



OPERATION CLEAN GOVERNMENT

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N E W S L E T T E R

Ethics Complaints Dismissed Based on Defective Investigations

By Janice F. Carlson

Recently, the Rhode Island Ethics Commission (RIEC) dismissed two ethics complaints filed in the past year by Operation Clean Government against Robert F. Arrigan, chief judge of the Worker's Compensation Court. Deficient investigations and OCG's concern that Chief Justice Frank Williams may have intruded in an ongoing investigation in the second complaint raise many questions about the disposition of these charges.

The first complaint stated that Arrigan violated the Code of Ethics by taking control of OCG's request under the Access to Public Records Act for documents evidencing his attendance at Court. In December of 2001 the complaint was dismissed when the RIEC's staff said, "there were no such records" that would document a judge's attendance at court.

Nevertheless, last September, Arrigan's secretary, Theresa Healy, testified before Superior Court Judge Patricia Hurst that not only are such records kept but that she de-

stroys them at the end of each year. But, when RIEC's Senior Staff Attorney and prosecutor, Katherine D'Arezzo responded to an inquiry about the obvious gaff by RIEC for an article by Bruce Landis published in the *Providence Journal* ("Work records of embattled judge destroyed" 04-28-02), she replied "That was the information we had at the time."

According to the article, upon further questioning D'Arezzo said that due to confidentiality rules she could not discuss why the investigators failed to find that records were in fact kept and destroyed. She went on to say the commission could not reconsider its action, and "There would be nothing we could do about it now."

The second complaint considered at the March 19th meeting of RIEC prompted the commissioners to vote, in closed session, to investigate Arrigan's failure to disclose on his financial statement, as required by the ethics code, that he held various positions in non-profit corporations over a

period of six years.

OCG research had revealed that Arrigan held the following undisclosed positions: President of the International Workers' Compensation Foundation (IWCF) 1999-2000; Trustee of the IWCF 1998, 1997, 1996; President of the International Association of Industrial Accidents Board and Commissions (IAIABC) 1997, 1998; Vice President of the IAIABC 1995, 1996.

Question 9 on the financial disclosure form and accompanying instruction sheet clearly states that holding a position as an officer or director of any business, profit or non-profit must be reported. The documentation of this information is vital so the public can review activities of public officials who hold positions in organizations engaged in pursuits that are related to the official's public duties.

Arrigan admitted through his attorney, J. Renn Olenn that he had held the stated positions. However, Olenn argued to the commission that the organizations Arrigan

associated with were, in fact, professional organizations and therefore did not need to be disclosed.

Consequently, at the April 16th meeting, in closed session, the commissioners voted 5 to 1 to dismiss the complaint against Arrigan citing their own regulations "were too vague to support the allegations" and that "horribly drafted statutes" would not allow them to support the complaint. (Commissioner James Lynch cast the lone vote against dismissal.)

It seems in all of Rhode Island's statutes and regulations there is not a clear definition of what constitutes a "business." Or at least that's what was found to be true by Jason Gramitt, former staff attorney in the Appellate Screening Unit of the RI Supreme Court, who was prosecuting this Arrigan complaint. So why did RIEC send out over five thousand requests for financial disclosure statements each year without the proper regulations?

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Betrayed Again

By William H. Clay

On Wednesday 10 April 2002, the citizens of Rhode Island were betrayed when the RI House of Representatives voted 49 to 38 to send the separation of powers bill back to committee. The vote was an affront to the 2 to 1 mandate given the legislature by the voters in the 2000 election in which they authoritatively demanded the opportunity to decide for themselves whether to adopt an amendment to the constitution that would establish a co-equal legislative, executive and judicial form of government. The voters demanded a referendum on the 2002 ballot so their decision whether to adopt the amendment would benefit from debate on this important issue during the election season.

This was the second time Representative Gorham's bill had been recommitted to the judiciary committee. The first occurred on the last night of the 2001 session when the vote was 58 to 25 to recommit, with 17 representatives not voting. The first betrayal of the voters was reported in OCG's August/September 2001 newsletter, which can be seen at www.ocg.to.

In the April 10, 2002 occurrence, the bill had recently been defeated 10 to 8 in the judiciary committee. However, the bill sponsors asked for an open floor debate to

persuade more representatives to support the bill. In response to their request and strong lobbying by Common Cause, OCG, the League of Women Voters, phone calls to representatives from aware citizens

and the close vote in the judiciary committee, Speaker Harwood ordered the bill onto the house calendar. However, placing the bill on the calendar proved to be a deceitful setup by the speaker. He knew as soon as

the bill was called his henchman, House Judiciary Committee Chairman Robert Flaherty would use the "non-debatable recommit motion" to head off any further floor action on the bill.

The motion to recommit is a handy house rule available to Speaker Harwood for use where a floor debate or a vote might not go as he and Majority Leader Gerard Martineau had orchestrated. To maintain control, majority whips and their deputies spread the leader's desires among his minions. Each time the separation of powers issue surfaces, this speaker's team is called to action.

Nothing, except perhaps voter initiative, threatens Harwood and his majority team, as would a separation of powers amendment to the Rhode Island Constitution. House and senate leaders would lose their power to control the quasi-public boards and commissions they have created. The field for legislators to recommend hiring of friends and relatives to patronage jobs at these agencies would narrow. Business opportunities could be lost to some legislators whose professional discipline is related to the business area of the agency to which they are appointed. The agenda of the politically career-minded leaders is not about

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VOTING AGAINST THE PEOPLE (49)

Aiken, D-Warwick	Kilmartin, D-Pawtucket
Almeida, D-Providence	Knickle, D-Warwick
M. Anderson, D-Pawtucket	Lowe, D-N. Smithfield
Barr, D-Lincoln	Maher, D-Portsmouth
S. Brien, D-Woonsocket	Martineau, D-Woonsocket
T. Brien, D-Woonsocket	McCauley, D-Providence
Carter, D-N. Kingstown	McNamara, D-Warwick
Cerra, D-Johnston	Menard, D-Lincoln
Coderre, D-Pawtucket	Moran, D-Central Falls
Coelho, D-E. Providence	Moura, D-Providence
Corvese, D-N. Providence	Munschy, D-Woonsocket
Costantino, D-Providence	W.J. Murphy, D-W. Warwick
Crowley, D-Newport	Naughton, D-Warwick
Faria, D-Central Falls	Rose, D-E. Providence
Flaherty, D-Warwick	San Bento, D-Pawtucket
Fox, D-Providence	Schadone, D-N. Providence
Gallison, D-Bristol	Shavers, D-Newport
Garvey, D-S. Kingstown	Sherlock, D-Warwick
George, D-Exeter	Simonian, D-Cranston
Giannini, D-Providence	Slater, D-Providence
Harwood, D-Pawtucket	Thompson, D-Westerly
Henseler, D-N. Kingstown	Voccola, D-Johnston
Hetherington, D-Cranston	Williams, D-Providence
Hogan, D-Smithfield	Winfield, D-Smithfield
Iwuc, D-Cumberland	

VOTING FOR THE PEOPLE (38)

Ajello, D-Providence	Montanaro, D-Cranston
Amaral, R-Tiverton	Mumford, R-Hope
S. Anderson, D-Coventry	Palangio, D-Providence
Anguilla, D-Bristol	Palumbo, D-Cranston
Benson, D-N. Kingstown	Picard, D-Woonsocket
Bierman, R-Cranston	Pires, D-Pawtucket
Callahan, R-Middletown	Pisaturo, D-Cranston
Caprio, D-Narragansett	Quick, R-Little Compton
Cicilline, D-Providence	Rabideau, R-Burrillville
Dennigan, D-E. Providence	Reilly, D-Cumberland
Ginaitt, D-Warwick	Savage, R-E. Providence
Gorham, R-Greene	Scott, R-Exeter
Guthrie, D-Coventry	Shanley, D-S. Kingstown
Jacquard, D-Cranston	Story, R-Barrington
Lanzi, D-Cranston	Sullivan, D-E. Providence
Levesque, D-Portsmouth	Trillo, R-Warwick
Lewiss, D-Westerly	Vieira, D-Pawtucket
Lima, D-Providence	Wasyluk, D-Providence
Long, R-Middletown	Watson, R-E. Greenwich

NOT VOTING (7)

Carroll, I-Glocester	Kennedy, D-Hopkinton
Coogan, D-E. Providence	W.H. Murphy, R-Jamestown
Fleury, R-West Warwick	Smith, D-Providence
	Tejada, D-Providence

ABSENT (6): Abdullah-Odiase, D-Prov.; Cambio, D-N. Providence; DeSimone, D-Providence; Lally, D-Narragansett; Malik, D-Warren; Williamson, D-W. Warwick

The Candidates School Gives a Boost to Those Who Would Run

By Lanette S. Macaruso

The first Operation Clean Government (OCG) Candidates School was held on April 6 at the Warwick Radisson Hotel. It was one day that made a difference for at least 160 people in their levels of knowledge and enthusiasm for running for public office in Rhode Island. The energy of the attendees, the significance of the topics, the acumen of the presenters, the ambience of the setting—all elements came together at a critical juncture this election year to shape an event that will draw out the best in people to help “promote honest, responsible, and responsive government in RI.”

Candidates School Chair Bruce Lang's opening question engaged the audience's motivation to get the most out of the day's agenda, and speaker after speaker kept the momentum going. Bruce's opening: “I have one question—how many people in this room think that government in RI could be better?” Every single hand went up.

In his welcoming address, **OCG Chairman Bob Arruda** said he was thrilled with the turnout. He told attendees, “by running, you will hold incumbents accountable” and further announced, “Let this first graduating class of the Candidates School signal the beginning of the end of apathy.”

There could not have been a more appropriate choice for a keynote speaker than **WHDU Talk Show Host and former RI Attorney General Arlene Violet** in answering the question about why ethics are important. Her thoughtful and inspiring words uplifted each listener contemplating his or her own personal mission. Violet said, “Rhode Island politics needs a rebirth and that's where you come in—you have a unique opportunity to rise to the challenge and do the right thing”.

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Moreover, how could RIEC dismiss such a clear violation of the code as found in this Arrigan complaint? One explanation might be that they were obliquely pressured by inquiries into Question 9 by the RI judiciary while this complaint was being investigated.

A memo dated March 27th sent to “All Judicial Officers” by Chief Justice Frank Williams advises his fellow justices that “A request to the Rhode Island Ethics Commission has been filed to clarify what constitutes a “business” that is to be listed.” Justice Williams specifically references Question 9, the very issue being adjudicated by the ethics commission at that time regarding OCG's complaint against Judge Arrigan. The memo goes on to say: “We believe a response is forthcoming [from the RIEC] by April 15th. I am informing you of this in the event you wish to wait for such opinion before filing the financial statement which I believe will be due on or before April 26th.”

RIEC heard the Arrigan case on April 16th. On April 17th in a letter from RIEC's Chief Attorney Katherine D'Arezzo in response to OCG's request for “...any and all documentation referring to an inquiry made to the Rhode Island Ethics Commission concerning the scope or definition of Question 9 listed on the yearly

Jason Gramitt, Education Director of the RI Ethics Commission launched the day's learning curve by notifying the group that each one needs to know what is covered in the state's Code of Ethics. He directed attention to the resources that keep public servants on the right side of the Ethics Rules.

Mike Vallante, national Political Consultant, drove home the essential hallmark of any successful leader by displaying it in his richly informed counsel—genuine integrity. He detailed the steps to take to establish who you are as a person and why you are running. Mike then led listeners through the processes of building support by using time, money and effort in the best possible ways. He emphasized over and over, “people have to believe the messenger before they will believe the message” and “all politics is personal.”

Ed Inman, RI Secretary of State, directed the campaigners to the state's resources, publications, and guidelines that show crucial filing procedures and declaration deadlines, along with an array of checkpoints to note and follow as candidates.

National Political Consultant & Strategist **Tad Devine** captivated listeners with his extraordinary depth of experience in helping national candidates to run effective campaigns. In a fascinating and detailed report, he demonstrated how he took a polled third place candidate in a Florida sheriff's race, and through voter research and advertising, made him a winner.

Darrell West, Director of The Taubman Center for Public Policy at Brown University kept up the pace of learning during a delightful luncheon by suggesting questions to ask to get a quick read on voter's priorities. He encouraged attendees to run, saying that this is a politically volatile

year, a good time for outsiders to try challenge incumbents.

The afternoon's “Ground Game,” a comprehensive guide to assembling, running, tuning, and even rescuing a campaign kept heads up and focused on the myriad procedural and psychological essentials of getting the candidate into the winner's circle. **Steve Richards** took turns leading the charge with fellow political strategists Mike Kehew and Mike Vallante.

Steve started off by advising candidates to decide what is important to each of them in running, and to show an equal regard for what's important to voters. Following the precept that “visibility is viability,” he explained ways to select a circle of advisors who can keep you visible in a good light, and portray attributes that are absolutely essential to your campaign manager.

Mike Kehew followed with knowledge gathered from eight campaigns, including the one he led to attain his present office: President of the Middletown Town Council. He advised campaigners to strategically manage canvassing lists, and to calculate how many doors to knock on while proactively controlling costs of both time and money.

Mike Vallante kept up the pace and pith of his morning lecture, indicating methodologies for identifying voters, interspersing his excellent advice for using door-to-door, personal contact, party affiliation, etc. with colorful examples from his early days campaigning in Providence's 7th ward—Silver Lake—in his 3-piece John Travolta disco suit!

Rob LaChance of Tin Can Alley gave practical advice on working with television advertising people and showed TV commercials from past Buddy Cianci and Arlene Violet campaigns demonstrating his point that,

“It is the job of people like me to make people like you look good.”

Jim Taricani, of NBC-10 News, gave an insider's guide to getting news coverage (that you don't have to buy) via “earned media”—press releases, letters to the editor, events, etc., and identified who to approach at television stations about covering events in your political campaign.

Political Fundraisers **Jack McConnell** and **Diane Echmalian** tallied up ways to identify groups that will contribute to your campaign, and then calculated the when's and how's of actually approaching people for the financial fuel you need to run.

Hank Johnson, of the Campaign Finance Division of the Rhode Island Board of Elections, brought up the caboose of the day's grand train of information by outlining the state's financial reporting requirements. Then, the final bell rang on the classes of the Candidates School, with everything running exactly on time, as Bruce Lang promised.

Bruce sounded a closing note of encouragement by telling the attendees, “There are very few days when you can see into the future. Today is one of those rare days as I see that much of the future of RI politics and government will evolve out of this room.”

The possibilities seemed to grow as the exhilarated Candidates School graduates streamed out of the Radisson, sharing their positive impressions of the day as they headed home to their cities and towns with focused expectations for a brighter tomorrow for governance in Rhode Island.

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financial statement. In particular, any and all such inquiry made by any member of the judiciary, including Chief Justice Frank Williams, or any staff member of the judiciary seeking clarification regarding the scope or definition of Question 9.” D'Arezzo writes, “Please be advised that no records exist with regard to your request.” The letter further states RIEC “takes no position as to whether the various categories of records outlined in paragraph three of your request would be subject to disclosure under the Access to Public Records Act...” The referenced paragraph specifically asked for “any and all written memorialization of any verbal communication.”

Disconcerting? Yes. But it doesn't end there. Upon dismissal of the complaint, Arrigan's attorney, J. Renn Olenn, proposed that RIEC place “a one year moratorium on those complaints which allege that a failure to disclose involvement in a professional association is a violation of the financial disclosure requirement.” Immediately afterwards, in open session, the commissioners readily voted to adopt the moratorium to provide them time to “review the current financial disclosure form and relevant Code provisions.”

It seems strange that Chief Justice Williams might have had knowledge that the clarification of Question 9 would be resolved

by April 15th. In addition, how did Arrigan's lawyer happen to have a ready made moratorium to present to RIEC which would protect other judges from having their listings on Question 9 questioned?

OCG strongly disagrees with RIEC's dismissal of these two complaints whose investigations as presented to the commissioners were woefully inadequate. To that end OCG is requesting a reconsideration of Complaint 2001-56 (the second complaint). In the request OCG provides corrections to the misstatements of facts by the investigator/prosecutor as well as additional information about IWCF, including its financial status that should have been presented to the commissioners.

The full request for reconsideration can be viewed on OCG's web site at www.ocg.to. The concluding paragraph of the request reads, “It is clear that the Commission [RIEC] cannot possibly reach a fair and just outcome in its deliberations if complainants are prevented from participating in proceedings and investigations which are supposed to provide objective truth are incomplete or, worse, incompetent.”

Don't Miss Operation Clean Government's State of the State Cable TV Show

Sundays at 8 A.M. on Channel 13 (statewide)
Thursdays at 9 P.M. and Fridays at 3 P.M. on Channel 18
(in central areas of Rhode Island)

Shows are taped on the second and fourth Thursday of each month. Each production runs for two weeks, except when there are five Thursdays in a month, a show may run three weeks.

To receive email announcements of the content of the programs, send us your email address through the OCG website, www.ocg.to, requesting to be on our list for notifications. You will receive a blind copy of the email so that you will not receive emails from other persons on that list.

Addicted to Spending

By William H. Clay

The Rhode Island Legislature is addicted to expanding the state budget. It continues to irresponsibly increase the governor's annual budgets by as much as 10 percent. Since 1996, the legislature has increased appropriations: 30.7 percent for state payroll; 178 percent for health insurance for low-income families; 47.1 percent for education; and 262.9 percent for capital projects, with even more borrowed.

So when in 2001 a cyclic downturn in the national economy occurred, state revenues would no longer sustain the bloated budget. Structural deficits are now projected at \$70 million for the current fiscal year, \$322 million for FY 2003 and higher beyond.

The looming shortfalls were projected by the governor, RIPEC and the state revenue estimating council. However, their projections were ignored by the irresponsible legislature which continued to spend like lottery winners.

The period of euphoric spending began in 1996, when the state revenue estimating council began projecting a revenue surplus. The state was recovering from the RISDIC failure, due to the irresponsibility of a previous governor and legislature.

The economy was good and not since the DePrete years had there been such spending opportunities. And as the money poured in, the legislature spent every nickel.

Governor Almond labeled the legislature irresponsible for its lack of fiscal restraint, but at the same time he granted huge pay raises to state workers and bonuses to DCYF caseworkers.

Some legislators doubt the extent of projected revenue shortfall. They have rejected the governor's proposals to cover the current fiscal year's shortfall. No cuts in spending are being considered. Social programs that did not exist five years ago are now sacred.

The legislature's solution is to raise more revenue. Some of its current proposals are listed below:

- Disallow the federal income tax reduction for businesses when computing the state piggy back tax
- Slow down the car tax phase out
- Increase cigarette tax, this would be the second increase in 2002
- Raise again admittance fees to state recreation facilities
- Increase again real estate conveyance fees
- Provide more gambling opportunities
- Raise a new set of professional licensing fees.

Of course, these proposals will hardly cover the huge deficit. The governor and legislature have their sights on borrowing for the big money. And it is already happening.

To cover a small portion of the current year shortfall, the governor unwisely seized \$5 million, which had been put into the budget by the legislature for "affordable housing." This turned into a PR nightmare

for the laid-back Almond. Soon protesting clergy moved into his office and refused to leave.

To enhance its own image with the vociferous affordable housing advocates, the legislature quickly passed a \$10 million bonding bill, proposed by the governor and earmarked for affordable housing.

Affordable housing advocates were very happy they had \$5 million more than appropriated last June. The governor was happy because he got to keep the seized \$5 million and the clergy had vacated his office. There was so much happiness all around that Senator Irons came to be photographed with the governor at the bill signing. Taxpayers acquired more debt, while their constitutional right to approve state borrowing was ignored. All in all it was about as fiscally sound as borrowing to pay credit card debt.

In a much larger borrowing scheme, the governor wants to sell a \$600 million tobacco bond issue to be paid down by the state's anticipated share of the court settlement with tobacco companies. The settlement is to provide the state \$2.8 billion over the next forty years.

By giving up \$2.2 billion of the time payments, Rhode Island can have \$600 million earlier. A great deal for the tobacco companies and a good deal for the governor and legislature who like teenagers want it now. But not a good deal for future state governments and taxpayers.

How long will \$600 million last in the hands of the spendthrift legislature? Will it be used to shore up the projected revenue shortfalls or will it go for new spending? Already the house finance committee has its sights on \$25 million of the governor's \$600 million to combine with the committee's increase of 27 cents on the cigarette tax to cover the current fiscal year budget shortfall and to have \$5 million for additional spending.

It is even more worrisome in the senate, where members of the finance committee want to close the revenue gap by deferring state payments into the retirement system. Did these senators gain their fiscal wisdom from the Cranston approach to public financing?

Other states faced with shortfalls are reacting responsibly by prudently cutting spending

Massachusetts and Connecticut are furloughing state employees and having days without pay to avoid layoffs. New Hampshire is stimulating its economy by releasing rainy day funds to accelerate road and bridge repair and other capital projects.

Rhode Island has no cash reserve and our lawmakers lack the political will to reduce entitlements or to buck state employee unions as would be required to reduce personnel costs, which amounted to \$1.212 billion of the \$2.65 billion FY 2002 budget.

With the continued addiction to spending on Smith Hill, taxpayers should expect that the tobacco windfall will only be an interim fix. However, taxpayers could provide their own long-term fix by replacing the spendthrifts with fiscally responsible legislators.

Where Does Whitehouse Stand on Pollution

By Bill and Patti Major

Rhode Island Attorney General Sheldon Whitehouse joined other Northeast attorneys general in proclaiming that they will challenge President Bush's plan to weaken antipollution laws, a weakening that would make it easier for Midwestern power plants to expand. Mr. Whitehouse stated: "To me, that's a gyp, plain and simple... They get cheaper power, and we all get dirtier air."

But despite his public pose, he has done nothing to slow the Rhode Island Resource Recovery Corporation's (RIRRC) reckless industrialization of the public buffer zone surrounding the Rhode Island Central Landfill in Johnston. While Mr. Whitehouse publicly fights the Bush Administration, he appears to be indifferent to the threat to clean air caused by Rhode Island government itself. He is unwilling to investigate public officials and associates getting rich on RIRRC's ill-conceived, environmentally destructive industrial expansions. In addition to condemning wrongdoing in other states, we ask him to provide Rhode Islanders with regulatory oversight and state revenue accountability at the state landfill.

Mr. Whitehouse's failure to monitor RIRRC's industrial development of the buffer zone has already caused serious harm to the health of many Johnston families. Despite evidence showing a causal connection between pollution and human disease, he was silent while RIRRC sold environmentally sensitive buffer-zone land to build a 550-megawatt power plant anchoring industrial factories and constructed a polluting trash-transfer station at the state landfill. The 1,200-acre landfill's 121-acre superfund site already has a heavy polluting methane-gas power plant. Additionally the RIRRC approved building Route 295 interstate ramps that will bring hundreds of trucks daily spewing carcinogenic diesel fumes in Johnston's residential neighborhoods. When it comes to pollution originating in Rhode Island, Mr. Whitehouse is silent.

Mr. Whitehouse has also refused to investigate questionable land transactions around the landfill. Former state Representative Alfred Russo sold buffer-zone property with a 1995 assessed value of \$133,100 to RIRRC for \$1.9 million. The Mayor of

Johnston, William R. Macera is the person responsible for implementation of a host agreement with RIRRC to industrially develop the buffer-zone. Members of the Macera family sold property in the buffer-zone under the name of Simmons Lake Realty, Inc. to RIRRC for \$1.5 million. This parcel was later transferred by RIRRC for the development of the 550-megawatt power plant. Similarly, property owned by the Macera/Tower Family Limited Partnership assessed at \$1.4 million was sold to RIRRC for \$5.2 million. This land is to be used for highway ramps needed as infrastructure to support RIRRC's industrial development of the buffer-zone.

We sincerely hope that other politicians their families, and associates are not making millions by developing for industrial uses environmentally sensitive land that ought to be vegetated and preserved to protect Rhode Island's groundwater and to protect the health and safety of Rhode Island families.

Notwithstanding Attorney General Whitehouse's photo-op image, he is actually sending his attorneys into federal court to fight against a federal administrative law judge's decision to award a Rhode Island Department of Environmental Management scientist, Beverly Migliore, a money judgment in her critical whistle-blower case against the Rhode Island DEM. When Migliore complained to her supervisors about the need to maintain enforcement actions against polluting companies, DEM retaliated. The AG entered the case, not to protect this whistle-blower, but to oppose her. When cameras are not snapping photos of the want-to-be governor, Mr. Whitehouse ensures that DEM oversight scientists, who speak out in the public interest, live in fear.

Regarding Attorney General Whitehouse's record on environmental protection in Rhode Island we say "It's a gyp, plain and simple... The state Landfill's polluting industrialization gets bigger, well connected politicians and their cronies get richer, regulatory whistleblowers get punished, and we all get dirtier air."

This is an opinion piece by Bill and Patti Major, Spokesmen for Citizens Local Alliance to Save our Properties in Johnston and members of OCG.

Feb. 25th Forum—A Huge Success RI Judiciary—Accountability vs. Independence

Operation Clean Government is grateful to those who participated in this very informative forum on the Rhode Island Judiciary. Following introductory remarks by Attorney Robert Senville, the panel moderated by Arlene Violet included: Judge Stephen J. Fortunato, Jr., RI Superior Court; Prof. Harvey Rishikof, Roger Williams Law School; Prof. Ross E. Cheit, Brown University; Attorney John T. Duffy, Columnist, RI Law Tribune; Attorney Sara Quinn; Former Exec. Dir. RIEC and OCG Board Member; Attorney Leon A. Blais, OCG Board Member.

The candid comments by all participants, often with opposing views, gave the audience insight into the workings of the

judiciary and raised issues for further thought. Topics discussed included judicial tenure, judicial review, election of judges, judicial immunity granted to RI judges even after they are found guilty of taking a bribe, public confidence in the courts and judges speaking out in the media.

The enthusiastic audience of 160 expressed a desire for follow-up additional forums. Such open public discussions, with members of the judiciary participating, greatly help to restore public confidence in the judiciary. OCG hopes other judges will follow the lead of Judge Fortunato and accept invitations to our future forums.

Traffic Court Needs a Fraud Examination Not Body Attachments

By June Spink

Racing through the General Assembly are two bills that will allow the arrest (body attachments) of individuals who have allegedly not paid traffic fines adjudicated prior to July 1, 1999. Both bills, H 7828 by Representatives Flaherty and Fox, and S 2861 by Senator McCaffrey, have come out of committee and may have passed out of their respective houses by this time.

Operation Clean Government has evidence of more than 700 motorists who were billed for such traffic fines and who have documented proof that they did in fact pay their fines, some as far back as 1988. How many motorists keep such records for 14 years? Do those who know they paid their fines, but have no receipt, have to pay again to stay out of jail? Where is the guarantee that there won't be further human error in the recording of fine payments? How many will hear that a fine from years back is still owed and will have no recollection of having been assessed such a fine?

Arrest would occur when a motorist with an outstanding fine is involved in any traffic violation or even a routine stop by a traffic officer.

Rather than arresting motorists, which court records show have not paid their fines for 14 years or more, OCG is again calling for a fraud examination of the traffic court. Responsibly, Representative Michael Pisaturo has introduced H 7985 asking for such an examination. The bill instructs the fraud examiners to not only determine the existence of fraud indicators, but if found, to develop any evidence of fraud. The bill further states "the fraud examiner(s) shall be directed to report evidence of fraud to the Department of the Attorney General within forty-eight hours of discovery of such

evidence."

Audits come in many forms; tax audits, performance audits, internal audits, compliance audits and financial audits. None of these employ the investigative techniques of a fraud examination which includes formal interviews, cultivation of informants, gathering of intelligence and witness development.

Although the KPMG Peat Marwick team, which audited the traffic court in 1998, included one Certified Fraud Examiner and one Associate Certified Fraud Examiner, they did not conduct field interviews of people who allegedly paid money to the court, but are claimed to be in default. What they did do was investigate the management practices of AAC (traffic court) and the likelihood or extent to which fraud may have occurred. A partial list of fraud indicators, as reported by Peat Marwick, is listed below:

- Once logged onto certain terminals, an individual can alter or delete an existing record or, with knowledge of a valid password, record a payment against an unpaid ticket.
- Payments received at AAC may have been recorded on the computer but, due to loss or theft, many not have been deposited.
- Individuals in the Violations, Collections and Mail departments could receive cash or check payment, enter the payments in the IBM system, delete the record and misappropriate the cash or checks.
- Lack of control makes it easy for an individual to misappropriate cash or to take checks and convert them to cash without being discovered.
- An undisclosed number of traffic cases where tickets are missing, including records of motorists who insisted they had paid their fines.
- Tickets can simply be shredded or thrown away with little chance of detection.
- Missing documents may have been lost or misfiled; they also may have been

intentionally removed from the files by unauthorized individuals for inappropriate reasons.

Peat Marwick had been contracted to do the audit ordered by Chief Justice Weisberger. The Chief Justice was acting in response to public demand for accountability at the traffic court. He established an audit committee and specified that the audit include examination for fraud or impropriety in the conduct of fiscal affairs of that court.

In spite of the chief justice's order, Peat Marwick did not do a fraud examination because the agreed upon procedures, formulated by the Weisberger audit team, did not call for one. Rather, the procedures only called for the auditors to report fraud indicators and risk factors, not to develop the evidence.

The audit report stated: "The results of our procedures disclosed that a substantial level of risk of fraud or misappropriation has existed at AAC... Our approach could not assure that fraud exists or would be found and due to the limited nature of our procedures, it also does not assure that fraud may not be discovered subsequent to the application of our procedures."

During 1999, when amendments were proposed to the state budget for a fraud examination of the traffic court, legislative leaders rose in opposition saying that in fact there had been a fraud examination. It is no wonder that many legislators honestly believe that the KPMG audit included a fraud examination. Now, three years and 8 months later, the general assembly again has the opportunity to investigate the traffic court and hopefully restore some public confidence in our court system.

Only when a fraud examination report is in will the public know whether wrongdoing or fraud occurred at the defunct traffic court. And if there is such wrongdoing or fraud, it will not be overlooked or go without consequences to responsible parties. Let's get behind H 7985 and get the job done.

BETRAYED, from page 1

giving up any of these enormous powers.

House members consist of 85 Democrats and 15 Republicans. The Democrat majority divides into two camps, one of which is comprised of free thinking representatives who often disagree with and challenge the speaker and majority leader. These maverick Democrats and the Republicans are to be commended because they are among the 38 who voted to defeat the motion to recommit the separation of powers bill.

The remaining larger cadre of Democrats are Speaker Harwood's minions, who steadfastly show deference to the speaker and majority leader. They are the source of the speaker's power and are rewarded by having their legislation passed and given committee assignments of their choice. Among these are the 49 who betrayed their constituents and sided with the speaker to recommit the bill.

Seventeen representatives are listed as not voting. Their constituents should require an explanation—were they absent for the day or absent from the chambers when the vote was taken and if the latter is so, why.

It is said, "we have the government that we deserve." And we will continue to get the power corrupted and non-representative government that we have as long as we continue to elect a single party legislature. A viable two party system, bringing across the aisle opposition into the chambers of the Rhode Island Senate and House, is essential for good government. Imagine if there was only one airline, automobile manufacturer or grocery store. The Democrats have been in power since 1935. Now their power is absolute and just as corrupt as the Republican dynasty that they replaced. It is time for a two party legislature.

Listed on page one is the vote on the motion to recommit the separation of powers bill. **Note the names of the 49 who ignored their constituents and give them a mandate in November that they cannot ignore: vote them out.**

Newsletter Editorial Review Board

William H. Clay, Editor
Janice Carlson
Sanford Miller
Karen Rosenberg
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WHO WE ARE...

OPERATION CLEAN GOVERNMENT is a grassroots organization working to bring about positive changes in Rhode Island state government. We advocate the passage of legislation which will provide Honest, Responsible and Responsive state government. We file court suits and ethics complaints and alert the public to government wrongdoing via OCG newsletters, press releases, opinion pieces on editorial pages and appearances in the electronic media. Dues are \$12 for an individual membership and \$15 for a family membership. Donations of any amount are also welcome. As an all volunteer organization, there are no salaries or compensation other than the satisfaction that we are giving our best effort to make a positive difference in Rhode Island. Our costs include newsletters, mailings, court filing fees, office materials and supplies, publicity and public forums.

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YES, I want to join other Rhode Island citizens and help to promote Honest, Responsible and Responsive State Government.

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My membership contribution to OPERATION CLEAN GOVERNMENT is enclosed:

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