

SENATOR CHAMBERS: For whom was Mr. Clatterbuck speaking when he made this advisement? Who was he representing actually?

SENATOR WITEK: His statement in his testimony was that he was a special assistant attorney general for the purpose of providing legal consultation to PERB, the Employee Retirement Board, Public Employee Retirement Board.

SENATOR CHAMBERS: Okay. So he is not representing the Legislature or providing legal advice to the Legislature. His client is PERB.

SENATOR WITEK: Correct, that is correct.

SENATOR CHAMBERS: And in doing what he thinks is best for his client, he gave the advice that you're telling us about.

SENATOR WITEK: I believe that's true.

SENATOR CHAMBERS: Do you think it would be...well, no. I won't ask you that because you have no way of knowing. Thank you. That's all I'll ask you. Members of the Legislature, to me it appears that if this man thinks that the best interest of his clients is to let things stay where they are, that interest is contrary to that of ours as legislators. We are in a position where the truth is what we need to determine, and when I say truth now, I don't mean in a philosophical sense. I mean what are the facts that confront us now as far as the validity of the involvement of these individuals in this program. The truth will either be that they legally are there, can stay there, and they can draw their benefits as those benefits come due or the truth will be, and I'm using the term "truth" advisedly in the way that I described, that they were not legally placed into the program, they are not now legally in that program, there is no way after the fact to legalize that which in the first instance was illegal and such being the case, as regrettable as it is, they are not entitled to any benefits as a result of being involved with this program, and the only thing they can get out of this is that which they put in. Now those are the two ways that it can come out. When a person is an agent for a principal under contract law, and I know that's not the approach that people want to take, and the agent exceeds his or her authority, the principal can only be bound, first of all, if the agent was allowed to hold himself out to people as representing the