not able to resolve them with the State Fire Marshal's Office, they could go to the State Building Standards Office.

SENATOR MARKS: Eventually it is approved by the State Building Standards Commission, is that right?

MR. HUMMEL: That's what we are stating here, yes.

SENATOR MARKS: So in effect they are the ones that actually are promulgating it eventually? It is presented to them for their consideration?

MR. HUMMEL: Administratively that could be the way it works, yes, Senator.

SENATOR MARKS: But then if someone wants to appeal a rule which has been promulgated by this agency, then they would come before the agency which has made the rules, is that correct?

MR. HUMMEL: Yes, sir.

SENATOR MARKS: So do you see any merit to the contention made by Mr. Botsai and others that it is probably inherently wrong to have the person who promulgates the rules hear the appeals on the rules? Do you think it should be someone else?

MR. HUMMEL: I don't think so as long as there is an appellate body above that that can act on conflicts, plus the fact that it does work and I think it would work.

SENATOR MARKS: Well, who is the appellate body above that?

MR. HUMMEL: That would be the State Building Standards Commission, beyond the promulgating agency or the code writing

agency, whatever agency or department happened to promulgate that regulation.

CHAIRMAN SCHMITZ: If there are no further questions, proceed, Mr. Hummel.

MR. HUMMEL: A second item: That the State Legislature provide more explicit direction to the State Building Standards Commission to approve by reference those nationally recognized codes and standards which are in common use throughout local government, the design profession and the construction industry.

Clearly identifiable economic benefits would result from this action which currently is not strongly encouraged according to recent interpretations of the commission's responsibility in this area.

CHAIRMAN SCHMITZ: Excuse me, are you referring to the same thing that Mr. Cobden referred to, the court decision that you cannot delegate this to a non-governmental agency?

MR. HUMMEL: No, I'm not referring to that. We have rulings by the Attorney General's Office that say we can adopt by reference and apparently there is some disagreement there.

CHAIRMAN SCHMITZ: Adopt what by reference, you mean something from a non-governmental agency?

MR. HUMMEL: Yes, sir.

CHAIRMAN SCHMITZ: So we've got something there we've got to iron out.

MR. HUMMEL: Yes, we have.

CHAIRMAN SCHMITZ: Who is supreme in this area, the Attorney General or whatever court has ruled?

MR. HUMMEL: I really don't know, sir. I'm not an attorney.

CHAIRMAN SCHMITZ: I read Mr. Cobden's lips and he says it is the Supreme Court. Is that right? How about the State of California?

MR. COBDEN: Both State and Federal.

CHAIRMAN SCHMITZ: Oh, that much.

MR. HUMMEL: Establishment of this direction as a mandate would in effect implement the intent of Senate Resolution 369 and would insure that State building standards reflect application of the latest proven technological developments. A majority of cities and counties within this State employ the "adoption by reference" principle in their building codes.

The Department of General Services believes that the proposals to:

1. Retain a Building Standards Commission for the purpose of ultimate approval of building regulations and appeal of unresolved enforcement conflicts, and
2. Adopt by reference nationally recognized codes and standards, are appropriate and necessary.

Significant success has been evident in recent months in obtaining, in an expeditious manner, the uniform acceptance of proposed regulations by all State agencies. An administratively established building standards coordinating council has assisted the State Building Standards Commission by serving as a work group in preparing proposed regulations. This is a collective body which is composed of the directors of the major promulgating agencies. The council has recently,

after only two months' work, presented to the commission proposed regulations which were requested by directive three years ago.

It is the intention of this administration to retain the coordinating council to assist the State Building Standards Commission in accomplishing its goals. Through this process and by implementing the proposal stated above, maximum effectiveness in formulating and enforcing State building regulations can be achieved.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Hummel. Are there any further questions from members of the committee? Apparently they are all too hungry at this point to ask any further questions, Mr. Hummel. If we could just hear from Walter Dahl now. Thank you, Mr. Hummel. We will have his testimony which reportedly is going to be very short, and if we get out of here by a quarter after, we can come back at a quarter to two.

MR. DAHL: Copies of my statement have been previously distributed. Having sat up in your chair and the house for a good many years, I know that brevity is very much in order.

To the Honorable John G. Schmitz, Chairman of the Senate Local Government Committee; Subject, Senate Resolution 369,  
Dear Senator Schmitz:

The Department of Housing and Community Development appreciates the opportunity to present the following brief testimony regarding Senate Resolution 369. We think significant progress has been made just recently in the coordination and writing of building standards by

administratively creating the Building Standards Coordinating Council to coordinate the efforts of the State agencies writing building regulations. The Department of Housing and Community Development is anxious to help in any way to further streamline the writing, interpretation and enforcement of building standards. We hope the following brief remarks are helpful in this endeavor.

The Commission and Department of Housing and Community Development is responsible for the writing, adoption, interpretation and enforcement of construction and occupancy regulations concerning housing and related structures. The State Housing Law and the new factory-built housing law specifically require that regulations adopted under these laws be reasonably consistent with model codes and national standards such as the Uniform Housing Code, Uniform Building Code, Uniform Plumbing Code, Uniform Mechanical Code, and National Electrical Code (Health and Safety Code Section 17922 and 19990). The State has not fully pursued adoption by reference due to policies of the State Building Standards Commission. Their apparent policy not to adopt by reference has resulted in additional cost to produce a cumbersome code and has also created unnecessary controversy and confusion as to the differences between State and local building regulations. To reduce the cost of housing, maintain home rule and increase the uniformity between State and local building codes, every effort should be made to participate in cooperation with the model code groups and adopt model codes and national standards or portions thereof by reference except for such codes or

standards (1) are in conflict with present statutes, (2) do not provide minimum health and safety protection, (3) are in excess of minimum health and safety protection. Legislation should be enacted to make adoption by reference as outlined above the State policy for all building regulations adopted at the State level.

There is also a continuing need to improve the coordination of the State agencies in the writing, adoption, interpretation and enforcement of building regulations. The newly administratively created Building Standards Coordinating Council in cooperation with the State Building Standards Commission is a workable and logical means to improve the coordination. Clarification of legislative intent, more coordination, better cooperation and communication under the present system would clear up much of the present controversy and confusion.

CHAIRMAN SCHMITZ: Well, are there any questions from the committee? Senator Coombs.

SENATOR COOMBS: If you are going to legislate the adoption of these codes by reference, why have a commission?

MR. DAHL: Let me go back a little bit if I can. We are not accepting, nor are we recommending the acceptance willy nilly of every code that we are talking about for the simple reason that the legislature itself has given us some mandates as to what we may or may not do, and when the Legislature has spoken we cannot go beyond that. Now, the use of the Uniform Code in varying cities has already been brought out, that there may be a difference in San Francisco and Los Angeles and Bakersfield on some certain sections of it, and because that administration

or those administrations have this peculiar problem they will wisely accept the code by reference with the following exceptions, and they are listed. A classic example I think is the County of Los Angeles which has printed on a sheet of paper somewhat smaller than a standard daily newspaper, in which they adopt a uniform code by reference with the following exceptions, and then there's a whole list of exceptions which is easy to determine and easy to find. So someplace along the line, getting back to the Building Standards Commission, there has to be that body which can arbitrate in the disagreements, particularly when it concerns interpretation of a section. The Fire Marshal may look at something one way and we may look at it another, and if we do come to an impasse, it would then be necessary to have what has been referred to as an appellate body to decide the issue.

SENATOR MARKS: May I ask one question?

CHAIRMAN SCHMITZ: Senator Marks.

SENATOR MARKS: Do you believe the contention that is made that appellate body which is hearing the appeals in effect is hearing appeals on matters which it has promulgated, and therefore this is violative of the rules of justice, or words to that effect? I'm paraphrasing.

MR. DAHL: I can speak only for our own commission, Mr. Marks. We have a nine-man commission who finally approve the action of the division and of the State as it affects our problems. They approve the staff recommendations or modify if they feel like it. Thereupon they become -- thereafter I should say, they become an appeals board, and so provided for



in the statutes right now. They do act as an appeals board.

SENATOR MARKS: What I'm saying is, do you agree with the contention that you should have a separate appeals board so there will be a group which would hear this which would not in a sense be acting upon its own regulations?

MR. DAHL: Well, I don't know what form it would take at this time, but I certainly do believe that the people are entitled to have a decision which is not biased either for or against any section or any group. Just how you would do that, whether it would be another appointment by the Governor or something of this sort, I don't know yet.

SENATOR MARKS: Thank you.

CHAIRMAN SCHMITZ: Any other questions of Mr. Dahl? Any further questions? If not, we thank you, Mr. Dahl, for giving us this testimony and we'll adjourn for lunch and all of you that have testified this morning are welcome to come back and listen this afternoon, and we'll reconvene at a quarter to two, 1:45, and I'm going to try to start on time because we still have fifteen to twenty witnesses.

(The noon recess was taken.)

MONDAY, NOVEMBER 24, 1969, 2:00 O'CLOCK P. M.

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CHAIRMAN SCHMITZ: I would like at this time to welcome Senator James Wedworth of the Los Angeles Airport area, who has joined our committee, and we would like to continue. We have been moving at a fast enough pace this morning so that we ought to finish up if we continue to move, and if the witnesses will confine their comments to that which is not already been covered. Even though Senator Wedworth didn't hear this morning's proceedings, we still will ask him to quickly read the testimony that he has before him so we don't have to have a redundancy. I would like to call up representatives of the industries, and first on my list is Monte Davis, Pacific Coast Electrical Manufacturing Association of Los Angeles. Is he here?

MR. DAVIS: I am Monte Davis of Pacific Coast Electrical Association. I think you may want to make a correction on your agenda. It is not Manufacturing Association. I hope the result of this committee meeting can be as fruitful as those that we just experienced at noon today with the Apollo 12 landing, the closest of any thus far.

Honorable John G. Schmitz, chairman of the State of California Local Government Committee, Dear Mr. Schmitz:

With regard to the public hearing held this date of November 24, 1969, in Sacramento, California, on Senate Resolution Number 358 relating to the Building Standards Commission, and Senate Resolution Number 369 relating to building standards, the Pacific Coast Electrical Association desires to reiterate

its previously stated position.

On March 28, 1969, the Pacific Coast Electrical Association addressed a letter to Governor Ronald Reagan regarding the Building Standards Commission. We take this opportunity to review this letter with you and your committee:

"On March 22, 1969, at a regular meeting of the Board of Directors of the Pacific Coast Electrical Association, a resolution was unanimously adopted, supporting the continuation of the staff of the Building Standards Commission and approval of the budget that is necessary to provide for their activities. This resolution was adopted because it was the understanding of certain members of our Board of Directors that the activities of the commission's staff would be discontinued, and its responsibility would be disbursed to other departments within the State of California. The members of our Board of Directors, representing a large segment of the electrical industry within the State of California, are concerned this contemplated action would result in a reversal of the present trend towards standardization of codes within the State of California.

"We realize that while there would be no intent to negate the accomplishments of standardization, experience has shown absence of a central staff to coordinate invariably leads away from standardization.

"We believe the support by the Pacific Coast Electrical Association, and evidence of other support that you have received, warrant your further consideration of retention of the Building Standards Commission's staff and the continuation of their activities."

Respectfully submitted, H. M. Lawson, Director and Chairman of the Pacific Coast Electrical Association Code and Ordinance Policy Committee.

CHAIRMAN SCHMITZ: Any committee members have any questions of Mr. Davis? There are no questions. Thank you for your testimony.

MR. DAVIS: Thank you.

CHAIRMAN SCHMITZ: Next on my list is Mr. Creighton Schwan, National Electrical, and I have manufacturing association here also. This is just an association. You might introduce yourself and assure us that we can have a correct designation.

MR. SCHWAN: Senator Schmitz and committee members, my name is Creighton Schwan. I represent the National Electrical Manufacturing Association, a trade association having over 450 member companies who manufacture a wide scope of electrical materials and equipment. Many NEMA members have plants or offices in California, and most NEMA members market their products within the State.

The initial publication of Part 3, Title 24, California Administrative Code, titled Basic Electrical Regulations, with an effective date of June 7, 1968, brought together for the first time the electrical construction regulations of all State agencies into one document, using the format and numbering system of the National Electrical Code. NEMA feels that these steps were constructive and beneficial to the entire electrical and construction industries.

In the months since June, 1968, subsequent revisions to

the basic electrical regulations have been prepared with the aid of working committees consisting of representatives of State agencies and various segments of the electrical industry. NEMA as well as electrical contractors, utilities, inspectors, engineers and others were represented.

Only through such broad balanced representation on committees can a workable, practical, enforceable and effective electrical code be drafted. Naturally, the enforcing State agencies who are charged with providing public safety should participate. Likewise the industry who must abide by the rules should participate to assure that the provisions are practical and enforceable.

The proposed revisions to the basic electrical regulations have been developed under procedures established by the commission's staff which provides for this broad participation.

Continuous revision of construction installation codes is a recognized necessity, and the services of the professional staff of the building standards commission must be continued if the electrical regulations are to keep abreast of progress in the industry.

The electrical regulations prepared by the commission and about to be revised under its present procedures are less than eighteen months old, and insufficient experience with their application, enforcement and interpretation has yet been obtained to determine on a firm basis the need for revising the procedures or of representation for the continuing maintenance of the regulations. In order to evaluate the present system the basic electrical regulations should be in

operation for a considerably longer time and it is premature to study the system now with a view to changing procedures. Thank you.

CHAIRMAN SCHMITZ: Are there any questions of Mr. Schwan? Before you leave, I have just one, Mr. Schwan. You stated in your second last paragraph that the publication hasn't been in effect long enough to recommend any changes, yet you do feel, according to your fourth paragraph that putting them into effect in the first place is constructive. Wouldn't you feel that they have not been in effect long enough to make that determination whether they are constructive or not?

MR. SCHWAN: No, the two points we made originally are undoubtedly of great value, the collecting of these things in one place where they can be easily found and the using of the numbering system that the industry is familiar with which is the National Electrical --

CHAIRMAN SCHMITZ: They have been in effect long enough to make that judgment, that that's good?

MR. SCHWAN: Well, maybe in our opinion these are so obviously benefits that you don't need any time to judge that. What I feel we need more time on is to see if the procedures which are in effect now, which appear to be proper, are in fact going to work.

CHAIRMAN SCHMITZ: Senator Marks has a question.

SENATOR MARKS: You are located in San Francisco?

MR. SCHWAN: In the Bay Area, yes, sir.

SENATOR MARKS: Have you had any discussions with the San Francisco Chamber of Commerce with reference to their

suggestions?

MR. SCHWAN: No, sir, I have not.

SENATOR MARKS: Do you have any comments on them, or were you here?

MR. SCHWAN: I heard the presentation this morning. Their three-point program sounded workable. I would want to study it and of course I cannot comment for NEMA at this time, having just heard it.

SENATOR MARKS: It might be advisable for you to contact them or they contact you to sort of act as a middleman and make that suggestion.

MR. SCHWAN: Thank you.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Schwan. If there are no further questions, Mr. William Ungles, is he here? We have two people -- which is the real Mr. Ungles?

MR. UNGLES: In answer to your inquiry, I am the real William Ungles, III. Also in following your instructions, sir, I have re-drafted my comments and have not had them re-typed for submission. I would like to open this by identifying myself a little further as I appear as an individual. I am a professional safety engineer. I work not only nationally but I work internationally. I have done international work as an industrial engineer, although I do not hold myself out to be an industrial engineer. My strong fort is construction.

CHAIRMAN SCHMITZ: Excuse me, Mr. Ungles, we have you listed as the safety engineer of Los Angeles. Is that City or County?

MR. UNGLES: I live in Los Angeles County.

CHAIRMAN SCHMITZ: You are a safety engineer from Los Angeles?

MR. UNGLES: I am, sir.

CHAIRMAN SCHMITZ: I see.

MR. UNGLES: I would like to read my request to be here, one paragraph thereof, of which the secretary has the full letter:

"While my special interest is in the field of protecting the physically handicapped and the mentally retarded, with this objective it was indeed disheartening to see both the Senate and the Assembly pass Chappie's bill to protect the physically handicapped, and then find others within the official government family convince the Governor that the will of the legislature was wrong."

I am one of the consultants that the building standards referred to. I have resigned that consultancy, and I have resigned it for a purpose. This letter dated November 18 to the Honorable Vernon Orr:

"It is my desire to stand before the Senate committee on November 24 in a completely unfettered manner and express myself on Senator Coombs' resolutions 358 and 369. It covers my position as respects my admitted bias for the protection of the physically handicapped and the mentally retarded, and especially the children of this State."

Those who know me in the community where I have lived for over twenty years will tell you that Ungles wears no man's color. I was present when the Joint Building Council of the coordinating council presented their information to the Building



Standards Committee. I heard the words that were uttered that day. I read their report. They do not stick together.

Before I go any further, I came out of the corniest land of Nebraska and we are used out there in Nebraska to speaking what we say and in the foothills over there in the northern part of the State where the Niobrara Indians are and they had a saying up among the Indians where they had to fight all the rattlesnakes, they wondered whether a man spoke with a forked tongue.

I received a letter, a copy of a letter officially, dated October 3, 1969, signed by a gentleman that I have never met by the name of Earl Coke, and addressed to General Lolli. That letter has been sent to many different places, and it says in there that the significant role must be strengthened, and they refer to the Building Standards Commission. I replied to that gentleman. In the course of my reply I put this note in there: "I told Jim Dwight last summer that I was going to pound every desk in Sacramento and everywhere else until firm steps were taken by the State of California to eliminate the design of the re-locatable cost rooms by registered architects and approved by the Division of Architecture, which results in conditions that could 'barbecue the children' in the event of fire."

Mr. Chairman, a copy of that letter resides in the Attorney General's Office, and I have said if we have one of those conditions that letter goes to the Grand Jury.

There is a man on your commission that knows that Ungles doesn't bluff. He also knows I get out and investigate the facts. And I would like to lead you, sir, down in your own

Orange County where architects are designing a building down there and they don't even own a copy of Title 24. They asked my help. I told them to go get a copy of Title 24, sir, before they started building any further in Orange County and find out what the law was.

CHAIRMAN SCHMITZ: You don't have to own Title 24 to know what is in it, do you?

MR. UNGLES: How would you know if you didn't have it referenced to you?

CHAIRMAN SCHMITZ: Well, you have to have access to it, you don't have to own it.

MR. UNGLES: O.K. I'll go a step further. I'll agree with you.

SENATOR WEDWORTH: There are lots of things about Orange County.

MR. UNGLES: I would like to refer to Los Angeles County, sir, and I would also like the people that are particularly interested in education to listen to this. The school district of Pasadena got so concerned over the fires that are going on that they voted \$21,340, sir, to put a second door exit in these removable classrooms down there, because the State law, approved by the Division of Architecture, with their stamp on there, permitted rooms with one exit and those rooms also contained in some instances the means of heat within ten to twelve feet of the door, and only one way to get out. I'm sorry that Senator Richardson isn't here because I shall personally invite him to go with me into one of his neighboring communities and see that I'm talking the truth. I have obtained the word of the business

people, of the Los Angeles County Superintendent of Schools, that they are moving to put a second door in there because they are not interested, gentlemen, in having the Division of Architecture approve something that is basically utterly, completely wrong. Now, I admitted my bias at the start. I'm going to continue in hopes that you gentlemen will wake up and find what is happening in this State. When a school board gets the set of plans, and I have a set on my desk right now, although I'm not a school board member, it's stamped by the Division of Architecture, it's stamped by the Fire Marshal, it's got a bunch of other stamps on it, and when you take a look at that thing and you tell them that this does not comply with certain safety laws, they look at you and say, "This has been approved by the State of California." And, gentlemen, the Division of Architecture does not approve all the safety facets of the State of California. The architects do not put in there all the safety orders that are involved in the State of California, and if you accept it, this Uniform Building Code on it, you still have to have certain of these other codes in there for safety. The Uniform Building Code does not include all the safety portions of the State of California.

This very past week, and I'll name a name right now, in my little home town there in San Marino, the fire chief was up in arms because the Uniform Building Code permitted a certain type of plastic to go out for their vents. He gave me a piece of that plastic and he said, "You go out and set fire to this thing. I don't want to be around on it." If the Uniform Building Code, sir, had in it the safety things I'm referring

to here on this thing, you might be justified in doing it, but don't shut your eyes to the safety of kids in this State because if you do, it's going to come back to haunt you, and although I'm 61 years old, I'll be there to help haunt with them.

Now, then, as I understood the comments this morning here, the architects would like to be able to progress with building and be free to act as they see fit. Now, this may not be quite accurate, but it has the general impression, that they don't want anyone looking over their shoulder. Gentlemen, in the case of safety here, someone has got to look over their shoulder. If you don't look over their shoulder on this thing, I'll give you other criteria with which they have failed in the safety field, but I'm not going to at the moment. I think I have made the point here, gentlemen, that you have failed to examine this question, everyone here this morning, on what constitutes safety. If Mr. Jasper Hawkins and Mr. Powers would like to accompany me, I'll rub their noses as architects in these things that are jeopardizing the physically handicapped and mentally retarded, and I do encourage the gentleman from Los Angeles County to call me on what I am saying on this thing and make me prove my words or eat them, because I can prove them with pictures and being there, sir.

In conclusion, coming out of the farm country, this whole proceedings, the whole kit and kaboodle here, reminds me a little bit of what our plan is back there. When you get into a cat and dog fight with the hogs and you are out slopping the hogs, you've got to separate somehow these people that are administering the thing on it. You can't let them get all in there

together. The Building Standards has done a job here on it. If you give them a chance here on it, they'll do another job, and I'll be darned if I want to see a repetition of Charlie McCarthy and Edgar Burgen with the architects sitting up at the top with Edgar Burgen and pulling the strings for somebody down in the different divisions to do what they want them to do.

Specifically, the Division of Architecture has told me personally, and I don't think they'll deny what I say, that they are not the people to enforce that which they make. To proceed, I do suggest, sir, that in the whole question of examining this problem here, that you do not give the question of safety out to architects or other people, and I was told this last week that when I took my position here today that I was going to have to take a position either for or against, and this was told to me by a division head, either for the Building Standards or against them. I have refused to take a position for or against, but I take a strong position, and I emphasize this word for the protection of the physically handicapped, the mentally retarded, and the kids of this State.

CHAIRMAN SCHMITZ: Any questions of Mr. Ungles? There may be some questions. We'll stipulate to your toughness, Mr. Ungles, but basically is your argument that -- I'll have to ask this question. Do you feel that whichever system we take, whether we reinforce or weaken the Building Standards Commission, that that won't guarantee safety? Is that your basic premise?

MR. UNGLES: My basic position is the Division of Architecture is not capable of putting the thing together and having anything to do with safety. That is my basic position.

CHAIRMAN SCHMITZ: Senator Marks.

SENATOR MARKS: Well, what would change it? You say the Division of Architecture is not capable of doing this, is your statement. What would change this?

MR. UNGLES: I believe that the creation of a better program of supervision over the safety of this State is our answer. I thoroughly believe that it can either come within the Building Standards, or possibly even by the creation of a separate commission, but not under the domination of the Division of Architecture.

SENATOR MARKS: Is it your point that the Division of Architecture is approving plans that are contrary to the laws of this State, is that your point?

MR. UNGLES: I admit that I'm saying -- the answer is yes, and I'll say this, the Division of Architecture only deals with the Field Act, sir. They do not deal with the Division of Industrial Safety to be specific. They do not deal with the Fire Marshal on it. He has his own there on the thing. I can show you time and again buildings that are being built right under construction today in Los Angeles and Orange Counties that are contrary to the Division of Industrial Safety as an example.

CHAIRMAN SCHMITZ: Could you name a couple?

MR. UNGLES: I will not name them here in their presence, I would name them to you privately, sir.

CHAIRMAN SCHMITZ: Well, that's why we have hearings, to bring these things out.

MR. UNGLES: I have so made my statement. I'm not going

to crucify anyone further than I have already. If you will go to the Attorney General's Office, you will find my statement in writing on the Attorney General's desk, and when a fire occurs -- I've had no reply from these people to the extent that they are willing to get into it. I'm not willing to accept the Division of Architecture saying, "We want to go and white-wash our own fence." I've asked for someone that is superior and over them to get into it and for the last sixty days everyone has sat on their bottoms and haven't done anything about it.

CHAIRMAN SCHMITZ: Well, what you are basically saying is that there are people violating the law and you have submitted a letter to that effect to the Attorney General's Office?

MR. UNGLES: Those are your words, not mine.

CHAIRMAN SCHMITZ: I'm asking you if that is correct, that you have evidence there are people violating the law and you have submitted a letter to the Attorney General?

MR. UNGLES: I have stated what I have stated, sir, and that is this, that there are entrapments -- the physically handicapped in this State, in Los Angeles County, and even if they did comply with every law, the law of decency says you don't put them in one room where these kids can't get out.

CHAIRMAN SCHMITZ: In other words, you are saying they haven't violated the law, but the law ought to be stronger?

MR. UNGLES: And so should the men that enforce it.

CHAIRMAN SCHMITZ: So you are not making the charge a law has been violated?

MR. UNGLES: I am not.

CHAIRMAN SCHMITZ: Senator Wedworth.

SENATOR WEDWORTH: You referred to two counties, Los Angeles and Orange. Is this in the unincorporated area or the incorporated city?

MR. UNGLES: Both, sir.

SENATOR WEDWORTH: You see we have local ordinances, too.

MR. UNGLES: Your local ordinances, sir --

SENATOR WEDWORTH: We could supersede minimum standards.

MR. UNGLES: In some of the building -- in some of the Fire Marshal's things, yes. Your local ordinances have no jurisdiction over the school.

SENATOR WEDWORTH: Well, then I will put it this way, then they can push themselves on it, because I know it has happened.

MR. UNGLES: They can, yes. Some will.

SENATOR WEDWORTH: I know that one city red-tagged a part of a school building.

MR. UNGLES: And I thanked them probably for doing it, too.

SENATOR WEDWORTH: That was okayed by all the departments we are here referring to.

MR. UNGLES: I have told the Division of Industrial Safety if I were their inspectors, and it's in writing to them, I would red-tag some of those buildings myself.

SENATOR WEDWORTH: What I'm really pointing out is, local government can do it. Maybe they are not doing it.

MR. UNGLES: They've got 72 school districts, sir, in Los Angeles County.

SENATOR WEDWORTH: I'm well aware of that.

MR. UNGLES: It's a problem. Think of safety, gentlemen, before you move too far on this.



CHAIRMAN SCHMITZ: Senator Rodda.

SENATOR RODDA: I'm still trying to gain a better understanding of your position. In effect would this improve the situation -- I gather from what you said that the State isn't doing it because under present law there is an authorization to be concerned about standards other than the Field Act standards as far as the Division of Architecture?

MR. UNGLES: That is correct.

SENATOR RODDA: And local agencies are not doing it for a number of reasons?

MR. UNGLES: For a number of reasons.

SENATOR RODDA: But if this is the case then are you suggesting, am I to conclude by inference, that we might broaden the powers of the Division of Architecture to include these other standards so that they would have a greater authority than they have under present laws, or would you feel that even if that were the case they wouldn't be qualified to provide for enforcement?

MR. UNGLES: The Division of Architecture is not qualified to produce for enforcement because they are under the direction, and they are under the control -- I shouldn't say control, excuse me, they are under the direction of the architects who want to do as they damn see fit and in safety on this thing, gentlemen, you don't do that.

SENATOR RODDA: Well, then --

MR. UNGLES: I'm for safety on this thing and you gentlemen can help get safety in the State a little better than we've got it.

SENATOR RODDA: We need a sense of direction. I'm a novice in this kind of activity. The only thing I ever built was a fence to keep my dog in. I wasn't concerned about safety. We are concerned about the safety of young people, but we have to have some understanding I think with regard to the placing of responsibility. Things aren't done unless we establish responsibility. And my question to you then is, where should the responsibility lie? It shouldn't lie in one place because that would be like putting the fox in charge of the chicken coop, you know. I gathered that from what you said.

MR. UNGLES: That is correct.

SENATOR RODDA: Where would we put it then, or does it already lie and it's not be exercised? Do you follow me?

MR. UNGLES: I do follow you. I think you can strengthen the enforcement powers of the Building Standards. That's where I think it can be. In your reference to, what was it, the fox looking after the chickens, that's exactly what you would be doing if you had the Division of Architecture looking after the architects.

SENATOR RODDA: Do you gentlemen have that last observation I made?

CHAIRMAN SCHMITZ: Senator Wedworth has a question.

SENATOR WEDWORTH: You know really, Mr. Ungles, the State only sets forth minimums, not maximums. Now, are you saying, do you think the State should go beyond minimums?

MR. UNGLES: I am not, but I think their minimums and methods of enforcement are grossly inadequate, and you gentlemen have it within your power to help give us adequacy of minimums

and adequacy of enforcement.

SENATOR WEDWORTH: So you are presenting two questions really: Number one, minimums are inadequate?

MR. UNGLES: At the present time, yes.

SENATOR WEDWORTH: Number two, there is no enforcement or inadequate enforcement of the minimums?

MR. UNGLES: I wouldn't say no enforcement, let's use the word "inadequate," sir.

CHAIRMAN SCHMITZ: Senator Rodda.

SENATOR RODDA: Let me go back, we have so-called movable classrooms, we used to call them portables.

MR. UNGLES: Relocatable.

SENATOR RODDA: And they are constructed so that they comply with the Field Act standards, right?

MR. UNGLES: That is correct. I would assume that is correct, yes.

SENATOR RODDA: But they are located on campuses and are used many times in special education which means they are used for purposes of educating the physically handicapped?

MR. UNGLES: You have worded it well.

SENATOR RODDA: And we find there is only one exit and that the heating facility is such that if for any reason a fire developed, normal people would have trouble getting out or moving out, but physically handicapped people would find it almost impossible to move out?

MR. UNGLES: They would find it most difficult and particularly the mentally retarded. It's very simple. The Division of Architecture apparently has got one design for every

classroom under fifty. I use the word "apparently" on it. If you will take a look and take care of the people that need taking care of, instead of trying to blanket this whole thing together on it, we would get our correct answer, the same as the school district of Pasadena has done -- to heck with what the Division said. We want two exits in there for our kids whether they are physically handicapped or whether they are on both their feet, and as an educator, I think that you gentlemen here on this thing should have a very vital interest in seeing that kids get out.

SENATOR RODDA: As you have protested these conditions and have made protests on a number of occasions and in a number of directions, have you been rebuffed or ignored, is that right?

MR. UNGLES: Those are nice words. Nothing is happening and she's still going to happen, and that's why I am here.

SENATOR RODDA: Thank you.

CHAIRMAN SCHMITZ: Anything further? Thank you very much. Is Mr. Ed Soderberg in the audience, of the California Council of Air Conditioning and Refrigeration, Los Angeles?

MR. SODERBERG: Mr. Chairman and Senators, I am Ed Soderberg, representing the California Council of Air Conditioning and Refrigeration Contractors Association. I would like to present a brief statement and a letter from our executive director.

Our California Council, from the time that Assemblyman Stewart of Pasadena introduced legislation required one final authority for all building regulations issued by the State of California, has been in favor of the State Building Standards

Commission.

Prior to the legislation introduced by Assemblyman Stewart, the various conflicting rules and regulations of the State departments concerning the construction of buildings were not only impossible to abide by but were also the laughingstock of the construction industry. We refer to an instance wherein one department required three foot six inch railings for a particular type of building and another department required three foot railings. There was no way the contractor could carry out these regulations.

We welcome the investigation under Senate Resolutions 358 and 369 since we are sure improvements can be made in the present law. But we urge upon your committee to retain the principle so strongly sought for in the early 50's that there be one final authority to issue rules and regulations relating to the construction of buildings under the jurisdiction of the State.

Respectfully submitted, Henry B. Ely, Executive Director.

CHAIRMAN SCHMITZ: Any questions from members of the committee of Mr. Soderberg? We want to thank you for a very concise presentation on your organizational point of view.

MR. SODERBERG: Thank you.

SENATOR MARKS: Mr. Chairman, I'm thinking about the last witness in his remarks relating to the schools and entrances to the schools. The question I would like to have answered by somebody is whether or not under existing law the Building Standards Commission has the authority to change the rules and regulations relating to the type of schools and could require two doors or whatever it is Mr. Ungles was referring to. I

would be interested to know whether or not you have the authority, and whether or not you should or shouldn't exercise it.

CHAIRMAN SCHMITZ: Before Mr. Cobden springs out of the starting box, Mr. Whittaker, can you answer that?

MR. WHITTAKER: No, we were just talking about that, Mr. Chairman. It may be contained under the provisions of the Field Act, but I don't know -- I would defer to Mr. Cobden to answer it.

MR. COBDEN: Senator Schmitz, the Building Standards Commission is really an approval agency. Under certain conditions it can promulgate regulations when those that are authorized, those other agencies, fail to do so with a 180 day notice.

CHAIRMAN SCHMITZ: Under certain conditions?

MR. COBDEN: Under certain conditions. They do not have the original promulgating authority. Exiting on public schools is largely originated and administered by the State Fire Marshal.

SENATOR MARKS: Maybe my question should be asked of the Fire Marshal, or asked of somebody. I'm curious to know whether existing law gives somebody the authority to do this.

CHAIRMAN SCHMITZ: Mr. William Garrett, Assistant State Fire Marshal, is reportedly available in the audience. Is he here at this time?

MR. GARRETT: Yes, I am.

CHAIRMAN SCHMITZ: Can you answer that question? Will you come up to the mike?

MR. GARRETT: The State Fire Marshal himself is here.

CHAIRMAN SCHMITZ: The kingfish is here. What if we

have a fire?

MR. HOLE: I thought if I crouched down, Senator, you wouldn't find me. My name is Albert Hole. I am the State Fire Marshal.

SENATOR MARKS: Did you hear my question?

MR. HOLE: Yes, I did, Senator. Under the existing law, yes. One thing I would like to say, I'm not really sure what Mr. Ungles said. I have heard him talk before, and I am never really sure what he says. By innuendo he took slaps at many departments within the State Government. If he has some facts that he would like to present, I would like to hear them. Now, to your question, Senator Marks, yes, if there was a need to change the requirement as he specified, and it was brought to the attention -- but in public hearings it's never come up and if there is a need to change it, yes, the machinery exists to make the change.

SENATOR MARKS: Thank you.

MR. HOLE: But I would like to have specifics, rather than the innuendoes that he has been passing out up here.

SENATOR MARKS: I wasn't passing on it one way or the other. My curiosity was peaked as to whether or not you do have such authority.

MR. HOLE: Yes, if the school districts felt there was a need and would present it, or others felt there was a need, the machinery exists to make the change in the present regulations.

SENATOR WEDWORTH: Maybe we've got a real thing going here. You approve all these portable buildings as to safety from fire?

MR. HOLE: Do we approve all them?

SENATOR WEDWORTH: As Fire Marshal, State Fire Marshal?

MR. HOLE: Well, they originally were approved, yes.

SENATOR WEDWORTH: O.K. Now, do we have this type of portable building with one door?

MR. HOLE: Yes.

SENATOR WEDWORTH: Is that considered safe?

Well, your department okayed it?

MR. HOLE: Yes, based on the facts and the fire rates and the other statistics available, they have been considered safe and there has been to the best of my knowledge no loss of life in the State of California.

CHAIRMAN SCHMITZ: In other words, if they are made of a certain type of material that is non-flammable, this would --

MR. HOLE: They are wood construction. There are certain limitations imposed on them as to size, the number of occupants they can hold, the way they are built, but again I'm going back to the fact that there has not been a loss of life in this type of occupancy in the State of California, whether they were mentally retarded or physically handicapped or normal children.

SENATOR WEDWORTH: Of course your philosophy isn't that you should have a big fire and loss of life before you might move in the area? That isn't it?

MR. HOLE: Certainly not. But again this has to be dictated by the financial capabilities of the school districts, the ability to move these structures from one location to another as the number of students within a school district or a school facility changes, so I think there's two considerations to be taken into consideration and certainly the safety of the



children is of paramount importance, but there are other mitigating circumstances I believe.

SENATOR WEDWORTH: May I ask you this: Some of these rooms are designed for fifty children?

MR. HOLE: Yes.

SENATOR WEDWORTH: Plus a teacher?

MR. HOLE: Yes.

SENATOR WEDWORTH: Do you think that there's enough -- I'll not say "enough," even adequate safety to put 51 people in a room with one exit? Do you think that's possible?

MR. HOLE: Yes, I believe so, based on the occurrences that we have seen, yes.

SENATOR WEDWORTH: Let me go one more. Now, these portable classrooms are not limited to first, second, third graders, can they be used for each grade through high school?

MR. HOLE: Yes.

SENATOR WEDWORTH: What happens if you had a high school kid in there that, and they do horse around with flammables I believe in chemistry, plus just natural things that all of us do, do you think it isn't possible for some kid to have some flammable chemical or some object near a door that it would be impossible then to get these kids out if that happened?

MR. HOLE: I would agree with you, anything is possible under the situation, but again based on the occurrences, the use of these over a period of time, and I can recall going to school in these things back in Long Beach when I was in high school, the occurrence or the lack of occurrences of this type would not indicate that we have perpetuated any serious hazard

to the school children in the State. Again, if there's the feeling that two exits are required and this is what the public wants and this is what the school district wants, I agree, get the ultimate in safety. But these regulations for portable structures have been in effect for years and again the incident rate, or there has been no incident rate to indicate what has been done up to date is wrong. Tomorrow there could be a fire. If you asked me if I would prefer to get the ultimate safety, yes, I would, based on the ability of the school district to provide it.

SENATOR WEDWORTH: Well, I'll say this, I think, gentlemen, if we have a fire tomorrow, I bet in two hours there would never be another one okayed without a second exit. I can't prove that, but I think that's a reasonable assumption.

MR. HOLE: Quite often the promulgation of fire safety regulations or building standards has been a question of locking the barn door after the horse is gone. Quite often in the event of major loss of life they jump in and make regulations or codes that are overly restrictive. We have had this occur. I don't know where you draw the line between the two of them. We have to draw the line between the safety and availability of funds to provide safety for the people. There has to be a meeting ground somewhere. To tell you what it is right now, I can't.

SENATOR WEDWORTH: Quite frankly, I'm shocked that we're building for use or okaying for use of 51 people this type of room with one exit. I think you as a leader, you are the number one man in the State, you are the Fire Marshal, I think

you would be doing a great service to the people even if it costs \$100.00 or \$150.00 to get a second exit in these things. You said you have the power to do it. I think you would be doing a great service.

CHAIRMAN SCHMITZ: Of course, Senator Wedworth, three exits would be better than two, and four would be better than three.

SENATOR WEDWORTH: No, I'll not buy that, Senator. I don't think we should go overboard and have six. That's the point.

CHAIRMAN SCHMITZ: Is it possible you are going overboard with two?

SENATOR WEDWORTH: I don't think so.

MR. HOLE: Some of the school districts are building these structures with two exits.

SENATOR WEDWORTH: At their own expense they are doing it, so really we can afford it, can't we?

MR. HOLE: We are only writing the minimum regulations again in this area.

SENATOR WEDWORTH: Don't you think two exits would be minimum?

MR. HOLE: Well, I'm for the ultimate in safety that we can get.

CHAIRMAN SCHMITZ: I would like to remind the committee we are here not to set standards but to try to talk about procedure for setting standards, and if we had to argue about the standards set here we would have not a week of hearings, we would have a year of hearings here. I think it's interesting to hear how these standards are set. Senator Marks.

SENATOR MARKS: I just would like to make one point. If the local school boards think there should be two exits, they can do it, can't they?

MR. HOLE: Yes, again, and the machinery is there. They can petition. We are receptive to this, but this material should come -- I don't believe we should take it to the school district. If they feel this is a minimum requirement, certainly the machinery is there to change the State minimum requirements to two exits only.

SENATOR MARKS: If the local school board was as presumably interested in the safety of the children or feels that one exit is not enough, they have the authority even though you have approved one, to make it two or more, don't they?

MR. HOLE: Yes. They could request this be done, yes, in their design.

CHAIRMAN SCHMITZ: Senator Carrell.

SENATOR CARRELL: What is the reason for just one anyway? The cost wouldn't be a good reason, would it? It's not that much cost.

MR. HOLE: Senator, I don't know how I can answer that. It goes back beyond --

SENATOR CARRELL: You mean this is just something that has happened?

MR. HOLE: It has been developed that they felt that for exiting from this structure, one door would provide the safety for the people using it. It goes back in history. How are many of these decisions made?

SENATOR CARRELL: If you have one exit, you have to have

one entrance, too, it serves as both.

MR. HOLE: But how are any building codes come by? I don't know. It could have just as well been 25 rather than 50 at some time. I don't know how the decision was made.

SENATOR CARRELL: I can't understand because the cost seems to me like a very small item ordinarily in building a school.

CHAIRMAN SCHMITZ: Senator Rodda.

SENATOR RODDA: I think this points out one of the problems that you have with local government. Sometimes local government can't be relied on, and it requires sometimes action by someone who is a little more removed and objective and less involved to take the action which is necessary to achieve what is necessary.

CHAIRMAN SCHMITZ: Senator, that is apparently what we have here and the Fire Marshal is a State official and he does this, but gathering statistics in his field, which is the fire safety, he has come to the conclusion that one entrance and exit is satisfactory. I don't think the problem is that it is done at the local level. It is done at the State level. I think there is some objection that maybe he came to the wrong conclusion. That's apparently Mr. Ungle's and a couple of members of the committee's conclusion. I don't know if this is the place to iron this out. We don't have all the statistics at hand which he does.

SENATOR RODDA: I was going to conclude that I am not quite sure the responsibility is with the Fire Marshal. It may be somewhere else and it may be one of the things the committee

could or the staff of the committee could look at and find out what the law is and find out where the responsibility is and find out if there is anything that we could do to bring about a correction, and I would like to leave it at that point, and I think that's a question our staff is charged with looking into. Otherwise this hearing is a waste of time. We have never had anybody die in Sacramento from an earthquake, but the Field Act standards apply. Maybe no one has ever burned up in a building, but that doesn't mean we shouldn't be reasonably convinced that we've taken every possible precaution. I think we ought to go on and let the staff look at it and report back to you and the committee.

CHAIRMAN SCHMITZ: That's a good suggestion.

SENATOR WEDWORTH: I would like to just summarize that I believe the power is already here. The Fire Marshal said he has the power. There's no question about it. The question is, will they do it or not.

MR. HOLE: It isn't a question of whether we can do it or not. It would be necessary to hold public hearings and solicit opinions from those outside State government, school districts and others.

SENATOR WEDWORTH: You mean to get one additional door you have to go to all that trouble?

MR. HOLE: Yes, before a regulation could be changed. That's a requirement, that we hold public hearings.

SENATOR WEDWORTH: Thank you.

CHAIRMAN SCHMITZ: O.K., thank you very much, Mr. Hole. We have here Mr. Jerry Silvers, manufacturer of lighting and

fire apparatus. Is he here?

MR. SILVER: I would like to just depart for a moment from my prepared comments simply as a result of the impact of the comments that have gone before. However, substantially my comments remain as I have stated them here.

I speak as an individual and as a manufacturer of emergency lighting and emergency power equipment which of course by its very nature comes under the scrutiny of safety officials and code requirements due to the nature of the product. I can also speak with some degree of assurance that informally I can provide views that are similar to many other manufacturers in a similar category after approximately eight years association with people. We have as a matter of fact a great deal of difficulty in finding out exactly what we should make in the most expeditious way to serve the public and the building industry and provide conformity with the safety ordinances. The reason we have this difficulty is because the code requirements as they are presently constituted are overlapping and conflicting and ambiguous and subject to quixotic regulations and interpretations. A uniform and non-conflicting set of rules for public construction in this State leads to specific benefits among which are:

1. Easier compliance by the building trades.
2. Less ambiguity hence better enforcement.
3. Products manufactured with greater efficiency.
4. Accelerated progress in new product development.

That a Building Standards Commission should exist is a question that cannot be adequately debated unless the method of

carrying out its function is made explicit.

The agency that forms the wording of new building codes should also be responsible for the interpretation of such wording in the event of dispute. The intent of such code wording would logically be most clear to that body which struggled with its formulation.

However, the enforcement of such code requirements belongs to other agencies, in order to achieve proper separation of powers.

I strongly urge that the State Building Standards Commission be established as a permanent entity to perform its function for the benefit of the general public, the construction industry and the manufacturing community that provides products for use in public buildings.

Such functions are:

1. The constant review of existing ordinances to eliminate archaic rules and provide clarity of existing rules.
2. To judge the adequacy of newer technology and permit the benefit of such advances to affect the general public.
3. To provide for the solution of building problems applicable to the State of California.
4. To provide for codes, appropriate to the class of building, type of occupancy and function.
5. To act as an appeals body in the event of dispute.
6. To serve as a source of interpretation of the codes.

Without such a body, permanently established, we will continue to have a large group of overlapping regulations,



conflicting interpretation and quixotic ruling which vary from community to community within the State.

Equipment manufacturers particularly are hesitant to bring forth newer improved technology in the face of ambiguity and confusion about code requirements.

Therefore, I urge that the State Building Standards Committee be established permanently with the fullest authority.

I would like to add one additional comment and that is there seems to have been some allusion in a disparaging manner to the supposed length of documents. I don't think it is an unfair allegory to state that we can't fault the encyclopedia because of its length. If we have a large set of regulations, each codified in its proper place, well thought out, subject to constant review, I don't think the length of it is justification for throwing it out. As a matter of fact, I look with great distrust on a document that is overly brief and overly simplified so that it lends itself to individualistic interpretations at every level of government and administration. What we want is the benefit of the thinking of various people in the industry, the professions, the crafts and the trades, that go towards making up safety ordinances. Once these are debated they then can be codified for a matter of reference and I think this is what we are striving for.

I therefore urge strongly that far from degradating the State Standards Commission because of the length of its documents, I think perhaps the work ought to go on with greater diligence, greater codification, and the volume be enlarged so that all phases of safety and the codes are there for all to

reference and to see. Thank you.

CHAIRMAN SCHMITZ: Any questions from members of the committee? All right, thank you, Mr. Silvers. Is Mr. Elmer Rimms of the Plumbing, Heating and Cooling Contractors Association here?

MR. RIMMS: My name is Elmer Rimms. I am a director of the Plumbing, Heating and Cooling Contractors of California and I am a Southern California plumbing contractor.

I would just like to state that our association is opposed to the way the Building Standards Commission has handled the plumbing code. We feel that the state of the industry in California has been quite progressive in the adoption of the Uniform Plumbing Code and we feel this code has wide understanding and acceptance. We feel confusion has been created by the code as adopted by the Building Standards Commission and we feel that it has harmed and hurt our understanding at the local level. We think a better job at less money can be done if the code would be adopted by reference rather than attempt to write a code as was done recently. Thank you.

CHAIRMAN SCHMITZ: O.K. Thank you very much for the concise statement. Are there any questions from members of the committee? If not, we thank you for not only your testimony but your brevity which wasn't quite as brief as the next witness, Mr. Kent Attridge, representing Trans America Corporation, who sent us a note saying, please withdraw my request to speak. All points have been discussed and I can offer nothing new. Such an abiding by the admonition of the chairman ought to at least rate Mr. Attridge the privilege of writing the bill when

we come up with it -- if we come up with one.

Moving then to the trades we have several representatives from the trades and we also have a note that perhaps they were going to get together and have one person represent their views. I don't know if they came up with such an agreement, but I have Mr. Ernest Kramm, Legislative Representative of the Electrical Contractors Association, Mr. Jack Oneto, Jr., of NECA, a Mr. Allen Knickrehm of NECA, Mr. Edwin Wismer of NECA and Mr. Ben Boyden, vice president of NECA I suppose, and George A. Harter of the Electrical Contractors Association. If those people would come up here and either present your testimony en masse, if that's your agreement, or one at a time, or as a representative -- I'll let Mr. Kramm let the committee know how you want to present your testimony.

MR. KRAMM: Mr. Chairman and members of the committee, my name is Ernest G. Kramm. I represent NECA. We agreed upon an order of appearance and unfortunately we all have something to say however short it may be, each one of us contributing in his own way. I have been with the industry some 22 years. I was the original chairman of the East Bay Electrical Code Committee and have had some experience in working with codes through the years. We have worked through the years before the coming into existence of the State Building Standards Commission which Assemblyman A. I. Stewart was the author of about sixteen and a half or so years ago. I think we have to look at what we have accomplished, and if we do, I think we'll be a little bit less inclined to be unkind or unduly critical of the Commission because it has had a tremendous job to accomplish. In its

earlier years the commission was sort of a knife and fork club because it was made up of the various promulgating agencies and there were no changes. Then in time they did adopt staff of their own and things began to happen. I remember years ago, fifteen years ago or so, or ten years ago, I would go to a meeting and there would be only a handful of people present at the State Building Standards Commission meeting. Today you have a tremendously crowded room each time which is evidence of the fact this commission is doing a job as is this large crowd here evidence that the commission is doing a job. These voices of concern we hear show that there are proprietary interests who are involved because of the way in which we write codes, and rightly so. They should be interested in this because their products may be involved.

There are those who resist change. They are the many different regulative departments of the State which have concern and do not want to lose any of their present authority, and as expressed by the State Architect, they have in mind a procedure whereby the commission, if I understand this correctly, would be relegated to two things, to approve standards already formally adopted, and to serve in appeals after other appeals procedures have been exhausted.

On the other hand you have a very far reaching proposal by an eminent architect, Mr. Botsai, which I find quite interesting. We among ourselves, the electrical contracting industry, have talked about the possibility of having all of the code writing, construction writing functions within one agency. We have been hesitant to come out and support such a proposal for fear we

would have everybody unhappy among the various agencies, but you would have some coordination of code writing.

I do feel though that if they should ever go this route you would find it difficult to separate out the building regulations writing function which must be done by people technically informed from the building writing regulations, from the building writing regulation interpretation. These two functions I think you will find on analysis do belong together. And they should render a determination as to what these rules mean. However, you would accomplish a great deal if this proposal were followed in that you would separate out the enforcement procedure from the code writing and interpretation procedure which is more than you have maybe in many of the local agencies and certainly more than you have with respect to the State minimum regulations as they are enforced today.

As to the matter of codes by reference, which is a controversial subject, I think first we should recognize that the National Electrical Contractors Association has always stood behind the concept of the National Electrical Code which is the best document written in the construction industry affecting any particular craft or branch of the construction industry because there is only one such in the United States, whereas in the plumbing industry I think there are three. In the Uniform Building Code there about three in that area, but here you have one which is recognized in Canada as well, with seventeen code-writing panels across the United States.

Now, you may rightly ask the question, why should not this be the minimum code and why can't we adopt it by reference?

This is certainly worthwhile debating, but let's consider the problem before the State Building Standards Commission did the marvelous job it has done. You, the contractor was faced with about twelve different agencies who had the authority to write regulations governing electrical construction scattered among the many different codes. One of the best known of them was the Electrical Safety Orders which in itself is virtually a complete code paralleling the language of the National Electrical Code. The poor contractor, the poor wire man, the poor engineer, the poor architect, had to struggle with both of these without any method of cross referencing between the two and there was this great resistance of the historical control of the commission through the heads of the various agencies to making any change. When change was made there were unhappy people because nobody wants change, especially if you take away the authority of the existing agency.

Today in Part 3 of Title 24 of the State Building Standards are all of the electrical regulations of all of the agencies that have the authority to write. Now for the first time -- it isn't perfect. Nothing is perfect in its onset, but it is pretty good, and they have some further revisions they are working on. Now the problem of keeping this up to date is monumental. The National Electrical Code is revised, comes out with a new edition every three years. Within a couple of weeks, on December 1, will be the deadline within which people who want to make changes in the National Electrical Code must get their proposals in writing to the code writing panels of the National Electrical Code. If they don't get them in there

they will not be considered for the 1971 edition, and after that you can get the recommendations in for the 1974 edition.

Now, the health and safety, the public is such that we have to work on this thing continuously and the writing of construction regulations is a full time deal. The State Building Standards Commission has done the most admirable work in this field with advisory panels. They have even broken it down I think into about eight or nine sub-panels, or ten panels which work on this thing, dedicated people who contribute their time to bring this up to date with participation by the many different types of industries interested in this thing.

So my point is that the State Building Standards Commission must have greater authority so that it can accomplish the objectives of the law.

I would like to direct your attention to Section 18911 of the Health and Safety Code which is part of the State Building Standards law: "All building regulations shall be written, administered and interpreted on a performance basis consistent with State and nationally recognized standards for building construction as set forth by the commission in view of the use and occupancy of such structure and the qualities and quantities of available materials and methods of construction to best preserve and protect the public health and safety."

Now, this particular duty that they have is not looked upon with favor by some of the promulgating agencies because this enables the commission to do this very important service, which is to examine all regulations and continually review them. They have that authority to see that we are in step with

the best thinking in this area to protect the public and see that they have the benefit of materials and methods and everything else. If anything, the commission needs more staff. It needs more money. We have had this battle the last session of the legislature as to their having the budget to do it. We have proposals to set up a coordinating council which has been described to you by others which would take away much of the functions of the commission.

Now, we think it is fine that there be a coordinating council among these agencies so that we do work together, but the function of the commission, which is that final function of rewriting where necessary -- they don't have the right to write building regulations except where an agency has been asked to and they refuse to, and then they do.

SENATOR MARKS: May I ask a question?

CHAIRMAN SCHMITZ: Senator Marks.

SENATOR MARKS: I'm going to ask you particularly, Mr. Kramm, because you happen to be here and I could have asked it of almost anybody. I occasionally read stories that say that the cost of construction is too high because (a) the codes are too restrictive and (b) that the labor costs are too high. Whether these allegations are true or not, would you care to comment on whether the codes are too restrictive or should they be simplified consistent with safety?

MR. KRAMM: I would say this, and in 22 years in the industry, and having worked with the electrical inspector in the East Bay where I coordinated their efforts to get uniformity in the code over a period of fourteen years until about ten



years ago when I took on this duty in Sacramento here, I had never seen a more dedicated group of people than the electrical inspectors for the 39 or 40 communities and counties in the four East Bay counties, contractors, union representatives, representatives of the manufacturing industry, P.G.&E., and the Pacific Coast Electrical Association, and the people that I met there. They are interested in protecting the public. They are strongly opposed to goldplating of codes. No, I think this prevails. These people here who sit on national code writing panels, who are experts, know that this is uppermost in their minds. Now, the State Building Standards Commission's function, and if anybody knows the staff and the attitude of the commission, they are dedicated to making available the best in codes.

SENATOR MARKS: I'm sure of that. I'm not alleging that they are doing this. I'm wondering whether or not these allegations are true. Occasionally we read in various publications that we could cut down the construction cost if the regulations were simplified. I was wondering whether there is any merit to those?

MR. KRAMM: No, those are occasional. I think it is up to you to do everything you can with the means that you have to encourage them to participate in this endeavor which we presently have to get these codes in line so that they are as simplified as possible and do consider national standards so that an architect in another part of the country or an engineer or a journeyman who may move from one part of the country to another can understand the code that you have in your particular

state or community. We are for this, but we do recognize that we must have something more comprehensive than the National Electrical Code because in this, which is your State regulations, are all the State's electrical safety orders which the State has developed with much expertise and experience through the years, and these people are dedicated people, too. We are ahead in California of every other state in the union I think in code writing, and I think that they have done, and some of the people who will follow will find out where they have reduced costs through the leadership given here of California. I know I have taken too much time. Any time you want to get to this question of school construction and inspection and that sort of thing, I'll be glad to get into that one, too. When time permits, I think you might do well to inquire into that subject.

CHAIRMAN SCHMITZ: One of our future witnesses is from the State Advisory Board in the Office of Architecture and Construction regarding the Field Act. I think we might save questions in that regard for him which will allow us to move on a little faster here.

MR. KRAMM: Yes. I would like next to introduce Mr. Ed Wismer. Ed Wismer is an electrical engineer and a well known electrical contractor, Wismer and Becker, in Sacramento, a well known firm. He is one of these dedicated people that everybody looks upon to give proper guidance to the industry. Since 1942 I think he has been a member of the panel that hears and makes interpretations to the City of Sacramento. Since 1945 he also took on doing the same function for the County of Sacramento. He is on an advisory panel, two or three of them, I guess,

sub-panels, for the State Building Standards Commission. I have seen him spend half his time, almost all his time on occasions, working on the achievement of this tremendous document here that the State Building Standards Commission has put out in the interest of the industry. Mr. Ed Wismer. I have to introduce him because he wouldn't say all these nice things about himself.

MR. WISMER: Thank you, Ernie. Gentlemen, that's quite a build-up. I don't know whether I am that good. I haven't anything prepared, just a little something on the back of a piece of paper.

Mr. Kramm has said a lot of things that I was going to say and in the interests of brevity, why I won't repeat any more than just a few words. Title 24 is made up of the National Electrical Code with very very few modifications, except that it takes in the electrical safety orders of the Division of Industrial Safety, the Public Health Department, the Fire Marshal's rules, hospital, housing, industrial safety, all into one electrical code. And although it isn't Utopia, it's still a big step in the right direction, and other modifications are in the process to better cover the various agencies and various branches of the electrical industry. I might assist Ernie in answering Mr. Marks. We don't try to goldplate the code, but we are trying to cut it down to a point where it's a minimum that is still safe, and there are cities and counties within the State that go over and above what Title 24 calls for.

SENATOR MARKS: Let me make a comment. I'm not saying you are doing this. I was just asking the question based on various

things you hear people say, people who may not know what they are talking about. People do say that you can cut down the cost of construction if certain things were done. I'm not saying you are doing this at all.

MR. WISMER: Thank you. We are not trying to build anything up. Now, in the work we have been doing, and I say "we" because I'm chairman of one of the panels in the advisory committee, we are trying to bring up to date the codes on electrical work. There have been some rapid changes in the usage of electricity. I will just bring out one example only, the high rise office buildings where they use a tremendous amount of electricity. The way the codes are presently written they do not have proper protection and quite often a service to the building, the electrical service, has a short circuit in it, or ground fault or something, and it starts an arc that will completely wipe out the entire switchboard room, which puts the entire building out of business. I'm not just saying this, it has happened on several occasions. We are trying to correct this.

There are several other things that are not quite as disastrous, but they need to be brought up to date so we're trying to do it and we're making progress we feel, but it is the Building Standards Commission that is doing this, and please don't short change them. They're doing a real good job for you. Thank you.

CHAIRMAN SCHMITZ: Any questions of Mr. Wismer? If not, who is your next witness, Mr. Kramm?

MR. WISMER: May I now introduce Mr. Jack Oneto, registered electrical engineer in the State and an electrical contractor

from Stockton.

MR. ONETO: Mr. Chairman and members of the committee, as Ed indicated, the present state of Title 24, Part 3 of the Electrical Code, is a great improvement over what we had before and the only point I want to make is that in the practical applications of the code, one of the greatest problems is interpretation, and this is my feeling and a lot of the contractors, that it's very important that we retain our appeals procedure that we have at the present time. Also I would like to see in addition to the appeals procedure that transcripts of the appeal hearings are made available to the contractors and engineers and everyone concerned so that we can tend to get the interpretations at all levels paralleled. Thank you.

CHAIRMAN SCHMITZ: O.K. Any questions of Mr. Oneto? If not, thank you very much. This leaves you, Mr. Knickrehm.

MR. KNICKREHM: My name is Allen Knickrehm. I am the code standards chairman for the Ninth District Council of the NECA. I am on two of the national code-making panels. I am on the State code advisory panel for the electrical code, and recently appointed by the Governor to the factory built housing advisory panel, so I guess I have a few things to do.

SENATOR WEDWORTH: Looks like you're a panel expert.

MR. KNICKREHM: I have met with our people and probably condensed down to ten statements the things we thought would be useful, and the first has to do with the State Building Standards Commission.

We think (1) it should be able to change and revise and delete regulations consistent with the interests of the public

and with national standards.

2. The State Building Standards advisory panels and committees should be the code-writing arms of the State Building Standards Commission.
3. We believe the State Building Standards should govern all of the regulations within buildings, that is to have jurisdiction over it.
4. The State Building Standards should determine the jurisdiction of the regulatory agencies within the buildings.
5. The Commission should be the board of appeals as to the meaning and the intent of the regulations.
6. The board should establish procedures similar to the American National Standards Association procedures for the orderly revision of the regulations.

I don't believe that point has been covered before, but what I'm getting at is that the timetable, a procedure that is followed, everyone knows what's going to happen, when it's going to happen, and that suddenly one morning you find they've changed all the rules, that that doesn't happen under those regulations.

7. We believe that the commission membership should be increased to include more technical expertise and that its staff should be adequately funded.

The second portion has to do with the regulator agencies. First, after demonstrated need by way of public hearings, the regulatory agencies should submit changes, additions, and revisions to the regulations to the State Building Standards

Commission. In other words, the feed back should come from the regulatory agencies as well as from the public.

2. The regulator agencies should be required to attend and participate in the advisory panel deliberations, and I can speak firsthand to this point. During the recent hearings and meetings of the advisory panels to upgrade the electrical regulations, some of the agencies came, some came for the full time, some came for the first meeting and never showed up again, and yet I have word of feed back that they have said that the advisory panels refused to listen to their proposals, and yet in my own advisory panel they came one day with a list of proposals and never came back, and that should be corrected.
3. And lastly, that the regulatory agencies be imposed upon to follow the rulings, regulations and interpretations of the State Building Standards Commission. At the present time there is not a clear cut feed back route that when these interpretations are made or when the rulings are set forth that they have to be followed.

Thank you very much, gentlemen.

CHAIRMAN SCHMITZ: You are welcome. Any questions of Mr. Knickrehm? All right, thank you very much.

MR. KNICKREHM: I would like to introduce George Harter, executive manager of the San Francisco Electrical Contractors Association.

MR. HARTER: Thank you, Allen. Mr. Chairman and members

of the committee, you all have copies of my statement so I'm not going to take the time to read the statement. However, I will capsulize my feelings with respect to the commission and its activities.

With respect to the two resolutions and the items contained therein, I would say first of all that the functions of the commission should be continued, that its activities should be expanded to embrace those areas that are not touched on now. Some of these I guess we have heard here today. I feel that this hearing has produced a great wealth of material for us to work on in developing a better level of operation for the commission.

I feel that the financing of the commission should be independent of the agencies with whom they work and whose standards they review. I feel that for the same reason that they should independently staffed and not dependent upon the staff of the agencies. And I feel that there should be an appeals procedure built into their operations so that in the event someone does have an objection to one of the rules or regulations or standards that they may then come to the commission and get some relief. I feel that if it is under the direction of the commission it will perhaps be handled with less bias than if it is handled through one of the agencies.

I would like also to say I am a member of the Greater San Francisco Chamber of Commerce and support very strongly the statement made by Elmer Botsai this morning. And with regard to this morning's testimony there was discussion about the approval powers of the commission. I feel that these powers



are well contained in Section 18907 of the present law and if anything, that particular section should be expanded. Thank you very much, gentlemen.

CHAIRMAN SCHMITZ: You are welcome. Any questions of Mr. Harter? If not, the last remaining representative of the trades here, Mr. Ben Boyden, and it says here, vice president of California. Will you elaborate a little bit? I didn't know we had one of those.

MR. BOYDEN: Mr. Chairman, I was going to elaborate on that as being listed as vice president of California, and in light of another vice president that has been in the news for the last few weeks, I think I better enlighten people. My name is Ben M. Boyden, and I am director of building safety for the City of Stockton, and the vice president of the California Chapter of the International Conference of Building Officials, and at this hearing am authorized to speak for President Thomas Balderrama and the board of directors who represent the building officials of over 200 local jurisdictions of building code enforcement.

At a board of directors' meeting on November 14, 1969, it was determined that the California Chapter should appear at this hearing and offer the testimony and experience of almost all of the cities and counties in California with regard to our opinions and feelings toward uniform codes, our successes in the field and a proposal that the State of California follow this pattern.

To begin with, one of our Chapter's historical prime interests and goals is the maintenance of home rule. It should

be noted here that this policy has also been recognized publicly by the present Governor of California. From our great interest in home rule is derived our interest in local and state building regulations.

Our concern with the subject of this hearing, which is the review of functions, activities, financing and staffing of the Building Standards Commission, stems from the following facts.

Most cities and counties in California have adopted the model codes by reference. There usually are two reasons for doing so:

1. For economy in printing and publishing;
2. For promotion of basic uniformity.

While it is true certain jurisdictions make minor administrative amendments and a few others which are geared to local conditions, the basic concept of types of construction, occupancies, fire protection and engineering design are very uniform in the jurisdictions which have adopted the model codes by reference.

This has been documented by a survey of most of the cities and counties in California in 1966, concerning what sections of the code had been amended. Results of the survey showed that most amendments were in the administrative portion of the code and that the technical amendments were considerably less in number and minor in scope. It should also be noted that it is one of the primary goals of the California Chapter to encourage cities and counties to adopt the model codes with as few amendments as possible. Each new publication of the model code and its adoption by cities and counties shows up a greater

number of jurisdictions adopting the code without any amendment.

As a building official, I am very often checked by out-of-town architects, by phone, and asked the question about what year's model code that Stockton has adopted. Being able to refer to the Uniform Building Code seems to provide architects with the satisfactory standards for design without detailed study and analysis of voluminous printed material.

It is, therefore, our belief that the successful use of the model codes in past years by most cities and counties in California proves the point that adopting a nationally-accepted model code by reference is a simple, inexpensive method of providing uniform standards of construction for all construction industry throughout our State and, particularly, for the designers and architects who have to read and interpret codes.

It also should be pointed out that, with regard to new materials and methods of construction, the privately-funded testing agencies of the model codes are producing thousands of records of materials, tested successfully and being approved as alternates by cities and counties throughout California and the Western United States.

We would recommend that the State of California take steps to implement the use of model code adoption, rather than the time consuming, extremely expensive code-writing machinery that is presently operating at the State level.

We now consider the role of the Building Standards Commission in setting up codes for more than just State agencies. It should be noted that State Housing Codes are applicable to

all cities and counties that do not have complete applicable codes. Therefore, the city and county jurisdictions do have a sincere interest in the codes that will eventually become applicable to their local areas. Where city and county jurisdictions have to correlate all State and local construction codes, it is next to impossible to keep cognizant of all such changes when large published volumes of State codes, such as Title 24, are continuously being rewritten and amended. We have no quarrel with the original intent of the Building Standards Commission to correct conflict, overlap and duplication, but now that the job is basically complete, construction codes are still being amended, rewritten and changed without any apparent need or justification.

In conclusion, it would be our position that the Building Standards Commission could now be phased out and that the future of construction codes in California could gradually be supplemented by the adoption of model codes as a means of producing uniformity and correlating local codes with State codes.

State agencies such as finance, housing, architecture, public health and others, could assist in the updating of the model codes by simpler methods than the present procedures, which updating would automatically be reflected in all other cities and counties adopting the model codes.

The California Chapter of International Conference of Building Officials, representing the largest group of building officials, stand ready and willing to cooperate in any way possible to get a uniform code throughout the State of California which will allow jurisdictions a full measure of home rule.

CHAIRMAN SCHMITZ: There may be some questions of Mr. Boyden.

Before we do, I would like to point something out to Mr. Boyden. In your second last paragraph you comment "State agencies, such as finance, housing, architecture, public health and others, could assist in the updating of the model codes by simpler methods than the present procedures, which updating would automatically be reflected in all other cities and counties adopting the model codes." In a discussion at lunch time with our representative of the Legislative Council's Office, Mr. McCabe here, he felt that this was the area, am I correct, Mr. McCabe, in assuming that this is the area that you would apparently run into a constitutional problem. In other words, that even if you adopted by reference a model code, that it would not be applicable to any further changes in that model code. Am I correct in that?

MR. McCABE: Yes. The cases have held that you can adopt by reference as the adopted material stands at the time it takes legal effect, and that the changing by non-governmental bodies amounts to an improper delegation of legislative authority.

CHAIRMAN SCHMITZ: In other words, I asked him specifically about the difference between Mr. Hummel's testimony that there is an Attorney General's opinion that you could adopt by reference another code adopted by a non-governmental agency, and Mr. Cobden's testimony that there were court opinions that you could not, and I asked Mr. McCabe what his opinion was as a representative of the Legislative Council and he said he felt you could, but it would not be applicable in the manner that I believe you are representing could be done here.

MR. COBDEN: Could I explain that, Mr. Chairman?

CHAIRMAN SCHMITZ: Go ahead.

MR. COBDEN: The City of Stockton has been a charter member of ICBO since 1930. We have adopted the Uniform Building Code every three years or every six years depending on local conditions and so forth, but we have adopted each successive code as the need was felt down through the years. We agree that you cannot adopt a single code for all time, but we do know that changes can be made and voted upon by the majority of the building officials in California in a normal procedure now and these amendments can find their way into the three-year printed codes which then the State of California could adopt every third year. Other amendments that were felt necessary each year could be adopted specifically. We didn't mean to imply that you would adopt one code and it is good for all time. We in Stockton know that you have to adopt a specific code in a specific year, but we do it every three years which saves having to do it every year.

CHAIRMAN SCHMITZ: The effect would be that we in California would be setting that code and changing it every three years. You would not be adopting a model code for all peoples for all time?

MR. BOYDEN: Correct, you would have to adopt it every three years. We would like to point out that by having the State agencies such as they are now be members of the International Conference of Building Officials and to propose amendments in the normal manner, that these changes would find their way by a democratic process that would be voted upon by all the building officials in the State of California and

finally be adopted into the code as the needs warrant. In other words, if there was an important amendment to be placed in the code for safety's sake, it could be adopted immediately. If it could be left until the three-year adoption, it could be left until the next model code was adopted. This is the way the things have been going on for us in Stockton for about 30 years, very successfully. For instance, it might be interesting to go back to some testimony here earlier that Mr. Dickey when he was Assemblyman attempted to get a bill through the legislature that would bring school districts under the Uniform Building Code locally. It was not successful of course. It was watered down, but had it been successful, the two exits to the classroom would now be part of the law because the Uniform Building Code does provide for from over 20 to 50, two exits. So you see, we as a group of building officials with a great number of years of experience, do feel that the two exits are necessary. It is only one exit when there is less than a twenty-occupant load as I recall.

CHAIRMAN SCHMITZ: O.K. Any questions? If not, thank you very much. I had hoped to wrap up this hearing approximately 45 to 50 minutes from now. We are going to have committee members rushing off to catch airplanes from here on out. They will be able to read any testimony that does go into the record later, so I would like to move on. We now have representatives from the professionals. The first is Mr. Robert Haussler, of the Structural Engineers Association of Southern California. Maybe we can save time by having some of these other people come up here and take your seat so that we can

move on a little more quickly. There is Mr. Ken Oliphant, Mr. Jack Barrish, Mr. Saul Goldin, Mr. Dan Christie, Mr. William Levers, and if we have time, Mr. James Bruce. O.K., Mr. Haussler.

MR. HAUSSLER: I am Robert Haussler, consulting engineer, representing the Structural Engineers Association of Southern California. Our comments are basically on the structural provisions of Title 24, and it is from the viewpoint of the practicing engineer. What we would like to do is to be able to use one code for the general practice that we are in. It's true that the codes are mainly based on the national design specifications and that many of them are verbatim from one wording to another, but there always seem to creep in some minor changes and differences between them.

As for myself I'm registered in 25 States and it is all I can do to keep up with the national design codes, let alone the codes of any particular state, and I certainly don't keep copies of the codes of all 25 states and all the cities inside these states on the shelves of my office. I have to rely on the checking groups within these bodies. So you'll see that although we are in favor of the Building Standards Commission, we feel it is doing a very good job, but we feel that it needs new direction, and to do this, to accomplish this, it needs the right to adopt by reference with amendments, and to clarify this to the Building Standards Commission, if there are some legal obstacles in the way, why we would certainly appreciate it if this commission could find some way to overcome that and break down those barriers so adoption by reference can be accomplished.



Now, whether this adoption by reference is mandatory or permissive, I think the experience has been that we cannot make it completely mandatory. There are certain parts of the State Code that there isn't adequate source to derive this information from so we are going to have to leave it up to the commission or its advisory board to decide when a model code is being adopted if it is correct or not. Presently I would say that the UBC is an ideal place to adopt this from, but it may be that in a few years it may not be an ideal place to adopt it from and you have got to have some flexibility in this. So how to work that in I don't know, but it's got to be flexible in our opinion.

From our view why we have pushed this by reference for many years and we think that its coming to a head in the national code is in the offing. If we don't do something about it here in the State of California, we are going to have a national code and we're going to be told what to do. The best way we can do is to get our own house in order and follow a national design specification or the Uniform Building Code.

In our opinion in the southern section of the Structural Engineers Association, the UBC is the finest structural portion to follow. If there are any questions from the committee members, I would be glad to answer them.

CHAIRMAN SCHMITZ: Any questions? You think that's the best reason for doing it, that if we don't, we're going to be forced to do it anyway?

MR. HAUSSLER: Well, to meet the factory built housing law which you have already passed here in the State, you must

meet with these other states and get some sort of uniformity. So I really do believe that you will be left by the wayside if the State doesn't meet with all the other states in national committees and meet with the jurisdictions within the state on committees to get this thing correct. It's got to be done correctly or some other group is going to take over and preempt the state.

CHAIRMAN SCHMITZ: I thought you meant the Federal Government was going to pass a law, or is that what you do mean?

MR. HAUSSLER: I do mean the Federal Government will step in and write the building code if we don't get our own house in order by properly working with --

CHAIRMAN SCHMITZ: It just doesn't make us state legislators feel good to keep saying that we better do so because if we don't there's another group that's going to do it. It makes us feel so unimportant. I mean why not save the money in our salaries and fold up shop and just let them do everything?

MR. HAUSSLER: Well, partly because we are afraid of the Federal Government doing it. That's why we want you --

CHAIRMAN SCHMITZ: If we are going to do the same thing under the threat of the Federal Government, isn't that just as bad as the Federal doing it?

MR. HAUSSLER: Under the threat of the Federal --

CHAIRMAN SCHMITZ: In effect it's worse because it gives you the illusion of freedom.

SENATOR WEDWORTH: Or on the other side of the coin, Senator, we could roll up our sleeves and go to work, too.

CHAIRMAN SCHMITZ: To do what they will force us to do

if we don't?

SENATOR WEDWORTH: No, to do what we should have done already, I'll put it that way.

CHAIRMAN SCHMITZ: Fine. It's too late in the day to argue. Mr. Ken Oliphant. We should have had a two-day hearing.

MR. OLIPHANT: Honorable Chairman John G. Schmitz, I adhere to your admonition and I'm going to make my presentation as brief as possible. I am Kenward S. Oliphant, president of the Consulting Engineers Association of California. I have a private practice in an engineering firm in the City of San Francisco. The text I wish to read is as follows:

The Consulting Engineers Association of California representing engineers in private practice in this State are now, and have been concerned about inter-agency struggles within State government relative to assuring health and safety for the public.

Senate Resolutions Numbers 358 and 369 indicate others share our concern.

In general, CEAC supports the concept of the San Francisco Chamber of Commerce proposal for code promulgation and enforcement.

To assist the legislature in their investigative, formulative and implementation work relative to SR Numbers 358 and 369, CEAC wishes to offer the services of professional engineers in private practice as code advisory committee members, members of commissions, boards, as appeals hearing officers and any other function that may be deemed pertinent.

Respectfully, signed by myself.

CHAIRMAN SCHMITZ: O.K. That's what we like to hear, I mean the brevity. Any questions from members of the committee? O.K. Thank you very much, Mr. Oliphant. Next is Mr. Jack Barrish, Structural Engineers Association.

MR. BARRISH: Mr. Chairman, I am the president elect of the Structural Engineers Association of California. We have previously taken a position with regard to adoption by reference by a vote of the general membership. I should like to read you that resolution:

"Whereas, it is in the best interest of the public to protect its health, safety and welfare through providing adequate, non-conflicting building code regulations in a single State Building Code; and

"Whereas, the legislation and administrative machinery to achieve this end exists in the State Building Standards Commission and Title 24 of the California Administrative Code; and

"Whereas, the Governor of the State of California and his administration are concerned with the high costs of government and they do desire to reduce these costs wherever possible without detriment to the needs of or reduction of necessary services to the people of California; and

"Whereas, the present policies of the State Building Standards Commission are such that considerable effort is expended in recodifying and reprinting, in whole or in part, many existing available building codes, standards, and specifications in an effort to put all building code material into one volume; and

"Whereas, this work could be greatly simplified at vastly lower cost if the materials from the sources quoted above were incorporated into Title 24 by reference; and

"Whereas, there is nothing in enabling act which prevents such incorporation by reference; and

"Whereas, such practice of incorporating existing codes, standards and specifications by reference would produce a more efficient and usable Title 24 than the present cumbersome and expensive document, to the advantage of all who must use the code, while preserving the public interest; now

"Therefore be it resolved, by the Structural Engineers Association of California in convention assembled on October 11, 1969, that the Governor of the State of California be urged by means of this resolution to pursue his announced objectives of reducing costs and increasing efficiency by directing the State Building Standards Commission to use the technique of incorporating model building codes and national building standards into the State Code by reference thereto to the fullest degree consistent with the public health, safety and welfare; and

"Be it further resolved that copies of this resolution be directed to the Governor, members of the State Building Standards Commission, city and county building officials, the League of California Cities, the California Council of the American Institute of Architects, the Consulting Engineers Association of California, the Home Builders Association, the Association of General Contractors, the State Senate Committee on Commerce, the State Assembly Committee on Governmental Administration, and all other organizations interested in seeing that the State

of California is provided with a modern, consistent, workable Title 24 at the lowest possible cost."

Now, gentlemen, this was directed to the Governor because we believe very sincerely that it lies within his power to direct the State Building Standards Commission to use the technique of adoption by reference of existing codes predated. However, that question has been raised here today and I am empowered to tell you that if that power does not exist, then the Structural Engineers Association of the State of California urges this committee to initiate such enabling legislation.

Now, the other major point that was raised this morning was the presentation by Mr. Botsai. Now, there are people in this room who have every reason to believe that the Structural Engineers Association will take a position on this matter. The Structural Engineers Association of California has not had sufficient time to evaluate all of the ramifications that exist in that original proposal and consequently request that it have more time before it responds to this. However, the Association empowered me to draw a parallel if I would to Charles Lamb's Dissertation on Roast Pig, "It is not necessary to burn down a house in order to roast a pig."

CHAIRMAN SCHMITZ: Thank you very much, Mr. Barrish. Any questions from members of the committee? If not, we will have Mr. Saul Goldin.

MR. GOLDIN: Mr. Chairman and Senators, my name is Sam Goldin. I am a member of the board, and I'm speaking for the Association of Consulting Electrical Engineers. The Association

of Consulting Electrical Engineers is the largest group of registered professional electrical engineers in the State of California. Our work involves basically the preparations of electrical plans and specifications for residential, commercial, industrial, institutional and governmental building projects.

As private consultants we are not only in touch with the needs of our community but are leaders in the solution of these needs. Building standards and building regulations are daily tools of our profession.

We are, therefore, vitally interested in these standards and regulations in that they be an aid rather than a hindrance to the rapidly expanding and increasingly complex needs of the building industry.

We applaud the intent and work of the Building Standards Commission and are prepared to assist it in its work of unification. We would like to see the commission membership expanded to contain representation of all the design professional disciplines so that its decisions can be more relevant.

CHAIRMAN SCHMITZ: Excuse me, relevant to what?

MR. GOLDIN: Relevant to the needs of the construction industry by adding the insights of the consulting engineers which are very varied.

CHAIRMAN SCHMITZ: Thank you.

MR. GOLDIN: We would like to see the commission staff and budget expanded with personnel that are knowledgeable in each of the major construction disciplines and its work made readily available to all those affected.

We would like to see consulting engineers on all the

commission advisory panels and subcommittees so that their knowledge and experience can be used in creating a more relevant code that will permit greater freedom for creative design and construction. We are aware more than most of the rapidly increasing complexity and sophistication of one of the largest industries in our State. If we are to meet the challenges of the future, we must promote a better understanding and unification of all agencies into a central clearing house such as the Building Standards Commission. No longer is the work of one independent of the other. We are all affected and interdependent.

If the public is to enjoy on a timely basis the economic benefits of technological improvements in materials and methods of construction consistent with the best recognized construction standards, we must have legal, regulatory, and appeals provisions that will permit it. We believe the Building Standards Commission is a vital step in this direction.

Thank you.

CHAIRMAN SCHMITZ: Any questions from members of the committee? I don't want to take a lot of time, but can you briefly tie in the relationship "if the public is to enjoy on a timely basis the economic benefits of technological improvements ... we must have legal, regulatory, and appeals provisions that will permit it."

MR. GOLDIN: In order to update regulations there must be --

CHAIRMAN SCHMITZ: In other words, what you are saying is unless you update them you're going to have costly regulations that are hindering the regulations that are hindering the



industry, which is what Senator Marks brought up earlier.

MR. GOLDIN: Right. We're in a dynamic industry. I participated in the Building Standards Commission in its electrical code revision function. They significantly gathered technical people from all over the State, from all areas of the construction industry. The exposure of all of us to each other was very beneficial in gaining insight into our special needs and we all profited from this for the good of all of us.

CHAIRMAN SCHMITZ: So you are as interested in repealing old regulations as you are in coming up with new ones?

MR. GOLDIN: Absolutely.

CHAIRMAN SCHMITZ: Thank you. Any other questions? If not, I would like to call on Mr. Dan Christie, consulting safety engineer.

MR. CHRISTIE: Mr. Chairman, there is almost all the testimony of us who are left has been given, it doesn't leave much for us to say, but there is one item, or a couple of items that I would like to go into that I don't think have been said. Now, I would like to commend the San Francisco Chamber of Commerce for the proposals it has submitted, and I to some degree support these. The Title 24 requirements, as are the American Standard Association Requirements of which I am general chairman of the National Construction Safety Standards Committee, are set up as minimal standards of safety to propose guidance to those who use them, whether it be local entities or whatever.

Now, several of the gentlemen who have gotten up here and commented have stated that the commission needs more support,

more strength, and there should be an appeals division. Well, if an appeals division is to function properly, then the commission itself should be withdrawn from under the Secretary for Agricultural Services, and I would suggest to you that the commission be established as a completely separate entity, somewhat along the lines of the California Executive Organization sponsored by the Governor as a completely separate entity.

Now, the other item is that we have continually talked about building standards here today. Now, I'm concerned greatly about general safety on not only buildings but on all construction, and I'm wondering if it might not be appropriate now and in this year to change the name of the Building Standards Commission to the Construction Standards Commission.

CHAIRMAN SCHMITZ: A rose by any other name.

SENATOR COOMBS: He's talking about roads and airports.

CHAIRMAN SCHMITZ: Oh.

MR. CHRISTIE: That's right. We have many --

CHAIRMAN SCHMITZ: Because of the non-building construction that's involved?

MR. CHRISTIE: That's correct. We in the American Standards Association in 1942 published the old building standards. We have now gone in and have changed all this to construction standards because of the widespread scope. Now, the other point I would like to make is that the more, I had a prepared statement and I have since torn it up and thrown it away --

CHAIRMAN SCHMITZ: The occupational hazard of being clear to the last.

MR. CHRISTIE: Right. That's exactly right. But the more I have heard here today tends me to believe that as many have said before me, that construction standards or building standards, if you wish to call it that, should be confined under one regulatory agency, as well as the codification should be combined under one regulatory agency, and I would ask you to give consideration to the idea of also including those regulatory groups that have to do with construction under one agency, for one thing, uniformity, and elimination of overlapping of responsibility and this should save some money.

And the last thing is that with the degree of safety that we require today and the expertise in the subject area, I would further ask that a qualified safety engineer be added to the Building Standards Commission. Thank you.

CHAIRMAN SCHMITZ: You are welcome. Thank you very much, Mr. Christie. Any questions by members of the commission?

SENATOR COOMBS: Do you feel the general safety orders should be added to Title 24?

MR. CHRISTIE: Not the general safety orders, sir. The construction safety orders, the tunnel orders, parts of the electrical safety orders which have already been included, or all the electrical safety orders which have already been included, but I think the industrial safety orders have a specific purpose that do not really apply to construction per se until after construction is completed and the facility goes into operation.

SENATOR COOMBS: Thank you.

CHAIRMAN SCHMITZ: The next witness was to have been Mr.

J. Warren Wright, chairman of the State Advisory Board, Office of Architecture and Construction. I mentioned earlier that he was listed here. My secretary handed me a letter from Mr. Wright indicating that he wouldn't be here and he's not here. Mr. Cheesebrough is here but not here to testify. I do feel I should perhaps read a couple of sections of Mr. Wright's letter which synopsizes his feelings. He points out that he "was just yesterday," and the letter was written on November 21, "yesterday made aware of the proposal drafted by the San Francisco Chamber of Commerce for presentation to your committee on Monday, November 24, 1969, in connection with SR 358 and SR 369.

"Such a reorganization plan would have a far-reaching effect on the whole design and construction industry and could seriously set back and impede the progress which has been made, particularly for public school buildings under the Field Act, in developing safe up-to-date design and construction regulations."

He then concludes with this paragraph: "We strongly urge that, if such a plan is to be given serious consideration by your committee, further public hearings be conducted, preferably in Southern California." This letter will be submitted. He will not be here, but that would have been the gist of his testimony had he been here.

We will then move on to two people who are not listed on the schedule of witnesses, Mr. William Levers, Standard Oil Engineering Department and he will be followed by the final witness, James L. Bruce, an independent building contractor.

MR. LEVERS: There is one minor advantage in being last. I think there may be enough copies of my statement because of the attrition of the committee.

CHAIRMAN SCHMITZ: They will all be able to read it in the printed record.

MR. LEVERS: Well, I'm William Levers. I am manager of the Systems Planning and Design Division and Engineering Department of Standard Oil. I don't have comments that would be considered original at this point.

However, I think they are in accord with a number of things that have been said, and since they are I think reasonably brief, I would like to read at least the essence of them.

My comments were directed to Senator Schmitz and start out, I would like to go on record as endorsing the concept of your committee conducting the study and the evaluation of the activities of the Building Standards Commission and the subject of procedures involved in preparing the various building standards. There are a number of reasons for my endorsement which I will discuss in somewhat more detail.

In commenting on the operations of the Building Standards Commission, I would like to go back to the pre-commission days when our code relationships with the State were with a number of agencies. In 1963 the State Building Standards Commission was created and subsequently activated. This introduced a new element in the area of State regulations and is typically the case, some misunderstandings and concerns have developed during the shakedown of this new commission. If our experience in industry is any guide at all, it has proven worthwhile and

constructive to periodically evaluate the role and performance of any new group such as this, be it in industry or in government.

As far as we can tell, the Senate Local Government Committee is certainly the logical group to conduct such an objective evaluation if the evaluation takes into account the questions and suggestions of interested parties.

It should be able to perform a valuable service by clearing up the misunderstandings and concerns that may have developed. It may also result in some recommended changes that will improve the effectiveness of the commission to the mutual benefit of both the State and the groups governed by the regulations.

Based on my many years of participation in the development of various State electrical regulations and current participation as a member of the Building Standards Commission's electrical advisory committee panel, I would like to offer two items that appear to me would benefit from further study and discussion.

1. Building standards commission membership. The present spectrum of membership on the commission is representative as far as it goes. However, I recommend that further thought be given to expanding the membership to include at least two members selected from industrial concerns who in the long run are the ones governed by the regulations. One of these new members should be I believe technically oriented. This would permit a freer exchange of the industrial point of view at the commissioner level.

The second one, No. 2, the electrical regulations revisions:

My comments on this point apply primarily to the electrical regulations since this is where most of my contacts have been. Since initial issuance of the commission's electrical regulations, there have been some four or five revisions in a relatively short period of time. I suggest a program of formal revision be geared to something like a three-year time schedule which is currently followed by the National Electrical Code, supplemented by interim amendments and interpretations to cover specific problems that develop. This would tend to stabilize the regulations for periods of three years or so and in turn this would permit agencies such as our own engineering department to proceed on firm ground during the design period on major projects that may be in process of design for one or more years.

Aside from these concerns there seems to be merit in having objective assessments of the commission's procedures for implementing their charter, to see if there are lines of communication that might be added or strengthened. As mentioned earlier, any new operation needs all the communications it can get and the study and report by your committee on the commission should go a long ways towards answering some of the questions and concerns that apparently led to the two subject resolutions.

In closing I would like to indicate our willingness to cooperate in any way that we can to facilitate the committee's follow-up action on these matters.

CHAIRMAN SCHMITZ: Thank you very much, Mr. Levers. Any questions from members of the committee? I appreciate not only yours but other witnesses offering your services. It is very encouraging to see the interest and the willingness to

cooperate in all who have testified here. Thank you very much. Our last witness is Mr. James Bruce.

MR. BRUCE: Mr. Chairman, I am James L. Bruce, a plumbing, heating and sewer contractor. For 24 years I hold probably one of the few clean licenses still on record. I am a resident of Oakland, California, a member of the Plumbing Advisory Panel. If I might say, I represent the unrepresented public who reap the fruits of progress and also pay for the mistakes and shortcomings resulting therefrom.

The State Building Standards Commission is a vital necessity to the future of building in this State and to afford the buying public some protection. The manufacturers of building materials and products are the proponents of these measures that seek to eliminate all controls, standards and regulations that protect the public interest.

It is a conflict of interest in the highest degree for the manufacturers of materials. For the construction industry to write their own bill of goods without any controls or standards, they would not be concerned about quality, durability or performance but only about amounts of dollars lifted from the public.

They continually expound about new products, new methods and new materials and not one time do they mention that in most cases the buying public gets the short end of the stick. The gate has been opened wide, but that has not been enough. They want now the entire fence removed so the stampede can gain momentum.

The Builders Associations are not exactly innocent. They



are not the instigators of this move to eliminate all controls, regulations and standards, but they have permitted themselves to be used as a tool and mouthpiece so as to present a better image to the public. The manufacturers stay partly in the background on certain issues to make it appear that it is a gripe from the builders themselves and also originated with them.

The manufacturers are very generous with lavish dinners, gifts, trips and sometimes with outright donations as a means to accomplish their goals.

Business and professions standards who issues licenses in this State -- there is a sort of parallel to that, and I'm going to close. The first license I received in the State of California, I passed an examination from the City of Oakland, and subsequently I took an examination for the State of California. Well, to make it short, the State license amounted to a little less than a business card because there were still cities I could not work in. I'm getting to the point now, that the State must be supreme.

There was a case which came from the City of Fresno. It was entitled "Echels versus City of Fresno" and every city and county in the State of California was present because the State laid down the law and this is what they said, they said wherever the State had issued a man a license, that no one would deny him the right thereof, and the same thing is going to have to take place in the field of building, the State must be supreme. In order to have a uniform and a safe and a sound system beyond intimidation, it is a problem for the State to control. Thank you.

CHAIRMAN SCHMITZ: Mr. Bruce, there may be some questions. Are there any questions?

SENATOR WEDWORTH: It is quite a document, but I don't have a question. But he's right about the Echels case, Echels versus the City of Fresno.

CHAIRMAN SCHMITZ: I just wonder, do you really feel that the architects and builders and so forth are seeking to eliminate all controls, regulations and standards? I really didn't gather that was the gist of their testimony. In other words, I haven't seen too much testimony here today from anyone that seeks, to use the words in your testimony "That seeks to eliminate all controls, standards and regulations." I haven't really heard that testimony.

MR. BRUCE: Let me clear that up, when I say, if the State doesn't have some regulations --

CHAIRMAN SCHMITZ: I was waiting for it, but I didn't hear it.

MR. BRUCE: It will be up to the cities and municipalities and some of these we have seen, and we are in for some fantastic surprises if every time a city can put through some provision to slacken and reduce the quality of building, it's going to happen. It's already happening. We just completed a job in West Oakland for the West Oakland Health Center where they brought a bunch of house trailers from Southern California and stacked them together and called them a building. There's some fantastic things in store, no criticism in particular, but there are some great strides, and whether they are all good has to be determined by history, but there must be a regulation in

this State other than by municipalities.

CHAIRMAN SCHMITZ: Well, but the testimony so far is that I don't think anyone really came up and said that the State shouldn't have some minimum standards, but that the State should have minimum standards and the local entities should have the ability to make them stronger. That seems to be the general weight of the testimony here. So I'm just wondering if there's some evidence of that. It hasn't come out in this hearing that there are people trying to do away with all standards.

MR. BRUCE: Well, if the State is removed as an obstacle, then the door is opened for fantastic innovations in building, and I have a very strong feeling that that's what's behind this.

CHAIRMAN SCHMITZ: Oh. Well, I haven't seen such an example of a movement towards free enterprise here all day, but if you see it --

MR. BRUCE: Well, if you are familiar with one particular case in common in Southern California, I can't call the city now, but there were a number of houses built on fill ground. This is your local code now. While it was O.K. to put the water line under the slab, they proceeded to put the gas line under the slab and all of them were practically a total loss. This is a result of local autonomy and the State must afford some degree of protection.

CHAIRMAN SCHMITZ: Aren't you assuming something, that the State is smarter than the local? Isn't that a basic assumption of your argument, that anything the State does is smarter than the local? You might have a problem, you might have the people at the top preempting an area that could better

be done at the local.

MR. BRUCE: No, no, it's the fact that the State must be the supreme authority; otherwise in the western portion of El Dorado County they may come up with gambling.

CHAIRMAN SCHMITZ: What if they are supremely stupid?

MR. BRUCE: Well, that's another question.

CHAIRMAN SCHMITZ: You are assuming I think in your argument that whatever the State does they will do better than the local area. I think some of the testimony we have had indicates just the opposite, that the local people will know better; in other words, don't you think local people are just as concerned with safety as State people are, and if they are just as concerned, shouldn't they know better what is safe in their own district than the people in the State know?

MR. BRUCE: If it was truly representative of the people in that area.

CHAIRMAN SCHMITZ: Then that's the crux, not whether it is State or local.

MR. BRUCE: If it was truly representative, it would be.

CHAIRMAN SCHMITZ: That would seem to be the criteria rather than the level, the method.

SENATOR WEDWORTH: I believe, if I may comment, the reason we have State minimums is if in fact it didn't happen in the past that there was maybe citizens and counties that didn't perform maybe as they should, that certainly in the future after we have minimums this wouldn't happen again.

CHAIRMAN SCHMITZ: I think that has been the gist of the testimony.

SENATOR WEDWORTH: There is only one word I heard this afternoon and that was "promulgation" at some point, and I wasn't clear on the point so I'll not comment on it at the moment, but that was about the only thing that I heard that raised at least one antenna. Thank you.

CHAIRMAN SCHMITZ: O.K. I would like to thank the staff and all the witnesses and everyone that participated in the committee. When I looked at that bunch of witnesses I didn't think we were going to finish in time for me to catch my airplane. I think it's because I'll perhaps see half of you in the plane down to Los Angeles. Maybe that's the reason. Thank you very much, committee members, those that stayed and those that didn't. Thank you very much. And with that I'll close the meeting.

(Thereupon the meeting was closed.)

## REPORTER'S CERTIFICATE

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THIS IS TO CERTIFY that I, ALICE BOOK, a Certified Shorthand Reporter, was present at the time and place the foregoing proceedings were had and taken before the SENATE LOCAL GOVERNMENT COMMITTEE held in Sacramento, California, on November 24, 1969, and that as such reporter I did take down said proceedings in shorthand writing, and that thereafter I caused the shorthand writing to be transcribed into longhand typewriting, and that the foregoing pages, beginning at the top of Page 1 to and including Line 14 on Page 139 hereof, constitute a true, complete, accurate and correct transcription of the aforementioned shorthand writing.

Dated this 30<sup>th</sup> day of December, 1969.

  
\_\_\_\_\_  
Shorthand Reporter

*California Legislature*

**SENATE LOCAL GOVERNMENT COMMITTEE**

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