# Report

*to the*

Honorable CHARLES EDISON
*Governor of the State of New Jersey*

*by*

ROGER HINDS
*Governor's Examiner of the New Jersey*
*State Highway Department*

## Parts I, II and III

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## Parts I, II and III

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Oct. 30, 1941.

HON. CHARLES EDISON,
Governor of the State of New Jersey,
Trenton, N. J.

Dear Governor,

I have the honor to submit the following preliminary report of the results, thus far, of the investigation into the affairs and management of the Highway Department undertaken by me and my associates under your Executive Order #2, and the later orders supplemental thereto. This report is submitted in two parts, of which Part Two concerns the results of our private investigation, some of which will have been developed at a public hearing before this report is printed. Part Two also contains certain recommendations for legislative and administrative changes.

*Selection and organization of personnel:* With no assurance at the outset of a legislative appropriation the choice of personnel was necessarily limited to those who were willing to take their chances as to the amount of compensation, if any. While that narrowed the field, it at least furnished some assurance as to the motives of those under consideration. Each prospect was carefully investigated as to competency, character, and freedom from political or personal ties which might lead to divided loyalty. Except for a few whose personal affairs made it necessary for them to withdraw or virtually abandon the work, we have had no disappointments in our personnel. I have been aided by Messrs. Henri Schwob, Harold Fisher, Sidney Goldmann, Milton Cooper, Elmer Bertman, C. Thomas Schettino, William Bolan, John Palaschak, Jr., and Joseph Clossick, attorneys; Mr. Caleb Daughaday, engineering consultant; Messrs. Julius Flink, John Creighton and Gerald Palmieri, accountants; Mr. Stanley Rutkowski, process-server; Mr. Thomas Graves (loaned to us by the New Jersey Chamber of Commerce) administrative analyst; Mr. John Trainor, court reporter; and the Misses Kathleen Braithwaite, Kathryn Donnelly, Alyce Barnett, Belle Prentice and Ruth Morrison, secretaries and stenographers.

*Objectives:* The investigation is being conducted under statutory authority given to the Governor to appoint one or more persons to examine and investigate the management by any State officer of the affairs of any department, and we have limited our inquiry to the affairs specified in your orders, i. e., the affairs of the highway department.

Where transactions under scrutiny have involved persons outside of the highway department, our inquiry has been limited to those aspects which have been directly concerned with the management of the highway department, and we have not been diverted to other aspects no matter how interesting. We have also limited our investigation to the period of Mr. Sterner's incumbency as highway commissioner.

Understanding our function to be that of ascertaining and reporting *facts,* we have tried to avoid the role of prosecutor or judge. The Examiner impressed upon every member of the staff at the outset, and has repeatedly stressed, the fact that the investigation has no partisan objective, and that it is no part of our work to throw unfavorable publicity unfairly upon any person. Persons whose names have been inevitably brought into the testimony at public hearings, have been given the fullest opportunity to explain and clarify any transaction which seemed to them to require it, even to the extent of interrupting regular hearings, to hear such parties. Our purpose has been constructive rather than destructive. Insofar as irregularities have been uncovered, it has been for the purpose of furnishing material to the executive and legislative departments for the consideration of reforms which will make similar irregularities less likely in the future.

*Subjects of investigation to date:* It was obvious at the outset that a small staff, with limited resources, and no previous knowledge of the highway department, could not, within any reasonable period, hope to make a thorough examination of all of the divisions and activities, over a period of seven years, of the largest department in the State. It was necessary to select a few among many possible subjects of inquiry. The subjects thus far considered (other than those developed by private investigation) have included the following:

I The political and personal influencing of right-of-way negotiations.

II The Lincoln Oil Corporation case.

III The misuse of the power of employment and promotion of personnel.

IV A systematic and complete administrative study of the entire department.

Certain other subjects of inquiry, and certain phases of the above-mentioned subjects, which have been privately investigated, are treated in Part II of this preliminary report.



# I

## Right-of-Way Negotiations.

*Improper Influencing of Right-of-Way Negotiations:* We start with the premise, which we believe axiomatic, that the sole consideration of those in charge of any transaction for the highway department should be the protection of the interest of the State of New Jersey by all fair means, and not the interest of private parties. The improper exercise of influence involves three factors: (1) The presence of outside persons ready and able to exercise influence for some private end; (2) Persons with the necessary authority in the department susceptible to such influence; and except in isolated cases, (3) The maintaining of a *system* which makes such influencing practicable without detection and punishment. If a reasonably sound system is maintained, an honest and efficient Commissioner cannot be fairly condemned merely because a trusted employee, without his knowledge and beyond detection by reasonable means of check-ups, yields to improper influence in an isolated case. On the other hand, if the Commissioner knowingly maintains a system which invites the improper influencing of those in authority, or even makes such influencing possible on an extended scale, he cannot escape condemnation because the individual irregular transactions were not personally known to him.

We have found in the right-of-way division of the highway department a system which not only permits, but encourages and openly invites, the improper exercise of outside influence on the negotiation of prices, facilitates abuse and disloyalty, and seems almost to have been devised for the very purpose of making such improper influencing possible and relatively safe from casual detection. We have found also that there have been outside persons ready and able to exercise improper influence for private ends, and persons in authority in the department susceptible to such influencing. We have found numerous cases where negotiations have been influenced, for private ends, by persons outside of the department, and we have been able to show statistically, that, in cases, taken as a class, where members of the legislature have represented owners, or interceded in their behalf, the negotiated prices have, on the average (in comparison with department appraisals), been substantially in excess of prices paid to owners not represented by politically influential persons.

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NOTE: All Italics mine.

There are employed in the highway department right-of-way appraisers of long experience who are at least as competent as the best outside, local appraisers, in appraising the land taken for highway purposes; *more* competent than *most* of the outside, local appraisers in land appraisal; and more competent than even the best of the outside, local appraisers in appraising the important element of the *damages* to the owners' remaining property. Taken as a whole, those department appraisals furnish a fair standard against which to compare, by classes, negotiated prices paid to owners represented by members of the legislature, with prices paid to unrepresented owners or owners represented by attorneys or agents without known political influence. We find the former to have been on the average far higher than the latter, expressed as percentages of the department appraisals. The existing system not only permits, but invites, such results.

*Statistical tabulation:* Before the percentage difference was discovered, four members of the staff had been instructed to examine every right-of-way file (where over $2,000 was involved) and set forth the relevant data in each file on a sheet prepared for that purpose, so that the department's right-of-way transactions could be more conveniently surveyed as a whole. It became almost immediately apparent (1) that where members of the legislature or other politically well-connected attorneys were employed, the outside appraisals, particularly the so-called "check" appraisals, were prevailingly greater than the department appraisals, as were the prices actually negotiated and paid; and (2) that where the owners were not thus represented both the actual prices and the outside appraisals were for the most part reasonably in line with the department appraisals, thereby confirming the fairness of the latter.

Inasmuch as the determination of actual value, in even a single case, by legal evidence consisting of expert testimony, would involve an expenditure of time and money enormously out of proportion to our available resources, and inasmuch as there were obviously many exceptional cases, it was decided that the only practicable way by which the pecuniary results of the political influencing of right-of-way negotiations, *as a whole,* could be ascertained was by a statistical comparison of the cases, by classes, using the department appraisals as the uniform background or standard.



It was believed that whether the department appraisals were generally too conservative, or too liberal, or (as appeared to us) about right, in any case they did furnish as fair a standard in the influenced cases as in the un-influenced cases. That belief was confirmed by the fact that in the un-influenced cases the department appraisals, for the most part, did not differ strikingly from the outside appraisals.

We accordingly divided all of the cases into seven classes, depending upon whether or not the owner was represented by an attorney or agent and the type of representation. The statistical tabulation was prepared on that basis, and it was announced that our staff did not pretend to infallibility in distributing the cases among the several classes, and would either let the department counsel be the judge in any doubtful case, or, better yet, would arrange for a joint audit of the tabulation by accountants selected by the investigating staff and by the department. Department counsel rejected these offers of cooperation, and preferred to attack the tabulations by extended cross-examination of each individual case.

The cross-examination developed numerous disputes as to classification, and a number of duplications, without, however, impairing, or even seriously challenging, the *conclusion* to be drawn statistically, i. e., that far better prices were negotiated by legislators or politically-connected lawyers or agents or owners, than were negotiated by, or in behalf of, other owners.

Our offer of a cooperative audit having been rejected, we employed a well-known firm of certified public accountants, Julius Flink & Co. of Newark and New York, to make an audit of all of the cases, taking into account all of the detailed information brought out upon the cross-examination, and accepting in all cases of dispute the contention of department counsel. The result was, with negligible differences in the percentages, to confirm the original conclusions developed by our own original tabulation.

Subsequently, further investigation (reported herein below in detail) disclosed that the figures in many of the pretended department appraisals in the files had been *raised,* so that if the true department appraisals had been then known and had been used in the tabulation, the contrast between prices in politically-influenced negotiations and prices negotiated without political influence would have been even *more* striking.

Subsequently also it was developed that some of the purported department appraisals had never been made at all by the purported appraisers, another fact which, if it had been discoverable at the outset, would have made the statistical contrast even more striking.

In an effort to give the department the benefit of the doubt we included in our original tabulation a column representing the average of *all* of the appraisals, including the very appraisals, i. e., the "check" appraisals, which were under suspicion. While the prices, even by that standard, substantially exceeded the average appraisals, the contrast was for obvious reasons not so striking because, as we shall presently show, the chief method of influencing negotiations was by manipulation of the "check" appraisals and other outside appraisals. For that reason we consider that the average of the department appraisals, rather than the average of all the appraisals, is the fair and reliable standard or background against which to ascertain statistically the effect of political influence on right-of-way negotiations.

While department counsel has not had the opportunity of cross-examining our certified public accountants, their report, with all supporting schedules, is set forth in full as a part of this report, and shows completely everything that could possibly be developed by cross-examination, i. e., all of the data in each particular case that was used in the tabulation, and all of the changes which were made as a result of the previous cross-examination.

*Irregular practices:* This phase of the report then, deals with the evidence concerning the methods and practices followed in the acquisition of land for highway and auxiliary purposes.

Before we discuss in detail the particular cases and transactions which have been made the subject of more or less extensive testimony, we deem it proper to make an observation as to the manner in which this phase of the investigation has been thus far conducted, and the facts and conditions disclosed.

While the department appraisers are fully competent to appraise the land and the damages to the remaining property, as a basis for negotiating a voluntary agreement with the owners, and while, in the Examiner's opinion, there is no need for employing outside appraisers for the purpose of negotiations, it has been the invariable practice (in all cases involving over $500) to obtain the appraisals of two outside, local appraisers, and not to approve any negotiated price unless it is



within the limits of at least one outside appraisal. Where the owner's representative demands, and the department is willing to pay, a price higher than either of the two outside appraisals, a further so-called "check" appraisal is obtained from a third outside appraiser, which usually proves to be, and is evidently expected in advance to be, high enough to "justify" the payment of the price at which both parties are ready to close.

The evidence shows that while there is a certain natural and legitimate flexibility in appraisals, so that no two appraisals, even by the most competent men, are normally of exactly the same amount, the twilight zone, wherein competent appraisers may honestly differ, is ordinarily not more than from 10% to 20% of the total amount. In the opinion of the Examiners, in which some, but not all, of the department appraisers concur, the employment of outside appraisers involves an unnecessary expense (entirely apart from the other objectionable features which we shall presently point out), and the interests of the State would be as well served, if not better served, if in ordinary cases (not involving industrial plants or other unusual features), only department appraisals should be used as a basis for negotiating voluntary price agreements.

The department appraisals should not only state the fair value of the land and the damages, but should specify also a slightly higher maximum beyond which, in the opinion of the appraiser, the department should not settle without condemnation proceedings. That would afford a certain flexibility in the negotiations and, assuming an honest commissioner and honest and able department appraisers, would sufficiently protect the State against unreasonable prices.

Commissioner Sterner, some time ago, announced publicly that the department makes fair appraisals, and is willing to pay fair prices accordingly, and that there is no necessity for any owner to employ an attorney or agent to negotiate a price with the department; that fair prices will be paid regardless of whether or not an attorney or agent is employed by the owner. We believe that the principle thus announced is not only fair but practicable. We see no reason why the department should pay any greater, or smaller, price than the price which it has ascertained, by department appraisals, to be a fair price. Nor do we see any reason why the department should pay a higher price to an owner represented by an attorney or agent, than to an unrepresented owner.

Unfortunately the practices of the right-of-way division under Commissioner Sterner have been at variance with his announced principle. It is true that persons not represented by attorneys or agents have, on the average, received approximately the fair value of their property and damages as established by department appraisals. Indeed, in most of those cases, the outside appraisals have been very near the department appraisals (no political influence being present), a fact which tends to confirm the fairness of the department appraisals. Furthermore, Commissioner Sterner's announced principle has been approximately lived up to even in cases where attorneys have been employed, provided the attorneys have been persons without political connections or influence. In those cases, on the average, the prices have been only slightly more than the department appraisals, the difference being less than even a moderate attorney's fee, scarcely justifying the owner in employing an attorney without political influence.

An entirely different situation exists, on the average, in cases where owners are represented by state senators, assemblymen or other attorneys or agents in a position to exercise political influence, and in cases where senators have interceded in behalf of owners, even though not representing them as attorneys. In those cases, on the average, the owners receive substantially more than the department appraisals, and the outside appraisals, particularly the "check" appraisals, relied upon to "justify" the transactions, are substantially higher than the department appraisals.

While many of the outside appraisers are competent and trustworthy men, in many instances, particularly in counties where state senators involve themselves in right-of-way negotiations, they are themselves politicians owing their appointment to the very senators who profit by their appraisals; and many of them are shown by the evidence to be incompetent.

Under the practice prevailing before Commissioner Sterner's appointment, when the head of the right-of-way division found it advisable, in order to avoid litigation, to pay to the owner a price in excess of the existing appraisals, he did not seek a "check" appraisal at a higher figure, in order to "justify" the higher price. He took the responsibility of recommending the payment of the higher price on the basis of facts which he set forth in a memorandum to the highway commission. Under the system which has been in effect during Commissioner Sterner's regime, the testimony indicates that when it is desired to pay to a politically-represented owner a price in excess of existing appraisals, the practice is to go to an outside appraiser who is amenable to suggestion from the "proper source", and obtain from him a "check" appraisal at whatever price (almost invariably higher) has been previously decided upon. Such appraisals, of course, would be lacking in objectivity and bona fides, and a device to shift the responsibility for the politically-influenced price from the department heads to the shoulders of outside "professionals".



In attempting to defend the latter practice, counsel for the highway department has argued that appraisals are not mathematical certainties, but are necessarily flexible, and that there is no impropriety in suggesting to the appraiser the amount of his supposedly objective appraisal. It is argued that since such an appraisal is "under oath" it affords justification for a payment substantially in excess of the department appraisals and the two outside appraisals all of which have been made objectively without suggestion as to the amount. Such a system is not only susceptible to improper use: it clearly invites and encourages improper use.

State senators and assemblymen, and other persons who are in a position to exercise political influence on right-of-way negotiations, ordinarily confine such activities to the district in which they reside, or nearby territory. Indeed, one senator whose "territory" was invaded by another senator in a right-of-way negotiation is said to have protested bitterly. By reason of the usual territorial limitations of these senators' activities, in behalf of private clients, the senators ordinarily receive the benefit of a "justifying" or "check" appraisal made by one of the local appraisers whose appointment (on the approved list) they have themselves brought about. As is to be expected as an almost inevitable result of such a system, the prices paid in such cases are prevailingly higher than the department appraisals. There is apparently only one exception, where one senator was said to have been able to influence not only both of the original outside appraisals, but even the department appraisal itself, with the result that the generous prices he obtained for his private clients were not, on the average, in excess of any of the appraisals. The exceptional case of that one senator will be treated separately on a later page.

The appraisal of land taken for right-of-way and damages to the remainder requires more technical knowledge than the mere appraisal

of a house and lot. In the Examiner's opinion, the fees which are ordinarily paid by the department for the outside appraisals do not sufficiently compensate a competent appraiser for a good appraisal, and a fair fee for a good appraisal, superimposed on the excellent appraisals of the department men, would be an unjustifiable expense.

Besides inviting fraud and being an unnecessary expense, these outside appraisals cost the State large sums in another direction. Often a department right-of-way man will close with a number of adjacent owners along a right-of-way at fair prices, with no lawyers or agents involved and everybody satisfied, and will then encounter an owner who has been solicited or tipped off to employ a politically-connected attorney. The ensuing negotiation then involves a "check" appraisal much larger than the department appraisal and a deal closed slightly under that figure. The result not only creates dissatisfaction with the owners who have been willing to accept a fair price, but sets a new and unreal standard of value for subsequent acquisitions in the neighborhood, with resultant waste of public funds.

Outside appraisals also constitute an embarrassment to the State in condemnation proceedings, since their effect is to pin the appraiser to his previous standards when he is subsequently cross-examined as an expert witness in a comparable case.

The department has attempted to justify its payment in many cases of prices greatly in excess of department appraisals, on the plea that a gun is pointed at its head, and that the alternative is a condemnation proceeding in which an even higher figure would be awarded by commissioners or a jury. In the opinion of the Examiner, such difficulties are largely of the department's own creation because under the prevailing system it has (1) established unreal standards of value in negotiated settlements with owners politically represented, and (2) encouraged owners to believe that the department can be "held up" if the proper attorney or agent be employed. If all owners were treated alike, without regard to the political connections of their attorneys or agents, and if the department should invariably refuse to settle for more than a fair price, any resulting loss from higher condemnation prices in individual cases would be far outweighed by the savings in the negotiated settlements, and lower standards of value in condemnation proceedings.

As a practical matter the department must ordinarily employ its outside appraisers as expert witnesses in condemnation proceedings. A



resulting costly embarrassment to the department is the fact that so many of these men are allegedly incompetent and unable to carry conviction under cross examination.

Since, under this system, the "check" appraisals at approximately pre-determined excessive figures are obtained by the department to "justify" prices already agreed upon, it is an easy and natural next step to change an appraisal already made, or to insert in the file a purported appraisal which has never been made at all, all of which practices have been fairly common.

In some cases the testimony shows there have been two *different* appraisals, of the same property, by the same outside appraiser, on the same date, making it possible for the department to select either one, depending upon whether or not a politician represents the owner and upon the amount of his demands, further indicating that all too many of the outside appraisals are completely lacking in objectivity or professional good faith, even though, as repeatedly stressed by counsel, they have been made "under oath".

While department counsel has argued that excessive negotiated prices have often been coerced by threats of condemnation, no attempt has been made to explain why that excuse (if valid at all) would justify higher payments (in comparison to department appraisals), to owners politically represented, than to owners not so represented. If a mere threat by a certain Senator that he will bring condemnation proceeding coerces the department into the payment of an excessive price, why is it even necessary for the owner to employ the Senator for the mere purpose of negotiation? All that would be required to frighten the department into an excessive payment would be for the owner himself to threaten that unless his demands are met he will employ the Senator for a condemnation proceeding. It is thus obvious that the motivation of excessive prices is not so much the fear of what the lawyers will accomplish in condemnation proceedings, as the political influence that they actually and immediately exercise in their negotiations with the department.

In the Lincoln Oil case (discussed in detail at a later page), Commissioner Sterner had direct personal knowledge that he was rescinding a recorded agreement under which all damage claims had been settled; and under which the State had been in possession for ten years; and was paying out $25,000 for alleged damages which had been

waived in the agreement, against the advice of the department engineers and without consulting either the department lawyers or the department legal records, at the behest of the very senator who had admittedly procured the appointment of the engineer upon whose recommendation he admittedly relied, scorning the statute of limitations and the agreement itself as technicalities of which it would be "picayune" for the State to take advantage. The Harned case is another case where Commissioner Sterner personally rescinded an agreement which had fixed the damages at $2,800, and directed the payment of $23,000, where the owner was represented by the same senator. But in most of the questioned cases there is no evidence that Commissioner Sterner had direct personal knowledge of the political influencing of the negotiations, or of any of the irregularities which have been described above. In most of the cases direct personal knowledge of such details did not reach higher than Chief Engineer James Logan, to whom the Commissioner has evidently surrendered his own discretion in such matters. But the Commissioner has knowingly sanctioned and approved the fraud-inviting system above described, and has actually known, or should have known, that the right-of-way division has been susceptible to influence by senators and other politicians. If he has not also become personally aware of the fact that appraisals have been "altered, forged and raised" (to use the words of one of his own counsel), it is because he has deliberately closed his eyes and left those arrangements to his chief engineer. He has been guilty of malfeasance in a few cases; of culpable non-feasance in the other questioned cases, the details of which are set forth at a later page.

Tending to confirm the natural inference that the systematic practices above described are expressly designed to make the right-of-way division accessible to political influence, is the fact that the former head of the right-of-way division, Julius J. Newmark, despite his vindication by the Supreme Court, and his continued employment at an annual salary of $5,100, has been deprived of all substantial functions and authority, and banished to the vestibule of an adjoining building, where he has no access to current right-of-way records and activities, and can be safely ignored as a custodian of the public interest. He is universally respected and acclaimed by the engineers and right-of-way men in the department (except the commissioner and chief highway engineer) as an exceptionally able engineer and right-of-way supervisor,



and as an indefatigable and faithful public servant. Even Mr. Van Tine, defending the present regime, acknowledged at a recent public hearing, that Mr. Newmark is an able and competent man.

By virtue of the vindication which he received from the Supreme Court as the outcome of the efforts of the pre-Sterner administration to oust him, the department is still under compulsion to pay him a salary suited to an experienced, responsible and highly trained executive. The plain inference from the facts and the nature of his banishment from active participation in the affairs of the department, is that the present management would have found in him a vital stumbling block to the continuance of the practices above described.

Fifteen days of cross-examination on our statistical tabulation did not materially change our conclusions. It still appeared definitely that, even on the basis of the files and records, legislators and political leaders got anything from a "break" to outright "gravy". In answer to Mr. Van Tine's constant charge of wrong tabulation, we repeatedly offered to accept any tabulation that an unbiased C. P. A. would make. The offer was not accepted.

However, we were in store for a shock. We had been entirely too näive in assuming the correctness and genuineness of the records of the department. We soon discovered that these records and files had been so altered, faked, falsified and manipulated that the true picture of the influence of the politicians was much worse than we had thought or pictured by our original tabulation. As we shall hereafter discuss in greater detail, we soon discovered that not only had appraisals been politically influenced in the inception, but further, such appraisals even after being put in files were altered, forged, falsified, increased, or tampered with, without the consent or knowledge of the appraiser, and even dual appraisals made by the same party for the same parcel, under the same date, the larger appraisal to be used when certain politicians came to represent the owner. In fact, even in cases settled without the benefit of appraisals, papers purporting to be appraisals, were put in the file without knowledge of the would-be appraiser whose name it carried as maker.

These disclosures, of course, were not voluntarily made, but came as the result of days of cross-examination, checking up, and fact gathering. What is most important, these changes and fraudulent prac-

tices were made and followed at times upon the direct and immediate instruction of the superiors, and at times, by the superiors themselves, and at times in pursuance of general policies or instructions established by the superiors; and, some of these fraudulent practices were palpable and so open that they could not have escaped the commissioner's knowledge.

A perspective of the evidence adduced to date in this particular branch of the investigation indicates that the abuses and violations existent in the department, have been brought about in two general ways, namely, (1) by the personal guilt and wrongdoing of persons in responsible and authoritative positions; and (2) by the establishment of a system or practice in right-of-way purchase, which has openly invited and inevitably led to the abuses.

In order more accurately to estimate and understand the nature and extent of the abuses and misconduct, it is valuable to briefly state the normal, ordinary course of acquisition of land for highway purposes.

In the normal, bona fide manner, the first step is the preparation of key maps, showing the course of the proposed highway, the widening, or other operation, and the parcels of lands which will be affected, either directly for roadway, or for supports, slope rights, or such. The negotiating agents of the department are then ordered to make their appraisals of the required parcels. These men are, as a rule, competent, conscientious and diligent men. At the same time that these departmental appraisals are made, the key maps are sent out to local appraisers, that is, realtors in the county, and these men are ordered to make appraisals of the same parcels. As a rule, two such outside appraisals are obtained for every parcel to be acquired. The department maintains a list of such outside appraisers, persumably qualified, known as the approved list. When acquisition of lands is desired as to a given section of the highway, Mr. John Franssen, Chief Right-of-Way Agent, will submit to Mr. James Logan, Chief Engineer, the approved list of the outside appraisers, for that section. From such list, Mr. Logan will designate the appraisers who are to be retained for that section. Usually entire sections are parcelled out to these outside appraisers, and in rare instances is an outside appraiser appointed for a particular lot. The appraisals, both of the departmental agent and of the outside appraisers, are supposed to be turned in within a week or



so, or even less,—then, the departmental agent negotiates with the owner for the purchase, and makes his recommendations, both as to his estimate of value, and as to maximum to be paid before condemnation. When unable to make negotiations at a reasonable price, he will recommend condemnation. Sometimes, when the difference of demand and offer are large, the department will order a third outside appraisal, known as "check" appraisal, presumably for more accurate and complete appraisal. The general order of the commissioner has been that no case is to be settled beyond the figures of the highest appraisal in the file; and, conversely, that a case may be settled within the highest appraisal in the file, no matter when and how that appraisal was obtained, as long as it is under oath. As will be seen hereafter, often the "check" appraisal purporting to "justify" the settlement was obtained *after* the actual settlement, preparation and execution of contract of purchase, and when the department was unable to secure such "check" appraisal, by reason of the refusal of the appraisers to change their previous appraisals, the department obtained so-called letters of recommendation from the appraisers, recommending the settlement already arrived at.

Under the practice prevailing before Commissioner Sterner's appointment, Mr. Newmark, the then head of the right-of-way division, sometimes found it advisable, in order to avoid litigation, to pay to the owners a price in excess of the existing appraisals. He did not seek a "check appraisal" at a higher figure in order to "justify" the higher price (pp. 2775-2779; 2782-3).

The practice being as above described, and the Newmark policy of those in authority assuming the responsibility having been abandoned, our first topic of inquiry is, how was this system administered, and in what devious ways were privileges and favors granted to persons in positions of political influence.

FIRST: How were outside appraisers appointed for sections, and for particular properties? And who were these men appointed as such appraisers.

John Franssen, Chief Right-of-Way Agent, testified, (case, pp. 1624, 5, 6, 7 and 8), that in connection with a section of highway in Hunterdon County, Mr. James Logan, Chief Engineer, telephoned Senator Foran of Hunterdon, and asked him who he thought should be named as appraisers for that section, and Senator Foran named two

persons, one of whom, the witness recalled, was Emmert Wilson, an appraiser repeatedly condemned by the witness as incompetent, and subject to political influence. In passing, we may note here testimony that this man, Wilson, is the appraiser who attempted to obtain from Mr. Anthony Hauck of Hunterdon County, an attorney representing an owner, $100, as the price of his appraisal. (See Franssen testimony, p. 2711.)

Colonel (Senator) Foran had two sisters who had properties in that section, which were subsequently purchased by the Department. Thus, Colonel Foran was ordering or suggesting the appointment of appraisers for a section in which his sisters had a pecuniary interest; and those appraisers were used in his sisters' properties and subsequently Colonel Foran interceded in behalf of Anthony Hauck, an attorney of Clinton, New Jersey in connection with the acquisition of the property of Mr. Hauck's client, George N. Clark, in that section. It is interesting to note that Mr. Hauck wrote the senator on Dec. 27, 1939, asking for his assistance by seeing "the *proper* people", and immediately, on December 27, 1939, the senator took the matter up with "Dear Jim",—Mr. Logan.

Mr. Franssen, on one or two occasions at least, protested to Mr. Logan that appraisals turned in by some of these political appointees were excessive, and that the Department was being compelled to pay too much, but he (Mr. Logan), "felt that we were paying plenty but that they were based on the appraisals which were submitted by the outside men, and therefore it was satisfactory to take agreements in those amounts".

And in Passaic County, appraisers were appointed upon the order or recommendation of Mr. Lloyd Marsh, Republican leader (p. 1642). Let us see what the effect of such appointment was on appraisals in Passaic County. Senator Wilensky of Passaic represented the Passaic Quarry Co., in connection with the acquisition by the State of approximately one-half acre of its land for highway purposes. One of the departmental right-of-way agents had appraised the value of the land, and resulting damages, at $257, recommending settlement at $500. Herman H. Schulting, Jr., "Republican leader in the City of Passaic", and John Stead, of Paterson (pp. 1667-8) had brought in appraisals in the sum of $56,000 and $60,000 (p. 1660). These two appraisers had been characterized as "purely political" and incompetent (p. 1629). Those appraisals being obviously unjustifiable, Mr. Franssen ordered a third appraisal from Theodore Barker. This time, however, Mr. Franssen explained all the circumstances of the case to the effect that the original purchase price of the 28 acre tract, comprising the quarry was something around $26,000, that price including all machinery, equipment of a going concern; and that the State was taking only one-half of an acre from the corner of the property, and that the two previous appraisals were out of logic and reason, that in fact the quarry was not a going concern at the time of the appraisals, having been purchased by the then owners merely to stop competition. A few days later, however, Mr. Barker returned an appraisal in the sum of $58,000, which was "in-between" the previously given appraisals of Schulting and Stead. Mr. Franssen expressed to Mr. Barker his surprise at that appraisal, particularly in view of the information supplied Mr. Barker. Mr. Barker's answer was that he had been advised by Mr. Lloyd Marsh to give the appraisal as he did, namely; one "between the other two that were submitted" (p. 1666). Mr. Marsh's Secretary, one Mr. Shepp, was negotiating with the Department in connection with this case (p. 1709). The case became so repulsive that even under the rule the Department had already established, that any settlement within the highest appraisal has the "green flag", the Department did not close the case, but asked for a fourth appraisal by one Fred Tetor, whose appraisal was $7,900 (p. 1680). The case remains unsettled.



The significance of the case, of course, lies in the fact, which would be expected from the system established, that an appraiser suggested by a political leader of a county, and the secretary of that political leader negotiating with the Department on that deal, and the senator of that county representing the owners, that the appraiser would take his instructions or orders from that political leader. Mr. Franssen further testified that he reported the Barker fact to Mr. Logan (p. 1708). The practice of appointing appraisers upon the order of political leaders still continues.

With great ostentation of hurt pride, Mr. Barker denied making the statement to Mr. Franssen that he received his instructions from Mr. Marsh, even denying having talked to Mr. Franssen, stating that all his dealings were by correspondence (p. 2252). Under cross-examination, however, he finally admitted that he may have made statements like this, as he termed them, "jovially" to Mr. Franssen (pp. 2267-

2270). His having made that statement was corroborated by other department witnesses, to wit: Thomas Stewart (p. 2319) and Harry Beilinson (pp. 3036-3038).

The first vice we find in the method of selection of outside appraisers is that the Department did not merely ask licensed or qualified realtors to bring references from men in public office, but rather, the Commissioner delegated that function of selection to the political men of the county where those appraisers would operate; and, having done so, the Commissioner, through his agents, negotiated with the very men who were responsible for the appointment of these appraisers, for the purchase of property appraised by these "political appraisers".

Time and again, it was emphasized by Mr. Franssen, the root of the evil, resulting in excessively high appraisals and high settlements, was in the original appointment of those outside appraisers on political basis.

Thus, Mr. Franssen, explaining his negotiation of the Wolverton case, in Hunterdon County, for the sum of $42,000, on the ground that the file contained an appraisal in the sum of approximately $43,000 by Wilson, stated that in his opinion the $43,000 appraisal was too high, but there it was in the file, and "it was the policy of the department to settle within the outside appraisals" (p. 1655). He agreed that in such instances, with politically-appointed appraisers, known to him to be incompetent, bringing unjustifiable appraisals, the Department had *"two Strikes against it"* at the time its agents started negotiations. He considered such a situation deplorable (p. 1656) and spoke to Mr. Logan about the appraisals being turned in by "political appraisers"; and Mr. Logan agreed with him, but thought that there "was not much else to do" (p. 1657). In this particular case, of Wolverton, Franssen thought the State should not have paid over $30,000. The Departmental appraisal was $18,000 (p. 1653).

Again, referring to the unusual success of Senator Wilensky in obtaining most favorable "settlements", Franssen said that so far as that senator was concerned, the outside appraisals in Passaic County were so high that the senator had no difficulty in getting what he wanted, and that the method of appointing appraisers upon the recommendations of politicians was responsible for that condition (p. 1641).

Franssen named those "purely political" appraisers, whom he considered incompetent. They were (pp. 1629-1630):



Wilson and Groendyke in Hunterdon County,
McGregor, Hogan and Collins, in Essex County,
Stead and Schulting, in Passaic County,
H. Scott German, in Bergen County,
Cutler, Woodward and Stecher, in Burlington County.

They are the gentlemen who appear in most of the cases hereinafter discussed.

But the policy of the Department to ask for and receive orders from Senators or political leaders in the appointment of outside appraisers was not confined to such appointments for sections or general territories; it even extended to the appointment of an appraiser for a particular property in which the Senator appointing or nominating the appraiser was then and there personally and pecuniarily interested. Thus, Franssen testified (p. 1620) that at least on one or two occasions, Mr. Parker of the firm of Senator Powell (Powell & Parker) had told Mr. Sweeney, a departmental right-of-way agent, to appoint one Cutler, an outside appraiser, to make a "check" appraisal on a property then being negotiated by the said Parker. Mr. Sweeney asked Mr. Franssen to confirm this with Mr. Logan, which he did, and Mr. Logan made the order to obtain a "check" appraisal from Cutler.

Incidentally, a "check" appraisal is an appraisal which is often ordered after the parties have tentatively reached a settlement figure; but, the file containing no appraisal as high as the figure, it becomes necessary, under the policy established by Commissioner Sterner, to go out and obtain an appraisal high enough to cover the settlement. The vice of this practice or policy (though perhaps obvious) will be discussed later.

What, then, was the effect of such outside appraisals, made by men believed to be incompetent, and appointed under political consideration, upon the morale of the departmental agents, such as Franssen and those under him. Franssen, as chief of these agents, testified that he had to take those outside appraisals as given, that he had no choice in that matter, despite the fact that he had no confidence in them, and did not consider them reliable, or competent. He was confronted with the situation and had to accept it (p. 1830).

Again, Franssen testified that with Wilson's appraisal of $46,000 in the file, he felt that if he settled the case for anything below that,

it would be "satisfactory" (p. 1855). Then he explained that such a settlement was "satisfactory" under the rules of the department, but not according to his "conscience". He said (p. 1856):

> "I still believe we paid too much money in the Wolverton case, yes sir."

One result of that practice was that the department agents came to consider their own appraisals as of little or no significance since they knew that their superiors would disregard them and close deals without even considering department appraisals, and on the basis of unreliable outside appraisals. As Franssen stated (p. 1637):

> "* * * they [the department agents] felt that * * * regardless of what their opinion was of the value of the land, those other men were employed to make the appraisals, there wasn't any use in their worrying too much about their opinions of the land to be taken!"

Even Mr. Van Tine, in a bold attempt to minimize the vice of the practice of changing figures in departmental appraisals without the knowledge of the appraisers, said that in view of the fact that their appraisals were not used as the basis of negotiations, he saw nothing wrong in falsifying their appraisals, by adding to their figures, or even by placing one in a file where no appraisal had been made at all (p. 2731). Franssen further stated, that under Mr. Logan's orders, a file had to contain an appraisal purporting to have been made by a departmental agent, "Even though that departmental appraisal was neither binding on the department *nor even a guide* in the settlement" (p. 1840). As a direct and inevitable result of that so-called policy, where no appraisal existed, one was faked and placed in the file. And again, under examination by Mr. McCormack (assistant to Mr. Van Tine), Mr. Franssen was asked whether he would put his approval on any settlement if he did not feel that such settlement was proper. Mr. Franssen answered (p. 1794):

> "That is a hard question to answer, Mac.
>
> I have made a lot of settlements, and as long as they were within the appraisals, I wasn't too concerned about it.
>
> In some cases, I might have felt that we were paying, in my opinion, more than we should."



The testimony is replete with statements of Mr. Franssen showing the futility of any scientific study or appraisals of cases, when they were all washed aside by the policy of accepting the appraisal of political appraisers, and settling at any figure within such appraisals. We shall only refer to the page numbers in the record.

Although these cases will be discussed more in detail, it is noteworthy that the department, through Mr. Van Tine, considered it a real accomplishment to settle the Bobbink and Atkins case for $100,000, when the "outside appraisal" was $100,047.—; and in the Passaic Quarry case, with department agents recommending $500 as *tops* for settlement, Mr. Van Tine proudly pointed to the fact that they refused to settle the case for $32,000, although the file contains an appraisal of $58,000 by Theodore Barker, above referred to. True, it would have been feasible and "justifiable" to have settled that case for $58,000, since such an appraisal was in the file; that is, feasible and justifiable under the practice of the department. Thus we see that appraisals were used not as a basis, nor as a studied analysis of values, but simply as the cover or excuse for settlements, often arrived at even before the "appraisal" by the outside appraiser was made.

It is not too much to say that, when dealing with favored parties, settlements were apparently made on intuition, and justification thought of afterwards, or perhaps not at all. Thus, in the Beattie Manufacturing case, (which will be discussed later in greater detail). it appeared that an appraisal in the sum of $35,438, purporting to have been made by Stewart, was inserted in the file, no such, or any, appraisal having been made by Stewart. It appeared at the hearing by your examiners, that Stewart had examined the property and made field notes, but had not made or filed any appraisal. On such field notes, Stewart stated, at the hearing, that he thought possibly $28,000 would have been fair settlement. The actual settlement was $35,000.

Mr. Van Tine, more anxious to justify the *amount* of the settlement than the obviously corrupt methods applied in making the settlement, said: "It is perfectly conceivable that *now,* after a thorough study, $35,000 *could have been* a fair price." That is a fair example of the repeated instances where the department, having made settlements on non-existing appraisals, and through clearly fraudulent means, attempts to justify the result by saying that, nevertheless, the same re-

sult could have been justified under various conditions: one of their pet excuses being the so-called fear of condemnation, even though condemnations might never have been discussed or thought of in the particular case.

It is interesting to peruse the testimony of John W. Aymar, Jr., concededly a very capable man, a right-of-way agent of the department. Speaking of the work of outside appraisers, he was asked if he thought that it would have done any good to speak to Mr. Logan. He said (p. 3314):

> "I frankly felt Mr. Logan would be guided solely, or largely if not solely, by the outside appraisals, as they were, irrespective of any discrepancy between them and my own, or any ordinary comments as to why I thought they were out of line."

And again, he stated that he wondered if it were worth while for him to make any appraisals, since no attention was paid them (p. 3315). He said, further that his appraisals were not made use of unless they were *higher* than other original outside appraisals; and even then, they would "wind up at the end as being lower than the check appraisals secured" (p. 3326). Evidently the superiors were always looking for high appraisals, and made use of the high one only.

Thomas Stewart's (another concededly capable department agent) sentiments and reactions were the same.

On this point of obtaining so-called outside appraisals, we see, then, that the vice lay not so much in obtaining bona fide appraisals from qualified local appraisers (even whose usefulness is doubtful) as in delegating the function of selecting appraisers to the local senators or politicians who indirectly and often directly and personally are interested in the very properties to be appraised. The practice was especially vicious in cases where the department consulted, or accepted orders from such political men for the appointment of a certain appraiser for a particular property in which that party was interested.

The evil results were not confined to the price paid for the particular property: it destroyed the morale and the confidence of the negotiating agents who, without exception, came to look upon the whole situation as a hopeless one. Further—and this we consider most important—the high prices established by those characterized as incompetent, politically-appointed and politically-influenced outside appraisers,



haunted the department in its negotiations with other property owners in the same section: and again haunted the department in its condemnation cases. They established precedents of price that became the standard for the section. As one would expect, that result was linked with the result of the other condemnable practices of the department in land acquisitions to which we shall devote a separate paragraph.

(b) Another condemnable practice established and followed by the present administration was that of the pretense of settling cases under the highest appraisal in the file; and thereupon going out and securing a "check" appraisal high enough to "justify" the settlement where the file did not already contain an "appraisal" high enough to "justify" it. As the hearing progressed, and some of the more unsavory cases were exposed, even Mr. Van Tine conceded the unsoundness of the practice.

Prior to the present administration, when Mr. Julius Newmark was in charge of negotiations, appraisals were used as a basis of the study of the value of the property; and, if the negotiator was not able to buy the property within the appraisals, and if, further, he considered it advisable to go a little higher than existing appraisals in order to avoid litigation, the negotiator, on his own responsibility, explained his reasons to the Commission and the latter accepted or rejected the recommendations in its discretion. Thus there was no dodging of responsibility (pp. 2775-9; 2782-3).

Commissioner Sterner, on the other hand, initiated the practice of asking that a "check" appraisal be obtained where settlement on previous appraisals had not been successful. So, when the file in any case was submitted to him for recommendations, it contained some would-be appraisal (often faked and falsified) presumably justifying the settlement. With such an appraisal in the file, he neither felt called upon to, nor did, question the tentative settlement, and almost without exception, gave his approval. There was the supposed appraisal in the file, higher than the price agreed upon: his rule had been met.

At first Mr. Franssen testified that "check" appraisals were not obtained with any expectation that they would be higher, and that there were a number of cases where "check" appraisals were even lower (p. 1623); and that ordering "check" appraisals was resorted to where the difference between previous appraisals and the tentative agreement was small, so that the department would save money by the

agreement, as against litigation (p. 1623). It became obvious that when used to justify an agreement already tentatively arrived at, it had *no objectivity.* Despite this, Mr. Van Tine took the witness stand and attempted not only to justify but to commend the practice of obtaining so-called "check" appraisals as constituting a further assurance of the settlement being in accord with true values; as having, in addition to the opinion of the departmental agents, the "sworn" appraisal of an "expert". His statement, of course, ignored the fact that the "sworn" appraisals were obtained at a previously determined figure and at the suggestion of the department from men who were politically appointed as appraisers and characterized as incompetent.

Then, being examined with respect to the part played by him in the Highway Properties Corporation case, in which there was a question of the validity of a claim of $1900 for a fill, Mr. Van Tine testified that being of the opinion that the claim was legally untenable, he suggested a new "check" appraisal be obtained in which "the damage element might be increased", thus absorbing the $1,900 difference, so that the settlement could be given the veil of legality (p. 2456). As he put it: "I wanted to find a way to get this case settled." Thus, instead of assuming the responsibility of deciding the legal questions in the case—(against the demands of Senator Wilensky), he used the expedient of the "check" appraisal.

Further weaving the veil of *bona fides* around this convenient scheme of "check" appraisals, Mr. McCormack asked Mr. Van Tine whether they had not at times obtained check appraisals that were even below the previous ones; and Mr. Van Tine answered "I wouldn't say that, no" (p. 2458).

Mr. Van Tine admitted that the purpose of "check" appraisals is to cover the difference between previous appraisals and settlement figures; and finally conceded that the practice is unsound and opens the door to abuses (p. 2460, etc.). Mr. Van Tine contended that the practice of obtaining "check" appraisals *after* reaching agreement had been resorted to only in cases of narrow margins of difference. The cases do not sustain his contention. In the Wolverton case, settled for $42,000, the so-called "check" appraisal was given by Kenneth Yeaton. It was within the $20,000's, and it was not used (p. 1854). That was the only case where the "check" appraisal was below the previous ones, and for that reason it was disregarded.



On the other hand, in the Paul Scott case, which was originally represented by one Clark Bowers, an attorney, the original appraisals were in the sums of $1,300 and $1,600 (p. 1735). Subsequently Senator Scott, a cousin of Paul Scott, interceded; and, as a result, a "check" appraisal was obtained, in the sum of *$7,300* and the case was settled for $4,000.

We see, then, that "check" appraisals were not used really to prove or clarify previous appraisals: they were, rather, the expedient, or the ruse, for the coverage of agreements already made, without the benefit of such appraisals.

Perhaps the most outrageous use of such "check" appraisals was in the Holmes case, handled by Senator Scott. In that case, where the outside appraisals previous to the Senator's intercession had been $1,382.30 and $1,607.30, the department did not even go to the trouble of securing check appraisals on its own orders: rather, it received an appraisal in the sum of $7,375 made by one Tomlin, for the owners; accepted it as a "check" appraisal, and inserted it in its file though it had not been obtained or ordered by the department (p. 1869). In that way, the file contained a so-called appraisal: it was high enough to justify the settlement in the sum of $4,000. The Commissioner's rule had been met.

A somewhat different version of the Commissioner's use of appraisals (if scientifically prepared) as a basis of study of values, rather than as a pretext for "justification", is presented in the *Real Vacation* case. There Senator William Dolan, of Sussex, representing the owners, dealt directly with Commissioner Sterner, and Messrs. Logan and Van Tine. The terms were fully agreed upon between the parties, and the agreement prepared by the department, was executed by the owners on June 15, 1938. *After* that, on July 19, 1938, the department obtained letters from appraisers recommending settlement at the figures already agreed upon. Those appraisers had no responsibility to the department or to the public; nor were they consulted for settlement. Their appraisals, previously made, would not "justify" the settlement. Just what was the use of such letters is unknown; unless it was to create the appearance of obtaining the opinion of disinterested parties on an act already accomplished (p. 2664).

(c) An obviously vicious and corrupt practice frequently resorted to in the Department, was that of falsifying appraisals; and what is

most shocking, the Department, through its counsel, attempted to justify these practices as harmless in most cases. The falsification of appraisals took several forms:

(1) The direct, outright alteration of an appraisal by erasing and changing figures.

(2) The adding of an item to an appraisal without the appraiser's knowledge.

(3) The increasing of an amount designated by the appraiser, without his knowledge or consent.

(4) The inserting in the file of an appraisal purporting to have been made when in fact no appraisal was made by that individual.

The last item is particularly interesting in view of the frequent assertions that the appraisals made by the Department Agents were never relied upon. If so, then what was the purpose of inserting in the file a false appraisal in their names, when actually not made, unless it was to give the files, and the record of the transaction, the appearance of normalcy and regularity?

(1) In the early part of his testimony, Mr. Franssen maintained that changes in appraisals were resorted to only in minor amounts and only where certain elements of damages had been omitted from the appraisal (p. 1609).

He insisted that in all cases of change of appraisals, the percentage of change was small, that only $15 or $20 was added in small cases and perhaps several hundred dollars in a larger case (p. 1611). That testimony of course, was clearly refuted by the evidence subsequently introduced, and was retracted or corrected by the witness himself. Mr. Franssen acknowledged that in the early part of his testimony he had attempted to protect the Department by not volunteering any information. Thus, in the Frick Dairy case, the appraisal of Julius Finkel had been altered without his consent. The owners were represented by Senator Wilensky. The case was settled for $17,000 (p. 1990). The change was made by erasing Mr. Finkel's typewritten figures and retyping over them. The original appraisal was $10,800, and $5,600 was added (p. 2166). Mr. Finkel produced the carbon



copy of his appraisal from his files, indicating that the change had been made in the Department. Confronted with those facts, Mr. Franssen admitted the change and recalled that he had consulted Mr. Finkel concerning this change. Mr. Finkel not only denied such a consultation, but stated that if he had authorized the change, he would have made a notation upon his carbon and would have made a written statement of the reasons and the explanations for the change or addition. Mr. Van Tine finally faced with the evidence, attempted to create the impression that Mr. Franssen had made these changes of his own responsibility, and that he was now testifying concerning such changes in order to curry the favor of the examiners with hopes and expectations of immunity. Mr. Franssen testified, under such examination by Mr. Van Tine, not only that Mr. Logan knew of the changes (p. 2925), but furthermore, that similar changes were made in the Highway Properties case and in the Tuscan Dairy case, both of which were handled by the office of Senator Wilensky (p. 2937). In the Tuscan Dairy case, for instance, the changes were from $495 to $1,495 by inserting the figure 1 before the figure 4, on the Julius Finkel appraisal, and similarly, the Kirkland appraisal was changed by adding $1,500 to $618.44, making it $2,118.44. Those changes were made in order to justify a $2,000 settlement, and they were made before the docket entries (p. 2939). None of those changes were authorized by or with the consent of the appraiser.

(2) Adding items to appraisals without appraisers' knowledge.

The sum of $3,000 was added to Julius Finkel's appraisal in the Highway Properties case, without his knowledge and consent. The addition was made as if for damages although Mr. Finkel testified that he would not have authorized any round figure such as that, without explaining in detail what were those alleged damages (p. 2399).

Similarly in the Rainaud case, also negotiated with the firm of Senator Wilensky, appraisals were changed by adding $600 to the appraisal of Hanson, and $1,000 to the appraisal of Scofield, and $2,000 to the appraisal of Conors. Those changes were "justified" on the ground that in making the change the Department pretended to consider elements of damages not considered in the appraisal. However, the point is that the changes were not authorized by the appraisers, who knew nothing of them. Similarly, in the Clark case, nego-

tiated with Mr. Anthony J. Hauck, after Senator Foran expressed his interest in the case by writing a letter to "Dear Jim", the sum of $2,500 was added to Yeaton's appraisal of $30,000. No explanation was made for the addition of the $2,500. It was designated as "additional damage". Mr. Franssen, on the 28th day of the hearing, was asked by Mr. Van Tine, "Do you recall any case with anybody, where numbers were erased, like in the Frick case, and in lieu thereof, higher numbers substituted?" Answer—"yes, yes. I do not know of any specific case, but there are plenty of them in the files". Some of those according to Franssen, were changed with the consent of the appraiser, but many of them were not.

Again, in the Bobbink & Atkins case, handled by Mr. Van Tine personally, sums were added to the appraisals without the consent of or knowledge of the appraisers. It is true that those sums were added presumably for additional damages considered during negotiations. However, the matter was not discussed with the appraisers above whose signature the additions were made by the Department. In fact, in the Bobbink & Atkins case, the settlement figure of $100,000 was first arrived at and then $8,000 was added to the $92,047 appraisals, making it $100,047, "justifying" the settlement under the Commissioner's rules above stated. Mr. Logan, himself, made the addition in the Bobbink & Atkins case.

That method was also used in the Paul Scott, Real Vacation, and Frelinghuysen cases (p. 2509, et seq.).

(3) A third method of "falsifying" the records was by changing a particular element or item of damage in the appraisal, increasing the amount, disclosing the increase in the final figures. That practice was used in the Frick Dairy (p. 2515), Highway Properties Incorporated, and Cobb cases (p. 2509, et seq.).

(4) A fourth way of falsifying the records was to place in the file, submitted to the Commissioner for his approval of the purchase price, an appraisal purporting to have been made, but not in fact made, by the appraiser whose name it bore. An outstanding example of this is the Beattie case, negotiated by Senator Wilensky. The files contained an appraisal in the sum of $35,438, purporting to have been made by Stewart. Mr. Stewart testified that he had never made any such appraisal, that he had gone over the premises and made field notes, but



made no appraisal. Those field notes were not even in the file, and what is more, Mr. Franssen knew nothing of Stewart's field notes. We could never discover who inserted the check appraisal in the file but it was clear and admitted, that Mr. Stewart had not made the appraisal (pp. 2005, et seq.).

A similar situation existed in the O. Lincoln Boger case in Ocean County, where an appraisal in the sum of $9,650 was inserted in the file under the name of Stewart (p. 2586). Stewart stated that under no condition would he have made an appraisal of over $6,800 for that property. The case was settled for $10,000.

Another glaring instance of that outrageous practice was the McGregor settlement in Newark, handled by Mr. Logan personally, at Mr. Sterner's request. The file contained an appraisal in the sum of $46,800, purporting to be under the name of Stewart. We should, perhaps, never have discovered this corruption, but for the fact that the particular section happened to be Mr. J. W. Aymar's section. Therefore, we were put on notice. Why should Stewart have made the appraisal in that section? Our examination finally disclosed that Stewart had *not* made the appraisal, had not even inspected the property, and knew nothing of the file containing his appraisal (p. 2040). The case was settled for $47,300. That case was so outrageous that even Mr. Sterner appeared to be shocked and said:

> "I can't understand how anybody's name could have been put in the file as having made negotiations when, in fact, they did not. I can't understand the negotiations by Mr. Stewart and Mr. Aymar when they work in that area" (p. 2681).

Akin to the above methods of falsifying records are also instances where the records do not contain data that should be there. Thus, in the Frick Dairy case, an appraisal in the sum of $3,947 by Tieger was not contained in the file, altho all high appraisals, in the sums of $17,238, etc., were there to be seen. And again, in the cases where Senators and favorite politicians interceded by telephone, the files did not indicate their interest. It was only through the testimony of Mr. Franssen that we discovered that Senators Foran and Scott had interceded in cases where their names are not disclosed; and until such discovery was made, counsel for the department used every tactic to conceal such fact.

Another practice indulged in by the department, in and of itself ostensibly harmless, but inviting abuse, was that of giving "rush" orders on cases handled by men of political prominence. This was of course done under the pretence of courtesy to Senators and attorneys, but the abuse of it was so common and it led to such corrupt practices, that it cannot be regarded as innocent. Thus, Mr. Franssen explained that frequently an agreement would be reached between the attorney and the department as to the price to be paid; in many such instances the attorney dealt not with the negotiating agent but directly with Mr. Logan, or Mr. Franssen (p. 1843). In those cases the witness would find it necessary to put in the file some appraisal to justify the agreement, and he would do so; altho none had in fact been made. This was done to expedite the case; to submit it in time to the commissioner for his approval (p. 1839):

> "Q. What was the purpose of putting such an appraisal in the file since the agent had not really made such an appraisal?
>
> A. The only reason that was done was to expedite the settlement in the case. To bring the matter before the Commissioner, as I testified to several times, it is necessary to have a departmental appraisal with the papers."

And again, Mr. Franssen testified (p. 1844), that when Commissioner Sterner or Mr. Logan wanted to close out a matter, the very same day (when an agreement was reached without benefit of actual appraisals), he would put a false department appraisal in the file and put the case through: sometimes he got his orders directly from Mr. Logan, to put such "rush" cases through: and other times he put "rush" cases through for various legislators, under the practice and policy of the department. On page 1847, he says:

> "Well, I think it is safe to say that in any case where a Senator or an Assemblyman was representing the owner we would try to expedite the settlement after the contract was approved."

That practice was especially fruitful of false appraisals in cases handled by Mr. Greenberg of Senator Wilensky's firm (p. 1945). Mr. Greenberg almost always dealt with Mr. Franssen. Mr. Van Tine attempted to show that those corrupt practices were employed by Mr. Franssen of his own initiative. Thus, Mr. Van Tine volunteered the



statement that rush orders for Mr. Greenberg were put through by Mr. Franssen and not by Mr. Logan or Mr. Sterner (p. 1945). He emphasized this by a long statement that Mr. Greenberg never saw Mr. Logan, but always dealt with Mr. Franssen. Finally, the witness, contradicting Mr. Van Tine's misstatements, said:

> "I certainly was doing it under their policy" (referring to Mr. Sterner and Mr. Logan, p. 1947).

Here, Mr. Van Tine was crossed. So he attempted to place the responsibility for this practice upon Mr. Franssen. The latter answered Mr. Van Tine, thus (p. 1947):

> "I did not. Although I conducted the actual negotiations with Mr. Greenberg he was a member of the firm of Wilensky, Greenberg and Fineberg, and any cases represented by a senator or an assemblyman, we would expedite the settlement, either taking it up to the Commissioner, or after the Commissioner acted on it, to have the search read and the deed prepared."

Mr. Franssen made the policy of the department quite clear in the following excerpt of his cross-examination by Mr. Van Tine (p. 1954):

> "Q. In other words, you took full responsibility for those changes yourself, according to your sworn testimony, is that right?
>
> A. I don't believe it was the same question asked me this morning, like the Greenberg case.
>
> Q. What is the difference between the Greenberg case and a case represented by say, a lawyer who has no political connections, or an owner representing himself.
>
> A. Senator Wilensky is a member of the firm of Greenberg, Wilensky and Fineberg."

And, on page 1955, Mr. Franssen said:

> "I believe that I have testified that any changes made in appraisals were either done at the orders of Mr. Logan, or that he knew about it after it was done, because each case I took down to Mr. Logan and everything was explained to him."

So we note that as a direct result of this policy of expediting cases of various Senators and politicians, it became necessary to insert false appraisals in the file; and, what is more important, settlements in those

cases were made on the spur of the moment, to the full accommodation of the Senator or politician representing the owner, without the benefit of genuine, bona fide appraisals.

Aside from these general practices, productive of favoritism and extravagance, we have discovered several instances of outright direct concessions made to those of political influence; nor were those concessions mere matters of courtesy.

Outstanding in the line of such favors was the instance, related by Mr. Franssen, of having two appraisals, made by the same party, under the same date, on the same property, one for $3,300, and one for $6,700; and the Department discarded the small figure and used the larger one when Senator Powell came into the case (p. 1646).

Another example: Judge Large of Flemington, a close friend of Senator Foran, represented a property owner by the name of Roy White. Stewart's department appraisal was $3,300 (p. 3373). There were two outside appraisals, in the sums of $12,858.50 and $16,617.80, made by Groendyke and Wilson, characterized as incompetent and unreliable and subject to political influence. Considering the conditions existing in Hunterdon County, Franssen offered $9,500, though in itself excessive. Judge Large rejected the offer and took the matter up with Mr. Logan. Mr. Logan merely asked what the outside appraisals were, and being informed of the amounts, instantly, all within five or ten minutes, granted Judge Large's demand for $12,000 (p. 1652, etc.). That was the taking of less than five acres from a farm of 100 acres originally purchased for $17,500. Stewart characterized the purchase price of $12,000 as "ridiculously high" (p. 3443). Contrast that system of negotiating with that related by Mr. J. W. Aymar, Jr., as prevailing during an earlier administration (p. 3333):

> "Well, in a brief statement, it would be difficult to outline the whole story, but I would say that in Mr. Newmark's time, when he was head of our division, that while it is true that generally speaking settlements were made within the range of the appraisals, there were many cases, as has been brought out in these hearings, where recommendations were made for settlements beyond the range of those appraisals.
>
> "But the particular difference that comes to my mind is this, that in his regime appraisals were not recognized simply because they were prepared by some appraiser, under oath, and submitted to us. They were recognized only after either the



> right-of-way agent, or the right-of-way agent and Mr. Newmark himself, were satisfied that the appraisals were on the proper basis, proper legal basis as well as the proper basis of appraisal, according to established principles.
>
> "So that in every case, we all felt we were dealing strictly on the merits of the case, and not just because we happened to have somebody's sworn statement that a property was worth a certain amount of money."

Another outstanding example of such concessions is the handling of three cases with one Walter K. Sherwood. That gentleman was a friend of former Governor Hoffman, who appointed Commissioner Sterner to his office. He had three properties to sell in the vicinity of Newark, which were in the line of a contemplated right of way (p. 2691). Altho no definite line of the highway had been as yet laid down, and no key maps or construction plans had as yet been executed or drawn, nevertheless the department proceeded to purchase those three properties from Mr. Sherwood, not at any bargain price, but at what was definitely characterized as exorbitant and baseless. The reason? Governor Hoffman had asked Mr. Logan to settle those three cases with Mr. Sherwood: and Mr. Logan handled those cases himself (pp. 2691-2). When those three settlements were completed, under the direct supervision and orders of Mr. Logan, Mr. Franssen testified that even he, Mr. Logan, was so disgusted with the affair that he stated he did not want to have any more to do with Mr. Sherwood (pp. 2689 and 2691).

And just how were those cases settled? As we stated, the properties were not in the line of any definitely designated right of way, no key maps or construction plans as yet having been made; and Commissioner Sterner himself testified that there would be no acquisitions of property before the construction division had stated the need of such property (pp. 2683 and 2684). Those properties were acquired in August, 1938, and November, 1939. Up to the present time, no definite line has been fixed, the properties are not on any approved program of construction, and no key map has been approved; and Mr. Franssen said, "I don't know what authority we had to acquire them" (p. 2668).

One of those three parcels (which Sherwood did not own, but merely held an unenforceable so-called option under which the true

owner had agreed to sell for $30,000 to Sherwood) the State agreed to buy from Sherwood for $50,500 (p. 2618), altho Mr. Logan knew that Sherwood had no title and that the owner had given him an option as noted. Due to the fact that Sherwood's option proved unenforceable and of no effect, the matter went to partition suit and master's sale; and the State finally bought the parcel for $42,500. In originally entering into the $50,500 agreement with Mr. Sherwood, no inspection or check or search was made as to even the apparent ownership of the property, as may be made from tax maps of municipalities. Mr. Sherwood's word was accepted that he owned the tract (pp. 2621-2622) and a grand bargain struck at $50,500.

Another Sherwood deal: (Route 21, S. 4B. Parcel 4) The property had been appraised for $4,095, with a report that the owner, one Wynn, would sell for $7,000. On September 24, 1937, Sherwood purchased it from Wynn for apparently $6,000, placing a $6 revenue stamp on the deed. On June 6, 1938, the Highway Department purchased it for $9,900. At the time of the appraisal, Wynn was still the owner of the property (p. 2623).

The next Sherwood transaction (Route 24, Sec. 4C, parcel 14.A) shows a purchase by the State for the sum of $14,500. Those Sherwood negotiations were presumed to have been made by Mr. Aymar, but were in fact made by Mr. Logan. "You might term him [Aymar] the messenger boy between Mr. Logan and Mr. Sherwood", testified Mr. Franssen (2675). Mr. Aymar had appraised this particular property at $1,543. Despite this report, Mr. Logan directed and ordered him, arbitrarily, to go and settle the case with Mr. Sherwood for $14,500. Another appraisal in the file, by Pryor, was $1,371. The political appraisers had appraised as follows: McGregor, $16,823; Hogan, $15,250; Collins, $19,479. (See Aymar testimony, p. 3057, etc.) Pryor was considered an expert on industrial properties; but his appraisal of $1,371 was not high enough to accommodate the deal. Incidentally, it is interesting to note the description McGregor and Hogan gave of the buildings upon the premises: they described them as "in excellent state of repair," * * * "the best structure in the immediate vicinity," * * * "with all city improvements." Mr. Franssen had *personally* inspected the premises, and described them as "very dilapidated," "shacks" (pp. 2693 and 2694).

We find it difficult to characterize that transaction as "settlement" or "negotiations." Perhaps the term "donation", or "gift" or



"concession" would be more apt. No wonder Mr. Logan is quoted as having said, "I hope I never see this bird again" (p. 2689). Even doing favors for the Ex-Governor's friend had its limits.

There were other times, too, when Mr. Logan, contrary to his judgment, felt called upon to grant the demands of politicians, because they were pressing him. Such a case was the Highway Properties Incorporated case, originally represented by Mr. William J. Egan, and subsequently represented by Senator Wilensky's firm. The case was handled by Mr. Logan personally (p. 2409).

Mr. Finkel's appraisal was $545 (changed in the files without his authority). Legal questions were raised concerning some fill. Senator Wilensky's firm demanded $5,000. The legal question was taken up with Mr. Van Tine, and Mr. Van Tine gave a legal opinion contrary to the claim (p. 2410).

Such an opinion was not helping things, and Mr. Logan said: "They are pushing me on this thing and I have got to get rid of it and settle it for $5,000" (p. 2410). But Mr. Logan and Mr. Van Tine were resourceful, and found a way to settle it for $5,000. First the appraisal was changed; then it was decided to add the $1,980 for the fill, and then Mr. Van Tine suggested that they got out and get another appraisal, a so-called "check" appraisal, in which that ticklish legal problem would be avoided by making the damage element just that much higher (p. 2456). That was done, and the case was settled to the satisfaction of Senator Wilensky's firm.

A stock excuse or pretext for settlement at a figure equal to or approaching the highest outside appraisal has been the pretended fear of condemnation awards far above settlement figures based upon such outside appraisals.

The fallacy in this contention is based upon several factors.

(a) The use of outside appraisers characterized as incompetent has produced a record of acquisitions with very high purchase prices due to high appraisals (p. 1656).

(b) It is the purchase of the first parcel in a given section at an extremely exorbitant price which sets the standard rate to be paid for the purchase of other similar parcels in that section.

Thus, for example, the acquisition of one of the Sherwood properties for $9,900 set the standard price for other distinctly similar parcels in that row and section (p. 2692):

"THE WITNESS: * * * and at that time the appraisal indicated that the owner would settle for $7,000, and we later purchased it from Sherwood for $9,900. That might not be serious, but we have other properties up there in the vicinity—

MR. SCHETTINO: You say there are other properties in that vicinity?

THE WITNESS: Yes, and it is questionable to me what the State is going to pay for those properties, after we made this settlement for $9,900. I doubt if we can acquire the rest of them at a fair price, after this settlement has been made. It isn't the slightly higher price we paid for this property, but the effect on the other properties."

That one act will cost the State of New Jersey thousands of dollars over and above the true value in that one section alone.

In another typical acquisition, the Roy White case (pp. 1651, 3373, 3441, et seq.), the facts show in a startling manner how the State again lost a great deal of money.

We have previously referred to the testimony by a Highway Department employee who stated that in the appraisals covering Hunterdon County property the department was, in plain language, "getting stuck" (p. 1656).

When the attorney, Judge Large, representing the owner, was approached by the Department negotiator and was offered $3,300 for the less-than-five-acres to be acquired, the attorney refused the offer. This figure was based upon an appraisal made by the negotiator, Mr. Stewart. The estate of Mr. White consisted of 99-plus acres and buildings which had been purchased by him in 1934 for $17,500.

The highest outside appraisal for the five acres was $16,617.80—this despite the fact that the recorded deed to White stated the consideration for the entire estate to be $17,500!

Mr. Franssen testified that Judge Large came in to see him because he was dissatisfied with Stewart's offer. Mr. Franssen offered the Judge the sum of $9,500, "which was based on the proportionate amount we had paid the adjacent owner." That offer was likewise rejected. Thereupon, Messrs. Franssen and Large went to Mr. Logan. Without any extended discussion and within five to ten minutes Mr. Logan agreed to give Judge Large's client the full amount *demanded,* namely, $12,000 (pp. 1651-1652).



That purchase price was scornfully characterized by Mr. Stewart as "ridiculously high" (p. 3443).

That case shows the evil results of having appraisers, characterized as incompetent. The adjoining parcel to the White property was liberally paid; and that was the standard to determine the $9,500 offer of Franssen. But even that amount was not sufficient because of high appraisals in the file. Without any stated reason, and as a mere brushing—aside formality, the price was raised to $12,000 by Mr. Logan.

Under the law of condemnation in New Jersey those purchase prices would be admissible as evidence of value in the condemnation of similar properties. Moreover appraisals made by those appraisers could be used to confront and bind them if they were used as experts in the proceedings before commissioners or jurors in condemnation.

The pretense of the dangers of condemnation creates a vicious circle: Under such a pretense, the department admittedly settles claims at excessive figures, contrary to its judgment: and then their very settlement haunts the department in its future settlements and condemnations. Thus goes the Highway Merry-go-round. Commissioner Sterner has claimed that during his administration condemnations have been reduced to less than 5% of acquisitions. Has that been due to the fact that the State has paid whatever has been demanded? From the point of view of the property owner, settlements made through senators and politicians have been so lucrative that it has perhaps been unnecessary and unwise to litigate. It is obvious that a traction company could settle all cases by paying all claims as presented, thus avoiding litigation. Is that the virtue claimed by Commissioner Sterner?

In connection with the Bobbink and Atkins case, it should be noted that the agreement was tentatively reached in September 1938: and the contracts were executed in January 1939. As we have pointed out, the generous offers bringing the settlement figure to the limit of outside appraisals (offer $100,000—appraisal, $100,047) was made by Mr. Van Tine, Mr. Logan taking a minor role. Mr. Wilensky, then an assemblyman, was negotiator for the owner's attorney.

Now it so happens that on January 23, 1939, Assembly Bill #68 was introduced, intended to make the position of the solicitor of the Highway Department (then occupied by Mr. Van Tine) a safe and

secure lifetime position with protection of tenure; and in due course that act was passed. We do not have sufficient information to state whether or not the Bobbink and Atkins settlement had any direct relation with the bill: but we do submit that the case brings into high relief the dangers of the practice of state departments negotiating with legislators who control their purse strings as well as the security of the positions of the personnel of each department.

In addition to acts and conduct directly connected with the Department and its personnel, there were shown certain extraneous circumstances which throw light on conditions in the Department.

Thus, we note that quite frequently some legislator or politician would not appear in a transaction during the negotiations, but only after the agreement had been executed. Ostensibly in such an instance, the lawyer-legislator came in to advise the owner in connection with closing the transaction, or to pass upon the conveyance to be made by the owner (p. 1485, et seq.). Thus, in such a case, presumably, the lawyer had had nothing to do with the settlement. There were two unexplained elements in such appearances: one, it appeared that out of thousands of attorneys in the State, a few legislators and politically influential attorneys appeared time and again to close a deal for those previously "unrepresented" property owners—apparently for the meager fees that would be properly chargeable at that stage of the transaction. And two: quite frequently non-lawyer-legislators or realtors, such as Gotthold Rose, appeared for similar services to the landowner. And Mr. Van Tine could not explain why Gotthold Rose should be appearing to close a transaction when he had presumably no part in the negotiations (p. 1487). We don't know, but perhaps the explanation is that those gentlemen of the twelfth hour did have a hand in the negotiation but that their names were kept out of the record. Nor is that a mere speculation; for in several cases discussed, an intermediary's name did not appear as such, altho he had acted. Thus, Senator Foran had dealt with Mr. Logan by telephone, and Senator Scott had interceded for his cousin, Paul Scott, altho the fact was not disclosed by the files.

Another circumstance of interest as disclosed by the testimony is that Senator Wilensky's firm apparently had an agent by the name of Augustine Fisher, who solicited highway acquisition cases for the firm, and at times stepped on other attorneys' toes. Presumably the Department could not be condemned for that practice, except that the agent's sales talk was that the Senator could deliver the goods, and apparently, he always did. Not only did Senator Wilensky represent property owners, but he came in where other attorneys had already been employed. Thus, attorney Allen retained him in the Beattie Manufacturing case; attorney William J. Egan brought him in the Highway properties case, and attorney Corbin used his services in the Bobbink & Atkins case.



Mr. Van Tine's explanation was that Senator Wilensky's firm was expert in condemnation work. That statement, however, elicited the information that Senator Wilensky had become such expert only since becoming a legislator. Evidently being a member of a legislative body which has a direct control over the Department was not the least of his qualifications.

However, Senator Wilensky was not the only expert in the field. The firm of Senator Powell claimed the same privileges in its territory, and as it was almost inevitable, there came a day of territorial disagreement.

According to Mr. Franssen, Senator Wilensky's firm claimed they were the first to see the prize apple, but Senator Powell's firm with equal vehemence maintained that the apple was found in their back yard. Specifically the testimony showed that the firm of Senator Wilensky claimed it represented one Mary L. N. Parker, in connection with a land acquisition, but the firm of Senator Powell was also claiming the same right, and Mr. Parker of Senator Powell's firm complained to Mr. Franssen "half a dozen times,—that Mr. Greenberg [Senator Wilensky's partner] was down there in his territory, taking cases away from his firm" (p. 2429). Mr. Franssen further stated: "And Parker wasn't too concerned about Greenberg getting this case as he was to the fact that Greenberg's charges were considerably less than his and he didn't want that to get around in his neck of the woods it would spoil his gravy" (p. 2430).

So, Mr. Franssen was asked (as he testified), by Mr. Parker, (Senator Powell's partner) to mediate between him and Mr. Greenberg, as to who should have the prize.

One of the most outstanding facts disclosed by this investigation has been the effect of the revealed practices upon the personnel of the Department. Realizing the circumstances under which they were

called upon to testify, and the natural inclination to protect their Department, and the sense of loyalty these men had, it is most significant to note how men like Stewart, Aymar and Franssen unhesitatingly condemned the conditions and the policies under which they were forced to operate. These men bore no personal animosity toward their superiors, they had no ax to grind; nor did they have any political motives; and yet, these men were outspoken in there condemnation of the practices and policies established by the responsible heads of the department. It must be emphasized that their protests were not in a tone of personal complaint for selfish purposes, rather, a fearless condemnation of practices which were intolerable. Those same men had worked under previous administrations, too; they were capable, honest and diligent employees. Mr. Aymar, especially, was well known for his high achievements in his field, and Messrs. Franssen and Stewart were second only to Mr. Aymar. Those men did not, and under normal circumstances would not, want to condemn their superiors. But their testimony makes it very evident that they suffered a loss of faith and confidence.

A reading of the testimony discloses that in the early part of the hearing, Mr. Franssen was most reluctant, not only volunteering no information, but definitely attempted to cover the Department. Obviously this was due to a mistaken sense of loyalty. Subsequently, faced with specific facts, he began to disclose the true nature of transactions. At that turn of the testimony, Mr. Van Tine attempted to offer Mr. Franssen as the sacrifice, by holding him responsible. Mr. Franssen showed, however, that all his acts were under the rules, regulations, practices, policies and direct orders of Mr. Logan, and the Commissioner.

Mr. Van Tine, attempting to discredit Mr. Franssen, showed or attempted to show further abuses in connection with transactions with one Arthur Dientz, a nephew of Mr. Franssen. Just how these abuses, if existent, would exonerate the other abuses, has not appeared. Failing in this, and seeing that Mr. Franssen was now testifying and exposing freely, Mr. Van Tine accused him of having obtained promises of immunity from your examiners as the price of such disclosures; that, too, failing, Mr. Van Tine charged your examiners with obtaining damaging evidence at private hearings by star-chamber tactics. That, the witness refuted in unequivocal terms. Those men, then, normally loyal, and honest and intelligent, have reluctantly, but in most definite terms,



condemned the above-described practices of the Department as resulting in political favoritism, and the surrender of official duty into irresponsible hands.

We thus summarize the policies established in the right-of-way acquisitions since and during Commissioner Sterner's administration:

The policy of naming political appraisers on the recommendation of senators in certain counties, and political leaders in other counties; the policy of requiring appraisals by departmental agents, and paying no attention to them in settlements; policy of placing appraisals in the names of Department men whether or not they made the appraisals; the policy of settling a case up to the highest "outside" appraisal, regardless of the department appraisal and regardless of the merit of the case, especially if political leaders or attorneys were involved, resulting in many cases in excessive payments, notoriously so in Hunterdon and Burlington Counties; the policy of deliberately trying to justify a settlement by securing outside "check" appraisals to "cover" settlements already made, regardless of the merits of the case; the policy of getting appraisers to increase their figures or to furnish letters authorizing increases, or to authorize changes or additions by telephone, or to write in or add figures to justify settlements already reached with political representatives of the owners; the policy of appointing and or maintaining on the list of approved outside appraisers men who the Department right-of-way men complained of as incompetent, if not dishonest, thus increasing to the State of New Jersey the basic costs of land acquisitions throughout whole counties; the policy of settling appraisal figures on the same plane as the understood purchase price in order to show that there was no difference between the appraisals and the purchase price.

The total result of these established and maintained policies is to break down the morale of the employees of the Highway Department and to affect adversely the finances of the State of New Jersey.

## II

## The Lincoln Oil Corporation Case.

On August 19, 1937, upon the order of Commissioner Sterner, the sum of $25,000 was paid to the Lincoln Oil Corporation, in settlement of a claim arising out of the elevation and widening in 1927, of the

Paulsboro Causeway and the acquisition of an 8-foot strip of land belonging to the claimant.

That transaction seemed to call for investigation because (1) an agreement had been made in 1927 *settling* all claims (except a minor claim for damages, if any, from interference by a bridge wing-wall, discussed below); because (2) the ten-year lapse of time had, in our opinion, alone made the claim legally uncollectible; and because (3) entirely apart from the agreement and the lapse of time, the claim was in large part based on allegations of fact which were refuted by the Highway Department's own records.

Accordingly, numerous witnesses and records were privately examined, and the transaction has been made the subject of an extended public hearing at whch 1360 pages of stenographic testimony were taken.

The following facts were developed:

1. The Lincoln Oil Corporation, on July 25, 1927, entered into an agreement in writing with the State of New Jersey, which required the Lincoln Oil Corporation to convey to the State the 8-foot strip, together with the necessary slope rights, and to *waive all damage claims* (except for wing-wall interference); and required the state to make a substantial *fill* on the Lincoln property, and an adjustment for the wing-wall interference damages, *if any.*

2. The *estimated* cost of the fill was $2,017. But the fill actually required 4,600 cubic yards of earth, at a unit cost (under the road contract) of 69 cents per cubic yard, or a total cost of $3,174. The fill was what is known to highway engineers as a "borrow", meaning that, in the low lands, it is necessary to buy the dirt from the contractor, and have it hauled from a distance.

3. The State fully and faithfully performed its agreement to make the fill.

4. Since, under this agreement, no substantial damages could be claimed, the agreement itself was formally rescinded by the Commissioner on June 2, 1937, by the same resolution which authorized the payment of $25,000 to the Lincoln Oil Corporation. The resolution did not state the *grounds* for rescinding the agreement, and the testimony discloses inconsistency in the several alleged grounds which, from time to time, have been asserted by the claimant, by its counsel, by



Messrs. Logan and Sterner, and by the Department's present counsel, in his attempt to show legal justification for the transaction in retrospect.

5. Since the agreement itself entitled the claimant to an adjustment of damages, if any, sustained by interference of the bridge *wing-wall,* the following should be noted: only one of the three appraisals relied upon to justify the $25,000 payment even mentioned the wing-wall interference, i. e. the appraisal of Arthur H. Sweeney. Sweeney lumped the item with several more important items, without separate valuation. In the elaborate appraisals of J. Sennett Holston and W. W. Chalmers, the wing-wall is not even mentioned. Mr. Chalmers' appraisal ($21,125) was the highest of the three and was the appraisal chiefly relied upon to justify the transaction. He was the only one of the three who was called as a witness in behalf of the Department at the public hearing. Arthur H. Sweeney (whose appraisal was $19,831.50) had committed suicide, on the eve of his expected testimony, and Holston's appraisal was in the amount of only $17,016. In order that the Examiner might have *some* expert evidence as to the extent and amount of the wing-wall interference damages, if any, he cross-examined W. W. Chalmers as follows:

> "Q. There has been reference in this case, before you arrived, to an adjustment which the State promised to make to the Lincoln Oil Corporation, for damages through interference, if any, of the wing-wall of the bridge. Was there a wing-wall on the bridge as it was actually constructed?
>
> A. Yes, I believe there was a wing-wall abutting the property. But, frankly, I didn't give any value or loss of value to the property, on that account.
>
> Q. Was it because you didn't think there was any substantial loss, or was it because you simply disregarded the possibility entirely?
>
> A. I must have felt it was too insignificant to bother with or I would have included it in some figure.
>
> Q. It happens, Mr. Chalmers, everybody here is agreed that the Lincoln Oil Corporation was entitled to receive a payment from the State for damages, if any, from the interference of this wing-wall. I thought I ought to let you know that. You say, however, you did not consider it was sufficiently substantial for you to include as an item?
>
> A. I either thought it was too small to consider or I overlooked it entirely."

Besides the three appraisals there is in the files the report of Frederick L. Pryor, engineer, dated Feb. 1, 1936 (discussed below in another connection). Chalmers makes the following comment concerning the wing-wall (abutment):

> "It is *said* that the footing of one of the abutments of the bridge encroached beyond the right-of-way. *If* this is so, no doubt *Mr. Chalmers* will set the damage to the property due to this fact."

Since neither Pryor nor the Department counsel has in any way questioned Mr. Chalmers' testimony, it is evidently conceded that the wing-wall damages were insignificant and nominal, so that, *under the agreement,* the claimant was *not entitled to any damages whatsoever.*

6. The claim for damages was subdivided as follows:

(a) Value of the 8-foot strip (already paid for by the fill).

(b) Value of slope rights (expressly mentioned in the agreement, and also paid for by the fill).

(c) Partial loss of wharf frontage.

(d) Alleged loss of value to remaining property, due to elevation of grade.

(e) Alleged injury to tanks and buildings through so-called "mud wave".

(f) Damages from alleged changes in original construction plans.

(We shall discuss each of the foregoing items separately at a later page.)

7. It is undisputed that every one of the above items of alleged damage, if it existed, except items "c" and "f", was sustained and *known to the claimant,* at or shortly after the elevation of the highway in 1927.

8. Nevertheless, neither the Department records nor the testimony discloses any complaint by the Lincoln Oil Corporation until July 3, 1931, on which date, a Department man named Hollinghead, called at the claimant's plant to get the deed, as agreed upon, and quoted Mr. Tripp, claimant's Treasurer, as follows:



> "He said the grading of the road, etc., had cost them $30,000, and did away with one of their driveways and made the water run into their plant. Their agreement was drawn to protect them and they wanted the protecting clause in the deed. Otherwise they will not sign."

There was no evidence that at that time the Lincoln Oil Corporation was making any *claim* for damages or demanding any *money.* It merely asked that the deed contain the same protecting clause (presumably concerning the wing-wall interference), that was in the agreement, and did not refer to the alleged $30,000 cost as constituting a legal claim against the State. Department memoranda and letters to and from the claimant, contain no mention of any claim for damages, or any intimation that Lincoln Oil Corporation considered that it had any legal basis for a damage claim, until Senator Clifford R. Powell was retained in March, 1934. On June 18, 1930, C. F. Bailey, claimant's President, wrote to the State Highway Commission in response to a request for an executed deed and mortgage release, and said:

> "I have made a very careful search of my files but cannot find any record of receiving these papers from you. I may add that Mr. Hutchinson (who held the mortgage which was on the property when the agreement was signed in 1927), now has no interest in the property. Awaiting to hear further from you, I remain, etc."

There is no mention in the letter of any alleged damages, or any claim for damages, or any reason why the deed should not be executed, except that Mr. Bailey could not find the form which had been sent to him by the Highway Department.

9. The Department files contain numerous memoranda by Department lawyers and title experts, at frequent intervals from 1927 to 1934, concerning the obtaining of the deed, and the possible necessity of bringing a suit for specific performance for that purpose, but there is not the slightest reference to any money claim by Lincoln Oil Corporation or any excuse on its part for failing to deliver the deed, except an objection that the *form* of the deed should contain the protecting clause which was in the agreement. Nor is there anything in the numerous memoranda by department lawyers and title men, Adler,

Levine, Bacon, Saltzman, Garvan and Vollmer, to suggest that the agreement is not a perfectly valid agreement, to whose benefits the State is entitled, and no reason why the deed should not be delivered, compelled by specific performance suit if necessary.

10. The very first intimation by *anybody,* connected with either the Highway Department or the Lincoln Oil Corporation, that the agreement was not perfectly good, or that the company had, or could possibly have, any legal claim for damages, was in March, 1934, after Senator Powell had been retained (nearly seven years after the agreement was executed and performed by the State). An inter-department memoranda, dated March 8, 1934, in the name of Pierre P. Garvan, counsel, actually signed by Raymond Saltzman, one of the assistant attorneys, refers to the agreement, to the consideration of the fill on the claimant's property, and to the fact that Senator Powell now represents the Lincoln Oil Corporation, claiming that the new bridge will cause great damage, and that damage has already been caused by the alleged sinking of the fill. It is not stated in the memoranda that Lincoln Oil Corporation is making a *money* claim, but merely that it is referring to the alleged damages as a reason for refusing to execute a deed. Nor is there anything to suggest that either the claimant or anyone in the Department regarded the agreement as being invalid.

11. On March 1, 1934, James Logan, life-long friend of Senator Powell, was appointed Assistant Engineer of the Highway Department, admittedly after asking the Senator to recommend him for that post, and Senator Powell admitted that:

> "* * * he had been largely instrumental in securing the appointment for him * * *"

12. Shortly after the date of the last memorandum, there was a conference in Garvan's office, at which were present Messrs. Powell, Tripp, Williams (then representing the Lincoln Oil Corporation), Mr. Garvan, counsel, and Mr. Giffin, engineer, representing the Highway Department. Nothing was said about the agreement being invalid, or about any alleged misrepresentation. The discussion concerned a claim of damage alleged to have been sustained by a so-called "mud wave".



13. H. W. Giffin and Frederick C. Claus, experienced engineers, employed by the Department, inspected the property, and Mr. Giffin made a written report, dated March 27, 1934, in which he said that he had been shown photographs indicating that pumps and a tank had been tilted, allegedly by a mud wave, resulting from the settlement of the road fill, but that he could find no evidence of any mud wave, either on the property or near it; that the fill had settled quite uniformly without evidence of cracking or sudden movements, with no lateral displacement or upheaval outside of the road area; that heavy wheel loads on the claimant's property had filled the roadway with cracks, in low places, affecting the stability of the ground; and that the claimant's troubles were not the result of the construction of the highway, but were the result of failure to provide proper and stable foundations for the structures, and the result of truck traffic within the lines of the property. Claus fully concurred in the report, and both engineers testified at the public hearing, that nothing had been brought to their attention to date to change their opinion in the slightest degree.

14. The only other engineering opinion in the Department files is contained in the report dated February 1, 1937, by Frederick L. Pryor, an outside engineer, who was instructed by Mr. Logan to visit the plant (nearly ten years after the highway was elevated), to report as to the alleged damages. Though present at the public hearing, he was not called as a witness in behalf of the Department. In his written report he makes the following introductory statement:

> "In my investigation I have had to *assume* that all the apparent damage was done by the construction of the highway, and its connecting bridge. The evidence is very conclusive that *some* of the damage was done by this construction, and it is possible to *conceive* that *all* of the damage was due to the same cause. * * * I am not sure that the owner's claim that the mis-alignment of the tanks is due to the highway construction, but they do expect to have to relocate them due to the rearrangement of the yard, on account of other mis-alignments. I estimate the cost (of realigning four vertical tanks) at $100."

Mr. Logan and Major Sloan (then Chief Highway Engineer) visited the property, with Senator Powell, sometime after the date of Giffin's report. Senator Powell testified at the hearing that Major Sloan:

> "* * * was not greatly impressed by *our* mud wave claim * * * that the report in his office that he had recently examined indicated that there had not been substantial mud wave damage * * *"

Major Sloan, however, thought the claimant might possibly be entitled to something for damages, if any, suffered by the interference of the wing-wall of the bridge (which had not yet been built), as expressly provided in the agreement. Despite the report of Giffin and Claus that the foundations of the structures were not stable, Mr. Logan stated that he did not know the unit load capacity of the soil on the property, and could have ascertained that only by tests with actual weights, which would have cost about $350, and which he did not cause to be made.

15. In allowing and paying the claim, chief reliance, from the engineering standpoint, was admittedly placed upon the oral opinion of John A. Williams who, at the time he expressed his opinion, was not in the employ of the Highway Department, but was representing the Lincoln Oil Corporation as consulting engineer. Mr. Williams did not, and was apparently not asked to, furnish the department with a written report to support his opinion, but he was called as a witness in behalf of the Highway Department at the public hearing. While he said that the weight of the dirt fill had caused a "mud wave" which had, in turn, caused tilting and cracking of certain of the structures on the property, he admitted that he could not say to what extent the alleged mud wave on the claimant's property had been caused by the *adjacent* fill placed, by agreement, on the property itself, as distinguished from the *more distant* fill (of equal height) of the highway itself. Obviously, even if the claimant had not settled all claims for damages (except for the wing-wall), and even if there had actually been a mud wave, no damages could be collected by reason of a fill placed on one's own property by agreement, and there is no evidence whatsoever as to the extent, if any, of any damage caused by the more remote fill of the highway itself.

16. Nobody could recall the date of the visit of Messrs. Logan, Sloan and Powell to the Lincoln Oil plant, and the subsequent luncheon at the Union League Club in Philadelphia, at which the matter was discussed, but on December 10, 1936, Senator Powell wrote a letter to Logan ("Dear Jim"—marked "Personal"), in which he set forth at considerable length alleged facts and arguments in support of the claim. The letter refers to the agreement of July 25, 1927 as having been made in consideration of the construction of a fill on the claimant's property, and there is no intimation in the letter, that such consideration was not substantial and legal, to support the agreement. Senator Powell sought to avoid the effect of the agreement (under which no damages, except for the wing-wall, could be claimed), by asserting: (a) that the matter had been *misrepresented* by the Highway Department to the Lincoln Oil Corporation, which had sold the company "a bill of goods", and (b) that the *construction plans had been changed*, and (c) that the *mortgagee* had not signed the agreement.



We shall next summarize the evidence bearing on each of those assertions:

(a) As to the alleged *misrepresentation*: Senator Powell's long letter-of-claim, elaborately detailed in other respects, significantly fails to specify the *names* of the particular persons in the Highway Department whom he charged with misrepresentation; a specification which, as a lawyer, he must have known was indispensable to a valid claim. Even on the witness stand Senator (Major-General) Powell, was not able to recall the *name* of a single person in the Highway Department who was alleged to have been guilty of misrepresentation. He recalled the name of Senator Forsythe (now deceased), but admitted that the latter: "* * * had no authority to represent the Highway Department in any way, shape or form; and that nothing he said could have possibly given the claimant any legal rights with respect to annulling the agreement on the grounds of misrepresentation". Mr. Logan testified that he gave no credit and attached no importance to Senator Powell's charge of misrepresentation, and made no investigation of the assertion until recently (long after the $25,000 payment), when Mr. Logan made an investigation and found that *no misrepresentation had been made* by any member of the Department. Messrs. Williams and Giffin (and, at a private hearing, Mr. Sweeney also),

were asked whether they knew, or had heard, of any misrepresentation, and all testified in the negative. It is an elementary rule of law that when a party to an agreement seeks to rescind it, or be relieved of its effect, on the ground that it has been obtained by misrepresentation, he must act *promptly* after learning of the alleged misrepresentation. Senator Powell claimed that his client, *shortly after the agreement was signed,* discovered that it had been obtained by misrepresentation. Yet, as we have stated above, nobody in the Department had even heard of such a claim until it was made in Senator Powell's letter of March 10, 1936 (nine years later), and there is no reference in any of the correspondence or memoranda of any charge of misrepresentation prior to that date. Senator Powell admitted that he could not have successfully maintained any action or proceedings against the State in behalf of the Lincoln Oil Corporation, in the face of the agreement, and that it would not have been practicable to litigate such a charge in the Supreme Court.

(b) As to the alleged *change in the construction plans*: The department records contain a memorandum dated December 11th, 1931 from Charles Levine (department attorney) to Walter H. Bacon, Jr. (his superior), from which the following is quoted:

> "I called Williams (then a Department engineer), of the Camden office, and he informs me that *no change was made in the construction plans or in the work from what was originally intended.* Meeker has checked up the construction plans and he agrees with Williams."

When, on the witness stand, Williams attempted to make it appear that the above memorandum did not correctly quote him, he admitted that at a private hearing he had been shown another memorandum and confirmed the correctness of the following quotation therefrom:

> "Williams claims, and construction plans bear with the claim, no change in construction plans made."

Messrs. Chalmers and Williams both admitted that, assuming the work was done as shown in the plans, the Lincoln Oil Corporation, with proper engineering advice, could, at the time it signed the agreement waiving all claims (except the wing-wall damages), have foreseen all of the alleged damages which were the basis of its subsequent claim.



(c) As to the *original mortgagee,* Mr. Hutchinson: It may be conceded that if the mortgage which was on the property when the agreement was signed, had not been subsequently *cancelled* (in 1929), and if said mortgagee had refused to execute a release of the 8-foot strip and slope rights (as promised by the Lincoln Oil Corporation in the agreement), the original mortgagee, if he moved *promptly,* could have maintained a mandamus proceeding, and eventually collected such damages, if any, as had been sustained by *him* as mortgagee. (It should be noted parenthetically, that the land and buildings, other than the 8-foot strip, afforded ample security for the mortgagee, so that it is difficult to understand how the mortgagee could have established any substantial claim for damages by reason of the highway improvement, even if he had not cancelled his mortgage in 1929.) The original (Hutchison) mortgage, was *cancelled* of record on November 27, 1929. That fact was recorded not only in the County Clerk's office, where it was legal notice to all subsequent purchasers and mortgagees, but in the files of the Highway Department (see memorandum from L. S. Sliker to Edgar Kenney, dated October 29, 1930), where the information was available to Logan and Sterner if they had taken the trouble to find out what was in their own files. Even if the original mortgage had not been cancelled, and the original mortgagee had refused to execute a release, the State could not have substantially suffered, if properly and faithfully represented, because the Lincoln Oil Corporation was financially responsible and could have been held upon its express covenant in the agreement to give an unencumbered title.

As to the *subsequent mortgagee:* The new mortgage to the Girard Trust Company, et al., as executors and trustees of the deceased Bailey, was placed on the property in 1929, when the agreement was a matter of public record, and when the State was in open possession under an agreement which it had fully performed. Entirely apart from the knowledge which the deceased Bailey's son and co-executor had of the agreement, and of all the other material facts, the Girard Trust Company would hardly have made a $25,000 loan on the property without an inspection, which would have disclosed the elevation of the highway, the fill, the taking of the 8-foot strip, etc. Benjamin C. Van Tine, present counsel to the Highway Department,

attempting to find legal justification for the $25,000 payment, in *retrospect,* advanced the ingenious theory that the new mortgagee had been "subrogated" to the rights (as against the agreement) of the original mortgagee, despite the cancellation of the original mortgage without any assignment or subrogation documents, and despite the open possession of the State under the recorded agreement. While, to the Examiner, that theory is an ingenious afterthought, without legal merit, it will suffice here to say that such an idea never entered the heads of either Commissioner Sterner or Mr. Logan or Senator Powell, all of whom admitted that they did not know (until they learned at the hearing) that the original mortgage had been *cancelled,* and that the Department's own records disclosed that fact. They decided that legal question, like the other legal questions, against the State, and in favor of the claimant, without either consulting counsel or investigating the material facts in connection with such legal questions. Senator Powell admitted that the Lincoln Oil Corporation, because of the agreement, could not have succeeded in any suit or proceedings against the State. He said, that, for that reason, the claimant, upon his advice, had solicited from the Girard Trust Company, the new mortgagee, authority to bring mandamus proceedings in its own name. It is evident that the Girard Trust Company was not interested, in its own behalf, and had made no complaint, and had taken no steps whatsoever, for at least eight years, and was satisfied to receive, and did receive, only $5,000 reduction of its mortgage out of the $25,000 paid to the Lincoln Oil Corporation, the balance being received by, or for the account of, a party which admittedly could not have maintained any legal claim. (As to the legal effect of the long lapse of time, see below.)

The evidence of the several items of claim:

1. As to the *claim for the value of the 8-foot strip:* If the agreement was valid the claimant was, of course, not entitled to be paid a second time for the 8-foot strip which it agreed to convey to the State, by an unencumbered title, in consideration of the fill and the adjustment of the wing-wall damages, if any. The only evidence as to the value of the 8-foot strip is found in the three appraisals which were made in 1937. Mr. Holston valued it at $978, Mr. Sweeney at $1,631.50,



and Mr. Chalmers at $1,225. Neither Mr. Holston nor Mr. Chalmers, when instructed by Mr. Logan to make an appraisal in 1937, was told of the agreement, and neither of them knew of its existence until they learned of it in connection with the present investigation. Mr. Sweeney committed suicide the night before he was expected to testify.

2. As to the *claim for the value of the slope rights:* The claimant was not entitled to be paid a second time for that item, either, if the agreement was valid, since the agreement expressly provided that the claimant should convey the slope rights as part of the consideration for the making of a fill to the height of the elevated highway with a surface area of 8,280 square feet (130 x 60 ft.). The respective appraisals of the slope rights (made in 1937, as of 1927) were: Mr. Chalmers $1,800, Mr. Holston $938, and Mr. Sweeney $1,000.

3. As to the *claim of alleged loss of wharf frontage and riparian rights in Mantua Creek:* The agreement expressly provided that the State should "acquire such *riparian rights* along the easterly side of Mantua Creek and north of the highway, as may be required for the construction, maintaining or protection of said bridge". That was part of the consideration which the claimant gave for the fill and the right to claim wing-wall damages, if any. Under the agreement, it was not entitled to be paid a second time for the alleged loss of its riparian rights along the creek. The appraisals for said loss of wharf frontage and riparian rights were: Mr. Sweeney $4,000, Mr. Chalmers $3,100 and Mr. Holston $3,100.

4. As to the *claim for alleged damage to remaining property by reason of the elevation* of the highway: Obviously, unless the original construction plans were changed, the exact height of the elevated highway was known to, or could have been ascertained by, the Lincoln Oil Corporation before it signed the agreement. As we have pointed out above (in para. 18), the Department's records show that *no change was made in the construction plans* or in the work from what was originally intended, and Mr. Claus, one of the Highway Department's engineers, testified that the State faithfully and fully performed its obligation to make the fill as provided in the agreement. The agreement itself expressly recited that the fill on the claimant's prop-

erty was to be "filled to the height of the *new* proposed grade of the road", and that the work was to be done in accordance with a map and "construction plans showing in detail the work to be performed". There was no charge of fraud, and the charge of misrepresentation was not even investigated at the time, though later shown to be without foundation (see para. 17 above). Mr. Chalmers, testifying in defense of the Highway Department, said that the damages included in the fourth item of his appraisal (i. e. alleged damages to the remaining property by reason of the elevation of the highway), could be appraised from the plans, assuming the plans were accurate, and that if the Lincoln Oil Corporation had been properly advised by its lawyers and engineers, from an examination of the plans, the appraisal could have been done contemporaneously. In other words, when the claimant agreed in writing to waive all claims for damages, except for wing-wall interference, it knew that the highway was to be elevated, and could have ascertained from the plans the exact height of the new fill. Major-General Powell admitted that because of the existing agreements the Lincoln Oil Corporation was not in a position to bring court proceedings for the collection of those or any other damages. Mr. Chalmers, the only witness who testified concerning the alleged highway-elevation damages, based his appraisal in part upon a supposed reduction of wholesale and retail sales (which he said he had learned from Mr. Tripp), and in part upon the reduced rental value of the property, due to the elevation of the road. The records of the Lincoln Oil Corporation were not produced, and were admittedly either lost or in Philadelphia beyond the reach of subpoena. As to the *alleged lessening of sales,* Mr. Frank J. Mitchell, plant manager and vice-president of the Lincoln Oil Corporation, testified that, after the highway was elevated, both the retail and wholesale business *went on as before;* and that the sales were not hurt so far as he knew. (The credibility of Mr. Tripp, from whom Mr. Chalmers had obtained his rather vague information, is discussed in a later paragraph.) As to the *rental value:* it was admitted that since 1934 the Lincoln Oil Corporation had been collecting rent for the plant at the rate of approximately $1,000 per month or $12,000 per year, and that the rent had been "totally consistent since then". Mr. Chalmers testified that if there had been no elevation of the highway, the gross rental value would have been probably $6,000 to $6,500 per year, which he said would be "liberal enough". Thus it



appeared, from the Department's only witness on that subject, that the rental value (had there been *no* elevation of the highway), would have been approximately one-half of what it has actually proved to be with the highway elevated.

5. As to the *claim for alleged "mud wave" damages:* We have already referred above in paragraphs 13 and 14, to evidence respecting the alleged "mud wave". The only testimony in support of the claim was that of Mr. Williams who, at the time the claim was made, was representing the Lincoln Oil Corporation, and even Mr. Williams (testifying in defense of the Highway Department), admitted that he could not say to what extent the alleged "mud wave" had been caused by the more remote *highway* fill, and to what extent it had been caused by the wider and nearer fill (of the same height as the highway), which had been placed by agreement on the *claimant's own property.* Thus, even if there had been no agreement, and if the mud wave had actually existed, it is difficult to understand how such a claim could be legally asserted against the highway department. But, under the agreement, all claims for damages were waived, and Mr. Williams testified that if the Lincoln Oil Corporation had employed an engineer to look at the highway plans, and test the soil there, it would have learned of the probability of what actually happened. Mr. Williams went further and said that if the Lincoln Oil Corporation had employed a capable engineer, it would never have signed the agreement, which would seem to narrow the case down to that of a business corporation, ten years after an agreement was signed, asking to be relieved of it, in the absence of fraud or misrepresentation, on the ground that it did not employ an engineer before the agreement was signed. The Examiner is, of course, not qualified to pass upon controversial engineering questions, nor is it necessary to do so. The only engineering reports in the department's own records, concerning the "mud wave" claim, were adverse, and the only engineer who supported the claim, admitted that he could not tell to what extent the alleged damage was caused by the highway fill. It is undisputed, and is a mere matter of arithmetic, that the unit pressure per square foot of claimant's large tank is greater than the unit pressure of the highway fill, a fact cited by Mr. Giffin in saying: "It is hardly conceivable that the road fill could have affected the tank in any way". It is also undisputed that the large

tank tipped toward the river; that it rested on marsh land which had been covered by three different floods prior to 1934; and that the soil had been pushed out at the creek bank. To the lay mind, it seems much more reasonable to accept the disinterested opinion of Messrs. Giffin and Claus, that the large tank and other structures had insufficient support on the marsh land, and that the tilting was due to their own weight and pressure rather than the weight and pressure of the remote highway fill. While Mr. Frank J. Mitchell, Vice President and Plant Manager of the Lincoln Oil Corporation, said the company had trouble with the tanks settling and being disturbed from the perpendicular, he said he had no idea as to what caused that condition.

6. As to the *floods:* It is undisputed that there was an exceptionally severe flood covering the property in 1933, and that there had been two earlier floods there also covering the property during the three or four years previous. Mr. Giffin, one of the highway engineers, testified that if there were a raging torrent over the property, tons and tons of water moving at a rapid rate, it would undoubtedly have had a bearing on the question of what caused the disturbance of the heavy tanks and other structures. Mr. Frank J. Mitchell, claimant's plant manager, testified that the flood in 1933 was caused by the *breaking down of the railroad embankment;* that the water from the creek which was very high, came through the embankment at a *great speed with lots of power,* and covered the plant with lots of water in a short time, and finally became high enough to cover the new highway; that there was an exceptionally high tide and a *storm* at the same time; that four 20,000 gallon tanks were washed away and floated away off the property, and were recaptured by men in motorboats employed for that purpose, who lassoed them with ropes in a "sort of maritime rodeo". Confirming testimony was given by district engineer of the Pennsylvania Railroad, by a newspaper reporter, and by the town clerk, who lost seventeen dwelling houses as a result of the same flood on the property immediately adjoining the Lincoln Oil Corporation's property on the same side of the creek. He testified also, that there had been two previous, less destructive, floods, which had covered the land at that point with water, but had not been deep enough to submerge his houses, which were set on piles.



7. As to the claim that damages were sustained by an *alleged change in the construction plans:* (The evidence has been summarized in paragraph 18 above).

8. As to the *contention that the fill did not constitute a substantial consideration:* The only representative of the highway department who has advanced such a legal theory in support of the ignoring of the agreement is James Logan, who was promoted to Highway Engineer shortly after the receipt of Senator Powell's letter. Mr. Logan testified that he told Commissioner Sterner that he (Logan) "considered the agreement to be no good because it was a dollar agreement", and that he told Commissioner Sterner that the then estimated cost of the fill was $2,017. While Commissioner Sterner testified that he did not recall that conversation, and did not in his formal minutes specify any grounds for rescinding the agreement, it may be assumed that he concurred in Mr. Logan's lay pronouncement on that legal question. No other representative of the department has concurred in Logan's view that the agreement was a "dollar agreement" without substantial consideration. Mr. Van Tine admitted that there was nothing in the files of the highway department to indicate that any of the department attorneys had ever expressed such an opinion. On the contrary, Messrs. Garvan, Adler, Levine, Saltzman and Bacon, department attorneys, and Mr. Vollmer, title officer, had all written letters or made memoranda necessarily implying that the agreement was legally valid and that specific performance was a proper procedure. As a matter of fact, it would be impossible to find any reputable attorney who would be willing to state that a covenant to make a fill, at an estimated cost of $2,017, is not a substantial consideration. It is interesting to note that no such claim was made by Senator Powell in his claim-letter of December 10, 1936, in which he expressly stated that the "agreement had been made in consideration of $1 *plus the consideration of a fill* on the grantor's property", and that he admitted on the witness stand that the fill constituted a substantial consideration. Mr. Logan properly "gave no credit" to Senator Powell's charge that the agreement was void because it had been obtained by misrepresentation, and justified his ignoring of the agreement by the contention (not made even by Senator Powell himself), that the agreement was a "dollar agreement" which was invalid for lack of consideration.

9. As to the alleged *lack of department counsel:* Mr. Van Tine, attempting to justify the transaction in retrospect, and excuse the admitted failure of Commissioner Sterner and Mr. Logan to consult counsel before depriving the State of the benefit of a ten-year-old agreement, which the State had fully performed, testified that in 1937 "there was no responsibility upon anybody whatsoever to consult with state highway counsel", and that "in 1937 the legal department was *just an appendage".* Senator Powell, on the other hand, who professed familiarity with the organization and personnel of the highway department, said that he did not think the highway department *had ever been without counsel,* and that he had previously discussed this very claim with several different lawyers of the department, including Messrs. Bacon, Garvan, Saltzman, Levine and Van Tine. Besides the numerous department lawyers, there were abundant records in the department's legal files showing that the original mortgage had been cancelled in 1929; that the claimant had not even claimed that the agreement was invalid (until after Senator Powell had been retained), but asked merely that the deed conform to the agreement, and that the various department lawyers were necessarily implying the legal validity of the agreement by recommending specific performance.

10. As to the possibility that the *legislature* might have intervened in the Lincoln Oil case to require the payment of the claim: While at times Mr. Van Tine has attempted to justify the payment on the ground that the claim was a just claim and that it would be "picayune" for the State to take refuge behind such "technicalities" as the written agreement and the statute of limitations, at other times he and his legal associates have attempted to show that the highway department was confronted with a dangerous *legal* situation which made it advisable to pay $25,000 for fear the State would be legally coerced into paying some still larger sum. In the latter connection, Mr. Saltzman, a department lawyer, testifying in defense of the highway department, stressed the fact that the *legislature* might have "permitted the Lincoln Oil Corporation to bring an action against the State in spite of the agreement existing". He admitted, however, that if the legislature had thus specially intervened in behalf of the Lincoln Oil Corporation, it alone would have taken the responsibility, and the highway department would then have been relieved from the responsibility of



resolving all the legal questions (without consulting counsel), against the State of New Jersey. It may also be noted that if it is conceivable that the legislature would have intervened in this case, as Mr. Saltzman feared it might, it would certainly have required that the factual and legal merits of the claim be first submitted to an impartial tribunal.

11. As to the *lapse of time:* It was conceded that neither the Lincoln Oil Corporation nor either of the mortgagees could have brought an action at law against the State or against the highway department, to collect the damages, *at any time.* It was also conceded by Major-General Powell that because of the existing agreement, the Lincoln Oil Corporation was not even in a position to sue out a writ of mandamus to compel condemnation proceedings. That left, as the only remaining possibility of legal action in support of the claim, a mandamus proceeding in behalf of the new mortgagee, to compel condemnation proceedings with respect to its own interest (acquired subsequent to, and subject to, the agreement and the rights of the State thereunder). Assuming (but not conceding), that the new mortgagee had any rights whatsoever superior to the rights of the State of New Jersey under the agreement, its rights were, of course, limited by the statute of limitations or adverse possession: i. e. *twenty* years as to the taking of the eight-foot strip (valued at from $938 to $1,631.50), and *six* years as to all the claims for property damages, which would include every other claim asserted, with the single exception of the value of the eight-foot strip itself. While the department counsel have not conceded that the 6-year statute of limitations alone would have barred the collection of all damage claims, Mr. Van Tine plainly indicated that it would have been "picayune" and ignoble of the highway department to take refuge behind such a technicality, even if it could have done so, in which view Commissioner Sterner and Mr. Logan (being expressly asked at the hearing), unqualifiedly and publicly concurred. That amounted to a public announcement that if, in the opinion of the Commissioner, a claim against the State is "just", he will accept the responsibility for failing to plead the statute of limitations, or claim for the State the benefit of a formal written agreement which the State has fully performed.

12. As to the *testimony of claimant's president, Harvey H. Tripp:* The highway department counsel, by plain implication, repudiated this witness in advance, as well as Major-General Powell, by saying:

> "I might say for the sake of the record that these witnesses have *asked* to be heard. We are going to present them and let them tell their stories, after which, you may have the witness cross examined. *We don't intend to examine these men on any phase of the case* * * *."

It was soon apparent why the highway department counsel preferred not to place the stamp of his approval on Mr. Tripp, who consumed many hours, and 290 pages of testimony (including exhibits), in a circumstantial history of claimant's alleged troubles with the highway department. While he testified to numerous oral complaints which, singularly, did not get into the written correspondence, his testimony made it clear, that whatever the troubles were, they were fully known to the Lincoln Oil Corporation shortly after the highway was improved in 1927, and that for over seven years (until Senator Powell was retained), no money claim for damages was made against the department. The correspondence between the claimant and the department was produced from the highway files. Mr. Tripp did not produce any of the corporation's books or records to support his claims, and was vague on the question of loss of sales, profits, etc. He said many of the company's books had been lost, just as had occurred when the company was brought to trial in 1935 on a charge of falsifying its gasoline tax returns. He admitted that since 1934 the plant has been rented consistently for approximately $12,000 per annum, about twice the rental value which the property would have had if the highway had not been elevated (as testified to by Mr. Chalmers, the department's only expert witness on that subject). Mr. Tripp narrated voluminously the alleged disturbances to the tanks and other structures on the property, but, in so far as he attempted to ascribe those disturbances to an alleged "mud wave", and to ascribe the alleged "mud wave" to the highway fill (as distinguished from the Lincoln Oil Corporation fill), he was obviously speaking without expert knowledge, and with a strong partisan bias. In fact, he admitted that as Treasurer of the company, he had signed and sworn to all but one of a series of gasoline tax returns, for which Lincoln Oil Corporation was



indicted and convicted on a charge of wilful and malicious falsification. Department counsel argued strenuously against showing in evidence, as bearing on the credibility of the treasurer of a corporation, a conviction of the corporation itself on a charge of wilful and malicious falsification of records over which he had supervision, because of the alleged fact (as originally testified to by Mr. Tripp), that Mr. Tripp had not personally signed the sworn statements, but he had merely supervised their preparation. Later in the hearing, Mr. Tripp was confronted with the sworn statements themselves, all but one of which bore his own signature under oath. The conviction of the Lincoln Oil Corporation was, in the Examiner's opinion, relevant on the additional point that Senator Powell, who admittedly was not the trial counsel in the criminal case, had used his senatorial influence and senatorial stationery, in a letter to the county prosecutor, confirming previous oral conversations, for the purpose of obtaining postponements of the trial on the alleged ground of the senator's preoccupation with senatorial duties, thus furnishing additional confirmation of the plain inference that Senator Powell was willing to exercise, and the Lincoln Oil Corporation was willing to accept, political influence in private litigation.

13. As to the *conflict between the testimony of Senator Powell and Benjamin C. Van Tine*: Mr. Van Tine took the witness stand and made a long statement, attempting to justify in *retrospect*, the payment of $25,000 to the Lincoln Oil Corporation in violation of a written agreement which the State had fully performed, and under which it had been in possession for a period of ten years. While he conceded that Messrs. Sterner and Logan undertook, without consulting counsel or the department's legal records, to decide all legal questions against the State, he said he thought they should be judged in the light of the legal blessing which he himself thereupon undertook to pronounce, upon the transaction, *in retrospect*. He testified that he knew nothing of the transaction at the time, and had nothing to do with it. Senator Powell said he had discussed the matter with Mr. Van Tine, and on July 13, 1934, stated in a *letter* to the Department: "I have had a *number of conferences with Mr. Van Tine* of the legal department (who I understand is now out), and with the engineers having the matter in charge. We have been unable to bring the matter to any conclusion." Upon being confronted with Major-

General Powell's testimony and letter, Mr. Van Tine said: "I said under oath and I repeat under oath, I never remember discussing this case." The Examiner has no means of knowing whether Major-General Powell's testimony and letter state the facts correctly, or Mr. Van Tine's testimony. In either case it is clear that whether or not Mr. Van Tine was discussing and resisting the claim before the money was paid, the lawyers who were actually in charge of the matter at the time took an opposite view as to the merits of the claim from the view which Mr. Van Tine now expresses, viewing, or purporting to view, the matter *"in retrospect"*.

14. As to the alleged *difficulty of obtaining a decree of specific performance*: One of the contentions chiefly relied upon by the department to justify the transaction was the contention that it would have been difficult, if not impossible, for the State to prevail in a suit for the specific performance against Lincoln Oil Corporation of its covenant to deliver an unencumbered deed to the State. Since it was admitted that the State's obligation to make a fill was a substantial consideration, and since it was admitted that Senator Powell's assertion that the agreement had been obtained by misrepresentation was false, the only remaining grounds for contending that specific performance could not be had were (1) because the original mortgagee did not sign the agreement, (2) because the original construction plans had been changed, and (3) because the bridge was not built until 1937 and the court would not know how much to allow Lincoln Oil Corporation for wing-wall damages. As we have already pointed out, the original mortgage had been cancelled, and the Department's own records showed that the construction plans had *not* been changed, and the department's own expert, Mr. Chalmers, testified that the wing-wall damages were so insignficant that he did not even mention them in his appraisal. Thus, in the opinion of the Examiner, there was no serious obstacle to obtaining a deed by means of suit for specific performance. But that question also is, in the Examiner's opinion, of no materiality or importance, because there was evidently no reason seriously urged by the department, why it was *necessary* for the State to obtain a deed from the Lincoln Oil Corporation. It is conceded that the State was already in possession, had been there for ten years under a recorded instrument, which it had fully performed,



and could not possibly have been ousted by any legal proceeding whatsoever. The only possible reason for wanting a deed was the entirely commendable one of preferring to have the records in ship-shape order. But that did not furnish any reason why the State should pay out any *money* or go to any substantial litigation expense, in its efforts to get a deed which, under the circumstances, would have been a mere empty ceremony. Countering the foregoing observation, department counsels argued that the mere fact that repeated letters were written by department counsel to the Lincoln Oil Corporation, from 1928 to 1934, demanding a deed, and threatening specific performance, was evidence that a deed was necessary; and that the fact that the department never did actually start a suit for specific performance was evidence that there was some unsurmountable legal difficulty which limited its action to threats, without actually starting suit. The obvious answer, however, is that department counsel must have appreciated, confirming our own view, that while it would be nice to get a deed to keep the records orderly and ship-shape, and although the State was clearly entitled to a deed, and would have prevailed in a suit for specific performance, the deed was not really worth the effort and expense of bringing a suit for specific performance, and that is why no such suit was actually brought, even though the department counsel evidently regarded the agreement as valid, and believed that such a suit would be successful if brought. It is significant. in that connection, that the only letters received from the Lincoln Oil Corporation in response to repeated demands for a deed and repeated threats for specific performance, based the failure to execute a deed, first on the fact that the papers had been mislaid, and second, on the fact that the profferred deed was not in the exact form called for in the agreement. It is significant that the Lincoln Oil Corporation did not demand, until after Senator Powell was retained, or indicate in any letter, that the agreement was invalid, or that the State was not entitled to a deed.

15. As to *Commissioner Sterner's responsibility in the Lincoln Oil Corporation case:* While there is some vagueness and conflict of testimony as to exactly which of the relevant facts (above outlined) were personally known to Commissioner Sterner before he rescinded the 1927 agreement and authorized the $25,000 payment, the Commissioner admits that he knew there had been an original agreement with the owner in which: "we were to make certain fills upon his property";

that he presumed the agreement was on the department's regular form; and that he and Logan discussed the entire case and the items of damage, but did not discuss the legality of the agreement. Mr. Logan testified that Commissioner Sterner must have known of the agreement because the minutes show that the agreement was rescinded by Commissioner Sterner; that Mr. Logan told the Commissioner that he (Logan) considered the agreement was no good, but did not mention the fact that it called for a substantial fill on the property (though as pointed out above, the Commissioner was aware that it did). Senator (Major-General) Powell testified that he had discussed the matter with Commissioner Sterner and told him of the alleged misrepresentation, and Commissioner Sterner testified that Mr. Logan had told him that Senator Powell had claimed that the matter had been originally misrepresented to the Lincon Oil Corporation. Thus, Commissioner Sterner knew not only that the claimant was being represented by an influential State Senator, who had procured the appointment of the very subordinate upon whose advice he was relying, but also that an attempt was being made to deprive the State, at a cost of $25,000, of the benefit of an agreement on a charge of misrepresentation. The Commissioner also testified that he knew the State had been in possession for ten years under the agreement, and had performed the agreement by putting in the fill. Nevertheless, he rescinded the agreement and paid out $25,000 without asking for the opinions or reports of the department lawyers and engineers as to the legal and engineering merits of the claim, and without even investigating the charge of misrepresentation (which Mr. Logan said was later shown to be unfounded). If, and to the extent, that Commissioner Sterner lacked knowledge of any of the relevant facts, it was because he deliberately closed his eyes and failed to avail himself of information and advice that was conveniently available to him in the records and personnel of his own department. A different situation, in the opinion of the Examiner, would have existed if the rescinding of the agreement and the payment of the money had been acts within the jurisdiction of Mr. Logan, and done by Mr. Logan without the knowledge of his superior. But an act which was exclusively within the jurisdiction and power of the Commissioner himself, and which deprived the State of New Jersey, at a cost of $25,000, of the benefit of an agreement of ten years' standing, was an act for which the Commissioner must accept the full responsibility.



## III

### Misuse of the Power of Employment and Promotion of Personnel.

At a public hearing the fact was disclosed that no less than 398 of the clerical and technical employees of the highway department in the maintenance division were, at that time, carried on the certified payroll as "laborers", under which designation their employment, discharge, and promotion would be exclusively a matter for the control and discretion of the commissioner and the politicians, and the State deprived of such assurance of their competency as would be afforded by Civil Service classification and examination. The effort of department counsel to shift the responsibility for that state of affairs to the shoulders of the Civil Service Commission was unconvincing to the Examiners, particularly in view of the fact that those persons who have effectually controlled the destinies of the highway department have never found difficulty in obtaining any legislation that suited their purpose, including tenure of office for those upon whom their light has shone. With power goes responsibility and the responsibility for the false designation of those employees, and the resulting opportunity for political control of their positions, falls squarely upon those (whoever they may be) who effectually control the highway department.

Details concerning the manner in which the power of employment, discharge and promotion has been used will be found in Part II of this preliminary report.

## IV

### Administrative Study.

In order to better understand the functions and operations of the New Jersey State Highway Department, it was decided early in the investigation to conduct a purely administrative and organizational study of the department which would run concurrently with the rest of the examination.

This survey was to cover the complete operation of each division of the department. A tentative syllabus prepared at the start of the study under the direction of Mr. Sidney Goldmann, contemplated the following matters:

I. History of the State Highway Department.

II. The Place of the Department in the Administrative System of the Government of the State of New Jersey.

III. The Organization of the Department.

IV. The Work of the Department.

V. Personnel.

VI. Finance.

VII. The Rule-Making Powers of the Commissioner.

VIII. The Quasi-Judicial Functions of the Commissioner.

IX. The Department and the Courts.

As the study progressed, this tentative outline was modified in several respects. On the whole, the content of the survey remains about the same, except for the subdivision relating to "Personnel", in which case the lack of available trained researchers and limitations of time required a modification of the detailed personnel study first planned.

It is planned to use this survey as a basis for certain recommendations concerning the organization and administration of the highway department and its relation with other departments of the State government. It is hoped that the recommendations will lead to a more efficient, integrated and smoothly working unit of government.

The study has been carried forward by Mr. Goldmann and Thomas J. Graves, of the New Jersey Chamber of Commerce. To date they have conferred at length with the heads of the several divisions of the highway department, as well as their chief assistants. These conferences, covering the Administrative, Legal, Plans and Surveys, Construction, Maintenance, State Aid Projects, Electrical, Equipment and Laboratory Divisions, were completed October 24, 1941. While these conferences were in progress, collateral studies were made of the finances and operation of the department as these facts are reflected in the



annual reports and budgets of the department as well as in other publications. They also have examined such material as exists concerning past studies of the highway department, and consulted recent reports of the highway departments of certain other states as well as the few volumes that have appeared on the subject of highway administration and organization.

Over 100 persons, whether division heads or otherwise, have been consulted in the course of the conferences held during the past three months with respect to the administration and organization of the department. During the entire course of these conferences we have met with uniform courtesy and cooperation.

At the date of this preliminary report, neither the Commissioner nor Mr. Logan have had the opportunity to refute or explain the testimony above summarized (except in the Lincoln Oil case). Every statement herein is a reference to testimony or documents, and in no instance based upon the personal knowledge of the examiners.

Respectfully yours,

ROGER HINDS.

# ACCOUNTANT'S REPORT ON EXAMINATION OF RIGHTS-OF-WAY ACQUISITIONS

## IN CONNECTION WITH INVESTIGATION OF

## NEW JERSEY STATE HIGHWAY DEPARTMENT

*Conducted by*

MR. ROGER HINDS, *Governor's Examiner*

# HIGHWAY DEPARTMENT INVESTIGATION

## CONTENTS






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JULIUS E. FLINK, C. P. A.
FREDERICK CEZER, C. P. A.


November 5, 1941

Mr. Roger Hinds, Governor's Examiner
into the Affairs and Management of
the New Jersey State Highway Department,
under Executive Order #2
Trenton, New Jersey

Dear Sir:

In accordance with your request, we have made an examination of a tabulation and classification prepared by your staff of certain cases pertaining to acquisitions of rights-of-way by the New Jersey State Highway Department. Such tabulation and classification purported to give expression to a comparison in aggregate of rights-of-way acquired by the New Jersey State Highway Department from:

Class I—Unrepresented Owners (Other Than Those in Class IV).

Class II—Owners represented by Attorneys or Agents without known political connections.

Class III—Owners represented by Non-Lawyer Agents.

Class IV—Contractors and other persons having other business relations with the State Highway Department.

Class V—Owners represented by Attorneys identified in politics.

Class VI—Owners represented by lawyers who are not now members of the Legislature but who have been during Commissioner Sterner's administration.

Class VII—Owners represented by members of the present Legislature.

For this purpose, the total of prices paid for the acquisition of all rights-of-way was compared with (1) the total of the averages of all appraisals made and with (2) the total of appraisals made by Highway Department appraisers. The information upon which such computations were made, was obtained by your staff by an inspection of the title files of the State Highway Department and transcribed upon forms to which reference was made in the course of our examination.

The tabulation confined itself to settlements closed during the administration of Commissioner Sterner without resort to condemnation proceedings and for which the consideration paid by the State Highway Department amounted to $2,000.00 or more.

For the purpose of this tabulation, you have defined representation on behalf of an owner as meaning the appearance of any attorney or agent on behalf of or for the benefit of the owner at any time prior to the payment of the purchase price.

### Scope of Examination

In making our examination of the tabulation and classification prepared by your staff, we have made use of the following:

1. Transcripts of data and information disclosed by your staff in examination of title files of the State Highway Department.
2. Stenographic transcripts of testimony taken during hearings in this cause upon direct and cross-examination of Mr. C. Thomas Schettino, member of your staff.

Within the scope of this examination, revisions and corrections of your original tabulation have been made in every instance where the testimony showed the necessity therefor. Where the classification was disputed, we have given reflection to the contention of counsel for the Highway Department without passing upon the validity of such contention, but within the scope of the definition of representation on behalf of an owner, as referred to above.

Corrections resulted in the elimination of 57 cases by admission of Mr. Schettino and 97 cases by allegation of counsel for the Highway Department. The latter were cases involving consideration in addition to cash which were originally placed in Classes I, II, and III. Mr. Van Tine alleged that other cases involving consideration in addition to cash appear in Classes IV, V, VI, and VII, but since they were not identified, corrections if justifiable, could not be reflected in the revised tabulation. However, if such cases are included in this tabulation, the effect of the inclusion is such as to give expression to purchase prices less than actual. Consequently, the resultant revised percentages expressed in Classes IV, V, VI, and VII are less than what would be reflected with additional consideration.

Public hearings were held in which witnesses other than Mr. Schettino testified as to the facts concerning certain cases of rights-of-way acquisitions. The evidence presented in these hearings disclosed additional information relating to appraisals and purchase prices. The revisions contained in our report give no cognizance to the evidence so disclosed.

To give expression to such revisions or corrections made necessary by our findings, we have prepared and submit herewith the accompanying Summaries and Schedules. The results therein reflected are compared with the results of the original tabulation prepared by your staff in the summary which follows:



| | No. of Cases | Percentage of Price Paid to Average Appraisal | Percentage of Price Paid to Department Appraisal |
|---|---|---|---|
| **CLASS I** | | | |
| Original | 228 | 94.73 | 97.02 |
| Revised | 151 | 100.44 | 103.39 |
| **CLASS II** | | | |
| Original | 229 | 101.96 | 105.47 |
| Revised | 81 | 108.86 | 110.07 |
| **CLASS III** | | | |
| Original | 92 | 112.54 | 126.32 |
| Revised | 75 | 107.86 | 119.34 |
| **CLASS IV** | | | |
| Original | 36 | 122.86 | 123.23 |
| Revised | 28 | 105.98 | 124.01 |
| **CLASS V** | | | |
| Original | 103 | 119.26 | 132.34 |
| Revised | 191 | 113.90 | 124.09 |
| **CLASS VI** | | | |
| Original | 60 | 119.22 | 124.49 |
| Revised | 49 | 111.24 | 122.87 |
| **CLASS VII** | | | |
| Original | 101 | 122.75 | 133.54 |
| Revised | 90 | 117.14 | 127.75 |
| **TOTAL NUMBER OF CASES** | | | |
| Original | 849 | | |
| Revised | 665 | | |

The original tabulation by your staff was based upon a total number of 849 cases. Of this number, 30 cases were included which represented duplicate examination of title files. The total number of cases, therefore, taken into account for purposes of this revised tabulation was 819. Of this number, there were eliminated a total of 57 cases by admission in testimony given and 97 cases representing rights-of-way acquisitions for which, it was alleged by Mr. Van Tine, consideration in addition to money had been given. After such eliminations, there were 665 cases remaining in the revised tabulation.

Upon your request, we shall be pleased to amplify any phase of this report.

Very truly yours,

JULIUS E. FLINK & CO.,
Julius E. Flink,
Certified Public Accountant.

## SUMMARY OF NUMBER OF CASES

| | Given in Testimony | Omitted by Witness | Duplicated by Witness | Net Amount |
|---|---|---|---|---|
| Class I | 227 | 3 | 1 | 229 |
| II | 233 | 1 | 1 | 233 |
| III | 82 | 3 | . | 85 |
| IV | 28 | 1 | 1 | 28 |
| V | 101 | . | . | 101 |
| VI | 48 | 1 | . | 49 |
| VII | 96 | 1 | 3 | 94 |
| Total | 815 | 10 | 6 | 819 |

## RECAPITULATION OF NUMBER OF CASES GIVEN IN TESTIMONY

| | |
|---|---|
| Original tabulation by Examiner's Staff | 849 |
| Less: Omissions by Witness in testimony | 10 |
| | 839 |
| Less: Duplications in Examination of Files | 30 |
| | 809 |
| Add: Duplicated by Witness in testimony | 6 |
| Total given in testimony | 815 |



## CLASS I

## UNREPRESENTED OWNERS (OTHER THAN THOSE IN CLASS IV)

| | No. of Cases | Appraisals Average | Appraisals Dept's | Paid | Percentage of Prices Paid to Average | Percentage of Prices Paid to Dept. |
|---|---|---|---|---|---|---|
| Original Tabulation per Testimony | 227 | $1,366,288.00 | $1,353,458.00 | $1,324,780.00 | 96.96 | 97.88 |
| Omitted by Witness (Schedule 1) | 3 | 21,248.00 | 20,030.00 | 14,072.00 | | |
| | 230 | $1,387,536.00 | $1,373,488.00 | $1,338,852.00 | | |
| Less: Duplications (Schedule 2) | 1 | 10,425.00 | 11,806.00 | 10,250.00 | | |
| | 229 | $1,377,111.00 | $1,361,682.00 | $1,328,602.00 | | |
| Admitted on Cross-Examination to be Excludible (Schedule 3) | 31 | 199,307.00 | 206,282.00 | 154,263.00 | | |
| | 198 | $1,177,804.00 | $1,155,400.00 | $1,174,339.00 | 99.70 | 101.63 |
| Alleged by Van Tine to be excludible (Schedule 11) | 47 | 326,507.00 | 328,344.00 | 319,259.00 | | |
| Totals | 151 | $851,297.00 | $827,056.00 | $855,080.00 | 100.44 | 103.39 |

## CLASS II

## OWNERS REPRESENTED BY ATTORNEYS OR AGENTS WITHOUT KNOWN POLITICAL CONNECTIONS

| | No. of Cases | Appraisals | | Price Paid | Percentage of Prices Paid to | |
|---|---|---|---|---|---|---|
| | | Average | Dept's | | Average | Dept. |
| Original Tabulation per Testimony ..... | 233 | $1,550,320.00 | $1,510,798.00 | $1,644,787.00 | 106.09 | 108.87 |
| Omitted by Witness (Schedule 1) ..... | 1 | 5,050.00 | 4,674.00 | 3,500.00 | | |
| | 234 | $1,555,370.00 | $1,515,472.00 | $1,648,287.00 | | |
| Less: Duplications (Schedule 2) ..... | 1 | 9,142.00 | 5,930.00 | 7,500.00 | | |
| | 233 | $1,546,228.00 | $1,509,542.00 | $1,640,787.00 | | |
| Class II should be Class V per testimony (Schedule 4) ..... | 120 | 782,077.00 | 775,074.00 | 852,803.00 | | |
| | 113 | $764,151.00 | $734,468.00 | $787,984.00 | | |
| Other corrections per testimony (Schedule 5) ..... | *15* | *82,890.00* | *61,059.00* | *59,983.00* | | |
| | 98 | $681,261.00 | $673,409.00 | $728,001.00 | 106.86 | 108.11 |
| Alleged by Van Tine to be Excludible (Schedule 12) ..... | 17 | 184,284.00 | 181,885.00 | 186,990.00 | | |
| Totals ..... | 81 | $496,977.00 | $491,524.00 | $541,011.00 | 108.86 | 110.07 |

NOTE—Figures in italics red in original throughout.



## CLASS III

## OWNERS REPRESENTED BY NON-LAWYER AGENTS

| | No. of Cases | Appraisals | | Prices Paid | Percentage of Prices Paid to | |
|---|---|---|---|---|---|---|
| | | Average | Dept's | | Average | Dept. |
| Original Tabulation per Testimony ..... | 82 | $503,412.00 | $462,804.00 | $549,761.00 | 109.21 | 118.79 |
| Omitted by Witness (Schedule 1) ..... | 3 | 17,382.00 | 17,813.00 | 19,975.00 | | |
| | 85 | $520,794.00 | $480,617.00 | $569,736.00 | | |
| Corrections per Testimony (Schedule 6).. | *6* | *32,529.00* | *35,079.00* | *37,634.00* | | |
| | 79 | $488.265.00 | $445,538.00 | $532,102.00 | 108.98 | 119.43 |
| Alleged by Van Tine to be Excludible (Schedule 13) ..... | 4 | 28,978.00 | 30,427.00 | 36,700.00 | | |
| Totals ..... | 75 | $459,287.00 | $415,111.00 | $495,402.00 | 107.86 | 119.34 |

## CLASS IV

## CONTRACTORS AND OTHER PERSONS HAVING OTHER BUSINESS RELATIONS WITH THE STATE HIGHWAY DEPARTMENT

| | No. of Cases | Appraisals | | Prices Paid | Percentage of Prices Paid to | |
|---|---|---|---|---|---|---|
| | | Average | Dept's | | Average | Dept's |
| Original Tabulation per Testimony ..... | 28 | $494,251.00 | $447,488.00 | $545,398.00 | 110.35 | 122.23 |
| Omitted by Witness (Schedule 1) ..... | 1 | 13,866.00 | 10,129.00 | 20,000.00 | | |
| | 29 | $508,117.00 | $457,617.00 | $565,398.00 | | |
| Less: Duplication (Schedule 2) ..... | 1 | 2,379.00 | 1,389.00 | 5,100.00 | | |
| | 28 | $505,738.00 | $456,228.00 | $560,298.00 | | |
| Corrections per Testimony (Schedule 7).. | *0* | *50,339.00* | *67,090.00* | *77,719.00* | | |
| Totals ..... | 28 | $455,399.00 | $389,138.00 | $482,579.00 | 105.98 | 124.01 |

## CLASS V

### OWNERS REPRESENTED BY ATTORNEYS IDENTIFIED IN POLITICS

| | No. of Cases | Appraisals Average | Appraisals Dept's | Prices Paid | Percentage of Prices Paid to Average | Percentage of Prices Paid to Dept's |
|---|---|---|---|---|---|---|
| Original Tabulation per Testimony ..... | 101 | $1,035,431.00 | $910,653.00 | $1,155,018.00 | 111.55 | 126.83 |
| Class II should be V per testimony (Schedule 4) ..... | 120 | 782,077.00 | 775,074.00 | 852,803.00 | | |
| | 221 | $1,817,508.00 | $1,685,727.00 | $2,007,821.00 | | |
| Other corrections per Testimony (Schedule 8) ..... | *2* | *2,134.00* | *8,755.00* | 38,266.00 | | |
| | 219 | $1,815,374.00 | $1,676,972.00 | $2,046,087.00 | 112.71 | 122.01 |
| Alleged by Van Tine to be Excludible (Schedule 14) ..... | 28 | 195,112.00 | 189,772.00 | 200,520.00 | | |
| Totals ..... | 191 | $1,620,262.00 | $1,487,200.00 | $1,845,567.00 | 113.90 | 124.09 |

## CLASS VI

### OWNERS REPRESENTED BY LAWYERS WHO ARE NOT NOW MEMBERS OF THE LEGISLATURE BUT WHO HAVE BEEN DURING COMMISSIONER STERNER'S ADMINISTRATION

| | No. of Cases | Appraisals Average | Appraisals Dept's | Prices Paid | Percentage of Prices Paid to Average | Percentage of Prices Paid to Dept's |
|---|---|---|---|---|---|---|
| Original Tabulation per Testimony ..... | 48 | $386,382.00 | $375,558.00 | $437,892.00 | 113.33 | 116.59 |
| Omitted by Witness (Schedule 1) ..... | 1 | 15,668.00 | 10,471.00 | 25,500.00 | | |
| | 49 | $402,050.00 | $386,029.00 | $463,392.00 | | |
| Corrections per Testimony (Schedule 9).. | 0 | 40,731.00 | 14,848.00 | 29,150.00 | | |
| Totals ..... | 49 | $442,781.00 | $400,877.00 | $492,542.00 | 111.24 | 122.87 |



## CLASS VII

### OWNERS REPRESENTED BY MEMBERS OF THE PRESENT LEGISLATURE

| | No. of Cases | Appraisals Average | Appraisals Dept's | Prices Paid | Percentage of Prices Paid to Average | Percentage of Prices Paid to Dept's |
|---|---|---|---|---|---|---|
| Original Tabulation per Testimony ..... | 96 | $1,039,879.00 | $944,603.00 | $1,229,202.00 | 118.21 | 130.13 |
| Omitted by Witness (Schedule 1) ..... | 1 | 25,064.00 | 26,000.00 | 26,100.00 | | |
| | 97 | $1,064,943.00 | $970,603.00 | $1,255,302.00 | | |
| Less: Duplications (Schedule 2) ..... | 3 | 33,945.00 | 29,117.00 | 46,590.00 | | |
| | 94 | $1,030,998.00 | $941,486.00 | $1,208,712.00 | | |
| Corrections per Testimony (Schedule 10) | *3* | *75,520.00* | *64,710.00* | *89,378.00* | | |
| | 91 | $955,478.00 | $876,776.00 | $1,119,334.00 | 117.15 | 127.66 |
| Alleged by Van Tine to be Excludible (Schedule 15) ..... | 1 | 2,264.00 | 2,744.00 | 2,750.00 | | |
| Totals ..... | 90 | $953,214.00 | $874,032.00 | $1,116,584.00 | 117.14 | 127.75 |

**Schedule 1**

## TESTIMONY CORRECTIONS

### DUPLICATIONS INCLUDED IN TESTIMONY

| Sheet No. | Case No. | File No. | Class | Appraisals Average | Appraisals Depts. | Price Paid | Refer to Case No. | Testimony Page |
|---|---|---|---|---|---|---|---|---|
| 1 | 362 | 2723-83 | IV | $ 2,379.00 | $ 1,389.00 | $ 5,100.00 | 592 | 1140 & 941 |
| 1 | 363 | 2706-830 | VII | 23,003.00 | 19,330.00 | 33,500.00 | 185 | 942 & 1198 |
| 1 | 364 | 2706-755 | VII | 5,280.00 | 5,712.00 | 6,200.00 | 648 | 943 & 1319 |
| 10 | 218 | 2706-781 | II | 9,142.00 | 5,930.00 | 7,500.00 | 674 | (9/26) 2 |
| 10 | 219 | 2706-816 | I | 10,425.00 | 11,806.00 | 10,250.00 | 673 | (9/26) 2 |
| 10 | 217 | 2706-738 | VII | 5,662.00 | 4,075.00 | 6,890.00 | 675 | 1308 |
| Totals ..... | | | | $55,891.00 | $48,242.00 | $69,440.00 | | |

### SUMMARY

| | | | |
|---|---|---|---|
| Class I (1) ..... | $10,425.00 | $11,806.00 | $10,250.00 |
| II (1) ..... | 9,142.00 | 5,930.00 | 7,500.00 |
| IV (1) ..... | 2,379.00 | 1,389.00 | 5,100.00 |
| VII (3) ..... | 33,945.00 | 29,117.00 | 46,590.00 |
| Totals ..... | $55,891.00 | $48,242.00 | $69,440.00 |

Schedule 2

## OMISSIONS FROM TESTIMONY

| Sheet No. | File No. | Grantor | Appraisals Average | Appraisals Depts. | Price Paid | Class |
|---|---|---|---|---|---|---|
| 10 | 2704-775 | John Sands | $12,408.00 | $12,220.00 | $ 13,575.00 | III |
| 10 | 2706-846 | Benj. Grumauer | 2,753.00 | 3,593.00 | 3,600.00 | III |
| 11 | 2725-295 | Western Electric Co. | 13,520.00 | 12,330.00 | 6,322.00 | I |
| 1 | 2729-1148 | Wilfred Weber | 15,668.00 | 10,471.00 | 25,500.00 | VI |
| 2 | 2704-582 | Lillian Balmer | 4,036.00 | 3,950.00 | 4,250.00 | I |
| 14 | 2729-755 | Wilmot H. Milburg | 3,692.00 | 3,750.00 | 3,500.00 | I |
| 17 | 2733-192 | Joseph Wardell | 5,050.00 | 4,674.00 | 3,500.00 | II |
| 22 | 2706-728 | Chas. & Geo. Max | 2,221.00 | 2,000.00 | 2,800.00 | III |
| 22 | 2706-782 | Louisa Ploch | 25,064.00 | 26,000.00 | 26,100.00 | VII |
| 22 | ? | South Amboy Co. | 13,866.00 | 10,129.00 | 20,000.00 | IV |
| Totals | | | $98,278.00 | $89,117.00 | $109,147.00 | |

## SUMMARY

| | | | | |
|---|---|---|---|---|
| Class I | 3 Cases | $21,248.00 | $20,030.00 | $ 14,072.00 |
| II | 1 " | 5,050.00 | 4,674.00 | 3,500.00 |
| III | 3 " | 17,382.00 | 17,813.00 | 19,975.00 |
| IV | 1 " | 13,866.00 | 10,129.00 | 20,000.00 |
| VI | 1 " | 15,668.00 | 10,471.00 | 25,500.00 |
| VII | 1 " | 25,064.00 | 26,000.00 | 26,100.00 |
| Totals | 10 Cases | $98,278.00 | $89,117.00 | $109,147.00 |



Schedule 3

## EXCLUSIONS FROM CLASS 1—OTHER CONSIDERATION, ETC.

| Case No. | File No. | Appraisals Average | Appraisals Dept's | Price Paid | | Testimony Page No. |
|---|---|---|---|---|---|---|
| 1 | 2725-492 | $4,100.00 | $3,650.00 | $ 3,000.00 | Plus bldgs. | 189 |
| 19 | 2704-689 | 6,927.00 | 7,694.00 | 6,500.00 | " " | ? |
| 577 | 2728-330 | 6,883.00 | 6,550.00 | 6,000.00 | | 1130 |
| 583 | 2734-295 | 9,874.00 | 10,525.00 | 11,250.00 | Should be Class II | 1136 |
| 586 | 2728-252 | 6,560.00 | 5,990.00 | 4,995.00 | | 1141 |
| 109 | 2706-390 | *7,420.00* | *7,680.00* | *8,000.00* | From Class III | 1454-1456 |
| 113 | 2725-1124 | 7,375.00 | 8,426.00 | 4,567.00 | | 569 |
| 115 | 2725-1138 | 5,293.00 | 5,584.00 | 4,100.00 | | 566 |
| 125 | 2733-173 | 18,193.00 | 16,585.00 | 10,000.00 | | 576-579 |
| 223 | 2706-908 | 15,336.00 | 19,700.00 | 12,250.00 | | 789 |
| 230 | 2725-1293 | 19,973.00 | 22,500.00 | 22,500.00 | Should Be Class IV | 801 |
| 279 | 2741-472 | *2,172.00* | *2,050.00* | *2,000.00* | From Class VI | 852 |
| 286 | 2741-479 | *3,968.00* | *3,921.00* | *3,750.00* | From Class VI | 853 |
| 350 | 2725-1068 | *18,795.00* | *18,848.00* | *18,889.00* | From Class II | 929 |
| 354 | 2736-625 | *6,550.00* | *7,600.00* | *7,000.00* | From Class II | 936 |
| 356 | 2725-1131 | 12,070.00 | 13,008.00 | 7,266.00 | Plus moving bldg. | 936 |
| 358 | 2725-1197 | *6,048.00* | *5,468.00* | *7,365.00* | From Class II | 939 |
| 383 | 2740-709 | 4,560.00 | 4,556.00 | 3,180.00 | Plus bldgs., etc. | 969 |
| 385 | 2704-663 | ..... | ..... | *2,000.00* | Corrected price | 969 |
| 386 | 2729-897 | 7,024.00 | 7,550.00 | 6,500.00 | Plus bldgs. and fill | 976 |
| 396 | 2704-682 | 4,185.00 | 2,994.00 | 3,000.00 | Plus other parcel | 978 |
| 406 | 2740-712 | *8,010.00* | *7,252.00* | *9,600.00* | From Class VI | 990 |
| 408 | 2704-584 | 5,278.00 | 5,500.00 | 4,500.00 | Plus Bldgs. | 987 |
| 432 | 2706-865 | 4,917.00 | 3,390.00 | 4,500.00 | To Class II | 1012 |
| 433 | 2706-899 | 12,004.00 | 11,250.00 | 9,670.00 | Should be Class VII | 1016 |
| 460 | 2741-473 | 6,483.00 | 7,270.00 | 3,697.00 | Plus Bldgs., etc. | 1037 |
| 504 | 2704-767 | 2,205.00 | 1,884.00 | 2,884.00 | To Class II | 1066-7 |
| 534 | 2704-660 | 3,556.00 | 3,045.00 | 3,100.00 | Consideration | 1111 |
| 552 | 2735-949 | 5,916.00 | 5,700.00 | 5,500.00 | Consideration | 1115 |
| 565 | 2735-938 | ..... | ..... | *2,000.00* | Corrected Price | 1127 |
| 593 | 2706-462 | ..... | ..... | *500.00* | " " | 1143 |
| 602 | 2725-1132 | 8,630.00 | 9,303.00 | 5,930.00 | Consideration | 1148 |
| 642 | 2731-444 | *1,627.00* | *2,034.00* | *2,300.00* | From Class V | 1187 |
| 643 | 2735-806 | *1,146.00* | ..... | ..... | Corrected average | 1186 |
| 651 | 2704-594 | 2,811.00 | 3,000.00 | 3,000.00 | To Class II | 1207 |

Schedule 3 (Cont.)

## EXCLUSIONS FROM CLASS 1—OTHER CONSIDERATION, ETC.

| Case No. | File No. | Appraisals Average | Appraisals Dept's | Price Paid | | Testimony Page No. |
|---|---|---|---|---|---|---|
| 654 | 2704-624 | 7,053.00 | 7,225.00 | 6,500.00 | Consideration ..... | 1200 |
| 670 | 2728-159 | 3,333.00 | 3,200.00 | 4,000.00 | " ..... | 1206 |
| 695 | 2706-810 | 7,721.00 | 4,742.00 | 5,500.00 | To Class II ..... | 1224 |
| 706 | 2704-839 | 3,657.00 | 4,325.00 | 4,500.00 | To Class II ..... | 1224 |
| 710 | 2725-1435 | 8,827.00 | 8,160.00 | 6,560.00 | Consideration ..... | 1239 |
| 712 | 2725-1412 | 5,606.00 | 5,666.00 | 4,000.00 | " ..... | 1239 |
| 716 | 2728-199 | 5,922.00 | 7,364.00 | 4,796.00 | " ..... | 1237 |
| 717 | 2739-245 | 2,529.00 | 2,996.00 | 2,974.00 | To Class II ..... | 1238 |
| 718 | 2729-1608 | 2,920.00 | 3,862.00 | 4,770.00 | Consideration ...(9/26) | 21 |
| 720 | 2729-1053 | 800.00 | 1,405.00 | 2,000.00 | To Class V ..... | 1240 |
| 733 | 2735-952 | 10,450.00 | 11,000.00 | 10,000.00 | To Class V ..... | 1247-8 |
| 736 | 2735-944 | ..... | ..... | ***1,000.00*** | Consideration corrected | 1249 |
| 747 | 2740-790 | 2,161.00 | 2,161.00 | 2,161.00 | Should be Class V .... | 1263 |
| 754 | 2706-912 | 2,404.00 | 3,257.00 | 3,300.00 | Consideration ..... | 1265 |
| 763 | 2754-42 | ***4,170.00*** | ***4,768.00*** | ***4,033.00*** | From Class V ..... | 1275 |
| 793 | 2741-523 | 1,692.00 | 1,624.00 | 2,000.00 | To Class V ..... | 1292 |
| 800 | 2704-631 | 5,432.00 | 5,500.00 | 4,500.00 | Consideration ..... | 1293 |
| 802 | 2704-738 | 4,163.00 | 3,062.00 | 3,250.00 | " ..... | 1296 |
| 804 | 2731-478 | 4,390.00 | 4,700.00 | 4,000.00 | " ..... | 1299 |
| Totals ..... | | $199,307.00 | $206,282.00 | $154,263.00 | Net 31 Cases | |



Schedule 4

## CLASS II SHOULD BE CLASS V

| Sheet Page No. | Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 20 | 14 | 2740-651 | $ 6,049.00 | $ 6,048.00 | $ 5,879.00 | 272 |
| 20 | 20 | 2704-678 | 8,195.00 | 8,385.00 | 8,400.00 | 1133 |
| 20 | 24 | 2706-726 | 1,823.00 | 1,900.00 | 2,475.00 | 315 |
| 20 | 28 | 2728-148 | 2,023.00 | 2,000.00 | 2,050.00 | 1019 |
| 7 | 585 | 2728-251 | 11,704.00 | 9,030.00 | 13,000.00 | 1136 |
| 7 | 87 | 2702-322 | 7,195.00 | 7,846.00 | 7,390.00 | 533 |
| 8 | 108 | 2740-523 | 6,740.00 | 6,684.00 | 6,600.00 | 559 |
| 8 | 111 | 2706-443 | 11,313.00 | 9,800.00 | 10,750.00 | 676 |
| 8 | 112 | 2706-532 | 4,771.00 | 4,130.00 | 4,800.00 | 676 |
| 8 | 116 | 2725-582 | 4,262.00 | 2,500.00 | 2,500.00 | 675 |
| 8 | 122 | 2706-531 | 8,890.00 | 7,300.00 | 9,000.00 | 573 & 677 |
| 8 | 141 | 2701-678 | 2,302.00 | 2,107.00 | 2,500.00 | 1107-1108 |
| 9 | 151 | 2725-1111 | 5,313.00 | 5,133.00 | 5,000.00 | 620 & 1002 |
| 9 | 164 | 2735-770 | 2,410.00 | 2,895.00 | 2,895.00 | 1021 |
| 9 | 173 | 2729-346 | 24,850.00 | 23,115.00 | 19,500.00 | 683 |
| 9 | 177 | 2706-270 | 9,956.00 | 10,000.00 | 10,500.00 | ? |
| 9 | 178 | 2706-765 | 8,428.00 | 8,500.00 | 8,880.00 | |
| 10 | 188 | 2735-714 | 4,288.00 | 4,210.00 | 3,884.00 | 731 |
| 10 | 196 | 2712-70 | 4,841.00 | 4,550.00 | 4,700.00 | 738 |
| 10 | 200 | 2704-520 | 9,501.00 | 8,750.00 | 10,500.00 | 745 |
| 10 | 207 | 2704-780 | 5,502.00 | 5,850.00 | 5,000.00 | 998 |
| 11 | 233 | 2740-785 | 4,584.00 | 4,616.00 | 4,500.00 | 878 |
| 11 | 234 | 2729-940 | 4,881.00 | 5,497.00 | 5,310.00 | 878 & 804 |
| 11 | 246 | 2729-974 | 2,123.00 | 2,605.00 | 2,296.00 | 817 |
| 11 | 258 | 2728-227 | 1,604.00 | 1,500.00 | 2,000.00 | 1136 |
| 12 | 275 | 2704-979 | 2,020.00 | 1,876.00 | 2,312.00 | 1163 |
| 12 | 283 | 2751-24 | 6,955.00 | 6,750.00 | 6,750.00 | 1004 |
| 12 | 285 | 2741-515 | 10,186.00 | 10,419.00 | 6,000.00 | 848-9-50 |
| 13 | 306 | 2734-209 | ***1,993.00*** | ***2,276.00*** | ***3,000.00*** | 872 |
| 13 | 316 | 2729-1083 | 8,142.00 | 8,000.00 | 7,000.00 | 893 |
| 13 | 318 | 2729-1130 | 3,924.00 | 3,800.00 | 4,800.00 | 895 |
| 13 | 320 | 2728-297 | 3,420.00 | 4,290.00 | 3,700.00 | 896 |
| 13 | 322 | 2733-228 | 4,086.00 | 4,439.00 | 4,000.00 | 952 |
| 13 | 324 | 2733-203 | 2,280.00 | 2,223.00 | 2,520.00 | 952 |
| 13 | 325 | 2733-189 | 3,342.00 | 3,509.00 | 3,790.00 | 899 |
| 13 | 329 | 2725-1280 | 2,150.00 | 2,247.00 | 2,278.00 | 901 |
| 13 | 330 | 2740-838 | 3,663.00 | 3,719.00 | 3,800.00 | 902 |
| 13 | 334 | 2729-929 | 5,228.00 | 6,800.00 | 6,350.00 | 905 |
| 1 | 347 | 2725-1072 | 5,731.00 | 6,065.00 | 6,000.00 | 955 |
| 1 | 348 | 2721-265 | 12,082.00 | 11,200.00 | 13,000.00 | 929 |
| 1 | 359 | 2701-675 | 5,733.00 | 5,700.00 | 6,600.00 | 940 |
| 1 | 368 | 2702-351 | 5,383.00 | 7,102.00 | 8,000.00 | 1018 |

Schedule 4 (Cont.)

## CLASS II SHOULD BE CLASS V

| Sheet Page No. | Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 1 | 374 | 2721-244 | 4,803.00 | 5,560.00 | 5,500.00 | 960 |
| 2 | 382 | 2721-258 | 34,222.00 | 41,500.00 | 48,000.00 | 968 |
| 2 | 398 | 2704-688 | 1,835.00 | 2,205.00 | 2,075.00 | 1111 |
| 2 | 403 | 2704-684 | 6,516.00 | 6,150.00 | 6,300.00 | 993 |
| 2 | 413 | 2704-572 | 8,225.00 | 8,100.00 | 8,500.00 | 986 |
| 3 | 419 | 2735-656 | 4,958.00 | 4,910.00 | 5,400.00 | 994 |
| 3 | 422 | 2735-734 | 7,333.00 | 9,490.00 | 7,500.00 | 999 |
| 3 | 423 | 2735-728 | 2,302.00 | 2,250.00 | 2,000.00 | 999 |
| 3 | 424 | 2735-579 | 6,193.00 | 5,025.00 | 5,000.00 | 1000 |
| 3 | 441 | 2725-1316 | 8,274.00 | 8,062.00 | 8,500.00 | 1164 |
| 3 | 442 | 2704-675 | 5,288.00 | 5,679.00 | 5,500.00 | 1111 |
| 3 | 443 | 2704-730 | 7,443.00 | 7,720.00 | 12,000.00 | 1023 |
| 3 | 448 | 2735-773 | 11,545.00 | 11,325.00 | 11,500.00 | 1026 |
| 3 | 449 | 2737-150 | 21,903.00 | 20,210.00 | 25,500.00 | 1027 |
| 4 | 457 | 2741-488 | 3,822.00 | 4,295.00 | 3,960.00 | 1033-4 |
| 4 | 462 | 2751-57 | 3,131.00 | 3,186.00 | 3,151.00 | 1036 |
| 4 | 468 | 2723-201 | 2,418.00 | 1,747.00 | 2,200.00 | 1038 |
| 4 | 479 | 2704-950 | 3,609.00 | 4,429.00 | 4,150.00 | 1046 |
| 4 | 481 | 2704-911 | 1,792.00 | 1,770.00 | 2,000.00 | 1237 |
| 4 | 483 | 2754-33 | 4,677.00 | 5,381.00 | 5,300.00 | 1048 |
| 4 | 486 | 2731-450 | 15,975.00 | 15,925.00 | 15,925.00 | 1058 |
| 5 | 494 | 2744-113 | 1,618.00 | 1,915.00 | 2,116.00 | 1088 |
| 5 | 495 | 2751-5 | 3,006.00 | 3,000.00 | 3,250.00 | 1090 |
| 5 | 499 | 2749-355 | 2,561.00 | 2,412.00 | 2,291.00 | 1062 |
| 5 | 509 | 2737-155 | 2,381.00 | 2,014.00 | 2,200.00 | 1077 |
| 5 | 510 | 2725-1283 | 55,752.00 | 60,000.00 | 75,000.00 | 1089 |
| 5 | 515 | 2740-708 | 2,596.00 | 2,679.00 | 2,610.00 | 1077 |
| 5 | 516 | 2735-815 | 4,036.00 | 4,000.00 | 4,210.00 | 1076 |
| 5 | 517 | 2744-208 | 6,033.00 | 5,956.00 | 5,850.00 | 1085 |
| 5 | 519 | 2754-44 | 3,856.00 | 4,161.00 | 3,861.00 | 1086 |
| 5 | 520 | 2728-276 | 6,257.00 | 7,300.00 | 6,950.00 | 1086 |
| 5 | 526 | 2712-16 | 5,330.00 | 4,900.00 | 6,000.00 | 1090 |
| 5 | 528 | 2712-13 | 3,067.00 | 3,450.00 | 2,700.00 | 1094 |
| 5 | 529 | 2704-810 | 15,250.00 | 15,000.00 | 15,000.00 | 1094 |
| 6 | 540 | 2725-1269 | 3,490.00 | 2,360.00 | 4,500.00 | 1107 |
| 6 | 550 | 2728-257 | 1,890.00 | 2,033.00 | 2,250.00 | 1114 |
| 6 | 553 | 2729-1159 | 6,148.00 | 7,755.00 | 6,000.00 | 1113 |
| 6 | 557 | 2733-197 | 2,443.00 | 2,097.00 | 2,500.00 | 1133 |
| 6 | 559 | 2729-1101 | 2,134.00 | 2,000.00 | 2,000.00 | 1163 |
| 6 | 560 | 2729-1026 | 15,020.00 | 15,521.00 | 24,340.00 | 1120 |
| 6 | 562 | 100 -2 | 36,555.00 | 33,002.00 | 38,802.00 | 1163 |



Schedule 4 (Cont'd)

## CLASS II SHOULD BE CLASS V

| Sheet Page No. | Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 6 | 563 | 2731-447 | 6,857.00 | 7,140.00 | 7,000.00 | 1119-20 |
| 6 | 568 | 2729-1149 | 3,281.00 | 2,985.00 | 2,400.00 | 1122 |
| 6 | 569 | 2729-1118 | 4,933.00 | 4,682.00 | 5,135.00 | 1123 |
| 6 | 571 | 2729-1153 | 7,653.00 | 6,875.00 | 9,500.00 | 1123 & 1133 |
| 6 | 573 | 2728-260 | 3,455.00 | 3,667.00 | 4,000.00 | 1162 |
| 14 | 601 | 2706-338 | 6,126.00 | 5,387.00 | 5,550.00 | 1143 |
| 14 | 617 | 2735-660 | 2,553.00 | 2,575.00 | 3,000.00 | ? |
| 14 | 608 | 2725-35 | 3,436.00 | 3,671.00 | 3,628.00 | 1150 |
| 14 | 619 | 2735-655 | 2,156.00 | 2,250.00 | 2,250.00 | 1157 |
| 14 | 625 | 2704-687 | 7,983.00 | 7,150.00 | 8,000.00 | 1164 |
| 15 | 633 | 2735-756 | 1,866.00 | 2,240.00 | 2,240.00 | 1178 |
| 15 | 635 | 2735-730 | 2,596.00 | 1,548.00 | 4,590.00 | 1181 |
| 15 | 640 | 2725-1290 | 2,288.00 | 1,730.00 | 3,500.00 | 1186 |
| 15 | 650 | 2704-729 | 3,850.00 | 3,550.00 | 4,951.00 | 1199 |
| 15 | 655 | 2704-718 | 3,022.00 | 3,200.00 | 2,900.00 | 1200 |
| 16 | 667 | 2706-829 | 7,602.00 | 5,650.00 | 6,500.00 | 1208 |
| 16 | 668 | 2706-736 | 18,275.00 | 15,700.00 | 19,844.00 | 1275 |
| 16 | 698 | 2751-10 | 3,449.00 | 3,563.00 | 3,485.00 | 1220 |
| 16 | 701 | 2729-992 | 1,770.00 | 1,590.00 | 2,040.00 | 1222 |
| 16 | 703 | 2731-448 | 4,076.00 | 4,030.00 | 4,000.00 | 1222 |
| 16 | 705 | 2706-812 | 5,882.00 | 5,500.00 | 6,200.00 | 1223 |
| 17 | 709 | 2706-873 | 4,101.00 | 4,000.00 | 5,750.00 | 1227 |
| 17 | 719 | 2729-1070 | 4,473.00 | 4,655.00 | 6,750.00 | 1239 |
| 17 | 721 | 2729-1010 | 2,327.00 | 1,372.00 | 3,650.00 | 1240 |
| 17 | 723 | 2704-900 | 3,862.00 | 1,064.00 | 2,000.00 | 1241 |
| 17 | 724 | 2725-1394 | 5,516.00 | 5,500.00 | 5,000.00 | 1242 |
| 17 | 746 | 2735-942 | 15,014.00 | 13,000.00 | 15,500.00 | 1260 |
| 18 | 755 | 2734-270 | 6,193.00 | 7,431.00 | 7,500.00 | 1267 |
| 18 | 762 | 2729-1156 | 2,242.00 | 2,977.00 | 2,400.00 | 1272-3 |
| 18 | 772 | 2729-1154 | 2,008.00 | 1,958.00 | 2,300.00 | 1279 |
| 18 | 773 | 2704-948 | 1,217.00 | 1,239.00 | 2,500.00 | 1299 |
| 18 | 776 | 2754-51 | 2,878.00 | 3,024.00 | 3,200.00 | 1281 |
| 18 | 778 | 2744-129 | 3,102.00 | 3,730.00 | 2,970.00 | 1282 |
| 18 | 779 | 2706-928 | 5,202.00 | 5,300.00 | 5,328.00 | 1282 |
| 18 | 780 | 2706-929 | 5,035.00 | 4,950.00 | 5,200.00 | 1283 |
| 18 | 781 | 2741-491 | 2,636.00 | 2,572.00 | 2,500.00 | 1283 |
| 18 | 786 | 2740-822 | 2,611.00 | 2,461.00 | 3,342.00 | 1285 |
| 19 | 799 | 2704-573 | 8,791.00 | 8,650.00 | 9,000.00 | 1293 |
| 19 | 813 | 2704-704 | 10,193.00 | 9,220.00 | 10,600.00 | 1302 |
| Totals | 120 Cases ..... | | $782,077.00 | $775,074.00 | $852,803.00 | |

Schedule 5

## CORRECTIONS OF CLASS II

| Sheet No. | Case No. | File No. | Appraisals: Average | Appraisals: Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 21 | 43 | 2704-559 | $ 858.00 | ..... | ..... | 432-471 |
| | Appraisal average should be $7,618.00 instead of $6,760.00 | | | | | |
| 7 | 83 | 2734-295 | 9,874.00 | 10,525.00 | 11,250.00 | 1136 |
| | Was in Class I should be II | | | | | |
| 7 | 94 | 2725-1158 | *7,522.00* | *8,231.00* | *5,821.00* | 543 |
| | Appraisals on different basis | | | | | |
| 9 | 157 | 2704-789 | *10,525.00* | *10,358.00* | *9,658.00* | 635-636 |
| | Other consideration | | | | | |
| 10 | 212 | 2706-806 | 524.00 | ..... | ..... | 772 & 784 |
| | Average should be $11,076.00 instead of $10,552.00 | | | | | |
| 10 | 224 | 2741-412 | *5,760.00* | *7,393.00* | *5,389.00* | 792-793 |
| | Other consideration | | | | | |
| 12 | 288 | 2704-907 | 17.00 | ..... | ..... | 857-8 |
| | Correction of appraisal | | | | | |
| 1 | 343 | 2721-246 | 34,355.00 | 44,669.00 | 44,000.00 | 922 |
| 1 | 344 | 2721-253 | 40,299.00 | 44,242.00 | 54,000.00 | 922-23 |
| | From Class IV | | | | | |
| 1 | 350 | 2725-1068 | *18,795.00* | *18,848.00* | *18,889.00* | 929 |
| | From Class I | | | | | |
| 1 | 354 | 2736-625 | *6,550.00* | *7,600.00* | *7,000.00* | 936 |
| | Should be Class I | | | | | |
| 1 | 358 | 2725-1197 | *6,048.00* | *5,468.00* | *7,365.00* | 939 |
| | Should be Class I | | | | | |
| 1 | 367 | 2721-255 | 6,367.00 | 8,645.00 | 9,000.00 | 946 |
| | From Class IV | | | | | |
| 2 | 387 | 2729-870 | *1,845.00* | *1,769.00* | *2,500.00* | 971 |
| | Should be Class IV | | | | | |
| 3 | 415 | 2729-772 | *8,060.00* | *7,483.00* | *7,483.00* | 993 |
| | Should be Class IV | | | | | |
| 3 | 416 | 2735-674 | *5,552.00* | *5,378.00* | *6,800.00* | 991 |
| | Other consideration | | | | | |
| 3 | 426 | 2706-695 | *2,264.00* | *2,744.00* | *2,750.00* | 1011 |
| | Should be Class VII | | | | | |
| 3 | 431 | 2721-280 | *9,452.00* | *6,325.00* | *9,500.00* | 1012 |
| | Should be Class VI | | | | | |
| 3 | 432 | 2706-865 | 4,917.00 | 3,390.00 | 4,500.00 | 1012 |
| | From Class I | | | | | |
| 5 | 500 | 2734-255 | *15,469.00* | *17,104.00* | *15,764.00* | 1063 |
| | To Class VII | | | | | |
| 5 | 504 | 2704-767 | 2,205.00 | 1,884.00 | 2,884.00 | 1066-7 |
| | From Class I | | | | | |



Schedule 5 (Cont.)

## CORRECTIONS OF CLASS II

| Sheet No. | Case No. | File No. | Appraisals: Average | Appraisals: Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 5 | 530 | 2721-267 | *$ 14,206.00* | *$ 8,000.00* | *$15,000.00* | 1099 |
| 5 | 531 | 2721-266 | *17,902.00* | *8,757.00* | *18,000.00* | |
| | To Class IV | | | | | |
| 6 | 539 | 2725-1277 | *10,272.00* | *10,100.00* | *5,500.00* | 1107 |
| | Other consideration | | | | | |
| 6 | 568 | 2729-1149 | 2,042.00 | 1,610.00 | ..... | 1125 |
| | Correction of appraisals | | | | | |
| 14 | 598 | 2721-247 | *8,741.00* | *6,313.00* | *15,350.00* | 1190-4 |
| | Exclusion admitted | | | | | |
| 14 | 605 | 2721-254 | 6,413.00 | ..... | ..... | 1151 |
| | Correction of appraisals | | | | | |
| 15 | 628 | 2704-629 | *8,657.00* | *8,000.00* | *7,500.00* | 1179 |
| | Other consideration | | | | | |
| 15 | 651 | 2704-594 | 2,811.00 | 3,000.00 | 3,000.00 | 1207 |
| | From Class I | | | | | |
| 15 | 656 | 2704-621 | *7,491.00* | *7,500.00* | *7,500.00* | 1207 |
| | Other consideration | | | | | |
| 15 | 659 | 2729-877 | *10,017.00* | *10,763.00* | *10,776.00* | 1208 |
| | Other consideration | | | | | |
| 16 | 674 | 2706-781 | 1,800.00 | 5,430.00 | 5,000.00 | 1213 |
| | Correction of all figures | | | | | |
| 16 | 682 | 2704-787 | *2,957.00* | *4,222.00* | *4,100.00* | 1220 |
| | Other consideration | | | | | |
| 16 | 695 | 2706-810 | 7,721.00 | 4,742.00 | 5,500.00 | 1224 |
| | From Class I | | | | | |
| 16 | 706 | 2704-839 | 3,657.00 | 4,325.00 | 4,500.00 | 1224 |
| | From Class I | | | | | |
| | To correct appraisals | | 817.00 | ..... | ..... | 1226 |
| 17 | 715 | 2728-216 | *4,141.00* | *4,569.00* | *6,000.00* | 1237 |
| | Should be Class VII | | | | | |
| 17 | 717 | 2739-245 | 2,529.00 | 2,996.00 | 2,974.00 | 1238 |
| | From Class I | | | | | |
| 17 | 741 | 2751-42 | *10,921.00* | *11,162.00* | *4,025.00* | 1249 |
| | Other consideration | | | | | |
| 19 | 797 | 2725-1158 | *7,522.00* | *8,232.00* | *5,821.00* | 1291 |
| | Other consideration | | | | | |
| 19 | 814 | 2704-667 | *3,618.00* | *3,895.00* | *4,000.00* | 1304 |
| | Should be Class VII | | | | | |
| 2 | 405 | 2740-721 | *5,809.00* | *6,303.00* | *4,100.00* | 984 |
| | Other consideration | | | | | |
| Totals | ***Net 15 Cases*** ..... | | *$ 82,890.00* | *$ 61,059.00* | *$ 59,983.00* | |

Schedule 6

## CORRECTIONS OF CLASS III

| Sheet No. | Case No. | File No. | Appraisals: Average | Appraisals: Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 20 | 37 | 2704-611 | $ 4,172.00 | ..... | ..... | 417-418-422 & 425 |
| | Average should be $20,562.00 instead of $16,390.00 | | | | | |
| 20 | 38 | 2704-576 | *5,837.00* | *6,020.00* | *5,500.00* | Page 31 of 9/26 |
| | Should be excluded | | | | | |
| 8 | 109 | 2706-390 | *7,420.00* | *7,680.00* | *8,000.00* | 1454-1456 |
| | Should be Class I | | | | | |
| 20 | 31 | 2706-845 | *3,823.00* | *1,225.00* | *5,000.00* | 322 |
| | Should be Class IV | | | | | |
| 2 | 378 | 2706-328 | 267.00 | 550.00 | ..... | 963 |
| | Corrections of appraisals | | | | | |
| 3 | 427 | 2704-893 | *7,000.00* | *7,000.00* | *7,000.00* | 1452 |
| | Should be Class VI | | | | | |
| 5 | 506 | 2704-881 | *8,655.00* | *8,204.00* | *8,334.00* | 1073 |
| | Should be Class V | | | | | |
| 14 | 609 | 2706-450 | *250.00* | *1,000.00* | ..... | 1159 |
| | Correction of appraisal | | | | | |
| 15 | 665 | 2704-822 | *3,983.00* | *4,500.00* | *3,800.00* | 1205 |
| | Other consideration | | | | | |
| Totals | *Net* | *6 Cases* ..... | *$ 32,529.00* | *$ 35,079.00* | *$ 37,634.00* | |



Schedule 7

## CORRECTIONS OF CLASS IV

| Sheet No. | Case No. | File No. | Appraisals: Average | Appraisals: Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 11 | 230 | 2725-1293 | $ 19,973.00 | $ 22,500.00 | $ 22,500.00 | 801 |
| | From Class I | | | | | |
| 20 | 31 | 2706-845 | 3,823.00 | 1,225.00 | 5,000.00 | 322 |
| | From Class III | | | | | |
| 1 | 343 | 2721-246 | *34,355.00* | *44,669.00* | *44,000.00* | 922 |
| 1 | 344 | 2721-253 | *40,299.00* | *44,242.00* | *54,000.00* | 922-3 |
| | Should be Class II | | | | | |
| 1 | 367 | 2721-255 | *6,367.00* | *8,645.00* | *9,000.00* | 946 |
| | Should be Class II | | | | | |
| 2 | 387 | 2729-870 | 1,845.00 | 1,769.00 | 2,500.00 | 971 |
| | From Class II | | | | | |
| 3 | 415 | 2729-772 | 8,060.00 | 7,483.00 | 7,483.00 | 993 |
| | From Class II | | | | | |
| 14 | 606 | 2735-642 | 1,074.00 | ..... | ..... | 1149 |
| | Correction of appraisals | | | | | |
| 14 | 622 | 2701-661 | *1,790.00* | *3,615.00* | *4,283.00* | 1160 |
| | Peculiar damage feature | | | | | |
| 15 | 632 | 2735-766 | 3,977.00 | 4,600.00 | 4,831.00 | 1180 |
| | From Class V | | | | | |
| 17 | 725 | 2729-1128 | *6,280.00* | *3,496.00* | *8,750.00* | ? |
| | To Class V | | | | | |
| Totals | *Net* | *0 Cases* ..... | *$ 50,339.00* | *$ 67,090.00* | *$ 77,719.00* | |

Schedule 8

## CORRECTIONS OF CLASS V

| Sheet No. | Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 8 | 132 | 2725-1116 | *$ 32,654.00* | *$ 31,679.00* | *$ 16,000.00* | 586 |
| | Exclusion admitted | | | | | |
| 9 | 176 | 2735-803 | *9,684.00* | *8,150.00* | *6,000.00* | 701 |
| | Exclusion admitted | | | | | |
| 12 | 303 | 2725-1301 | 46,467.00 | 34,230.00 | 58,000.00 | 870 & 1331-3 |
| | From Class VII | | | | | |
| 5 | 506 | 2704-881 | 8,655.00 | 8,204.00 | 8,334.00 | 1073 |
| | From Class III | | | | | |
| 6 | 551 | 2728-221 | 855.00 | ..... | ..... | 1114 |
| | Correction of appraisals—additional | | | | | |
| 14 | 611 | 2723-97 | *6,881.00* | *7,264.00* | *5,750.00* | 1155–6 |
| | Appraisals incorrect | | | | | |
| 15 | 632 | 2735-766 | *3,977.00* | *4,600.00* | *4,831.00* | 1180 |
| | Should be Class IV | | | | | |
| 15 | 642 | 2731-444 | *1,627.00* | *2,034.00* | *2,300.00* | 1187 |
| | Should be Class I | | | | | |
| 17 | 720 | 2729-1053 | 800.00 | 1,405.00 | 2,000.00 | 1240 |
| | From Class I | | | | | |
| | Appraisals corrected | | 1,046.00 | ..... | ..... | 1244 |
| 17 | 724 | 2725-1394 | ..... | ..... | 500.00 | 1243-44 |
| | Correction of purchase price | | | | | |
| 17 | 725 | 2729-1128 | 6,280.00 | 3,496.00 | 8,750.00 | ? |
| | From Class IV | | | | | |
| 17 | 733 | 2735-952 | 10,450.00 | 11,000.00 | 10,000.00 | 1247-8 |
| | From Class I | | | | | |
| 18 | 747 | 2740-790 | 2,161.00 | 2,161.00 | 2,161.00 | 1263 |
| | From Class I | | | | | |
| 18 | 748 | 2725-1351 | *8,381.00* | *7,731.00* | *7,737.00* | 1261 |
| | Consideration | | | | | |
| 18 | 749 | 2729-1038 | *7,093.00* | ..... | ..... | 1266 |
| | Corrected appraisal averages | | | | | |
| 18 | 759 | 2725-1354 | *2,020.00* | *809.00* | *4,200.00* | 1268 |
| | Consideration | | | | | |
| 18 | 760 | 2725-1312 | *4,053.00* | *3,840.00* | *2,628.00* | 1269 |
| | Consideration | | | | | |
| 18 | 763 | 2754-42 | *4,170.00* | *4,768.00* | *4,033.00* | 1275 |
| | Should be Class I | | | | | |
| 19 | 793 | 2741-523 | 1,692.00 | 1,624.00 | 2,000.00 | 1292 |
| | From Class I | | | | | |
| Totals *Net 2 Cases* ..... | | | *$ 2,134.00* | *$ 8,755.00* | $ 38,266.00 | |



Schedule 9

## CORRECTIONS OF CLASS VI

| Sheet No. | Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 10 | 215 | 2704-608 | $ 1,350.00 | $ 1,350.00 | ..... | 779-80 |
| | By disclosure of additional appraisals | | | | | |
| 11 | 232 | 2740-789 | 380.00 | ..... | ..... | 1382 |
| | By disclosure of correction in appraisals | | | | | |
| 12 | 279 | 2741-472 | *2,172.00* | *2,052.00* | *2,000.00* | 852 |
| | Should be in Class I | | | | | |
| 12 | 286 | 2741-479 | *3,968.00* | *3,921.00* | *3,750.00* | 853 |
| | Should be in Class I | | | | | |
| 13 | 336 | 2735-654 | 381.00 | ..... | ..... | 1382-4 |
| | By additional appraisal | | | | | |
| 2 | 406 | 2740-712 | *8,010.00* | *7,252.00* | *9,600.00* | 990 |
| | Should be Class I | | | | | |
| 3 | 427 | 2704-893 | 7,000.00 | 7,000.00 | 7,000.00 | 1452 |
| | From Class III | | | | | |
| 3 | 431 | 2721-280 | 9,452.00 | 6,325.00 | 9,500.00 | 1012 |
| | From Class II | | | | | |
| 4 | 473 | 2741-509 | *3,078.00* | *3,359.00* | *5,000.00* | 1043 |
| | Condemnation | | | | | |
| 4 | 475 | 2706-920 | 3,043.00 | ..... | ..... | 1388 |
| | Correction of appraisals | | | | | |
| 5 | 530 | 2721-267 | 14,206.00 | 8,000.00 | 15,000.00 | 1099 |
| 5 | 531 | 2721-266 | 21,187.00 | 8,757.00 | 18,000.00 | |
| | From Class II | | | | | |
| 19 | 809 | 2706-811 | 960.00 | ..... | ..... | 1301 |
| | Correction of appraisals | | | | | |
| Totals Net 0 Cases ..... | | | $ 40,731.00 | $ 14,848.00 | $ 29,150.00 | |

Schedule 10

## CORRECTIONS OF CLASS VII

| Case No. | Sheet No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | Testimony Page |
|---|---|---|---|---|---|---|
| 10 | 210 | 2735-791 | *$ 4,173.00* | *$ 3,485.00* | *$ 3,000.00* | 758-759 |
| 11 | 260 | 2728-287 | 1,400.00 | ..... | ..... | 1328-30 |
| 11 | 263 | 2728-282 | 833.00 | ..... | ..... | 1330 |
| 12 | 303 | 2725-1302 | *39,742.00* | *34,230.00* | *58,000.00* | 1331-3 |
| 13 | 317 | 2729-1125 | 3,957.00 | ..... | ..... | 1334 |
| 3 | 426 | 2706-695 | 2,264.00 | 2,744.00 | 2,750.00 | 1011 |
| 3 | 433 | 2706-899 | 12,004.00 | 11,250.00 | 9,670.00 | 1016 |
| 4 | 478 | 2735-864 | *32,378.00* | *28,200.00* | *25,000.00* | 1049 |
| 4 | 488 | 2734-230 | *7,061.00* | *7,025.00* | *7,931.00* | 1058 |
| 5 | 498 | 2728-180 | *6,264.00* | *6,299.00* | *4,381.00* | 1072 |
| 5 | 500 | 2734-255 | 15,469.00 | 17,104.00 | 15,764.00 | 1063 |
| 5 | 523 | 2725-1112 | *17,965.00* | *13,996.00* | *16,500.00* | 1088 |
| 14 | 615 | 2725-1242 | ..... | ..... | 250.00 | 1155 |
| 14 | 624 | 2727-905 | *1,944.00* | *1,156.00* | *4,000.00* | 1160 |
| 17 | 715 | 2728-216 | 4,141.00 | 4,569.00 | 6,000.00 | 1237 |
| 17 | 742 | 2751-40 | *10,886.00* | *9,881.00* | *9,000.00* | 1259 |
| 19 | 814 | 2704-667 | 3,618.00 | 3,895.00 | 4,000.00 | 1304 |
| 19 | 814 | 2704-667 | 1,207.00 | ..... | ..... | 1304 |
| Totals | *3 Cases* | *Net* ..... | *$ 75,520.00* | *$ 64,710.00* | *$ 89,378.00* | |



Schedule 11

| Case No. | Sheet No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid |
|---|---|---|---|---|---|
| 7 | 20 | 2740-591 | $ 2,778.00 | $ 2,986.00 | $ 2,700.00 |
| 46 | 21 | 2739-262 | 4,433.00 | 5,160.00 | 4,360.00 |
| 69 | 21 | 2739-255 | 8,637.00 | 8,714.00 | 8,847.00 |
| 70 | 21 | 2739-256 | 9,416.00 | 9,778.00 | 8,878.00 |
| 102 | 7 | 2735-600 | 3,884.00 | 3,725.00 | 4,400.00 |
| 129 | 8 | 2725-1121 | 4,506.00 | 4,473.00 | 3,695.00 |
| 138 | 8 | 2734-112 | 5,978.00 | 6,625.00 | 6,500.00 |
| 143 | 8 | 2735-614 | 4,514.00 | 5,450.00 | 4,500.00 |
| 150 | 9 | 2728-169 | 4,266.00 | 4,500.00 | 4,000.00 |
| 193 | 10 | 2712-74 | 6,243.00 | 5,480.00 | 6,500.00 |
| 194 | 10 | 2712-73 | 10,046.00 | 8,840.00 | 9,500.00 |
| 198 | 10 | 2712-34 | 6,143.00 | 5,708.00 | 6,850.00 |
| 231 | 11 | 2706-703 | 3,071.00 | 3,272.00 | 4,030.00 |
| 261 | 11 | 2728-255 | 3,734.00 | 3,422.00 | 3,400.00 |
| 267 | 12 | 2725-1420 | 5,758.00 | 5,900.00 | 5,000.00 |
| 268 | 12 | 2725-1416 | 4,835.00 | 5,104.00 | 4,200.00 |
| 270 | 12 | 2725-1407 | 4,376.00 | 4,486.00 | 3,500.00 |
| 304 | 13 | 2739-250 | 3,295.00 | 2,942.00 | 3,615.00 |
| 323 | 13 | 2728-269 | 5,894.00 | 5,318.00 | 5,000.00 |
| 328 | 13 | 2740-587 | 9,308.00 | 11,682.00 | 7,000.00 |
| 345 | 1 | 2725-1054 | 13,226.00 | 14,046.00 | 11,140.00 |
| 388 | 2 | 2735-771 | 6,249.00 | 6,550.00 | 6,500.00 |
| 392 | 2 | 2735-755 | 5,277.00 | 5,240.00 | 5,500.00 |
| 409 | 2 | 2706-814 | 14,238.00 | 14,415.00 | 14,500.00 |
| 434 | 3 | 2706-900 | 5,750.00 | 6,000.00 | 5,650.00 |
| 436 | 3 | 2704-731 | 8,582.00 | 7,860.00 | 8,000.00 |
| 463 | 4 | 2740-846 | 9,582.00 | 9,760.00 | 9,000.00 |
| 485 | 4 | 2725-1393 | 10,035.00 | 9,132.00 | 10,000.00 |
| 487 | 4 | 2731-457 | 4,219.00 | 3,568.00 | 4,375.00 |
| 491 | 4 | 2706-863 | 6,948.00 | 7,705.00 | 6,750.00 |
| 538 | 6 | 2704-805 | 6,307.00 | 6,372.00 | 5,650.00 |
| 548 | 6 | 2728-308 | 6,232.00 | 6,667.00 | 6,200.00 |
| 564 | 6 | 2735-927 | 7,737.00 | 6,000.00 | 6,250.00 |
| 589 | 14 | 2721-235 | 34,043.00 | 36,272.00 | 40,000.00 |

Schedule 11 (Con't.)

## ADDITIONAL CASES—OTHER CONSIDERATION (Listed by Van Tine)—CLASS I

| Case No. | Sheet No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | |
|---|---|---|---|---|---|---|
| 603 | 14 | 2735-644 | $5,308.00 | $6,000.00 | $5,195.00 | |
| 637 | 15 | 2735-752 | 1,811.00 | 2,040.00 | 2,030.00 | |
| 647 | 15 | 2704-794 | 4,071.00 | 4,389.00 | 3,900.00 | |
| 658 | 15 | 2729-917 | 2,575.00 | 2,500.00 | 2,500.00 | |
| 664 | 15 | 2704-878 | 1,897.00 | 2,046.00 | 2,367.00 | |
| 666 | 16 | 2706-842 | 6,665.00 | 6,900.00 | 7,300.00 | |
| 737 | 17 | 2735-917 | 12,988.00 | 10,500.00 | 10,500.00 | |
| 744 | 17 | 2704-927 | 3,783.00 | 3,480.00 | 4,000.00 | |
| 774 | 18 | 2740-843 | 3,864.00 | 4,102.00 | 3,777.00 | |
| 788 | 19 | 2735-936 | 9,973.00 | 9,750.00 | 9,000.00 | |
| 812 | 19 | 2706-790 | 9,882.00 | 7,848.00 | 8,700.00 | |
| 815 | 19 | 2725-1168 | 7,600.00 | 8,037.00 | 7,000.00 | From Class II (originally) |
| 354 | 1 | 2736-625 | 6,550.00 | 7,600.00 | 7,000.00 | |
| Totals | Net | 47 Cases ..... | $326,507.00 | $328,344.00 | $319,259.00 | |



Schedule 12

## ADDITIONAL CASES—OTHER CONSIDERATION (Van Tine's List)—CLASS II

| Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid |
|---|---|---|---|---|
| 133 | 2725-1186 | $ 6,336.00 | $ 5,763.00 | $ 5,000.00 |
| 147 | 2729-816 | 5,222.00 | 4,000.00 | 3,300.00 |
| 212 | 2706-806 | 11,076.00 | 11,460.00 | 12,500.00 |
| 238 | 2706-809 | 5,578.00 | 3,292.00 | 5,000.00 |
| 264 | 2725-1278 | 9,674.00 | 10,150.00 | 8,250.00 |
| 292 | 2728-272 | 13,590.00 | 10,457.00 | 10,500.00 |
| 296 | 2729-1108 | 22,541.00 | 22,275.00 | 20,000.00 |
| 410 | 2706-813 | 14,245.00 | 14,175.00 | 14,950.00 |
| 445 | 2729-890 | 1,177.00 | 950.00 | 2,000.00 |
| 469 | 2751-52 | 6,838.00 | 6,777.00 | 6,500.00 |
| 514 | 2706-769 | 6,320.00 | 6,250.00 | 6,490.00 |
| 549 | 2728-266 | 6,060.00 | 6,633.00 | 7,000.00 |
| 605 | 2721-254 | 53,403.00 | 55,990.00 | 60,250.00 |
| 649 | 2704-754 | 2,475.00 | 2,661.00 | 2,200.00 |
| 671 | 2731-479 | 7,378.00 | 8,010.00 | 7,000.00 |
| 765 | 2740-868 | 2,080.00 | 2,151.00 | 2,550.00 |
| 787 | 2703-267 | 10,291.00 | 10,891.00 | 13,500.00 |
| Totals | 17 Cases ..... | $184,284.00 | $181,885.00 | $186,990.00 |

Schedule 13

## ADDITIONAL CASES—OTHER CONSIDERATION (Van Tine's List)—CLASS III

| | | | | |
|---|---|---|---|---|
| 37 | 2704-611 | $ 16,390.00 | $ 20,000.00 | $ 21,800.00 |
| 39 | 2704-597 | 2,091.00 | 3,000.00 | 3,100.00 |
| 99 | 2704-773 | 3,825.00 | 2,577.00 | 4,800.00 |
| 371 | 2706-440 | 6,672.00 | 4,850.00 | 7,000.00 |
| Totals | 4 Cases ..... | $ 28,978.00 | $ 30,427.00 | $ 36,700.00 |

Schedule 14

ADDITIONAL CASES—OTHER CONSIDERATION (Van Tine's List)—CLASS V

| Case No. | File No. | Appraisals Average | Appraisals Dept's. | Price Paid | |
|---|---|---|---|---|---|
| 173 | 2729-346 | $ 24,850.00 | $ 23,115.00 | $ 19,500.00 | These cases |
| 200 | 2704-520 | 9,501.00 | 8,750.00 | 10,500.00 | were originally |
| 207 | 2704-780 | 5,502.00 | 5,850.00 | 5,000.00 | in Class II, but |
| 234 | 2729-940 | 4,881.00 | 5,497.00 | 5,310.00 | were admitted |
| 246 | 2729-974 | 2,123.00 | 2,605.00 | 2,296.00 | to be Class V |
| 316 | 2729-1083 | 8,142.00 | 8,000.00 | 7,000.00 | in testimony. |
| 318 | 2729-1130 | 3,942.00 | 3,800.00 | 4,800.00 | |
| 320 | 2728-297 | 3,420.00 | 4,290.00 | 3,700.00 | |
| 325 | 2733-189 | 3,342.00 | 3,509.00 | 3,790.00 | |
| 329 | 2725-1280 | 2,150.00 | 2,247.00 | 2,278.00 | |
| 348 | 2721-265 | 12,082.00 | 11,200.00 | 13,000.00 | |
| 413 | 2704-572 | 8,225.00 | 8,100.00 | 8,500.00 | |
| 422 | 2735-734 | 7,333.00 | 9,490.00 | 7,500.00 | |
| 457 | 2741-488 | 3,822.00 | 4,295.00 | 3,960.00 | |
| 481 | 2704-950 | 3,609.00 | 4,429.00 | 4,150.00 | |
| 499 | 2749-355 | 2,561.00 | 2,412.00 | 2,291.00 | |
| 550 | 2728-257 | 1,890.00 | 2,033.00 | 2,250.00 | |
| 571 | 2729-1153 | 7,653.00 | 6,875.00 | 9,500.00 | |
| 650 | 2704-729 | 3,850.00 | 3,550.00 | 4,951.00 | |
| 655 | 2704-718 | 3,022.00 | 3,200.00 | 2,900.00 | |
| 667 | 2706-829 | 7,602.00 | 5,650.00 | 6,500.00 | |
| 668 | 2706-736 | 18,275.00 | 15,700.00 | 19,844.00 | |
| 705 | 2706-812 | 5,882.00 | 5,500.00 | 6,200.00 | |
| 719 | 2729-1070 | 4,473.00 | 4,655.00 | 6,750.00 | |
| 724 | 2725-1394 | 5,516.00 | 5,500.00 | 5,000.00 | |
| 746 | 2735-942 | 15,014.00 | 13,000.00 | 15,500.00 | |
| 813 | 2704-704 | 10,193.00 | 9,220.00 | 10,600.00 | |
| 520 | 2728-276 | 6,257.00 | 7,300.00 | 6,950.00 | |
| Totals | 28 Cases ..... | $195,112.00 | $189,772.00 | $200,520.00 | |

Schedule 15

ADDITIONAL CASES—OTHER CONSIDERATION (Van Tine's List) CLASS VII (Originally II)

| | | | | |
|---|---|---|---|---|
| 426 | 2706-695 | $ 2,264.00 | $ 2,744.00 | $ 2,750.00 |

# Preliminary Report

# Part II

January 6, 1942.

Hon. CHARLES EDISON,
Governor of the State of New Jersey,
Trenton, N. J.

Dear Governor,

Herewith, as Part II of the preliminary report of my investigation into the affairs and management of the Highway Department, I have the honor to submit the following:

## V

## Examiner's letter to Governor Edison, submitting general recommendations for the reorganization of the Highway Department in its basic features.

(Revised March 1, 1942.)

Trenton, N. J., December 10, 1941.

Hon. CHARLES EDISON, Governor
State House,
Trenton, New Jersey

My dear Governor:

Without waiting for the completion of my report summarizing the testimony at public and private hearings, or for the detailed administrative study and recommendations for procedural and organizational reform within the department, I am hereby submitting to you, at your request, my recommendations for the reorganization of the State Highway Department, in its basic features.

The conclusions herein are the result of my investigation and an administrative study.

The objective is a highway department all of whose affairs will be administered in the public interest, exclusive of all private and partisan interests, whose organizational structure will offer the greatest probability of the continuance of that type of administration, and resistance to efforts from any direction to subject it to personal or partisan control or influence.

With respect to matters of organization, an executive agency is able to operate more effectively and more efficiently when headed by

a single individual. Since its activities are made the responsibility of one man, the single-headed agency is better adapted to a program of cooperation and collaboration with the chief executive. A plural commission renders difficult of achievement intelligent executive control as well as a clear allocation of responsibility.

There are those who question whether it is advisable to entrust the State Highway Department to the control and supervision of the Governor. The thought of machine politics and similar considerations disturbs them. The remedy lies elsewhere. Government should be made more responsible to the people, rather than less responsible. What is indicated is a complete overhauling of the present absolete governmental structure to accomplish this purpose. The need for such action has been realized for some time and is presently taking the form of a movement to revise the State Constitution, either by constitutional convention or by amendment.

The most desirable plan for reorganizing the State Highway Department would be to make it a major division in a larger Department of Public Works headed by a Commissioner appointed by the Governor and holding office at his pleasure. The Director of Highways in charge of the division would be selected by open, competitive examination. This official should, if possible, be an engineer of proven administrative experience and ability, although a good business administrator who knows how to cooperate with a technical staff often makes a satisfactory executive.

The Director of Highways would have essentially the powers of the present Highway Commissioner and would be subject to the supervision and control of the Public Works Commissioner. He would have the advice and cooperation of a small non-partisan, non-geographical Highway Advisory Board composed of outstanding citizens of varied interests, who would be reimbursed for necessary expenses but otherwise receive no compensation. They would be appointed by the Governor with the advice and consent of the Senate on a staggered term basis.

It may be that such a Department of Public Works will have to await the complete recasting of the State administrative structure into a dozen or more Departments, each made up of existing agencies having a similar functional relationship, in the manner so often proposed



in recent years. Rather than wait for the entire reorganization to be accomplished at one time, consideration might be given to the possibility of setting up the proposed Department of Public Works, with the Division of Highways as its major bureau, at the present time. Should this proposal be rejected as impracticable, then the following recommendation for reorganizing the Highway Department is made, pending the time when the entire State administrative machinery will be revamped.

It is recommended that the affairs of the Highway Department be administered by a Director, appointed by the Governor and holding office at his pleasure. Preferably, this official would be an engineer who has had broad administrative experience and exhibited proven ability in that direction. He would have essentially the powers enjoyed by the present Highway Commissioner. He would consult and advise with a small, non-salaried Highway Advisory Board that would assist him in establishing the highway policies and programs to be followed, and in deciding questions of general public concern. The members would be leading citizens of varied interests, appointed by the Governor with the advice and consent of the Senate for overlapping terms. They would be selected without any partisan, geographical or personal considerations, and receive reimbursement for necessary expenses.

This plan would establish the desired direct executive control of the Highway Department, fix executive and administrative responsibility, permit a reasonable degree of continuity in policy and program, and provide an advisory board which would act as a buffer for the Director.

It is assumed that the Governor would make available to the Director for his consideration in reorganizing the internal affairs of the Department, my report, including the recommendations for procedural reforms.

* * *

While it is realized that no mere organizational structure can render a State department permanently immune from future efforts to subject departmental activities to partisan and personal exploitation, it is believed that under the plan herewith recommended the

Department would be relatively immune from such influences for a considerable period, during which period public opinion would, it is hoped, develop sufficiently to insure a continuance of non-political administration.

Very respectfully submitted,

ROGER HINDS,
*Chief Examiner.*

## VI

## Detailed recommendations and conclusions for the reorganization of the Highway Department (based on complete administrative study, written report of which is now in preparation, to be submitted in final report).

The recommendations and conclusions which follow are concerned solely with the administration and organization of the New Jersey State Highway Department and do not in any wise cover those matters which were the responsibility of the investigating staff of the Governor's Highway Examiner.

### General Principles

1. Since the highway service is a division of the executive branch of the government, it should be subject to the effective control, management and supervision of the Governor.

2. The Legislature should concern itself only with the establishment of basic laws which will permit proper administrative discretion on the part of those to whom responsibility for operating the State highway system has been delegated.

3. The State Highway Department should be considered as a regular division and integral part of the State government, and should be subject to the same set of overhead controls of budgeting, finance, purchasing and personnel as are provided for the other departments.

4. There should be developed a long term highway program based on careful planning of needs and on funds available, which would be adhered to with only such modifications as are necessary to meet changing conditions.



### Objectives of the State Highway Department

1. To construct, reconstruct, maintain, repair, light and equip the existing highway system and future additions thereto.

2. To conduct continuing planning surveys covering all phases of the State highway system from an administrative, engineering and financial standpoint.

3. To carry on constant research into and the testing of materials used in construction and maintenance for the purpose of providing durable, safe, efficient and attractive roads and other structures at the lowest possible cost.

4. To provide the safest system of roads and bridges consistent with the speed and volume of modern transportation.

5. To landscape and otherwise beautify the highway system.

6. To keep the highways open and free at all times, especially from ice and snow, from encroachments, and from any other conditions which may endanger life or property.

7. To cooperate with the Federal government in public works programs involving highways and highway structures.

8. To administer any grants-in-aid for highway purposes, whether received from the Federal government or granted by the State to the counties and municipalities.

9. To maintain a central control and management of all plant and equipment owned or leased by the Department.

10. To keep the public informed of highway programs and activities through appropriate and clearly understandable media.

### Criticisms of the State Highway Department

1. The Department enjoys an almost completely independent status which leaves it free from real executive control, contrary to sound administrative principles and in contrast to the status of our other State agencies and of highway departments elsewhere.

2. The Department has failed to develop a long-range plan of highway construction and has exhibited a lack of vision in failing to weld together policies into a program capable of daring execution.

3. There is a general lack of a concept of administrative management, with a tendency toward departmentalization of functions and bureaucratic rigidity.

4. The Department's fiscal year and method of budgeting do not accord with those of other State agencies. This, and the existence of the separate Highway Fund, tend to set the Department apart from the rest of the State government, confuse the general financial position of the State, and complicate the system of State accounting.

5. The fiscal operations of the Department are not subject to the same direct control as is exercised by the Commissioner of Finance over all other State agencies.

6. There is a pressing need for a complete reclassification of the entire personnel of the Department.

7. There is a clear lack of proper public reporting of the work of the Department. There is likewise a need for fostering a real public understanding of its problems and activities through a sound and sustained program of public relations.

8. There is a lack of central, coordinated reseach. A comprehensive research program has not been developed.

9. A very real question exists as to the necessity and advisability of the Department's occupying valuable office space in the State House Annex.

10. The policy of the Department in limiting equipment purchases to $200,000 annually does not give proper recognition to present needs. On the other hand, too generous a policy has been pursued in assigning automobiles and chauffeurs to Department officials and employees.

11. The constant increase in Department personnel, especially in the labor group, is out of proportion to the Department's program as it has developed during recent years.

12. The legal staff which, with the exception of the General Solicitor, is on a part-time basis, is overmanned. There seems to be little justification for the unique tenure protection afforded the General Solicitor by statute.

13. Title search work requires the full-time services of a supervising expert. The Supervisor of Titles should give full time to this work.



14. The Department is not making the most effective or proper use of the services of certain of its personnel, an outstanding and glaring example being that of the Special Engineer in the Real Estate Division.

15. The present appraisal system used in right-of-way acquisition work, and particularly the methods followed in outside appraisals, are unsatisfactory and in need of revision. The present statutory provisions relating to condemnation are likewise unsatisfactory.

16. The existing law relating to central State purchasing, and the interpretations thereof, do not make for a truly centralized system of purchasing in so far as the Highway Department is concerned. The law should be strengthened to accomplish this end.

17. The present system of State aid to counties and municipalities does not bear any precise relation to the needs of these local units of government, nor does it result in the most effective use of the funds.

## Organization of the State Highway Department

### A. *External Structure.*

1. The most desirable plan for reorganizing the State Highway Department would be to make it a major division in a larger Department of Public Works headed by a Commissioner appointed by the Governor and holding office at his pleasure. The Director of Highways in charge of the division would be selected by open, competitive examination. This official should, if possible, be an engineer of proven administrative experience and ability, although a good administrator who knows how to cooperate wth a technical staff often makes a satisfactory executive. The Director of Highways would have essentially the powers of the present Highway Commissioner and would be subject to the supervision and control of the Public Works Commissioner. He would have the advice and cooperation of a small non-partisan, non-geographic Highway Advisory Board composed of outstanding citizens of varied interests, who would be reimbursed for necessary expenses but otherwise receive no compensation. They would be appointed by the Governor with the advice and consent of the Senate on a staggered term basis.

2. It may be that such a Department of Public Works will have to await the complete recasting of the State administrative structure

into a dozen or more Departments, each made up of existing agencies having a similar functional relationship, in the manner so often proposed in recent years. Rather than wait for the entire reorganization to be accomplished at one time, consideration might be given to the possibility of setting up the proposed Department of Public Works, with the Division of Highways as its major bureau, at the present time. Should this proposal be rejected as impracticable, then the following recommendation for reorganizing the Highway Department is made, pending the time when the entire State administrative machinery will be revamped.

3. The power of administering the affairs of the Highway Department should be committed to a Director, appointed by the Governor and holding office at his pleasure. Preferably, this official would be an engineer who has had broad administrative experience and exhibited proven ability in that direction. He would have essentially the powers enjoyed by the present Highway Commissioner. He would consult and advise with a small, non-salaried Highway Advisory Board that would assist him in establishing the highway policies and programs to be followed, and in deciding questions of general public concern. The members would be leading citizens of varied interests, appointed by the Governor with the advice and consent of the Senate for overlapping terms. They would be selected without any partisan, geographical or personal considerations, and receive reimbursement for necessary expenses.

**B. *Internal Organization.***

1. The Highway Department should be organized in a manner which recognizes the essentially two-fold character of the highway function, namely, its engineering and its business-management phases. There should be a principal engineering officer and a principal administration officer, appointed in accordance with Civil Service rules and regulations, with jurisdiction over the respective bureaus of the two basic subdivisions and subject to the general control of the Director of Highways. These bureaus should be reduced to the smallest possible number so that the "span of control" of each officer can be kept to an efficient minimum.

2. In general, the principal administration officer would be in charge of the following functions: auditing and accounting, fiscal,



budget, prequalification of contractors, personnel, procurement, plant and equipment, legal, records and files, highway planning, right-of-way acquisition, reporting, statistical, office services, and all other overhead control and staff functions. The principal engineering officer would be responsible for the functions concerning plans, surveys, designs, construction, maintenance, landscaping and beautification, bridges, electrical, traffic safety, research and testing, standards and specifications, State and Federal aid, and all other activities of an essentially engineering nature.

3. These functions should be distributed among the fewest number of bureaus possible, under appropriately designated and qualified bureau heads appointed in accordance with Civil Service rules and regulations.

4. In accordance with the above, it is suggested that the present divisions of the State Highway Department be reorganized as follows:

A. Under the principal administration officer:

1. Land and Legal Bureau, which would take over the present duties of the Real Estate Division (negotiations), and the Legal Division (condemnation work, claims, compensation proceedings, and title searching and examination), the work of the Special Engineer now reporting directly to the Highway Engineer, and the disposal of excess real estate.

2. Finance Bureau, which would take over the present work of the Auditing and Accounting Bureau (general accounts and audit, cost accounting, prequalification of bidders, and insurance); the preparation of the budget, finacial reports, all payrolls and statistical information (financial); and the handling of all matters of a fiscal nature.

3. Office Management Bureau, which would be in charge of purchases and stores, the records and central files, all printing and reproduction work, the details connected with the letting of contracts, the Department storeroom, administration of all personnel matters, handling of departmental mail, and the supervision of office boys.

4. Public Relations Bureau, which would have the duty of keeping the public informed of all Department activities, problems and programs through the medium of the press, radio, motion pictures,

displays, lectures, publications, etc.; report road conditions; prepare and distribute road maps; carry on highway safety educational work; prepare the annual report in attractive and clearly understandable format, as well as such other reports as may be required, and edit all departmental publications.

5. Highway Planning Bureau, which would carry on the work of the State-Wide Highway Planning Survey in expanded form as a continuing program of the Department.

6. Plant and Equipment Bureau, which would take over the duties of the present Equipment and Transportation Division and be responsible for the central control and management of all departmental plant and equipment.

B. Under the principal engineering officer:

1. Construction Bureau, which would include the present Survey and Plans Bureau (with the exceptions noted in paragraph 4 below); the two road Construction Districts and the Bridge Bureau of the present Construction Division; and the non-Federal-Aid work done by the Engineer of Grade Crossing, as well as the duties of the Designing Engineer in that Division.

2. Maintenance Bureau, which would include the work of the present Maintenance Division (including landscape and roadside beautification work), and be expanded to embrace all the work now done by the Electrical Division except for the traffic analyses and accident investigations carried on by the Supervisors of Traffic Safety of that Division.

3. Federal and State Aid Projects Bureau, which would include the work of the present State Aid Projects Division; the duties performed by the Federal Aid Bureau, and the work of the Grade Crossing Engineer in connection with the Federal Aid grade crossing elimination program, both now in the Construction Division; the duties of the W.P.A.-State Highway Bureau connected with this Division as well as the work of the Technical Engineer now reporting to the State Highway Engineer.

4. Research and Testing Bureau, which would take over the work now done by the Laboratory Division; the traffic analysis and



accident investigation work performed by the Electrical Division; the duties of the Engineer of Special Assignments and the traffic studies made by the Traffic Engineer in the Survey and Plans Bureau of the Construction Division; as well as any testing and research work (other than research work done by the Highway Planning Bureau or fiscal research by the Finance Bureau) affecting New Jersey highways.

Although no extensive study of divisional field office interrelationships was possible within the time limits of this survey, it is proposed that the possibilities of coordinating and integrating field office operations be studied after the Department has been reorganized internally. There is a strong indication that such an integration is possible and would result in increased efficiency and considerable savings.

### Plant and Equipment

1. The Commissioner of Finance should make a study to determine whether it is advisable to continue the Highway Department in its present State House Annex quarters or establish it in some new location such as the Fernwood Service Station. There would seem to be little justification for the Department's occupancy of so much valuable office space in the Annex if other more economical and efficient arrangements could be made. This study should give consideration to the badly overcrowded condition which exists in the Department at the present time.

2. The garage now utilized for storage by the Alcoholic Beverage Commissioner and the Finance Commissioner at the Fernwood Service Station should be turned to Highway Department use. Valuable highway equipment is now of necessity being stored out in the open. This garage is needed, and possibly one other may have to be constructed in the near future.

3. Highway equipment, especially that used for snow removal and heavy duty, should be purchased in the light of actual needs rather than on the basis of a departmental policy which limits equipment purchases to a stated sum annually. Considerable equipment, some of it badly depreciated, some of it obsolescent and dating back to World War days, should be replaced as soon as practicable.

4. An immediate study should be made of the central passenger car service operated out of Fernwood Station by the Equipment Division, with a view to reducing the number of chauffeurs and automobiles in the central pool and especially those permanently assigned. The number

of chauffeurs and cars, and the cost of operating this service, has increased steadily in recent years.

5. A survey of garage and storage facilities owned or leased by the Department throughout the State should be made in order to effect possible economies and improved service.

6. Consideration should be given to the expansion of the present Laboratory plant. The need of such an enlargement has been recognized in the Department for some time, and will undoubtedly be even more necessary if the recommendation concerning the establishment of a Research and Testing Bureau is adopted.

7. Immediate steps should be taken to eliminate the dangerous condition existing in the main garage at Fernwood during winter months because of carbon monoxide fumes.

### Personnel

1. Funds should at once be made available and the Civil Service Commission directed to carry out a complete and detailed reclassification of the entire Highway Department personnel, in line with the recommendations contained in the 1938-1939 report of the Commission, "including such modifications in the compensation schedules as are necessary and equitable and the adjustments in compensation of at least the outstanding inequalities which are known to exist."

2. The reestablishment and maintenance of labor registers and labor registration procedure in the State service by the Civil Service Commission, as recommended in its 1938-1939 report, is a matter of real importance in effecting an improvement in the practices now followed by the Highway Department in employing labor personnel. This recommendation should be carried out as soon as possible.

3. A departmental personnel officer should be appointed to serve in the proposed Office Management Bureau, who will coordinate all the personnel work of the Highway Department and serve as liaison officer between the Civil Service Commission and the Department. He should be given the powers and responsibility required to carry out his duties promptly and efficiently.

4. All departmental employees, except the proposed Director of the Highway Department, not in the classified service should be placed in that category as soon as possible through open, competitive examinations.



5. Officials of the Highway Department, in cooperation with the Civil Service Commission, should establish a comprehensive program of in-service training for departmental personnel.

6. Although it was impossible to make a detailed study of departmental personnel, it would appear that the number of persons employed by the Highway Department, particularly laborers, is excessive for the present highway program. A careful study of personnel needs should be made with a view to reducing the number of employees.

7. The rating system now used by the Department to evaluate the quality of work done by employees, should be revised and extended to all departmental personnel as a basis for promotion and for salary increases or decreases. Such evaluations should be kept current.

8. The practice followed by the Department in a few instances, typified by the case of the Special Engineer in the Real Estate Division, of not properly utilizing the services of certain well qualified employees, should be discontinued at once.

9. The special act giving tenure to the General Solicitor—a situation unique in the Department—should be repealed.

10. The number of legal assistants should be reduced and the staff placed on a full-time basis with adequate salaries. The Supervisor of Titles, presently giving only part-time service, should be required to give his entire time to title search work, or the position should be abolished and the duties consolidated with the proposed Land and Legal Bureau.

### Finance

1. The fiscal year of the Highway Department should be changed to conform with that of our State government proper, so that there will be one common fiscal year for all State operations.

2. The State Highway Fund should be abolished and all appropriations to the Highway Department should be made from the General State Fund in the same manner as for other State agencies. All unexpended, uncommitted balances should lapse into the general treasury at the end of each fiscal year.

3. The separate Highway Department budget should be eliminated, so that there will be one budget for all State agencies. Highway

budget requests should be submitted in the same detail required of other agencies, and appropriations should be made on an itemized basis rather than in a few large, lump sum grants.

4. The Highway Department should be subject to the same control as is exercised by the Commissioner of Finance over all other departments of the State government.

5. The Highway Department should act promptly to collect or settle all the so-called "accounts receivable," particularly those due from other State departments, public utilities and lower governmental units which total over $400,000. Many of these accounts are of long standing; one of the largest, amounting to over $300,000, dates back to 1926.

6. Highway construction during the present national emergency should be confined only to that which is needed in connection with the national defense program, and that which is recognized as urgently necessary. If the reduction in highway construction at this time produces substantial uncommitted surpluses of highway funds, such funds, in the event that the recommendation for abolishing the Highway Fund is not accepted, should be held as a reserve to meet the requirements of carefully planned post-war highway construction. One important manner in which this may be done is to make right-of-way purchases along important routes in anticipation of later construction.

### Highway Program

1. The highway authority, rather than the Legislature, should determine the location of highway routes. Such determination should be based upon a comprehensive and detailed study of all data and factors relating to the subject, and should be made only after a full and public hearing held by the proposed Director of Highways.

2. There should be an immediate and complete review made of the present legislated State highway system, for the purpose of sound revision and modernization. The cost of completing this system, as of January 1, 1942, was $347,930,000.

3. There should be developed a long-term program of State highway construction, based upon a careful study of highway needs and funds available, taking into consideration such matters as the present and probable future earning capacity of the road, potential economies



in the cost of vehicle operation, safety factors, traffic movement, and the economic, recreational, social, aesthetic and educational advantages to be derived. The order, type and extent of the improvement should depend upon a balancing of these factors.

### State Aid Program

1. A study should be instituted and diligently pursued to determine the feasibility of taking over certain county and municipal roads now being built and maintained through grants-in-aid from the State, in order to develop a State-controlled system of secondary roads. This study should develop the method by which the operation of the secondary system would be integrated with the present State highway organization and program.

2. In the meantime, however, there should be an immediate examination of the present system of grants-in-aid to counties and municipalities, who now receive almost 10 million dollars annually in State Aid funds. The present distribution of funds is the end result of long continued pressure from the beneficiaries; the amount of these funds has increased rapidly during the past two decades. It is reasonable to believe that this distribution does not meet actual needs, nor does it always obtain the best results.

### Highway Department Functions

**A. *Purchase and Stores.***

1. All purchases made for the Highway Department, except those of a strict emergency nature, should be made by and be subject to the absolute control of the State Purchase Commissioner. Waiver by the State House Commission of the advertising for bids provision of the statute, and the use of "confirming orders" issued by the Purchase Commissioner on the Highway Department's own purchases, should be limited to actual emergencies.

2. The Purchase Commissioner should make continuing independent checks on the quality and quantity of materials and supplies purchased for the Highway Department.

3. The Supervisor of Purchase and Stores in the Highway Department should manage and control all departmental stores, including the Electrical Division stores and those located in the Newark garage and other Department garages.

4. All contracts for purchase of materials and supplies should carry a provision limiting the amount of excess orders that can be made thereunder. The present unlimited, "open end" type of contract should be abolished.

5. The mail room maintained by the Purchase and Stores Bureau for the Department should be abolished and the departmental mail handled by the central State House post office.

**B. *Central Files.***

1. Steps should be taken to secure adequate and safe facilities for the departmental files and records, some of which are now stored in unsatisfactory manner in the State House Annex basement and corridors.

2. Although most Department records eventually find their way to the central files, it should be required that all plans, records and correspondence be sent promptly to the central files, except for such plans and records as are absolutely necessary to the current work of a particular bureau or division.

**C. *Publicity and Public Reporting.***

1. The Department should publish an annual printed report covering the work, finances and problems of the Department in a clear, understandable and interesting manner.

2. The Department should issue special publications from time to time dealing with particular features of the highway program.

3. The Department should strive constantly, through public statements, lectures, exhibits, motion pictures and other appropriate means, to give the public a clear picture of its work and problems in building up and maintaining the highway system.

**D. *Research.***

1. The State-Wide Highway Planning Survey should at once be made a permanent, integral part of the Highway Department, and be constituted as the Highway Planning Bureau, to carry on continuing research into road inventory, highway traffic, highway finances and related matters.



2. The research work of the Department, presently scattered among several of the Divisions and thus causing a certain amount of overlapping and leaving gaps in a desired, rounded research program, should be coordinated and centralized in the new Research and Testing Bureau.

3. Specifications and standards should be examined by the head of the Research and Testing Bureau before they are approved and issued by the Department. This was not done with the 1941 edition of the Department specifications.

**E. *Maintenance.***

1. Legislation should be enacted which would facilitate the removal of existing encroachments and prevent new encroachments on the State highway system.

**F. *Right of Way Acquisition***

1. The present list of outside appraisers, as well as the system of outside appraisals now used, should be abolished.

2. In negotiating voluntary settlements of right-of-way prices, appraisals serve two useful purposes: (1) in guiding the Department as to how much may fairly be paid without condemnation proceedings, and (2) in furnishing a check on the discretion to be exercised in that regard by the Director of Highways. In the large majority of cases both of those purposes are fully accomplished by the appraisals of the experienced and able department appraisers. It is recommended that they be permitted to consult departmental construction engineers and other department specialists in cases calling for specialized knowledge; that all voluntary right-of-way agreements be signed by the Director of Highways, upon his own full responsibility; that in any case in which the negotiator and the head of the Land and Legal Bureau believe it may be advisable to offer a price in excess of the departmental appraisal, the latter be given discretion to consult an outside expert on a *per diem* basis; that in exceptional cases where the prices exceed the department appraisals, a statement, signed by the head of the Land and Legal Bureau and the negotiator, of all the facts relied upon to justify the payment, accompany the agreement to be signed by the Director of Highways.

3. All appraisals should be made on standard forms drawn up to reflect the experience of the Department in its years of real estate acquisition work, as well as the best practice in the field. All forms should be signed by the appraiser.

4. All files relating to acquisitions of real estate should be kept under strict central control and supervision to eliminate the possibility of loss, destruction or alteration.

5. Legislation should be secured modifying and eliminating the defects in the condemnation act of 1900, unless a special condemnation law, such as is proposed in the paragraph following is passed. The basis of "just compensation" and the consideration to be given to damages suffered and benefits conferred, should be defined specifically. The State should be given authority to cause buildings to be moved back on the remaining land of the owner. Reference is made to the recommendations for revising the condemnation law and procedure made in the 1930, 1931 and 1932 annual reports of the Department.

6. In connection with the above, consideration should be given to the possible advantages of a special condemnation act, correcting all the defects in the present act and setting up a non-partisan condemnation court; consisting of three qualified members, appointed by the Governor with the advice and consent of the Senate on a staggered term basis and receiving adequate annual compensation. The right of appeal should be preserved. In this respect, reference is made to the recommendation for a similar type of court or board set out in the 1931 annual report of the Department.

### G. *Miscellaneous*

1. No member of the Legislature should during his term of office, and no officer or employee of the Highway Department should either during his said employment or within two years thereafter, act as agent or attorney, either with or without compensation, with respect to the voluntary settlement of any claim against or the negotiation of any agreement or other transaction with, the Department, or intercede or participate in any such settlement or negotiation. As to officers and employees of the Department, the foregoing may be accomplished by regulation, statute or a required express agreement to that effect; as to members of the Legislature, legislation will be required and is recommended.



## VII

## Summary of Public Testimony and Findings, with respect to the misuse of the Power of Employment in the Maintenance Division.

This part of the report deals with the system of employment in the maintenance division, which constitutes the bulk of employment of the department.

Dear Senator X:

"Acknowledgement is herewith made of your letter of the Nth inst. concerning A, B, and C.

Please be advised that arrangements have been made with the maintenance division to employ these men and they will be contacted within the next few days and advised where to report for duty."

Sincerely yours,

STATE HIGHWAY DEPARTMENT,
(s) JAMES LOGAN,
State Highway Engineer.

Memorandum to Mr. Muir:

"Agreeable with the approval of Commissioner Sterner, will you kindly arrange to employ the men on the attached list, as laborers in the maintenance division, effective immediately."

(s) JAMES LOGAN,
State Highway Engineer.

"Memo:
Commissioner Sterner for Senator X."

The above constitutes the *modus operandi,* the sum and substance of the system of employment in use in the department under the present administration. At first glance, it merely indicates the department's lack of a system of its own, and a reliance upon outsiders to select the employees. But a further study of the actual workings of this practice discloses that the delinquency is not merely a negative one; rather, a well established system with an aim,—namely, to satisfy and accommodate the senators and political leaders of the various counties, each in his proper sphere or territory.

It is conceivable that employment in any institution, private or public, may be subject to some degree of external influence or recommendation. We note this, not with a stamp of approval, but as a condition more or less expected due to the human element necessarily present. It follows then that the difference between good and bad management arises from the differences in the degree to which the department is subject to external, self-seeking influences, for it is obvious that a great difference in degree creates a difference in kind, and under such varying degrees of influence, we may conveniently classify such degrees of subjection to influence as follows:

(a) The ideal state of complete freedom from external influence.

(b) Accepting recommendations from men in responsible public office as a matter of reference.

(c) Occasional accommodation of outsiders as a personal favor to the sponsor or to the candidate for employment.

(d) Substantial surrender of choice of employment to the outsiders.

(e) The use of the department as the employment exchange or feedbag for the political and selfish purposes of certain interests and organizations.

The first of these we shall eliminate as Utopian. We shall then endeavor to learn, into which of the remaining groups has the employment system of the highway department fallen.

There has been editorial comment in some of the press to the effect that Mr. Sterner has candidly put into writing what other departmental heads have from time immemorial practiced. We like to believe that this "what's the use" attitude, this apparent cynicism, is not a reflection of public apathy and complacence towards official callousness, but that it is due to a lack of knowledge of the degree to which the department has submitted to political dictation. We trust that a common sense of decency will recognize these irregularities not only as wasteful of the public treasury, but as a malignant growth in our state government.

We shall then proceed with our analysis of the facts disclosed at public hearings and Mr. Sterner's attempted explanation of those facts. Concededly, the maintenance division is the place where there are found the greatest number of non-civil service employees, there being no personnel bureau with considered forms of application or examination of qualifications (other than physical). To begin with, Mr. Sterner in his letter of October 29, 1941 attempts to place his management of employment under what would be Class B as above designated. He says: (pages 7 & 8 Vol. I—Hearing on Maintenance Division.)



> "* * * since the very beginning of the Highway Department these men have been selected in practically every instance on the recommendation of public officials from both major parties throughout the state, who are constantly receiving requests from those in need of employment for the support of their families. * * * As you must concede, the practice of obtaining references from responsible persons is common procedure in private industry as an assurance of character and ability.
>
> Likewise I have felt that the recommendations of public officials elevated to positions of public trust by the votes of their local constitutents, could certainly be accepted in the hiring of local men for common labor or semi-skilled laboring work on our State Highways. * * *"

Thus, Mr. Sterner would have us believe that the policy adopted by the highway department was comparable to that of private industry and that the recommendations of men in public office were accepted merely as references as an assurance of the character and ability of the applicant for employment. He reiterated that thought in his oral testimony adding a pretense of charity and thoughtfulness for the applicants for employment.

Thus, connecting charity with "recommendations" of public officials, Mr. Sterner said (p. 176):

> "* * * It has always been my policy, while we did take any recommendations from public officials, because as I stated previously, they are in a position of public trust, elected by their constituents, and I felt their recommendations, just as I said in my letter to you, just as in my own private business, I have always taken the recommendation of people in a similar line of business in connection with employees I didn't know personally. * * *"

(Page 198):

> "A. I want you to understand this, Mr. Hinds, just because a person doesn't happen to be holding public office at the minute he writes me a letter, I don't think it should follow, there-

> fore, his recommendation of some poor fellow needing a pick and shovel job to find his starving children would be mandatory. * * *"

and similar "charitable" sentiments were expressed.

(Page 269) :

> "* * * I want to again stress that, that just as in private business, persons asking for employment, we request responsible persons to vouch for their integrity."

Then, to justify the fact that there was a prevalence of Republicans among the sponsors as well as the sponsored, and attempting to refute any implication of politics, Mr. Sterner offered the explanation that after all, the Democrats had the WPA to grant relief—so he decided he was justified in offering the Republicans the highway department as a relief agency. Thus, when asked to give instances of granting the requests of Democratic senators, to put men on jobs, just before election time (p. 256) Mr. Sterner said (p. 257) :

> "A. Yes, I have done that in some instances, but it was always my understanding that the WPA, with 40,000 jobs, took care of them in good shape. We only had a few hundred in the highway department."

And again, we quote Mr. Sterner (p. 290) :

> "I want to again stress the fact that I do happen to be a Republican. There is no question but what the Republicans throughout the State, are public officials, and as I mentioned in my letter to you, 90 per cent of them in the County, State and municipalities are Republicans; that when I became Commissioner, knowing I had been appointed by a Republican Governor, they naturally deluged me with requests for employment, and I think it is well to bear in mind that the Republicans had very few places where they could even get a poor fellow, as I say, with his wife and family starving, where they could get him employment. The New Deal had complete charge of the W. P. A. and every other Federal agency, and in this State there were forty to fifty thousand jobs in the W. P. A. alone that they handed out. * * *"

To negative the thought that men not needed were employed to satisfy the demands of the political officeholders, and recommendations were



requested only when the department actually needed men, Commissioner Sterner said (p. 288) :

> "I want to emphasize again that no one was used on the Highway Department, unless we had work to be done, whether it was during a campaign or any other time, and if we had no work for them to do, the people requesting employment were notified that there were no vacancies, and we had no place where we could use them. * * *"

And, again (p. 249) :

> "He (Muir, head of the maintenance division), sends me a memorandum through Mr. Logan, requesting men for the maintenance division in some instances, and sometimes I am advised verbally by Mr. Logan, that their need is so many men. * * *"

Of course, Mr. Sterner denied that any increase in employment had any connection with elections, and that if there was a concurrence of such increases with elections, it was a mere matter of coincidence. He considered the political pressure as no worse than a nuisance; something which had been going on since the days of Adam & Eve; and he didn't see any reason why he should be criticized for putting men to work at the instance of prominent men (p. 271).

We submit that Mr. Sterner's stand, even as taken by him, is untenable and self-condemning. It is perhaps sufficient to note that he (Mr. Sterner) was appointed administrator of the highway department, and not of a relief agency; that the people of the State of New Jersey, through duly constituted authorities, had the power to and did provide for charity and relief, by divers projects and agencies; that the W. P. A. was openly and publicly established, with the full support of the Republicans and Democrats, to provide relief for the needy of all faiths and beliefs; that if there were abuses in the administration of the W. P. A. such abuses are to be remedied, not by counter-abuses committed by Mr. Sterner in his department, but by the enforcement of the recently enacted Hatch Act. It is evident that Mr. Sterner, both by his testimony and by his letter of November 10th, reiterating the same thoughts, indicates the need for a New Jersey Hatch Act to curb such abuses, which he now confesses to have practiced in the name and under the pretense of charity.

But Mr. Sterner's delinquency has gone far beyond mere partiality in the distribution of charity. He has, under the pretense of charity,

used his powers of employment to serve the political purposes of demanding officeholders and of political organizations. The favors he has granted, and the motivating force behind, were not charity to the needy seeker of employment, but political accommodation to the sponsor.

In the first place, it is not true that only as men have been needed, have recommendations been asked for from senators and political leaders. Mr. Muir was head of the maintenance division, and if more men were needed, that knowledge would be conveyed, not from Mr. Sterner to Mr. Muir, but vice versa: in the normal course it would be Mr. Muir who should be asking for more men. The actual process in operation was just the opposite. The senators first wrote to Mr. Sterner, asking the placing of certain men on jobs; then Mr. Sterner, through Mr. Logan, directed Mr. Muir to put the men to work. Thus, in connection with the request of Secretary of State Mathis, for the employment of 15 men designated by the Secretary of State, Mr. Sterner was asked (p. 213):

> "Q. Did you ask Mr. Mathis to recommend to you the names of some good laborers in his bailiwick, or did this come in unsolicited on October 9?
>
> A. No, I didn't. I don't recall asking him."

And again, on page 250, Mr. Sterner testified:

> "Q. Well, isn't it a fact that the real suggestion as to putting on extra men around election time, comes from state senators and politicians, and that you receive from those gentlemen, requests for anywhere from five to 93 men and a certain number of trucks, and then you tell Mr. Muir to put them on? Isn't that substantially what happens?
>
> A. Sometimes it happens that way, that I receive requests from senators and assemblymen and public officials to put men to work, and I take it up with Mr. Logan and on to Mr. Muir to find out if we *have a place* where we can use these men to advantage."

And if there was any doubt on this point, that the demand for employment of more men did not emanate from Mr. Muir (the utility end) but from the senators (the political end), Mr. Muir eradicated such doubt with his testimony. Thus, he testified (p. 361):

> "Q. Have you in certain years, received orders to put on a great number of additional men shortly before election?
>
> A. Yes.



> Q. Did you put those men on in response to those orders?
>
> A. Yes.
>
> Q. Did the suggestion of putting on additional men come from you as the head of the maintenance division?
>
> A. Not always."

And then, on page 362 he stated:

> "Q. Have there been any occasions when additional men have been put on shortly before election, when there was no special need for additional men, in your judgment, at that particular time?
>
> A. I can't remember as to that, Mr. Hinds, over a term of years. It is possible that there may have been."

Nor were such employments motivated by charity to the applicants for employment. They and their families were not the object of concern; rather, it was their sponsors' political exigencies.

As to the political purpose of the candidates, Mr. Sterner had this to say (p. 255):

> "Q. It is a fact, is it not, Mr. Sterner, that while as you say you weren't interested in the election in putting these men on in November, or later in October each year, you did know that the people who came in and asked that they be put on, were doing so for election purposes in a great many cases; didn't you?
>
> A. I presume it is near election time, but I would just like to state this, Mr. Hinds, after all I am not denying that I am a Republican."

The department's correspondence exposes this point most clearly and undeniably. Thus, on October 10, 1939, Philip S. Irons, Jr., of Mt. Holly writes to Mr. Logan (p. 374):

> "Dear Jim:
>
> Prior to the primary election Clif Powell made a promise to Walt Oldrey of New Hanover Township of employment throughout the winter for his dump truck on Route 40. During the absence of both you and Clif, Walt has contacted me twice and states that he is ready to go to work on Monday, October 16th. Will you kindly advise."

And thereupon "Dear Jim" sent the form of reply reproduced on the first page of this portion of our report.

And, on June 29, 1939, Senator Scott writes to Mr. Logan (p. 381):

"My dear Jim:

I am writing again in conjunction with the additional road gang which is supposed to go on the 1st of July. Since the appropriation bill is now passed I am hopeful that you have augmented this group and the names submitted will go to work under the caption of a new gang. As you may well imagine, this is a decided political issue at home here and it will be very helpful to me to have this mitigated as quickly as possible."

And, in due course, the letter is marked "O. K." and the mandate of the senator is carried out (p. 382).

Perhaps the compliance of the department with the demands of Senator Taggart will answer all questions as to the motives of the department. He wrote, on January 24, 1938 (p. 383):

Dear Rans (Secretary to Mr. Sterner):

Freeholder Saalman, of Mullica Township, has consulted with me in reference to having Henry Manhko, of Egg Harbor, R. D., *replace* Horace Jones who is now a laborer employed on the Road Gang and, also, Theodore Rampto, Egg Harbor, replace Reinhold Miller.

I will appreciate it if you will make these two necessary changes."

There was a mistake as to spelling of the name Rampto (Ramp), so we find an order of Mr. Logan to Mr. Muir (p. 384):

"* * * lay off Horace Jones and Reinhold Miller and employ Henry Yanko and Theodore Ramp as laborers in the maintenance division in the place of the two men first mentioned."

Mr. Enoch L. Johnson of Atlantic City, too, was interested in the two men newly employed (p. 384). We wonder if that, too, was a charitable interest.

Then there was the letter of the West Belmar Young Men's Republican Club to Mr. Sterner, dated June 8, 1938. It said in part (p. 387):

"He, (the candidate for the job) had the privilege of voting for the past year and has used his vote in the *proper way.* * * * This fellow is a very hard and true *worker for the party* here and I know will make a good honest worker if given the chance."



Perhaps it is merely cumulative but we believe the following letter from Senator Powell is quite illuminating. Dated March 18, 1939, it not only seeks the appointment of three favored friends, but the discharge of a "disloyal" worker. All this in the name of charity to the poor struggling, helpless unemployed, trying to feed their starving children. Senator Powell writes (p. 21):

"Mr. James Logan, State Highway Engineer
State House, Trenton.

Dear Jim:

I am most anxious to do something for Mr. Harold Dunhour of Maple Shade, who has been employed in your maintenance crew for some time. He is a very high-type fellow and capable of doing much better work than he is doing at the present time.

If it could be arranged to have him displace Mr. Sanley Schultz of 704 Buttonwood Street, Maple Shade, who makes 65¢ an hour, I would sincerely appreciate it. Schultz has consistently *refused to cooperate with our organization* in Maple Shade and, some months ago, moved out of town. If it could be worked out for Dunhour to get this job it would be most helpful.

If that is impossible, I understand that Schultz's helper has recently quit and while this would not give Dunhour an increase in hourly wages, it would give him more hours. * * *"

Immediately upon receipt of the letter, a memo was made to grant the increases demanded and the senator was advised accordingly, (pp. 23-24). So here we have the department extending charity by increasing wages as requested by a senator.

On September 12, 1939, the same senator calls for the employment of twenty more—and that is granted (p. 29).

On September 11, 1941 Secretary of State Mathis writes (p. 30):

"Dear Jim:

Yesterday I left Trenton in a hurry. After you have talked to Commissioner Sterner, I wish you would let me know, as soon as possible, how many trucks and men you will require for work on the highway. I trust you can make it a goodly number. I would appreciate this information as early as possible, as I would would like to give it considerable thought before submitting the names.

Awaiting your reply, I am, with kind personal regards * * *"

Was Mr. Mathis going to investigate the economic needs of those whom he had under consideration, or was he shortly before election, calculating the political expediency? We can only surmise that. However, in due course, Mr. Logan arranged matters for Mr. Mathis, too, writing the usual letter of compliance, and employing *seven trucks* and *nineteen men.*

Again, on January 12, 1940, the usual acknowledgment is made to Major General Powell concerning his call for employment; the request is granted, and 93 men put to work, with the usual notation: "Commissioner Sterner *for* General Powell". The emphasis is ours. It is significant.

Particularly illuminating is the letter from Secretary of State Mathis dated October 8, 1938, also addressed to "Dear Jim", giving a long list of men whom he wants to have employed. He says this with respect to one of the persons named therein (p. 15):

> "* * * I am also very anxious for him to be offered employment, as he is expecting to be called any day on W. P. A. and *controls a number of votes* in his territory. * * *"

Evidently, it was not any alleged failure of the W. P. A. to give employment to Republicans that was being resented—rather the opposite.

Mr. Sterner, in his self-appointed role of donor of relief employment, timed his actions with the elections, primary or general. In addition to the letters quoted above, we had the testimony of witnesses confirming his.

William Dolan, a truck driver, now in the employ of the highway department, was naturally reluctant to testify. He had previously testified at private hearings. He stated that additional men were hired in the spring, during primary elections. As he put it (p. 338):

> "I said in the spring of the year and that is when primaries are."

He attempted to modify all his previous statements by the remarks: "I wasn't qualified to say that", or "That was said off the record". On page 344 he testified:

> "Q. It is true, isn't it, that some of the men that are put on there in the spring, are put on for political reasons; isn't that true?
>
> A. That might be, I don't know.



> Q. Hasn't that been your observation?
>
> A. Yes, it would be.
>
> Q. How does that effect the attitude of the other men?
>
> A. Well now, just a minute. Sometimes the men resent it, and at other times they don't. As I said before, in a large group they will resent it."

(Page 345):

> "Q. Were you asked the following question at the private hearing: 'Question—do you think that there are more men than are required to take care of this season work, put on around election time?' Do you remember being asked that question?
>
> A. Yes, I do.
>
> Q. Do you remember that your answer was as follows: 'Yes, I do. Do you want me to give an instance why I say that?' Wasn't that your answer?
>
> A. I guess it was if I wanted to explain why.
>
> Q. And then you gave an instance, didn't you, of why you said that?
>
> A. Really I don't know. Now, I don't just recall."

We have already quoted from Mr. Muir's testimony to the effect that additional men were appointed shortly before election without special need for such employment.

A graphical chart was prepared by Mr. Sidney Goldmann of our staff, and put in evidence (see p. 122 of this report). This chart, as will be seen by inspection, shows the trends and concurrences of employment in the number of hourly basis maintenance employees, times of employment, etc.

We further find, from the correspondence as well as from oral testimony, that as in land acquisitions matters, so, in employment, senators and political leaders enjoyed their territorial provinces. We start with Mr. Van Tine's statement (p. 195):

> "Q. In the State of New Jersey we have twenty-one counties and there are twenty-one senators and those senators think they have the right within their boundaries, to say whether or not a certain thing should happen. * * *"

Was it only that the senators *thought* so, or did the department *concede* the system of territorial division? Senator Powell, seeking employment for his cousin, then living in Camden County, writes:

> "I am writing to David Baird today requesting his *consent* to such an appointment." (Italics ours.)

Of course, Mr. Sterner denied that he had to have Mr. Baird's consent; but practices regularly applied speak louder than denials. Thus, on August 5, 1940, Mr. Logan writes to Senator Loizeaux, that the Electrical Division needs eight traffic counters from Union County, and wants the senator to furnish eight names. At the senator's request his secretary sent eight names. As to three of the men named, she writes (p. 378):

> "* * * I am not certain that Messrs. Alterzerski, Goldstein and Terrible are interested in this type of employment, and therefore also instructed them to inform the department and the Senator if they do not desire to accept employment. * * *"

Evidently, these men neither needed nor wanted the jobs. Then, we have the letter of Senator Eastwood, dated December 30, 1940 (p. 379):

> "Caesar W. Jones of 303 Borden St., Bordentown, N. J. has asked me to intercede for him for employment in your department. He states his father and mother are employed by Senator Foran and that the Senator also promised to see that you give him a job. With that powerful influence back of him, I do not see how you can refuse to employ him immediately. * * *"

Mr. Van Tine thought the Senator was jesting about Senator Foran's powerful influence. Evidently, Mr. Logan did not think so, for the request was immediately complied with.

Likewise, when Senator Bowers of Somerset wrote to Mr. Logan about one Pendergast, he referred to Senator Foran's approval of the request (pp. 75 and 76).

Political support was found necessary not only to secure employment, but also to get promotions. We have already referred to Senator Powell's letter of March 18, 1939.

Edward Monari, employed by the department for three years, testified that to his knowledge no one got employment except through some local politician,—that was the accepted way (pp. 128 and 129), and that, so far as he knew, there were no promotions or increases except through the intercession of a politician (p. 142). Mr. Van Tine not refuting this, but rather confirming it, volunteered the statement that one Moore got his promotion through Senator Bowers (p. 142).

Floyd Potter, assistant foreman, and president of the Maintenance Division Employees Association, stated that he knew of "no case where



anybody has obtained any employment in the maintenance division except through local politicians" (p. 154), and that all the men he is acquainted with obtained their jobs through politics (p. 158).

Mr. Dolan, heretofore referred to, testified that (p. 349):

> "* * * There was once I went after a raise, I went to our Assmblyman, Mr. Stackhouse. I met him one day and I asked him, I told him how much I was getting and he told me he thought I should get more money. That was along in—it was early this year. So I went one day over to Mr. Stackhouse's office, which is in Linola, one Saturday afternoon, and he wrote a letter to Mr. Logan and in turn I got a letter back from Mr. Muir to me saying that I was to the highest that I could get as a truck driver * * *"

He admitted having previously testified that (p. 352):

> "* * * if you were a committeeman of a district you got a raise * * *"

He resented very much the fact that he, despite his loyalty to Senator Powell, had not been given a raise (pp. 352-353). Mr. Van Tine pointed to this as evidence that loyalty to senators did not always bring the desired result. Of course, the reason was that Mr. Dolan had already been given the maximum and could not be given more (p. 351).

It appears clearly then, that there was no departmental bureau of employment. At one time, Mr. Sterner had delegated the entire business of employment to Governor Hoffman. This he denied and said that he would only consult the Governor as to the qualification of applicants in Middlesex County. On further examination, he admitted having made the following statement (pp. 219-220):

> "* * * As you know, of course, Harold is not able to take care of any of his friends throughout the State, so far as jobs or appointments are concerned in connection with the executive office * * *"
> "* * * On different occasions he mentioned he wished if I had any men to put on, I would give him a chance to place them, as there were a great many of his veteran friends and other loyal supporters who were out of work and would be glad to have even a laborer's job at $4 a day. He was very much pleased when I informed him I should be glad to allow him to handle all employment in our department as long as he notified them all they would have to do a day's work for a day's pay in order to hold their jobs. Of course, he agreed this was only proper."

Aside from this, the department maintained a card index grouping the employees according to their sponsors, So many for Senator X—so many for Senator Y, etc. The few on this index who were not sponsored were either civil service men, or were left from preceding administrations. Mr. Sterner referred to "application blanks", supposedly filed by applicants for employment. We had several men, run-of-the-mill, who testified. Not one of them had filled any such application blank prior to being hired. So if there was such a thing as the usual type of application blank, we have seen no evidence of it, or of its use. As clearly demonstrated by the correspondence between the sponsors and the department, the request for employment was first acceded by the department, and then the men in question were asked to fill out application for *physical* examination or qualification. The order of employment has been this: The sponsor asks for the employment of certain men. This is at once acknowledged. Sometimes by telegram (p. 252 in the case of Assemblyman Palese of Camden). Then the men are notified to report for medical examination. In such arrangement of affairs, application blanks had no function, and were, in fact, not used. What then, was the effect of political sponsorship and political influence for promotion, upon the morale of the men?

George W. Beattie was foreman. He had obtained his position through intercession by Mr. Lloyd B. Marsh of Passaic. Reluctant as he was to admit the extent to which political activity accounted for employment and promotions, he stated that the men who had political sponsors were defiant and arrogant, and refused to obey orders. He recognized that with political support behind them, the men were not subject to the foreman's authority (p. 328-329). William Dolan, too, testified that such men, politically hired, would not do a fair day's work, especially when in large groups and they, these men, would openly say that the reason they refused to do work was because they got their jobs politically (p. 337). And, for the same reason they would speak disrespectfully to their superiors (p. 339). Mr. Daniel C. Reich, truck driver for the department, also testified that not only political influence made those so appointed lazy and arrogant; but that it also brought upon the rest of the crew a feeling of discrimination and injustice (pp. 368-369).

accused your examiner of political or partisan motives in exposing these

The Commissioner and Mr. Van Tine, with one eye upon elections, various irregularities. Their chief claim was that your examiners were



mentioning Republican names more frequently than Democrats. If this was so, it was entirely due to the fact that Mr. Sterner, by reason of his avowed loyalty to his party, had been approached more frequently by Republican leaders than by Democrats. Thus, on page 291, he said:

> "* * * so that the poor starving Republicans in the state had nobody else to request for employment for their people, practically, except myself."

And again (p. 9), we have him stating (in a letter addressed to your Examiner):

> "While without question, due to the fact that about 90% of our municipal, county and state officials are Republicans, there are a preponderance of Republican recommendations over Democratic, with their control of the WPA and all the other Federal agencies involving the employment of tens of thousands of our state, are well provided for, in contrast to the few hundreds of non-civil service employees in the state highway department. * * *"

According to Mr. Sterner's own statement, the pressure from public officials for more and more jobs being mostly Republican, it is obvious that more Republican names were mentioned. We point this out, not in condemnation of one or the other political party, but as complete answer to Mr. Sterner's complaint that we mentioned Republican names more frequently. In fact, we ascribe the delinquencies of the office to no political party as such, but to Mr. Sterner and his staff. They were the ones who were appointed as administrators; not the outside forces which were so ready to use the department to their personal advantage.

Mr. Sterner's argument was that the men who were hired, did a day's work. Although this is definitely refuted by the evidence, assuming it to be true for the moment, it shows a misconception of duties. Was he employing men to fill the existing needs of the highway department or was he expanding the work to meet the patronage needs of the party machines?

Mr. Sterner also made a statement in attempting to justify his practices in land acquisitions. We shall not here dwell upon this phase, except to note his statement that he still considered securing "check" appraisals sound policy, despite Mr. Van Tine's admission in the previous hearing, that as a matter of hindsight, he now finds the practice

unsound. Mr. Sterner again expressed surprise at the tampering and changing of appraisals (some of which were done by Mr. Logan). Still Mr. Sterner expressed his complete confidence in Mr. Logan (p. 315).

A portion of this hearing was taken up with the Pendergast episode. The significance of this matter rested upon a statement testified to have been made by Mr. Sterner, to the effect that knowing one Pendergast to have been guilty of misconduct in his job as foreman, he, Mr. Sterner, nevertheless refused to punish him upon the ground that (p. 87):

> "Senator Foran has interceded for him, and you know who is the boss of this State. He is to be the president of the incoming Senate. He will stop my appropriation * * *" and,
>
> "Hague is the boss of the state: Foran is the president of the Senate, and Foran has interceded for this man. * * *"

The various witnesses to this statement differed as to the exact words used, but that it was the substance of Mr. Sterner's statement all agreed. We cannot here try the guilt or innocence of Pendergast: nor is that the material issue here. But it is clear beyond any doubt that serious charges were made to Mr. Sterner concerning Pendergast—among the least of the charges having been the systematic selling of lottery tickets; that Mr. Sterner referred the matter to Mr. Gibbs, investigator for the department; that Gibbs interviewed numerous persons, who had nothing to do with the making of the original charges; and who, despite personal friendship towards Pendergast, substantiated the charges with their sworn affidavits; that thereupon Mr. Sterner referred the matter to Messrs. Van Tine and Logan for a hearing, who in turn dismissed the charges, not on a finding of the innocence of Pendergast, but upon a finding that one or two of the accusers were motivated by a desire to obtain Pendergast's job. Upon dismissal of the case against him, Pendergast fired three of the men who had made statements against him. Those three, Paul Mondak, J. Laird Moore, and Edward Monari, after some correspondence, went to Mr. Sterner demanding reinstatement and back pay, and the reason why Pendergast was permitted to go unpunished. It was at that conference that Mr. Sterner made the statement above referred to. The testimony of those men will be found at page 42-151.

Mr. Sterner flatly denied that any influence by Senator Foran, or Mayor Hague, or anybody else, had anything to do with his failure to dismiss Pendergast. Further, he offers his final rehiring of the three



men as proof that he was not so influenced. We believe that the more reasonable explanation is that the rehiring was the means to close the Pendergast matter amicably and save Pendergast in the bargain. At first, Mr. Sterner and those with him, attempted to laugh the whole thing off, as a figment of the imagination of an incensed person. Mr. Mundak, testifying, after expressing his resentment of the attempted ridicule (p. 51), showed he had put the whole story in writing, and had it signed by the other two; all this long prior to the present hearing; immediately after the episode. Then, as if it would refute the story, Mr. Van Tine offered to show that Senator Bowers, too, was interested in Pendergast; that in fact Senator Bowers had originally helped Pendergast obtain his job, through the aid of Senator Foran (this was 13 months prior to the incident) (p. 66). If anything, Mr. Van Tine's offer was to show that Pendergast had even stronger political support than the witness Mundak had supposed. In one of these letters addressed to Mr. Logan, Senator Bowers wrote (p. 75):

> "Thank you very much for your letter of August 25th regarding the men I wrote you about on August 24th. In the last paragraph of my letter of the 24th, I referred to the Pendergast situation which I think I may have been somewhat in error about what I seek to accomplish. Mr. Pendergast, I believe, has received all of his cuts back, but his ambition now is to receive the maximum salary allowed men in his position. I think you understand the situation, as both Senator Foran and I have talked with you about it several times.
>
> I hope you will be able to consider it at an early date to the end that Pendergast will receive the maximum salary.
>
> Thanking you and with kindest regards, I am. * * *"

J. Laird Moore testified that he was a personal friend of Pendergast and was grateful to him for his original appointment. Then, he related how he had been interviewed by Gibbs, the investigator, and how finally he had given evidence against Pendergast. He, then, had no personal animosity towards Pendergast. But Mr. Van Tine charged him too with attempt to "frame" Pendergast. Pendergast constantly boasted of his political strength, and feared nothing (p. 90). Evidently he was right—he was well taken care of. Mr. Moore corroborated Mr. Mundak's version of the Commissioner's attitude toward the Pendergast matter (p. 87). He also testified that Mr. Sterner stated he could not do anything against Pendergast "at the present".

Edward Monari, a third witness, corroborated the preceding two in all material points. He testified (pp. 123-124):

> "A. Well, we waited for Commissioner Sterner after talking to Mr. Abbott, and he walked in the room, and he said, 'I understand I am talking to two Republicans and one Democrat,' and we stated our business and Commissioner Sterner, after he heard our troubles says, 'I can do nothing about it at the present time'."
>
> "A. Well, he said that Senator Foran was a leader of the Senate and Mayor Hague was the boss of the state of New Jersey and he could not do anything about it at the present time. * * *"

Monari subsequently quit the department, saying (p. 132):

> "A. I am off the highway department and I have forgotten about it, and thank God I am off it. I have had enough of it. * * *"

These three men had been reinstated by Mr. Sterner; two of them were still in the department. It is obvious that they would not want to fabricate against Mr. Sterner; nor was this affair the product of their minds. In fact, Mr. Sterner with his own testimony, gave force and credibility to the story of the three men. He testified thus (p. 179):

> "A. I may have mentioned Senator Foran and Bowers were friendly to Pendergast, or had originally sponsored him, or something of that sort. I might have mentioned that.
>
> Q. If you did mention it, in what connection would it have been, perhaps by way of showing his presumptive respectability or what was the reason you mentioned those Senator's names in connection with the discipline of Mr. Pendergast?
>
> A. I didn't mention it in connection with the discipline of Mr. Pendergast. I just said, I understood Senator Foran and Senator Bowers were friendly to Mr. Pendergast. That is all."

Why should he, Mr. Sterner, if head of the department, have mentioned the names of Senators Foran and Bowers in connection with Pendergast, as Pendergast's friends, unless it was exactly as related by the three men? A perusal of the Commissioner's testimony in



this point shows that he did not and could not deny the statements; rather, he attempted to argue the point. Not only was Mondak's, Moore's and Monari's story credible and condemning Mr. Sterner, but it was in its fullest significance corroborated by Mr. Sterner's own version.

In conclusion then, we report with respect to the employment practices of the department, that it had no system, or established policy for the choice of good and competent men; that its employment capacity was laid at the disposal of the political friends of the Commissioner; that the Commissioner was far less concerned for the welfare of the department, or of the would-be employees, that he was of the political consequences to the so-called sponsors; that appointments as well as promotions were dictated by the political officeholders; that there was not only a substantially complete surrender of the employment function into the hands of outsiders, but there was a positive and active plan to use employment for the political advancement of certain men; and that this situation was well known to the rank and file of the department, with a demoralizing effect upon them.

In Part III, to be submitted later, I shall include the following:

## VIII

### Summary of Testimony at Public Hearings as to Right-of-way Acquisition subsequent to October 30, 1941.

**(a) Boger-Mathis Transactions (summary of testimony at public hearings).**

**(b) Sherwood Transaction (summary of testimony at public hearings).**

**(c) Powell-Parker Transactions (summary of testimony at public hearings).**

## IX

**A summary of certain testimony taken at private hearings, principally relating to the circumstances of the suicide of Arthur H. Sweeney, and right-of-way practices in Passaic, Hunterdon, Bergen and Ocean Counties.**

## X

**General Conclusions as to Parts I, II and III.**

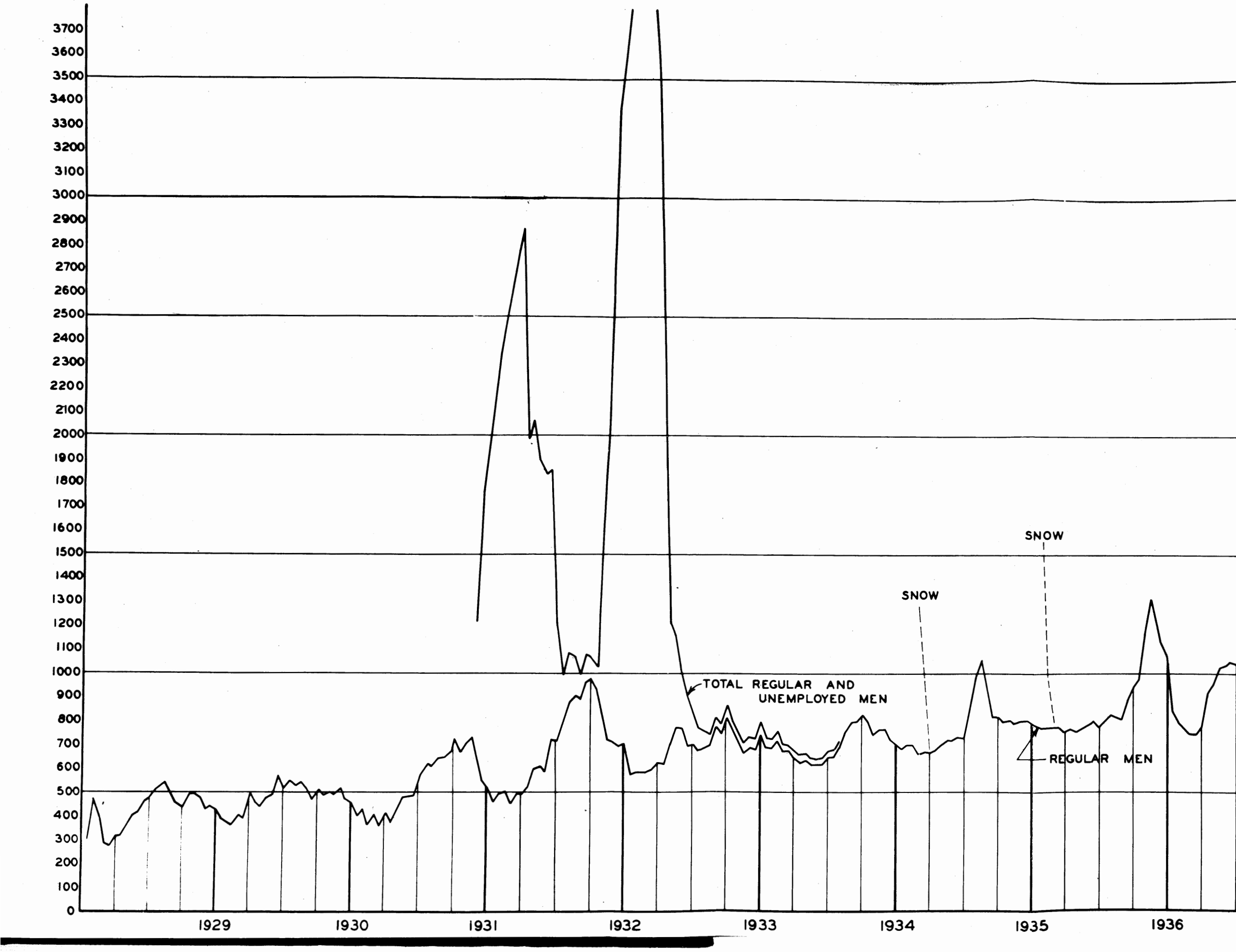
## PART IV

## ADMINISTRATIVE STUDY

**(To be separately bound, with its own table of contents.)**

Respectfully yours,

ROGER HINDS,
Examiner.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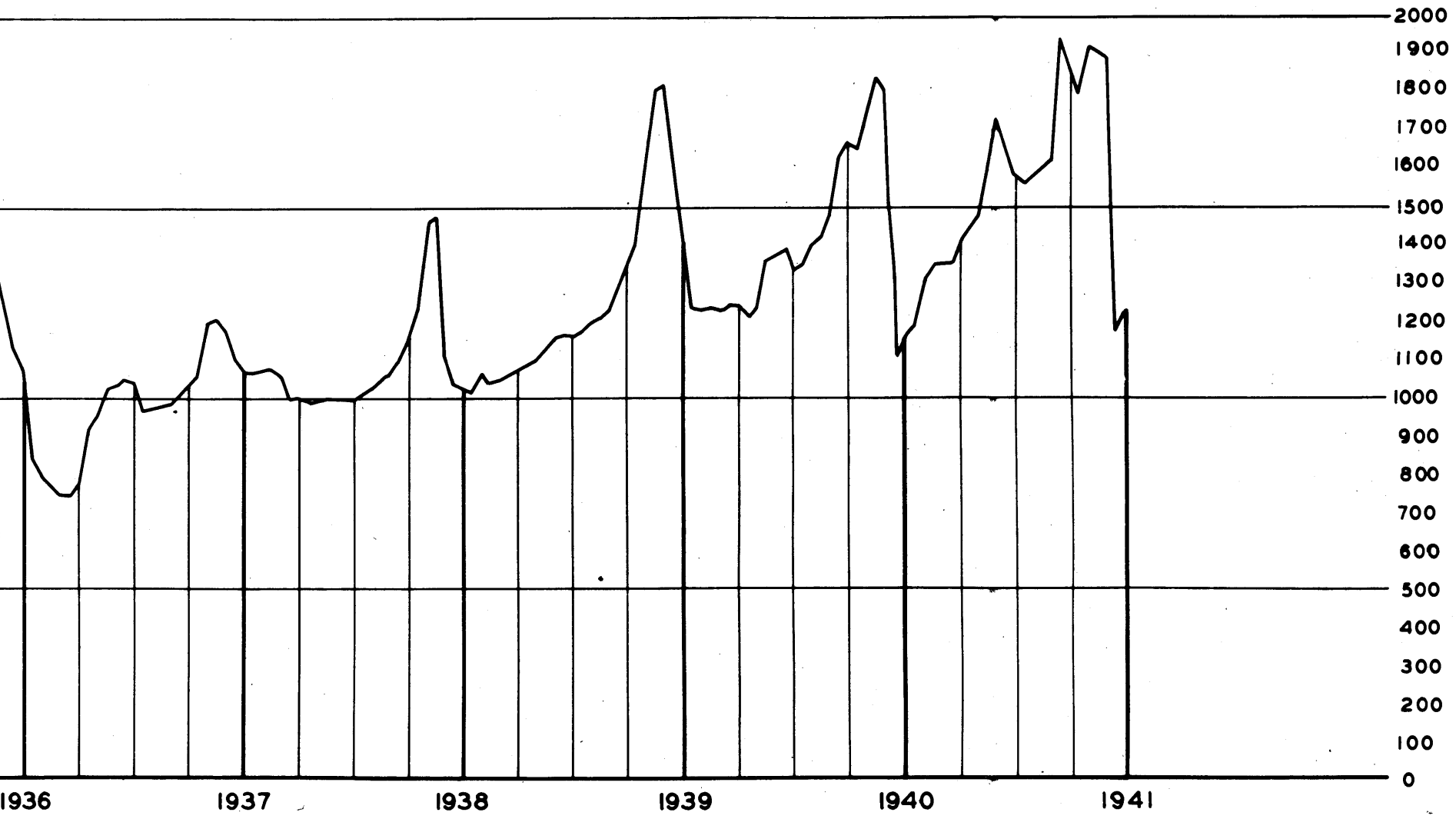

# PART III

## VIII

## Further Public Hearings

Herewith is a resume of the testimony taken at public hearings since October 30, 1941, and not covered by the preliminary part of the report, consisting mainly of testimony given by Mr. Logan presumably in defense or explanation of matters previously disclosed. We say "presumably in defense" because from the very nature and purpose of our examination we have made no charges against individuals; we were investigating the manner in which the Department was managed and it was the disclosures made by our investigation rather than our attitude toward said disclosures which put the management on the defensive.

Mr. Logan categorically denied any part in any irregular or fraudulent practice and professed complete ignorance of any changes in appraisals, or of any special favors granted to anyone. That there had been any number of irregularities became evident beyond dispute; whereupon Mr. Logan and Mr. Van Tyne, counsel, resorted to the expedient of accusing the witnesses who had given the damaging evidence. The evident plan was to make Mr. Franssen the black sheep and to characterize men like Stewart and Aymar as incompetent and inexperienced; all this in attempted justification of Mr. Logan's refusal to heed their recommendations or to place any reliance whatever upon their appraisals. That attempt of Messrs. Logan and Van Tyne to weave a charge of connivance on the part of the subordinate employees to "frame" Mr. Logan and the management, reached a climax when Mr. Van Tyne charged fabrication of documentary evidence to condemn Mr. Logan. Although in and of itself perhaps insignificant, we relate this incident of the hearing as illustrative of the nature of this so-called defense or explanation offered by the departmental heads.

It will be recalled that Mr. Franssen had testified that at Mr. Logan's request he had prepared a list of appraisers no longer to be used; that this list of elimination as first prepared on October 16th, 1940, included the name of a certain appraiser; that upon giving the list to Mr. Logan, the latter advised retaining the name on the list of the qualified, stating that the man in question was a friend of the Commissioner and that thereupon a new list of elimination was prepared on October 17th, 1940, minus the name of said appraiser. Mr. Logan emphatically denied that Mr. Franssen had ever submitted to him a list with the particular name on it (3828).

We offered in evidence, and showed to Mr. Logan, a carbon copy of the list of October 16th, 1940, taken from the departmental files and bearing the initials of Mr. Ireton, the clerk in charge of files. Objecting to the introduction of the carbon copy, Mr. Van Tyne stated that "it could have been prepared last week" (3830); that it might have been "fabricated by somebody trying to protect himself, or by somebody in a poor light to substantiate his own position." Being asked to name the person in the Department whom he charged with fabrication, Mr. Van Tyne said "It could be done by half a dozen people" (3836).

We offered to prove the authenticity of this paper by the file clerk whose initials it bore, a person who had absolutely no concern in the investigation. This charge of fabrication not only was an admission of a demoralized condition in the department but also revealed the desperate means resorted to by Messrs. Logan and Van Tyne to hit back at witnesses giving damaging testimony.

Another expedient of the investigatees to divert attention to the subordinates and to pin culpability upon Mr. Franssen was the attempt to show a special intimacy between him and Mr. Greenberg, a law partner of Senator Wilensky who frequently represented property owners. We hold no brief for Mr. Franssen and the evidence is clear that he had an active part in much of the irregular practices, explained by him as obedience to rules and regulations set up by his superiors. It was obvious, however, that the alleged intimacy between Franssen and Greenberg could not explain similar irregularities appearing in numerous other cases negotiated with persons with whom Franssen had no particular friendship or contact.

These inferences of collusion and intimacy between Mr. Franssen and one or two outsiders can not and do not explain why a false appraisal in the sum of $46,800 was made in connection with the Mac Gregor settlement (p. 3877); why in the Frelinghuysen case, negotiated by Mr. Logan, the price appraisal sheet did not disclose additions made to an original appraisal but showed instead a figure as if it were the original appraisal, without explanation (3876); why in the Holmes case, also handled by Mr. Logan, the file contained an appraisal purported to have been made at the request of the State when in fact it was made by the owner's agent; why additions to appraisals were



addition of $2,500 was made to the Yeaton appraisal in the Clark case, (p. 3881); why similar irregularities were committed in the Certo case (p. 3896). Why, a false appraisal under the name of Stewart, for $9,650 was put in the file in the Lincoln Boger case.

After three days of cross examination of Mr. Logan it is impossible to escape the conclusion that his testimony was evasive, contradictory and in instances untrue and that his pretended failure to see anything amiss in some of the unsound practices followed by the Department was the result either of callousness or of a naiveté incredible in a man of such wide political and worldly experience as Mr. Logan has admittedly had.

Mr. Logan maintained steadfastly that he saw nothing wrong in the practice of totally ignoring departmental appraisals and relying solely upon those submitted by outsiders although he could give no explanation as to why, in view of that assertion, the departmental appraisers were asked to make appraisals in the first instance. He testified that the departmental appraisals, although made on order and requested by department rules, were never used for any purpose whatever except to put in the files because they were required by the rules (3709). Rather circuitous reasoning; but that was Mr. Logan's position. No matter what the discrepancy between departmental appraisals and outside appraisals, sole reliance was placed on outside appraisals and the highest of such appraisals was regarded as justification for settlements. No questions whatever were ever asked as to soundness of outside appraisals, there was no standard or check or comparison by which the outside appraisals were to be measured. This despite the fact that the file might contain appraisals by two departmental men, experienced and qualified. Mr. Logan boldly held the position that his reliance on outside appraisals was unbroken and undisturbed despite such incidents and episodes as that of Theodore Barker, an outside appraiser, accepting instructions from political leaders, and the instance of appraiser Wilson approaching an attorney for a so-called loan, while the said Wilson was then engaged by the State to appraise a property owned by a person represented by the said attorney (pp. 3753, 3754 and 3759).

Mr. Logan also pretended to see nothing wrong with the practice of obtaining outside appraisers' so-called "consent" or "approval" for

the State to pay sums larger than previously appraised by these same appraisers (3817), and said he knew of no instance where an outside appraiser had ever failed to give the requested "consent". His position was that such request or consent was a sufficient safeguard to the department against paying excessive prices. His original attempted justification was that the outside appraisers were under oath in giving their so-called "check" appraisals. But faced with the fact that in some instances merely a letter of consent or approval was asked of these outside appraisers to permit the State to pay the price suggested, Mr. Logan took the position that the outside appraisers would not recommend payment if they didn't feel the price justified, despite the fact that they had not a cent to lose in the transaction, or had been originally appointed by political recommendation, or might even have an interest in the very transaction in which they were giving their so-called check appraisals. (See pp. 3583, 3709, 3609, 3691, 3649 and 3724.)

Thus in the Holmes case Mr. Logan accepted an appraisal made by a man, one Tomlin, not retained by the State but by the owner, knowing that Tomlin was the very real estate agent who was representing the owner. (This is one of the cases in which Senator Scott interceded on behalf of the owner.) His explanation was that he knew of no other real estate men in the County and that it was against the rules of the department to retain appraisers from out of the County to make appraisals and that therefore he had accepted Tomlin's appraisal. He admitted, however, that he had made no inquiry whatever about any other real estate man in the County and that, despite this rule as stated by him, he had on other occasions (once for Senator Bowers and once or twice for Senator Powell) retained an appraiser from out of the County to make an appraisal. It was evident, of course, that the rule varied according to who the persons were who were interested in the deal. The Tomlin appraisal was $7,000; other appraisals in the file made by the departmental men were around $1,500. Mr. Logan stated that he relied on Tomlin's appraisal because it was under oath and that he had no reason to believe that Tomlin would not give a true opinion despite his interest in the deal; and although the departmental appraisals were likewise under oath, according to Mr. Logan they were a mere matter



of opinion, and therefore need not necessarily be accepted as a true statement of fact. Upon being asked if he did not feel that Mr. Tomlin as agent for the owner would have an interest in the deal and therefore be biased, Mr. Logan stated that he knew nothing about real estate practices and knew nothing about a real estate agent getting any commissions on a sale he makes. This, despite the fact that he heads the real estate department and had extensive experience as a contractor and engineer prior to his connection with the highway department. We are not convinced that Mr. Logan was as ill informed as he would present himself to be. We think it more likely this naivete and ignorance were masks assumed by him.

Another explanation offered by Mr. Logan, of his actions in the Holmes case, was that this was the last parcel in the section, and that, therefore, the department was anxious to buy the parcel and close out the section. As a matter of fact, however, at the time he was negotiating for this parcel, there were three other parcels in the section under negotiation, and it was not until a Senator interceded for Holmes that his case was re-opened for negotiations.

It would be merely cumulative to relate each instance of irregularity and to point out the inconsistent and untenable position taken by Mr. Logan with respect to each case. However, there are three outstanding instances brought out in his cross examination which deserve special mention. We have designated these as the Lincoln Boger transaction in Ocean County; the Sherwood transactions in Essex County, and the Powell and Parker transactions in Burlington County.

**(a) Lincoln Boger Transactions:**

Mr. Logan testified that the department wanted a garage in Toms River because garage facilities there were unsatisfactory; that thereupon he went alone and saw a Mr. Frank Morales, a real estate man of Toms River, a father-in-law of Senator Matthis and connected in the real estate business with the senior Mr. "Tom" Matthis; that he asked Mr. Morales to show him some suitable property for garage purposes; that Mr. Morales showed him a certain corner which was agreeable to Mr. Logan and Mr. Logan asked Mr. Morales to assemble the pieces on that corner for the State for a reasonable price. Mr. Stewart had

been asked by Mr. Logan to make a report on these properties. He made such a written report giving a blue print and the history of the particular parcels constituting this corner. Mr. Stewart's reports show that one particular parcel had very recently been sold by one Berry to Thomas A. Matthis, Inc. for the sum of $1,200. Nevertheless Berry was retained to make an appraisal of these parcels and his appraisal was in the sum of $17,000; and that in said appraisal the lot which he had previously sold for $1,200 he, Berry, appraised at $9,276.

Mr. Logan stated that Mr. Morales first demanded $14,000 for the three parcels and that he, Mr. Logan, offered $10,000, and subsequently obtained the three parcels for $10,000. Mr. Logan could give no explanation as to how he arrived at the figure $10,000. He said he did not consult the departmental appraisals in the file but that he felt that $10,000 was a fair price. In view of his professed ignorance of matters pertaining to the real estate business, his assumption of this responsibility is significant. Mr. Logan personally handled this transaction without the aid of any negotiator as would usually be the practice. Mr. Logan stated that one of the main reasons why he decided on this parcel against others that might have been purchased was that the parcel had or was supposed to have had sewage disposal facilities; that Mr. Morales so stated (p. 3936, etc.). But it was later shown without dispute that this parcel did *not* have sewage disposal facilities, and the nearest sewer was approximately 2,000 feet away (p. 3952).

Although Mr. Logan was very anxious to have garage facilities in Toms River and although this property was purchased in 1940, for that purpose, no garage has been built on it; no construction plans have been approved; and no architects have been retained even for the preparation of plans (3954).

Mr. Logan also stated that as he understood it, Mr. Lincoln Boger acted merely as a straw man in whose name the various parcels were assembled; that he knew that Mr. Boger did not own the properties; that one portion was owned by the Thomas A. Matthis, Inc. in which Morales, the agent, had an interest. The significance of these statements made by Mr. Logan becomes evident when we compare them with the testimony at private hearings of Frank Morales, Lincoln Boger and Frank W. Sutter, Jr., attached to this report.



**(b) Sherwood Transactions in Essex County:**

We have previously discussed the Sherwood transactions. Mr. Logan's explanation for the acquisition of the Sherwood properties prior to the completion of any construction plans for the laying of Highway No. 21, was that the Department was very anxious to build Route No. 21 and that it had therefore acquired parcels along the way from time to time whenever it had been offered to the Department (p. 3622). He re-stated his position that whenever property owners offered their property he had negotiated with them (p. 4005). He admitted however that in some instances he had refused to negotiate with owners on the same line offering their properties, giving them the reason that no definite lines had been established for the highway in that section and that therefore the State was not in any position to negotiate for such purchases. Confronted with the question why he had not given this same reason to Sherwood, his sole answer was "Because we decided to buy the Sherwood property". In fact it appeared that when the searching department was asked to give a description of the Sherwood property by metes and bounds so that Mr. Logan could consummate the deal, it, the searching department, by memo addressed to Mr. Logan, stated that they could not give a description of the exact property to be purchased because the right-of-way line in the highway had not been established (4012). The map of Ogden Street development had a statement thereon that the map could be used only for the location of properties since the highway lines had not been determined. Still, Mr. Logan ordered the consummation of the Sherwood deals. No use has thus far been made by the State of this isolated parcel.

**(c) Powell-Parker, Burlington County:**

Mr. Logan had stated that it was against the rules of the department to appoint an appraiser from one County to appraise properties in other counties and that he thought only one or two exceptions had been made to this rule, one of which was the appointment of one Cutler of Burlington County to make appraisals of parcels in Camden County (3958). His explanation was that the property in question was adjacent to the Burlington County line and that the Department did not think that realtors in Camden County were familiar with it (3959).

Further cross examination showed that on Route S No. 41, Sections 3B and 4A, which starts from the Burlington-Camden County line and extends into Camden County, Cutler had been used on several occasions to make check appraisals for Powell and Parker; and that on other parcels closer to the Burlington County line than those which were appraised by Cutler, Cutler had not been used, and that Camden County appraisers were used.

Let us take parcel No. 10 for example: On that section Baker and Stewart, both of Camden County, had made appraisals in the sum of $1,500 and $1,694 respectively, Baker's appraisal being dated January 7, 1941, and Stewart's December 16, 1940. Messrs. Powell and Parker came into the case by letter on February 27, 1941. Then Cutler of Burlington, was retained for a "check" appraisal and he made his appraisal May 8, 1941, at $3,518.20. The matter was settled for $3,500, $18.20 less than the highest appraisal.

There are other interesting features of this particular acquisition. The price approval sheet, although dated February 13, 1941, purports to include Cutler's appraisal of May 8, 1941. Previous to the entry of Messrs. Powell and Parker into the case an offer of $1,500 had been made by the department with authority to condemn if not accepted (p. 3970). This price approval sheet purports to list an appraisal by Sweeney as of February 1, 1941, in the sum of $3,204, whereas Mr. Vollmer's files contained a carbon copy of the appraisal made by Sweeney on the same property in the sum of $1,537.

This, of course, substantiates Mr. Franssen's testimony that he had seen dual appraisals in a file on a property the purchase of which was being negotiated through the office of Powell and Parker, both appraisals having been made by the same party on the same parcel in different amounts, the larger being used after the office of Powell and Parker came into the matter. (See also, at a later page, the testimony of Mrs. Sweeney at a private hearing.)

On that same section, parcel No. 14, belonging to one William E. Smith, was appraised by Baker at $1,631.75, on January 10, 1941; by Stewart at $1,735.20, on December 15, 1940; and by Sweeney at $4,016, on March 1, 1941. Three months after the other two Cutler made his "check" appraisal on March 14, 1941 at $4,046.80. (Note that the Sweeney appraisal comes in two months after the others.)



Property was purchased for $4,000, Messrs. Powell and Parker representing the owner. Cutler was used as "check" appraiser after Messrs. Powell and Parker got into the case.

Parcel No. 49 in the same section belonged to one Joseph Barry. It was appraised by Baker at $2,047.50 on January 23, 1941; by Stewart on December 30, 1940, at $2,033.70; and by Sweeney at $3,353.70 on January 15, 1941. Condemnation was authorized on February 4, 1941, after an official offer of $2,033.70. Messrs. Powell and Parker got into the case on May 5, 1941; and on May 15, 1941, Cutler made his "check" appraisal at $4,230. On May 27, the case was settled for $3,750.

On parcel No. 9 in the same section Baker's appraisal was $3,500, dated January 7, 1941; Stewart's appraisal, $3,447.45 dated December 9, 1940; and Sweeney's appraisal, three months later, is $8,322.50; Cutler's "check" appraisal, made within two weeks of Sweeney's, is $8,145.50. The owner was represented by Messrs. Powell and Parker and the property was purchased for $7,500.

And thus we had six cases in which Cutler of Burlington County had been appointed to make "check" appraisals on properties in Camden County, the owners being represented by the firm of Powell and Parker of Burlington County. Sweeney's appraisals were close in point of time and amount with those of Cutler and that they were almost always two or three times as high as the regular outside appraisals originally made, and in each instance the property was purchased within a few dollars of the highest appraisal. As for the explanation that Cutler was considered more familiar with that section than others, that, of course, was refuted by the fact that Cutler had not been hired in any of the instances to make the original appraisals and that in cases represented by persons other than Powell and Parker, appraisers other than Cutler had been used even for "check" appraisals, and even where such properties were closer to the Burlington line than the ones appraised by Cutler.

It has not been pleasant for us to mention in our report the names of numerous persons not connected with the department. Our purpose has been to discover the manner in which the department has been operated but it has been impossible to investigate the trans-

actions in the department without involving outsiders. It is beyond our province to condemn or criticize those interested outsiders, who seeing the door held open for them, walked in.

## IX

**(a) Private Hearings in Passaic:**

It became evident in the early stages of the investigation that one of the State Legislators most involved in representing private clients in negotiating right-of-way prices was the Senator from Passaic County. Because of that and the further fact that the "outside" appraisers involved in Passaic County acquisitions had evidently been appointed for political reasons, an office was established in the City of Passaic for the purpose of examining at private hearings, (1) property owners whose right-of-way claims were negotiated with the Highway Department and (2) appraisers engaged by the Highway Department for the purpose of making "outside" and "check" appraisals in such cases.

Some thirty-odd hearings were held during the course of a three-week period by several assistant examiners.

The examination of property owners disclosed that most of them had been approached by Augustine F. Fisher, who represented himself as a real estate broker well qualified to represent them in negotiations with the State Highway Department. In practically every instance he indicated to the property owners that he would have associated with him, in his efforts, the law firm of Greenberg, Wilensky and Feinberg; that he was a representative of that firm; and that State Senator Wilensky was a member of the firm and in a position to obtain the quickest service and the highest price. That approach was part of a general practice followed on Route S-3.

A striking example is the case of a bank which was interested in property on Route S-3. During the several conferences with officials of the bank, prior to the actual retention of this agent and the law firm of Greenberg, Wilensky and Feinberg, the agent represented to at least one officer of the bank, not only that Mr. Wilensky, of the firm of Greenberg, Wilensky and Feinberg, was a State Senator but, further, that he was connected with an "agency of the State to handle highway acquisitions" and, as testified by an officer of the Bank at a



private hearing, the agent came to the bank to obtain a retainer for the firm of Greenberg, Wilensky and Feinberg.

The agent approached a great number of property owners on Route S-3 and other routes and in all the cases in which he was successful in obtaining an agreement to represent the owners, the firm of Greenberg, Wilensky and Feinberg became the actual negotiators with retainers directly to themselves. As a result of these activities, it became a matter of general reputation that this agent was representing the firm of Greenberg, Wilensky and Feinberg and obtaining the business for them.

Two separate hearings were held for the purpose of examining Augustine F. Fisher. He at all times maintained that he obtained retainers from property owners on his own behalf and in no way was connected with the firm of Greenberg, Wilensky and Feinberg, except to have them associated with him for the purpose of determining any legal matters that might arise during the course of negotiations with the Highway Department. He did admit, however, that in every case where he obtained a retainer, which ran anywhere from 10% to 20% of the price obtained from the State, he was not paid by the property owner but received his compensation from the Wilensky firm and in no case which was considered in these private hearings did any property owner make any payment to the agent, nor did he at any time request any payment from them, even though he may have had a retainer agreement. The payment of moneys obtained from the State were handled through the firm which had, after the agent had received a retainer agreement, required the property owner to execute to them a retainer agreement in like terms and in like amount as the agreement made with the agent, and in at least one instance, namely, that of the bank, above recited, the firm of Greenberg, Wilensky and Feinberg reduced to 12½% the amount of fee they were to receive for negotiating the acquisition of the property, after the agent had made an agreement for 15% and the firm also for 15%.

The agent at no time indicated dissatisfaction with such an arrangement, nor did the firm of Greenberg, Wilensky and Feinberg indicate at any time that the agent was in any way interested in the amount of the fee.

In another transaction where the Senator's firm was subsequently retained to represent the property owner, the agent testified that he went directly to Mr. Greenberg, of this law firm, and suggested that aerial pictures be taken of the property before approaching the property owner. The pictures were taken and at least one-half of the cost of obtaining said pictures was borne by the firm of Greenberg, Wilensky and Feinberg. Why the agent went to the firm of Greenberg, Wilensky and Feinberg for the purpose of taking these pictures and having them share this cost, prior to approaching the property owner, if he was not a representative of the firm, was never explained by said agent.

He also testified that in all negotiations with the State Highway Department someone from the firm of Greenberg, Wilensky and Feinberg was present and actually handled the negotiations—although in some cases he, himself, was present, but even where he went to Trenton for the purpose of negotiating the acquisition of the properties, he awaited the arrival of a representative of the law firm before entering into any discussions with the proper officials of the Highway Department. This, despite the fact that he testified he did not need an attorney for the purpose of negotiating acquisitions.

In all his cases the agent of record with the Highway Department was the firm of Greenberg, Wilensky and Feinberg. The reason—"* * * but Mr. Greenberg said whoever brought any cases to them their name (the agent) would not be put in on the Highway Department records". There was no doubt that actually the only agent for the owners from whom he obtained retainers was the firm of Greenberg, Wilensky and Feinberg, because in no case did his name appear as an agent, nor did he ever attempt to be recorded at Trenton as an agent for any property owner. (Further, as previously stated, he was paid by the Senator's firm.)

He testified that he wanted his name recorded at Trenton as a negotiating party for the property owners but that he acceded to Mr. Greenberg's demand that only their firm be the negotiating party for the purpose of the records at Trenton and when asked why he acceded to this demand, if he was actually the agent, his response merely was, "Well, he was the attorney"; and when asked if he notified the property owners that Greenberg, Wilensky and Feinberg would be the



recognized agents his reply was "that Greenberg, Wilensky and Feinberg, themselves, notified the property owners that they had been retained" (and, as stated before, the firm proceeded immediately to also obtain retainer agreements in like terms and conditions). The agent also testified that he had never retained any other attorney except Greenberg, Wilensky and Feinberg.

When asked what services he was supposed to render for the property owners he stated that he worked the appraisals, checked the slopes and alterations, did all photography, went to the Field Office in Hackensack, Great Notch and Montclair and checked the maps; that all other work was done by Greenberg, Wilensky and Feinberg, including the actual negotiations with the Highway Department.

We have then in each of these cases a set-up whereby a preliminary retainer was obtained by the agent, who then reported to Sen. Wilensky's firm and they, pursuant to his preliminary retainer, required their own agreements with the owner and while the preliminary agreement with the agent required the agent to pay whatever lawyers he retained, the actual fact was that the agent was paid by Greenberg, Wilensky and Feinberg; after they had received the moneys from the State Highway Department, in accordance with their agreement with the property owner.

There were a large number of these cases and, at least, so far as the owners examined at private hearings were concerned, they had no complaints that their negotiating agents did not live up to the advanced representation made for it (Greenberg, Wilensky and Feinberg) by Augustine F. Fisher.

One other real estate agent who represented a great number of property owners in northern New Jersey was also examined. This agent frankly admitted he sought to represent the owners, obtained retainers of about 10% on the average and that he, himself, represented the owners in negotiating acquisitions with the Department and at no time found it necessary to hire an attorney for the mere purpose of negotiating the acquisition of the properties. He testified that on several occasions, when he approached property owners, he had been told that Augustine F. Fisher had been there before him and had obtained a retainer; and at least in one case where Augustine F. Fisher had

been to see a property owner, the property owner stated that Augustine F. Fisher had said that, "he was a go-between for Mr. Wilensky's office."

The fact that a State Senator was a member of the firm of Greenberg, Wilensky and Feinberg not only seemed to have its effect upon the average property owner in the County but in several instances lawyers forwarded cases to the firm for the purpose of negotiating acquisitions of property for the Highway Department. Their reasons, of course, was different from that of the property owners because no one had to come to them to make any representations.

They gave the following excuses for forwarding the cases to Greenberg, Wilensky and Feinberg:

1. (Made by a well known and successful attorney in Passaic) "I did not have the facilities in my office to conduct the necessary investigation to check upon the property."

2. "The only reason that this matter was referred to the said law firm was that in our opinion said firm had the most experience in handling these matters, and we felt we were not experienced enough in having any *appraisals* made for the property taken. We never had any experience in handling such matters."

Both of these excuses are not only weak but not actually reasons at all for referring any cases to another firm of lawyers. The negotiations for the purpose of selling property by agreement to the State Highway Department in no way requires any expert skill on the part of a lawyer or anyone else and, certainly, merely checking on property lines or obtaining real estate appraisals does not demand expert skill and experience on the part of a lawyer. These same lawyers, if they ever had any practice in the closing of titles or selling of properties for clients, performed those same services which they felt they couldn't do in the handling of an acquisition matter with the Highway Department. The answer is clear. (A state Senator handling the negotiations with the Department in Trenton had the necessary political experience to obtain the quickest and best prices.)

It would be interesting to note that the lawyer who did not have the facilities in his office to conduct the necessary investigation to



check upon the property had been very active for some time in Republican politics in Passaic County and is now, himself, a member of the State Legislature.

In view of the testimony at public hearing, pertaining to the cases represented by the firm of Greenberg, Wilensky and Feinberg, and the testimony adduced at private hearings, there can be little doubt in any one's mind that the large number of Highway Department acquisition matters came to the firm because a member of the firm was a State Senator; and also because he was a member of the firm, no opportunity was lost to obtain those many cases.

Thus, we again return to the original propositions that where a State Legislator represents a property owner in negotiations for the sale of land to the State Highway Department the "quail" are very securely "nailed to the board." As a result of the private hearings we might add that because they are "nailed to the board" the Senator from Passaic County acquired an abundance of guns and ammunition.

The examination of the outside appraisers appointed by the Commissioner to make outside and check appraisals of the properties owned by individuals in "(1)", above, and other properties in Passaic and Bergen Counties, resulted in examination of seven men. Three of these men, John Stead, Theodore S. Barker and Herman Schulting, Jr., have, for some time, been making the bulk of outside appraisals for the Department in Passaic County, although they are, apparently, not limited to work only in Passaic County.

None of these men, on their own testimony, demonstrated a particular qualification to do appraising of the type required by the Highway Department. The bulk of their real estate experience has been the sale of properties and not one has taken any course, or qualified, or became a member of any recognized appraisal institute.

All three, however, either in their appointment as appraisers, or in their daily routine, are very much involved in partisan politics.

Mr. Stead stated he believed that Senator Barbour of Passaic County submitted his name as an outside appraiser (Mr. Stead disclaims any connection at any time with partisan politics).

Mr. Barker has for the past five years or more been Tax Collector in Hawthorne. He previously had been a County Committeeman. The

position of Tax Collector is a full time job and Mr. Barker's 150 appraisals since coming into this full time job have been made "nights, Sundays and holidays." Considering this fact, together with Mr. Barker's opinion that $15.00 compensation for an appraisal is too cheap, we may have a good reason why, even if he were qualified, Mr. Barker's appraisals are subject to pointed criticism. (His appraisal in the Passaic County Quarry Co. case was subject to close scrutiny and became sensational at the public hearing.)

Mr. Schulting is currently, and has been for some time, Vice Chairman of the Republican County Committee for the City of Passaic and City of Passaic Republican Chairman. He admits freely his political associations and that he endorsed and supported Oscar Wilensky for the Assembly and Senate. In addition thereto, he is a Motor Vehicle Agent in the City of Passaic and was such an Agent when he received his original appointment as Highway Department appraiser during one of Governor Hoffman's terms. He also has served as Secretary-Treasurer of the Passaic Valley Water Commission—which he states is a political appointment.

Mr. Schulting and Mr. Stead both agree with Mr. Barker that the compensation of $15.00 for an individual appraisal is too cheap. When the appraisals come in bunches, however, as they usually do, the pay is not so bad. It is nice extra business that only a privileged few can obtain. As a matter of fact, Mr. Schulting, when asked why he continued to do the work, stated three reasons—

"In the first instance, I was very desirous of getting experience—In the second place, they usually sent us orders of 15 to 17 right together and in the third place I needed the money." He has done a very large amount of appraising for the Highway Department and the State has paid him goodly sums for his reports, which, according to his own story, was a means of becoming personally educated to appraisal work at the expense of the State.

As a result of the hearings not only may we criticize the selection of appraisers but we learn from even these men whom we do not think properly qualified that the Highway Department is remiss in its practices of not supplying complete details of the property to be appraised. All three felt that they did not receive proper and sufficient information and Mr. Schulting went so far as to state he, himself, didn't consider his appraisals scientific in those cases where the Department failed to supply complete data—which was not merely the exception but a common occurrence.



The examiner is not alone in his severe criticism of the qualifications and appointments of these appraisers. Men in the Highway Department, itself, have characterized these men and others in the State as incompetent and political. (Public hearing—testimony of Franssen, Stewart, Aymar). Probably the best qualified to judge them is Fred A. Tetor, Sr., who was examined at private hearing. Mr. Tetor is a real estate appraiser of high qualifications and considered by the Highway Department as the best man on their list. By general reputation he is without a peer in New Jersey. He stated that, in his opinion, the men that he knew doing outside appraisal work for the State had no background in experience and were not qualified to do the work properly and submitted, as an instance, a situation pertaining to Route S-4-B, between Hawthorne and Oakland, where several outside appraisers were appointed, with approximately twenty appraisals for every two men.

The entire set of plans and details of cuts and fills for the section came to Mr. Tetor's office and the outside appraisers were referred to him for information. He then instructed them from the plans and maps and directed them to the properties. He also furnished information as to sales in the particular neighborhood and property values. He stated that the outside appraisers, in that instance, did not understand the plans and the features of the plans relating to cuts and fills and that it was not until it was thoroughly explained to them by him that they understood the information that had been supplied to them by the State. In response to a question as to whether or not before that explanation he thought they had sufficient ability to make proper appraisals, his answer was, "No, I think their background was along other lines entirely and I do not believe their experience qualified them for the work." By "along other lines entirely," Mr. Tetor indicated that he had referred to the fact that they had merely made sales of property. This one instance was cited by Mr. Tetor as typical of the general condition relating to outside appraisers. (As already stated, Messrs. Stead, Schulting and Barker testified that the bulk of their real estate experience has been acquired in the sales of property.) It is significant to note that all of the four men above referred to stated

that, in their opinion, the Department appraisers, such as Mr. Aymar, Mr. Stewart and other Department employees, who worked as right-of-way agents for the Department, were able and conscientious in their work and that assuming that they had the facts (which they, as a matter of fact, obtained in the same way as the outside appraisers) they had the background and ability to qualify as appraisers, and that any weakness they may have had as a result of lack of sales experience for the particular purpose of determining current figures for the properties actually sold in the neighborhood, they could easily overcome by obtaining the information within the community.

To get a more complete picture, three other men, who have acted as outside appraisers for the Highway Department were also examined. These men had made appraisals on Route 6 in Bergen County. One of them testified he did not know how he got his job, but it is significant to note that at the time he received his appointment he was a motor vehicle agent in Hackensack, as well as being in the real estate and insurance business.

Another one is currently the Republican leader of a community in Bergen County and was originally recommended by Senator Schroeder, who was, at the time of making the recommendation, an Assemblyman.

The third man had been a Republican County Committeeman in Bergen County for eighteen years and testified, that he was not in the appraisal business. Despite that fact, he testified he had done thirty-two or thirty-three appraisals for the Highway Department. When asked how he became an appraiser his answer was, "I was County Committeeman in Bergen County for eighteen years. Somebody always wanted to do something for me. I suppose that is the way I got it. I think it was Senator Chanalis".

Your examiner has, from the beginning of the investigation, insisted that it is against the public interest, and costly to the taxpayers, for the members of the State Legislature to represent private clients in negotiations with the State Highway Department and also that the appointment of "outside" appraisers in certain counties was largely political, resulting in the selection of unqualified men for the work. It is submitted that the testimony obtained at the private hearings in Passaic County is corroborative in both respects.



**(b) Private Hearings on the Lincoln Boger Transaction**

The Lincoln Boger transaction at Toms River was the subject of testimony at private hearings to be considered in connection with the testimony taken at public hearings already referred to.

Frank W. Sutton, Jr., President of the First National Bank of Toms River, testified that in 1929 he, together with the Senior Senator Thomas Mathis and Edward G. Berry, bought a property on the southwest corner of Hooper Avenue and Locust Street, Toms River for $4,000, the three sharing equally; that subsequently they sold a portion to the Highway Department for $1,500 for the widening of the highway, so that the balance stood them for $2,500; that in the early part of 1940 Mr. Berry reported an offer of $1,200 for that remaining portion and asked Mr. Sutton's approval for the sale. Mr. Sutton said he was given to understand that the local Republican Club was acquiring the property for erecting a club house. He consented to the sale. He said he did not then know that it was intended to be conveyed to Lincoln Boger, which he discovered only through our public hearings. In that sale, therefore, the three partners took a loss aggregating $1,500, and Mr. Sutton reported his share of the loss in his income tax return. He did not know that the Highway Department was interested in the parcel and he had nothing to do with its subsequent sale to the Highway Department.

Mr. Sutton further testified that Mr. Berry informed him that Senator Mathis was donating his one-third share to the Club. He said he thought the sum of $2,500 for that parcel would have been ample consideration.

Mr. Edwin G. Berry corroborated the above statements of Mr. Sutton. It will be recalled that Mr. Berry had recently sold a portion to Thomas A. Mathis, Inc. and was employed by the Highway Department as one of the appraisers when its acquisition of the parcel was being arranged. He said he got his order for the appraisal around October, 1940.

He attempted to justify his high appraisal of this parcel for the Highway Department on the basis of a parcel located about one-quarter of a mile away. Though admitting that he and Mr. Sutton had sold

the parcel for $1,200, he said he considered it then worth between $6,000 and $7,000. (He appraised them in October 1940 at over $9,000.)

It will be recalled that the conveyance from Mr. Berry on behalf of himself, Mr. Sutton and Senator Mathis was to the Mathis Realty Co., Inc., and not direct to Mr. Lincoln Boger and that presumably Mr. Boger purchased this property from Mathis Realty Co., Inc. It will also be recalled that Mr. Morales was connected with the Mathis Realty Co., Inc., and shared offices with Senator Mathis.

Mr. Boger testified that he purchased the property in the early part of 1940 through Mr. Frank Morales, who is in the real estate business, that he retained Mr. Morales to buy this property and that he had no dealings whatever with Senator Mathis; that he kept no records of the transaction at all, did not even receive the deed and left everything to Mr. Morales. The most significant thing about Mr. Boger's testimony is his lack of knowledge of the terms of the transaction and of many important details.

He testified that in assembling the whole corner which was subsequently sold to the Highway Department for $10,000 he paid $4,500 for the Berry parcel and $2,200 for the remaining parcels, a total of $6,700, plus $100 for expenses.

It will be recalled here that Mr. Logan emphasized and reiterated that Mr. Boger was used as a straw man, that so far as he, Mr. Logan, knew, Mr. Boger did not own these properties but that they were merely assembled in his name as a convenient way of transferring all the parcels together to the State.

Mr. Boger testified that he had a liquor business in Toms River; that he was tired of paying rent year after year and that he bought the property for the purpose of erecting a building large enough to take care of his business with the necessary accommodations for customers' parking space, etc., and also to have a Community building to accommodate organizations holding civic affairs. He did not know when he acquired the property nor its exact location or size. He had no data and repeatedly suggested that the examiners inquire of Mr. Morales as to the details. He did not know from whom he received the deed; or that he ever received a deed.



Asked if there was a straw man between himself and Mr. Berry, the former owner, he said "No." Mr. Boger was Republican Chairman in the County and said he had not purchased the property for erecting a Republican Club on it, and that he had never discussed his plans with Mr. Mathis: that he was planning to build a building for himself. Although the conveyance to him was made by the Mathis Realty Co., Inc., Mr. Boger claimed that he never discussed this transaction with Mr. Mathis; that he handled the entire transaction through Mr. Morales. Contradicting Mr. Logan's testimony, he denied that he was acting as a straw man for anyone and maintained that he purchased it with his own money and sold the property for his own profit and that he kept the entire profits for himself.

He further stated that in the sale of the property to the State Highway Department he made no notations or memos, and that Mr. Morales took charge of the whole thing for him. At first he refused to state whether he paid Mr. Morales any commission and if so how much; subsequently he stated that Mr. Morales got 5%; that he paid Mr. Morales that commission, $500, in cash, the same day that he got the check from the State. In the negotiations with the State for the sale of this property, Mr. Boger testified he did not know who the appraisers were. He stated that although he purchased the property for his own use, soon after he bought it Mr. Morales told him they had an opportunity to sell the property and asked what he wanted for it and he asked for $10,000. In the original purchase of the property by him, the deal was closed in Morales's office. There was no attorney present. No attorney represented either the seller or the buyer. When asked when he drew the $4,500 in cash out of the bank with which to pay Mr. Morales, he stated he did not draw it out of the bank, that he always had that much cash with him. He also stated that he had had to borrow a portion of that. He never examined the deed that was received by Mr. Morales on his behalf; and did not attend to its being recorded in the County Clerk's Office, nor was the deed returned to him after it was recorded, nor did he ever inquire about the deed. In fact, he said he didn't know anything about its being recorded, or returned. For such information he referred to Mr. Morales.

At first he stated that the $4,500 cash was all his money. Then he stated he had borrowed a portion of it from friends whose identity he

would not reveal. As to the source of the money with which the property was nominally purchased by Mr. Boger, his answers were most evasive. He stated that the proceeds of the sale to the State, $10,000, was entirely his own and that he did not account to anyone for it nor use any portion of it to return money borrowed or to pay any bonus on such borrowed money. At first he denied that he had spoken to anyone about the transaction prior to his coming to testify. Under further cross-examination he admitted that he had spoken to Mr. Morales and "Captain Tom" (Senator Mathis).

He further stated that his first asking price was $10,000, that that was all he wanted, and that was what he got. (compare with this Mr. Logan's statement that the sum of $14,000 was first asked for the property and that he, Logan, offered $10,000.)

Although he had purchased the property for building purposes he stated that immediately after he had purchased the property through Mr. Morales, he told Mr. Morales he wanted $10,000 for the property and that he never asked for more nor less.

He emphatically denied that he was a middle man or a straw man in the transaction, insisting that it was all his own business; that the adjacent parcel which he purchased for $2,200 was also purchased by him for cash at the same time, so that he had paid $6,800 cash to Mr. Morales at the time, and that he did not recall getting a receipt for this money from Mr. Morales.

Although he presumably purchased the property to build thereon, he never had any plans, never consulted an architect, and never took any steps toward building. After a great deal of examination he gave as a second reason for his willingness to sell the property, that he did not need the property because he had a long lease on the premises occupied by him as a tavern, but that it had not deterred him from buying the property in the first instance.

Although he insisted that he paid the $6,800 in cash and that he had never handled any such deal before, he could not give an account as to where he had kept that $6,800. He stated that he didn't remember how much money he had to get to make this deal and that as far as he was concerned it was a closed book and that he was not interested in it. Although he had a savings account, and an account for



business, and a special account in the banks, he didn't see any necessity for transacting this business by check. He said: "It was a separate piece of business, so why get it mixed up with anything else."

He didn't keep any records, files or any memos concerning this transaction. Upon the examiner's insistence that he divulge the names of the persons from whom he borrowed the money, he said: "You can take me to Court if you wish, but I do not know if they would be able to refresh my memory to that extent, my family comes first * * *" That upon cashing the check for $10,000, he put that money, in the usual denominations, in his *pocket;* never deposited any of it in his account and he does not know how, when or where he spent it. Mr. Boger thought he was buying the property from Mr. Berry but he did not know whether he bought it direct from Mr. Berry or whether a deed was first made by Mr. Berry to someone else and then to him.

Perhaps this transaction can best be described in Mr. Boger's own words: "You are not often lucky enough to put over a good deal like that, but when you are just lucky that way, you are." (p. 25 of the testimony.)

It will be recalled that no garage has thus far been built on the property or any other use made of it, despite Mr. Logan's insistence that he was very anxious to have garage facilities in Toms River.

**(c) As to the Circumstances of the Suicide of Arthur H. Sweeney.**

Mr. Sweeney was a right-of-way man and department appraiser, whose territory included Senator Powell's county. Our statistical analysis of all of the negotiated right-of-way purchases involving over $2,000, even after accepting all of Mr. Van Tine's reclassifications, disclosed that owners represented by members of the legislature in 90 cases received in the aggregate 127.75% of the department appraisals, while unrepresented owners received in the aggregate only 103.39% of the department appraisals (see p. 73, Part I of this Report). If the legislator-represented owners had been paid only the same percentage of department appraisals as ordinary owners the taxpayers would have saved over $270,000 in those 90 cases alone.

Mr. Van Tine argued that the striking difference in percentages was a mere coincidence and pointed out that in numerous cases nego-

tiated by Senator Powell or his firm the aggregate prices paid differed only slightly from the aggregate of the department appraisals. That fact, *if the department appraisals were correctly recorded,* would put Senator Powell's cases in a more favorable light, though it would of course considerably *increase* the average percentages obtained in cases handled by *other* members of the legislature, in comparison with department appraisals.

Mr. Sweeney was the department appraiser in Senator Powell's cases. We had examined Mr. Sweeney at private hearings and were about to take his testimony at a public hearing, when we were notified by the reporters that he had committed suicide. While our investigation had developed nothing incriminating against Mr. Sweeney, it was natural to associate his suicide with the highway investigation, and that was the general impression.

Later it was developed at both private and public hearings that certain department appraisals including some made by Mr. Sweeney had been changed for the purpose of "justifying" the payment of prices negotiated by the department with owners represented by politically-connected attorneys.

In order to ascertain the facts constituting the motive for the Sweeney suicide, we examined his widow, Mrs. Josphine R. Sweeney, at a private hearing, after waiting a decent interval and after being assured by her that she would be glad to testify. Mrs. Sweeney gave her testimony on October 27, 1941. She came to Trenton for that purpose voluntarily, without subpoena.

She said that her husband had been in the Department about twenty-one years, and had always been fond of his work, and very conscientious; that his salary was $3,300 a year. She testified in part as follows (italics ours):

> "Q. Would you like to tell us what Mr. Sweeney's reactions were to this investigation when it started?
>
> A. Of course he did not like the idea of an investigation because of what the people would think. The public seemed to worry him for some reason. It did not seem to bother him much in the beginning but when he looked through his files and



*found his appraisals were changed* and *new ones made,* he just didn't like it, and he worried about it. He told me about it and I said I would tell that those appraisals were not changed by you, and that the new appraisals were put in by someone else, but he just *did not want to squeal on anyone.* He said when he got on the stand he did not want to tell that somebody changed his appraisals, and yet he would have to tell the truth because he was under oath. He said he *felt like a 'dog' by telling on these people.* That is the only thing I can say.

Q. He never indicated that he had anything to do with changing these appraisals, or inserting new appraisals?

A. No.

Q. And from your conversations with him, do you know whether or not he had anything to hide?

A. No, he did not have anything to hide.

Q. Did you advise him what to do?

A. I told him to tell the truth and stick up for himself. In fact I said I wish they would let me go on the stand and I would not care who I hurt or got into trouble. I feel that in a case like that you should tell the truth, especially where you had nothing to hide, because everything he did was honest and above board.

Q. Was he upset a week previous to his death?

A. Yes.

Q. Will you tell us the circumstances in your own way?

A. He was to testify on Wednesday on that Lincoln Oil case, and he was worried. Thursday or Friday of the previous week, before Lincoln Oil, *he told his superior he was going to get on the stand and tell that the figures had been changed, and his superior said he wasn't going to take the blame for it either, that his word was as good as Art's, so that he did not know what to do."*

Mr. Sweeney left with his widow certain written memoranda, which were read into the record, listing certain cases in which his appraisals had been changed without his consent, and cases settled against his advice, which he evidently did not discover until after the investigation started.

The first of Mr. Sweeney's memoranda, read posthumously by his widow, was dated August 23, 1941, three days before Mr. Sweeney committed suicide. It contained the following statement:

"John Franssen changed my appraisals (unknown to me) in the following cases:

R-40—Parker—New Lisbon Circle

RS-41—Reginald Bennett

RS-41—George Wiseman

RS-49—Sec. 16, two cases where Grant Scott was mentioned * * *

"The above statement is only made by me in the event that John Franssen denies what I have stated above.

(Sgd.) Arthur H. Sweeney"

The department files show that in the first mentioned case (R-40—Parker—New Lisbon Circle) the owner was a man named Charles Parker, who was a client of the law firm of Powell & Parker, also represented by Greenberg, Wilensky and Feinberg. (Similar activities on the part of Senators Powell and Wilensky have been discussed in previous pages). For some undisclosed reason which we can surmise, but not definitely state, there were *four* appraisals. The first one was by Arthur N. Cutler, an outside appraiser, on February 10, 1940, in the sum of $5,626.95. In view of Mr. Cutler's work in other cases (previously discussed herein) it is reasonable to assume that his appraisal represented at least a fair, if not an over-generous, valuation for the parcel.

Evidently, however, even Mr. Cutler's valuation was not considered adequate by the owner, or by his lawyers, so that we find in the files another appraisal by a second outside appraiser Richard M. Woodward (also mentioned previously in this report) in the sum of $10,055. Even that was not enough, as shown by what follows:

The files contain what purports to be a *department* appraisal by the late Mr. Sweeney, appearing on its face to be in the amount of $10,757.05, and appearing on its face to have been dated several weeks subsequent to the two outside appraisals (though, ordinarily, the department appraisal *preceded* the outside appraisals). But it will be noted that in his posthumous memorandum Mr. Sweeney states that his appraisal had been *changed* and a new one made unknown to him.



Confirmation is furnished for Mr. Sweeney's written statement by the fact that the appraisal in the files, purporting to have been made by him, is not signed by him but is a freshly typed paper, without evidence of alteration, ending with his name *in typewriting* and not bearing even his initials as evidence of authenticity.

Evidently even $10,757.05 was not considered enough for the parcel which the usually liberal Mr. Cutler had appraised at $5,626.95, for we find a *fourth* so-called "check" appraisal by one Theodore T. Stecher (also mentioned at a previous page) in the sum of $12,057.05, under date of April 21, 1941, evidently a typical example of a so-called "justifying" eleventh-hour appraisal of the sort heretofore considered in detail.

The deal was closed for the round sum of $12,000 on May 15, 1941. The record does not disclose the percentage retained by the attorneys.

The second of the cases in which the late Mr. Sweeney stated in his memorandum that his appraisal had been changed, was the case of Reginald Bennett, RS-41 (represented by Mr. Harold Parker, partner of Senator Powell). The property was appraised on December 9, 1940, by Mr. Roy Stewart, a reputable "outside" appraiser, in the sum of $3,447.45. A few weeks later another outside appraiser, Mr. Ralph Baker, appraised the property at a substantially similar amount, $3,500, which evidently represented its approximate true value.

Being dissatisfied with those figures, the department called in Mr. Cutler, who by this time has become well known to the reader, and on March 15, 1941, he appraised the same parcel at $8,145.50! !

Here again the purported department appraisal bears a date *later* than all but the last of the outside appraisals. This also purports to have been made by the late Mr. Sweeney in the sum of $8,322.50, purporting to have been dated March 1, 1941. Mr. Sweeney states that his appraisal was changed without his knowledge, and here again his statement is confirmed by the fact that the purported appraisal does not bear his signature, in handwriting, but only his name in typewriting on a freshly typed sheet, without evidence of physical alteration.

The transaction was closed on March 28, 1941, for the sum of $7,500, more than twice the valuation of the two outside men who made their appraisals evidently before the department had been made "to see the light" by the owner's representatives.

The third of the above cases listed by the late Mr. Sweeney, that of George Wiseman (RS-41) could not be located by your Examiner in the department files.

The other two cases mentioned in Mr. Sweeney's memorandum, as cases where his appraisal had been changed without his knowledge, were those of Paul Scott and Thomas Holmes.

Paul Scott was a cousin of Senator Scott. He was originally represented by an attorney named Clark Bowers (see page 25 herein), but subsequently Senator Scott *interceded* in the case, and became the recognized "agent" for the owner (Senator Scott is not an attorney). It is significant that, despite Mr. Sweeney's statement that his appraisal in this case had been changed, we find no paper in the files purporting to be an appraisal by Mr. Sweeney, but do find a department appraisal made by Mr. Thomas Stewart in the sum of $2,299.65, a little over half of the price eventually paid.

In the Holmes case, the owner was also represented by Senator Scott, as agent. That case is discussed in detail at page 25 of this report. There we find an original appraisal by the late Mr. Sweeney in the sum of $625.36 on a portion of the property (parcel 11) which was subsequently changed (Mr. Sweeney says without his knowledge or consent) to the sum of $1,275.36. In this case the change is apparent on the face of the document.

Mr. Sweeney also made an appraisal on another portion of the Holmes property (parcel 14) and, *as changed,* the present figure is $1,526.51. We have no way of knowing what Mr. Sweeney's actual appraisal had been on that parcel, because his original figure has been erased and typed over.

For the remaining portion (parcel 15) of the Holmes property there is an appraisal in the sum of $202.30, purporting to have been made by Mr. Sweeney, and there is no indication whether or not this is one of the figures which Mr. Sweeney states were changed without his knowledge or consent.



Mr. Sweeney's appraisals, even as changed (so he states) without his consent, aggregated only $3,004.17, about twice the appraisals of the first two outside appraisers (Richardson, $1,382.30, and Back $1,607.30). The price actually paid was $4,000. In order to justify that payment to the influentially-represented owner, the department had a "check" appraisal made by Mr. Mead Tomlin, who had previously been employed by the *owner* to appraise the property in the owner's behalf.

In a second memorandum dated August 25, 1941, the day before he committed suicide, Mr. Sweeney stated:

> "My appraisal was changed unknown to me on the Wm. Martin property, Route 39, S. 1A & 10, Parcels 7A, X7A & 7B.
>
> (sgd.) A. H. Sweeney."

In the Martin case, the owner was represented by Messrs. Powell and Parker. The purported "Sweeney" appraisal in the files (which Mr. Sweeney says was "changed unknown to me") is in the amount of $7,710.00. The case was settled for $7,500. The files also contain appraisals by Cutler, at $8,612, and Woodward, at $8,486.25. We can only conjecture what Mr. Sweeney's actual department appraisal was and what the real value of the property was.

At the time we prepared Part I of our Report, we did not have the benefit of the additional light thrown on the cases by Mr. Sweeney's posthumous memoranda, nor did we have the benefit of those memoranda and of the testimony of Mrs. Sweeney at the time we prepared our statistical tabulations showing that members of the legislature got far better prices for their clients, on the average, than owners not blessed with such influential representation.

We can now begin to understand why there was no such disparity between prices paid and department appraisals in many of the cases where Mr. Sweeney was the department appraiser, even where the owners were politically represented. The actual documents in the files are strongly confirmatory of the statement in Mr. Sweeney's memorandum that his department appraisals had been changed without his knowledge or consent.

The fact that the purported Sweeney appraisals in the files did not bear his handwriting signature, but only his typewritten name, and the fact that the amounts were suspiciously high, and the dates suspiciously postponed, lends strong credence to the late Mr. Sweeney's statement to his widow, as quoted in her testimony, that he

"* * * found his appraisals were changed and *new ones made.*"

Further confirmation is found in the mere physical appearance of the purported Sweeney appraisals. While the other papers in each file bear evidence of considerable handling, with marginal pencil notations, etc., the "Sweeney" appraisals, except in one case, are fresh, clean sheets entirely in typewriting, and entirely lacking in notations or evidence of handling .

Had the appraisals actually made by Mr. Sweeney been used as the standard for our statistical tabulation, instead of the appraisals in the files purporting to have been made by Mr. Sweeney, the "success" of the senators in obtaining good prices for their clients would have appeared in even more striking contrast with the prices obtained by owners not so blessed.

We have recently interviewed Mr. Franssen with respect to these specific cases. He denies that *he* changed the appraisals of Mr. Sweeney, though admitting that in some cases they have been changed without Mr. Sweeney's knowledge. Mr. Franssen states that all of those cases were handled personally by Mr. James Logan who, contrary to the normal practice, insisted on dealing with them personally.

Whether it be true, as Mr. Franssen states, that he had nothing to do with the attempted changes in the Sweeney appraisals, or whether Mr. Franssen himself actually made the changes, as charged by the late Mr. Sweeney, under either version, James Logan, as chief engineer of the department, and head of the right-of-way division, was charged with responsibility for the final settlements. He either knew, or should have known, what was repeatedly being done in his own department, especially, in cases where the owners were represented by his patron and sponsor, Senator Clifford M. Powell, and especially since he himself had specified who should be the "outside" and "check" appraisers.

Mrs. Sweeney's testimony and the deceased Sweeney's memoranda are "hearsay", rather than legal evidence, but they tend to confirm



the testimony of other witnesses that the irregular practices did not consist solely of the improper influencing of so-called "check" appraisals, but included also the changing of appraisals made in good faith by the department's own men, without their consent.

It is believed that if our earlier statistical analysis had been able to show in every instance the *real* department appraisal, the contrast between the prices paid to politically-represented owners would have appeared in even wider contrast to the prices paid to other owners, as percentages of the department appraisals. There is no indication that any department appraisals were improperly changed in cases of owners *without* political influence or representation.

## X

## General conclusions as to Parts I, II, and III.

The scope of our investigation was necessarily limited by the amount of the appropriation, most of which has been expended for stenographer's minutes, printing, clerical salaries and other office and routine expenses. We took many thousands of pages of testimony at public and private hearings. We examined several hundred witnesses and several thousand documents.

Besides investigating the irregularities which are the principal subject-matter of Parts I, II and III of the Report, we completed a thorough administrative study, under the direction of Mr. Sidney Goldman, which is the subject-matter of Part IV of the report.

It was evident that while the permanent staff and the rank and file of the Department were for the most part honest and efficient, the entire department was suffused with a feeling of futility because politics was the controlling influence at the top, not only costly to the taxpayers but demoralizing to the department personnel.

The nature of that influence, and the technique by which it was made effective, was disclosed with more or less thoroughness in connection with negotiated right-of-way prices, and employment in the maintenance division. Our appropriation was insufficient to make it feasible to inquire deeply into other divisions and phases of departmental work where political or personal influence might have been

effectively exercised. It would have been difficult to uncover irregularities in other divisions, if they existed, without going to the considerable added expense of employing experienced detectives.

In the course of the investigation the men of our staff who volunteered their services without assurance of compensation devoted over five months, full time, to the work, between July and December 1941. Public hearings were conducted by Messrs. Fisher, Cooper, Schettino, Goldmann, Bertman, Schwob and Bolan, as well as by the Examiner, and private hearings were conducted by virtually every member of the staff.

Ever since the office was closed in December, and the full time work brought to a conclusion, because of lack of funds, the Examiner himself and Messrs. Goldmann, Fisher, Cooper, Graves and Schettino have devoted a considerable portion of their time to the preparation of the report and other matters necessarily incident to the investigation.

It was obviously impossible to pay to those who volunteered their services before any compensation at all was assured, anything more than a small fraction of the real value of their services, and the balance must be credited to their desire to render a public service on a non-partisan basis.

The Examiner believes that with little or no change of personnel, except at the top, the morale and efficiency of the New Jersey Highway Department may readily be brought, by a capable Commissioner who is not interested in machine politics, to a point where it will be a source of pride to New Jersey, and the envy of other states. It is also the hope and expectation of the Examiner that the citizens of New Jersey will be so delighted with the rare spectacle of a department of the New Jersey state government running entirely free from political control, that public opinion will increasingly rally behind this novel experiment and make it unsafe, in succeeding administrations, for bipartisan politics to lay a profane hand upon the highway department.

Respectfully submitted,

ROGER HINDS,
Examiner.