

THE PINELANDS PROTECTION ACT

**A Discussion by
Participants in the Process**

October 15, 1987

**Eagleton Institute of Politics
Rutgers University**

On Thursday, October 15, the Eagleton Institute of Politics hosted a reunion for people involved in passage of the Pinelands Protection Act, one of New Jersey's major public policy achievements.

Eagleton invited 45 individuals, of whom 28 were able to attend. A number of people were unable to make it: Phillip Alampi, David Bardin, Nancy Becker, Budd Chavooshian, Robert Corman, Kathy Crotty, Assemblyman John Paul Doyle, Congressman James Florio, Congressman William Hughes, Stephen Lee, Jeffrey Light, John McPhee, Leland Merrill, Steven Picco, Howard Quirk, Rocco Ricci, and Assemblyman Robert Shinn.

The discussion, which was moderated by Alan Rosenthal of Eagleton, began with introductory remarks by Governor Brendan Byrne and by Franklin Parker, Chairman of the Pinelands Commission.

The discussion was transcribed and typed by a court stenographer and subsequently edited for distribution to participants.

PARTICIPANTS

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 FRANK BRILL, Lobbyist, representing N.J. Builders Association
 MICHELE BYERS, New Jersey Conservation Foundation
 BRENDAN BYRNE, Governor*
 MICHAEL CATANIA, Office of Legislative Services*
 BERYL ROBICHAUD COLLINS, Co-editor, Protecting the New Jersey Pinelands
 JOHN COONEY, Executive Assistant for Community Affairs, Rutgers University
 JOHN DEGNAN, Attorney General*
 JERRY ENGLISH, Commissioner, Department of Environmental Protection*
 RALPH GOOD, Division of Pinelands Research, Rutgers University
 HAROLD HODES, Deputy Chief of Staff, Office of the Governor*
 JOSEPH KATZ, Lobbyist, representing N.J. Builders Association
 DONALD LINKY, Director, Governor's Office of Policy and Planning*
 SCOTT MCVAY, Executive Director, Geraldine Dodge Foundation

JOSEPH MERLINO, President, Senate*

DAVID MOORE, Executive Director, New Jersey Conservation Foundation

TERRY MOORE, Executive Director, Pinelands Commission

PAUL MOTT, Altman Foundation

FRANKLIN PARKER, Chairman, Pinelands Commission

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DAN WEISSMAN, State House correspondent, The Star-Ledger

BETTY WILSON, Assistant Commissioner, Department of Environmental
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CRAIG YATES, Chairman, Pinelands Review Committee*

* Position in 1979 at time of the enactment of Pinelands legislation.

ALAN ROSENTHAL: I want to welcome you all. I am delighted that you can be here. I suppose that you wonder why we are having this reunion.

Let me explain why. We came up with the idea because of the Victoria Foundation's Program sponsoring a number of people visiting Rutgers for a few days as Victoria professors. Franklin Parker is the current Victoria Professor, and in that connection John Cooney called up Eagleton to ask if we could take advantage of Franklin Parker. We said, "Of course."

It came to mind that what might be appropriate would be to bring together a number of people who were involved in the original Pinelands legislation and Pinelands Protection Act--to just have a reunion and compare notes. That is how the occasion arose.

Let me say that the Pinelands legislation, which was such a major achievement of Brendan Byrne's governorship and which has been a model for New Jersey and for the nation, is what we are celebrating here.

Coincidentally, it's the twentieth anniversary of John McPhee's book, The Pine Barrens, which played a role in the legislation. And John McPhee was invited to attend, but he's in New Hampshire and couldn't be here.

Coincidentally also, the reunion is coming at a time when Rutgers University Press is publishing a book by Beryl Collins and Emily Russell, who are here with us. I sent you one of the chapters, Chapter 3, which is a legislative history, a bare-bones traditional legislative history of the Pinelands Preservation Act of 1979. The book will be available in December. I read the entire manuscript and I think you will find that it is a very valuable book and even good reading.

This is not the tenth anniversary of the Pinelands Act, but we will not wait for the tenth anniversary. We will celebrate now to show that we are

always ahead of our time.

So this is really designed to bring a number of old war horses together. I am not looking at anyone in particular.

Our reunion is limited to the people who were key participants in the act or in the implementation of the act, to some of those who helped out, and to a few who are just observers.

Most of the people who were invited are here. Others couldn't make it because of prior commitments. David Bardin couldn't come because it's a Jewish holy day. Phil Alampi had a prior engagement, but wanted to be remembered to everyone here. Jim Florio, because of his role in the federal legislation, was invited. But he had some problems with an election in Camden County. Pat Dodd couldn't make it.

So we'll chat here and then have cocktails and dinner together, and later on schmooze informally. But, before we do all that, I hope we can compare notes filling out the legislative history of the Pinelands Act. What I have in mind, if you bear with me, is a legislative history of sorts--a legislative history at the margins and between the lines.

I would like you to discuss what happened, who did what, who did what to whom, what went wrong, and what do we understand as a result of that process. I would also like to find out what you people remember. I wonder whether your memory is as bad as mine is.

I will steer the conversation and I hope that all of you will participate from your own perspective. We are looking for gossip, stories, accusations, and self-aggrandizing claims. Don't be modest. You are among friends...or at least associates...or at least fellow New Jerseyans. We will even accept facts, if somebody has facts to throw in.

Let me warn you all that there is a court reporter here who is taking down a transcript of the conversation. What I would like to do is to share the transcript with all of you. It might be a pleasant reminder of what went on.

So, if you will, let's begin to make legislative history at the margins and between the lines. First, I'd like Governor Byrne and Franklin Parker to introduce the subject briefly. I wonder Governor Byrne, if you can take a few minutes to describe how this all started.

BRENDAN BYRNE: Sometimes when you read something that happens, after you go out of office, you doubt whether you had a role in anything. But I think we did it.

As a matter of fact, I would like to start by saying that the night that the Pinelands Act finally was passed, I sent a note to Jerry English. I said, "If the legislature passes the Pinelands bill tonight, call me immediately."

The reason I sent her the note was that it was such a touch-and-go situation with Joe Katz working against me. If the legislature passed it, I didn't want them keeping it five minutes more than necessary, because there was always a risk of the legislature recalling the bill and amending it again or sending it back to committee. It was that touch-and-go.

As I look around the room, I see on every side somebody who had a critical role either supporting or opposing the bill. Most of the people I see supported the bill.

Still, it was a very tough piece of legislation. And I always said that one of the things I am proud of is that I don't think that there is any

other piece of legislation, during my time as governor, which is unique in the sense that it would not have been passed if I didn't take an interest in it. The Pinelands was on nobody's particular political agenda. It was on no political party's agenda.

However, there was a Pinelands Council, at least during the Cahill Administration. It was anointed and authorized and set on developing the Pinelands rather than preserving the Pinelands. If anybody has any recollection or memories of that Council, it might be good to get those recollections on the record given this kind of an opportunity.

I also think that if there's one person without whom there wouldn't be a Pinelands Act it would have to be John McPhee. I got to know John because his brother was in my class in both college and law school. And I started reading his stuff. When I got to be Governor, John and I were part of a tennis group that played on the next court from Scott McVay's court in Princeton. When we were finished playing tennis, we would discuss whatever topics seemed appropriate.

I read his book. Certainly, if I had not read The Pine Barrens by John McPhee, I would not have had the kind of interest in the Pinelands that I developed and that you, around the room, were so instrumental in getting passed. (As a matter of fact, when I signed the Pinelands, Joe Merlino was sitting in exactly the same position as he is now.)

Dan O'Hern once told me that he never saw me get emotional about any issue or any crisis in state government except the Pinelands. And Joe, you remember, when I signed the Pinelands legislation, I joked and made you read a key paragraph from John's book.

I wonder if I can ask you to do that again.

JOSEPH MERLINO: "Given the futilities of that debate, given the sort of attention that is ordinarily paid to plans put forward by conservationists, and given the great numbers and the crossed purposes of all the big and little powers that would have to work together to accomplish anything on a major scale in the Pines, it would appear that the Pine Barrens are not very likely to be the subject of dramatic decrees or acts of legislation. They seem to be headed slowly towards extinction.

In retrospect, the people may one day look back upon the final stages of the development of the great unbroken Eastern city and be able to say, at what moment all remaining undeveloped land should have been considered no longer a potential asset to individuals, but an asset to the society at large--perhaps a social necessity."

BRENDAN BYRNE: That's all I asked you to read at that time.

JOSEPH MERLINO: You have your tears wiped away now?

BRENDAN BYRNE: Yes. Then I signed the legislation.

The other aspect of the Pinelands, which is unique, is the use of the executive order. And it is regarded as unprecedented. Tom Kean used virtually the same order once in his administration. But, at the time I used it, there was considerable doubt whether I had the right to issue so broad an order.

As a matter of fact, the case never was decided by the Supreme Court of New Jersey. And too bad Dick Hughes isn't here. He probably could have

told us whether it would be decided against us or for us. I know he was anxious not to decide it.

I think it's the only time that the head of one department, one branch of government, actually called upon another branch of government and said, "Can't you get something done with the third branch of government so the second branch of government doesn't have to rule on what the first branch of government did?"

Prior to signing the executive order, I had called the Commissioner in and probably it was Dan O'Hern at the time. I had called Dan [O'Hern] in and I said, "The way we will stop developing in the Pineland is we will stop issuing permits. And I order you to stop issuing permits." He came back a few months later and said, "I don't think we can legally defend not issuing permits arbitrarily in the Pinelands."

It was out of those discussions that the concept of the executive order came. I think Don Linky probably is in a better position to talk a little bit more about the executive order. In any event, it did work. It did put some pressure on the Legislature, and it resulted, finally, in the passage of the Pinelands Act.

I don't want to try to cover the whole subject in relation with the federal government in this aspect of it. To us, basically, the federal government did two things. It helped define the Pinelands by taking the Rutgers study and it made some money available.

We had resistance, as you know, from the South Jersey congressional delegation in getting some of the federal money budgeted for our Pinelands projects.

I just want to pause and say that Joe Minish, who was then a

congressman, was the key man in a congressional delegation. Joe Minish, when I first called him, didn't know what the Pinelands were, and maybe not even what a pine tree was, or where the Pinelands were. But he became a quick study on it. He got to know what the issues were. Other members of our congressional delegation, even members fully committed to the Pinelands, didn't want to get into a fight with other congressman from our state.

(Frankly, that surprised me because of what I thought of the importance of the issue.) But Joe Minish would call a key committee chairman, or chairman of the subcommittee, and get my appropriations put back and get the bill out of committee.

So, those are a few of the thoughts I felt we ought to get out on the table in the beginning.

ALAN ROSENTHAL: In skipping ahead, how has it worked out? Franklin Parker was the first chairman of the Pinelands Commission, and he is still chairman of the Commission.

FRANKLIN PARKER: I waited many years to be on the same platform with Governor Byrne. Eight and a-half years ago I came back to my office, after lunch one day, and he was on the phone and said, "Would you be chairman of the Commission?" I thought it over for about three minutes, while we are talking away, and then in a weak moment I said, "I would."

He didn't tell me, number one, that I was going into a war zone without hazardous pay. He didn't tell me that was an assignment for the rest of my career. He didn't remind me that within about less than three years, he would be leaving office and leaving me out there dangling, trying to pull

this thing together.

But I do want to say that there are many people around this table who had such a major role in achieving what we have achieved. I leave it to your judgment as to what we have achieved. I think it's very encouraging to report that, at this particular time, we have 43 out of 52 towns in compliance with our management plan.

I said this morning to Rutgers' students that in some corners of South Jersey, it would be referred to as a complex management plan. It is. It is very, very comprehensive. But we are doing our utmost to simplify the procedures for all those who must come in and make application to the Commission.

We have many important subjects that we will have to continue to deal with. The foremost among them, perhaps, are the proposals by the adjoining regions, to withdraw water from the Pinelands. And we will have to do a lot of studying of that. The Commission has recently adopted a position paper on it. We don't know what the impact would be. The ground and surface water are certainly the most important resources down there.

I don't want to make any extended remarks today, except to say that I never dreamed that this Commission would have gotten to where it has. When I started eight years ago, I went in there thinking it would be a little simple operation--just adopt a plan and everything would go swimmingly. The battle is, by no means, over. It never will be over. We always will have strong opponents.

In the early days my mailbox would be filled with a stream of letters from members of Congress, legislators, and various other groups. I think some of their remarks would have best been left in the box, because they

were not pleased. I don't think many of the people who had sponsored the federal legislation anticipated what direction the Commission would go.

But I think we have put together a plan which so far has been fairly successful in protecting the resources we want to protect. What will happen in the next 10 to 50 years, heaven only knows. There will be continuous attempts to cut into what we've been doing. It will depend on great strength in the gubernatorial administration that follows from here on in; and it will depend on the quality of the people who serve on this Pinelands Commission. We must get in replacements as people step off the Commission. And we need the suggestions of all the people who are present here today.

Just to finish off, I want to say that I know all of you have contributed in one way or another to where we've gotten today. But it's taken the efforts of two people, primarily, to achieve what we have achieved--two good fighting Irishmen.

One of them is Brendan Byrne. I know, and you remember, that in the early days of this Commission, there were constant attempts in the Legislature to strip the Commission of its powers. One of the most severe ones came from the then senator from Atlantic County. Governor Byrne happened to be in China, I think, at the time, when the Legislature was about to really vote on this. He came back in the nick of time, and he got in there and fought it with everything he had. Had he not, we might not have any Pinelands protection today.

The other really good fighter, for what we've been trying to achieve, is, of course, Terry Moore. We could not have achieved anything that we have achieved today without Terry's really good judgment, his ability to get along with a lot of the political forces down there, with a lot of the

strong opponents, and his opening up lines of communication. He has been an essential ingredient. I hope he never leaves the Commission, because he will be irreplaceable. We will not let him go easily, I can assure you.

But it has been a wonderful experience for me. I have learned more by serving on this Commission than anything I have done in life about the workings of government. And it's been very reassuring that we have been able to tone down the opposition and get people working constructively together to achieve a purpose which I think is well justified.

The Commission, hopefully, will be here for the indefinite future. But it will always have to keep its guard up.

ALAN ROSENTHAL: Thank you.

I'd like to get into a discussion of what went on in putting the Pinelands Preservation Act together, what you all had to do with it and what you recall of your experience in the legislative struggle. Does anyone want to take off on recollections of how it got put together?

BRENDAN BYRNE: It was Joe's [Merlino] bill.

JOSEPH MERLINO: Since you insist, Brendan. I'd just really like to preface my remarks by saying that we did pass the bill and we did save the Pinelands. As much as I went after Mr. Moore, I think he understands now my motive in doing it. It wasn't a personal thing. It's just the idea to get this thing done.

TERRY MOORE: We still don't have to agree though.

JOSEPH MERLINO: Oh, no. We don't have to agree. We probably don't. But I didn't agree with my Governor. That doesn't mean anything. We managed to get a lot of things done. One of them was this. He reserved the right to reply, because he presumes he isn't going to agree with everything that is said about this bill.

The initiative for the Pinelands, I am sure, came from McPhee to the Governor. The Governor mentioned it in his messages to the Legislature three or four years running. As a result of that, he appointed a study commission of which Craig Yates, and several others, were members. But nothing ever came of that.

So the Legislature--I happen to be one of those legislators--thought it was time. We were getting restless, and some of us, decided to put a Pinelands bill together. We had a young man, Mike Catania, who some of you know, from the Office of Legislative Services, and a member of my staff, Jeff Laurenti. I said, "Let's put this bill together." And they did.

Just coincidentally, on February 8, a copy of that proposed bill was sent to the Governor--given to the Governor--I think the day before, on the 7th, and dated the 8th or the 7th. My feeling was, here's a Pinelands bill, if you have any questions or if you have some change you want, let's get on with it. Let's get a bill in. That's the only way we will get it started.

Of course, you know the luck of the Irish. We hit an ice storm that morning. The State Police called me and said, "Call off the Senate session. You will never get the Legislature to Trenton." During the course of that ice storm, an executive order was filed. That's a coincidence or not, whatever.

ALAN ROSENTHAL: It wasn't a coincidence?

JOSEPH MERLINO: St. Brendan. But something happened, fine. Whatever happened, we had the Pinelands bill. The Legislature did act.

That was one of the great things about this eight years of the Byrne Administration. The Legislature and Brendan Byrne could work these miracles. We did it with a lot of stuff. Pinelands is one of them. You can all testify to the fact that these things were done. And this is something that is hard to explain to other people around this great country of ours.

I hosted the Lieutenant Governors' Conference in New Jersey in 1980. I took the lieutenant governors on a tour, a half-day tour of the Pinelands. They couldn't believe that by legislation we could do what we did with one-fifth of the land area of our state. They absolutely didn't think it was possible. They said we had to put a gun to somebody's head to accomplish this, and I said, "No. We did it by legislation."

Yet this was accomplished. We all had a part in it. And we are here. That's why we are here today; that's why we all showed up.

My only disappointment is there aren't any other legislators here. Only two senators voted against it. There was some commotion in the Assembly, but that quieted down after a bit. I don't know why people want to pick on the Assembly, but they did pick on the Assembly. It managed to get by after a longer debate. We introduced the bill in February and by June it was passed by both houses. So, it really wasn't that difficult, except when we went down to Hammonton one night--Mike Catania and I, right

in the heart of all the controversy. And I spoke to the public about our bill. We came back alive. People had suggested that we not go.

Most of the comments I got from the inhabitants of the Pinelands were favorable. The Burlington County Times took an actual written poll after the bill was filed. Believe it or not, it came back to nine-to-one in favor of the bill.

Whether it's a legislative bill, or your [Governor Byrne's] bill, it was a good one, a combination of both. That's what made it good.

ALAN ROSENTHAL: Senator, we invited a number of other legislators who couldn't come because they have election campaigns. They do campaign occasionally in New Jersey, and elsewhere.

JOSEPH MERLINO: They do it too much.

ALAN ROSENTHAL: But I've been told by friends of mine in the executive branch, who I will not mention by name, that the Legislature had very little to do with the Pinelands initiative.

JOSEPH MERLINO: It couldn't have happened without the Legislature, remember that.

ALAN ROSENTHAL: Mike [Catania], did you really draft the bill?

MICHAEL CATANIA: Sure. I am one of 52 people who claimed to have drafted the final bill. To tell the truth, I think it was a little bit of both

going on. What really happened was that we went through about 20 drafts of legislation before it was introduced in 1979. And there were a few people, in both branches, who worked on it.

Don [Linky] was working on the drafts with me. Jeff Light was involved. Jeff Laurenti was involved. Sean Reilly was running boundaries by me at some point. It was the best partnership of both branches that I have seen.

At the end of that process, we asked what do we do now. Joe [Merlino] wanted to put the bill in right away. It was time to do so. And it was a time for the executive order to be issued for the moratorium. Clearly, there was an initiative from the Governor's office, but the Legislature also got involved. It was a very nice complimentary--

DONALD LINKY: To give the Legislature and the legislative staff their due-- as little due as possible--I think that...

MICHAEL CATANIA: That was gratuitous.

ALAN ROSENTHAL: You can tell the truth, Don.

DONALD LINKY: The Legislature was a significant player, but the Governor started talking about preserving the Pinelands very early. He started raising the issue. And the issue became a political issue in the 1977 gubernatorial campaign; it was one of the few issues, other than the income tax, which got any visibility.

After he started the debate, we began thinking about how do we follow

through to do what he wanted to do in preserving the Pinelands.

On the staff level in the Governor's office, at that point, we threw up our hands when we were before the Governor. We would tell him it was very difficult, there were a lot of complicated problems. And we had to work this out both substantively and politically. And he seemed to be frustrated by the delays, by the constant excuses.

When he wasn't there, we said, "He's out of his head to get anything like this through. We shouldn't even try. We should really try to focus him on other initiatives."

It is very true that without Brendan Byrne, to this day, nothing would be in place to protect the Pinelands.

After the Governor had raised the issue, the federal initiatives started. Frankly, in my mind, the federal initiatives were more harmful than they were helpful from our perspective because we had to compromise on the composition of the commission.

The final bill basically gave half of the state representatives to local appointments, and half to the state, with the swing vote a federal representative's vote. We frankly had wanted a composition that was much more skewed towards state control. But that compromise was developed in the federal legislation, and rather than have two different commissions on federal and state jurisdiction, we decided to accept the composition of the commission that developed in Washington.

BRENDAN BYRNE: After getting a commitment that we could appoint the federal swing vote.

DONALD LINKY: That's right. But, of course, we had the Democratic administration at that time and we were somewhat more confident then that the swing vote would go our way.

But, frankly the federal legislation, in retrospect, provided very little to us in the terms of money it gave us, although it offered somewhat of an excuse through its direction that a state plan be prepared to develop some more stringent controls on the state level.

But, at least in my mind, and I don't know how many people within the administration or the Legislature shared my view, the federal action was really not terribly helpful to what we wanted to do in the state.

We then tried to develop sort of a public participation process through the Pinelands Review Committee, chaired by Craig Yates, and through some conferences we held such as the one at the Woodrow Wilson School, to create the public image that we were trying to consult various interests.

We did these things to show we were not trying to ram this through the Legislature, that we were not being totally arbitrary about what the Governor wanted to accomplish. But we felt from the beginning, we knew what he wanted to accomplish. While we pretty much had our game plan in our heads, we knew there was some merit in trying to develop some public constituency to support the program.

The Rutgers' delineation, in my view, was extremely significant because I never thought that we would be able to outline an acceptable political map for Pinelands--if we had to start from scratch--drawing it in the legislation.

We frankly accidentally discovered the Rutgers' study, which had come up with a delineation of the Pinelands independently of anything we were

doing. But we found that suddenly we had this objective boundary for something that no one had been able to really define over hundreds of years. And we seized upon it because it provided an objective, psuedoscientific jurisdiction for us to incorporate in the legislation.

Again, I never expected that we would, through the final legislative process, wind up with that extent of state jurisdiction. We were expecting to have to compromise all the way down the lot and perhaps wind up with something close to what is the current preservation area, with very little, if any, regulatory control over the protection area.

It was probably just miscommunication that we, on the substantive side, never told those doing the lobbying that we didn't think we needed all that land which allowed all that area to be included in the final bill. I thought we had a lot to give up in the way of negotiation, at that point, that we never, in fact, did give up.

But, in any event, we had real trouble trying to draft the legislation to put it in place. Legislative Services, Joe Merlino, Mike Catania, Jeff Laurenti, and Kathy Crotty, and the rest of the people on the legislative side, were immensely helpful and critical to us in developing the specifics of the legislation.

We started with very detailed draft that was modeled on the Adirondacks Park legislation in New York. We felt that that was much too complicated to get through in the legislative process and wound up with a more generic formula which would develop much more specific plans through the commission process.

But, the legislative articulation, and the cooperation that we had from the Legislature, really did refine those details and allow us to get

something through.

JOHN DEGNAN: I remember, and Jerry [English] will remember, that some time in 1976 the Governor told us at one of our Monday morning breakfasts that the Pinelands would be the next issue. I had never heard of the Pinelands when I grew up. And we all went out with books. Don [Linky] found a copy of John McPhee's book and we educated ourselves on what the Pine Barrens was. And we figured we were off on another war.

Before we get off on the legislative process, I want to comment on something else. I have a narrow window on the passage of this legislation-- that is the executive order.

I think it's fair to say that everyone in the Attorney General's office, with the possible exception of Mike Cole, believed that the executive order was not constitutional. The Governor never asked the Attorney General's office for an opinion on the executive order. He had strained my ability to write some twisted executive orders before that. And he didn't want to do that again.

But, I think it is fair to say, there was some very strong discussions in the Governor's office--Dan O'Hern and I and Don [Linky] and other people --on whether we had a chance of passing what I used to call the "ha, ha test," in sustaining the constitutionality of the executive order.

I must say I was wrong. I still think there were very grave doubts about the constitutionality of that order. As you all know, the Court never decided it. The Governor was confident that the Court was going to sustain that executive order.

Sometimes he had a unique insight into the Court, and I really never

asked how he acquired it. Whether it was just his legal ability or he had a pipeline, I don't know.

But Dick Hughes may get some of the credit, I think, for the ultimate passage of the bill that the Governor really put together.

The Attorney General's office did agree to defend the constitutionality of the bill. The Governor asked me to argue it because he thought the Attorney General himself would convey to the Court the special importance of the bill from the executive point of view. I think, probably, that was true.

Only four times in four years was I in the Supreme Court. I went and I argued the bill. I clearly expected to have my head handed to me. We were prepared for that. We worked very hard on it and I have never seen such a one-sided oral argument against the home builders.

The Court was making it loud and clear that it was not as troubled with the constitutionality of the executive order as we were. My recollection is, Joe [Merlino], that the Legislature had stalled on the bill, and the likelihood that the Court might affirm the extraordinary exercise of executive power brought some additional pressure on the people, whom you couldn't convince, on the merits, that the bill might be a better way than the executive order.

To this day, I, for one, believe that you [Governor Byrne] saw that. And I believe that if you could structure the argument in a way to let the Legislature know that it might wind up with an executive order sustained, you might ultimately produce a bill from the Legislature which otherwise might get stalled.

Now, I would be interested in whether Joe [Merlino] sensed any reaction

in the Legislature.

I think there was a style in the Byrne Administration's politics, that of confrontation. The Governor made the issue, he drew the line, he threw the gauntlet down. That executive order is unparalleled in state history, for the reach of executive authority even in a state where the executive is so strong constitutionally.

I am sure lots of you read the Wetlands Order. It's modeled after the executive order on the Pinelands legislation. Kean finally decided to practice the same kind of policy by confrontation that marked the greatest successes of the Byrne Administration, and the lack of which marked some of the failures of the Kean Administration.

SEAN REILLY: I would like to comment, at this point. I was the executive director of the South Branch Watershed Association, when I heard the Governor was having a conference in Princeton on the Pinelands. I had never even heard about the Pinelands before. I was in Hunterdon County. I looked at the issue and said, "Well, it doesn't pertain to me," so I went on about the watershed of the South Branch.

But it was at the time that the executive order set up the Pinelands Committee that I was called by Rocco Ricci. He asked whether I'd be interested in coming on board and coordinating all of the Department's [Department of Environmental Protection] functioning in that area. I did a quick study of the Pinelands issue and realized that it was a giant watershed of a million acres instead of a couple hundred thousand.

A couple of quick jumps. It went from the Pinelands Review Committee. Then I sat on the PEC [Pinelands Environmental Council]. There were all

kinds of these study committee groups and so forth. In Washington, Jim Florio was running with the ball, running back and forth, bringing Mike Catania's language down to them and their language back to Mike and the Governor's staff. Finally, the bill passes in Congress.

So, Dan O'Hern says, "Would you put together a briefing for the Governor and everybody, tell them what it is, what it was we finally got."

I had this big map, which I carried around in my bedroom, practically, with the colors on it and all the boundaries, and so forth. And I went through the map for about a half hour. I could see the Governor getting itchy with all the details on how it was going to be funded and how it would be structured. So I brought the talk to a conclusion.

The Governor said, "Look, I'm a simple guy. Isn't there just some way we can stop development in the Pinelands a simple way?"

I responded, "Why couldn't we institute a moratorium?" That's when John Degnan and Dan O'Hern slid forward on their chairs and said, "Governor, you can't do that." And then there was a heated exchange--not heated, but intense (we will use that language)--an intense exchange about legalities.

What was the longest a moratorium ever lasted? Eighteen months. I think that moratorium was based on health or safety.

The federal plan was an advisory plan. The whole concept was that this was the first opportunity to set up a Pinelands National Reserve, which Jack Hauptman and the Interior Department figured they would spread all around the United States. Just use it, develop it here in New Jersey and spread the concept.

The Governor wasn't ready for this long voluntary process. So I had the sense, when we left that room, that somebody was going to be back

drafting an executive order. And sure enough, one popped out.

The vibrations I got later on was this guy over here [Harold Hodes] twisting arms, saying that the Governor will be embarrassed because the Supreme Court might reverse him; that was the rumor that came back. "Come on. Help the guy out. It's a grand plan and let's go on with it." And finally at 2:30 in the morning he moves the bill off dead center.

When I came on board I said to Betty Wilson, "Why does the Governor like the Pinelands? What is it? It must be a very important thing that he wants to put all this effort in." And she said, "Nobody really knows." "Is he a hunter, fisher, a canoeist, a hiker in the Pinelands; what is his feeling?"

So we moseyed around. Then the Governor, at one of the meetings, had Secretary Andrus down in the Pinelands. And he read that note out of the book. I said, "ha, ha." He bet John McPhee, but lost the tennis game. Now he has to do something to salvage the Pinelands. That was my theory.

BRENDAN BYRNE: Tell me one thing, though. When I decided to issue that moratorium, did I have a weather forecast that it would snow and the Legislature would miss a session?

JERRY ENGLISH: Now I will tell you what really happened. John [Degnan] will know exactly what I mean. So many things have come back, as a snapshot to me, a picture that I remember.

As you describe it, I recall the confrontational school of politics of which there is no greater master than Brendan Byrne. And probably he doesn't care until they said, "You can't do it." From then on the challenge

matched and he took interest.

These things coming together really came down to what Joe Merlino had taught us all along--start counting. The difference with this kind of legislation was that, frankly, I wasn't going to tell Willie Brown, our assemblyman from Newark, that there was a huge constitutional confrontation in which the federal government was involved and that we were going to be on the constitutional brink with the Supreme Court. We would say, "Willie, would you just pass the bill for me?" He said, "Where are the Pinelands, or do I care? How close are they to Newark?" I said, "Willie, later--just pass it for us." And it began to go precisely that way for legislators meeting with the Governor.

What's unusual is that the Governor was coming in and saying to the leadership, "Joe [Merlino], this is the bill that I want. You go get it for me." This was the bill in which these two [Governor Byrne and Senator Merlino] were looking at one another and saying, "This is our bill." So there's double patronage, double persuasion. That's a very powerful way to go into any legislative fight.

Because there was only a short period of time, not everybody had the opportunity to bring up the negative forces, not as quickly as they wish they had done.

I remember the Governor becoming interested in this issue when David Bardin got him to go to Washington and talk with people in Interior. And they showed us a very slick film of what the Pinelands looked like and why we should be interested in it. Wouldn't that be a nice sort of thing. That's when it really began.

One of the things that hit the high points was the Governor's State of

the State, the message delivered at the beginning of the legislative session.

The battles that went on thereafter were unusual, because we had this federal interest. Let's put it another way, federal opposition. Any congressman that has an issue going on that involves his or her district is in no man's land. Don't get in the middle of that. Don't fight with that.

Congressman Hughes was less than interested in having us mess with his district. We then took on a whole group of people that are not part of a normal line up in the state Legislature. That battle was going on AT the periphery. Marilyn Thompson, of our Washington Office, was constantly going down trying to keep Hughes staff calm and interesting Joe Minish because Joe Minish was our insider's insider to the Congress. He was the one who sat on every committee that had the money to staff anything for anybody's office, as I recall.

So, we began this kind of funny coalition that was not natural in the Legislature. With Joe [Merlino] and his whole staff working--not only threatening them, he will tell me really later what he threatened them with --only two senators voted against the bill.

Where is the up side? The up side was that it seemed like motherhood. You are preserving something. That seems good. Hidden behind that is this extraordinary executive power being exerted as a precedent in the state.

I don't think you [Joe Merlino] really talked too much about that. You said, "I need your vote. I want it tomorrow and I don't want to discuss it, or you'll have no legislative office left and you won't be going on the trip that you have planned."

JOSEPH MERLINO: No. It never went that way. I told them [the senators] what a great place it was and they all got a copy of the [McPhee] book. Believe it or not, they did. You don't have to sell too hard on the Pinelands. We even got Steve Perskie to vote for the initial bill. He thought he would get his amendment, but we never passed it.

JOHN DEGNAN: Two fingers.

JOSEPH MERLINO: We never passed his amendment.

MICHAEL CATANIA: They still don't believe it.

JOSEPH MERLINO: That was a real amendment.

MICHAEL CATANIA: This man is convinced that his thumb and forefinger was the political deal.

JOSEPH MERLINO: No, no deal.

MICHAEL CATANIA: The boundaries were plain and simple.

JOSEPH MERLINO: We did not try to overlap jurisdictions with CAFRA.

MICHAEL CATANIA: You should have seen us sitting down with gas station maps, honest to God, and county road maps, and going northwest....

SEAN REILLY: I'll never forget that.

MICHAEL CATANIA: The Toms River area, and we crossed the CAFRA line down in the wetlands area. That was a very sensitive area. And we put that in the preservation map.

And Sunday morning, the Star-Ledger read, "Deal Cut--Thumb and Forefinger," because of all the deals that were cut. But that was not one of them.

JOSEPH MERLINO: There was no deal cut with any senator on passage of this bill. It's amazing. Only two votes against it, and one of them apologizes to me to this day. He said he made a mistake. He meant to vote yes. Really.

Jerry, it is a motherhood bill. You don't really have to plead too hard. When special interests got hold of and buttonholed the assemblymen on a one-to-one basis, it got difficult in the Assembly.

If you give it to them straight and without the hoopla, there were no problems in selling it.

ALAN ROSENTHAL: Harold [Hodes], did you have to cut any deals?

HAROLD HODES: I never cut deals. I would like to go back to what John [Degnan] said because Don [Linky], Kathy [Crotty] and you [Joe Merlino], and Michael [Catania] were the keys in going out to the community.

At that particular time, the Dodd Bill did not stand up on the floor as we stood up on the floor with everybody else--everybody just voted.

What happened was between the time that it was voted on in the Senate and the time Katz and his army decided to get going one on one.

The other key ingredient persons in this whole process were Don Stewart and Marty Herman. They are attacking the Pinelands, and up until that moment of the same day, they were still trying to negotiate a package with Michael [Catania] and everybody in the room.

MICHAEL CATANIA: You have to tell them the story of the meeting.

HAROLD HODES: No, I can't do that. You can Michael [Catania]. Go ahead, you can tell it.

MICHAEL CATANIA: All right, On the second floor of the State House, where the Speaker's office is, the night the bill was being voted on, it was about 5 o'clock in the afternoon. Harold [Hodes] was there. He's there with his sleeves rolled up and his tie down about six inches. He's got 50 people in the room, all of I whom presume are crucial to the discussion of this. Everybody is talking, and finally Harold [Hodes] says, "Look, this is ridiculous. Only the important people move into the next room." It's a ten-foot by ten-foot room. Of course all 50 people move in there, continuing to talk at the same time.

And Marty Herman and John Paul Doyle are negotiating their hearts out trying to get the area cut down, trying to get the Commission's powers reduced. We are going back and forth.

Harold [Hodes] is saying, "What are we doing? What sections are we changing?" And I am drafting language and saying, "No, we can't do that."

Dan O'Hern is saying, "You know the outer area is not that sensitive. We don't feel that strongly about the outer area."

Harold [Hodes] is looking up and saying that the Governor wants both areas. We will do both areas.

So, finally, after about an hour of haranguing, Harold [Hodes] looks up and says, "Look, I can get the Republican votes a hell of a lot cheaper. We don't need this grief. Do what you have to do. Let's go."

Then starts the six-hour filibuster on the bill.

HAROLD HODES: I don't know if the Governor remembers that. Jerry talked about the dynamics between the both of us. As he's walking out the door, he first says, "Make sure you call me and let me know what happens." I'm sitting there doing the head count. And he just dropped a line on me, saying, "And I want this bill." That's the first time that he ever told me that he wanted something as bad as he wanted it.

Then, whenever we went back in the room--Michael [Catania] knows it's 5 o'clock--we tried to cut the deal.

Herman, Katz, and Stewart, and the others didn't realize how close they really were. The bill almost went back to committee.

Maybe Joe [Merlino] can shed some light on this. What Donny Stewart was able to do, as chairman of the Agriculture Committee, was to mend fences with key northern legislators on some of the things that he had done before. One key legislator was Ray Lesniak. As you remember, Ray Lesniak as an assemblyman during those days was "Mr. Environment." He was out in front on environmental issues. I'll never forget that morning when we called him in and he told us that he would have to vote to send the bill back to

committee. The Governor started to get really antsy. And the Governor said, "Why?" And he said, "Because I made a commitment." And I said, "Well, that's it." Apparently, what happened was during the year Donny Stewart allowed a very important controversial environmental bill to get out of his committee because of Lesniak. And those were the transactions going on on the floor.

And Joe [Merlino] probably can tell you, besides the builders and everybody else coming down hard, about the horse-trading that went on (and horse-trading did go on) in relationship to the bill.

I think we only won it actually by one or two votes.

JOSEPH MERLINO: No. You did very well.

MICHAEL CATANIA: 38.

HAROLD HODES: But it was pretty close on the vote to send it back. What was the vote, Joe?

JOSEPH KATZ: I don't remember.

HAROLD HODES: I think it was 36-34. It was only by two or three votes. That was the key. If we would have sent that bill back to committee, Katz and everyone would have gone all out and the bill would have been dead. There was no way that bill would come back out.

After that, everybody jumped on, because we were there counting. They wanted to make sure that they were recorded in the right way. Marty

[Herman] and Doyle and the others still kept their act on for a couple of hours on the floor to keep it going. And then we were home.

MICHAEL CATANIA: Three o'clock in the morning.

HAROLD HODES: Three o'clock in the morning for the Pinelands. Because of that today, there's an extension on the Garden State Parkway, there's cardiac surgery in Perth Amboy, and there might be an extension of the Parkway down in South Jersey. _____ got his dredging bill the next morning. But that had nothing to do with the substance and the merits of the Pinelands.

JOSEPH MERLINO: You guys gave the store away for one bill.

HAROLD HODES: You could have been the one to call Brendan Byrne that night and tell him that he doesn't have it.

SEAN REILLY: The amazing thing about all of the negotiations that were going on, and how intense they were, is that this was the most craftily crafted piece of legislation that I have ever seen in the United States.

The fact is that Don Linky and Mike [Catania] and Jeff Light could hold all of that together, through all of this, and have it come out after all the intense negotiations, and the areas covered stayed the same.

Take the key phrases "Preserve, protect, and enhance," which were crafted. I don't know who thought those up, but they became the key tools which enabled the Commission later on to do virtually anything it wanted to

do on land use.

JOSEPH MERLINO: Is that right?

TERRY MOORE: Within the context of the law.

SEAN REILLY: It's amazing that all of those negotiations really hung together.

HAROLD HODES: I still relate that back to Merlino, Yates, Don [Linky], Michael [Catania], and Kathy [Crotty]. When that bill came to the Senate, three-quarters or at least half of the people really didn't know what was in the bill and didn't understand the bill. They just trusted Don [Linky] implicitly on that. They trusted Joe [Merlino]. And they just voted.

JOSEPH MERLINO: Charlie [Yates] got up and spoke. He lived in Burlington County. He still lives there.

HAROLD HODES: The other thing is everybody knew where Byrne stood in '77. As Byrne told Russo, Doyle, Herman, and Stewart that morning: "I carried your districts. I won your districts. And this is what the people in your district want. And you are only here because of the developers and whatever else." They were never able to muster the community, per se, to give any credibility to what they were doing.

That's the key ingredient that was missing from the deals and the power. The opposition didn't have the people down there. They couldn't

produce the masses of people or the letter-writing campaign that would defeat the bill. The people knew Byrne was right.

Incidentally, the only friend we had in the federal government was Joe Minish. He went to Tip O'Neill. I can't remember the name of the person who was a chairman of the committee. Tip O'Neill and the chairman of the committee sat down with Joe Minish to make sure the money got to the Pinelands. That was the only favor that I bet Joe Minish ever asked Tip O'Neill for.

ALAN ROSENTHAL: Joe [Katz], does this ring a bell?

JOSEPH KATZ: A lot of bells. I feel like General Yamamoto at a celebration of the anniversary of VJ Day.

Talking about quick studies, I didn't know anything about the Pinelands until '77. I knew the Pinelands was something I traversed on my way to Long Beach Island occasionally, but some time after February the 8th some builders came into my office and they looked to be very perturbed. It wasn't the Builders Association, but several large scale developers.

Then I read about the Pinelands legislation and the moratorium. And we had to get into a very quick study mode. At the time John Helb, a former legislative committee aide, was associated with me. He had considerable experience in that area.

John [Helb] later went on to other things. Frank Brill, who is here, is his successor. We were retained, and John [Helb] started meeting with various builders who were part of an informal coalition. They were members of the New Jersey Builders Association and various other groups.

John [Helb] came back with maps, maps, maps, maps. Everybody wanted to adjust the legislation to take care of his project. And this poor young man was going crazy. How do you remember? How do you amend this bill? It goes northwest and southeast to cover Joe Blow's housing development.

Meanwhile, the papers are pounding away. You are right, Harold [Hodes], everybody was for this because there were no people down there [in the Pinelands]. And those who were, as it later came out, didn't really carry on. They owned a little house. They weren't developers.

After a while, we determined that it was essential for the rest of the state to see the magnitude of this proposal. Anywhere else in the State it would affect everybody, so we drew a map of the protection and preservation areas and laid it out over a big map of the State. Turning it around and around, we got it going from the Passaic County-New York State line down to Lambertville. If we did it another way, it would have taken it as far as Perth Amboy; something like that.

So we were trying to get across to the rest of the state, if this were in your backyard, and you had some interest here, it would be devastating. And you are doing this to poor South Jersey.

Obviously, in the long run, it didn't work. The Senate was a lost cause. You guys had the momentum there. We had our people running around all trying to cut their own deal. It didn't work.

I've learned some interesting things today. I didn't know we were as close to success as you've indicated.

Finally, we figured we had to develop a comprehensive approach. We quickly recognized the preservation area was a goner. It was the protection area that we were trying to limit. So we were for the preservation area.

Also, we decided we couldn't defeat something with nothing. We had to be for something. We took up the name, The Coalition for the Sensible Preservation of the Pinelands.

Our objective was to start a little backfire of reasonableness and fairness. Meanwhile, we realized that we had to utilize the strength we had--people mostly active in the home building business. We didn't have much support from other building interests or from the state business groups--from the BIA [New Jersey Business and Industry Association] or the Chamber of Commerce, as I recall.

As Harold [Hodes] has explained better than I can, because I didn't know what some of the relationships were, we had our corps of legislators on all sides of that protection area, who had important constituents and friends and interests at issue. They would agree to fight to limit the plan in what we felt was a reasonable way.

FRANK BRILL: Just a personal recollection. I had just been hired by Joe [Katz], I think on a Monday prior to that chaotic Friday meeting Mike [Catania] referred to. Joe [Katz] dragged me along to show me the ropes. Bear in mind that I had most recently been editor with the Trenton Times. All of you who have read the Trenton Times appreciate that editors there are required to know little about politics or how government works. I was a very good editor.

I got over to the State House and went into this meeting up there behind the Speaker's office and all these people were hammering away just as Mike [Catania] said. I felt so lost. I thought I would never be able to do this job and I didn't understand what these people were saying.

And then Mike [Catania] decided to establish some order by bringing only key people into a smaller room. Of course, it didn't work because we all crammed in. I was one of the many. I was afraid that if I didn't follow along I would never find my way back out of the State House. I had no idea where I was.

But after it was over and even before the vote was taken on the motion to send the bill back to committee, I remember Joe [Katz] saying how close he felt he had gotten with the argument to retain the preservation area and eliminate the protection area. And I remember you [Joe Katz] saying, if you had just had a few more weeks to work that angle, you might have a chance.

HAROLD HODES: I would agree with that.

FRANK BRILL: You would?

HAROLD HODES: Yes, that's why we had to push it that night. Your strategy was working because people didn't want to offend other people.

Joe's [Katz] argument of, "Hey, what are they going to do in your backyard next, was starting to cut. So was his saying, "Why do they want to take everything? They don't need to take everything. Let them just preserve that part of the land."

That vote to return to committee, was the key vote. It came down to two votes because northern people were voting along with Joe [Katz].

There was a core of support up there that they were able to get. And there's no doubt, in my mind, that in another week we would have been in a lot more trouble.

JOSEPH KATZ: You hit it Harold [Hodes], it was a procedural vote.

HAROLD HODES: It was a procedural vote that was the key vote. Also, other people within the Administration were sending out different signals, indicating that the other part of the land could go. It wasn't Dan [O'Hern], but other people that were doing it. So Joe [Katz] was feeling that momentum, and that momentum was there.

EMILY RUSSELL: It's interesting to me, the thing about the preservation area, having talked to people and read about the critical areas, water regulation, which brought a tremendous amount of opposition from people in what is the preservation area, being controlled and all that is going on there.

The preservation area we could have gotten, but it was agreed that the big thing was getting the protection area. It was amazing to me to watch the discussion change. First of all, the preservation was in big trouble. Oh, well, can't do anything about that. We'll let them have that but the protection area is a bad thing. It sort of got accepted bit by bit. It seems to me that was an important thing, to get it all started.

JOSEPH KATZ: It's called triage.

SEAN REILLY: The reason the preservation area was given up was that nobody was building in there. Just a bunch of cranberry farmers--forget it. Go with the outer fringes. The only activities of real interest were the Ocean

County developing areas and the Burlington County and Camden County developing areas. Cape May was--forget it. Atlantic County--forget it. Nobody was really caring about it at that time.

That's why Dan O'Hern was looking and saying we need the core, the preservation area. What about South of Route 40? Can't we let that go and get rid of--I guess Hughes and everybody's phone was ringing at that time.

JOSEPH KATZ: We made a point about Atlantic City, which was starting gambling. We tried to make a point about where people were going to live?

SEAN REILLY: All of a sudden there was a lightning rod there being struck. When I was on the other side and when the plan was being shaped, we went to a computer list of all the major property owners in the preservation area. We figured that these people would be hurt the most. Let's send them a letter, first class mail: "Here is what's proposed for this area. You should go to Trenton and make your voice heard."

Two thousand letters went out to the significantly impacted landowners along the Pinelands. Only twenty people showed up in Trenton. Most probably never even got the letter. It went to the post office box. It went to the grandmother living on Aunt Sally's land. We just don't know. There are 20 people per square mile. You can't really stir up a storm in there.

I had a chuckle when Burlington County came out nine-to-one in favor of the plan. They were the people who lived in the Pinelands. They were going to have a park made around them. Why not be in favor.

So the social dynamics and the economic finance of the people living

there was such that there was no real constituency.

BRENDAN BYRNE: Let the record indicate that everybody was happy down there. I remember seeing a two-part television series on Channel 5 or 7. Someone said, "If Brendan Byrne comes down here, I will personally kill him."

The point is that the home-rule concept still is a very emotional concept, and it affected people in the Pinelands.

Second, for somebody who wanted to keep his house and keep his woods and everything else, Pinelands legislation, by its zoning impact, lowered the mortgage value of that land. That was a very unfortunate thing for a lot of people, because they couldn't go to the bank with that land the way they could in the past. They would tell me that; that's what I was doing to them.

So, yes, in principle the people were for it, but there was that kind of resistance and it was very real.

SEAN REILLY: I don't know how many hundreds of letters I wrote to people with a quarter-acre lot and a one-acre lot, informing them why they couldn't use their piece of land. The homeowners thought it was great; but the lot owners, landowners, and the politicians felt they were definitely hotly against it.

JOSEPH KATZ: We were trying to reach property owners who lived in other parts of the state, but owned land down there. If they could contact their legislators, in Bergen County or wherever, we could get help.

JOSEPH MERLINO: The first card I got was in support; and it was from Hoboken, in support.

JOSEPH KATZ: We were trying to do it the other way. It's easy for Hoboken.

JOSEPH MERLINO: He went canoeing down there in the summertime. He said, "Don't disturb it." Congratulations on the bill, he hopes it passes--from Hoboken.

MICHAEL CATANIA: More time going by made it difficult. If you look at it, it was a combination of a lot of factors. Very significant political commitment made by the Administration, so that people knew it was taken seriously and would happen. The legislative process helped, too. The momentum that was built up; the process really came of age. This is one of the first examples of that. Public hearings around the state, inside the Pinelands area and outside the Pinelands area. We made 20 pages of amendments to the bill without making any substantial changes, really.

SEAN REILLY: That was a slick part.

HAROLD HODES: That's why when Joe [Katz] went out to motivate people, they said, "Wait a minute, Don [Linky] was here and he took my amendment, he had public hearings." To me the key ingredient that took away the public issue was the way Don [Linky] handled it.

MICHAEL CATANIA: When it got to the floor, the Senate referred it to

committee. And basically, a consensus that the bill had been shaped fairly nicely, went to the Assembly committee without a single word of amendment and came up to the crucial vote to send it back again. BRANDAN BYRNE: One of the reasons Dan Weissman is here is that he not only represents the most influential newspaper in the state, but he also had a personal interest in writing the story and mentioning, on several occasions, that the public was for this bill.

DAN WEISSMAN: I want to make sure that everybody is here not to gang up on me for my misquoting them over the years.

Everybody is talking about the political process and the politics of it. I have a letter here in front of me. It was written August 22, 1975, by David Bardin, which probably was the gauntlet on the whole Pinelands issue.

The Pinelands Environmental Council came up with this plan which was outlined in great detail. And Bardin went down in history by calling them land speculators, and the like. Shortly after that, I remember that John Paul Doyle brought a group of Pineland mayors to your [Brandan Byrne] office on a summer Thursday or something. The rumor around the city room of the Star-Ledger is that I was bored, I had nothing to do. These people came in. I counted them. I found out who they were and what they were there for. I had never heard of the Pinelands myself.

I wrote one story. I got one call. Then I teamed up with Dave Moore. And I went on a hike for about three years in some of the most intriguing reporting on land fraud. I was digging up dead people who you guys probably sent postcards to, and got answers from.

The intriguing part was the land fraud. The property owner, the poor single-lot owner who was having his land taken away from him, would come down to Trenton and turn out to be a Fulbright scholar who owned 10,000 acres of land, bought for fifty bucks an acre. He was Republican chairman of the county and considered himself a king and called himself a king; and his cousins out there were princes. On the other side were the people who bought the land for speculation. They were small-timers too.

Two geniuses cooked up a land fraud down in the Pigmy Pine area to buy land from someone who was 126 years old at the time he sold it to them. They wanted a jet port. That may be the very first entry in the state vocabulary of the Pinelands--when somebody came up with the idea in 1964 to build a fourth metropolitan jet port in the Pinelands. At that time, it was just a wasteland.

MICHAEL CATANIA: That's what got you interested in it.

DAN WEISSMAN: Maybe. It could very well be. But I honestly and truthfully got intrigued with the early politics. By the time it got to the Legislature, I think the politics had turned clinical. The real fun was the fight between the little groups of people, including the legislator who claimed, "I'm a public minded legislator." And when we walked up to him and said, "Hey, do you own these fifteen hundred acres of land that just happened to be on that side of the line?" If they changed the line this way, you could build fifteen hundred houses.

HAROLD HODES: Do you want a funny story? They walked back to the office

that night, the night that Joe [Merlino] passed the bill in the Senate. And there was someone asking if we have colored pens so he can match the map to see what land has the color by tomorrow morning. It was our favorite state senator trying to figure out where the diner was or the diner wasn't, and what lands would have to go.

DAN WEISSMAN: It was absolutely fascinating. I learned how to be a title searcher. I have deeds going back to 1925.

Citibank sat on, I believe, 3,000 acres of land. They had a deed about as valuable as this piece of paper. They were trying their damndest to sell it to Green Acres. A big Canadian firm had 3,000 acres of land in Bass River, and leased 50 acres back to the guy they bought it from, a cranberry farmer in the corner.

Do you remember how mad you got at me, Governor, when you were away and I was writing stories that you were caving in on the Pinelands and were ready to back off, and that you were softening?

BRENDAN BYRNE: You'd been talking to _____ at that point.

DAN WEISSMAN: I was on vacation the night you guys passed the bill. Where was I? In Lake George right in the heart of the Adirondacks Preserve. I read about it in the Glenn Falls Times, which was running a big story that week about manhole covers that were blowing off the streets, and they couldn't figure out why. There was the story that day that New Jersey passes the major Pinelands Act. And here we are today.

I guess somebody will write a book about it next week, and maybe I will

be mentioned. Here's your original statement when you approved the measure. Here's Degnan's position on the Pinelands. I went through the files today. One of the file drawers was filled with nothing but Pinelands memorabilia.

TERRY MOORE: I would like to say a couple of things, if I may.

First, I don't think I ever knew there were so many people to blame for their part in the past eight years. You are all here.

I became the Executive Director of the Pinelands Commission in a marvelous way. The Governor may recall. I know Chairman Parker does. I was called to the Governor's office after being interviewed by the Commission. I walked in with Dan O'Hern, Governor, to your office. And Dan said, "This is Terry Moore." And the Governor said to me, "You don't know who the real Terry Moore is." And I did, of course, a centerfielder for the St. Louis Cardinals when I was a child. I was appointed two minutes before the Governor signed the Pinelands Protection Act. And I began an effort with no money. There were no funds provided by the Pinelands Protection Act nor was there federal money available. I went immediately after the Act was signed--with Dan O'Hern, Frank Parker and Jeff Light--to the Commissioner's office to discuss a transition. The next day I got a call from Budd Chavooshian who said, "Terry, the Pinelands Commission is really angry with you because after the Act was signed, you didn't go to lunch with them." The fact of the matter was that they hadn't invited me. It was not a good start.

There is a story about the first moments of the Pinelands effort, which I think is very important to record and it does deal with the lack of money. There was not a dollar available that could be instantly spent, even to

secure an office for the Pinelands Commission.

Scott McVay will remember that I ran up to the Dodge Foundation and he very shortly gave us two hundred thousand dollars which funded the entire moratorium because the Feds wouldn't fund that program. Betty Wilson also came through with \$500,000 from Green Acres. We were able to start business with that assistance.

I remember a few things about the early days. One will involve you, Senator Merlino. I remember having a meeting with you to go over this new map we were developing. Afterwards, you saw me talking to Senator Perskie in the back of the Senate chambers. And you said, "Add no more growth to Atlantic County." I used to carry that map around the State House everywhere. I would walk through the hallway and Governor Byrne would come out of his office and say, "No more growth on the map."

The other thing that is so interesting for me tonight is there are people in this room that followed the Commission meetings all along.

CANDACE ASHMUN: One of the first things I remember is that when I sat down the Chairman said, "There's not going to be any occasions where we have 'we' against 'them.'" You talk about a swing vote, and the county's appointee and the Governor's appointee and the swing vote from the federal government. It never happened that way, I guess primarily because the Chairman didn't want it that way. There's never been an occasion when all the Governor's people voted one way and all the county people voted another way, which I think is very exciting.

The other thing that I remember is everybody having a sense of humor, which has been crucial for these long years. Without a sense of humor,

maybe we would have all gone mad.

I think one of the most exciting things for me, because I have worked with local officials my whole career, has been working with the local officials and seeing them change from people who said, "We won't walk into the office, we won't come near you." Those same people, those same planning board people and those same mayors, came in and worked with us very closely and it was extremely rewarding. The way I read the bill, we were supposed to have a partnership. And the partnership, I think, was real.

Lastly, the business of public hearings. We have been through endless public hearings, as everybody knows. But, by and large, we've been treated very, very well at public hearings.

The public in the Pines consists of people like Sean [Reilly] who come and argue a position. And we hear his position. David Moore also comes and argues his. We hear both arguments. Basically, things have gone much better than I would have ever thought.

We finally had a bunch of public hearings on solid waste disposal in the Pinelands and suddenly we became everybody's hero. That was the most rewarding time of all. But it is an issue, I think, that we will all have to remember, because the Pines has nobody in it, and I say that in quotes. But it's really right there waiting for somebody to use as a dump.

TERRY MOORE: One more thing. I don't know that the pre-June 28 people-- the drafters of the legislation--quite understood at the time, and maybe not even today, the importance of that bill; not just in the context of the Pinelands, but as a land use measure that is now being borrowed for lots of other areas of the country.

We find very similar language in other states' land-use legislation that we find in the Pinelands Protection Act. Just in New Jersey, if you look at the state plan that is being drafted, I can see the Pinelands plan very quickly. I can see that kind of delineation of land use. We talked about governor Kean's proposed Coastal Commission. That contains almost the same kind of language as the Pinelands Protection Act.

If you go to other states in this nation right now, you will find the Pinelands concept--which was your concept in New Jersey--not being duplicated in toto, but very large pieces of the Act are being applied to other states.

Growth management is a very big issue now in many state land-use legislation discussions. And the Pinelands plan is the most classic growth management plan in existence. I don't know that you intended it to be that, but your legislation, in the way it was drafted, automatically made the plan become that. I think there are things that you did, as drafters, as actors in the legislative process, that actually were more important in a way than just protection of the Pinelands. You made a very major contribution to other land-use issues that this country faces. The Pinelands Protection Act is still probably the best one around.

HAROLD HODES: Can I ask a question? What is the danger that you can foresee, in two years, or four years, or five years, to what everyone around the table did?

TERRY MOORE: I think the danger is in the concept of partial acquisition and partial regulation.

The regulatory part is the one that's always up for grabs. I think the solution to that has to be more of an ability to conserve permanently portions of the regulated areas.

One thing that the Commission did--I don't think anyone suspected--is we kind of pulled the preservation area to the south and called it forest area. We only permitted a house there for every 39 acres. It is kind of unusual for New Jersey to see that kind of zoning. That was the key issue for legislators at the time. It is also the critical middle part of the Pinelands.

If that isn't permanently preserved through some system, it will always be put up for grabs. When the growth areas fill up, pressure will be exerted on the middle.

HAROLD HODES: Would you look to that now?

TERRY MOORE: Would I look to change what?

HAROLD HODES: Look to change anything by additional legislation?

TERRY MOORE: I don't think anyone still wants to tamper with the Pinelands Protection Act.

HAROLD HODES: You have a Governor, such as Kean. He kept the Chairman on board, kept you on board, and he never played any type of politics within the confines of the Pinelands. That's because of the relationship with the Governor and his own beliefs.

Something could get done now. That's something you ought to look at, especially without opening it up.

TERRY MOORE: Yes.

HAROLD HODES: Because you never know what will happen in two years or in the gubernatorial races that will come up. You don't know what may or may not be. I just throw that out as an item for you to look at later on.

Around this table and everywhere, you still have a lot of advocates-- apparently you have built up such great will down there--so you may want to take this opportunity with the Governor and everybody else to move something.

TERRY MOORE: I was going to say, by the way, I remember when the Governor went to Chatsworth. I saw the Governor on TV outside of Buzzy's General Store with an angry crowd. The nice thing, I think Harold [Hodes], is I believe, sincerely, that Brendan Byrne can return to Chatsworth.

HAROLD HODES: Why don't you disguise yourself as Brendan Byrne--follow him down.

TERRY MOORE: I don't know if anybody will speak to him. But I know he can go back.

JOSEPH KATZ: Terry [Moore], I would like to ask you and some of the other attorneys in the room a question. Does that recent California decision on

the beach affect the Commission?

TERRY MOORE: No, no, no. No, it doesn't.

JOSEPH KATZ: It doesn't?

TERRY MOORE: No question about it. We are very comfortable with our present legal position regarding that.

JOSEPH MERLINO: Harold [Hodes] was addressing the fact that you might make changes, not necessarily in the legislation, but in the regulations.

TERRY MOORE: I don't know that the regulations can be changed in any manner that will help preserve that portion. I am talking about the really critical forest area--which should be the next preservation area.

JOSEPH MERLINO: Right.

TERRY MOORE: I think there's also a next generation attempt that has to be done in the Pinelands. And that may be another effort that addresses less than regulatory means to preserve that land. That may be another agency. I am talking about what we define as the critical forest area, which will be the next preserve area.

JOSEPH MERLINO: Right.

CANDACE ASHMUN: There is another problem, and that is we need this thing taken care of by some of the people who are sitting here, researching the Pines. We have lots and lots of theories about what happens to the land. We need the back-up research on exactly what that is. I suspect what we are doing is nibbling away at the Pines. Research will dictate that we will have to do more, not less. I can say that because Ralph [Good] can't say it. So I will say it.

FRANKLIN PARKER: I've been discussing that with the Rutgers faculty for the last two days, I can assure you. They are very aware of the need for that.

ALAN ROSENTHAL: What about environmentalists and other citizens' groups-- are there any roles for them to play?

DAVID MOORE: I am glad you brought that one up.

ALAN ROSENTHAL: I was waiting for you to bring it up yourself.

DAVID MOORE: Well, in the context of what the last couple of moments have brought to the discussion, an environmental point of view should be interesting. There are two views. One is to look back to what preceded the legislative movement we've talked about, and the other is to look forward.

The movement that the Governor was able to take advantage of was in the hearts and minds of New Jerseyans. It was there because there has been an interest in protecting open space in New Jersey, particularly in the Pine Barrens, since the days that John James Audubon thought about it.

You can't have a fight, you can't have a war without an enemy. It really wasn't until the mid-1960's, when a jetport was proposed in the middle of the Pines, that an enemy arrived that enabled the political structure to take some action. That first started with a National Park Service investigation of the federal interest in preserving the Pine Barrens--and more or less lay dormant until the jetport proposal died, until it was clear that development interests were becoming the enemy.

It was the ability of people to understand what was there--the water, the forest, the way of life in the region--that underlay the whole movement that put things together. Pinelands preservation was like a giant ball rolling along that just needed to be pushed and prodded, from time to time, by the various people who are in this room to make it happen.

Basically, the folks in this state knew they wanted growth management and natural resource protection for the Pines and how to get it. That's one of the reasons why Joe Katz wasn't able to succeed.

While it may be true that there was not a full understanding or an awakening of the implications of the Pinelands growth management process, some of the legislators got it, as you remember, in the Senate committee hearing on the Pinelands Protection Act.

Senator Barry Parker, during the testimony, just lit up. He said, "You know, if this is so good for the Pinelands (and everybody in the room was saying that it was), why isn't it good for the rest of the state?"

He hadn't realized what kind of mouthful he had said. The State Planning Act is, indeed, a child of the Pinelands. I think we can all point to that progression from the Pines to the entire state with some pride.

The problem we face is enforcement. The people in this state believe

that their elected and appointed representatives are going to do the job that they were employed to do; therefore they need not worry. It doesn't necessarily work that way. Public officials tend to balance competing interests in spite of the public interest.

The future of Pinelands administration is much more difficult than the past has been, in the sense that people do expect the government to do its job. And the number of people out there who are willing to spend the time and effort to articulate the public interest when there is no enemy is getting smaller and smaller. And, of course, the nibbling away of the regulatory structure by vested interests continues.

Only a crisis will produce another enemy, which in turn will forge sufficient public interest to keep the growth management system on track.

So I see our challenge as being the creation of a system in which folks continue to stay informed and involved. It will take a lot of work on the part of the Pinelands Commission to make sure that happens.

I would be interested in hearing other people's views of how that can be done.

SCOTT MCVAY: I only want to say that I am glad we heard from Dave[Moore] today because he was the first one that the Dodge Foundation heard from when we first became staffed. I remember getting a few calls that legislation had been passed, a marvelous piece of legislation. But there wasn't any money for it.

And I said, "Wait a minute, legislation passed but there's no money?" And when it finally came to our trustees, to make the decision about these things, we really looked at it. Here we have a state, the most densely

populated state in the union. The trustees voted for it. They also voted for some 21 grants, over the span of the last ten years. Actually, the first grant, in '76, helped buy up some land to connect some of the forest sections.

I think it was Brendan Byrne who also said we can lose it. We can fight for it and probably lose it in a day. It would be very hard to straighten it out.

But one other chap played a role--so many of you who played a role--with Dave Moore, but couldn't be here today. He's Jim Trip of the Environmental Defense Fund. he was a chap who is a general counsel of EDF and put in a lot of time on our grants.

In the course of the whole thing, I've come to admire so many people around this table, the way they kind of worked quietly and selflessly to secure this piece of the state. We must be ever mindful that the job that is before us, in the next few years, is to try to see if we can do as good a job in other parts of the state.

PAUL MOTT: This is an informed group, but I wonder if we shouldn't just mention some of the things that David Moore and the New Jersey Conservation Foundation did three or four or five years before the legislation.

I can remember when David rented buses and the New Jersey Conservation Foundation took executives down on tour of the Pine Barrens. Then he took a bus load of editors from New York City newspapers and a bus load of editors from the Philadelphia newspapers. He took congressional aides down on one trip and, I think, legislators on another.

There were numerous efforts made to publicize this effort. They were

supported by virtually all the major foundations in New Jersey. At that time I was working for the Miniky family. They provided some major support, as did the Victoria Foundation. The Fund for New Jersey provided support, as did the Highland-Watts Foundation. Support came from virtually all the major foundations in New Jersey. It really laid the groundwork, I think, for just about everything that happened later on.

MICHAEL CATANIA: We talked a lot about the different roles and different people. Everybody played a role. But John Degnan made a point that I would like to come back to. When all is said and done, with all of the public support things don't always get translated into government action.

I think the income tax was a good example of that. The public support, the polls show that it wasn't until you had a Governor and Legislature that were willing to undertake the political act of making it happen that it became a reality.

It wasn't until Governor Byrne decided to do something like that that you had that kind of action. I think otherwise it would have stayed kind of a non-issue. Everybody thought we should preserve the Pines but nobody thought the Legislature would pass a bill until somebody had the guts to say, "I will make this my issue, I will make this happen, and I will make them know that I will not take no for an answer."

I think that's the kind of thing the public approved. You can develop the issue and educate government, basically, and then apply the pressure so that somebody does something. The nice thing about this issue is that there was this complementary effort. It was political muscle, plain and simple, Governor, when you issued the executive order that told the Legislature,

"Nothing will happen until you give me a bill that I am satisfied with."

ALAN ROSENTHAL: Governor Byrne, you had the first word. I'd like you to have the last word.

BRENDAN BYRNE: Thank you. I don't really want the last word. When I had the last word leaving the office, they asked me what I wanted to be remembered for. And I said, "The Pinelands."

When I walked in here tonight, several of you recognized me and said, "I've been in your arena."

And I also remember, when the casino issue first came up, some of my staff came to me and said, "Don't support casinos in New Jersey because we don't want you to be remembered as the Casino Governor."

Somebody sent me, for my birthday last year a birthday card. And apparently you can get these for any date. And it tells you who else of note was born on the day you were born. On the day I was born, it says on this birthday card, that William Harvey, who discovered blood circulation, was born; Otto Von Bismark, the first chancellor of the German Empire, was born; and Whitaker Chambers and Ali McGraw were born that day. Also it had, "Brendan T. Byrne, Governor of New Jersey, 1974-82; legalized gambling."

But I still want to be remembered for the Pinelands.