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IN THE MATTER OF THE INVESTIGATION
BY THE GOVERNOR OF THE STATE OF NEW JERSEY
INTO THE AFFAIRS OF THE OFFICE OF COMMISSIONER
OF REGISTRATION AND SUPERINTENDENT OF ELECTIONS
OF HUDSON COUNTY

REPORT OF EXAMINERS

*N.J. Governor's investigation into the affairs
of the office of Commissioner of registration
and superintendant of elections of Hudson Co.*
Harold H. Fishers
Chief Examiner.

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Fred A. Lorentz
Assistant Examiners.

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TO HIS EXCELLENCY CHARLES EDISON,

GOVERNOR OF THE STATE OF NEW JERSEY:

We herewith respectfully submit our report with respect to the examination and investigation into the offices of William E. Sewell, as Commissioner of Registration and Superintendent of Elections of Hudson County, pursuant to Executive Order heretofore made by you.

GENERAL SCOPE OF INVESTIGATION.

This investigation was undertaken pursuant to the provisions of N.J.S.A. 52:15-7, which gives your Excellency the power to investigate the management by any state officer of the affairs of any department, board, bureau or commission. The inquiry is part of a three-way investigation involving the affairs of the Civil Service Commission, the Board of Shell Fisheries, and the offices conducted by William E. Sewell as Commissioner of Registration and Superintendent of Elections of Hudson County. All three investigations have been and are being conducted under the personal supervision of Harold H. Fisher, Chief Examiner.

The instant investigation was conducted by Samuel A. Lerner and Fred A. Lorentz, as Assistant Examiners, and commenced on or about June 1, 1943. Chief Examiner Fisher has actively supervised the entire investigation, and was assisted by Isadore Kalisch from a period of time shortly after the commencement of public hearings, until the termination of the same. Sidney G. Goldberg aided the examiners during the course of the inquiry.

Our activities consisted of the personal inspection and analysis of the records and papers of the offices under investigation; interviews with most of the employees of the offices; interviews with persons claiming to have information concerning the operation of the offices; examination of witnesses at private hearings; and the examination of witnesses at public hearings. The conclusions hereinafter set forth are a composite result of these various facets of knowledge and information. Voluminous testimony was taken both at the private and public hearings, consisting of approximately three thousand five hundred pages, which testimony was transcribed and is submitted to you herewith. Because of the complexity of the functions and activities of the two offices under investigation, the task was a tremendous one; and was especially made more difficult because of the limitation of time and facilities.

It should be stated at the outset that our inquiry was limited to the operation of the offices under investigation during Mr. Sewell's incumbency, and was not intended to include an investigation of general election conditions in Hudson County, nor was it our function to check the registry lists with a view toward purging them of frauds and errors. Where our path has led us to persons and offices outside of those under investigation, we have limited ourselves to the particular aspects directly concerned with the management and operation of the offices under scrutiny, and have not been diverted to other fields of inquiry.

As you know, this investigation came about as a result of charges, criticisms, and complaints made against William E. Sewell and the operation of his offices by various individuals residing in Hudson County. Some of these charges were answered in a document filed with you by Mr. Sewell. In that document Mr. Sewell respectfully urged your Excellency to investigate the charges made with a view to determining whether the offices were being conducted according to law.

In our examination and findings, we have considered the charges only when supported by our own observations or sworn evidence. Similarly have we taken full cognizance of Mr. Sewell's answer and defenses when substantiated by factual data. During the progress of our work,

many additional matters of interest came to our attention; and all subjects of inquiry which appeared to have substance were looked into. A considerable portion of our time and effort was spent in sifting the information which came to our attention. A substantial number of the leads and data brought to us was eliminated after preliminary investigation because of our conclusion that they lacked substance in factual corroboration.

The result has been that we have attempted to ascertain and report upon facts alone. Some of these facts are specific in nature; while others are general in character. Throughout this inquiry we have stressed the fact that our function was investigatory in nature, and not in the nature of a trial of specific issues. We have invited and permitted all persons with any factual information on the subject under inquiry to present the same. In addition, at the public hearings, we have given full latitude to the offices and persons under scrutiny to cross-examine the witnesses and to introduce other witnesses and other evidence to explain, enlarge upon or clarify the matters under investigation.

In fairness to Mr. Sewell, it should be stated that he gave the Examiners full cooperation in connection with the examination of the records of his offices and the interviewing of employees. Unfortunately, after the

commencement of public hearings, as will appear from mere perusal of the record, a great number of unwarranted and obstructive objections and statements were made by and on behalf of Mr. Sewell, with the result that the record is more voluminous than the circumstances required.

Throughout the investigation we have probed the conditions and practices of Mr. Sewell's offices with constructive ends in view. Partisanship was completely eliminated, both in the method of investigation and in the objectives sought. There was no desire or intention to subject Mr. Sewell or other persons to publicity or criticism. We attempted to avoid the role of prosecutor or judge; and were interested in collating and determining facts as a guide for remedial action. Any violations of law, improper practices, or irregularities which may be pointed out herein, are reported for the purpose of serving as a basis for future action by the executive and legislative branches of our Government, looking toward constructive reforms.

NATURE OF THE OFFICES.

Prior to July 1, 1940 the offices of Superintendent of Election and Commissioner of Registration of Hudson County were operated as separate entities, under the management of Mr. John Ferguson and Mr. Charles Stoebling, respectively. Apparently, there was considerable conflict between these officials, resulting in a total lack of

cooperation, and a lack of efficient administration of the election laws. In July of 1940, the legislature, in an effort to cure this unwholesome condition, enacted a law by which the Superintendent of Elections was constituted the Commissioner of Registration in counties of the first class (N.J.S.A. 19:31-2). Under this legislative pattern, the offices maintained their separate entities, but were entrusted to the management of the same person, appointed by the joint action of the Senate and House of Assembly.

Immediately after the enactment of this legislation, the Legislature in joint session appointed William E. Sewell as Commissioner of Registration and Superintendent of Elections of Hudson County, and he immediately entered upon the performance of his duties. Generally, the Registration office keeps the record for voters and registrants in the County; while the Superintendent of Elections is the enforcement officer, entrusted with the duty of supervising and policing elections and voters. For the period from July to December, 1940, Mr. Sewell retained most of the personnel of his predecessors, employing approximately three hundred and fifty to four hundred employees; and spending during that period of six months, approximately \$490,000.00 (Ex. E-4, 9-29-43). Commencing with 1941 the personnel was reduced to approximately two hundred, and the offices were conducted under a limited appropriation of \$510,000.00 for the entire year.

EFFECT OF POLITICS ON OPERATION
OF OFFICES.

In the course of our investigation we have found that one basic feature stands out. The efficiency of the two offices is seriously hampered by a fundamental political approach to the work being performed by Mr. Sewell and his employees. This political atmosphere which pervades the offices at all times is undoubtedly the producing cause of the lack of efficiency and lack of morale hereinafter described. Of course, we do recognize that politics generally plays a part in the selection of personnel of public offices. However, where politics is stressed to such an extent that efficiency of the office is sacrificed, the practice must be severely censured.

The offices are headed by William E. Sewell, who is the Hudson County member of the Republican State Committee; and in that capacity is considered the leader of the Republican party in Hudson County. He has surrounded himself with the other executives of the Hudson County Republican organization. Mr. Carl Ruhlmann, Deputy Superintendent of Elections, is the Republican County Chairman. In addition, every municipal executive of the Republican party is represented on the payroll of the two offices. Most employees are either district or ward leaders. All but two employees are members of the Republican party. Not only is membership in the Republican party a necessary pre-requisite

to securing employment, but active membership by way of political activity and production of political results is demanded. As a result of these standards for employment, the morale of the office force is at a low ebb. The competition among employees is not in the field of greater endeavor in the work of the office, but rather in the field of production of votes for the Republican party.

Not only are employees hired as a reward and incentive for work on behalf of the Party, but on occasion they are discharged for lack of efficiency in producing results in that direction. In this connection, we refer to the testimony of Anthony Maffei, during whose examination it was revealed that he was discharged because he produced only seven votes for his Party in his district (8/30/43 p. 529). So established is the practice of hiring and firing employees for their efficiency in political activities, that Mr. Jacob Levey, counsel for Mr. Sewell, expressly admitted for the record that the above statement was true (8/31/43 p. 529).

A similar occurrence came about with a former employee, Arthur L. Mouncey, who testified that one of the reasons for his dismissal was his alleged failure to produce sufficient votes for the Republican Party (9/2/43 p. 714). Mr. Sewell himself admitted that this was a basic motivating factor in his dismissal, and that he applied this same rule

of thumb in connection with other employees (9/2/43) p. 715).

A different application of the same principle is illustrated in the experience of Lester W. Entrup. Mr. Entrup had been the North Bergen Chairman of the Republican Committee. Mr. Sewell, as Party Leader, desired to replace Mr. Entrup with another employee. Mr. Entrup refused to step down with the result that he was dismissed without further ado (8/27/43 p. 103). The discharge of Mr. Entrup was partly justified at the hearing by Mr. Sewell on the ground that this employee had resigned as of October 1, 1941 (8/27/43 p. 112). However, this justification is rather inconsistent with the certification by Mr. Sewell of the payroll from October 1st to October 15th, in which was included a request for payment to Mr. Entrup (8/27/43 p. 103). According to Mr. Entrup's testimony, the check for services from October 1st to 15th was held up by Mr. Sewell in an effort to force Mr. Entrup to resign from the Chairmanship (8/27/43 p. 103). Upon his refusal so to resign, the check was returned to the County Treasurer with the notation that the services had not been rendered. Whether or not the details of this affair differ in the versions presented by Mr. Entrup and by Mr. Sewell, the basic fact exists that Mr. Sewell was motivated by the failure of Mr. Entrup to follow his orders in connection with the administration of

the Republican Party, rather than the administration of the offices.

Another practice indicative of the political nature of the offices is the hiring of employees upon the recommendation of district and ward leaders of the Republican Party. The approval of these leaders is a condition precedent in most instances. There also seems to be a deliberate plan to allocate jobs among the various wards in the county, so that all wards can be politically represented in the personnel of the office. These jobs are traded as so much merchandise. Reference to a specific incident concerns Arthur L. Mouncey, who was required to step down from his position as a Republican official in order to be assured of obtaining five jobs for the workers in his ward (9/2/43 - p. 682).

At certain periods of the year, as will be discussed hereafter, Mr. Sewell discharges groups of employees in order not to exceed his budget limitations. The Chairman of the various wards are permitted to designate the particular individuals who are to be discharged. This use of the offices as a primary means of political patronage leads to the traditional evil of sinecures and padding of payrolls.

There was testimony produced to the effect that Nancy Fafaldi and Joseph Bachman were placed on the

payroll without being required to perform any work whatsoever (8/27/43 - p. 76,81). This testimony was not contradicted by any substantial evidence, except for a categorical denial. The individuals involved were not produced by Mr. Sewell, at the public hearings. We succeeded in servicing subpoenas upon each of these for a private hearing, but they failed to respond. Lester Cobb, a present employee of the office, was produced to contradict the statements made by Lester Entrup with regard to the above employees, Faraldi and Bachman. Cobb's testimony at the public hearing was obviously colored to shield his superior. His credibility is completely destroyed when his testimony at the public hearing is compared with his testimony at the private hearing (See 7/30/43 - p. 32 et seq). The ultimate result, notwithstanding the attempt on the part of another witness, to support Cobb's story, is that we are compelled to give credence to the version of these facts as stated by Lester Entrup, that these two individuals were paid without performing any work. As a consequence, Mr. Sewell's act of certifying the individuals for payment of salary amounted to malfeasance in office.

The effort to find places for Mr. Sewell's political co-workers, finds him going to the extent of placing Ralph Nastasi, his recognized "political secretary", in the position of "receptionist", at a salary which varied

from \$3800.00 to \$4000.00 per year. All of this - in the face of the fact that a telephone operator and relief operator occupy an adjoining office at all times (8/27/43 - p. 220). The proofs showed that a person attempting to call upon Mr. Sewell would first be required to give his name to one of the telephone operators, and then be required to see Mr. Nastasi before gaining entrance to Mr. Sewell (10/4/43 p. 89). Mr. Nastasi's other activities will be developed hereafter. The same is true of John Anderson, who is the self-styled "attendance officer" of the offices (8/4/43 - p. 92). Mr. Anderson is leader of the Tenth Ward of Jersey City and is recognized as one of Mr. Sewell's right-hand men. According to Mr. Anderson's testimony, apparently his main function in the office is that of perambulating throughout the building and determining in his own mind who is and who is not at work, all of this is done, however, without the benefit of having any list of employees in his possession ; and without making any written record of the results of his daily perambulating (8/5/43 - p. 92, 93).

Another interesting sidelight on the creation of sinecures is the retention of Thomas McDonald as an undercover investigator of investigators (9/3/43 - p. 873). This important responsibility of checking the work of the investigators is placed in a man who had been removed from office by the legislature. He had held the

the office of Superintendent of Elections of Hudson County (9/3/43 - p. 873). This individual is approximately seventy years of age, and is allegedly entrusted with the work of following some fifty investigators to determine whether they actually call upon the registered voters, or "sit in the park and fill out their cards" (Ibid) -- and this, over an area covering the entire county of Hudson, involving some six hundred and fifty eight election districts.

Then there is another member of Mr. Sewell's political inner circle -- Otto Franke -- who responds to the title of "statistician" of the offices, but whose duties consist solely of obtaining the election results from the various municipalities after an election, and tabulating those results on a county-wide basis (9/29/43 p. 140). When it was obvious that his statistical work could not possibly take up even a substantial portion of his time, this witness attempted to state that he did confidential investigation work for other executives in the office, which confidential work, however, he did not care to divulge (9/29/43 - p. 143). It remained for other testimony to disclose the real work assigned to Mr. Franke, and that had to do with complete supervision of the collection of moneys from the employees of the offices for Republican campaign purposes, the details of which will be discussed in another portion of this report.

Jennie Smith, an old employee, and incidentally Vice-Chairman of the Republican County Committee, is also one of the favored group. She has received her salary, at least for the past year and a half, by special messenger to her home (10/13/43 - p. 116). Unfortunately, she is confined to her home as a result of serious illness and a leg amputation, but this confinement has not prevented her from drawing her regular salary. A feeble effort was made by Mrs. Smith and Mr. Sewell to explain the allegedly important work that she performs for the office. However, it is quite apparent to us that she does not perform any work of value for the office which would require the payment of a salary. The only reason for continuing to certify Mrs. Smith on the payroll is a deep sympathy for her predicament. From a business and legal standpoint we do not believe that this sympathy, although commendable, should be a basis for the payment of public moneys. This rationale of sympathy, when it peculiarly coincides with recognition of political activity, finds other tangible expression in the retention of a number of elderly gentlemen upon the payroll with the designation of "special investigators", about whom more hereafter.

While the political atmosphere in the offices has resulted in a general overstaffing, as has been referred to, the practice of overstaffing is most clearly exemplified

by the situation which exists with respect to the personnel of the investigation department. In view of the fact that there is no attendance record or control over investigators, as will appear subsequently, this department is an excellent receptacle for party workers who wish to conduct other business simultaneously. As a result, we find an unusual number of lawyers assigned to this department, all of whom continue to retain private law practices (9/3/43 - p.884-889). This evil, incidentally, is not limited to lawyers alone, but many other members of the investigating staff retain outside business interests. It is rather interesting to analyze the testimony of some of these investigators. Those with active businesses requiring their attention during the day testified that their investigating work could best be done at night. Those with outside business interests requiring their attention at night stated that their investigating work could best be done during the day. It is quite obvious that these "part time" employees are retained as a means of enabling Mr. Sewell, as party leader, to distribute political patronage. The result in office inefficiency is far-reaching.

UNLAWFUL POLITICAL CONTRIBUTIONS

Our investigation discloses the existence of a well-organized plan with respect to the collection of political contributions for campaign purposes from the

of the salary earned by the individual employee (8/27/43 - p. 58; 8/30/43 - p. 343; 8/31/43 - p. 473). Of course, this figure varied slightly, but from the testimony of most of the employees, three percent was the accepted standard. In some instances, the payments were made semi-monthly, simultaneously with the receipt of salary checks; and in other instances, payments were made in several installments during the year. There were a few instances of employees who failed to make the required payments.

In addition to the three percent collection from employees, they were further requested to purchase tickets for annual boat rides sponsored by the Hudson County Republican Organization, Inc. Tickets were allotted to employees also on the basis of their earnings, ranging from twenty to fifty tickets to each employee, at \$1.10 per ticket (8/27/43 - p. 250; 8/30/43 - p. 405, 406). These were allotted irrespective of the need or ability of the employee to dispose of them. Each boat ride brought forth an advertising booklet, to which the employees were required to subscribe. The "ads" allotted were also based upon salary earned (Ibid).

There was no substantial testimony indicating actual coercion of the employees with respect to these contributions. There was some testimony, however, to the effect that Ralph Nastasi, Otto Franks, and some of the ward

leaders, had used threatening language in order to enforce payment of contributions. A typical example of the language used to employees who were hesitant, was "Pay up or else" (8/27/43 - p. 95; 8/30/43 - p. 452; and 8/31/43 - p. 476). In fact, it was testified that Ralph Nastasi stated to one of the employees, "Mr. Sewell was sick and tired of people owing money to the fund" (8/27/43 - p. 98). This alleged statement by Mr. Sewell is somewhat corroborated by Elizabeth Geasler, a former employee, who repeats a conversation which she had with Mr. Sewell concerning contributions, at which time Mr. Sewell reputedly said: "Carl Ruhlmann and I are G-- D--- sick and tired of sticking our hands in our pockets for campaign funds, and it is about time the job holders took an interest", to which Mrs. Geasler queried "I am compelled to pay it?", and Mr. Sewell continued "Don't bother me any more about it -- yes, you got to pay it". (8/30/43 - p. 406). So great was the pressure on this employee for the payment of a contribution at that time, that she resorted to a loan from Mr. Sewell's chief investigator, Thomas Casey, in order to put herself in good standing. She repaid this loan to Mr. Casey after she was dismissed (8/30/43 - p. 406-407).

As a matter of fact, however, threats were not necessary, because most employees, from past experience and knowledge of politics and politicians, were cognizant

of the fact that they were expected to make the payments, and therefore raised no objections. There are, however, considerable indicia to point out that these payments were not wholly voluntary. An amusing sidelight which is proof of this fact is found in the testimony of William Noulton (8/31/43 - p. 566), who was dismissed before the end of the year. Upon demand, he was granted a "rebate" on the payments which he had made in advance on the basis of the anticipated annual salary. Another indication of the absence of the voluntary element in connection with these contributions can be gathered from the language of one of the exhibits (E-5), which is a receipt "Payment in full" for a contribution. The system of collections was so well organized that Otto Franke and Ralph Nastasi had special men appointed as "trouble shooters" to collect from those in arrears. John Bischoff, a former employee, testified (8/31/43 - pp. 570-571) that he was appointed as such a trouble shooter, and was given a list of employees who were in arrears in their payments, with the amounts which they owed. It became his duty to press these delinquents for payment. Some of the collectors who were novices in the business were given a schedule of payments to be collected from the employees, which schedule contained amounts based upon salaries (8/30/43 p. 442).

The Hudson County Republican Organization, Inc., established its office on the third floor, Room 316, of the building occupied by the offices of Commissioner of Registration and Superintendent of Elections; and Otto Franke was installed as its representative. He was assisted by Ralph Nastasi and Benjamin Blinder, both employees. The equipment used for the maintenance of records consisted of a card index system which contained the names of all employees, their salaries, the amount of contributions allotted to them, the amount paid on account, and the balances due. Whenever any employee desired to make a payment on account, he would find one or the other of these men available at the corporation office to receive his money. There was an effort made by Mr. Franke and Mr. Sewell to show that the activities of this corporation and this office were carried on during lunch hour, and after business hours. However, the weight of the credible evidence is to the effect that there was someone in attendance at the organization office at all times during business hours.

We attempted to determine the approximate amount collected from employees in this manner, but the destruction of records, lack of memory, and objections by Mr. Sewell upon one ground or another, prevented a definite disclosure with respect to the exact amounts collected (10/4/43 - p.5). However, a fair estimate derived from

admissions and estimates made by employees, would indicate an annual "take" by the Hudson County Republican Organization, Inc., of approximately \$25,000.00. The exact method of disposition of these funds still remains a secret, not only to us, but to the employees who made up the fund, since no accounting or report was ever submitted by Otto Franke or Ralph Nastasi, who signed all checks and had full control over the expenditures of the moneys (10/4/43-p.9). The peculiar circumstances surrounding the destruction of the records of the Hudson County Republican Organization, Inc., when coupled with the fact that no reports or accountings were ever made by or demanded of these men, throws a haze of suspicion around their management of the finances of the organization. However, the legal limitations of our inquiry prevented us from delving further into this field of investigation.

Aside from the presence of specific indications which demonstrate that the voluntary element is absent in connection with these contributions, it must be emphasized that the employees of these offices are particularly vulnerable with respect to exactions of this kind, because they are "temporary employees", and as such can be hired and discharged at will. Although there is no substantial testimony indicating that any employees were discharged solely for failure to make contributions, the existence of the power

of discharge undoubtedly acted as a sword over their heads in order to coerce them to make these payments. With this situation kept clearly in mind, it is understandable that there was present no evidence of actual coercion. We are not unmindful of the fact that other public employees undoubtedly contribute moneys to political parties for campaign purposes. However, such collection of contributions from employees in the temporary class is unlawful and specifically prohibited by Statute.

Apparently, the legislature was cognizant of the potential evil with respect to involuntary contributions resulting from the constant threat of the power to discharge temporary employees. It attempted to cure that potential evil by the enactment of N.J.S.A. 19:34-42, which reads as follows:

"No holder of a public office or position not filled by election by voters shall contribute to the nomination or the election of any person to public office or the party position; but this prohibition shall not apply to a person holding an appointive office or position the term of which is fixed by law. No person shall invite, demand or accept payment or contribution from such persons for campaign purposes."

By virtue of this provision it is unlawful for contributions to be made by or accepted from employees of the offices under investigation, whether there is coercion or not. As a result, Mr. Sewell and his associates violated the law with regard to this matter. The temporary nature of the

positions held by the employees, unprotected by Civil Service or by a definite term of employment fixed by law motivated the Legislature to declare any such contributions unlawful.

An argument was made to the effect that the provisions of the above mentioned Statute were not applicable here on the ground that the moneys which were collected from employees were used for the purpose of paying party workers on election day. It is our studied conclusion that this argument is a specious one. The Statute prevents all such payments or contributions for "campaign purposes." The moneys received from the employees of these offices were collected on the representation that they were to be used for campaign purposes. Whether or not the moneys were actually so used is of no consequence. The destruction of all the records of the Hudson County Republican Organization, Inc., prevented us from determining how the moneys were actually disbursed. However, it can be stated that at least part of the moneys were used for the expenses of the Republican Organization of Hudson County in connection with various election campaigns during the years 1940, 1941, and 1942.

It is a fact, as contended by Mr. Sewell, that this practice of making political contributions by employees of the offices of Superintendent of Elections and Commission-

er of Registration of Hudson County, was in existence prior to Mr. Sewell's incumbency. When Mr. Sewell took office, however, he publicly denounced the practice of his predecessors and assured his employees that he would not countenance any action looking toward compulsory payments by employees. He further permitted his chief investigator, Thomas Casey, in a speech made at that time, to state "The old days are gone and new days born. There shall be no more shakedown, provided the work is done right" (8/31/43 - p. 469). The expressed intentions of Mr. Sewell and his executive associates at the time were commendable had they been carried out in practice. However, immediately after this statement of policy, there was organized the corporation above mentioned; and the elaborate system of collections already described was put into effect.

There is no doubt that Mr. Sewell was fully cognizant of the collections made by his employees and the methods used. Although he denied intimate knowledge of the methods used, he did concede knowledge of the fact that collections were being made from his employees (8/31/43 - p. 625). In spite of this knowledge, Mr. Sewell took no action whatever to discontinue the unlawful practice, or to enforce the policies to which he gave lip service at the commencement of his term. He, as State Committeeman from Hudson County, was satisfied to sit back and permit these practices to continue, and reap the benefits in the form of

of funds with which to conduct successive campaigns.

An attempt was made to justify this conduct on the part of Mr. Sewell, when it was contended, during the hearings, that the same practice was being followed by other public officials, and was countenanced by United States Senators, Representatives, Governors, and candidates for high office. Mr. Levey stated that while he frowned upon the practice, originally, his attitude with respect thereto was changed by conversations which he stated he had during 1940 with members of the United States Senate and others in high position. Whether or not the practice was a general one in other political offices is, of course, immaterial. This is so for two substantial reasons: In the first place, a mere indulgence by others in a vicious practice can never justify that practice. Secondly, the statute in question is particularly applicable to the employees of Mr. Sewell's offices, and may have no application whatever to the type of employment which exists in other public offices. The opinion of Senators and Congressmen notwithstanding, the New Jersey Statutes govern with respect to Mr. Sewell's employees.

It is very interesting to note that the beginning of the year 1943 brought about a sudden cessation of the collections which went on during 1940, 1941, and 1942. Without exception, all employees ceased making their regular

payments to the Hudson County Republican Organization, Inc. Without exception, all collectors ceased in their requests or demands for contributions. Neither the employees who paid, nor the employees who collected were able to give any explanation whatsoever for the peculiar coincidence in point of time of their sudden cessation of activity. No one would admit of any instructions from any person in authority to discontinue the collection system.

It is apparent that the filing of the charges with your Excellency by the Republican Citizens Committee in December of 1942, containing specific complaints with respect to the system of collections, was the motivating factor for the change in policy. Although Mr. Sewell, his counsel, and his executive personnel argued that the collections were justified legally and morally during 1940, 1941 and 1942; they apparently came to the ultimate conclusion in 1943, as we do in this report, that these collections were contrary to law and totally unjustifiable.

INCOMPETENT AND IMPROPER MANAGEMENT OF OFFICES.

(a) Finances.

The Legislature has seen fit, in connection with the offices operated by Mr. Sewell, to establish limitations on the expenditures which can legally be made in any one year. By N.J.S.A. 19:31-2, the office of Commissioner

of Registration is limited for the year 1941 to the sum of \$310,000.00, and for subsequent years to the sum of \$260,000.00 annually. By N.J.S.A. 19:32-2, the Superintendent of Elections office is limited to the sum of \$200,000.00 for the year 1941 and annually thereafter. Our investigation discloses that the manner in which the offices have been managed since the passage of that statute, has resulted not only in the complete exhaustion of the annual appropriations (E-4, 9/29/43); but in an over-expenditure of the statutory sums through devious and unlawful means.

Although the Legislature has established a maximum limitation on expenditures, the Superintendent of Elections and Commissioner of Registration must depend upon the County Board of Freeholders for an adequate appropriation and the subsequent payment of the moneys appropriated. When Mr. Sewell first submitted a request for an appropriation in the full amount of the statutory limit at the inception of the year 1941, the Board responded by appropriating only \$184,000.00 for the two offices. As a result, Mr. Sewell made application to the Supreme Court to compel the Board to appropriate to the statutory limit, which proceeding resulted in an opinion by Justice Case, rendered February 21, 1941 (126 N.J.L. 186), by which a writ of mandamus was granted compelling the Board to appropriate \$120,000.00 for the

Superintendent of Elections and \$180,000.00 for the Commissioner of Registration.

The County Board passed its budget on February 25, 1941, and pursuant to this decision, it included an appropriation totalling \$300,000.00 for both offices. Thereafter, no further action of any type was taken by Mr. Sewell to secure additional appropriations (9/27/43-p.92). In spite of this lack of legal compulsion, and in contrast with the former obstructionist attitude of the Board, special emergency appropriations were thereafter made, bringing the total appropriations for the year 1941 to the full statutory limit of \$510,000.00. This new cooperative attitude of the Board was further illustrated by its voluntary assumption, outside of the office appropriation, of a large sum for payment of rent, the purchase of equipment amounting to approximately \$26,000.00, and the payment of the telephone bill for the Commissioner of Registration. Thereafter, during the years 1942 and 1943, the request by Mr. Sewell for the full statutory appropriation was promptly granted without opposition, and without the necessity for any legal action. There has been no explanation offered for the change in attitude of the County Board. It is illuminating to note this cooperation of the Board, especially with respect to the rent, equipment and telephone items, which are charged

to other accounts on the books of the County (9/27/43-pp. 61, 64, 65). [It is our view that the granting of these concessions for rent, equipment and telephone are directly contrary to the Statute, which limits the appropriations of the offices in question. This constitutes a violation of law on the part of Mr. Sewell and the Hudson County Board of Freeholders.]

It was contended with respect to these items that they are justified by N.J.S.A. 19:32-4 (10/7/43-p. 91), which provides substantially, that the county Board shall provide quarters and equipment to the Superintendent of Elections; there being no such provision however for the Commissioner of Registration. This proposed interpretation is inconsistent not only with the clear language of the Statute, but with the treatment by Mr. Sewell of other items of rent, equipment, and furnishings (10/13/43 p. 77 to 83). Obviously, the only feasible construction to be placed upon this statute is that it was superseded by the all-embracing statute which was passed in 1940 (N.J.S.A. 19:32-2), which provides that "all expenses of every nature * * * shall not exceed the sum of \$200,000.00 in the case of the Superintendent and \$260,000.00 in the case of the Commissioner of Registration (N.J.S.A. 19:31-2). Whatever the legal inter-

pretation of these statutes may be, the more revealing fact is that the Hudson County Board of Freeholders, after February of 1941, raised no legal question and placed no obstacles in the way of Mr. Sewell when he sought to secure moneys in this manner over and above the statutory appropriation.

In addition to these extra statutory expenditures, an examination of the figures submitted by the County Treasurer indicates that Mr. Sewell has expended each year an amount within a few dollars of the limit allowed by law (Ex. B4, 9/29/43). This is accomplished by a system of switching employees from the payroll of one office to the other in order to exhaust the funds available for both offices (9/27/43-p. 51). When the Legislature passed the statute limiting specific appropriations to each office, it intended that the offices be carried on as separate entities from a financial viewpoint. As a result, if one office can be operated at a considerable saving, it is not within the legislative intent that the excess in the appropriation of that office be applied to the expenses of the other office. Contrary to this statutory plan, Mr. Sewell, with the assistance of his paymaster, Lester Cobb, has placed employees indiscriminately on the payroll of the Superintendent's office or the Commissioner's office without

regard to the duties which they perform. The illegality of this procedure is impliedly admitted by the corrective steps taken by Mr. Cobb in August, 1943, when he transferred a group of employees from the Superintendent's payroll to the Commissioner's payroll in order to coincide with their actual work for the Commissioner's office (9/29/43-p. 19). These steps were taken immediately after the matter was pointed out to Mr. Cobb by the examiners at a private hearing held on July 30th, 1943. In this manner, employees are shifted in bulk at various times of the year to one payroll or the other in order to make use of the excess moneys which may be on hand in the appropriation of one office or the other at the particular time. This system of shifting of employees is aided by the cooperation of the County Treasurer in making shifts on his records of bulk sums of money from one appropriation to the other (9/29/43, pp 18, 21, 49; 10/13/43-p. 101). In this coordinated effort by Mr. Sewell and the County Treasurer, the intention of the Legislature that there shall be a limitation with respect to each office, is completely thwarted.

It is of interest to note that Mr. Sewell's appropriation for these two offices is apparently so ample that he can, with ease, "loan" four of his employees to the County Board of Elections permanently. This practice is

indulged in notwithstanding the fact that there is a statute (N.J.S.A. 19:6-17), which limits employees in the office of the Board of Elections to a clerk, two assistant clerks and one clerk-stenographer, and requires them to be appointed from the competitive class of Civil Service. The testimony discloses (8/11/43 - p. 138; 10/4/43 - p. 36) that the four employees loaned by Mr. Sewell are concerned solely with the business of the Board of Elections; and do not work whatsoever for Mr. Sewell. In this manner, Mr. Sewell cooperates with the County Board of Elections in circumventing the specific provisions of the statute in two respects; First, by enlarging the number of employees used by the Board beyond the statutory limitation; and secondly, by staffing the Board with non-Civil Service employees.

Again, notwithstanding the ample appropriation, we find Mr. Sewell running his office in such an unbusiness-like manner that he found it necessary to discharge large groups of his employees in November and December of 1941 and of 1942 (9/27/43 - p. 20). In some instances they were rehired in January of the following year, when the new appropriation went into effect. This irregular practice is the inevitable result of the hiring of employees without regard to the necessities of the offices. These lay-offs at the end of each year seriously affect the morale and efficiency of the employees of the offices. It is also of

interest to observe that the comparable offices in Essex County are operated at a cost of approximately one-third of the expenditures made by Mr. Sewell. The County of Essex has a greater population and a greater number of registered voters. While it is true that the need for investigation and supervision is not as great in Essex County as in Hudson County, and that this difference in conditions may justify a greater expenditure of moneys in Hudson County, there does not appear to be any justification for such a vast difference in cost.

(b) Investigation Department.

The great difference in cost arises mainly out of the operation of the investigation department. This department has been operated under the supervision of Thomas Casey, and has in its personnel approximately fifty-five investigators and twenty-five clerks, which number varies from time to time. These investigators are all outside employees, engaged in an all-year-round investigation of the names, addresses and qualifications of registered voters. No attempt is made to economize in the number of persons used in this branch of the work. In fact, the head of the department, Mr. Casey, conceded that he had nothing to do with selecting his personnel; or with the financial cost of this department; and that he was required to take

such persons as were assigned to him by Mr. Sewell from time to time, and use them as he best saw fit (9/3/43 - p. 862).

There is no control in this department of the corps of investigators, in that they are free to come and go as they please. There is no requirement that they attend the office daily, weekly or monthly; they merely take with them prepared investigation cards and are required to return only when they have finished the investigation of these cards (9/2/43 - p. 749). When pressed for a statement as to the standards established for employees, or the work expected of them, both Mr. Casey and his assistant, Mr. Roger, failed to make any definite reply (9/2/43 - p. 754, 755). From the testimony of Mr. Roger, who is directly responsible for assigning the work to the investigators, it would appear that an investigator could take almost as long as he desired to complete his assignment (9/2/43 - p. 773). This loose method of supervision and control causes inefficiency and results in overstaffing of the personnel. It would seem that the lack of control and supervision is desirable in order to permit investigators to remain on the payroll in spite of outside business activities. The hours are not regular; and the system -- or rather, the lack of system -- encourages these employees to perform as little work as possible.

This lack of efficiency is further aggravated by the practice of assigning favorites to special investigation work. In this type of work, the investigator does not canvass entire districts, but merely completes an investigation for specific information required of him from time to time. A large part of this special investigation work consists of what is termed "death card investigations". These death card investigations are reserved for the favored few; and according to the testimony, approximately ten investigators are used for special and death card investigations (9/3/43 - p. 780).

It is of interest to review the work accomplished by the death card investigators in order to determine the means by which payrolls are padded in these offices. Under the statute the County Board of Health reports the names, addresses, and ages of those persons who have died within the county during the previous month. From this information and from additional information secured through obituary columns of newspapers, employees of Mr. Sewell's office determine the registrations to be removed from the records because of death. Occasionally a problem arises in determining whether a father or son has died, and which registration should be removed. In Essex County, upon hearing of the death of a registered voter, the Commissioner of Registration forwards

a letter to the family calling attention to the death of the person named, and advises the family that unless information is given to the contrary, or unless the family advises the Commissioner of an error, the registration of the dead person will be removed. In Hudson County, however, Mr. Sewell has seen fit to use approximately ten investigators throughout the year to determine whether the information respecting deaths is accurate. According to the proof, all of the death cards investigated during 1940, 1941, 1942 and 1943 were returned with a notation that the allegedly dead persons were actually dead. (9/3/43 - p. 780 et seq; p. 800). In other words, the use of ten investigators produced no tangible result. Thomas Casey, the head of the department, at a private hearing conceded that the letter method in use in Essex County might be practical for the intended purposes (8/5/43 - p. 36). However, this alternative method has never been used. The reason for the failure to use this method is quite obvious.

A review of the number of cards allegedly investigated by some of these death card investigators indicates that they are true sinecures. An outstanding example is Chris Ritter (9/3/43) p. 789 et seq). According to Mr. Roger's testimony, Mr. Ritter investigated nine such death cards between December 8, 1942 and January 5, 1943 (Ibid).

In other words, he visited nine houses in a period of approximately one month, and determined that nine dead people were really dead. When he returned on January 6th he was given seven more death cards which required his undivided attention until January 21st. A compilation of Mr. Ritter's death card activities from December 9, 1942 to May 21, 1943 indicates that he handled seventy-seven death cards during a period of five and a half months, and during which time he was paid the sum of approximately \$960.00. That would be a cost of approximately twelve dollars per death card. The statistics on the other death card investigators vary somewhat, but an analysis of the cost per death card to the office would average approximately ten dollars per card. This is exclusive of the office work and overhead, in connection with processing these cards before and after the investigators handle them. The lack of efficiency of some of these death card investigators was sought to be justified by Mr. Sewell on the ground that they were old gentlemen, in some instances, and in poor health in others (10/13/43 - p. 120). He contended that his human instincts and sympathy prevented him from discharging such employees, and as a result he sought some place for them on the payroll. Mr. Sewell's instincts in this connection are to be admired, but if he were to apply these instincts to his own pocketbook, we would

have no criticism. However, when these sympathetic instincts are satisfied by the unwarranted expenditure of public funds, they should not be countenanced.

Another attempt at justification for the system of death card investigators was made by Mr. Levey during his testimony. He stated that upon a few occasions, when a registration had been removed as a result of a reported burial, further investigation disclosed that the burial had been of an amputated limb rather than of the registered voter (10/8/43 - p. 81). On this score, it was argued, the large expenditure for death card investigators was warranted. To merely state this so-called justification, is to demonstrate its absurdity.

The investigation department is operated without complete records of the work assigned to the investigators. Prior to December of 1942, hap-hazard records were kept with respect to assignments given to some of the investigators. For certain periods of time there were no records whatever, available to indicate the work assigned (9/3/43 - p. 817). When pressed for a reason, Mr. Roger testified that when he first took over his duties, he used a permanent book for informal notations of the work assigned; and thereafter decided to place these informal notations on sheets of paper, which were subsequently destroyed (9/3/43 - p. 817). As a result,

it was impossible for us to determine with any degree of certainty, the exact number of cards assigned and investigated by the employees of this department prior to December of 1942. In December of 1942, coincidental with the bringing of the charges against Mr. Sewell, Mr. Roger initiated a more complete and permanent system of keeping records of assignments to employees in his department.

The looseness of supervision and control is further manifested in the instructions given to investigators with respect to the method of investigations and the results obtained. Apparently the only instructions given to new investigators, are contained in a mimeographed sheet which has been marked in evidence as Exhibit E 23. An examination of these instructions indicates the highly superficial training given to a new man who is charged with the important responsibility of investigating frauds and errors in registration and voting. With a cursory reading of these instructions, and a general statement by Mr. Casey along the same lines, the novice is sent out into the field to fend for himself (9/3/43 - p. 847). The method of investigation, indulged in by most of the investigators, and approved by their superiors, is patterned along the following lines: Mr. Investigator rings the doorbell of the particular house in question, and when confronted by the occupant, states that he is an investigator from the

Superintendent of Elections Office. From the information on his card, he asks the occupant whether or not "John Smith" lives there. If the occupant's reply is in the affirmative, he secures the name of the informant and writes on his card the name and address of the person giving the information and the legend "O.K." (9/3/43 - p. 849). For all intents and purposes, that investigation is complete (9/3/43 p. 850). The "O.K. cards, when returned to the office, are placed in a special file and are not reviewed by any other investigators or supervisors. The investigator is not specifically instructed to make any collateral inquiry in the neighborhood to determine whether the information given to him is truthful and correct.

If, perchance, as reputation has it, the occupants of the homes are posted by the local political leader to the effect that if an investigator asks whether "John Smith" resides at the particular home, the answer should be in the affirmative, the field becomes wide open for undetected fraud. This method of investigation is totally valueless, in that it does not seek to detect frauds in registration.

In contradistinction to this method of investigation, Mr. Sewell and his employees used a more effective method during the first year of his incumbency. In 1940.

in accordance with the duty imposed upon him by law, Mr. Sewell conducted a complete canvass of Hudson County to determine the true names and addresses of registered voters. This canvass was a complete and thorough job because of the fact that the method of investigation was different from that used in the following years of 1941, 1942 and 1943. In the 1940 canvass, the investigator was instructed to go to the individual home with a blank book. He was required to ask the name of the person living at the particular house; and when the information was given to him, to write the same in the book (10/8/43 - p. 70). As a result, a complete registry list was made which could then be compared with the registry binders in the Commissioner's office to determine whether there were any fraudulent or improper registrations. The difference in approach between 1940 and the subsequent years is productive of the important difference in results. The 1940 investigation was admittedly thorough and complete. The subsequent investigations were wholly inadequate (9/14/45- p. 93). The 1940 method of investigation limited fraud as much as possible. The subsequent method invited fraud. No reasonable explanation has been submitted to account for the change in method of investigation. The new executive, in 1940, was intent upon performing a good job. Subsequent years produced an apathy reflected in all departments.

(c) Lack of adequate financial records.

The looseness of supervision and lack of adequate records above-described is not limited to the investigation department, but is characteristic of all departments in both offices. It is probably best exemplified by the situation which we find in existence in the office of the paymaster-bookkeeper. This financial officer operates his important department without any attendance records and without adequate books of account (9/29/43 - p. 8; p. 44 et seq; 9/27/42 - p.3). He is compelled to rely entirely upon the records of the County Treasurer, and finds it sufficient for his purposes to check from time to time with the County Treasurer so that he may inform Mr. Sewell of the degree to which his appropriation has been used.

As we have already observed, checks are issued by the County Treasurer for salaries to employees of these offices upon the certification of the payroll by Mr. Sewell. The payroll and the certification thereof are prepared without the benefit of substantiating investigation or records. There is no system established by which Mr. Sewell can determine whether the employees certified for payment of salary did in fact attend the office or perform any work for the office during the period covered by the payroll (7/30/43 p.11). It would appear that ordinary business practice, aside from literal compliance with the law, would require

Mr. Sewell to set up some system by which he could satisfy himself that the employees certified by him did, in fact, perform work for the period certified.

It is extremely revealing to note that an office which spends in the neighborhood of \$500,000.00 a year does not maintain a complete set of books showing the manner in which that sum is expended. Lester Cobb, the paymaster bookkeeper, produced a so-called ledger which allegedly set forth the information respecting expenditures. However, upon cross examination, it developed that this ledger, maintained for an office of that size, was merely an informal record for noting names and addresses of certain suppliers of material and equipment (9/29/43 - p. 60). It was in no sense a complete ledger in that it failed to contain many of the items expended. A perusal of Mr. Cobb's testimony in this regard clearly points out that there are no adequate financial records maintained by the offices.

We find that this witness expends thousands of dollars annually on miscellaneous items, such as postage, post cards and mailing envelopes, in the following manner: Upon his request, a check is drawn to his order by the County Treasurer. He then cashes this check and makes the purchase (9/29/43 - p. 49). There is no record of any type in Mr. Sewell's office, nor is there any written requisition in the County Treasurer's office, which would disclose the

need for the moneys or the specific manner in which they were used (9/29/43 - p. 55,56). There is no proof that any of the money was mis-appropriated by Mr. Cobb. On the other hand, there is no proof that the moneys were actually used for office purposes. The more important fact is that this method of bookkeeping and lack of control by Mr. Sewell is indicative of the looseness with which the offices are operated generally.

(d) Lack of Policy with respect to Salaries.

The inefficiency in management is further indicated by a complete lack of policy or system in connection with salaries and promotions of employees. Salaries are fixed in a hap-hazard, hit-or-miss fashion, without regard to the qualifications of the employee, or the importance of his duties. No incentive by way of a policy of salary increases or system of promotions is held out to the employees. We are of the opinion that this lack of system or policy in this connection is wholly unbusinesslike, and tends to increase the lack of morale, loyalty and efficiency which exists in the offices.

From the foregoing, it is apparent that the offices are operated by Mr. Sewell in an improper and incompetent manner, both from a functional and financial viewpoint. This result is due in the main to the lack of personal efficiency and management control on the part of Mr.

Sewell. A strong executive with proper business training and background is needed to improve these conditions.

FAILURE TO DISFRANCHISE VOTERS CONVICTED
OF CRIME.

Another glaring example of the far-reaching results chargeable to Mr. Sewell's failure to supervise his employees is that which concerns itself with T. Burton Coyle's dereliction of duty in connection with the disfranchisement of voters convicted of crime. This man was placed in charge of the disfranchisement of criminals. The manner in which he performed his duties demonstrates that Mr. Sewell's choice was a very poor one. Mr. Coyle is a lawyer who does no legal work for the office, but does carry on a private law practice. His salary is \$3600.00 per year.

It was his responsibility to see to it that no registrant convicted of a disfranchising crime should remain upon the registry list. This responsibility was grossly violated. Our examination alone disclosed in excess of one hundred names of registrants who had been convicted of crime but were not removed from the registry lists; and consequently were permitted to and did vote during the years 1940, 1941 and 1942 (See testimony of Mr. Coyle, 9/8/43 - p. 1185 et seq).

Under the statute, N.J.S.A. 19:31-17, the Prosecutor of the Pleas is required to forward a report each

month to the Superintendent of Elections setting forth the names and addresses of persons convicted of crime in his county during the previous thirty days. We find that this monthly report was made regularly by the Prosecutor of Hudson County to the Superintendent of Elections, and was in turn referred to Mr. Coyle as the person in charge of that particular work.

In addition to the Prosecutor's list, Mr. Coyle testified that names of persons convicted of crime outside of Hudson County were secured from Prosecutors of other counties, and in some instances from newspaper reports or federal officials (9/8/43 - p. 1164). From these various sources of information, it was Mr. Coyle's duty to ascertain first whether the particular crime disfranchised the person; secondly; whether the person was a registered voter in Hudson County; and thirdly, if the person was a registered voter, to see to it that the name was removed from the registry list.

From an examination of Mr. Coyle's files, when compared with the registry lists, we found many instances which disclosed that persons convicted of disfranchising crimes were permitted to remain on the registry lists and to vote in successive elections. By way of illustration, we refer to the case of Anthony Abato. This man was convicted of grand larceny in 1935, which crime disfranchised him

under our statute. Mr. Coyle was advised of this fact shortly thereafter. No action was taken, with the result that this convict voted at the succeeding elections (9/8/43 - p. 1208). So also with John Fahey, Jr., who was convicted in 1938 of perjury, the notification being promptly given to Mr. Coyle (9/8.43 - p. 1214). In spite of this, the convict voted during the years 1938, 1939, 1940, 1941 and 1942.

The foregoing are but two cases illustrative of the general practice involving convicts prior to July, 1940. In addition to these, there were many cases produced at the hearing which involved a conviction after July, 1940, where action was not taken until July, 1943. In these latter cases, Mr. Coyle could give no semblance of an excuse or explanation, whatever. Walter Marcinski is typical. He was convicted of grand larceny on February 7, 1941; and was not removed until July 21, 1943. In the meantime, he had voted illegally in 1941 and 1942 (9/8/43 - p. 1218).

This neglect was especially reprehensible because of the fact that in each and every instance Mr. Coyle's files contained definite written notification of convictions of disfranchising crimes from the Prosecutor or from some other source, and the information was completely ignored.

Coincident with our investigation into this phase of the operation of the offices, Mr. Sewell, Mr. Coyle, Mr. Ruhlmann and other executives in the office had a special conference (9/29/43 - p.84,85). At that conference it was determined to review the records kept by Mr. Coyle to ascertain whether all persons who had been convicted of crime had been properly disfranchised (Ibid). This review by Mr. Coyle starting in the middle of July, 1943, resulted in the compilation of a list of in excess of one hundred registrants who should have been disfranchised for conviction of crime. There was then great haste to remove these names from the registry lists prior to the presentation of these facts at the public hearings (9/8/43 - p. 1171 et seq.)

In partial justification for this admitted dereliction, Mr. Coyle testified that some of these names had come to his attention prior to July of 1940 while he was serving in the same capacity under Mr. Ferguson's administration. He stated that to his best recollection he had ordered these named removed, and had "Assumed" that they were taken out of the registry list by the employees of Mr. Steebing's office. No further check was ever made by Mr. Coyle to determine whether the names had been removed from the registry list, or whether the particular individuals had voted or not.

It was contended by him that he did not have access to the records of the Commissioner of Registration

prior to July of 1940 for this purpose. However, this justification loses its force when we find that at least since July of 1940, Mr. Coyle had full access to the Commissioner's records and still took no steps to ascertain whether his orders for removal had been obeyed. As a matter of fact, he did nothing for a period of three years until forced into action by the disclosures of our examination (9/8/43 - p. 1234).

Mr. Coyle also performed his duties improperly in that he, at no time, during the entire period, made any effort to obtain a complete list of names of persons resident in Hudson County who had been convicted of crime. Such a list was readily obtainable from the State Department of Institutions and Agencies at Trenton. The thought suddenly occurred to Mr. Sewell in July of 1943, when he forwarded a letter to the Department of Institutions and Agencies, requesting such a complete list (10/13/43)- p. 140). This letter also was prompted by the knowledge which Mr. Sewell had secured that we, as examiners, had been able to obtain this list without difficulty (9/8/43 - p. 1179). If Mr. Sewell and Mr. Coyle had been sincere in their efforts to purge the registry list of disfranchised voters, the method of securing a complete list from the Department of Institutions and Agencies, should naturally have suggested itself to them long ago. By this means the registry list could have been

reviewed and all disfranchised voters removed as early as July of 1940. In addition, such a complete list could have been utilized in the Commissioner's office to prevent the new registration of persons who had been convicted of disfranchising crimes.

As this problem is handled by Mr. Sewell's office, there is no check list readily available to determine whether or not a new registrant is a qualified voter from the viewpoint of conviction of crime. Since our investigation, some effort has been made to correct the situation, but there can be no complete and adequate correction, unless there is included a requirement that the "master index card" of each registrant convicted of a disfranchising crime be plainly so marked, or some similar method be adopted.

It is important to note that a person convicted of a disfranchising crime is guilty of a misdemeanor if he thereafter votes at any election (N.J.B.A. 19:34-4). Even after the situation concerning the failure to disfranchise convicts was revealed, and even though Mr. Sewell had record evidence that disfranchised persons had voted, he took no action whatever against these persons to enforce this section of the statute. He made no complaints to the Prosecutor's office or any other law enforcement agency, and neglected the matter completely.

While it is true that Mr. Coyle is directly chargeable with the deplorable situation just revealed, Mr. Sewell, as head of the office, cannot escape culpability by reason of the fact that he may not have had direct knowledge of the failure to act on the part of Mr. Coyle. Had he performed his supervisory duties properly, and had he developed a system of records commensurate with the responsibilities involved, this dereliction would have been immediately discovered by him, and those registrants who had violated the law by voting during the years 1940, 1941 and 1942, would have been prevented from doing so.

MILITARY FILE

During the progress of our examination of the records of these offices, it was brought to our attention that the names of many registrants in military service had not been removed from the active registry binders. Pursuant to the legislation on this subject (N.J.S.A. 19:54-32) the Commissioner of Registration is required to remove the registry sheet of any registrant who enters the military service. The list of names of those entering military service is furnished to the Commissioner by the County Clerk, who in turn receives the same from the Adjutant General of the State of New Jersey. We looked into the matter and are satisfied that all names which had been received from the County Clerk had been removed. At or about the same time, Mr. Sewell feeling

that the Adjutant General's list was not complete, assigned approximately ten employees to the task of copying the names and addresses of those persons inducted for the entire period of Selective Service (9/7/43 - p. 1000). These names were copied from the newspaper files located at some of the public libraries of Hudson County. In this manner approximately forty-six thousand names were obtained (9/7/43)- p. 1000). The office then proceeded to compare this list with its registry list to determine which of the persons were registered; and upon ascertaining that fact, to investigate the names, and to proceed to remove them from the binders (9/7/43 - p. 1001).

From the facts which we were able to obtain, it is apparent that the lists submitted to the Commissioner of Registration are incomplete and do not contain all the names of persons in the military service. Although the statute does not clearly define the duties of the Commissioner of Registration beyond requiring him to remove the names furnished by the County Clerk, it would seem that Mr. Sewell recognized a duty beyond the statutory requirement when he sought to ascertain all of the names by other means.

It is important that the military list be as complete as possible for two substantial reasons. First, where names of those in military service are permitted to remain in the registry list, there is always present the

danger of those names being voted fraudulently by others. Secondly, if the soldier's registry sheet is not removed in accordance with the statute, the soldier loses his right to vote. From both of these standpoints, there is need for immediate remedial legislation. Apparently, the state and federal authorities are conscious of this fact, because there are efforts now being made to enact legislation, both national and state, to assure those in the military service of an opportunity to vote.

In this connection, we feel that Mr. Sewell has succeeded in performing a difficult task under difficult circumstances.

REGISTRATIONS AND TRANSFERS

We have given consideration to various complaints, both by those who have brought the charges hereinabove referred to, and others, with respect to alleged fraudulent registrations and alleged illegal transfers. The charges were to the effect that thousands of names were registered fraudulently, and that thousands of transfers were accepted by Mr. Sewell's office after the time allowed by law. These charges were very general in nature, and did not point to any specific instances. We questioned all individuals who intimated they had information upon this subject. We concluded that there was no factual evidence to corroborate these particular charges. Our independent examination of

some of the registry and transfer records themselves fails to disclose any irregularities of the type complained of, Of necessity, our examination of the relevant records was limited; but we are satisfied that had there existed such wholesale frauds as were alleged, we would have found some indication of that fact during our examination. The result is that we find no basis for the charges with respect to alleged fraudulent registrations and alleged illegal transfers.

ENFORCEMENT OF THE ELECTION LAW

Undoubtedly, the most important function of the Superintendent of Elections is to enforce the provisions of the election law properly and diligently. Let us now observe the manner in which Mr. Sewell performed that function.

As we have already indicated, we did not make a complete examination of the election records or registry list with a view toward determining the number of improper registrations or votes. However, the magnitude of the task involved and past experience with respect to human nature in this regard, make it reasonable to suppose that some frauds have been and are being committed.

The failure to detect the same is not proof of their absence. In fact, the handwriting expert retained by Mr. Sewell on a permanent basis testified to numerous forgeries having been committed in connection with elections

prior to 1940 and since that time (9/7/43 - p.1023, et seq.). Apparently the number of these frauds and forgeries has been reduced in recent years (9/7/43 - p. 1037). This reduction is due, in part, to the corrections and safeguards placed in the election laws by the Legislature during the year 1940, and the obviously conscientious efforts made by Mr. Sewell during 1940.

A number of witnesses were produced by Mr. Sewell, who testified generally that election conditions at the polls had improved since Mr. Sewell took office. (See testimony(9/13/43 p. 2 to 122; and 9/14/43 p. 5 to 69). This testimony consisted of the general conclusions of these witnesses, derived from the fact that there had been no substantial complaints or scandals concerning elections in Hudson County in recent years. They all agree, as we find the fact to be, that election conditions in Hudson County prior to 1940 were notoriously "bad". In fact, one of the witnesses, former Judge Robert Carey, stated that "everything in connection with election law which would militate against a fair election was done"(9/14/43 - p. 11). They then testified that, since 1940, conditions have improved, basing their statements upon general observations made at various polling places throughout the county during recent years. Their testimony was based entirely upon these general outward obser-

vations, and a lack of substantial complaints and scandals.

While it is true that the observations of these witnesses and their testimony necessarily amount to mere conclusions, other observations made by us in connection with this inquiry, lead us to the belief that their conclusions with respect to outward improvement in general election conditions in recent years is correct. This does not mean, however, that outward appearance is the only test to be applied in this situation. There was testimony from Mr. Levey himself to the effect that frauds are still being committed with respect to elections in Hudson County, and that some of the illegal practices which were indulged in prior to 1940 are still in existence. (9/15/43 p. 29). Some of these practices consist of the forging of names of voters by floaters; illegal "assistance" to voters; improper tallying of ballots by district boards, and the like (9/15/43 pp 31, 32 et seq.).

One of the methods available to the Superintendent of Elections to prevent fraud or other violations of the election law is the use of deputies at the district boards on election day. These deputies are granted broad police powers to make their work effective. In 1940, two deputies were assigned to each polling place in Hudson County, and reported all irregularities to Mr. Sewell (10/13/43 p. 171). In the elections following 1940, this complete coverage of every

election district was abandoned; and deputies were placed only in the districts where, in the judgment of Mr. Sewell, there was anticipated disturbance or fraud (10/4/43 p. 48). No deputies at all were assigned to district boards for the primary elections (10/4/43 - p. 47).

During the 1941 general election, there were one hundred and forty-eight paid deputies, who were assigned to seventy-four districts in the City of Bayonne (10/13/43 - p. 173). There were no regular deputies assigned to the other five hundred and eighty-four districts in Hudson County at that election (10/13/43 - p. 173). In the 1942 general election, only two hundred and sixty-seven deputies were assigned to various districts throughout the county, leaving many districts unpoliced (10/4/43 p. 47). It appears, therefore, that the complete coverage provided in 1940 was not continued in subsequent years.

Mr. Sewell explained this change in method by stating that in his opinion conditions had improved to such an extent that deputies were not necessary in most districts. He further stated that because of the manpower shortage, it was difficult to obtain sufficient personnel to act as deputies on election day (10/13/43 - p.173). In any event, the practical result is that the original watchfulness and policing instituted by Mr. Sewell in 1940 has been severely curtailed.

It should be stated that Mr. Sewell has made use of the state police by having a number of officers available in particular parts of the county where trouble was anticipated, during each year from 1940 to date. Of course, these officers were merely there to aid in the event that disturbances were reported. Their testimony indicated that there were very few such disturbances (9/14/43 p. 31 et seq.).

One of the most important and efficacious methods of enforcing elections laws is through the diligent enforcement of the criminal provisions thereof. This particular field of enforcement is handled, in the main by Jesse Pelletreau, the handwriting expert, and Irving Eisenberg, counsel for the Commissioner of Registration.

After each election, the signature in the poll books are compared with the signatures in the registry binders in an effort to detect apparent forgeries. Whenever such apparent forgeries are found by the clerks of the office, they are presented to Mr. Pelletreau for further examination and investigation. He then determines whether or not the signatures are forgeries, and through the cooperation of Mr. Eisenberg and the legal department, secures corroborating evidence and statements to indicate whether or not the registrant actually voted. Upon the completion of the technical examination of the handwriting and the investigation, the case is presented to Mr. Sewell for review. It has been the

policy of Mr. Sewell to turn over to the Prosecutor for criminal action only those cases which are most flagrant (9/7/43 p. 1032).

From the testimony of Mr. Pelletreau, it appears that he made a spot check of forty-one districts in Hudson County in connection with the 1938 and 1939 elections. As a result of this investigation he came to certain conclusions concerning the percentage of fraudulent votes which existed in the various districts throughout the county. He testified that in his opinion there was a general over-all percentage of fraud amounting to thirteen percent (9/7/43 - p. 10270. As a result of this investigation, there were three flagrant cases presented to the Prosecutor for criminal action (9/7/43 p. 1031). The balance of the frauds remained dormant in Mr. Sewell's files (9/7/43 - p. 1032).

After the 1940 general election Mr. Pelletreau made an incomplete spot check of twenty districts, and came to the conclusion that there was an average fraud in those districts of one and five tenths percent (9/7/43 p. 1037). When questioned about figures of frauds and percentages with respect to the elections of 1941 and 1942, Mr. Pelletreau stated that he had not compiled such figures (9/7/43 p. 1040). Apparently his report was limited to the findings for 1938, 1939 and 1940.

Without the benefit of substantiating figures, Mr. Pelletreau stated that the frauds and forgeries of 1941 increased about five percent over 1940, and that the 1942 figure would be approximately the same as 1941 (9/7/43-p.1041). Of course, these latter estimates were not substantiated by any figures respecting investigations in any particular districts, and we are unable to conclude as to the accuracy of the estimates. Suffice it to say that the percentage of fraud has increased since the general election of 1940.

As a result of the elaborate examinations and investigations by the handwriting expert and the personnel attached to his department, from the time of Mr. Sewell's appointment to the present, there have been presented to the prosecutor, cases involving alleged frauds in seventeen districts (See testimony of Eisenberg, 9/14/43 - from p. 71 on).

In October, 1941, there were presented cases involving frauds of the 1939 general election. These cases concerned themselves with frauds in three districts, and for our purposes may be considered as three cases (9/7/43 - p. 1035). Out of these three presentations, there resulted one indictment.

In November of 1942 there were presented to the Grand Jury eight cases arising out of the primary and general elections of 1941. Out of these presentations there were no indictments found (9/7/43 - p. 1046).

In June of 1943 there were eight cases presented for the Grand Jury, arising out of the primary and general elections of 1942 (9/14/43 - p. 88). None of these cases resulted in an indictment.

Out of all the frauds and forgeries discovered by the Sewell offices, there was but one indictment, as stated above. This involved fraud in connection with the 1939 general election in the 8th Ward, 23rd District of Jersey City. That indictment was tried before Judge Thomas Brown and a jury, in February of 1942, and resulted in a disagreement (9/7/43 - p. 1034).

It should be stated at this point that all of the cases presented to the grand juries appeared to be clear-out cases warranting indictments (10/8/43 - p. 94). Yet the grand juries failed to recognize the existence of prima facie offenses. The only election fraud case tried in Hudson County since Mr. Sewell took office resulted in a disagreement, and has not been retried to this date.

This has been the net result of all the activity of the handwriting department and the criminal investigation conducted by Mr. Sewell's employees.

The witnesses produced indicated that the failure of grand juries to indict and petit juries to convict in cases arising out of violations of the election law was notorious.

The responsibility for the failure of efficient enforcement of the criminal law in election cases is said to rest with the Prosecutor and personnel of the juries.

When Mr. Sewell and his employees placed this responsibility on the Prosecutor and the jury personnel, we deemed it advisable to subpoena Daniel O'Regan, Prosecutor, William George, Assistant Prosecutor, and William J. McGovern, Sheriff of Hudson County. The latter also acts as a jury commissioner. We attempted to determine whether these officials carried out their duties in connection with the enforcement of the criminal law, and to determine, if possible, where the fault lay. The Prosecutor and Assistant Prosecutor testified that they were satisfied with the results of the enforcement of the election laws in Hudson County (9/29/43 - p. 100). This was their conclusion in spite of the fact that but one indictment had resulted from all the complaints made since 1940.

Of course, they stated that they had no control over the actions of grand juries (9/29/43 - p. 100). Apparently all the cases which were reported to the Prosecutor by Mr. Sewell were presented to a grand jury. However, the Prosecutor's office did not use the means of re-presenting the cases to subsequent grand juries upon the failure of one grand jury to indict (9/29/43 - p. 101). This failure, to us, indicates a lack of desire to enforce the criminal law in

a vigorous and conscientious manner.

We particularly questioned the Prosecutor and Assistant Prosecutor with respect to the failure to retry the individuals involved in the flagrant fraud case concerning the 8th Ward, 23rd District of Jersey City. Although this disagreement occurred in February of 1942, there has been no effort made to retry this case (9/29/43 - p. 107). The Assistant Prosecutor refused to take responsibility for this situation, and stated that he merely acted upon the instructions of his superior, Prosecutor O'Regan (o/29/43-p.116). Prosecutor O'Regan presented the lame excuse that he was engaged with other criminal business during the period, and did not think it sufficiently important to retry this case (9/29/43 - p. 96).

It appears that during this period of approximately two years there have been many cases of a minor nature which received the prompt attention of the Prosecutor (9/29/43 - p. 97). In fact, we find that the Prosecutor and his first assistant, William George, spent considerable time and energy in the prosecution of another election fraud case. That case, however, involved John R. Longo, a traditional opponent of the Democratic political machine in Hudson County. If the 1942 offense involved in the Longo case was worthy of immediate and vigorous prosecution, how much more effort should have been exerted by the Prosecutor against the defendants of the 8th Ward 23rd District, who had been indicted for crimes

committed in 1939. Obviously, the political views of the accused were different; and this difference impelled action in the one case and inaction in the other. It is our firm conclusion that the Prosecutor and his First Assistant were consciously neglectful of their duty in this regard.

The importance of effective criminal prosecution cannot be over-emphasized. A conviction in an election fraud case would not only be an historical event in Hudson County, but in our opinion such a conviction would constitute a strong deterrent to prevent the perpetration of future frauds and forgeries.

As to the failure of the grand juries to indict in the other cases, the justification of the Prosecutor's office, theoretically, is a reasonable one. It is true that the grand juries in theory are uncontrolled in their actions, and can indict or not as they see fit. However, in practice, the assistance of the Prosecutor who presents the case is extremely important, and the actions of the grand jury usually reflect the desire of the Prosecutor, all other factors being equal.

In addition to the lack of vigorous enforcement of the election laws by the Prosecutor's office, it has been seen that the Hudson County Grand Juries have failed miserably in the performance of their duty in this regard. It is to be noted that the personnel of these grand juries is predominantly Democratic; and is selected in the main from

a roster of the Grand Jury Association (9/14/43 - p. 94). This association is made up of former grand jury members, and serves as the nucleus for the selection of grand juries from term to term (9/29/43 - p. 134, et seq.).

In spite of the strong protestations of Mr. Sewell and his associates to the effect that the lack of enforcement of the criminal provisions of the election law was not due to any neglect or fault on his part, but rather to the failure on the part of the Prosecutor and the grand juries, neither Mr. Sewell nor Mr. Levey took the opportunity to cross-examine the Prosecutor, Assistant Prosecutor, or Sheriff, when they were produced as witnesses by the examiners. (9/29/43 - p. 112, p. 130, p. 140). Instead of grasping this opportunity of fix the responsibility for the lack of vigorous enforcement of the law, they stood mute. Why?

Their failure in this regard casts considerable doubt upon the sincerity of their protestations.

In connection with the trial of the case involving the 8th Ward, 23rd District, Mr. Eisenberg did write to the Prosecutor on a number of occasions, urging him to set an early date for retrial of the case, without any tangible results. This is the sum and substance of what Mr. Sewell did to overcome the situation.

Much more could have been done. A Superintendent of Elections intent upon the vigorous enforcement of the law

would have made repeated public outcries against the failure of the grand juries to indict; he would have applied to the Chief Justice to charge the grand juries specifically with regard to election law violations; he would have complained to the Governor; he would have complained to the legislature; and he would have requested the Attorney General to act with regard to the matter. In effect, he could have created a situation so distasteful to the parties responsible, that public opinion would have impelled them to take action.

In spite of these avenues available to him, Mr. Sewell, after the spring of 1941, sought the path of least resistance, and permitted the condition to exist without any affirmative action on his part. This apathy and laissez-faire attitude is indicative of his entire administration, from and after the Jersey City municipal election of 1941. Up to that time, Mr. Sewell led a vigorous and constructive opposition to the improper practices of the dominant political machine in Hudson County. He made speeches and public statements and was in the forefront in bringing to the attention of the public the derelictions on the part of the Democratic machine and its office holders.

However, after the County Board of Freeholders, who controlled his purse strings, loosened those purse strings to such an extent that he was able to secure more than his full appropriation without opposition, the former

vigorous attitude of Mr. Sewell was transformed to the apathy demonstrated above. In this transformation, Mr. Sewell followed the pattern of those who had preceded him. It would seem that in Hudson County, after a period of time, those who vigorously oppose the dominant party, ultimately lose their aggressiveness and become inculcated with the feeling that their efforts are, at best, ineffective, and general apathy, if not collusion, results. Especially is this so when the public official involved must depend upon the dominant political party for the financial support of his offices. The basic evil lies in permitting this practical control by a body which can use this power for its own political purposes.

Among the complaints brought to our attention was a charge to the effect that Mr. Sewell was guilty of collusion with the Hague administration. There was no direct evidence produced before us of such collusion. However, we did find, as stated above, the existence of a general attitude of apathy on the part of Mr. Sewell, which commenced in May of 1941. Shortly after that date, Mr. Sewell secured the balance of his appropriation and the additional items requested for rent and equipment; and after that date he failed to take any vigorous action in the enforcement of the elections laws. The entire picture changed to a superficial performance of his duties, with the absence of sincerity

and aggressiveness, both of which are essential to the proper performance of those duties in the County of Hudson.

It is of interest to observe that when political exigencies require, Mr. Sewell is able to divest himself of the apathy which we have noted above. During the November 1943 election, there was a disturbance arising out of an alleged election fraud committed in the City of Hoboken. George M. Eichler, an attorney who had been appointed as a deputy by Mr. Sewell, detected the alleged fraud and endeavored to take steps to apprehend the perpetrators of the crime. In true Hudson County fashion, a charge was promptly made against the deputy, and he was arrested.

In this instance, Mr. Sewell acted expeditiously. He conducted a complete investigation; made public statements; used his power of subpoena; and submitted a report of the incident to the examiners. He did all in his power to bring to light the true facts concerning the commission of the offense and the subsequent conspiracy to discredit his deputy (Mr. Sewell's report of Nov. 6, 1943).

When we analyze this efficient action at this time, we find two motivating factors. First, the public hearings had pointed up Mr. Sewell's lack of activity in election cases and necessarily compelled him to act as he did in order to demonstrate his desire to enforce the powers

possessed by his office. Secondly, Honorable Walter E. Edge, candidate for Governor during the campaign, had announced that he would prosecute to the utmost all violators of election laws if he became Governor.

The Longo Case.

Mr. Sewell's condition of apathy reached its peak in connection with his conduct in the circumstances surrounding the case of the State of New Jersey v. John R. Longo. Upon the completion of our public hearings there was brought to our attention certain revealing facts concerning this pending criminal prosecution. These facts were so startling that we considered it important to examine witnesses at several private hearings, to determine the facts with respect to participation by employees of the office of Mr. Sewell.

John R. Longo and Owen Grundy had been indicted by the Hudson County Grand Jury in April, 1943, upon the charge of altering the voting record of Longo in the office of the Commissioner of Registration. It was alleged that the party designation of Longo's vote in the 1941 primary election had been changed from "Republican" to "Democrat." Both of these men had been employed in the Sewell office at the time of the alleged alterations, and all the witnesses produced before the Grand Jury were also employees of the office, both past and present. Upon arraignment,

Grundy pleaded guilty to the charge and confessed that he committed the offense at the behest of and in the presence of Longo. Longo was brought to trial in November, 1943. He was not represented by counsel, and failed to interpose a defense, charging that the entire prosecution was a political conspiracy against him, and that it would be useless for him to attempt to defend. The following employees of Mr. Sewell were called as witnesses on behalf of the state: Louis Sylvester, Frank Elia, Daniel Colello, Joseph Barga, Phillip Stevenson, and Owen Grundy. Upon this testimony there was a conviction.

We had the opportunity to examine the trial record. The theory of the prosecution was that Grundy had altered the voting record at the request of Longo on or about January 20, 1942, so that Longo would be eligible for a Democratic appointment. The alteration was allegedly discovered approximately six weeks thereafter, when Daniel Colello inspected the voting record of Longo out of sheer "curiosity" (11/24/43 - p. 5). He reported it to his superior, Frank Elia, who in turn brought the record to the Chief Clerk, Louis Sylvester (11/24/43 - p. 71).

Sylvester testified that he compared the voting record in the registry binders with the district poll book, and found a conflict. To correct the "error" he eradicated the designation "Dem" which had been allegedly placed on the

binders in ink writing, and rubber stamp by Grundy, and wrote in the designation "Rep" (11/24/43 pp 116 & 117). The other witnesses, Colello and Elia corroborated the fact that they saw the designation "Dem" in handwriting and rubber stamp prior to the correction by Sylvester, and that the surface of the record indicated an alteration had been made (11/24/43 - pp 849; pp 68 & 70).

The reliability of the foregoing testimony became very doubtful in the light of the proofs adduced from an examination of the witness August Hartkorn, who testified before your Excellency (11/18/43). This witness, a recognized handwriting expert, stated under oath that he had, at the request of the Prosecutor, examined the registry sheets in question; had made various tests to restore the eradicated writings; and had been unable to find any trace of the designation "Dem" upon the papers alleged to have been so altered. The only designation which was restored by these tests was a prior designation "Rep" (11/18/43 - pp 8, 7, 8, & 9).

It developed that Mr. Hartkorn had been retained in February of 1943 to examine these documents by Daniel O'Regan, Hudson County Prosecutor, and his Assistant, William George; and had given his report to them in the particulars above set forth (11/18/43 - Ex 2 - p. 4 to 6).

One of the tests was made in the Prosecutor's office in the presence of Prosecutor O'Regan, Assistant

Prosecutor William George, and Jacob L. Levey, Mr. Sewell's counsel, on February 16, 1943 (11/18/43 p. 11). At that time, Mr. Hartkorn indicated orally that he could not find the designation "Dem", and stated "I don't know why anybody would want to change "Republican" to "Republican" (11/18/43-p. 82). A subsequent written report dated February 22, 1943, referred to above, gave his final conclusions substantially to the same effect.

The examination by Mr. Hartkorn, his report and findings were obviously inconsistent with the testimony of the witnesses outlined above. It constituted some proof that the witnesses were committing perjury; that the record had not been altered by Longo and Grundy as charged; and that Longo was innocent of the offense charged.

All this information was known to Prosecutor O'Regan and Assistant Prosecutor George some time before the case was presented to the Grand Jury. The examination by Mr. Hartkorn, his opinion and findings, were immediately reported by Mr. Levey to Mr. Sewell and Mr. Sewell had knowledge of this expert testimony since February 17, 1943, (11/27/43, p. 86).

What did the Prosecutor or Mr. Sewell do under these circumstances? Firstly, as to the Prosecutor-- he placed the report of the handwriting expert in his file and kept the report and findings a well-guarded secret throughout

the proceeding. In the face of this report, he proceeded to secure an indictment, and proceeded to convict the defendant of the alleged crime. The Prosecutor withheld from the grand jury, the trial judge and the trial jury the existence of this revealing evidence. He failed to produce the handwriting expert at the trial; and in fact, produced no handwriting testimony whatsoever.

It is our conclusion that the Prosecutor and the first Assistant Prosecutor improperly withheld this evidence, which indicated, at least to some extent, the innocence of the defendant. Whether or not the expert opinion of Mr. Hartkorn is conclusive on the subject, is of no consequence. It is of greater significance that these officials knowingly withheld evidence, thus leading to the conviction of an accused.

The conduct of the Prosecutor subsequent to the conviction is also illuminating. Grundy, the alleged confessor, was released by Judge Thomas Brown without being required to give bail, and was thereafter subject to the call of the Prosecutor upon a moment's notice. We attempted to secure the cooperation of the Prosecutor in our efforts to locate Grundy for service of a subpoena, so that we could question him concerning his knowledge of the facts involved. Our request for cooperation was completely ignored.

A second request produced a response to the effect that Mr. O'Regan had been ill; had suffered the loss of his father; and therefore could not favor us with a reply. We refuse to accept the excuse that the Prosecutor's office ceases to function upon the temporary absence of the Prosecutor.

The result has been that we have been unable to examine Grundy and have been reliably informed that he has been out of the jurisdiction since the publication of the evidence presented by Mr. Hartkorn. It also seems significant that although Longo has been sentenced by Judge Brown, the sentence of Grundy has been deferred indefinitely - Why?

Another indication of the attitude of the Prosecutor's office in connection with this case is evidenced by the refusal of Assistant Prosecutor George to produce records of telephone conversations and correspondence passing between the Prosecutor's office and the office of Mr. Sewell. On December 9, 1943, Mr. George appeared pursuant to service of a subpoena duces tecum calling for this data. He gave as one of the reasons for his failure to produce the data, the fact that the subpoena had not been served upon Prosecutor O'Regan, and since the policy of the Prosecutor forbade any member of the staff from producing such data without express permission of the Prosecutor, he was unable to comply (12/9/43

pp 3 & 4). He also went into a long dissertation in support of his statement that the data could not be produced because it was "secret and privileged" as part of the Prosecutor's records in connection with a pending prosecution (12/9/43 - p. 7). Notwithstanding the fact that there was called to Mr. George's attention the circumstance that the words of the subpoena were limited to records pertaining solely to matters which passed between the office of Mr. Sewell and the Prosecutor's office and which had no bearing upon the merits of the Longo case, he persisted in his attitude, with the result that the data was not produced (12/9/43 - pp 7, 8, & 9).

The actions of the Prosecutor in the suppression of the evidence and in connection with his efforts to obstruct an inquiry into the matter are serious in nature, and should give rise to some tangible action by the proper authorities. We wish to point out that the duty of a Prosecutor goes beyond the mere endeavor to convict the guilty. He has a correlative duty to protect the innocent.

The applicable Canon of Ethics of the American Bar Association (Canon 5) provides that:

"The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible."

The Supreme Court of the United States has also expressed itself in this regard. In the case of *Viereck v. U. S.* (318 U.S. 236) Chief Justice Stone in the majority opinion, castigated the United States Attorney who prosecuted the case in the trial court for his prejudicial remarks to the jury. The Chief Justice quoted from the earlier case of *Berger v. U. S.* (295 U.S. 78, 88), as follows:

"The United States Attorney (Prosecutor) is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed, he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

If we test the conduct of the Prosecutor and his First Assistant by the standards defined by the foregoing authorities, we must inevitably reach the conclusion that their conduct fell far short of their public duty. We were not appointed to investigate the Office of the Prosecutor of Hudson County, nor do we hereby attempt to do so. The above remarks relative to the attitude of the Prosecutor of Hudson County, with respect to the Longo case, are made only insofar as they throw a light on the conduct of the

offices under investigation by us, to the extent that Mr. Sewell, or his aides, did or failed to do things contrary to the best interest of their office and the administration of their departments.

Let us then proceed to inquire what Mr. Sewell did when he learned of the findings made by Mr. Hartkorn.

Parenthetically, we may state that while Mr. Sewell attempted to convey the impression that he did not have knowledge of the full import of Mr. Hartkorn's findings (12/1/43 - p. 45), a mere reading of the testimony of Mr. Levey (11/27/43 - p. 80, 87) indicates that he reported fully to Mr. Sewell with regard to this matter on the day following.

the making of the test by Mr. Hartkorn in February of 1943.

It is important to review Mr. Sewell's connection with the matter from the time the alleged alteration was first discovered in March of 1942. At that time Mr. Sewell was confined to a hospital as a result of an illness, and was immediately advised of the discovery and the action taken by Louis Sylvester. This information was delivered to him by his "political secretary", Ralph Nastasi (12/1/43 p. 6). Thereupon, he requested August Ziegner, an attorney and employee to the office, to investigate the matter. Mr. Ziegner questioned some of the employees in the office and apparently arrived at no tangible conclusion (12/1/43 p. 7).

Upon his return to the office on May 11, 1942, Mr. Sewell questioned Sylvester, Elia and Colello, as well as Longo and Grundy (12/1/43 - pp. 7, 8 & 9). The first three individuals repeated the story generally as they subsequently testified at the trial; and Longo and Grundy denied having any knowledge about the matter (12/1/43 p. 9).

It is extremely peculiar that Mr. Sewell decided to question Grundy at that time, in view of the fact that Grundy was not connected with the alleged offense by any witnesses until April of 1943.

In any event, as a result of the questioning of these employees, Mr. Sewell came to no definite conclusion, and did nothing further (12/1/43 - p. 9).

On October 27th, 1942, Mr. Sewell discharged Longo, admittedly because he supported a political candidate to whom Mr. Sewell was opposed (12/1/43 - p. 16). In addition, our investigation reveals that toward the end of 1942 Longo had forwarded telegrams and letters to Senator Hawkes, accusing Mr. Sewell and his associates of collecting political tribute from the employees of the offices. Longo also was active in supporting the charges made to your Excellency against Mr. Sewell. We gather from the testimony, although Mr. Sewell denies it, that from October of 1942 there existed a feeling of intense animosity between these two individuals.

In January of 1943 Grundy voluntarily left the employ of Mr. Sewell (12/1/43 - p.9). On January 28, 1943 there appeared the first article in the newspapers concerning the alleged alteration of the Longo voting record. It is important to note that between March of 1942 and January 28, 1943, no persons other than those already mentioned had any indication or knowledge of the alleged alteration; and no newspaper accounts of any type had appeared in connection therewith.

The article of January 28th appeared in the Jersey Journal, a newspaper with a large circulation in Hudson County, and reviewed the facts of the alleged discovery, and stated that these facts had been reported by Sylvester to Mr. Sewell. On February 2, 1943, there appeared a lengthy

article concerning the alteration, which included a prepared statement by T. James Tumulty, in which he claimed that Mr. Sewell had made the charge that Longo had altered his voting record.

This article was followed by a series of other articles and editorials, all of which stated that Mr. Sewell had brought the charges and which demanded that the Prosecutor initiate an investigation. These articles continued to appear in the papers daily and were climaxed by an editorial in the Hudson Dispatch, which stated: "Superintendent of Elections Sewell has openly charged that Longo tampered with the record and changed it from Republican to Democrat."

Mr. Sewell made no public statement to contradict these newspaper articles. It remained for Longo's counsel, Murray Greiman (now a member of the armed forces of the United States), to make the first public statement on March 8, 1943, which included a quotation attributed to Mr. Sewell, denying that he had made any charges against Longo (12/1/43 p.22). In his testimony, Mr. Sewell emphatically denied that he had anything to do with the instigation of the charges; nor did he file a complaint of any kind (12/1/43 - p. 19).

We have been unable to ascertain the manner in which the charges were first brought to the attention of the Prosecutor. In recent newspaper articles and reports it has been consistently stated that the charges were initiated by

Mr. Sewell through a complaint, formal or informal, lodged with the Prosecutor's office. In no instance, however, has Mr. Sewell seen fit to deny these statements publicly.

However, in order to determine the truth of these statements we subpoenaed Mr. George and the record of correspondence and telephone calls passing between the Prosecutor's office and Mr. Sewell's office in connection with the Longo case. As we have already indicated, Mr. George refused to reveal the source of the complaint and refused to produce the data requested, giving the specious excuses referred to above. Moreover, the employees who allegedly discovered the so-called alteration all denied that they brought their information to the attention of any other person than Mr. Sewell. As a result, the authorship of the complaint is shrouded in deep mystery. In the light of the peculiar circumstances surrounding this case, and the allegations which have been made to the effect that the entire prosecution is the result of a conspiracy against Longo, the ascertainment of the identity of the person who first initiated the prosecution is extremely important. The refusal of Mr. George to reveal this fact is also significant.

In the course of the Prosecutor's investigation of the case, it appears that several of Mr. Sewell's employees signed statements for the prosecutor. The circumstances surrounding the execution of these statements are so unusual

as to justify comment.

When first questioned about the matter concerning statements, Mr. Sewell indicated that he had no knowledge with respect thereto (12/1/43 - p. 25). However, when his attention was specifically directed to the circumstances surrounding the witnessing of statements by a Miss Rondano of his office, his recollection became refreshed to some extent (12/1/43 - pp. 25,26). Apparently, after he gave his sworn testimony with regard to this incident, a subsequent conversation between Mr. Sewell and Mr. Sylvester produced another variation of the facts, which is represented by a letter sent to the examiners on December 20th, 1943, which has been made part of the record.

We find that this particular matter was of such importance to the Prosecutor's office, that Mr. George saw fit to personally call at Mr. Sewell's office with statements requiring the signature of Sylvester, Elia and Colello (11/27/43 - p. 9 & 10). From the testimony of Lucy Rondano, secretary to Louis Sylvester, we conclude that the statements were prepared in advance by Mr. George and signed by the above named employees, with Miss Rondano acting as a witness (11/27/43 - p. 14). Subsequently, Miss Rondano, who was retiring from political activity and from employment in the office, became alarmed and stated to Mr. Sylvester and to Mr. Sewell that she did not want to be "put on the spot" (11/27/43

- p.13) As a result of this attitude, Mr. Sewell contacted Mr. George and arranged for an appointment for Miss Rondano and himself at Mr. George's office (12/1/43 - p. 26). This appointment was kept a few days later, and according to Miss Rondano's version, the original statements of Sylvester, Colello and Elia were destroyed in her presence and other prepared statements were signed by these three employees. (11/27/43 - p. 17).

Mr. Sewell's version of this particular incident is very hazy and differs from that related by Miss Rondano (12/1/43 - pp.25,26,27,28). In fact, all the witnesses, when examined by us, were vague with respect to statements made to the Prosecutor's office, apparently in an effort to avoid responsibility for having brought the facts to the attention of the Prosecutor. We may well ask -- Why all this solicitude for the feelings of Miss Rondano? To say the least, the conduct of the Prosecutor and Mr. Sewell in connection with the destruction of the original statements is extremely unusual.

Shortly after this incident, Mr. Sewell and the employees above mentioned, with the addition of two newly discovered witnesses, Stevenson and Bagna, testified before the grand jury, with the result that an indictment was found in April of 1943 against Longo and Grundy. Within a few days thereafter, Grundy confessed to participation in the alleged crime with Longo.

As we have noted, Mr. Sewell first had knowledge of the findings of Mr. Hartkorn on February 17, 1943. In spite of this knowledge, he took no action and made no statements whatever until the matter was revealed after the conviction of Longo. Mr. Sewell stated that the matter was unusual, but notwithstanding that fact, he never mentioned it to anyone (12/1/43 - p. 31). All that he did was to talk to Colello, Elia and Sylvester several times and ask them whether they were "positive they are telling the truth and nothing but the truth"; and when asked why he did not follow it up, he stated "probably one of the reasons is your hindsight is always better than your foresight." (12/1/43 - p. 32).

It is extremely revealing that Mr. Sewell never referred the voting record of Long to Mr. Pelletreau, his handwriting expert, employed on full time, in spite of the fact that he recognized that there was involved a matter which this expert was particularly qualified to solve (12/1/43 p. 35).

In addition, he saw fit to sit by while Longo was indicted, tried and convicted for a crime which he may not have committed.

In any event, he had knowledge of the fact that the prosecutor had suppressed the important evidence furnished by Mr. Hartkorn, and took no steps, public or private, to

bring the matter to light. This -- in spite of the avowed opposition of Mr. Sewell to the dominant political organization in the County of Hudson. It is characteristic of the attitude and lack of vigorous action displayed by Mr. Sewell since May of 1941, which we have observed in connection with other matters.

Without regard to whether Longo is guilty or not, Mr. Sewell's action -- or rather, lack of action -- in this matter constitutes, in our opinion, a clear violation of his duty as a public official, as a lawyer, as a Republican, and as a fellow human being.

In contrast to his conduct prior to the conviction of Longo, Mr. Sewell was galvanized into action when the examiners commenced the investigation of the matter. His state of suspended animation was finally terminated. After the examiners questioned Mr. Pelletreau on November 24th, and it was disclosed that since the papers alleged to have been altered had never been submitted to him, he could not throw any light upon the matter; Mr. Sewell instructed Mr. Pelletreau to enter upon a series of hypothetical experiments. Some of the experiments were repeated in our presence.

Peculiarly enough, these experiments were designed to discredit the testimony and report of Mr. Hartkorn -- who, incidentally, taught Mr. Pelletreau the art of examination of questioned writings. Mr. Sewell pro-

tested that these experiments were performed solely in the interest of discovering the truth, and not to prove Longo guilty or innocent. When his former inactivity, however, is compared with the zeal displayed by Mr. Sewell in his repeated efforts to prove his point, we doubt the sincerity of his protestations; especially when we recall that he did not refer the voting record to Mr. Pelletreau when the question of alteration was first brought to his attention.

The first series of experiments performed by Mr. Pelletreau were made to prove that there are certain "washable inks" with an aniline base which are not restorable by the fuming process. This is distinguished from the restorable characteristic of "permanent inks" having an iron base. Upon further investigation, and after an extended conference with Mr. Hartkorn, we are convinced that this statement is generally true.

However, Mr. Hartkorn did point out to us that even where aniline inks are used, the expert is able to find some traces of the writing as a result of pen furrows in the paper. Mr. Hartkorn stated further that his examination of the original Longo voting record, in spite of many days of searching, failed to reveal any indication of any type of a written designation "Dem". He was of the opinion that if that designation had been written on the Longo voting record, whether with iron base or aniline ink, his extensive examina-

tion and study would have revealed some indicia or trace of the writing. In addition, it must be emphasized that the inks regularly used in Mr. Sewell's office are permanent inks with an iron base, and therefore, restorable by the fuming process (12/4/43 - p. 5.) (12/1/43 - ;.80). It is of interest to note that upon a second examination under a microscope of the exhibit prepared by Mr. Pelletreau during his experiment, some of the writings made by the use of aniline ink were discoverable by reason of pen furrows (12/4/43 - p. 26 to 28).

After the conference with Mr. Hartkorn, we re-examined Mr. Pelletreau, and determined that he could not give any conclusions with respect to the original records because of the fact that he had never examined the same (12/11/43 - p.31). When we further questioned him with respect to the possible eradication of a rubber stamp designation "Dem", he clearly testified that he had attempted to make such an eradication and was never able to do so. (21/4/43 - p. 16, 18). In his opinion, a rubber stamp mark of "Dem", if placed on the Longo voting record, could not have been successfully eradicated. It is to be remembered that all the witnesses testified that the Longo record had not only the designation "Dem" in ink writing, but also in rubber stamp.

When Mr. Sewell heard this rather conclusive

testimony, he instructed Mr. Pelletreau to pursue his experiments in the field of rubber stamps to see if it were at all possible to eradicate them. When Mr. Pelletreau felt that he had succeeded in accomplishing this feat by the use of a "double bottle" eradicator, Mr. Sewell contacted the examiners and called and wired your Excellency, requesting an opportunity to prove the same at a hearing.

As a result, we accorded Mr. Sewell and Mr. Pelletreau the opportunity of presenting this additional experimental data at a private hearing on December 11, 1943. At that hearing Mr. Pelletreau produced an exhibit which was marked in evidence (Dec. 11, 1943, S1). He testified that he had made his experiments with the rubber stamp and double bottle eradicator on this exhibit, and stated that in his opinion his lack of success in former experiments was due to the fact that he had used a single bottle eradicator (12/11/43 - p. 26, 27). It was his conclusion that the elimination of the rubber stamp upon the exhibit in question, was "to an extent where it would be, I might say, almost impossible to determine what had been on there" (12/11/43 - p.9). He further stated that there were four places on the exhibit where no ink of any kind was used, and where merely an application of the eradicator was made to study the surface and action of the eradicator, and that in three other places impressions had been put on with the stamp pad and

were eradicated by use of the double bottle eradicator
(12/11/43 - p. 8, 9).

At the time this testimony was given, his conclusions appeared correct from a cursory examination of the exhibit. However, since the date of the examination, we have re-examined the exhibit and find that the three stamp marks which had been apparently eradicated are now visible to the naked eye. Undoubtedly they would be more clearly visible if observed under a microscope. We call your attention specifically to the space opposite the printed word "Municipality", where we can discern the yellow outlines of the words "Jersey City"; and in the space opposite the printed portion reading "Sworn and subscribed to before me at", we can discern the words "Jersey City"; and again, under the words "Signature of person taking affidavit", we can discern the words "For Commissioner of Registration". These subsequent findings destroy the testimony of Mr. Pelletreau given with respect to his experiments on Exhibit S1 (Dec. 11, 1943) as to eradication of rubber stamp marks; and corroborate the conclusions arrived at by him during his earlier examination -- namely that if the Longo voting record had contained a rubber stamp mark designation "Dem", it could not have been successfully eradicated. Our ultimate conclusion, from the testimony of Mr. Hartkorn; the examination of the exhibits offered at the hearings; the confer-

ence with Mr. Hartkorn; and the testimony of Mr. Pelletreau, is that the greater weight of the expert testimony and probabilities point to the fact that the designation "Dem" never appeared upon the Longo voting record. As far as our investigation is concerned, however, it is of no consequence whether Longo is guilty or innocent. We are primarily concerned with the conduct of Mr. Sewell in connection with this matter. As we have already indicated, he has utterly failed in the performance of his duty in that respect.

EFFECTS OF INVESTIGATION

While it is our hope that ultimate beneficial effects will flow from our efforts in connection with this investigation by action to be taken by your Excellency and other appropriate governmental agencies, we desire to point out that there are definite immediate effects which have already resulted therefrom.

In the first place, the vicious practice of exacting contributions for campaign purposes from the employees of the offices under investigation has been discontinued. How permanent that discontinuance may be will depend in a great measure upon the remedial steps which may be taken.

Second: The registry records with respect to the names of persons disfranchised by reason of conviction of crime have been corrected to a great extent.

Third: More complete records are now kept by the Superintendent of Elections with respect to work done by investigators.

Fourth: Attendance records of employees are now being kept in some departments of the Commissioner of Registration's office.

Fifth: There has been an effort made to list properly the employees of the offices upon the respective payrolls of the Commissioner of Registration and the Superintendent of Elections, having regard to work actually performed by each employee.

Sixth: The list of voters in the military service has been made as complete as possible, with the accompanying removal of their registry sheets from the binders.

Seventh: The November election of 1943 was admittedly one of the cleanest in the history of Hudson County. In this connection, Mr. George L. Miles, Chairman of the Republican Citizens' Committee, the body which filed the charges in this matter, wrote a letter to the Examiners on November 20, 1943, in which he reviewed the conditions existent in the recent election, and stated that the investigation played a great part in the conduct of that election. It should be stated that the same reaction was indicated by others who took an active part in the charges and complaints made against Mr. Sewell.

Eighth: The publicity attendant upon the investigation and the hearings have undoubtedly served as a deterrent to a recurrence of the conditions disclosed.

We are of the opinion that when the pressure and publicity attendant upon the investigation are removed from the offices under scrutiny, the incumbent may revert to his former practices, and the beneficial results outlined above will disintegrate. The proper operation of these offices requires a change in management, which can only be accomplished by the removal of the present incumbent.

RECOMMENDATIONS

Our studied conclusions, arrived at after a careful consideration of all the matters which came to our attention, impel us to make the following recommendations:

First: Action by the legislature looking toward a prompt removal of William E. Sewell as Commissioner of Registration and Superintendent of Elections of Hudson County.

Second: The present legislation should be amended so as to completely amalgamate the two offices of Commissioner of Registration and Superintendent of Elections, in counties of the first class, with one budget and one responsible head, to be known as the Superintendent of Elections.

Third: Appropriate legislation providing for

the appointment of the Superintendent of Elections by the Governor and requiring strict accountability on the part of the appointee to said Chief Executive with periodic reports to be furnished by said Superintendent.

Fourth: Appropriate and specific legislation providing that the Superintendent of Elections shall not take any active part in political management or in political campaigns during the term of his office.

Fifth: The personnel of the offices should be granted the benefit of Civil Service status, and should be required to devote their full time to the performance of the duties of their employment.

Sixth: There should be installed a complete bookkeeping system showing receipts and expenditures in detail; and an appropriate system of requisitions to control expenditures.

Seventh: There should be installed a complete system of records with respect to attendance of employees and work accomplished.

Eighth: Establishment of an effective system for the prompt disfranchisement of persons convicted of crime, which disfranchisement shall be noted in such a way upon the permanent records that re-registration cannot be accomplished.

Ninth: Steps should be taken to effectuate

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Ninth: Steps should be taken to effectuate

cooperation between Federal and State officials so that all the names and addresses of persons in the military services be promptly made available to the election officers.

Tenth: Appropriate legislation should be effected to prevent any eradications, obliterations, alterations or erasures in connection with entries in any of the records of the office of Superintendent of Elections, and providing that all necessary changes or corrections shall be made by means of an additional entry explaining the change or correction, and initialed by the person making the same.

Eleventh: Immediate installation of voting machines.

Twelfth: Consideration should be given to the advisability of including in the pending revision of the Constitution provisions granting adequate powers to the Governor, in connection with the appointment of special prosecutors and selection of special grand juries, when circumstances so require. Such Constitutional provisions with appropriate legislation may be patterned after comparable enactments in existence in the State of New York.

Thirteenth: During the course of our investigation we subpoenaed several material witnesses, for private and public hearings, who failed to respond. In addition, some of the witnesses who did respond refused to produce certain records and to divulge certain information

upon various untenable grounds. We were then confronted with the problem of determining what appropriate steps should be taken. A review of the legislation granting authority to the Governor to conduct the present investigation (N.J.S.A. 52: 15-7), disclosed that the legislation is ineffective with respect to the enforcement of process of subpoena. The Act contains no method by which a witness can be compelled to attend or to answer relevant questions upon attendance. Other similar statutes do contain provisions outlining the procedure for compelling obedience to process of subpoena. In the face of this defective legislation, we considered the possibility of applying to a judicial tribunal for effective relief under the common law. However, the right to such relief is in some doubt, and we did not deem it advisable to enter into protracted litigation to test this right. Therefore, in order to obviate this problem in the future, and in order to give force to the investigatory power lodged with the Governor, we recommend that the existing statute be amended to provide for a specific and effective method by which process of subpoena may be enforced.

CONCLUSION

We respectfully submit the foregoing as our findings and conclusions arrived at after a careful consideration and study of all the facts which came to our attention. We have endeavored to perform our duty to the best of our ability and hope that our efforts may produce tangible results.

Respectfully submitted,

Harold H. Fisher, Chief Examiner.

Samuel A. Lerner.

Fred A. Lorents,
Assistant Examiners.