

1 SUPERIOR COURT OF NEW JERSEY
2 CHANCERY DIVISION, ESSEX COUNTY
3 DOCKET NO. C-1640-70

3 IN THE MATTER OF:)
4 TOBY HENRY) STENOGRAPHIC TRANSCRIPT
5 THOMAS COMERFORD) OF
6 EDWARD SATTERFIELD.) PROCEEDINGS

7
8 BEFORE:

9 HONORABLE IRWIN I. KIMMELMAN
10 Essex County Courts Building
11 Newark, New Jersey

12
13 January 31, 1973

14 APPEARANCES:

15 RALPH L. FUSCO, ESQ.
16 Assistant Prosecutor
17 Attorney for the State

18 MESSRS. SILVERMAN, BERGSTEIN & WALSH
19 BY: MELVYN H. BERGSTEIN, ESQ.
20 Attorneys for Thomas Comerford

21 MITCHELL MELNIKOFF, ESQ.
22 Attorney for Toby Henry

23
24 MARYANN SMYTHE
25 51 Beacon Street
Port Reading, New Jersey 07064
(201) 541-2247

1 (In Chambers)

2 COURT: Gentlemen, Mr. Fusco has requested a con-
3 ference in chambers on the record.

4 MR. SILBER: Mr. Fusco has been appointed by our
5 office to handle the cases scheduled before you on Friday.
6 As Your Honor knows, I am leaving the office and I am
7 going to California.

8 Mr. Fusco has been designated the Prosecutor to
9 prosecute the Order to Show Cause and Contempt in regard
10 to Gerry Clark, Michael Callan, and Harris David.

11 MR. FUSCO: There was one other thing, Your Honor,
12 that I did wish to place on the record out of the presence
13 of the people outside.

14 I observed coming in here today a number of people
15 outside in the hallway and in the courtroom itself. I
16 know that there is going to be some emotion if the Court
17 does impose sentence today and there will probably be
18 even more emotion between the people in the audience and
19 the people outside if there is a custodial sentence im-
20 posed.

21 I would suggest, strongly, to the Court that addi-
22 tional security be placed in and about the courtroom just
23 in case there is any flareup of the people outside, in
24 the courtroom or in the hallway. I am sure Your Honor is
25 aware and I have read the transcript that there have been

1 outbursts at previous hearings before Judge Herbert.

2 There have been people standing and making comments
3 to the Court. There have been repeated outbursts of
4 laughter; people out here will get emotionally involved
5 I am sure with whatever happens and for the safety of the
6 Court and all the people in the Court, I think that it is
7 imperative that Your Honor take some measures whichever
8 you deem appropriate under the circumstances for the
9 safety of everybody here.

10 MR. BERGSTEIN: Your Honor, I object to this matter
11 being held in camera. I see no reason for it to be held
12 in camera.

13 If the Prosecutor has some remarks like that, let him
14 make it on the record before the people in the audience.

15 COURT: Anything else?

16 MR. FUSCO: Nothing else.

17 COURT: Very well. Let's go outside and hear the
18 pleas.

19 (Court in session.)

20 COURT: Good morning, gentlemen, are you ready; I
21 will hear you.

22 Who speaks first?

23 MR. MELNIKOFF: Your Honor, Mr. Henry is the first
24 named defendant in the indictment. I guess I will speak
25 first for Mr. Henry.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Your Honor, today is the return date of the sentencing for Toby Henry who has been charged with civil contempt. We appeared before this Court on December 18th at which time a plea of guilty was entered on behalf of Mr. Henry. At that time something unusual happened and one of my teachers told me that the unusual usually happens.

We made an application to the Court to be sentenced immediately and the Court got upset with that and thought that we were trying to take advantage of the Court when in fact we were not and I'd like to state for the record here and now that we were not; Mr. Henry was not anyway. I am sure Reverend Comerford wasn't.

COURT: Let's put on the record that the fact that I would not sentence immediately as I stated -- I wanted a probation presentence report which is for the benefit of your client as well as for the benefit of the Court.

I didn't want to deprive your client of that benefit any more than I wanted to deprive the Court of that opportunity.

Let's proceed.

MR. MELNIKOFF: I understand that, Judge. It seemed from the atmosphere in the courtroom on the eighteenth and from some of the comments made that there was some

1 grand conspiracy to make use of the Christmas vacation.

2 The fact of the matter is that Mr. Henry never
3 had any quarrel with the Court and always at all times
4 indicated that he had in fact violated the court order.

5 Mr. Henry has always been with the Housing
6 Authority of the City of Newark. In any event, if he had
7 intended to make use, as the Court seemed to indicate on
8 December 18th, perhaps a full trial would have been the
9 thing that would have brought the publicity that the situa-
10 tion involved with the tenants and the Housing Authority
11 required; but, he didn't -- he admitted the guilt before
12 the Court and merely asked the Court to be sentenced on
13 the eighteenth so that he could know what his fate would
14 be. But, instead the Court adjourned the sentencing until
15 today and Mr. Henry has spent the last two and a half
16 weeks waiting and anxious about what his sentence would be.

17 Your Honor, my application to this Court is that
18 whatever sentence the Court intends to impose upon Mr.
19 Henry be a non-custodial sentence. I think there are many
20 mitigating factors that should be taken into consideration
21 by this Court before the Court imposes sentence; before
22 the Court reads and folds and seals the presentence report
23 that the Probation Department has prepared for the Court.
24 There are many facts concerning this case and concerning
25 the charge against Mr. Henry that the Court should be

1 familiar with before the sentence is imposed and Mr. Henry
2 would like to make some comments and I would at this time
3 like to have Mr. Henry make some comments to the Court with
4 respect to the sentence that he is about to receive.

5 COURT: Very well.

6 MR. HENRY: Your Honor, we had hoped that the
7 Court as an authoritative body would make way to open the
8 whole issue surrounding the reasons we are here today;
9 the conditions under which we are forced to live -- I think
10 everyone has been talking about it. They are horrible.
11 They are disgraceful. They are dehumanizing and that is
12 the basis of why we are here today.

13 The Court, as I understand it -- the Court says
14 that the conditions are not related to the contempt of
15 court charge and I think they are. Whatever happens in
16 Court today the people here have to go back to Stella
17 Wright Homes and live amongst those same conditions.

18 I was hoping that the Court would make a way to
19 open up the whole issue.

20 COURT: I appreciate your concern, Mr. Henry.

21 Mr. Melnikoff, are you finished?

22 MR. MELNIKOFF: I just wanted to make sure there
23 is no misunderstanding. When Mr. Henry violated the court
24 order and removed the monies and assisted in the disbursing
25 of the monies, the monies were returned to the rightful

1 hard line. The tenants were the bad guys. They were
 2 vandalizing on the property and they didn't care. So the
 3 tenants tried another tact and that tact was to band
 4 together in peaceful ways and try non-violent means of
 5 shaking the conscience of those people in a position to
 6 help and they tried and they organized and groups of
 7 people who are not used to committees and to formal
 8 structures got together and they pooled their merger and
 9 collective resources into a fund; two months' rent out of
 10 approximately three years of non-payment of rent -- \$94,000
 11 and all of sudden what they were and what the potential
 12 of their power was came to be realized and the whole focus
 13 shifted; didn't have to worry about the underlying con-
 14 ditions; didn't have to worry about the frustrations;
 15 let's worry about the symbol which was their emergence
 16 and the whole focus started to change. Let's get the
 17 \$94,000.

18 What are we going to do with the \$94,000 and hundreds
 19 of thousands of dollars worth of legal work and large
 20 amounts of paper work started to fill the court files
 21 all about that symbol and while the court files were being
 22 filled and while the lawyers were working on both sides,
 23 not one thing changed.

24 It is all right for Mr. Henry and others to say the
 25 conditions are poor and it is all right for you to read a

1 presentence report: "The building in which the apartment
 2 is located however appears to be in very poor condition."
 3 But, that says nothing, Judge. That says nothing unless
 4 you feel what these people feel on a day-to-day basis.

5 I went down to a meeting a few weeks ago. I came
 6 into the projects. There were police officers outside;
 7 two police officers in a car.

8 I asked them where I could park. Someone said to
 9 me: "You are out of your mind for being down here. There
 10 is no place that is safe."

11 So I put my car alongside theirs and I got out and
 12 what was facing me was water cascading down from five
 13 floors over the doorway that was in the front entrance;
 14 not a trickle of water but water gushing out and I walked
 15 into that apartment house and saw people who were essentially
 16 living in disaster conditions as though this was commonplace.
 17 People on the fourth and fifth floor were in high boots.
 18 Women were trying to maintain the semblance of a home by
 19 putting papers down to protect their furnishings and
 20 having water completely cover it. No elevator in which
 21 to get to the fifth floor.

22 There were intolerable conditions which I could feel.
 23 That wasn't put on for my purpose. We said to the Housing
 24 Authority when we met with them: I'd like to discuss that
 25 with you. It took three hours for a plumber to come down --

1 three hours. The water was coming down into all those
 2 apartments for three hours; twelve hundred families. Why
 3 isn't a plumber available and the response was: You didn't
 4 call for an hour and a half and the reason you didn't call
 5 was you wanted to embarrass the Housing Authority. How
 6 can people live in those circumstances? The family in
 7 whose apartment the water was cascading -- the numbers of
 8 families -- did they consciously plot and say: Ha, we are
 9 going to let what we have be soaked just so we can make
 10 the newspapers.

11 Now, that water wasn't put on for my purpose and I
 12 don't even know what the source of it was; but, it is a
 13 daily trauma these people live in; daily trauma.

14 We met with the Housing Authority before we entered
 15 the pleas and we tried to negotiate with them and say to
 16 them: Look, at a minimum let the elevators run. We are
 17 dealing with thirteen floors. We are dealing with old
 18 people. We are dealing with women with children. They
 19 can't walk the floors. Fix the elevators. It's been a
 20 year and a half now; fix them.

21 Well, there was a strike. We can't do anything about
 22 that. Well, fix the incinerators. The garbage backs up
 23 to the fourth and fifth floor because it is not burned and
 24 when it is burned the smoke backs up to the top. Fix the
 25 incinerators.

1 Well, we have a plan for that. We don't have
2 the money, but we have a plan.

3 Give us some security so that the old people who
4 are riding in those few elevators don't get mugged and
5 don't get killed; that the people who live on the ground
6 floor don't get ripped off; that there is some semblance
7 of peace of mind. Give us some security. We don't have
8 the money.

9 Give the kids a place to play. When you plan
10 those structures and you pack them with families indis-
11 criminate, you didn't provide for a place for the kids
12 to play. Where are they going to take their energy out?

13 Give them a place to play. Well, we have got a plan for
14 that. We are going to clear out some of the apartments.

15 Give us some protection against moving people
16 into this place arbitrarily and without discrimination.

17 Give us some protection from moving families of known
18 violent dope addicts, of other violent people -- give us

19 some protection from these kinds of people. Don't dump
20 them in our backyard and say to us: Go solve your own

21 problems. Go clean up your own mess. Go make your ele-
22 vators run. Provide your own security. Help us. Well,

23 we have a plan for that, too, and they were supposed to
24 supply us with all these plans. They were supposed to

25 document what it is they were doing and what it is they

1 can do and can't do because they don't have the money or
 2 the expertise and you know what we got so far -- nothing
 3 not a thing. The apologies of their lawyer is what we
 4 got.
 5 Now, it can't go on, Judge; it just can't go
 6 on. I see the President says for eighteen months maybe
 7 we are not going to build any public housing. It can't
 8 go on. You cannot continually crush people who are emerging.
 9 You can't do it and I suggest to you that in all of this
 10 the Court is being used as a foil not by the tenants
 11 because they can't win in Court. But, it is being used
 12 by those forces that want to keep them down in a sense
 13 that they have made the issue, the \$94,000 their symbol;
 14 their meager symbol of collective power and the cutting
 15 off of those leaders that care for them.

16 They have shifted the focus from what these men
 17 go through or these women and children on a day-to-day
 18 basis to how bad the leaders are because they disobeyed
 19 the court and how unconscienable it is for them not to
 20 pay the rent.

21 I think the Court is wiser than that and there
 22 is a problem and you sit essentially as a parent because
 23 the Court is an arbiter.

24 The Court is a source of guidance, a source of
 25 what is right and in a sense the people that come before

1 you are the Court's children and, Judge, if your children
 2 are wrong -- even if they believe they are morally right
 3 and if they are wrong, your obligation is to show them
 4 the right way. You punish them; you don't maim them and
 5 you don't crush their hopes.

6 What I am asking you to do is not to hit so
 7 hard that they are maimed and not to crush their hopes
 8 because among the other functions which you have is the
 9 function of a teacher so that not only these men can
 10 profit by your judgment but all of the people whose lives
 11 are affected by this condition and that simply is this
 12 Judge: What are the parents going to pass down to the
 13 children? There are lots of kids here who are listening
 14 to what each of us says. What is the message the next
 15 generation is going to get?

16 The generation which preceded these kids got a
 17 message and that message was that only violence might help
 18 and they acted out their message five years ago. These
 19 parents, the responsible people of the City, the responsible
 20 tenants want to teach their children another lesson so
 21 they set an example for themselves.

22 Can they convey to their children hope? Can
 23 they say to their children the Court has compassion; the
 24 Court has perspective; the Court is strong enough to with-
 25 stand this assault on its integrity and it is like a

1 parent and when the parent is struck he is strong enough
 2 to hold the harm and to understand and that is what I
 3 am asking of you, Judge. The Court is strong enough; it
 4 is not a group of men; it is an ideal of what we hope is
 5 the very best of our community and you can give a message
 6 of hope to these children and another message, Judge.

7 You are dealing with a priest. He doesn't de-
 8 serve any special consideration because he is a priest,
 9 because he wears a cloth or doesn't wear a cloth; because
 10 he was ordained or wasn't ordained. But, because he is
 11 a religious man, because in his heart he has opted to do
 12 good and to live for more than a thousand days and a
 13 thousand long nights in with people who are not from his
 14 social background; to live not in a patronizing fashion
 15 but to live and to do good on a day-to-day basis; to pro-
 16 vide guidance; to provide hope; to provide understanding
 17 of what religion and goodwill for men is. That is the
 18 kind of man that stands before you, a truly good man. The
 19 kind of man that we need if we all are to solve our problems
 20 collectively through peace and non-violent means.

21 Don't crush his hopes, Judge. You can't put
 22 behind bars a feeling. You can't put behind bars a frustra-
 23 tion with a little hope that it is going to solve their
 24 problems. You can't put those behind bars; no bars will
 25 hold them. Say to your colleagues, say to the Court and

1 to the people of the community that the Court is strong
2 enough to withstand this insult. It will guide by punishing;
3 but the punishment will be less symbolic, a token, an under-
4 standing that the Court has the right and has the might
5 and it can exercise it, but for the sake of the future
6 it will do good.

7 COURT: Do you have anything to add to what
8 your counsel has said, Mr. Comerford?

9 MR. COMERFORD: Yes, Your Honor. The rent strike
10 at Stella Wright Homes began almost three years ago. It
11 began over one thing, the conditions that exist in those
12 buildings.

13 Everyone who has any familiarity with the City
14 of Newark knows what the conditions are like in the
15 Projects. Everyone who has read the papers knows what
16 the conditions are like in the Projects. Everyone knows
17 that the elevators don't work in a thirteen story building
18 where little children live as high as the twelfth floor;
19 where senior citizens are imprisoned as high as the
20 twelfth floor.

21 Everyone knows in these days of antipollution
22 that we have an incinerator system that backs up daily.
23 You can wake up in the morning and have your nostrils
24 covered with soot from the backed up incinerator.

25 We know what it is like to drive through the

1 Central Ward of Newark at night so we certainly can imagine
2 what it must be to walk into the Projects alone at night.
3 Everyone who drives through the Central Ward sees that it
4 resembles a bombed out area, but if you have to live there,
5 you realize even more. You realize it more when you have
6 to go to the store and there is no store to go to. You
7 realize it more when you have dirty clothes and there is
8 no place to take them to wash. You realize it more when
9 you go a long way to the store to do your week's shopping
10 and you have to bring the bundles home and up those flights
11 of stairs. You realize it more when you have little
12 children and they want to go out to play.

13 It is very ironic that after almost three years
14 of our trying to call attention to these conditions -- these
15 conditions that everyone knows about that we stand here
16 before you about to be sentenced over a matter that has
17 nothing to do with the conditions. We are dealing with
18 bright people, the people who run the Housing Authority,
19 the people who staff the United States Department of
20 Housing and Urban Development are supposed to be bright
21 people. Why aren't we talking about the issues, the issue
22 of the conditions and if we are going to talk about money,
23 why after almost three years are we talking about \$94,000
24 when at one point \$2,000,000 has been withheld in rent.

25 I can't help but wonder if this refusal to discuss

1 the conditions isn't an implicit way that the Newark
2 Housing Authority and the Department of Housing and Urban
3 Development and our society is saying to people -- to
4 black people and to poor people: That is where you belong
5 and that is where you are going to stay. The conditions
6 you are talking about are going to remain that way.

7 If that is what is being said to us, I think
8 the people should not -- I think the Newark Housing Authority
9 and HUD should say very clearly what they are going to
10 do about the conditions.

11 My involvement at Stella Wright Homes began
12 over four years ago when I was stationed in Queen of Angels
13 Church in the Central Ward. I began by visiting the
14 people in the Projects and talking to them; trying to find
15 out what was happening there to find out if I could be of
16 service.

17 I found out very quickly there were problems,
18 massive problems; but, the problems weren't only the con-
19 ditions. There were the other problems of despair, hope-
20 lessness, fear, lack of communication, the lack of any
21 kind of working together to overcome the problems.

22 Four years ago I joined together with a group
23 of tenants at Stella Wright to begin working together to
24 overcome these problems and the tenants worked very hard
25 and they have overcome a lot of these problems because

1 there isn't despair at Stella Wright any more and there is
2 not hopelessness. There is courage and strength or you
3 wouldn't see the courtroom filled today and there is hope.

4 Recently, Lieutenant Kerr of the Newark Police
5 Force who is in charge of the Housing Police stated that
6 statistically crimes are lower at Stella Wright than they
7 are at Scudder Homes and Haas Homes and this can be
8 attributed not to any police action there because he has
9 reduced the number of policemen there. But, it can be
10 attributed to the unity among the tenants that are watching
11 out for each other. But, there are some problems that
12 the tenants cannot deal with; cannot cope with. They
13 cannot fix the elevators. They cannot replace the incinera-
14 tor system. They cannot keep the bulldozers from knocking
15 down all their stores and all the other alternative housing
16 that might exist in Newark and so they joined together
17 and formed a tenants association because that is what you
18 are supposed to do.

19 They formed a tenants association that would
20 represent and be able to speak for the entire project and
21 in the course of three years we haven't heard a dissenting
22 voice at Stella Wright from the voice of the tenants
23 association and almost three years ago they began holding
24 back their rent.

25 When they began I was one of the ones they asked

1 to watch the money; to hold it for them. I don't know
2 if anyone here has ever held someone else's money; but,
3 when you do that, you are very careful about it and the
4 more money that is involved and the more that money means
5 to the people, the more careful you are.

6 In November we were faced with a situation where
7 we saw the Court about to take that \$94,000 and turn it
8 over to the Newark Housing Authority; the Newark Housing
9 Authority which had done nothing to better the conditions
10 over the last two and a half years.

11 On the one hand, we knew we were under a court
12 order not to alter the form or the place of the money.
13 On the other hand, we heard and I heard the voices of
14 tenants telling me to return their money to them not to
15 destroy it, not to burn it, not to waste it, not to lose
16 it; but, simply give it back to them and let them settle
17 matters with the Newark Housing Authority and with the
18 Court.

19 Among the people whose money I held was the
20 money of Mrs. Threadcraft. Mr. Threadcraft paid his rent
21 every month into our fund. I collected it from him.
22 In March of 1971 as he was coming home from work,
23 he stepped into an elevator and was mugged there; left
24 unconscious with his hands tied behind his back. It wasn't
25 until the next day that his wife found him in City Hospital

1 in a coma. He died a few days later.

2 Was I going to give Mrs. Threadcraft's money
3 back to the Newark Housing Authority when the elevators
4 still didn't work and there still is no security there?

5 I held the money of Mr. Dawkins. Mrs. Dawkins
6 told us once that in the middle of the night her asthmatic
7 child had an attack. She lives on the tenth floor of
8 232 Prince Street. You can't get cabs to come to the
9 Projects at night and you can't get the police. So she
10 had to take her child out, an asthmatic child and go by
11 bus to the Emergency Section of City Hospital. Mrs. Dawkins
12 was pregnant at the time. In the pitch darkness because
13 there were no lights in the hallway or the stairways, she
14 walked down ten flights of stairs and two blocks to the
15 bus stop; had her child treated and brought the child back
16 home; walking up ten flights of stairs. Shortly afterward
17 Mrs. Dawkins' child was stillborn. Was I going to return
18 Mrs. Dawkins' money to the Housing Authority when she
19 still lives on the tenth floor and has five or six children
20 that she is trying to raise there?

21 I held the money of Mr. and Mrs. Sleane. I had
22 a special affinity to Mrs. Sleane because she was the only
23 other white person living in the project and I was at a
24 meeting at their house when Mr. Sleane announced that they
25 were moving out of the project because his wife had been

1 mugged for the fifth time. Was I going to return the
2 Sloane's money to the Newark Housing Authority when the
3 conditions were still that bad?

4 I remember returning Mrs. Ragland's money to her.
5 She lives on the tenth floor. As I gave it back to her,
6 I told her that this may involve trouble for her; that the
7 Newark Housing Authority would be after her. Did she
8 really want her money back and she looked at me very
9 simply and said: What else can I do? I go to work every
10 day and every day I have to come up and walk up ten
11 flights of stairs. I just can't take it much longer. We
12 have a service every Sunday night in the project. Every
13 Sunday night I walk home with two ladies who live in my
14 building and every Sunday night we walk into the filthy
15 building and I hear them gasp with horror at the fumes.
16 We try the elevator but it never works or seldom works and
17 I see them look with disgust at the filth they have to live
18 in and say what can we do? Was I to give their money back
19 to the Newark Housing Authority?

20 The Court is considering a very narrow issue,
21 a limited issue of contempt of court over the rent funds.
22 I ask the Court, while it might pass judgment on this
23 narrow issue, to get us back on the right track. The
24 people you see here before you, myself and Toby -- Ed --
25 when I think of Toby I think of the time he had to bring

1 his wife and his sick child home from the hospital. Toby
2 lives on the eighth floor of 280 Prince Street.

3 The elevator wasn't working so he had to go up,
4 as so many people have to do, the adjoining building's
5 elevator. In bringing his wife and a little baby home
6 from the hospital, they had to walk across the roof and
7 come down their own building to the eighth floor.

8 When I think of Ed Satterfield I think of the
9 many hours he has put in trying to better conditions at
10 Stella Wright Homes. I think especially of the time when
11 after midnight service on Christmas Eve he was at my
12 apartment and left to go home. It was about three in the
13 morning. He got on the elevator in his building and spent
14 from three in the morning until seven thirty in the morning
15 stuck on the elevator between floors.

16 These are the occurrences that happen daily and
17 for every person in the rent fund there is an incident.
18 There are a number of incidents that have taken away a
19 little bit of their lives and a little bit of their hope
20 for the future.

21 We stand before you today as the defendants,
22 but the guilty people are the people who have responsibilities
23 -- greater responsibilities than we have regarding the
24 rent fund and who fail to address these responsibilities
25 and I am thinking of the Newark Housing Authority.

1 If the Newark Housing Authority cannot live up
2 to its obligations on its lease which requires it to
3 render decent, safe, and sanitary living conditions, then
4 it should say so.

5 If it can't fix the elevators -- if it can't
6 clean up the buildings, it should say so.

7 I am thinking of Washington. I am thinking of
8 HUD and I am thinking of the White House.

9 The buildings at Stella Wright Homes are Federal
10 buildings. Ultimately, they are the landlord. Today the
11 Court is going to speak to us about our failure to fulfill
12 a responsibility to the Court, but is the Court ever
13 going to speak to the landlord? Is it ever going to speak
14 to the terms of that lease that not only requires us to
15 pay rent but requires them to provide decent, safe, and
16 sanitary living conditions?

17 I am much like you, Judge Kimmelman. I am white.
18 I am suburban; I am middle class. My lawyer was very
19 right when he said I am not used to living in those projects
20 and I am not used to seeing people treated like that
21 because they don't treat white people like that. They
22 don't treat the people that I know like that. The Court
23 doesn't even treat them like they have been treated over
24 the last two and a half years. That is why I can't just
25 walk away from the scene.

1 My lawyer was very right in saying that we live
2 with these problems every day and I don't have the luxury
3 at night to go back to suburbia and forget. I live there
4 and I look at the people and I look at the people as a
5 white person who is automatically suspect to black people
6 and I have said over the past three and four years we can
7 do something.

8 I look as a priest who represents a church which
9 represents a religion which claims to speak for God and
10 for right and for justice and I say we can do something.

11 I am asking the Court today to understand what
12 is involved here and speak not only to us of guilt but
13 speak to the other parties involved. We ran a rent strike
14 for almost three years. We never came into contact with
15 the Court until six weeks ago but still we are not talking
16 about the issues.

17 When are we going to talk about them and if the
18 Newark Housing Authority and HUD continue not to talk
19 about the issues we are going to be back here again and
20 again and again and it is going to get more and more
21 painful for more and more people and all the while the
22 lives of people are being drained away.

23 COURT: Father, I want you to know that when
24 you make a blanket statement that a white is automatically
25 suspect of blacks --

1 MR. COMERFORD: Suspect to blacks.

2 COURT: You do not speak for everyone. I want
3 you to understand that.

4 Now, what gave you the impression that Judge
5 Herbert was about to order the money you were holding to
6 be turned over to the Housing Authority?

7 MR. COMERFORD: The statements that were con-
8 tained in his brief of October 12th, Your Honor, which
9 indicated first of all that while the conditions were bad
10 at Stella Wright Homes, the Newark Housing Authority was
11 doing its best and he could see no way of taking action
12 against them to speed up the conditions and in regard to
13 the \$94,000, he indicated in that opinion of October 12th
14 that it wasn't doing anyone any good and it should be put
15 to use and his other comments in court and privately in a
16 meeting with the lawyers and the tenants he indicated his
17 apparent motive to turn this money over to the Newark
18 Housing Authority.

19 It hasn't been done yet, but it certainly was
20 in jeopardy. If we had allowed the money to be turned
21 over to the Housing Authority -- I might add we could have
22 appealed it and they probably wouldn't have gotten it
23 until the appeal was heard. That also meant we would wait
24 another six months or a year on the appeal.

25 We waited, Your Honor, two and a half years for

1 some improvement over the conditions and again I repeat
2 the conditions that daily -- daily are taking away the
3 lives of the people. The Projects are used for the last
4 five years as the City's dumping ground. Every homeless
5 family -- every problem family that the City has on its
6 hands is not sent out there to South Orange or to Maplewood
7 or Short Hills, but it is sent into the Projects and the
8 good people who are trying to raise their families, their
9 children decently live in those surroundings and this is
10 forced on them. This same collection of people with so
11 many problems put in the worst type of environment to cope
12 with their problems of their children going to school.
13 You know what school your children go to. You know the
14 atmosphere in that classroom. Well, the atmosphere in
15 Morton Street School and West Kinney Street School is not
16 an atmosphere that is conducive to learning. Two and a
17 half years after the rent strike -- two and a half years
18 of saying do something and the people who have the power
19 to do it -- the Housing Authority, HUD -- were the people
20 that were destroying us, tearing down buildings, leaving
21 land vacant.

22 So two and a half years is a long time to wait
23 and if we had appealed, we would have waited another six
24 months -- another year. We couldn't wait any longer and
25 I hope the Court is able to recognize this that we haven't

1 come storming after the Court. We haven't abused the
2 Court. We have gone through the legal process and we were
3 pushed right into a concern and it was either to surrender
4 the first nine months of our effort in the rent strike or
5 face contempt of court and, again, that decision to return
6 that fund wasn't mine. It wasn't Toby's. It was the
7 decision of the tenant association and it is not the two
8 of us who should stand here before you, it is all the
9 tenants because it was everyone's decision and it meant
10 much more to them, Your Honor, than it did to me because
11 I can leave Stella Wright. I can leave there.

12 I can go out and get a job somewhere and have
13 a nice life, but they can't and there is not too much more
14 that society, that the City and that the government can
15 do to the people who live in these Projects. They have
16 taken away all their service; given them the worst possible
17 environment; endangered their lives daily; given them no
18 educational system for their children; left them a city
19 where more and more jobs are leaving and now is saying
20 to them through the refusal to address the conditions that
21 that is the way it is going to be. That is the way it is
22 going to be. Now, give us your money; pay up or face
23 eviction. That is what is being said. What more can be
24 said?

25 COURT: Does anyone else have anything to say?

Very well. We will take a very short recess and I will consider the remarks of counsel and the remarks of defendants before deciding what will be done in this case.

Just a few minutes, gentlemen.

(Thereupon a short recess was taken.)

COURT: Mr. Henry and Mr. Comerford, will you please rise.

Gentlemen, by your plea of guilty to a charge of contempt of court you have admitted violating a court order which obligated you to hold intact some \$94,000 of rental funds deposited by the tenants of Stella Wright Homes.

The court order which required the funds to be safeguarded had nothing to do with the merits of the controversy between the tenants and the Newark Housing Authority.

For present purposes, gentlemen, I assume and I can agree with you that the conditions at the Stella Wright Homes are not what they should be; that the conditions are bad, even deplorable. I think you are, or were, and may still be under a false impression when you presumed that the court would side with the Newark Housing Authority. I think you misread Judge Herbert completely when you assumed that he might not order a correction.

of the conditions at the Stella Wright Homes.

The \$94,000 which you were obligated to keep intact and even the 1.2 million dollars worth of rental which has been withheld could very well have been used to correct the very conditions of which you now and have in the past complained.

I am certain that the funds would not have been turned over to the Housing Authority in complete disregard of the rights of the tenants without any condition that those funds be used to remedy the objectionable conditions existing at the homes. Yet, you gentlemen in your zeal chose to take the law in your own hands.

I want you to know that the court is vitally interested in the welfare and well being of the tenants. However, that does not alter the fact of your actions.

Although you may have been motivated in returning the money by what you choose to call and firmly believe is a higher moral authority, your actions, nevertheless, were calculated to embarrass, hinder, and obstruct the court in the administration of justice -- justice not only to the Housing Authority, but justice to the tenants; and your actions had the effect of lessening the authority and dignity of the court as a co-equal branch of government. To allow your actions to go unpunished because you profess to follow a higher moral obligation would only

1 contribute and lead to anarchy which my oath of office
2 and my moral obligation to society commands me to prevent.

3 It is for me a sad commentary on present day
4 values when people who admit they have little or no respect
5 for the lawful orders of a court, nevertheless, can come
6 into that very same court and ask for justice and mercy at
7 its hands. Fortunately for you our court system as it is
8 constituted still bends over backwards in its consideration
9 of justice for those who would undermine its authority.

0 In passing sentence for contempt, this court
1 does not seek revenge or enrichment at the expense of
2 the offenders. It merely acts to protect its own honor
3 and dignity as a branch of government and it seeks to
4 compel respect for its decrees and orders.

5 While the conduct of each of you easily warrants
6 the maximum penalty of six months imprisonment which per-
7 haps should be the penalty here, gentlemen, it is never-
8 theless the sentence of this court to you Toby Henry and
9 you Thomas Comerford on your plea of guilty to the charge
0 of contempt that you be imprisoned at the Essex County
1 Correctional Center for a term of 45 days.

2 May I hear from Mr. Silber with respect to the
3 charge remaining against Edward Satterfield.

4 MR. SILBER: As I indicated last time when we
5 were here before you, I had moved to dismiss that charge

1 because the State simply does not have any evidence to
2 present that Mr. Satterfield was one of the parties that
3 violated Judge Herbert's order.

4 COURT: That motion will be granted and the
5 charges against Mr. Satterfield will be dismissed.

6 The Court is now in recess.

7 MR. BERGSTEIN: May the sentence be stayed
8 pending a filing of a notice of appeal this afternoon.
9 I'd like to appeal the sentence.

10 COURT: You have your right to appeal the sen-
11 tence and if it is to be stayed, it will not be stayed
12 by this Court, but you may make such an application to the
13 Appellate Court.

14 *****

15 CERTIFICATION

16 I, MARYANN SMYTHE, do hereby certify that the
17 foregoing is a true and accurate transcript of my steno-
18 graphic notes of the proceedings.

19
20 *Maryann Smythe*
21 MARYANN SMYTHE
22 AN OFFICIAL COURT REPORTER

23 Dated: 2/20/73
24
25