

### AN APPRECIATION

The Senate Committee would like to express publicly its gratitude to the volunteer co-counsel who have served it so well and with such diligence during this inquiry—William A. Consodine, Esq. of Newark and Albert G. Besser, Esq. of Newark.

With no funds for professional assistance, the Committee had no chance to hire a staff for the involved work it had to do. Messrs. Consodine and Besser offered to serve the Committee without fee. Their performance in a difficult investigation has been in the highest order of State service and they are entitled to the gratitude of the people of New Jersey.

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New Jersey, Legislative Council of State and Government  
iii  
of the Bingo Licensing Law  
and the Casino Control Commission  
of the Casino Game of Chance  
New Jersey, Legislative Council of State and Government

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## Control Through Fear—

a study of the administration of the Legalized Games of Chance Control Commission by the Senate Committee constituted pursuant to Senate Resolution 6, Laws of 1958, and reconstituted by Senate Resolution 2, Laws of 1959

970.07  
6-191  
1960  
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## I. FOREWORD

*By* THE SENATE COMMITTEE CHAIRMAN, THE HONORABLE  
WALTER H. JONES

One of the most distressing aspects of this inquiry, to me, has been the astonishing and altogether successful effort by Governor Robert B. Meyner to interfere with the progress of a legislative investigation.

This trespass on the fundamental right of legislative inquiry is set forth in the report. Its importance is not in its extent nor in the details of how the Governor attempted to throw out a lifeline to an executive commission by the veto of funds for a proper legislative investigation.

What is important is that Governor Meyner has, by his actions, given rise to a new theory of the separation of powers. By executive veto of operating funds he has sought to control and to delay an important legislative function involving the questionable operation of an executive agency.

He has succeeded in delaying the investigation and the filing of this report. It is my fervent hope that this imposition of executive restraint on legislative action will cease.

It is unwarranted and basically wrong.

The activities of this Senate Committee have been in a very sensitive and controversial area. The private and public hearings have produced some sharp contradictions in testimony bearing on important points of this inquiry.

In writing this report and in arriving at the findings of fact and recommendations which are a part of it, the Senate Committee has had the task of weighing the testimony and the credibility of the various witnesses and coming to a conclusion based on that deliberation.

The findings of fact and recommendations are the result of our interpretation of the facts and the testimony as we found it. We are perfectly aware that others may come to different conclusions and that is their privilege. We wish to point out, however, that all of the testimony at the private and public hearings was taken under oath.

The Committee also wishes to point out that during the preparation of this report two members of the Commission, Mr. Makin and Mr. Lehman, were succeeded by two new Commissioners. The comments in this report are not intended to reflect on the two new members of the Commission since the report deals with matters which occurred before they were appointed.

## II. INTRODUCTION

The Legalized Games of Chance Control Commission is an arm of the executive department charged with supervising the administration of the Bingo Licensing Law (R. S. 5:8-24) and the Raffles Licensing Law (R. S. 5:8-50). The Commission consists of five citizens who serve as Commissioners, an executive officer, and a staff of 21 other employees. The 1959-1960 State budget allotted \$147,883 to the operation of the Commission.

### *A. History.*

In November 1953 the voters of New Jersey approved a constitutional amendment authorizing the conduct of bingo and raffles under restrictions to be fixed by the Legislature. The vote in favor of that amendment was 947,676 to 374,818.

A committee of nine attorneys was appointed by Governor Robert B. Meyner shortly thereafter. The Committee held public hearings and subsequently submitted a draft of two statutes to the Legislature. There were additional hearings. Amended bills eventually passed the Legislature and were signed into law on February 20, 1954.

The first Commission took office in March 1954.

In the April 1954 primary elections, a substantial number of communities in New Jersey adopted the provisions of the Bingo and Raffles Licensing Laws as required under R. S. 5:8-42 and paved the way for the first legalized games of chance in New Jersey.

Since April 21, 1954, and up to December 31, 1959, there have been in excess of 147,000 bingo games and raffles conducted in New Jersey. The gross receipts of these joint operations are in excess of \$133,000,000.

In 1959 the total receipts were \$30,825,696. Bingo accounted for \$23,391,858. Raffles grossed \$7,433,838.

**B. General Enforcement Policy.**

The various annual reports submitted by the Commission emphasize its determination to administer the law strictly to prevent any infiltration of this area of charitable fund raising by professional gambling interests.

The Senate Committee is in accord with this commendable purpose.

The Senate Committee also believes that the Commission has an obligation to administer the law evenly, efficiently, and considerately.

This report is essentially a study of that administration.

**C. Sporadic Complaints on Allegedly Harsh Rulings.**

There have been sporadic complaints of allegedly harsh rulings by the Commission.

Some of these came in the form of requests for changes in the law or in the Commission's regulations as set forth in its annual reports from 1954 to the present.

Others appeared in newspaper accounts throughout the State, generally from strong-willed individuals who expressed resentment at what they felt was unfair treatment accorded to volunteer charitable groups wandering in a maze of paper-work and involved regulations.

One sharp critic of the Commission was Monsignor Peter B. O'Connor of Our Lady Queen of Peace R. C. Church in North Arlington.<sup>1</sup> Monsignor O'Connor complained that rigid penalties were inflicting severe economic losses on churches using bingo and raffles as a means of supplementing parochial school revenues.

**D. Formation of the Senate Committee.**

These complaints and similar expressions received in private correspondence by members of the Senate led to the introduction of legislation in early February of 1958 by

<sup>1</sup> *Newark Evening News*, February 10, 1958.

Senators Cowgill, Sandman and six other Senators, which legislation sought to abolish the Legalized Games of Chance Commission and place the entire Department under a single head such as that which administers the Alcoholic Beverage Control Act. On March 24, 1958 Senate Resolution No. 6 introduced by Senators Jones, Sandman and Cowgill was approved by the Senate. The main reasons for introducing the investigation bill were to study the penalties that were inflicted upon the churches and other charitable groups for violations, which for the most part were technical and picayune. The necessity for the investigation was also exemplified by reports of harsh treatment on the part of the executive director, Arthur Weller, toward those who worked under him as investigators as well as the method by which Mr. Weller controlled, for the most part, all of the affairs of the entire Commission, acting as a one man dictator. The present members of the Committee were named to carry out the inquiry.

On April 21 the members of the Committee introduced Senate Bill 172 to provide for a \$10,000 appropriation for staff assistance in the investigation. Senate Bill 172 passed the Senate on April 21, passed the Assembly on June 16 and was vetoed by the Governor on July 31. Nevertheless, the Senate Committee organized on May 17, 1958 and held its first public hearing on June 5, 1958.

Protests were heard on the method of operation of the Commission from representatives of veteran organizations and the Roman Catholic Church. The testimony is reviewed later in this report.

With this broad area of complaint, the Senate Committee then opened a series of private hearings devoted to taking revealing testimony from employees of the Commission and subsequently from the members of the Commission. These hearings were held September 17 and 22, October 30, November 5, 7 and 17, 1958 and January 15, 1959.

The Senate Committee then conducted a series of public hearings on May 6, 7, 8, 14 and October 13, 1959.

**E. Attempts to Undermine the Senate Committee.**

From the first there was an effort to block the Senate inquiry.

The effort began with the Commission, but it received impetus from Governor Meyner. (See foreword.)

The ink from the Senate President's signature had barely dried on the resolution before the Commission was making both discreet and indiscreet inquiries into the right of the Legislature to investigate the Commission.

At the March 25, 1958 meeting of the Commission, the first overt attempt took place. The minutes of that meeting include the following paragraph:

“The Commission directed the Secretary to write to the Attorney General requesting a ruling as to whether Senate Resolution No. 6 was a constitutional exercise of the Legislature's power to investigate making it clear that the members of the Commission individually had no objection to the investigation, but that they think that the constitutional question should be raised at this time because Senate Resolution No. 6 will in the future be a precedent.”

**1. The Commission Letter.**

Commissioner Merritt Lane, Jr., wrote to Attorney General David C. Furman sending a copy to Governor Meyner as follows:

“March 26, 1958

The Honorable David C. Furman, Acting Attorney  
General  
Office of the Attorney General  
State House Annex  
Trenton, New Jersey

DEAR MR. FURMAN:

This Commission received a copy of Senate Resolution No. 6 which creates a special committee to investigate the administration of the Bingo Licensing Law and

the Raffles Licensing Law ‘particularly in respect to the imposition of penalties by the said Commission for violations of the said laws and the rules and regulations appertaining thereto, made by the said Commission.’

As you know, this Commission is in the Executive Department, being part of the Department of State. Apparently what is sought to be investigated is the judicial function of the Commission in imposing penalties for violations.

We raise the question as to whether Senate Resolution No. 6 under such circumstances is a constitutional exercise of power by the Legislative Branch of the government. This question is raised merely because we realize that it may establish a precedent in the future for future investigating bodies of the Legislature. Accordingly, if this Commission without seeking a legal opinion from you were to go forward with the investigation without raising any question, a precedent might be established which would at a later time embarrass the Executive Department.

All of the members of this Commission welcome any investigation feeling that its record is exemplary.

In view of the fact that there appear to be important issues raised by the commission, we request a formal opinion from the Attorney General as to whether Senate Resolution No. 6 is constitutional and as to whether the members of this Commission and its employees should honor any request for appearance or subpoena by the commission.

Very truly yours,

LEGALIZED GAMES OF CHANCE

CONTROL COMMISSION

By: Merritt Lane, Jr.,

Secretary.

ML/ec

c.c. The Honorable Robert B. Meyner, Governor  
David J. Goldberg, Esq., Office of the Governor  
Members of the Legalized Games of Chance  
Control Commission (5)”

The news of this move leaked out, however, and a newspaper reporter picked it up and wrote a story exposing it.<sup>2</sup>

### 2. *The Attorney General's Reply.*

Commissioner Lane, in a letter to Senator Jones dated December 30, 1958, said there was no written reply to his letter to Attorney General Furman:

"In answer to that letter, I had a telephone conversation with Mr. Furman advising the Commission that it should cooperate with the Senate Committee appointed under the Senate Resolution No. 6. We have followed the advice that was so given to us."

### 3. *Interference.*

In addition to its initial effort to block the investigation completely, the Commission on another occasion deliberately interfered with the Senate Committee's attempt to get specific information regarding the activity of one of its employees.

At one of the private hearings, Investigator Charles E. Fletcher was instructed to go to New York City to ascertain particular information concerning an inquiry he had previously conducted in that city.

The Senate Committee's instructions to Mr. Fletcher were countermanded by Commissioner Merritt Lane, Jr., in spite of the clearcut language of paragraph 4 of Senate Resolution 6 which reads:

"The Committee shall be entitled to call to its assistance and avail itself of the services of such employees of any State division, board, bureau, commission, or agency as it may require and as may be available to it for said purpose."

The situation developed after Mr. Fletcher's testimony before the Senate Committee October 30, 1958. Mr. Lane's part is described in the testimony of Investigator Philip

<sup>2</sup> *Newark Star Ledger*, March 26, 1958.

Segal, who was then acting Executive Officer in the absence of Mr. Arthur Weller. Here is Mr. Segal's account of the incident:<sup>2a</sup>

"A. Right, on Friday, the 31st, when I saw Mr. Fletcher in the office, I told him that I was told by Mr. Consodine and the Committee here that he had some duty to perform for this Committee. I didn't question him on it, what it was or anything else. And I told him that I had no alternative, I had no jurisdiction to give him the time off but I was referring it to Mr. Lane, the Secretary of the Commission; which I did. I called Mr. Lane and told him that you had directed Mr. Fletcher to do something for you. He asked me what it was and I said, 'I did not know, I didn't question Mr. Fletcher on it.' And he said, '*Tell him to sit tight and we will let him know.*'" (Italics supplied.)

Mr. Segal was warned that he and anyone else interfering with the Senate investigation were chancing citation for contempt of the Senate. Mr. Fletcher produced the required information immediately.

### 4. *Comment by Governor Meyner.*

Aside from the actions of the Commission, Governor Meyner's initial comment on the proposed investigation by a Senate Committee was that it was "politically motivated."<sup>3</sup>

The Governor's ardour for the Commission cooled somewhat by September 1958, with the disclosure of the Commission's astonishing investigation of the Senate Committee.

### 5. *The Veto.*

But in spite of the questions the Governor raised publicly himself concerning the operations of the Commission,<sup>4</sup> Governor Meyner flatly refused to sign the appropriation bill to assist this Senate Committee in its work.

<sup>2a</sup> Private hearing, legal testimony, November 7, 1959, page 4.

<sup>3</sup> *Newark Evening News*, March 26, 1958.

<sup>4</sup> *Passaic Herald News & Newark Star Ledger*, September 24, 1958.

**6. Delay.**

The attitude of Governor Meyner has delayed the work of the Senate Committee for many months. The Senate Committee was compelled to rely on volunteer professional assistance. The Committee was fortunate in acquiring the services of two outstanding attorneys of great competence and devotion, William A. Consodine, Esq., and Albert G. Besser, Esq., both of Newark. But necessarily the work of the Committee had to be adjusted and gaited to the private commitments of its volunteer counsel. The result has been to spread over many months work which could otherwise have been brought to a prompt conclusion.

The Governor based his decision to refuse the Senate Committee any funds on reasons of economy.<sup>5</sup> He has saved New Jersey \$10,000.

He has also, however, exposed the Legalized Games of Chance Control Commission to a three-year-long whittling away of its reputation in the public mind.

**7. The Right of Inquiry.**

More important than that, the Governor has trespassed heavily on the fundamental right of legislative inquiry. (See foreword.) It is one thing to agree with the principle of inquiry, as he has done. It is another to evade that principle by adverse public comment and by a tight hand on the purse strings.

After the hearings by the Senate Committee got under way, the Commission found another means by which it attempted to thwart the purposes of the Senate Committee. A great deal of the initial information provided to the Committee concerning the shocking conditions in the LGCCC came, naturally, from employees of the Commission who found those conditions manifestly distasteful.

**8. Punishment.**

After the public hearings started, the Commission came into full knowledge concerning the identity of those

<sup>5</sup> Veto message, Senate Bill No. 172, July 31, 1958.

employees who, in response to subpoena and under oath, had provided damaging information concerning the deficiencies of the Commission.

The Commission promptly made life as miserable as possible for them.

Investigator Segal, who at one time was so highly regarded by the Commission that he was made Acting Executive Officer in the absence of Mr. Weller, was re-assigned to investigative work in the field and given assignments calculated to make him travel as far as possible.

Investigator Bergen, who along with Mr. Segal was among the first employes of the Commission, was also taken off office duties and assigned to the field.

Both of these men were completely familiar with the operations of the Commission and were, the Commission members conceded, competent employees. Yet they were taken from their area of maximum effectiveness and sent to Siberia in nothing but a childish attempt at punishment.

In addition, the Commission assigned Mr. La Capra, whose previous work had been solely in the field of book-keeping, to field work. This was in punishment for his testimony concerning the Commission's expensive folly—the renting of a non-working IBM machine.

The same punishment was meted out to Mr. Richards, an employee who spent his first years with the Commission operating office machines.

There were other examples, but these will suffice to sketch the picayune efforts by the Commission to hamper the work of a duly constituted Senate Committee.

The Commission Chairman, Mr. William E. Lehman, Jr., testified that he had heard a rumor of this punitive policy and intended to investigate it:<sup>5a</sup>

“Q. And you are also, I believe, testifying to the fact that you know of no situation where Mr. Valentine has assigned an investigator from South Jersey to work

<sup>5a</sup> Public hearing, May 7, 1959, Lehman, Vol. 2, page 15.

in North Jersey? A. I say that I have heard a rumor to the effect that that has occurred.

“Q. For punitive purposes? A. For what purpose, I don't know.

“Q. You don't know whether it's punitive or not—  
A. I do not know.

“Q. —but you do know that it has occurred?  
A. I have heard the rumor, sir, and we expect to investigate it.

“Q. You expect to investigate this yourself? A. Yes, sir.”

### III. THE INVESTIGATION

As the work of the Senate Committee progressed, it became apparent that its work divided into two categories—one broad and sweeping, the other narrow and confined. The first is the general administration of the LGCCC. The second is the specific question of whether any or many of the penalties assessed were harsh and unreasonable exercises of discretion.

#### *A. General Administration.*

This broad area included a series of important subheadings, such as:

##### *1. Commission or 1-Man Control.*

The question of whether the operation of the Legalized games of chance should be controlled by a non-salaried, 5-member commission or by one individual as a paid director of a division of State government. Bearing strongly on this main question are the following subordinate points which were developed during the hearings, private and public:

Did the Commission exercise a proper supervision over the operation of its office?

Did the Commission's failure to provide any line of communication to its employees result in grave injustices to those employees and in a type of employment atmosphere which reflects discredit to the State of New Jersey?

Was the Commission aware of certain practices carried out by its Executive Officer?

Was the Commission aware of the low regard felt for its membership by the Executive Officer?

Was the Commission aware of the alleged violations of criminal law attributed to its Executive Officer?

The question of whether the failures of the Commission are the result of the nature of the Commission organization or the individual laxity of its members.

The question of whether the Commission was blinded in its ability to exercise adequate control by reason of its unswerving faith in its Executive Officer.

Any discussion of the general question of the relative effectiveness of a 5-member non-salaried commission as opposed to a paid, full-time Director must start from the relatively fixed and opposite positions of a majority of the Senate Committee and of all the members of the Commission.

a. *The Senators.*

Prior to the formation of this Senate Committee, Senators Sandman and Cowgill were among the sponsors of Senate Bill 126 in the 1958 Legislature which proposed the creation of a Division of Legalized Games of Chance Control in the Department of State and the abolition of the present Commission. That bill would have provided a paid, full-time director under an organization similar to the present setup of the Alcoholic Beverage Control Division of the Department of Law and Public Safety. The bill did not pass in the 1958 Legislature since Senators Sandman and Cowgill welcomed the opportunity for a close study of the administration of the Legalized Games of Chance Control Commission before coming to any final conclusion.

The chairman of the Senate Committee, Senator Jones, made no public comment on this question prior to the current investigation or during its progress.

The members of the Legalized Games of Chance Control Commission uniformly affirmed their belief in the efficacy of the Commission type of operation in a public statement entitled "Interim Report."

On November 17, 1958, the date the members of the Commission were requested to meet with the Senate Committee at a closed hearing, the Commission issued the Interim Report.

This was an unusual document, and, under the circumstances, was suspect. Its peculiar status was so well recog-

nized by the members of the Commission that they testified that the printing of it was paid for out of the pockets of the members of the Commission.<sup>6</sup>

b. *The Interim Report That Was Not a Report.*

R. S. 5:8-23 provides for reports and recommendations by the Commission. It requires a report annually to the Governor, the President of the Senate and the Speaker of the General Assembly with the recommendations of the Commission, if any.

The same statute also provides:

"... and if in the meantime it shall discover any matters which *shall require immediate change* in said laws of this State, in order to prevent abuses and evasions thereof or rectify undesirable conditions in connection with the administration thereof, the commission shall make an *interim report immediately* to the Governor, to the President of the Senate and to the Speaker of the General Assembly with its recommendations, in order to afford opportunity for the Legislature to take immediate action thereon, if such action appears to be necessary." (italics supplied.)

Despite the clearcut statutory language regarding interim reports, the Commission saw fit to issue as an interim report a document which Commission members admitted contained no new material and was designed to defend the Commission from adverse newspaper publicity.

c. *The Private Testimony.*

The testimony of the Commissioners at the private hearing November 17, 1958, the same day the so-called Interim Report was issued, is revealing:

*Commissioner Brophy.*

Commissioner Margaret Brophy testified that there "isn't anything startling" in the report as it relates to previous written reports. She added:<sup>7</sup>

<sup>6</sup> Private hearing, Makin testimony, page 39.

<sup>7</sup> Private hearing, Miss Brophy testimony, page 5.

"Well, I think the purpose of the report, to the extent that it had a purpose, would be more or less to state at this time, or about this time, something of the Commission's point of view about this whole problem of law enforcement within the limitations set up by the legislative action."

*Commissioner Lehman.*

Commission Chairman William E. Lehman, Jr., testified:<sup>8</sup>

" . . . all the commissioners had ideas on issuing something to defend our position as against harsh penalties."

Commissioner Lehman also said:<sup>9</sup>

"Well, speaking personally, I feel that the newspapers have played up the harsh treatment charge to a great extent. I think that we have suffered as a Commission and as individuals by the press releases that have been made. I feel that the harsh charge has been disseminated to all newspapers and we wanted to set the record straight as far as our position was concerned."

The following question and answer is interesting:<sup>10</sup>

"Q. Didn't you think that you would have ample opportunity to do that in these hearings and at any other time and place that you might wish to do it rather than on the morning that you appear here as Commissioners?"

"A. It just happened as a coincidence, Senator, that that came out—"

"Q. That was coincidental?"

"A. That's correct."

*Commissioner Makin.*

Commissioner George F. Makin was questioned on the reason for the Interim Report. His reply was succinct:<sup>11</sup>

<sup>8</sup> Private hearing, Lehman testimony, page 10.

<sup>9</sup> *Ibid.*, page 11.

<sup>10</sup> *Ibid.*, page 12.

<sup>11</sup> Private hearing, Makin testimony, page 2.

"We, as a Commission, felt that it was to the best interest of the Commission to put this information out."

The supposed coincidental nature of the release of the Interim Report on the date of the hearing becomes somewhat tortured when viewed in the light of the testimony by Commissioner Leo I. McGough.

*Commissioner McGough.*

Commissioner McGough, referring to the fact that Commissioner Merritt Lane, Jr., prepared a rough draft of the Interim Report, testified:<sup>12</sup>

"He did it from an outline which was prepared with titles and subheadings which we had *several weeks* before this draft was prepared. . . ." (Italics supplied.)

*The Commission Favors the Commission.*

In any event, the Interim Report, whether unusual, coincidental, defensive or what-have-you, did establish clearly the uniform opinion of all five Commissioners that a five-person commission is far superior to one-man control.

This attitude is set forth on page 13 of the Interim Report:

"We do not feel that a single person could administer the Bingo and Raffles Licensing Law. The emotional feelings for and against gambling have been referred to above. The pressures that would be put on a single person from various organizations would be so tremendous that we do not feel that he would be able to withstand them. We feel that the present setup of a five-man Commission composed of people of different political parties and of different faiths is the best way in which these laws can be administered. The strains and tugs of the outside world are thrashed out and resolved by the representative Commissioners. We are dealing in a field about which many people feel very strongly. By bringing to bear on the subject the minds and

<sup>12</sup> Private hearing, McGough testimony, page 26.

thoughts of five people of diverse backgrounds, decisions are able to be arrived at which are believed to be fair to all.”

The LGCCC members reiterated and expanded on this statement at the private hearings.

*Commissioner Makin.*

Commissioner Makin’s testimony in relationship to the comparison of the operation of the LGCCC and the ABC Division is interesting:<sup>13</sup>

“Q. I want to know if you think that Bingo operation or Legalized Games of Chance operation is a more difficult one than that of operating the ABC?”

“A. I think it is in a little different category. Where he is working with a private individual businessman, we are working with organizations, and I think it makes a world of difference, there.

“By Senator Jones:

“Q. I give that answer a great deal of respect in my own mind. I think there is a point of differentiation there.

“By Mr. Besser:

“Q. Have you individually or collectively been aware of any pressure being brought to bear on the Commission with respect to its decisions?”

“A. That’s in an area that’s a little hard for me to answer. Prior to my being a Commissioner, I have been involved in public life in a very small way, and I know that anyone in public office is called upon from time to time, not as pressure, but he is sought for leniency, and it’s awfully hard for an individual to say no, whereas, under this present setup where you have five members, it can be the best friend of mine in the world; it can be a local organization in my community where I am on

<sup>13</sup> Private hearing, Makin testimony, pages 44-45.

speaking terms with everybody in the organization, and they have committed a violation—they can come to me and say, ‘Look, we didn’t mean to,’ and all this, and my answer today will be ‘I’m awfully sorry. There are five Commissioners. There isn’t a thing I can do about it,’ where, if that power were in my hands alone, it would be pretty hard for me to live in that community and say, ‘You’re going to be penalized 20 months or 30 months for this.’ Now maybe I shouldn’t be bringing in that type testimony here, but there is a practical side—there’s a practical side to everything. That is part of my reasoning as to why I feel——”

*Commissioner Brophy.*

Commissioner Brophy said the problem was a difficult one:<sup>14</sup>

“Q. You have also given us your opinion as to the need for a Commission?”

“A. Yes. The problem is very difficult. It bristles with problems and with difficulties and I don’t see how one person could deal with it. It would require a Commission, I think, and even then they have a hard time often.”

The attitude of certain groups which are directly concerned with the operation of the LGCCC was established at the public hearing June 5, 1958.

d. *The American Legion.*

Speaking for the American Legion, Mr. Paul E. Vance, vice-chairman of the Bingo and Raffles Committee, American Legion made the following comments:<sup>15</sup>

“Mr. Vance: It is also the considered opinion of the American Legion Posts of New Jersey that the Legalized Games of Change Control Commission be abolished entirely, and that it be replaced by a department of the

<sup>14</sup> Private hearing, Miss Brophy testimony, page 42.

<sup>15</sup> Public hearing, Vance testimony, page 24.

State Government headed by a Commissioner such as our Alcoholic Beverage Control Commissioner or our Motor Vehicle Commissioner. We feel that if the regulations of gambling in the State of New Jersey were placed under a department with one head, much of the confusion, mal-practices, etc. that now exist would be eliminated.

“Now, by that we mean, first of all, the Commission is non-salaried, as I understand it. They can only devote so much time; that’s the answer. The rest of their investigators do not seem to have the power, let’s say, that an Alcoholic Beverage Investigator has, and if the whole setup there were changed, where you had a department headed by a Commissioner with a reasonable staff, we feel that first of all a lot of this duplication and contradictory decisions would be eliminated and they could also police much better than they are policing it now. It would generally improve the operation of the bingo and raffles law in New Jersey. That is the reason we recommend that—not as a retaliatory recommendation against the Commission—but because we honestly feel it would operate much better that way.

“Senator Jones: In other words, your point is that from the view of fulfilling the basic purposes of bingo and raffles, which is that they be permitted but under the strictest supervision, those objectives can be better obtained under a department of government situation as compared to a Commission. Is that your point?

“Mr. Vance: That is correct.

“Senator Cowgill: You feel that this job is too big for a non-salaried Commission; is that what you mean?

“Mr. Vance: I certainly do. I have dealt with it since the very beginning of bingo, and I don’t think anyone realized, when you look at the total receipts of bingo and raffles in the State of New Jersey, that it would become such a big operation. I think that the Commission just can’t handle this because there is too much of it.

“We of the American Legion have not made these charges or recommendations lightly. They have evolved from a series of conferences conducted with representatives from Posts throughout the State of New Jersey. We honestly feel that experience has taught us that the handling of bingo and raffles must be changed if the will of the people is to be served.

“That is the end of my statement.”

#### e. *The Charge Against Vance.*

The Senate Committee is aware that subsequent to his testimony at the public hearing Mr. Vance was arrested on a criminal charge in connection with the use of funds derived from legalized games of chance. He subsequently pleaded no defense and was sentenced on June 12, 1959, to 1 to 1½ years in State Prison. Mr. Vance’s earlier testimony is set forth because it represents the viewpoint of the American Legion, an organization whose posts hold a substantial number of the licenses issued by the LGCCC.

Mr. Vance made other public comments in a newspaper article appearing in the *Passaic Herald News*, December 29, 1958. Some of them are set forth below because they raise important questions of significance to the LGCCC:

“But Vance did suggest several ways bingo and raffles proceeds can be, and actually are being diverted to unauthorized uses—and possibly to unauthorized pockets.

“‘For example,’ he explained, ‘instead of reporting that 160 people played bingo at the ABC Club last night, say only 130 are reported. The bingo commission has no way to check, and those 30 people could mean another \$100.

“‘Lots of games run 1,200 to 1,500 people a night, six times a month. Covering up a couple hundred admissions a night could bring in as much as \$50,000 a year under the table.’”

f. *The New Jersey Catholic Conference.*

John J. Rafferty, Esq., executive secretary of the New Jersey Catholic Conference, expressed at the public hearing on June 5, 1958 the attitude of the Conference with regard to the fundamental question of a Commission as opposed to one-man control. Here are his comments:<sup>16</sup>

"We think, too, that it would—and this again without any improper suggestions to the gentlemen on the Commission and there's a lady on the Commission—we think, too, that the law would be better administered if the pattern of the ABC Department or of the Motor Vehicle Department were followed.

"Now, you gentlemen know from long experience that we have no trouble like this with the liquor laws. A liquor law could give rise to trouble just as card games could give rise to trouble. We have no such trouble with the Motor Vehicle Department.

"So it seems to me that as a practical matter it might be prudent to change the law insofar as the administration is concerned. We have no quarrel with the law. We have no quarrel with the rules and regulations except for their contradictory administration and, I think, in some cases not being based on statute. But we don't argue with them. It's the abuse of discretionary power that we complain about."

g. *The New Jersey Council of Churches.*

Of general knowledge to the members of the Senate Committee is the attitude of The New Jersey Council of Churches as set forth in the following form letter addressed to the members of the New Jersey Senate by the Rev. Samuel A. Jeanes, general secretary in April, 1958:

"Dear Senator,

"The General Board of the New Jersey Council of Churches at its regular meeting this week, held in the

<sup>16</sup> Public hearing, Rafferty testimony, page 88.

Cathedral House in Newark, voted unanimously to oppose Senate Bill No. 126 which would establish the Division of Games of Chance Control in the Department of State, provide for a Director thereof and abolish the present Legalized Games of Chance Control Commission which has been operating on a non-salaried basis.

"We have been informed that the life of the present Commission is threatened because its law enforcement activities have been termed "unreasonable". However, we note that only 56 hearings, formal and informal, were conducted during the last calendar year. One press article has stated that the Commission has been likened to an "overbearing cop on the beat". However, we believe that fifty-six hearings represent less than 1% of the licensees being involved in alleged violations. This certainly does not give the impression of an "overbearing cop on the beat" looking for violations.

"We further believe that the present Commission's activities have kept the operations of these games as free from abuses as possible. We should not lightly set aside a tested and proven procedure which has received the praise of other States for the untested and unproved activity of a salaried politically appointed Director.

"The New Jersey Council of Churches campaigned against Bingo-Raffles. Since it has been adopted we have urged strict enforcement of the law governing these games. If the Commission has given us strict enforcement, it should be to their credit and certainly not grounds for abolishing it. To take steps to abolish this Commission because of good law enforcement is like discharging the judge and jury because you are not satisfied with the verdict and sentence they render.

"We also note that if this Commission had not been functioning, there would have been little or no supervision of the conduct of these games. The current report of the Legalized Games of Chance Commission to the Governor and Legislature states, 'After analyzing

reports submitted from the Municipalities, the Commission is of the opinion that there could be an improvement. There has been a failure to adequately supervise the conduct of the games and the use of proceeds. The Commission does not know of one case where the Municipal body has questioned the use of proceeds. . . . The Commission does not know of any Governing Body that has conducted hearings for violations of the Games of Chance law this year.'

"It is our opinion that Senate 126 should be defeated in the interests of continued good law enforcement.

Sincerely yours,

(Signed) SAMUEL A. JEANES,  
*New Jersey Council of Churches  
Legislative Chairman.'*

#### *h. The Investigators.*

The deep-seated personal feelings of most of the investigators on the staff of the LGCCC against Mr. Weller make it difficult to regard them as unbiased commentators on the most effective means of controlling the legalized games of chance.

But, on the other hand, everyone else who has taken a stand on this question comes equipped with his own built-in prejudices.

So with full understanding of the personal factor involved, let it be noted that it was the almost unanimous feeling of the investigators who have worked with charitable organizations every day of the week that they do not think the Commission type operation is an effective means of administration.

#### *i. In Summary.*

The commentary at the public and private hearings and the correspondence received by the members of the Senate Committee adds up to the following summary of the main

points of advantage and disadvantage between Commission operation and one-man control:

Commission operation—

1. Brings to the legalized games of chance problems the diverse and representative thinking of a group of Commissioners.
2. Joint responsibility diffuses the ability of organizations to bring pressure to bear for favorable consideration.
3. Operates at a lower level of efficiency by reason of the part-time services of the Commissioners.
4. Prevents the abuses of one-man rule if the Commissioners all participate in active control of the Commission.
5. Compounds the abuse possible in one-man control if the Commissioners abdicate their authority.

One-man control—

1. Provides a level, continuing, full-time administration by an individual on the scene in constant contact with daily problems.
2. Centers the responsibility in one person rather than dividing it among Commissioners.
3. Makes the administration of Legalized Games of Chance a direct part of the executive department accountable to a cabinet officer in place of the non-salaried, part-time Commissioners' loose responsibility of reporting annually to the Governor and the Legislature.

## 2. THE SUBORDINATE POINTS.

We come now to the subordinate points which bear on the general administration of the LGCCC and which give important insight into manner in which the office of the LGCCC was operated.

Initially the Senate Committee was primarily concerned with determining whether, as alleged, there had been harsh penalties imposed on a number of charitable organizations for violations of the regulations of the Commission.

From the first, the prodding of the Senate Committee brought forth some strange and hard-to-believe information. By the time the investigation was in full swing the office of the LGCCC took on the aspects of a Pandora's Box—each time the lid was lifted a little higher, it disclosed grave dereliction of duty, attitudes and policies repugnant to modern government, and an administration that can only be described as a reign of terror.

*a. The Distant Commissioners.*

In the so-called Interim Report the Commissioners have taken great pains to claim that they are in complete control of the operations of the LGCCC. The Senate Committee heard testimony which indicated this was an idle boast, however sincere.

After reciting on page 4<sup>17</sup> the attendance records of the various Commissioners, the Report states on page 5:

“At meetings of the Commission, the Executive Officer has reported on the problems that he has faced since the preceding meeting and the work that is being done by the men in the field and by the office. At the meetings the Commission has reviewed rules and regulations and reviewed the work being done by the employees of the Commission. All matters concerning policy are presented to the Commission at their meetings and resolved by the Commission. The decisions on matters of policy are adopted by the Commission and then disseminated by the Executive Officer to the men in the field and by the men in the field to the organizations. In some instances, the Commission has prepared and made a release either to the organizations or to the press. At all times, the commissioners are kept informed of the investigations that are underway and of the problems that are being confronted in the field.”

In the Annual Report of the Commission for the period January 1, 1957 to December 31, 1957, the following statement appeared at page 16:

<sup>17</sup> Interim Report of the Legalized Games of Chance Control Commission, November 17, 1958.

“The Control Commission holds weekly meetings. In addition to conducting formal and informal hearings they *review the entire operation of the staff.*” (italics supplied.)

In their testimony the Commissioners enlarge upon the premise of their active participation in all Commission affairs. There was, however, divergent testimony as to the participation of the Executive Officer, Mr. Arthur A. Weller, in policy decisions.

The following excerpts of testimony bear out this divergence:

Commissioner Brophy:<sup>18</sup>

“Q. O.K. Now then, let me ask you a very simple question. Is it not true that most of the policymaking recommendations emanated directly from Mr. Weller, within your experience with this Commission?”

“A. No.

“Q. Well now, it says, ‘All matter concerning policy are presented to the Commission.’ Now, as I apprehend it, the Commissioners can present a matter.

“A. That’s right and they do sometimes.

“Q. O.K. And they do sometimes.

“A. Yes.

“Q. And as I apprehend it, Mr. Weller can make recommendations?”

“A. Yes.

“Q. Now, who else?”

“A. Nobody else.

“Q. O.K. Now then, let me ask you a very simple question. Is it not true that most of the policymaking recommendations emanated from Mr. Weller, within your experience with this Commission?”

“A. No.”

<sup>18</sup> Private hearing, Miss Brophy testimony, page 27.

Commissioner Makin:<sup>19</sup>

“Q. But the major number of policy recommendations by far come from Mr. Weller, don’t they? Acting upon his advices and his recommendations, you people hammer out policy, don’t you?”

“A. I wouldn’t say that a majority of the policy has been formed through recommendations of Mr. Weller, no.

“Q. All right. What would you say?”

“A. I would say that it is the thinking of the Commission.”

Commissioner Lehman:<sup>20</sup>

“By Mr. Besser:

“Q. On that very point, Mr. Lehman, could I ask you—can you give us roughly what percentage of policy changes were initiated by Mr. Weller?”

“A. Just a guess—I’d say eighty per cent.”

Commissioner McGough:<sup>21</sup>

“A. . . . So that it was Art Weller who laid those (the meeting agenda) out for the most part.

“Q. He laid them out. Now did he lay out in his agenda recommendations, or did he make his recommendations during the Commission discussion, or what? How did that work out?”

“A. Well, if I may, I am troubled by the word ‘recommendations’. He made no recommendations.

“Q. He made no recommendations.

“A. I can remember cases where he recommended a change in the rules to relieve a particular situation.

“Q. That’s what I am talking about. Did he do those things?”

“A. Oh, yes, I can recall in particular the first change in the rules, I think, after I got on, involving a

<sup>19</sup> Private hearing, Makin testimony, pages 4 and 5.

<sup>20</sup> Private hearing, Lehman testimony, page 22.

<sup>21</sup> Private hearing, McGough testimony, page 4.

case where because of inclement weather a game would be rained out or snowed out; that was a game gone down the drain, one of a series, and in most of the cases the organization was in a dilemma because it couldn’t cancel, and if it ran it would probably run at a loss; and the recommendation was made by Weller that something be done to relieve that situation.

“Q. All right. So he did make recommendations, and I want you to tell me where he made them, that’s all.

“A. Occasionally a recommendation for a needed change in the rules and regulations. He was on top of the situation, he met them from day to day and we would consider it, and if there was merit in it, the change would be made.”

So that we have Commissioner Brophy stating that Mr. Weller did not make most of the policy recommendations. Commissioner Makin agreed with that stand. Commissioner Lehman opined that Mr. Weller was responsible for 80 per cent of the policy changes. Commissioner McGough at first contended Mr. Weller made no recommendations but later conceded he made recommendations for run-of-the-mill changes.

It is difficult to imagine a more scattered collection of viewpoints on a simple question of the origin of policy recommendations.

It is particularly incomprehensible in view of the following explicit statement in the famous Interim Report:<sup>22</sup>

“All matter concerning policy are *presented* to the Commission at their meetings and resolved by the Commission.” (italics supplied.)

No matter how the construction of that sentence is tortured, it is impossible to make it mean anything but that policy matters were brought by someone to the Commission which then decided them. The someone was Mr. Weller.

<sup>22</sup> Interim Report of the Legalized Games of Chance Control Commission, November 17, 1958.

Confusion among Commission members on such a simple question of operation leads to speculation as to the competency of the Commission in more involved questions, such as penalties.

*b. The Abdication.*

Actually, the testimony adduced in the various hearings made it abundantly clear that the Commission members failed to exercise proper supervision over the operation of the office. It became clear as the investigation developed that the Commissioners operated in a rarified atmosphere all their own—distant from their personnel, distant from the charitable organizations they are supposed to supervise, indeed distant from reality. Despite their obvious sincerity they have truly earned the sobriquet—the distant commissioners.

*List of Failures.*

The list of the failures of the Commission is long. The gravest of these is probably the touchstone for the others.

That failure was the Commission's complete abdication of authority to its former Executive Officer, Mr. Weller.

Because of its fundamental importance, the results of that failure will be set forth in full in the next chapter of this report—the shocking story of Arthur A. Weller, the high priest of control through fear.

**C. THE FEARSOME MR. WELLER**

The Senate Committee sets forth this story with reluctance. Mr. Weller was a retired police official when he came to the LGCCC in 1954. He retired from the Commission during the course of this investigation. There is a natural inclination to let it rest there.

Unfortunately the failure of the Commission to exercise any control over the activities of Mr. Weller resulted in a series of acts and policies which reflect grave discredit to the Commission, the Executive Department, and the State of New Jersey.

Mr. Weller was given an opportunity by the Senate Committee to answer the grave charges that were made against him. On January 17, 1959 the Senate Committee Chairman, Senator Jones, wrote to Mr. Weller as follows:

“The Senate Committee investigating the administration of the Legalized Games of Chance Control Commission pursuant to Senate Resolution 6 is ready to conclude a series of private hearings it has been conducting. In view of the fact that you told the Commission that you were resigning for reasons of ill health, the Senate Committee has refrained from serving you with a subpoena compelling your appearance. Before concluding this phase of the investigation, however, the Senate Committee felt you should be given the opportunity to appear at a private hearing, if you so desired. Should you wish to appear, please forward to me three or four dates that would be agreeable to you and the Senate Committee will attempt to adjust itself to your schedule.”

Mr. Weller wrote back on January 21, 1959, as follows:

“I have your letter of January 17th, 1959.

“I am advised by my physician, Frank Forte M.D., No. 318 Roseville Ave. Newark N. J., that any appear-

ance by me, with the strain involved and the preparatory work necessary, would be injurious to my health. My health is not good.

“I was confined in St. Michael’s hospital for a period of forty days and I am still under medical care and it is necessary that I be driven to the Doctor each week for a check-up and medication.”

(1) *Who Shall Watch the Watchers?*

One of Mr. Weller’s above mentioned acts—the investigation of the Senate Committee by the LGCCC—reached the newspapers midway in the investigation. Although the implications of this abortive attempt to blackmail the Senate Committee into submission are grave, standing alone this incident might have passed for a single error in judgment.

Unhappily it proved to be only one link in a chain of affronts against the law, against civil liberties, and against common decency.

As well as it can be reconstructed from the pained testimony of reluctant witnesses, here is the story of the investigation of the Senate Committee.

The public announcement by Senator Jones of his intention to seek an investigation of the LGCCC was made March 10, 1958. The resolution was introduced March 17 and was approved March 24.

The LGCCC met on March 3, 11, 18, 25, and 31, 1958. At one of these meetings the Commissioners discussed the proposed investigation. Despite the minute detail of the minutes of these meetings there is no record of such a discussion.<sup>22a</sup>

(a) *The Request.*

There is general agreement in the testimony by the Commissioners, however, that at one of the March meetings Commissioner Lehman suggested that since no one knew

<sup>22a</sup> Minutes of LGCCC, March 3, 11, 18, 25, 31.

any of the three members of the Senate Committee perhaps Mr. Weller would be able to provide some biographical information on the Senators for the members of the Commission.

It was uniformly agreed by all the Commissioners that the idea of getting information, of whatever sort, did not originate with Mr. Weller. What he did once he got the idea is another story and we will come to that shortly.

(b) *The Biographies.*

Commissioner Lehman described the beginnings of the investigation of the Senate Committee in these words:<sup>23</sup>

“Q. Let’s hear what happened. Just what was said?”

“A. Just how it occurred, I don’t know, but it was the latter part of the meeting, and I know, as far as I’m concerned, I am quite naive and I think some of the members are as far as the setup of a committee to investigate our Commission, and a remark was passed, ‘Where are the Senators from?’ Unfortunately, we didn’t know where the various Senators were from, whether they were young people or old people; we knew nothing whatever about them. A remark was made, ‘Perhaps Mr. Weller can give us some information.’ And at that, it closed out. That was the end of the meeting.

“Q. Was Mr. Weller at that meeting?”

“A. Yes, Mr. Weller was at the meeting. When we appeared at the following meeting, Mr. Weller—I don’t think you’ve seen this, Senator. This is what we received at that meeting, and I swear that we have not changed it one iota.<sup>24</sup> I put down March 1958 on this; I might have been in error.”

The documents referred to by Commissioner Lehman are biographies copied word for word from Fitzgerald’s Legislative Manual, a copy of which is available at the office

<sup>23</sup> Private hearing, Lehman testimony, page 24.

<sup>24</sup> Private hearing, Lehman testimony, exhibit 1, see appendix.

of the LGCCC.<sup>24a</sup> (The biographies are reproduced in the appendix.)

The information in the biographies provides a startling contrast to the type of information sought by Mr. Weller in the investigation he caused to be made on the basis of a casual request by the Commissioners.

(c) *The Investigation of Senator Jones.*

Sometime after this Commission meeting in March 1958 Mr. Weller called in Mr. George Bergen, a veteran investigator for the Commission. According to Mr. Bergen, Mr. Weller said that Senator Jones was a "dago"<sup>24b</sup> who had changed his name. Mr. Weller said he wanted Mr. Bergen to go to New York City to check on the birth certificate of Senator Jones.<sup>25</sup>

Mr. Bergen's recollection of the conversation follows:<sup>26</sup>

"Q. Okay. Now, incidentally, just before you went over there in my connection, what other language did Weller use, in my connection? Tell me everything he said in my connection, as a man whom he never met before in his life and hasn't met me as yet, but whom he will meet.

"A. The only thing that I recall was changing your name. And he said, it comes to my mind, that your name was Gugliamo or some such name as that, and he said it was changed to Walter Jones and there must have been some reason for it and 'We'll find out the reason.'

"Q. So he said—

"A. Let me inject one thing. I didn't think it was an ethical thing to do.

"Q. You didn't think it was ethical?

"A. No. But I was told to do it."

<sup>24a</sup> Private hearing, Fletcher testimony, page 42.

<sup>24b</sup> Private hearing, Bergen testimony, page 21.

<sup>25</sup> *Ibid.*, page 21.

<sup>26</sup> *Ibid.*, page 22.

Mr. Bergen said he went to the Bureau of Vital Statistics in New York City and talked to the clerk there about the procedure for checking a record or getting a copy of a record. He said he was told that he would either have to have an authorization from the party whose record was being checked or from an insurance company in case of a death.

Mr. Bergen reported this to Mr. Weller in a telephone call from New York. Mr. Weller directed him to return to the office.

Mr. Bergen testified he had no further connection with the inquiry into the birth certificate of Senator Jones. He had some other duties bearing on it, however which he explained as follows:<sup>27</sup>

"I was sent to the Library in Newark to check out—I don't recall the name of the book, it has something to do with—like an attorneys listing, going back to, well, the year that you graduated from Law School, and I believe it has your listing each year. There's a book for each year and it has every attorney's name listed in there, and where your offices are located, and so forth. I checked those records.

"Q. You checked where I practice law, what year I was admitted. You checked—

"A. I was checking to see if that was your name all the way through from the time you left Law School."

On March 26, 1958 Mr. Weller resumed his efforts to find out whether the name of Senator Jones was, indeed, Jones.

Commission Investigator Charles E. Fletcher testified that he was called in by Mr. Weller on a date that was later established to be March 26, 1958. Mr. Fletcher said Mr. Weller directed him to go to New York City to see a Lieutenant of New York Police who would arrange for him to examine the birth certificate of Walter H. Jones. It was

<sup>27</sup> *Ibid.*, page 27.

subsequently brought out that Fletcher went to the Broome Street Headquarters of the New York City Police Department and saw a Lieutenant Heffernan (Hefferman).

A telephone call had been made from the LGCCC in Newark in preparation for Mr. Fletcher's visit. One of the employees of the Commission, one John Weston, at that time had a brother who was a Lieutenant in the New York City Police Department, Lieutenant Paul Weston. Through Lieutenant Weston a contact was made insuring a friendly welcome for Mr. Fletcher.

Lieutenant Heffernan took Mr. Fletcher to the Bureau of Statistics at 85 Centre Street, New York City. There they saw one L. Usher, the chief clerk in the Bureau of Statistics.

#### 1 *Fletcher's Look.*

Here is Mr. Fletcher's account of his cloak and dagger trip to New York City:<sup>28</sup>

"Q. What happened when you got in to see the Police Lieutenant?

"A. Well, I met him and I introduced myself to him, and he was aware of my coming, naturally, from the phone call, and he asked me what I was seeking and I told him that I was told to see you, 'I want to see a birth record or birth certificate of Walter H. Jones.'

"Q. Did you give him any more information than that?

"A. No. I told him it was of a confidential nature.

"Q. Why was it of a confidential nature? Did you explain to him why?

"A. No I didn't go into detail. I said, 'My orders are to keep this as confidential just between him and I.'

"Q. Who gave you those orders?

"A. Well, I was instructed—

"Q. By Mr. Weller.

"A. Yes.

<sup>28</sup> Private hearing, Fletcher testimony, page 15.

"Q. He told you to keep it confidential?

"A. Yes.

"Q. Notwithstanding that the Commission, according to Mr. Weller, had directed this whole inquiry. Is that right?

"A. Right.

"Q. What did the police officer say?

"A. Well, he says, 'All right.' Then he talked to another police officer there and asked him what he thought about the procedure. I was standing over here at the side and they were standing over here conversing in back of me. All I can say is that from the conversation I knew he was saying something about whether they had jurisdiction down there or not—it would be difficult—and should they try to contact somebody else, or what the procedure would be between them.

"Q. Now, let's stop there. From the conversation between the two police officers and from the unsuccessful attempt of Bergen, you knew that you didn't have any right to my birth certificate right at the minute, didn't you?

"A. Yes, sir. I knew I couldn't go there by myself.

"Q. You knew that you couldn't get it because you didn't have a right to it, and these men, in their conversations with you and with each other, indicated that they had no right to get the certificate either, didn't they?

"A. Uh—

"Q. Yes or no.

"A. Yes.

"Q. All right. Now, the problem then became how they could help you get the information by some other means than according to the accepted means; isn't that right? Or proper means.

"A. They were discussing it, yes.

"Q. They wanted to practically get for you what you couldn't get in any other lawful way; isn't that right?

"A. That's right.

“Q. So then they had a discussion on how that should be done. Is that right?”

“A. Yes.

“Q. Now what was that discussion? Take it over from there out.

“By Mr. Besser:

“Q. Did they eventually decide how they should get it?”

“A. It was determined that they would go down there, and they’d go down as a police officer and request it.

“Q. Did they go down there?”

“A. This Lieutenant and myself went down.

“Q. You went down to the Bureau of Records?”

“A. Yes.”

Eventually Mr. Fletcher was shown the record of birth of Walter H. Jones. He said he wrote down an exact copy of what was on the certificate. He then returned to New Jersey and gave the copy of the certificate to Mr. Weller.

But before leaving the Bureau of Records Mr. Fletcher topped off this astonishing performance with one final bit of chicanery. The Chief Clerk in the Bureau of Records insisted that both the Lieutenant and Mr. Fletcher sign a register.

## 2 *Fletcher's False Name.*

Mr. Fletcher said he signed a false name.

Here is his testimony:<sup>29</sup>

“Q. When you got this information in New York, did you call up Mr. Weller?”

“A. I didn’t call up Mr. Weller after I received the information; I called him up prior to receiving the information.

<sup>29</sup> *Ibid.*, page 23.

“Q. Where? At the Police Offices?”

“A. No, at the Hall of Records.

“Q. What did you tell him then?”

“A. I called him up relative to signing—the fellow there, the Head Clerk or whatever his title was, advised the Lieutenant that it would be necessary to sign, and I was reluctant to sign.

“Q. Did you sign?”

“A. Later on, I did.

“Q. What did you sign?”

“A. I signed an assumed name.

“Q. What did you sign? What was it that you signed?”

By Senator Jones:

“Q. What assumed name did you put down?”

“A. It might have been O’Brien, or Ryan—one of the two.

“Q. O’Brien or Ryan. What was the first name?”

“A. I just don’t remember.

By Mr. Besser:

“Q. What was it that you were signing? A receipt, or a request for information, or what?”

“A. No, the fact that we visited there. I think everybody has to sign the register.

“Q. You just signed the register.

By Senator Jones:

“Q. Didn’t you have to show some basis for receiving the information or being entitled to the information?”

“A. Well, the police officer identified himself by his badge and his name, and so forth, and then he signed, and I hadn’t signed.

By Mr. Besser:

“Q. And they wanted you to sign?”

“A. So then the fellow—we were ready to leave and he come over and he says, ‘The other gentleman didn’t

sign with you.' So he just naturally took it for granted—he didn't question me whether I was a member of the Police Department or anything. I just signed—well, I was introduced as a patrolman.

By Senator Jones:

"Q. You were introduced as a patrolman?

"A. When we went in, the police officer identified himself, 'I'm a lieutenant,' he says 'and this is officer so and so.'

"Q. Officer so and so. You represented yourself as a member of the New York City Police?

By Mr. Besser:

"Q. Officer what? He didn't say, 'Officer so and so.'

"A. Well, I had made up the name before. I said, 'I'll use the name Ryan.' I think it was Ryan.

"Q. Did you tell the Police Lieutenant why you were reluctant to give your correct name?

"A. Well, he—I told him it was a confidential matter.

"Q. He knew it anyhow, didn't he?

"A. I assume he did.

By Senator Jones:

"Q. He knew your right name.

"A. He knew my name, yes.

"Q. Sure, he did. He knew you were coming.

"A. That's right.

"Q. He knew where you were coming from, he knew why you were coming, and he knew your name. That's how he went on the assignment with you.

"A. That's right. He knew—he was aware of my presence and my coming.

"Q. So he knew you were signing a false name as well, didn't he?

"A. Yes. I told him I wasn't going to use my right name.

"Q. And he, incidentally, did not sign at all, or did he sign with you?

"A. He signed prior to my signing. Originally he signed.

"Q. Did he sign his right name?

"A. I believe he did.

By Mr. Consodine:

"Q. You said, Mr. Fletcher, that you telephoned Mr. Weller from the Hall of Records.

"A. Right in the building there.

"Q. The New York Hall of Records. What did you ask Mr. Weller on the telephone?

"A. I told him that we were down there and that this clerk there stated it would be necessary to sign an 'out' card or whatever, to see the file on the records. And he asked me—or I asked him if I should sign it, because I had been told when I went over there not to sign anything.

"Q. What did he say?

"A. If it was difficult to get, to forget about it.

"Q. Then what did he say?

"A. He asked me what it was and I told him that they requested us as being there that we had to sign this card or this register.

"Q. Did you say to him that you were going to sign a fictitious name?

"A. I don't recall if I said that to him.

"Q. Did he know then or after you returned that you had signed a fictitious name?

"A. I told him, yes.

"Q. After you got back?

"A. I told him—

"Q. And you gave the sheet of paper that had the information on it.

"A. Yes."

3 *Weller's Change in Mood.*

Mr. Fletcher's reception by Mr. Weller when he returned with evidence that Senator Jones' names was, indeed, Jones, is indicative of the strange character of the man.

He is Fletcher's account of what occurred when he returned:<sup>30</sup>

"Q. Did you ever hear of the Legislative Manual?

"A. Yes, sir.

"Q. You know there is a biography of every member of the Legislature in there, don't you?

"A. Well, can I comment relative to this?

"Q. Go ahead and comment.

"A. When I came back from New York and I came back with the information that I had—now, I don't even know if that's the book or not—and I gave this information to Mr. Weller, he told me that the trip was—'you shouldn't have gone. It was unnecessary.' He said, 'What you have given me here, I have learned from the Fitzgerald's Manual, Legislative Manual.

By Mr. Besser:

"Q. And when did that take place.

"A. When I arrived back.

"Q. He told you that when you arrived back?

"A. When I arrived back, he told me that the trip was unnecessary.

By Senator Jones:

"Q. He ordered it and then he said it was unnecessary?

"A. That in the meantime they obtained it from the Manual, Fitzgerald's Manual."

By Mr. Besser:

"Q. Obtained what?

"A. What I had there, outside of—basically what I had in there.

<sup>30</sup> *Ibid.*, page 32.

By Senator Jones:

"Q. Did my birth certificate appear in the Legislative Manual, Mr. Fletcher?

"A. Well, Mr. Jones, the information that he was seeking, he obtained from Fitzgerald's Legislative Manual, and then he pushed the paper over there; then he told me to go out.

By Mr. Besser:

"Q. What did he do with the paper?

"A. He put it down and I don't know what—

"Q. As a matter of fact, he was disappointed, wasn't he, when you came back with that paper?

"A. Well, I couldn't say if he was or not.

"Q. Did he express his disappointment?

"A. He told me—this is just the way—when I got back, I showed him what I had; I says, 'Here's the information I got,' and I told him what took place and, naturally, the procedure with the officer, and so forth, and he looked at me and he says, 'The trip was unnecessary. We have what we wanted. In the meantime we obtained it.'

"Q. Well, you told him you had signed an assumed name, didn't you?

"A. Pardon?

"Q. You told him that you signed—

"A. Well, I told him what took place.

"Q. What did he say then?

"A. I don't recall any comment on that, outside of, 'Well, if you did it, that's it'—something like that.

"Q. How much time elapsed between your departure from Newark and your return to Newark with this information?

"A. I would say it was around—about most of the afternoon.

"Q. Well, what time did you leave?

Senator Jones: Let's get the date, too.

By Mr. Besser:

"Q. When did you go? What day of the week.

"A. I don't even recall.

"Q. Well, fix it with respect to when these private hearings commenced. How many days before that?

"A. You mean the hearings we are presently in, or the open hearings?

"Q. No, the private hearings, the closed hearings. You recall when the men in the office were first subpoenaed.

"A. Yes, I was subpoenaed originally.

"Q. All right. How soon after that? Or did this happen before that?

"A. Yes, this took place the early part of the year some time. I can probably tell you the month.

By Senator Jones:

"Q. This took place after the Senate Resolution, Senate Resolution 6?

"A. Yes, it took place after that, possibly in—I don't recall; I don't think I had a top coat on, probably in April or sometime.

By Mr. Besser:

"Q. You went to New York after lunch, did you?

"A. I believe so, yes.

"Q. And you returned when? Around closing time in the office?

"A. I would say so.

"Q. Which is when?

"A. Between four and five sometime, I couldn't say.

"Q. Now, you said that you called Mr. Weller from the Bureau of Records. Right?

"A. Yes, sir.

"Q. On the telephone. *And at that time he didn't tell you that you should come home, that he already had obtained the information, did he?* (italics supplied.)

"A. No."

#### 4 The Cover-Up.

Fletcher's testimony, despite his efforts to withhold information that might be considered damaging to Weller, also disclosed that Weller embarked on a careful campaign to cover-up the investigation of the Senate Committee by disguising it as a mere effort to obtain a biographical sketch. Here is Fletcher's admission on that score:<sup>31</sup>

"Q. Wait a minute. My question is: Isn't it true that the phrase 'biographical sketch' was never used by Mr. Weller to you prior to the day that you went in and told him you had a subpoena (to a Senate Committee private hearing) and he told you to sit down, that he wanted to discuss your trip to New York several months before? And isn't it also true—I'll make the two questions one—that from that date to this, there has been constant repetition of 'biographical sketch' and you've been told by Mr. Weller and others to keep harping on that phrase? Isn't that true?

"A. I would say so."

There is additional substantiation of this camouflage attempt by Mr. Weller in the testimony of Investigator Bergen:<sup>32</sup>

"Q. All right, now I'm talking about in this connection. For instance, he's vitally concerned with what you are going to testify to here today. Now, has he ever suggested to you how you might testify here?

"A. No, only in a generality of 'we didn't make an investigation of you Senators, we only made a back-

<sup>31</sup> *Ibid.*, page 54.

<sup>32</sup> Private hearing, Bergen testimony, page 38.

ground check on you. The Commission wanted to know what kind of men they were dealing with.”

And in the testimony of Investigator Richard Philbin appears additional proof of Mr. Weller’s attempt to backpedal on the investigation of the Senate Committee:<sup>33</sup>

“Q. What did Mr. Weller have to say at that meeting?

“A. We were called in to receive subpoenas by a State police detective to come here and testify, and Mr. Weller at that time told us that we were going down there and they were probably going to do a lot of asking of questions, and he said, ‘Probably what will come up is the fact that the Senators were supposed to be investigated. Now,’ he said, ‘that was never no investigation. That was just a biographical background’.”

It has already been noted that the minutes of the meetings of the LGCCC for the month of March are barren of any reference to the request that was supposed to have been made to Mr. Weller to obtain some biographical information on the Senate Committee. It is an astonishing omission in view of some of the other references contained in the records of those meetings. For instance, the September 29, 1958 minutes state: “Mr. Weller reported to the Commission on his meeting with Mr. William Consodine, the Counsel to the Senate Committee.”

There was clearly a determined effort to keep the Senate investigation a sub rosa affair.

##### 5 *The False Report of Fletcher.*

This is further demonstrated in the false activity report submitted by Investigator Fletcher for March 26, 1958. Mr. Fletcher’s report of activity for that date reads:

“Arrived at office 8:45 a.m. Assigned to office. Left at 5:30 p.m. Arrived home at 7:15 p.m.”

<sup>33</sup> Private hearing, Philbin testimony, page 18.

On Monday of that week, March 24, 1958, Mr. Fletcher made the following activity report:

“Arrived at office 1:30 p.m. Left at 2:15 p.m. Conducted investigation of advertising of bingo by Sisterhood of Congregation A.A.B.C., Irvington, N. J. Inspected bingo conducted by St. Leo’s R. C. Church, East Paterson, N. J. Inspected bingo conducted by Paterson Ladies Auz. of Daughter’s of Miriam, Home for Aged, Paterson, N. J. Arrived Home 11:55 p.m.”

Mr. Fletcher deliberately omitted in his March 26, 1958 report to set forth his trip to New York City which occupied the entire afternoon. Mr. Fletcher admitted as much:<sup>34a</sup>

“Q. In other words, you in your activity report for this week falsified it to the extent that you stated you were in the office all day. Isn’t that so?

“A. Well, if you want to call it that, yes, sir.

By Senator Jones:

“Q. Well, what do you call it?

“A. Yes, I have to agree with you. I can’t——”

The investigation of Senator Jones was only one phase of Mr. Weller’s strange inquiry into the background of the Senate Committee.

##### (d) *The Investigation of Senator Sandman.*

At the same time that Mr. Bergen and Mr. Fletcher were directed by Mr. Weller to violate the New York statute concerning access to birth certificates,<sup>31</sup> Investigator Philbin was ordered to go after Senators Cowgill and Sandman.

##### 1 *Find the Skeleton.*

Mr. Philbin said he was called from South Jersey, where he resides, to the Commission office in Newark. There Mr.

<sup>33a</sup> Private hearing, Fletcher testimony, page 43.

<sup>34</sup> Public Health Law, State of New York, sections 4173, 4174.

Weller told him to go out and investigate Senators Cowgill and Sandman who came from his area of the State. The language of the order Mr. Philbin received was colorful:<sup>35</sup>

“A. Mr. Weller said that everybody’s got a skeleton and he wanted theirs.”

Mr. Philbin said he very clearly understood what Mr. Weller had in mind when he ordered the investigation of the Senators.<sup>36</sup>

“Q. And when he said ‘investigated’ to a trained investigator such as you, you understood that it wasn’t anything that was particularly biographical that you were concerned about. Is that right or wrong?

“A. That’s correct, nor complimentary.

“Q. Nor complimentary. In other words, in connection with Senator Cowgill or Senator Sandman, your investigation wasn’t going to concern itself particularly with whether they were married or not and whether they were practicing lawyers or not, or whether they had been elected Senator or not, or the like, was it?

“A. No, sir.

“Q. Your investigation was to determine what?

“A. Anything that we could dig up about them or against them.

“Q. Anything that would embarrass them in any way?

“A. Yes, sir, that’s right.”

## 2 *What Religion?*

The low level of the investigation that Weller ordered becomes crystal clear in the light of a telephone directive received by Philbin.<sup>37</sup>

“Q. O. K. Now, what was your next direction as it relates to either of them? You got a telephone call?

“A. Yes.

<sup>35</sup> Private hearing, Philbin testimony, page 20.

<sup>36</sup> *Ibid.*, page 20.

<sup>37</sup> *Ibid.*, page 22.

“Q. In connection with Senator Sandman?

“A. Yes, in relation to—

“Q. Now, who called you?

“A. Mr. Bergen.

“Q. What did Mr. Bergen say?

“A. He said, ‘What is Senator Sandman’s religion?’

“Q. Did he say who wanted it?

“A. I would be lying if I said yes or no, but I’m almost positive that he said, ‘The boss wants to know what Mr. Sandman’s religion is.’

It is difficult to conceive Mr. Weller’s reason for having any interest in the faith of Senator Sandman. The fundamental right of any person to worship according to his own beliefs is sufficiently well-known not to require any belaboring here. But it truly beggars description to find an agency of the Executive Department of the State of New Jersey calmly and successfully proceeding to investigate the religion of a member of the Legislature or anyone else.

This was a wanton abuse of authority.

It was a callous attack on civil rights.

It is a grave reflection on the Commission and the Executive Department of the State of New Jersey.

In any event it was done and Mr. Philbin shortly called back the Commission office and advised Mr. Bergen and Mr. Weller that Senator Sandman was a devout Catholic.

## 3 *Guilt by Association.*

The investigation continued:<sup>38</sup>

“Q. What other instructions did you get on Senator Sandman?

“A. I had no other instructions, other than to keep digging.

“Q. Did you dig?

“A. I didn’t have to dig because it is a matter of public record and I had reason at the time to know or

<sup>38</sup> *Ibid.*, page 24.

assume that Mr. Weller knew something about Senator Sandman, and if I didn't tell him I would be in a very precarious position. So I talked to Mr. Bergen about it and I said, 'I don't know if he knows it or not but I'm sure that he did that Senator Sandman and a gentleman from Wildwood had formed a corporation and had purchased a hotel.'

"Q. All right. Now, of what significance would that be to a Games of Chance Commission pursuant to the instructions that you received?

"A. Well, I believe that Senator Sandman—and this gentleman by the name of Ramagoso, who had a father who conducted games of chance on the boardwalk some years back, and Mr. Weller had spoken of Ramagoso on other occasions and said that he was the kingpin down there.

"Q. Kingpin of what?

"A. Of the boardwalk games.

"Q. Had he ever been convicted of any crime?

"A. That, I can't answer, Senator. I believe that at some time in the distant past Mr. Ramagoso had been arrested, I believe, for conducting bingo on the boardwalk maybe 10 or 12 years ago. That was his father. I'd like to make the distinction.

"Q. The father of Senator Sandman's partner, as you understand his partnership or his legal relationship.

"A. Yes, sir.

"Q. You never determined whether or not the arrest had led to a conviction or a dismissal of the charges or the like?

"A. No, sir.

"Q. You reported this information to Mr. Weller or to Mr. Bergen?

"A. Mr. Weller.

"Q. Direct?

"A. I talked to Mr. Bergen and he said, 'I think I better let you talk to the boss.'

"Q. Yes. So you directly informed him of what you had found?

"A. Yes, sir.

"Q. What did Weller say?

"A. He said, 'I want you to go to the Cape May County House and get a copy of the certificate of incorporation.'

"Q. Did you do that?

"A. I copied the essential parts of it.

"Q. In copying them on a piece of paper, did you then thereafter typewrite them?

"A. Yes, sir.

"Q. And then after having typewritten them, you then forwarded them to Mr. Weller?

"A. Yes, sir."

#### 4 *The Incorporation Papers.*

Mr. Weller had an abiding interest in the incorporation papers of Congress Hall of Cape May, Inc., the corporation formed by Senator Sandman and his partner for the purchase of that historic hotel.

Under the guise of investigating a series of corporations involved in rentals to charitable organizations, Mr. Weller secured another copy of the facts set forth in the incorporation of Congress Hall of Cape May, Inc. This occurred on June 5, 1958, the day of the Senate Committee's first public hearing.

Former Investigator John J. Wilson, Jr., testified that Mr. Weller gave him the names of two dozen corporations which he checked in the secretary of State's Office on June 5.

Wilson testified:<sup>39</sup>

"Q. I understand, but why did you get this particular corporation?

"A. Because that was involved in a rental, renting for bingo.

<sup>39</sup> Private hearing, Wilson testimony, September 17, 1958, page 40.

“Q. Who told you that?”

“A. Weller. All these incorporation papers that I went down for, I was sent down by Weller, for that reason.”

Congress Hall of Cape May, Inc. is engaged in the hotel business. Rentals to bingo organizations is not one of its commercial activities and Mr. Weller was fully aware of this. But in his usual conspiratorial way he blinded his actions even from his own investigator.

Mr. Weller's interest here appeared to be to establish a business relationship between Senator Sandman and the father of his partner—a man Mr. Weller regarded as the “kingpin of the boardwalk bingo games.”

Again, it is difficult to see what this had to do with the administration of the LGCCC or the narrower question of allegedly harsh penalties.

Mr. Weller went even further. He tried to find some connection between Senator Sandman and gambling activities in Cape May County over the past ten years.

Philbin described it:<sup>39a</sup>

“. . . I recall that I was also sent to the Atlantic City Press to get newspaper clippings on all the gambling activities in Cape May County for the past ten years.”

Mr. Weller tried the same thing with respect to Senator Jones.<sup>39b</sup>

“Q. In Cape May County?”

“A. Yes, Senator, that's correct. I also heard that he was looking into Bergen County too.

“Q. For gambling activities into Bergen?”

“A. Yes, sir.

“Q. Did he tell you that?”

“A. Yes, sir.”

<sup>39a</sup> Public hearing, May 6, 1959, Philbin, Vol. 1, page 47.  
<sup>39b</sup> *Ibid.*, page 47.

(e) *The Investigation of Senator Cowgill.*

The investigation of Senator Cowgill was far more restricted in nature. Here is Mr. Philbin's account of it:<sup>40</sup>

1 *The Libel Suit.*

“Q. How did you come to mention that?”

“A. Mr. Weller, after I was given the assignment, if I am correct in my memory—after I was given the assignment, I didn't do anything, and I was told, ‘Well, you don't have no other assignments tomorrow. You stay right on this job.’ And I believe as a result, the next day when I didn't find anything, I said, ‘The only thing that you'll ever find out about Senator Cowgill is that as a result, I believe, of his last election, or one of the elections he was in, someone had libeled him and it had went to court and he had won the verdict.’”

The testimony of Investigator Bergen also shows the emphasis on the investigation of Senator Cowgill was slight:<sup>41</sup>

“Q. How about Senator Cowgill, now. What did they say about Cowgill? What was his skeleton that they directed themselves to?”

“A. I believe the only thing was newspaper clippings on a law suit or a libel suit that the Senator made against a newspaper down there, I think that's what it was.”

2 *Conflict of Interest.*

Mr. Weller evidently decided in preparing his case against the Senate Committee that he would concentrate his attack against Senator Cowgill on the question of conflict of interest. Senator Cowgill had appeared before the Commission representing, without compensation and with full disclosure, the Holy Name Society of St. Bartholomew's R. C. Church of Camden. The Commission suspended the

<sup>40</sup> Private hearing, Philbin testimony, page 33.

<sup>41</sup> Private hearing, Bergen testimony, September 17, 1958, page 33.

license of the Society and related groups of the church for 12 months on a plea of guilty in December, 1957. From his statements to Commission employees Mr. Weller apparently felt that this appearance by Senator Cowgill rendered the Senator unfit to serve on the Senate Committee.

At least that is how he expressed himself in August, 1958, at Sherry's Restaurant in Pleasantville. Here is the outline of Mr. Weller's campaign against the Senate Committee as recalled by Investigator Philbin:<sup>42</sup>

"Q. How did he describe it?

"A. He was telling one or two or three employees, I forget, at the time, that when the Senate conducted their hearings he was coming down here and he was going to tell the Senators this: No. 1, Senator Jones, you are a member of the Investigating Committee and isn't it true, Senator, that you changed your name. Senator Cowgill—Isn't it true, Senator Cowgill, that you defended St. Bartholomew's Church in Camden? and, Senator Sandman, isn't it true that you purchased a hotel with a man by the name of Ramagoso? They were his words as to what he was going to tell each of you three gentlemen."

(f) *Weller's Plan.*

Later on in his testimony Mr. Philbin provided this final insight into the Weller theory of how to foreclose Senate investigating committees:<sup>43</sup>

"Q. To go back to the time when this discussion came up about having skeletons in the closet and then later, after the skeletons had been disclosed—at least in so far as they were—didn't Mr. Weller give voice to the opinion that, because Senator Jones had changed his name and because Senator Sandman had a partnership with a man whose father had been involved in some difficulty over games of chance and because I represented St. Bartholomew's Church before the Bingo Commis-

<sup>42</sup> Private hearing, Philbin testimony, page 27.

<sup>43</sup> *Ibid.*, page 35.

sion, we three were unfit to sit on a Committee to investigate the Bingo Commission?

"A. That is his words and that is his thought that that would be the end of the Investigating Committee.

"Q. And the connection between these various nefarious activities with which we three are supposed to have been connected and this investigation, in Weller's mind, was to the effect that we were unfit to sit in judgment or to sit and hear this matter. Isn't that so?

"A. That's correct.

(g) *Smother the Inquiry.*

"By Senator Jones:

"Q. Well, apart from being unfit, which you say he felt, wasn't there a larger aspect to that unfitness? Wasn't there the aspect here that we would probably refrain from pursuing our duties under this Senate Resolution?

"A. I believe that was the ultimate thought in back of his mind that, as a result of that, there would be no investigation."

So there is the distasteful story of the investigation of the Senate Committee.

Aside from its exposure of a tragic abuse of power, it also provides a revealing insight into how little the five Commissioners knew about what was going on, supposedly under their jurisdiction.

(h) *The Commission's Blindness.*

The Commissioners, right up to the time of Mr. Weller's retirement, never knew the true story.

Commissioner Lehman admitted it:<sup>43a</sup>

"Q. In other words, when you saw him (Weller) with Governor Meyner again, he just simply said it was a biographical sketch?

"A. That is right.

<sup>43a</sup> Private hearing, Lehman testimony, page 39.

“Q. So then in effect, you have come to realize that he hasn’t told you the truth, is that right?”

“A. Until we asked him about it.

“Q. Until you asked him about it.

“A. Right.

“Q. And then you found out that what he had told you before wasn’t true. Is that it?”

“A. He had not told the entire truth.

By Mr. Consodine:

“Q. And he hasn’t yet told you the entire truth, has he, if he did not tell you that he investigated the other two Senators?”

“A. That is right.”

(i) *The Commissioner’s Denial.*

The Commissioners sought to deny any knowledge of the investigation of the Senate Committee.

As Mr. Lane put it at the public hearing May 6, 1959:<sup>43b</sup>

“A. I think as I told you at the private hearings, Senator, as far as I know there was no investigation.”

Mr. Lane did concede, however, that the Commissioners did discuss with Mr. Weller the results of Mr. Weller’s investigation into Senator Jones’ name:<sup>43c</sup>

“... I know that we were told by Mr. Weller that the rumor which several of us had heard concerning your name was not correct.”

Mr. Lane’s public testimony also provided another clear example of how little the Commissioners knew about what was going on in the office:<sup>43d</sup>

“Q. When did you find out about Mr. Fletcher going to New York?”

“A. I am not sure, Senator. My recollection is that I didn’t find out about Mr. Fletcher, that is, Mr. Fletcher

<sup>43b</sup> Public hearing, May 6, 1959, Lane, Vol. 1, page 4.

<sup>43c</sup> *Ibid.*, page 6.

<sup>43d</sup> *Ibid.*, page 8.

going to New York, until Governor Meyner called Chairman Lehman and asked him what had happened and if that had occurred.”

So we have the interesting indication that Governor Meyner knew more about what was occurring at the Commission’s office than did the Commissioners.

Miss Brophy testified at one public hearing that “investigation is the wrong word”.<sup>43e</sup>

Had she stopped there, her testimony might not have been so astounding. But she went on to provide perhaps the most revealing insight into the callous attitude of the Commissioners.

Senator Cowgill reviewed for Miss Brophy the testimony elicited at both public and private hearings regarding the investigation of Senator Jones and the inquiry into the backgrounds of Senators Cowgill and Sandman. He then asked Miss Brophy if she thought that it was proper or improper.

Miss Brophy’s answer was somewhat of a classic.<sup>43f</sup>

“A. I think it was indifferently proper.”

Mr. Makin did not share Miss Brophy’s sense of positiveness. He wasn’t sure it was proper and he said so.<sup>43g</sup>

“Q. Did you think that it was proper? What concerned you? Let’s put it that way. A. I was concerned because there was a furor being raised over it. You ask me now if I consider it was proper. Frankly, I still don’t know. . . .”

Of course, Mr. Weller’s penchant for investigating people did not confine itself solely to the Senate Committee. We have the testimony of Investigator Segal that Mr. Weller did an investigation into the private life and religious affiliation of the Commission Chairman, Mr. Lehman, before Mr. Lehman became a member of the Commission.<sup>43h</sup>

<sup>43e</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 6.

<sup>43f</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 21.

<sup>43g</sup> Public hearing, May 8, 1959, Makin, Vol. 3, page 121.

<sup>43h</sup> Public hearing, May 6, 1959, Segal, Vol. 1, pages 3a-5a.

“Q. Now, what did Mr. Weller ask you to do in connection with Mr. Lehman? A. He asked me to make an investigation of Mr. Lehman in regard to his background and anything I could find out about him.

“Q. What did he say? A. He said that he wanted me to investigate Mr. Lehman and find out everything I could, his background, what organizations he belonged to, contributions to charities, etc.—an outline of what he wanted.”

Mr. Weller wanted all the details including Mr. Lehman’s religion, his voting record in Essex County, and the charities to which Mr. Lehman made contributions. Mr. Segal provided them, but he testified that they were all verbal reports to Mr. Weller, nothing in writing.

Mr. Segal testified he informed Mr. Weller that Mr. Lehman was a member of the Temple B’nai Jeshurun in Newark, was a contributor to a number of charities, and had voted in two Republican primaries and the rest Democratic.

What this had to do with his serving as a member of the Legalized Games of Chance Commission only Mr. Weller could say and he declined to testify.

One of the really astonishing examples of man’s inhumanity to man came in connection with some testimony offered by Mr. Lane on the subject of the investigation of Mr. Lehman by Mr. Weller.

Mr. Lane’s sole comment on this was injected in the course of his testimony, as follows:<sup>43b</sup>

“Now I want to make clear that this investigation—now referring to Mr. Segal—that Mr. Segal made of Mr. Lehman occurred before Mr. Lehman was appointed, or before his name was sent to the Legislature, and I think that is in Mr. Segal’s testimony but there seemed to be some confusion about it.”

That is the sum and total of Mr. Lane’s cold comments on the rank intrusion into the privacy of his fellow Com-

<sup>43b</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 92.

missioner’s private life. No apology—nothing but an icy setting-straight of the chronology. It must have given Mr. Lehman a reassuring feeling.

Late in the course of the May 1959 hearings, Mr. Lane conceded further knowledge on his part of the investigation that he initially insisted he knew nothing about.

It came in the course of questioning by Senator Jones in connection with Senator Sandman’s ownership of a Cape May hotel. Here is the questioning:<sup>43i</sup>

“. . . I knew of the corporate setup with Mr. Sandman sometime in May. How it came about, I did not know, nor what instructions were given.

“Q. You mean that Mr. Weller made a report on this Sandman corporate setup to you sometime in May? A. Correct.

“Q. You didn’t authorize that but he, in turn, reported it to you? A. That’s correct. As having been sent in, unsolicited, by Mr. Philbin.

“Q. Are you suggesting that Philbin made this investigation on his own? A. I’m merely telling you what was said when it was given to us.”

This comment by Mr. Lane, taken in context with the testimony of Mr. Philbin who was obviously so distressed at the instructions given him to go after the skeletons, can only raise doubts concerning the discernment of Commissioner Lane. Mr. Lane, like Miss Brophy, stuck with Mr. Weller right down to the end. Witness the following exchange:<sup>44</sup>

“Q. Yes, all of this business about getting skeletons and getting something on the Senators in question, and the intimidating aspects of the same. A. Well, I’m not willing to accept that Mr. Weller ever went out to get skeletons. If he did, then I can’t condone it.”

<sup>43i</sup> Public hearing, May 14, 1959, Lane, Vol. 4, pages 51, 52.

<sup>44</sup> *Ibid.*, page 55.

We pass now to other instances of the cavalier conduct of a State office by Mr. Weller apparently without the knowledge of the Commission members.

(2) *Jim Crow in the LGCCC.*

There has never been a Negro employee in the LGCCC. This is no accident. It was a deliberate policy of exclusion carried out by Mr. Weller.

The Commissioners disclaim any knowledge of it.

Miss Brophy said in response to the question:<sup>15</sup>

“Q. What do you think about an activity which investigates people for whether they are negroes or not as a condition of employment? Do you think that is a pleasant practice? A. I know that that practice is illegal in this State.

“Q. I am glad to hear you say it. A. And I know as a person I have no part of it and I know as a member of the Commission we never had any part of it.”

Mr. Lane answered:<sup>15a</sup>

“Q. Well, now, did you know about Weller’s investigation of the color of a prospective applicant? A. No, I did not.”

Here is Commission Chairman Lehman’s statement:<sup>15b</sup>

“Q. Mr. Lehman, I don’t know whether I asked you before, but I think I did: Were you aware of the fact that Mr. Weller had any prejudices in connection with people during your association with him? A. No. I had no knowledge of any prejudice.”

Mr. Lane was sure Mr. Weller had no prejudices:<sup>15c</sup>

“Q. All right. Fair enough. Now, do you want to give me your opinion in connection with Weller and any

<sup>15</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 27.

<sup>15a</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 30.

<sup>15b</sup> Public hearing, May 7, 1959, Lehman, Vol. 2, page 74.

<sup>15c</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 57.

prejudices that he entertained? A. I knew of no prejudices that he had.

“Q. You knew of none. A. That’s correct.

“Q. Having been with him for five years, you were able to observe that he had no prejudices. A. That’s correct.”

(a) *Investigation of Race.*

Mr. Weller was so anxious to avoid any chance employment of a Negro that he sent out investigators of the LGCCC to the neighborhoods of persons on Civil Service lists to determine whether any of them were Negroes.

Investigator Segal, who became acting Executive Officer on the resignation of Mr. Weller, testified he knew that there had been investigations of prospective employees to determine whether or not they were Negroes.<sup>16</sup>

The late Investigator Harry T. Pross, testified:<sup>17</sup>

“Q. Negroes?

“A. On two different occasions I was given the job of investigating—or I should say, going out to establish whether or not an applicant was a Negro or not. How I did that was to go into the neighborhood of the address given to see whether there were any colored families living there, and report back. Not with a written report but a verbal report or a report over the telephone.”

There was supporting testimony from Investigator John J. Wilson, Jr.:<sup>18</sup>

“A. Excuse me. On the colored situation, as long as the subject is up, more than one of us, speaking for myself, had to go out and find out if prospective female employees were colored, because he (Weller) made it quite clear that he didn’t want any colored employees and we were to go out and find out if the girls on the civil service list were colored or not.

<sup>16</sup> Private hearing, Segal testimony, November 7, 1958, page 19.

<sup>17</sup> Private hearing, Pross testimony, page 34.

<sup>18</sup> Private hearing, Wilson testimony, September 17, 1958, page 60.

"Q. He made you do that?

"A. Oh, yes.

"Q. And if you came back and said they were colored he wouldn't have them?

"A. Well, he didn't say that, but I'm sure—

"Q. Did he ask you to find out if they were colored?

"A. Oh, yes. And it was obvious why. It was obvious to me.

By Senator Cowgill:

"Q. As a matter of fact there were no colored persons hired.

"A. As a matter of fact, he made the remark more than once that he didn't want any colored people in there.

By Senator Jones:

"Q. And, as a matter of fact, he once was given a list of five names for stenographic help—six, five of them were colored—and he disqualified all of them as well as the one white person. Are you aware of that?

"A. No, but I am aware of this—he sent me down to the Newark Board of Education to inquire about one colored girl and I talked to Dr. Kinneally, Superintendent of Schools, and my report was that the girl was all right; they thought she was a very fine employee, nothing wrong with her at all. That's what I reported."

Former Investigator De Sesa pinpointed the avoidance of the Negro personnel on a Civil Service list:<sup>48a</sup>

"Q. Do you know of any particular people that this applies to that Senator Cowgill has suggested?

"A. Yes, sir. He (Weller) has had occasion to apply for a stenographer or a clerk or a typist. He was furnished the names of some 5 or 6 individuals who were at the top of a Civil Service certified promulgated list. He interviewed each of these individuals; they were all

<sup>48a</sup> Private hearing, De Sesa testimony, page 24.

women, five of whom were Negroes and one was white. None of them got the assignment. He reached out to some employment agency or somewhere else, some outside source, and obtained the stenographer that he has there today."

(b) *The Law Against Discrimination.*

It is difficult to imagine a more shocking and disgraceful practice by a responsible State employee charged with the administration of an office of State government.

R. S. 18:25-3 states:

"The Legislature finds and declares that practices of discrimination against any of its inhabitants, because of race, creed, color, national origin or ancestry or because of their liability for service in the armed forces of the United States, are a matter of concern to the government of the State, and that such discrimination threatens not only the rights and proper privileges of the inhabitants of the State but menaces the institutions and foundation of a free democratic State."

R. S. 18:25-4 adds these words:

"All persons shall have the opportunity to obtain employment, to all the accommodations, advantages, facilities, and privileges of any public accommodation and publicly assisted housing accommodations, without discrimination because of race, creed, color, national origin or ancestry, subject only to conditions and limitations applicable alike to all persons. *This opportunity is recognized as and declared to be a civil right.*" (Italics supplied.)

So we have the strange and unhappy picture of the Division Against Discrimination in the State Department of Education laboring diligently and energetically to insure the basic rights of all citizens, while another division of State government, the LGCCC, successfully blocks and frustrates the intent of the Law Against Discrimination.

This is a monstrous and inexcusable perversion of authority. If the Commissioners of the LGCCC knew of this policy they should be removed from office. If, as they insist, they were unaware of it, they deserve censure for failing to assert supervision over such a fundamental policy of the State.

From the story of Jim Crow in the LGCCC we turn to another grave charge against Mr. Weller.

(3) *Falsification of Records.*

The copy of the budget of the LGCCC as submitted for the year 1958-1959 shows that the Commission has eight automobiles assigned to it.

The testimony presented to the Senate Committee was that one of these automobiles, a 1958 Ford, was for the use of the Executive Officer, Mr. Weller, although it was technically assigned to Investigator Bergen.<sup>49</sup>

The office of the LGCCC is at 1100 Raymond Boulevard, Newark. Mr. Bergen resides in Neptune, New Jersey. Mr. Weller resides in West Point Pleasant.

Mr. Bergen testified that it had been his custom for the past few years to chauffeur Mr. Weller to and from work in the State vehicle, which was then parked for the balance of the day in a commercial parking lot in Newark at a \$15 a month charge to the LGCCC.

Mr. Bergen testified it was his custom to pick up Mr. Weller in the morning at West Point Pleasant and then drive up the Garden State Parkway and the New Jersey Turnpike to Newark.

(a) *Bergen's Expense Account.*

Here is his testimony regarding the use of State funds to pay for the toll charges involved:<sup>50</sup>

“Q. And this is a daily routine?”

“A. That’s correct.

<sup>49</sup> Private hearing, Bergen testimony, September 17, 1958, pages 1 and 10.

<sup>50</sup> *Ibid.*, page 3.

“Q. Approximately 60 miles, as I recollect, isn’t it? or more?”

“A. 60 or 70, somewhere between that.

“Q. Sixty or seventy miles. And you use the Turnpike daily. Now, who pays for the tolls?”

“A. Well, I do.

“Q. And this is a part of your expense account?”

“A. That’s correct.

“Q. And this is charged to your expense account or Mr. Weller’s expense account?”

“A. It’s charged to my expense account.

“Q. Your expense account. Tell me about how you file these expenses.

(b) *Weller's Instructions.*

“A. Well, I was told that I couldn’t show—

“Q. Don’t say ‘I was told’. Who told you?”

“A. Mr. Weller told me.

“Q. Mr. Weller told you you couldn’t show that?”

“A. I couldn’t show toll fees on my expense account and I would have to show as using my own personal car, putting in for mileage in order to get back the money that I paid.

“Q. O. K. In short and in fine, you spend how much a day to travel up and down the Garden State Parkway?”

“A. \$2.00 a day.

“Q. And roughly there are about 22 working days in a month?”

“A. Yes.

“Q. Approximately. So that 22 times 2 is \$44.00. You don’t put on your expense account \$44.00 for coming up and down the Parkway or the Turnpike.

“A. No, I do not.

“Q. You were told by Mr. Weller to put \$44.00 on your personal account and recover the money that way.

“A. That’s correct.

"Q. And your personal account is an account that has something to do with your personal car or your personal account in connection with investigations, which?"

"A. Well—"

"Q. Or both?"

"A. In showing that, it would show, as I said I was told to do, that I would have to put down either mileage on my car or as a meal, a phone call or some such thing as that, in order to get the money back that I had paid out.

"Q. All right. Now, to be perfectly clear about this, in other words you had to literally each month, apart from whatever your actual expense is in connection with your duties,—you had to add to that \$44.00 so as to be able to come out even or whole in connection with your total expenses, plus your Garden State and Turnpike toll fees. Is that right?"

"A. That's correct.

"Q. So, in order to do that, in addition to whatever your legitimate expenses are, you had to make charges in connection with things that had not occurred or did not exist and you had to create them for the purpose of getting an additional \$44.00.

"A. That's correct.

"Q. And this at the direction and order of Mr. Weller.

"A. That's correct."

Mr. Bergen, of course, was in a difficult position. He was an employee in an office which operated in an atmosphere which will be described later. He was aware that what he was doing was wrong and the Senate Committee does not condone what he did. But Mr. Bergen, at least, made a clean breast of what had been going on in the Commission office.

(c) *The Cover-Up.*

His description of the original conversation between Mr. Weller and himself on this subject shows clearly that Mr. Weller also knew it was wrong and intended that it should be covered up:<sup>51</sup>

"Q. Now, when Weller told you to do this, did you then or at any other time remonstrate with him or tell him that this was in effect, as you have already stated, falsifying an account and that you didn't want to do it?"

"A. I don't know that I remonstrated with him about it. I recall when it first took place I said, 'How do I get back my toll fees?' and I was told how to do it. He said, 'You'll have to do it by putting down as using your own personal car and in that way get back your money.'

"Q. And he told you to do it that way, sir, is that it?"

"A. Yes.

"Q. Did he make any other comments on that?"

"A. Yes, he did. He said *if I was ever asked I was to say that he pays the toll fees.*" (italics supplied.)

Mr. Bergen was one of the first investigators hired by the LGCCC. He began his service there in May, 1954. Until Weller's resignation, he had been what is referred to as an "inside man." He did few investigations, and was in the office for most of his weekly duties.

In confirmation of his story about the false affidavits, the budget request submitted by the LGCCC for the 1959-1960 fiscal year discloses that Mr. Bergen received in 1958 reimbursement for 7,950 miles of private transportation in the amount of \$556.50. This is in the face of the fact that he had a State car assigned to him.

(d) *Other Expense Items.*

One other interesting item appears in that same account. Mr. Weller is listed as having received a total of \$1,007.67

<sup>51</sup> *Ibid.*, page 8.

in expenses. Of this amount, \$825.37 is listed as reimbursement for private transportation of 11,791 miles. In view of Mr. Bergen's description of his devoted service as a chauffeur to Mr. Weller, it is difficult to understand how Mr. Weller could have driven himself 11,791 miles on his State duties.

The reaction of the Commission members to this testimony was diverse and startling.

Miss Brophy, out of her unbounded faith in Mr. Weller flatly refused to accept it.<sup>51a</sup>

"Q. Do you think it is improper for this committee when information is relayed to them that he is causing an employee to chauffeur him and pay tolls out of his pocket, to falsify on a state voucher the amount of money so he can get it back and doesn't have to pay it out of his own pocket, and that that was approved by Mr. Weller—do you think that was proper? A. There are two or three things I would like to say about that first: Item one, I know that Mr. Weller would be the kind of person who might say that and not really mean it at all. I think Mr. Weller would pay his own parkway fees. If I saw the voucher and it was testified and approved that this was actually the voucher and it had been proved that way, I would have to admit it was the truth. I have never seen that voucher. I don't know of my own experience.

"Q. You are not willing to accept the testimony of one of your own employees under oath that it is so? A. Let me say it is in the record. I accept it as part of the record.

"Q. You accept it as part of the record, but you are not convinced of the truth— A. I wasn't here when the statement was made. I didn't see the person making it. I am not sure which one did make it."

Mr. Lane in his testimony at the public hearing appeared more interested in proceeding against Mr. Bergen for filing

<sup>51a</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 24.

the false affidavits than in going after Mr. Weller for ordering them to be filed.<sup>51b</sup>

In fact, Mr. Lane indicated clearly that he had doubts about the truth of Mr. Bergen's testimony.<sup>51c</sup>

"Q. I can't ask you to assume any facts. All I can ask you is, did you know that Mr. Bergen was filing an expense account in connection with calling on places that he did not call on, having expenses that he did not in fact have, for the purpose of making up tolls for Mr. Weller's transportation from home to the office?

"A. No, I did not. And by my answer I do not mean to imply that I am willing to accept that testimony. I heard what he said."

Mr. Lehman was one member of the Commission who said flatly that the question of Mr. Weller's 11,971 miles of travel in his personal car would have to be investigated by the Commission in view of the testimony that Mr. Weller was chauffeured daily by Mr. Bergen.<sup>51d</sup>

Incidentally, Mr. Lane admitted that the fact that Bergen drove Weller around in a State car was known to him and, in fact, had the tacit approval of the Commission, despite the fact that Mr. Bergen had to go 22 miles a day out of his way to pick up Mr. Weller.<sup>51e</sup>

Despite this knowledge of Mr. Bergen's chauffeuring services, Mr. Lane testified that he regarded the 11,971 miles of travel that Mr. Weller claimed on his personal car as "perfectly reasonable."<sup>51f</sup>

Commissioner McGough has already testified publicly that he disbelieves Mr. Bergen, which presumably means that he has already made his mind up against Mr. Bergen on any departmental charge which may be brought against

<sup>51b</sup> Public hearing, May 14, 1959, Lane, pages 61 and 94.

<sup>51c</sup> *Ibid.*, page 34.

<sup>51d</sup> Public hearing, May 8, 1959, Lehman, page 66.

<sup>51e</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 35.

<sup>51f</sup> *Ibid.*, page 37.

Mr. Bergen as the result of his testimony on the false affidavits.<sup>51k</sup>

“Q. That’s right. A. I’m not a factual witness, but I do know as a fact that there are certain elements of credibility as far as at least three of these men are concerned, which I think are important and I think destroy that credibility.

“Q. You think their credibility is destroyed? A. I do.

“Q. In other words, because of the fact that Bergen was told to do this by Weller, according to his testimony, and he did it, he therefore should be disbelieved in full?

A. That’s your problem, sir. You have to sift—

“Q. I know it’s my problem, but you have passed upon it for yourself— A. Yes, sir, that’s my opinion.”

Mr. Weller had promulgated an office regulation that no one was to use the toll roads in New Jersey on State business without receiving explicit permission to recover expense money for such use. There was testimony on this from various investigators including the acting Executive Officer, Mr. Segal.<sup>52</sup>

Mr. Weller covertly violated the regulation he promulgated. He did it methodically for several years. More important than that, he directed a State employee to falsify an expense affidavit and instructed him explicitly in how to do it.

This was a criminal abuse of authority by a State official for the sole purpose of providing himself with a chauffeured commutation service from his house to his place of employment.

(e) *Alter the Report.*

There was also testimony by former Investigator De Sesa that Mr. Weller had directed him to falsify a report

<sup>51k</sup> *Ibid.*, Lane, page 122.

<sup>52</sup> Private hearing, Segal testimony, October 30, 1958, page 35.

on a bingo investigation. De Sesa had been an office man for the two years he was with the LGCCC. He was transferred to field investigation work in August, 1957, and was discharged after two nights of investigative work in the field.

Mr. De Sesa testified that one of the assignments he received was a surveillance of a carnival at St. Bartholomew’s R. C. Church in Camden. He submitted to the Senate Committee a copy of the report he prepared for the LGCCC concerning that investigation.

In brief, it told of his finding a Big Six wheel and two slot machines in one room on the church property. Mr. De Sesa testified that he left the church grounds after a period of time and was followed by a man who stopped Mr. De Sesa at his automobile and identified himself as a member of the Camden City Police Department, and, incidentally, a member of the St. Bartholomew’s parish. Mr. De Sesa said he drove off without revealing his identity to the officer, one Picou.

Here is Mr. De Sesa’s testimony:<sup>52a</sup>

“Q. Now, Exhibit 2 represents your report to Mr. Weller?

“A. A copy of my report, yes, sir.

“Q. And the original is part of the official files of the State of New Jersey today?

“A. Yes, sir, should be.

“Q. Let me ask you this: What did Mr. Weller want you to put in that report that you refused to put in?

“A. Upon my return from Camden, I gave him a verbal rundown of what I had observed down there. I hadn’t prepared the report as yet. The following day I made up this report and submitted it to Mr. Weller. When Mr. Weller received the report, he called me in and he said to me, ‘I want you to place Picou—’ He said, ‘Didn’t you say that Picou,’ this cop, ‘was in the room where the gambling was going on?’ I said, ‘No, I

<sup>52a</sup> Private hearing, De Sesa testimony, page 45.

did not.' He said, 'You certainly did.' I said, 'I did not.' I said, 'Anything I have in that report, Mr. Weller, I can attest to under oath.' Now, he wanted me to put in that Picou was in that gambling room—for some reason, I don't know. Maybe he wanted to use that as a means of getting back at me and dismissing me. So I said, 'Mr. Weller, anything that I got in that report, I can honestly swear to. If I insert what you tell me to insert in that report, I can't swear and attest to that, and I'm not putting it in.' The next day he told me I was through. He gave me 2 days' notice. He told me on a Thursday that I should look for a job on a Monday."

Mr. De Sesa's testimony is, of course, unsupported. If true, it represents a criminal effort by Mr. Weller to suborn a State employee. If true, it is, in addition, an effort by Mr. Weller falsely to involve another law enforcement officer in a violation of the gambling law.

#### (4) *The Reign of Terror.*

The central theme of all of Mr. Weller's dealings with charitable groups—control through fear—was also carried over to his relationship with the employees under his jurisdiction in the office of the LGCCC. The result was an atmosphere that was completely detestable, was a grave reflection on the State of New Jersey, and makes understandable the heavy turnover in employees in the Commission office.

#### (a) *Commissioner McGough Knew.*

Interestingly enough, Commissioner McGough testified he was aware of Mr. Weller's technique of control through fear:<sup>53</sup>

"Q. Do you believe that Weller believed in ruling this whole show on a fear basis?

"A. You are talking about employees?

"Q. Yes.

"A. I think that that was part of his technique, yes, to assure that the assignments were carried out as they were directed."

<sup>53</sup> Private hearing, McGough testimony, page 12.

#### (b) *Make Them Quit.*

One of the Commission investigator provided a succinct description of Mr. Weller's technique of operation. Investigator Philbin declared:<sup>53a</sup>

"A. There has been an awful turnover of employees in the office, people that I know from being there as one of the first original ones—I guess there's been about 10 or 15. Now, let me say this. Let me clarify that. I don't think Mr. Weller ever fired anybody, but *he has made it so miserable that they quit.*"

The Senate Committee is in complete agreement with the sound theory that persons in State employ should render a day's work for a day's pay. The Senate Committee also understands that office discipline is a basic requisite for the effective operation of any office and particularly one which relates to law enforcement.

#### (c) *The Weller Method.*

There can be no excuse, however, for the following examples of Mr. Weller's concept of personnel control:

1 *The Civil Service Carrot*—The statute establishing the LGCCC relieves the Commission from the necessity of hiring investigators in accordance with Civil Service regulations.<sup>54</sup>

Mr. Weller made some interesting use of this omission. He dangled the carrot of Civil Service in front of the noses of the Commission's investigators, on occasion assuring them that he was trying to get Civil Service status for them so they would have some job protection, and then turning around and threatening them for attempting to get it.

The following testimony is illustrative:

Investigator Wilson, private hearing, September 17, 1958, page 47:

"A. Well, he's made it quite clear that he's against Civil Service or tenure for us.

<sup>53a</sup> Private hearing, Philbin testimony, page 26.

<sup>54</sup> R. S. 5:8-21.

"Q. He just doesn't want you to have it?"

"A. Oh, no. Although he has said this—like he said to me, 'I'm going to get tenure for one or two of you fellows, like you, Johnnie, my friend.'

"Q. Meaning you?"

"A. Yes."

Investigator Pross, private hearing, September 22, 1958, page 4:

"Q. And tell us what Mr. Weller has to say about Civil Service.

"A. Well, Mr. Weller says that he has been trying for four years to get us Civil Service. That is the only proof that we got that he's ever tried—word of mouth. Mr. Weller also said that we don't have any rights at all. We only have the rights that he gives us out of the goodness of his heart.

"Q. He has told you you're there because he says so and you will disappear, if he says so.

"A. Right. And he's often made the comment that we do not work for the Commission, we work for Mr. Weller. He hired us and he'll fire us."

Investigator Bergen, private hearing, September 17, 1958, page 37:

"Q. What has he (Weller) got to say about Civil Service?"

"A. He doesn't want it. He doesn't want Civil Service because Civil Service is not good for us.

"Q. Why does he say Civil Service, for instance, isn't good for you.

"A. His statement is that Civil Service is no good because there is nobody in the place that could pass a test and he says 'you'll all lose your jobs if we put Civil Service in here'."

Former investigator John A. De Sesa, private hearing, September 17, 1958, page 20:

"Q. Well, now, why do you say that? Why would anybody be afraid to tell the truth?"

"A. Because he kept everyone constantly in fear of losing their job. He would call us in on many occasions and have a staff meeting. I don't know if he dreamt these things up or not—I personally think it was just a gimmick for him to keep us in line. He would say, 'There are letters going in to Trenton about making these jobs Civil Service. Now, if I find out who the one is in this group that's sending those letters down to Trenton, I'll fire him on the spot.'"

Investigator Philbin, private hearing, September 22, 1958, page 4:

"Q. Did you ever hear any discussion by Mr. Weller with respect to possible civil service status of yourself or your fellow employees?"

"A. There has been on the few occasions when I go to the office, which is not too frequent, at staff meetings mention of civil service and what he was going to do for the employees. Mr. Weller did not want civil service for the employees.

"Q. Why not?"

"A. That reason, I don't know, but his conversations with us were that you're working for me, not for the State, and I'll tell you what to do, and I'm going to get you all tenure of office. He was going to get tenure of office for us."

The other interesting use of the Civil Service omission by Mr. Weller was also an effort to retain as much personal control over office employees as possible. The statute only permitted investigators to be hired without regard for Civil Service. In the ordinary reading of the language, this would mean that stenographic and other clerical help would be hired in the normal manner of other State employees from appropriate Civil Service lists.

This was objectionable to Mr. Weller. For one thing, it gave him less personal control over his help. For another, it increased the likelihood of his having to hire a Negro from one of the Civil Service lists.

The roster of the LGCCC shows how he avoided the problem. Mr. Weller listed as investigators personnel whose entire workload was clerical in nature. Included as investigators are Anna Haggerty, who handles the bookkeeping for the Commission, and John Weston, whose only investigation work involves investigating the mysteries of the IBM machine which the Commission rented but had difficulty operating to any reasonable capacity. There are others. To call them investigators is to strain credulity to the breaking point.

In any event, at least one of the Commissioners, Mr. McGough, has indicated his belief that the Civil Service question should be reviewed.<sup>55</sup>

"Q. What have you done—come to a conclusion that it's best to keep as many people as possible off civil service? Is that your point?"

"A. Well, that's a policy that was inherited as far as I'm concerned, and I'm of the opinion that it's time to change. I think at the time when the office was originally set up, I suppose it was a matter of keeping a little more control over the employees. Essentially it was a law enforcement type of operation, but I think the time has come, as I said in the budget hearing we had a few weeks ago, when we should review that policy."

The Commission did review that policy. Nothing changed.

The decision was set forth in a letter from Mr. Lane to Senator Jones dated July 1, 1959:

"The consensus of opinion is that Civil Service status is not desirable for persons employed in investigative work. The ability to perform such work cannot be determined by an objective test. Civil Service hampers the administration of investigating or police organizations making it difficult to promote men who are best qualified to carry on a particular job and yet, perhaps, are not able to do well in tests or examinations.

<sup>55</sup> Private hearing, McGough testimony, page 9.

"One of the basic reasons for Civil Service is to protect the employees from wholesale turnover when there is a change in the administrator. Since under the Commission system where there are five Commissioners, no more than three of whom may be members of the same political party, it would not be possible to have a situation that would call for protection against wholesale turnover.

"The Commission feels strongly that the Legislature was entirely correct when, in its wisdom, it provided that the investigators employed by the Commission should not be covered by Civil Service."

The comment about wholesale turnover is particularly interesting in view of the wholesale turnover of former office employees to field service after they gave damaging testimony against the Commission administration to the Senate Committee.

2 *The Over Age Gimmick*—Hand in hand with the constant threat of job loss facing investigators by reason of the absence of tenure rights, was the psychological factor of age used by Mr. Weller with devastating effect.

The various investigators called to private hearings by the Senate Committee were men averaging 40 years of age. For instance, Investigator Pross was 37, Investigator Louis La Capra, 51, Investigator Fletcher, 38, Investigator Philbin, 40, and former Investigator Wilson, 50.

Each of them was completely aware that he was either approaching or had reached an age bracket where his discharge would bring him face to face with the inclination of industry to favor hiring of individuals under 40 years of age. They were embittered that Mr. Weller had used his own awareness of this fact of industrial life in his psychological war of nerves.

Former Investigator De Sesa testified:<sup>56</sup>

"A. I don't have much more to say other than the fact that I was very unhappy, as I mentioned earlier,

<sup>56</sup> Private hearing, De Sesa testimony, page 30.

and I was placed in a position where I feared being laid off because of my age. He would get into a conversation and say, 'Do you realize you're getting older, you fellows.'

"Most of the fellows assigned to his staff are fellows over 40. And he would tell us how difficult it would be for men over 40 to go out and get a job somewhere. In that way, he kept us in constant fear, and I was in constant fear."

Investigator Bergen said:<sup>57</sup>

"Q. Does he allude frequently to age, your age and men's ages around him and the difficulty they would have in getting a job, and the like of that?

"A. That's been said, yes. And he knows that most of us are all older fellows, not younger fellows, and it would be difficult for us to walk out and get a job today. He realizes that and holds that more or less over our heads."

Investigator Thomas Richards stated:<sup>58</sup>

"Q. That is something down there that worries people about being forced to resign or being fired?

"A. I am pretty sure, yes. As I say at my age, where am I going to get a job?"

*3 Far Distant Places*—The unlucky investigator who fell from favor with Mr. Weller could look forward to a series of impossible assignments in far distant places in New Jersey. This was known among the men as the Siberia treatment.

Before his discharge Investigator Wilson testified to his experience with this method:<sup>59</sup>

". . . Incidentally, I was given one time assignments by Flanagan three bingos to cover in one night in three different counties—Middlesex, Morris and Sussex. So I said to Flanagan, 'I couldn't do these with

<sup>57</sup> Private hearing, Bergen testimony, page 36.

<sup>58</sup> Private hearing, Richards testimony, page 20.

<sup>59</sup> Private hearing, Wilson testimony, September 17, 1958, page 55.

a god-damn helicopter, could you?' And he said, 'Well that's the assignment.' I mean, it was ridiculous. You couldn't even visit these places—

"Q. Was that a part of some program at that time to break your spirit?

"A. Oh, sure.

"Q. That was part of a program you believed to get you to quit your work?

"A. Oh, yes.

"Q. Or your job?

"A. Yes, sure.

"Q. Did you cover that assignment?

"A. No. When I got three assignments like that, I did this: I would cover the first two and it would depend on what the time was when I got through with the second one, and if I had, say, 20 miles to go and 5 minutes to get there before it closed, it would be ridiculous, so I would turn around and come home and mark on the third bingo inspection report 'Too late.' But we got those time after time, you see, and then you were in the position of not completing your assignment. It put you in a bad light and you realized it, which was part of the deal to break your spirit."

Former Investigator De Sesa described it this way:<sup>60</sup>

"A. Outside men, yes. You mean these assignments that are next to impossible? Yes. That seems to be the burying ground for undesirables for Weller. He buries the men; he discourages them that way; he puts them out and gives them these ridiculous assignments and then he calls them on the carpet, and the result is really designing—"

Here is Investigator Philbin's commentary<sup>61</sup>

"A. I don't believe so, Senator. It was a case where I had received an assignment by telephone, one in Camden, New Jersey, and the other in Somers Point the

<sup>60</sup> Private hearing, De Sesa testimony, page 16.

<sup>61</sup> Private hearing, Philbin testimony, page 5.

same night, and I was getting a little bit tired of trying to beat myself on the highway trying to get to these different places, and I got a little courage up and I said, 'Don't you think you're stretching things a little bit, from Camden to Somers Point?' And Mr. Weller happened to be on the phone.

By Mr. Besser:

"Q. Well, whom were you talking to?

"A. I was talking to Mr. Segal, who is one of the subordinates.

"Q. You mean that Weller was listening in on an extension?

"A. I'm made to understand as a result of that that he wanted to talk to me on some other matter and he had picked up the phone.

"Q. Has that happened before, when you thought you were talking to one person and someone else would be on another extension?

"A. Yes, sir.

"Q. With Mr. Weller listening in?

"A. Yes, sir.

"Q. On how many other occasions?

"A. I would say no more than six.

"Q. Has that happened to others, would you say?

"A. I don't know that, sir.

"Q. Will you tell the Committee how far it is from Somers Point to Camden?

"A. I guess it's a good 70 miles.

"Q. And your feeling was that it was a little tough to cover these two points in one night?

"A. Well, my explanation at the time was that if I was to do the job and do the job properly, I couldn't do the two of them in one night under those circumstances."

Investigator Pross also discussed the long distance treatment used by Mr. Weller:<sup>62</sup>

<sup>62</sup> Private hearing, Pross testimony, page 7.

"Q. Well, let me ask you this: In addition to that type of personnel administration by Mr. Weller, is it true that he has a tendency to give people the onerous and difficult assignments that he feels need either punishment or chastening of one kind or another?

"A. If Mr. Weller is in a good mood and you're not the whipping boy at that particular time—it seems that there is continuously a whipping boy, one or another, everybody takes a turn—you can be treated very fairly; then the next day you come in and you're the whipping boy, so you're sent to 'Jibib.'

"Q. Will you describe what you mean by 'Jibib.'"

"A. Sent far away.

"Q. Siberia.

"A. In other words, so that you spend a couple of hours traveling to do a job that might take you a half hour or an hour.

"Q. Did he change working schedules so as to make or give them most difficult hours and assignments?

"A. I don't know what you mean, Senator.

"Q. Well, I mean, did he take somebody off day work and put them to working at night, and did he give them more work to do in the night time than could be done, and the like, or not?

"A. Definitely. I've been there four years now and of the four years I spent, I would say, approximately three and a half years, a little less than three and a half years, on nights. Periodically I've been taken off, if a special job comes up such as going out after delinquent reports, or something of that nature, that had to be done during the day and cannot be done at night because you can't get the clerks at night, and get a few day hours in and go home at night.

"Q. Are you one of the fellows that's been in Siberia for a long period?

"A. I've spent my time in Siberia."

4 *Save Fear Itself*—The dangerous aspects of Mr. Weller's highly successful fear campaign became painfully obvious during the testimony of the investigators.

One classic example of how the investigators worried over Mr. Weller learning of the testimony they were giving came during Investigator Bergen's first appearance, September 17, 1958:<sup>63</sup>

“Q. In other words, he gave you, in talking to you—he wanted to make sure that you—

“A. Excuse me one minute. I would like to have somebody walk out and see if there's anybody downstairs because your voice carries and can be heard downstairs.”

The impact of Mr. Weller's campaign reached out beyond the investigators to their families. Investigator Pross described it:<sup>64</sup>

“. . . None of us can go on this way. You can't live with your family. You're constantly under pressure. You have to tell your wife, 'Don't answer the telephone. Don't talk to anybody. If the telephone rings, tell them I'm not home.' You never know when you're going to be called to work. You don't have any definite hours. It's supposed to be from 2 till 10 but the telephone can ring at 9 o'clock in the morning and you're told to come in. You're not told why you are to come in, just 'get in here.' So you worry. I live in Pompton Lakes, approximately 33 miles away, so I worry for 33 miles, and my wife worries until I can get out to the telephone and say, 'Well, no, it was just an assignment,' or something of that nature.

“Q. You don't mean to tell me that you're that frightened of Mr. Weller?

“A. Definitely. Physically I'm not frightened of anybody. I'm a pretty big man. I'm not frightened of anybody but for my family I'm frightened, constantly frightened.”

<sup>63</sup> Private hearing, Bergen testimony, page 39.

<sup>64</sup> Private hearing, Pross testimony, page 5.

Investigator Philbin made these comments:<sup>65</sup>

“Q. Would you say that the employees live under a constant state of fear, never knowing when the axe might fall on him?

“A. Definitely. It's a reign of terror.

“Q. Do you yourself feel oppressed or feel that your job is in jeopardy and might be taken away from you at any particular moment?

“A. Yes, sir, every day when I call in at 2 o'clock.”

Mr. Pross died of a heart attack this year. Mr. Segal also suffered a heart attack, in 1959.

5 *The Double Bank Game*—Mr. Weller was an ardent advocate of the system of setting one employee to watch another; espionage was his middle name.

Commissioner McGough testified he was aware of this operation:<sup>66</sup>

“Q. In other words, he used the technique of following or double banking a man.

“A. Well, not following, but he had two people in the hall. He might have a woman investigator playing bingo in the hall and have a routine inspection by one of the male investigators.

“Q. And without the knowledge of each other?

“A. Right.

By Senator Cowgill:

“Q. That's what you call an espionage system, isn't it?

“A. Well, I don't think it's unfair. I think—

“Q. You think that's all right.

“A. I think so. I don't think it's being unfair.”

We have already set forth on previous pages Mr. Weller's indelicate eavesdropping on the telephone conversations of his investigators.

<sup>65</sup> Private hearing, Philbin testimony, page 15.

<sup>66</sup> Private hearing, McGough testimony, page 13.

His distrust of the integrity of his men went far beyond clandestine listening on open telephone extensions.

Former Investigator Wilson said Weller warned the employees that he had an espionage system and once assigned Investigator Segal to follow Wilson on an assignment to Hackettstown.<sup>67</sup>

“A. Well, we had a staff meeting—this was a couple of years ago—and he said, toward the close of it, ‘Now, when you people leave here you better not say anything because I’ll find out about it. One way to build an organization is to have a good espionage system.’ And then he told us—we have undercover people, as you know,—and he told us that there were still other undercover people that we didn’t know. And everybody who goes out on my job is always fearful that there’s somebody coming behind them. And there’s justification for that, particularly in my own case because I know of at least one instance where a man did go up to Hackettstown. I was up to a Bingo inspection in Hackettstown—

“Q. And he was investigating you?

“A. He followed me up there to see if I actually covered that.

“Q. In other words, you went up to do an investigation for the Commission and then he went up for the Commission to do an investigation on you.

“A. Not the Commission, Weller.

“Q. Oh, for Weller, all right.

“A. I don’t believe that the Commission knew about these things. There’s an awful lot that they don’t know.

“Q. Who was the man who followed you?

“A. Segal.

“Q. Segal.

“A. Now, the reason I know that is because Segal told me.”

Since Mr. Wilson was subsequently discharged for reasons which included submitting a false report on an assign-

<sup>67</sup> Private hearing, Wilson testimony, September 17, 1958, page 24.

ment he did not perform, Mr. Weller’s suspicions were in his case confirmed. The failure of one employee, however, is hardly the reason for subjecting an entire office staff to the workings of a secret police.

The peculiar extremes to which Mr. Weller went along this line led to the case of the two-man office machine in which one \$5,000-a-year investigator spent two full working days watching another \$5,000-a-year investigator to make sure he ran a multigraph machine.

Former Investigator De Sesa brought this out at the first private hearing:<sup>68</sup>

“A. No, but what he did do, and I think you would be interested to know—we have a man by the name of Lou La Capra who is currently employed by Legalized Games. He occasionally went down to our basement where the multigraph machine is located and operated a multigraph machine. On one specific occasion, Mr. Weller didn’t believe that this man was giving him an honest days work; in fact, the question was raised as to how long he thought it would take to run off a certain project. The fellow gave him an estimate and they disbelieved what he had said. They thought that he was sleeping on the job, and what have you. He assigned an investigator by the name of George Bergen, who is also out here, to sit and watch Lou La Capra work and make sure that he worked every minute of the day that he was down by that machine. Now, those are conditions that I feel—

“Q. Assigned whom?

“A. George Bergen.

“Q. Bergen?

“A. B-c-r-g-e-n.

“Q. And is Bergen still employed and is La Capra employed?

“A. Yes, sir.

<sup>68</sup> Private hearing, De Sesa testimony, page 16.

- “Q. Was La Capra aware of this surveillance?  
 “A. Yes, sir; in fact, he resented it very much.  
 “Q. How long did this go on?  
 “A. Two days.”

Mr. La Capra confirmed this story.<sup>68a</sup>

Investigator Pross provided an insight into the operation of Weller's system<sup>68b</sup>

“A. Mr. Weller works everybody against everybody else. As an example, he'll call me in and say, 'Do you know what so-and-so said about you? He told me that you did this or you did that.' In the next breath, he'll call the person who was supposed to have told it and say, 'You know that guy Pross was just in here and you know what he said about you?' Now, I know this for a fact because many a time I was called in and I was told that somebody said something about me and I went out and said, 'Now look, why did you say this about me, or what did you do that for?' He'd say, 'Well, I never said a word. He told me that you did the same thing.' Then he'll continuously say, 'I hate a rat. I don't like anybody to come in and squeal on anybody else.' But if you're going to go in—and I've heard this from other fellows, too—go in and squeal on somebody, the door is open and the ear is open to listen to them.”

6 *Your Time is My Time*—As a part of his concept that the LGCCC was his personal kingdom, Mr. Weller exhibited a complete disregard for the personal time of the investigators.

Investigators had to write reports on their own time. Sick leave was to all intents and purposes abolished.

Governor Meyner's executive order directing a 4:30 p.m. closing time for State offices in the summertime was countermanded.

<sup>68a</sup> Public hearing, May 7, 1959, LaCapra, page 69.

<sup>68b</sup> Private hearing, Pross testimony, page 22.

Investigators had to work overtime without pay.

Here is Investigator Pross's description of a typical day in the life of an investigator:<sup>69</sup>

“A. Say I worked the night before and got home at 11:30 or 12 o'clock. You get home and have a bite to eat, read the newspaper, so you're in bed by 1 or 1:30. You get up 8:30 in the morning, go down and have a cup of coffee and a little bit of breakfast. It's now a little after 9 in the morning. You have to sit down at that time and start writing your reports on your work for the day before. Your reports have to be written before you come into the office. No time is allotted in your work day for writing reports. So, if you had three investigations, two inspections, or one or two investigations in the afternoon from two o'clock on it takes you another hour and a half to two hours to get that work done. Now it's 11:30. So, you go upstairs and you shave, take a shower, get partially dressed, eat your lunch at 12 o'clock—I leave the house at 12:30 or 25 minutes to 1 to get down to the office at 2. That's five days a week. So I see my children a half hour, when they come home from school at 12.

“Q. When you get to the office at 2 that's when your regular day's work begins?

“A. Right, that's when I get my assignment.

“Q. All right. What about the week-ends? What about Saturday and Sunday?

“A. Well, we haven't been worked—I say 'we', me, on Saturday—I would say about a year since I've worked on Saturday. Two years ago we worked six days a week, under the same conditions. The reports had to be written.

“Q. Well, didn't you get paid for your overtime work?

“A. Definitely not.

“Q. Never got paid for Saturday work?

<sup>69</sup> Private hearing, Pross testimony, page 8.

“A. Never got paid one thing outside of our regular salary.”

Pross also gave a clearcut example of what happened to the sick leave rights of employees.<sup>70</sup>

“A. No. Definitely not. In fact, I was out with bursitis in my arm—this is back in 1955—and I was out a week—no, 7 days, that would be a week and a half; when I returned to the office I was told that any more time I missed I would be docked for; not, ‘How are you?’ or ‘How do you feel?’ but ‘If you miss any more time, you’re going to be docked’.”

Mr. Weller’s attitude on sick leave reached down to all the Commission employees and resulted in a truly astounding sick leave record. The budget request submitted by the Commission for the year 1959-1960 under the heading “Total number of sick leave days taken by employees during expended year divided by total budgeted positions” shows that employees averaged only 1.4 days sick leave in 1956-1957 and 3.3 days sick leave in 1957-1958.

The directives of Governor Meyner and the habits of other State officers with regard to the time of State employees had no effect on Mr. Weller.

Investigator La Capra testified:<sup>71</sup>

“Q. Are you familiar with the directive of Governor Meyner that State offices be closed at 4:30?”

“A. Yes, sir.

“Q. Do you know what year that came down or approximately what year?”

“A. I don’t know exactly the year. I know ever since I have been there the State office has been closed at 4:30.

“Q. Did your office close at 4:30?”

“A. We never closed at 4:30.

“Q. What time did you close?”

“A. Five o’clock.

<sup>70</sup> *Ibid.*, page 12.

<sup>71</sup> Private hearing, La Capra testimony, page 3.

“Q. Was any reference made by Mr. Weller as to why you stayed later?”

“A. We were working for Mr. Weller, not for Governor Meyner.

“Q. Was there any directive of the Governor or any other State official on very warm days?”

“A. Yes, sir, a call would come in—we would hear about it—that State offices would be closed at 2:00 o’clock on a hot day, but it was the same thing as on 4:30 closing, that he was the boss and we—

“Q. And he would make that remark in words of that import?”

“A. That’s right, sir.

“Q. During your term of employment has it been the custom of the State to give Saturdays off to State employees?”

“A. Yes, sir.

“Q. Did you receive Saturdays off?”

“A. We received them off. No, excuse me. We worked on Saturdays, most of us did, and after a while he cut out working on Saturday, but just for a few and there were three of us who had to alternate on Saturdays, come in one Saturday every three weeks with the provisions that we would get off on Wednesday of the next week.

“Q. Did you ever receive compensatory time off for that Saturday employment?”

“A. We started to get a couple of Wednesdays off and then that was taken away from us for no reason whatsoever and there wasn’t anything said about it.”

Former Investigator De Sesa is still attempting to recover 22 days of overtime which he testified was due him when he was discharged by Mr. Weller. Here is his testimony on that score:<sup>71a</sup>

“A. At the outset, I might mention that Mr. Weller conducted that office somewhat different than any other

<sup>71a</sup> Private hearing, De Sesa testimony, page 12.

State agency. The Governor issues a directive the beginning of each summer to the effect that all State offices shall close at 4:30 P. M. each work day. Mr. Weller compelled us to remain until 5 P. M. each day. Mr. Weller also circulated a directive, issued by him and was signed by all the office employees, to the effect that any one employee who working six days in any week would receive compensatory time for those days. However, he never fulfilled that promise to grant us the compensatory leave. He had dismissed me and deliberately refused to pay me 22 days Saturdays and one Sunday that I had accumulated in compensatory time, and informed me that I had no rights as an employee, because I was an unclassified State employee. I made several attempts——”

In the early days of the Commission, before the investigators had State cars assigned to them, the investigators used their own automobiles and were allowed mileage expenses. Mr. Weller refused to permit investigators to file expense accounts showing mileage over 1,000 miles in a month.

Here is Investigator Pross's account of this policy:<sup>72</sup>

“Q. And you got paid so much for mileage?

“A. Right. Seven cents a mile. But I was told I could not put in over 1,000 miles.

By Mr. Consodine:

“Q. A month, a year, or what?

“A. A month. But there were many times that I was sent out and I put twelve, fourteen, fifteen and sixteen hundred miles on my car and was told to swallow it, put in 998 miles, swallow the other miles, that we cannot put in over a thousand miles.”

*7 Apple for the Teacher*—Despite the general softening effect of the Christmas season, it is difficult to conceive

<sup>72</sup> Private hearing, Pross testimony, page 14.

of Commission investigators banding together to buy a Christmas gift for Mr. Weller. Yet this happened in each of the past few years under the usual abrupt persuasive methods that were standard Commission operation. The result netted Mr. Weller in successive years a pen and pencil set, a legal brief-case and a barometer as tokens of the esteem in which he was held by the staff. These presentations were made at a Christmas party which everyone attended, or else. There was testimony that one investigator who neglected to carry out this yuletide duty was discharged.

The great feeling of cheer that permeated the party was described by Investigator Richards:<sup>72a</sup>

“Q. Were the employees at this party robust drinkers or very light drinkers?

“A. Very light because it wasn't a party that you could enjoy on account of the same story—Mr. Weller is there and everybody was just under pressure and they just kept—it wasn't a party that you could enjoy.”

Investigator La Capra provided some information on the general aspect of the Christmas party:<sup>73</sup>

“Q. Do you know anything about the case of a James J. Goodwin of Short Hills?

“A. Well, I was told—he was there before my time—that he was fired for not attending a Christmas party.

“Q. Have these parties continued during your time of employment?

“A. They have, sir.

“Q. Can you tell me something about the Christmas parties, who starts them, what the purpose is and how much money you have to contribute?

“A. Well, we all have to contribute and we all have to go and it was collected by Mr. George Bergen. We have to put so much money in and then we have to add

<sup>72a</sup> Private hearing, Richards testimony, page 27.

<sup>73</sup> Private hearing, La Capra testimony, page 5.

to that to get a gift for Mr. Weller, who, whenever he got his gift, didn't like it too much—what we gave him, but for what we had money, that is all we could afford.'"

This was the story of the reign of terror. Compare it with Commissioner McGough's statement that he knew the methods Mr. Weller used to control the personnel of the LGCCC.<sup>73a</sup>

Miss Brophy had quite a different attitude. She testified at the public hearings that she did not know anything of any such conditions in the Commission office and that given a choice between the sworn testimony of investigators and any statement by Mr. Weller, she would believe Mr. Weller.

When questioned on why she had never looked into working conditions in the Commission office she testified.<sup>73b</sup>

"I never felt there was any need for it."

(5) *Gross Favoritism.*

There were interesting inconsistencies in Mr. Weller's generally rough treatment of Commission employees.

(a) *The Pregnant Stenographer.*

One such case involved a woman stenographer who is probably one of the few State employees in history who was on the payroll while being delivered of child at the Irvington General Hospital.

Another involved a man investigator who received the same pay as the acting Executive Officer but whose sole duties consisted of delivering envelopes to the office of Commissioner Merritt Lane, Jr. This \$100-a-week messenger was described as Mr. Weller's boyhood friend.

The woman was Mrs. Helen Smyth, who was described in testimony as a very competent stenographer. According to the testimony, Mrs. Smyth left the Commission office several months before the birth of her child, but was retained on the payroll. A Commission typewriter and other

<sup>73a</sup> Private hearing, McGough testimony, page 12.

<sup>73b</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 31.

office equipment were taken out to her home in Irvington and work was delivered to her daily by Commission Investigators. Mrs. Smyth remained on the payroll all through her confinement. When she returned home she was still on the Commission payroll and continued to type whatever work was brought to her. This peculiar arrangement of a part-time employee receiving full-time pay and delivery service continued for several months until she resigned.

The Senate Committee's attention was called to this arrangement by former Investigator De Sesa:<sup>74</sup>

"A. I could cite one concrete example—his very first stenographer who was employed there when I first became associated and affiliated with Legalized Games: he had a girl by the name of Smyth, Mrs. Smyth. She was classified as an Investigator at \$4,500 a year, doing stenographic work. She was carried on the payroll, which is a matter of record, gentlemen, all during her pregnancy. She was carried, as I understand, on the payroll while she was delivering a child in the Irvington General Hospital, which is also a matter of record. She was carried on the payroll and permitted to work out of her home after the child was born, and an investigator at \$5,500 a year, with a State car, was assigned to go up and pick up one or two letters a day. That went on as long as Weller was willing to go along. This girl finally, when the end came and Weller wanted her to come back to work, she decided to give up the job."

The acting Executive Officer, Mr. Segal confirmed the account given by Mr. De Sesa. Oddly enough, it came following Mr. Segal's description of the firm office policy that investigators were supposed to make personal calls, not to do their work by telephone:<sup>75</sup>

"A. This has been said, Senator Jones, that if we wanted to make a telephone call they could do it from the office and they wouldn't need the investigator to go

<sup>74</sup> Private hearing, De Sesa testimony, page 21.

<sup>75</sup> Private hearing, Segal testimony, November 7, 1958, page 30.

out, they wouldn't assign an investigator to go out. That was said by Mr. Weller.

"Q. All right. We won't argue it. Now, what appears to be the policy, and I'm not prepared at this time to call it into dispute. Isn't it true that Helen Smyth was on the payroll while she was delivering a child?

"A. Before the delivery, yes. She left the office before she had the baby.

"Q. Well, now—

"A. And after that, too; yes, sir.

"Q. Let's get it straight.

"A. Before and after. That's right, Senator.

"Q. In other words, she was on the payroll all through the time of her pregnancy, delivery, and after. Isn't that right?

"A. That is correct.

"Q. Now, she was an Investigator?

"A. No, she was not, Senator.

"Q. What was she?

"A. She was a stenographer in the office.

By Senator Cowgill:

"Q. Do you know her title?

"A. That was not her title. Her title was Investigator.

By Senator Jones:

"Q. Well, what are we talking about?

"A. I say her title was investigator but her duties that she performed was that of a stenographer.

"Q. Now you mean that literally she came in every day and typed up the work that was handed to her by whoever her boss was?

"A. That's right, Senator.

"Q. Who was her boss?

"A. Mr. Weller.

"Q. So that she was Mr. Weller's Secretary?

"A. That is correct, Senator.

"Q. She took shorthand?

"A. Yes, sir.

"Q. Did she transcribe shorthand?

"A. Yes, sir.

"Q. And while listed as an investigator, she was nevertheless a stenographer in all respects.

"A. That's right, sir.

"Q. She never made an investigation?

"A. Not as far as I know.

"Q. Well, as a matter of fact, she was not in the office for many, many months. Isn't that right?

"A. Yes, sir. Several months.

"Q. Well, how many months?

"A. I wouldn't say exactly, sir.

"Q. You say several, by that meaning two or three, I assume.

"A. No, considering the before and after, I would say approximately five or six months.

"Q. Five or six months you say.

"A. Approximately. I'm not certain but I'd say approximately that, Senator.

"Q. O. K. So that, in connection with Helen Smyth who was employed with the title of investigator and who discharged the duties of a stenographer only, she wasn't in the office for a period of five or six months.

"A. Approximately.

"Q. And it is also within your knowledge that in that period of time she was not doing any work, isn't it?

"A. She was doing work at home.

"Q. Work at home?

"A. Yes, sir.

"Q. She took dictation at home?

"A. Mr. Lane does part of the dictating on a record and those records with the papers are sent to the office and they were delivered to her home and then picked up each day. How much work or the extent of the hours she put in, I wouldn't be able to say. *It wasn't a full day's work, I'd say that.*" (italics supplied.)

Mr. Lane also knew about this unusual arrangement since Mrs. Smyth's duties at home consisted of typing up work Mr. Lane dictated on records. Mr. Lane's explanation for this novel office-away-from-the-office arrangement is interesting:<sup>75a</sup>

"Q. She was the woman who—as I recall the private testimony and even your private testimony—she was the woman who was permitted to work at home? A. That's correct.

"Q. Because of her pregnancy. A. No. Because we couldn't get anybody to do the work."

The occasional shortage of qualified stenographers is always an administrative problem, but it is unlikely that any other private or public employer at this period found it necessary to go to such extremes to get the work done.

Mrs. Smyth was not called as a witness by the Senate Committee but she did sign an affidavit after being interviewed by Committee Counsel Consodine. In it she recited:

"During my employment with the Commission, I lived in Irvington, New Jersey. My home was approximately five miles from the Commission office. In mid-October, 1956, I wanted to take a leave of absence because I was pregnant. At that time the Commission was short-handed. Although Mr. Weller and Mr. Lane had made every conceivable effort to obtain additional help, they were unable to do so. At their request I continued to do work for the Commission while staying home awaiting the birth of my son. I continued this work at home through the day before I went to the hospital. I went to the hospital on November 10, 1956. My son was born November 11, 1956, which was a Sunday and also Veterans Day. The following Monday, November 12, 1956, the office was closed. I was taken off the payroll November 13, 1956.

"At the request of the Commission I again started to do work for it at home during the early part of January,

<sup>75a</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 33.

1957. I was able to do this because my son did not need too much care. I stayed on the payroll until April 9, 1957. I stopped the work because my son was becoming of such an age that I had to devote more time to him and could not continue to do the work for the Commission.

"The work I did while at home was primarily for Mr. Lane. He would dictate correspondence, notifications of proceedings, minutes of meetings, findings, determinations and orders, reports and other matter on a Soundscriber record. These records would be brought to my house in the morning. I would transcribe them, spending at least 7½ hours a day some of which would be done at night. Such work as I had done would be picked up in the evening."

Commissioner McGough testified he knew about this most unusual arrangement:<sup>76</sup>

"Q. Did the question come up or was it discussed that she was carried on the payroll?

"A. Yes, I can recall that it was discussed.

By Senator Jones:

"Q. I want you to feel a responsibility now.

"A. I can recall that question coming up but I knew about the work being delivered to her home.

"Q. O.K. But you didn't do anything except to take it as you found it on Weller's reports, if there were reports?

"A. Right."

(b) *The \$100-a-Week Office Boy.*

The \$100-a-week messenger was Michael Dwyer, a former Newark police officer. Mr. Dwyer's duties were described succinctly by Investigator La Capra:<sup>77</sup>

"Q. What were Mr. Dwyer's duties?

"A. Well, he would go up to Mr. Lane's to pick up an envelope two or three times a day and that was about it."

<sup>76</sup> Private hearing, McGough testimony, page 11.

<sup>77</sup> Private hearing, La Capra testimony, page 17.

Mr. Weller was intimately aware of Mr. Dwyer's minimal performance, according to the Acting Executive Officer, Mr. Segal:<sup>78</sup>

"Q. All right. But the fact of the matter is that Weller knew that he was performing practically no duties for all this period of time.

"A. If anybody knew it, he should have known it. You see, he assigned them."

The pathetic background to the Mickey Dwyer story was provided by Investigator Pross who revealed what happened when the Senate Committee investigation got under way:<sup>79</sup>

"A. Mickey Dwyer was on the job 8 hours a day, 5 days a week. Now, if you want me to, I'll explain what his job was. When Mickey Dwyer was first with the Legalized Games of Chance Control Commission I was told—I was not there at the time, I was not then employed—I was told that he was an Investigator like anybody else, he was sent out in the field and made inspections, investigations, and so forth. Then around the time I was employed he was given a job—or kept inside. Now, what he was supposed to do, I don't know—what his job was, because every time the man did anything he was told he was wrong. He handled the mail. He took care of the scrap book. I guess they have a news service or a service that sends clippings from all papers to the Commission, and he pasted them in there. And he did everything in his power to try to keep himself busy but every time he did anything he was told he was wrong and then, finally, it worked out where he wasn't doing anything. Nobody would talk to him. Weller would never talk to him, only on occasion he'd talk to him. The man didn't know what he was supposed to do. He'd sit there making out an activity report each day. He'd copy that about four or five times. He had a little black book that he wrote in all day. And this went on for years until the man became a physical wreck.

<sup>78</sup> Private hearing, Segal testimony, November 7, 1958, page 36.

<sup>79</sup> Private hearing, Pross testimony, page 50.

"Q. Who hired Dwyer?

"A. I wouldn't know. I guess Mr. Weller did. From what I understand, Mr. Weller and Mr. Dwyer were raised together.

"Q. But all this time Dwyer was kept on the payroll at full pay, wasn't he?

"A. Yes, he was.

"Q. Even though he was just keeping scrap books and doing little things that meant nothing?

"A. Right. *Then when this hearing broke out, and right after the first public hearing, back in June, Mr. Weller started to send him out nights with other investigators. And the man worked with me, I would say, for three weeks. He was beyond the point of reason. He was mentally sick. (Italics supplied.)*

"Q. This is Dwyer?

"A. Mickey Dwyer. He was mentally sick, in this respect, that he didn't know where he was going. He would often ask about Mr. Weller, 'Do you know Mr. Weller, the fellow that's in charge of the Bingo Commission? Gee, I haven't seen him in a long time.' Things like that. He couldn't remember where he was. Several times I had to chase him. We'd go into a place to make a bingo inspection and I turn around and Mickey Dwyer wasn't there. I'd excuse myself and go out of the building and catch him walking up the street and he'd tell me that he was going to catch a bus, and we'd be in Red Bank or we'd be in Freehold, to go home.

"Q. And Dwyer isn't working for the Commission any more, is he?

"A. Nope. From what I understand, it was suggested that Mickey Dwyer take a six months leave of absence. And from what I understand now, he is not on the payroll any more. This is from what I understand now; I don't know if this is an actual fact. And the last I heard he was in a psychiatric ward up at the Veteran's Hospital in East Orange."

The final chapter in the Mickey Dwyer story was provided by Mr. Segal:<sup>80</sup>

“A. The only thing I can say is that he wasn’t up to par as far as I could see, and you couldn’t assign anything of importance to him to do. And, of course, what occurred, I don’t know, but I know that when he terminated I found out or I heard that he was in the East Orange Veteran’s Hospital. They first thought he might possibly have a tumor on the brain, and then, of course, it was revealed that he had hardening of the arteries. Then his daughter came in to see Mr. Weller and I was called in at that time. They wanted to transfer him either to Lyons or to Overbrook, and they live in Caldwell, and Mr. Weller said, ‘You’ve had quite a lot to do with veteran groups before coming here, do you know the situation? What do you suggest, Mr. Segal, do you think they should send him to Lyons or to Overbrook?’ and I suggested that I thought if he’d go to Lyons Hospital he’d have better care, more morale building than he would in the other place. I had been to both places and I suggested that I would advise Lyons.”

So we have the contrasting picture of Mr. Weller setting Mr. Segal on the trail of Mr. Wilson to be sure he carried out his duties, while under his nose in the office Mr. Weller’s old friend sat in hopeless befuddlement, sat and collected his paycheck for doing nothing. The element of personal ties in the Dwyer case makes it more readily understandable, if inexcusable. But there is nothing understandable about the Helen Smyth case. For an administrator as strict and unyielding as Mr. Weller to turnabout and authorize the payment of full salary to a no-show employee is beyond comprehension.

Each of these cases is gross favoritism, pure and simple. Each is the more stark and improper because it appears against a background of stern and spartan-like control over other employees.

<sup>80</sup> Private hearing, Segal testimony, November 7, 1958, page 36.

(c) *The Case of Scotch.*

One other case of discrimination by Mr. Weller came up during the public hearing. This involved a favor done for one of the large suppliers of bingo supplies. According to former Investigator De Sesa, he was directed by Weller to run off a list of all the active organizations in bingo and raffles.<sup>80a</sup>

De Sesa said Weller told him it was for the Commission. De Sesa testified he later saw a representative of the Roberts Supply Company of Newark leave Mr. Weller’s office with the cards.

That Christmas, De Sesa testified, the Roberts Company sent a case of Scotch liquor to the LGCCC Christmas party. It was partly consumed and the balance of the Scotch was taken home by Mr. Weller.

Mr. Lane testified subsequently that he had checked into the story and found out it was not a case of liquor but six bottles. He said he had called Mr. Weller and Mr. Weller told him he did not receive the remaining bottles but that they were taken home by Mr. Bergen.<sup>80b</sup>

Getting down to the nub of the entire approach to the problem came this exchange between Senator Jones and Mr. Lane:<sup>80c</sup>

“Q. Now, whether Mr. Weller got it, whether Mr. Bergen got it, or whether it was a case or six bottles, do you consider that a sound administrative practice for a law enforcement body in a very sensitive area? Do you?”

“A. I would prefer it had never happened, Senator.”

(6) *Discriminatory Language.*

It is distasteful to recount the customary language used by Mr. Weller in referring to various charitable organizations and individuals. His discrimination against Negroes

<sup>80a</sup> Public hearing, May 8, 1959, De Sesa, Vol. 3, page 91.

<sup>80b</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 46.

<sup>80c</sup> *Ibid.*, page 46.

has already been recited. His discrimination did not end there.

(a) *References to Charitable Organizations.*

He habitually referred to Roman Catholic priests as "a bunch of professional thieves" and to the Moose and fire companies as a "bunch of Goddamned drunks."

(b) *Reference to Commission Employees.*

His behind-the-back reference to a Jewish Commission employee as "Judas" or the "Christ killer" beleaguers description.

Here is a list of some of his more frequent usages from the testimony of Commission employees:

Investigator Philbin:<sup>81</sup>

"A. Some of the employees. I believe he calls Mr. Segal 'the Hebe', and 'Judas', and 'Christ killer' . . .

"A. Yes, he has a name 'old satchel face' for one of the women employees in the office . . .

"A. He has said that some of the priests are a bunch of racketeers."

Investigator LaCapra:<sup>82</sup>

"Q. Did he refer to you by any other words?

"A. Dago."

Former Investigator Wilson:<sup>83</sup>

". . . 'Johnny, these priests are no good.' . . .

"A. Well, the Moose, the fire companies, the Elks, and all the fraternal organizations—the fire outfits, they're a bunch of 'Goddamn drunks'.

Investigator Pross:<sup>84</sup>

"I've heard Mr. Weller make the statement that priests are the biggest crooks in the State of New Jersey."

<sup>81</sup> Private hearing, Philbin testimony, page 11.

<sup>82</sup> Private hearing, LaCapra testimony, page 10.

<sup>83</sup> Private hearing, Wilson testimony, September 17, 1958, pages 27 and 29.

<sup>84</sup> Private hearing, Pross testimony, page 32.

". . . I can remember Mr. Weller saying that veterans are nothing but a bunch of bums and a bunch of loafers."

"A. Well, I've often heard him say—we have several Italian boys that work in the office and I have often heard him refer to them as 'Ginnies' and 'Walyos'."

"A. Well, I mean, ordinary cuss words are part of the regular vocabulary. In fact, he's often bragged that he's the best curser in the world, he's the teacher, he wrote the book."

Investigator Bergen:<sup>85</sup>

"A. Well, the Moose—he was Governor in the Moose at one time but they're a bunch of thieves also, and they have ways of getting the money, sending it to the Moose Heart and getting it back to use for other purposes, if they want to do it that way, ways of burying the money, in other words, the funds . . ."

There was testimony that Mr. Weller's remarks stemmed not so much from any specialized prejudice against the individuals or organizations involved but from a general prejudice against anyone involved in operating bingo and raffles. Several of the investigators who told of his verbal attacks on priests, veterans and fire companies mentioned that he, himself, had associations with the very people he used so poorly in his everyday language. Mr. Bergen's reference to Mr. Weller's having been a Governor of the Moose is one example.

Investigator Wilson summarized this point:<sup>86</sup>

"A. That's right. I would like to clear up that little matter. When I say he wasn't bigoted in that sense—he's a Catholic, how could he be—but if they happen to be Episcopal Priests or Presbyterian Ministers playing bingo, it would have been the same. In other words, the reason these priests were no good, according to him,

<sup>85</sup> Private hearing, Bergen testimony, September 17, 1958, page 44.

<sup>86</sup> Private hearing, Wilson testimony, September 17, 1958, page 35.

is because they happen to be the conductors of the bingo games and he's not satisfied with what they're doing and, therefore, they're a bunch of thieves; just like the Moose are a bunch of drunks. Nobody's any good. No organization is any good. I wanted to make that clear that it wasn't just the—because they're Catholic, they just happened to be Catholics. It could be Jewish. He's made disparaging remarks about Jewish organizations, too."

(7) *Mr. Weller and the Commission.*

(a) *The Commission's Regard.*

All of the Commissioners testified fully as to the high regard in which they held Mr. Weller. Commissioner Lehman set forth his feelings in a public statement when Mr. Weller resigned.

Although the Commissioners did not realize it, it was a one-sided love affair.

The testimony of Commission employees revealed that Mr. Weller had grave doubts about the abilities of any of the Commissioners and did not hesitate to express his generally low regard for them.

(b) *Weller's Remarks.*

His remarks about the Commissioners ranged from impolite to insulting and some of them are set forth here. Aside from another insight into the strange character of Mr. Weller, they show again how the Commissioners were living in a dream world all their own:

Investigator Segal:<sup>88</sup>

"Q. Well, tell us what he said about Mr. Lehmann.

"A. He didn't know what it was all about, or something to that effect. . .

"Q. What about Mr. Lane?

"A. He thinks he's a Supreme Court Judge, or something to that effect. . .

<sup>88</sup> Private hearing, legal testimony, November 7, 1958, page 46.

"Q. What about Miss Brophy?

"A. If I remember right, he called her an 'old wash woman,' several times."

Investigator Philbin:<sup>89</sup>

"Q. Have you ever heard Mr. Weller refer to members of the Commission?

"A. I have not heard him specifically give a name which in any cases he has for individuals to the Commission. I have heard him at his speeches say 'my commission' and 'I'll tell them' and that 'they're a bunch of dopes'."

Former Investigator Wilson:<sup>90</sup>

"Q. And he says, 'I'm the boss.'

"A. Yes. And 'I'm running this God damned outfit and who the hell does Lehmann think he is?' He has said that on occasion. And on other occasions, Lane. And on another occasion he said to me, 'These five jerks in there,' referring to members of the Commission. . . .

"Q. Did he ever call Lane an egotistical snob?

"A. Yes, more than once, and made slurring remarks about his Princeton background."

Investigator Pross:<sup>91</sup>

"Q. What is Weller's opinion of Lane, as you've heard him express it?

"A. Well, I can't say what Mr. Weller said about Lane as an individual but I can tell you this that Mr. Weller on several occasions has called the Commission a bunch of dopes—

"Q. That's everybody?

"A. Right.

"Q. That includes Mr. Lane?

"A. Right.—on the Commission that know nothing of the law, they don't know the first thing about the law, they depend on him.

<sup>89</sup> Private hearing, Philbin testimony, page 10.

<sup>90</sup> Private hearing, Wilson testimony, September 17, 1958, pages 27 and 49.

<sup>91</sup> Private hearing, Pross testimony, page 61.

“Q. How about Makin?”

“A. I think that one time he called Mr. Makin a ‘lard ass.’ He said, ‘He comes up here and he can’t wait to get out to get over to eat.’”

Investigator Bergen:<sup>92</sup>

“A. Well, he’s called Miss Brophy—Miss Brophy is more or less a scatterbrain; she doesn’t know what she’s doing there and she only comes there just to be there and to go out for the meal that they have afterwards and have a laugh and have a talk but as far as she’s concerned she knows nothing and she’s just on the board, that’s all.

“Q. That’s the Governor’s most recent appointee.

“A. Miss Brophy, that’s right.

“Q. What about the others? What does he say about them?

“A. Well, Mr. McGough, he hasn’t said too much about him, although he’s a young lawyer, he’s coming up, and maybe some day he’ll be a bright boy. Words to that effect. I can’t go into exact words, but ‘he’ll learn eventually.’”

#### (8) *The Borderline of Subornation.*

We have seen in the preceding account that Mr. Weller was an eminently successful dissembler who deluded the Commission into thinking he felt for them the same respect they publicly expressed for him.

It is not the only example of Mr. Weller saying one thing in one place and doing exactly the opposite undercover.

#### (a) *The Dissembler.*

When the newspapers in September 1958 first carried reports of the fact that the Commission was investigating the Senate Committee Mr. Weller made a statement which appeared in a newspaper as follows:<sup>93</sup>

<sup>92</sup> Private hearing, Bergen testimony, pages 40 and 41.

<sup>93</sup> *Newark Evening News*, September 19, 1958.

#### 1 *Public Comment.*

“Arthur Weller, executive director of the Commission, said his only instruction to the investigators who were subpoenaed to appear before the Jones Committee was ‘to tell the truth.’ He said he has not talked with the investigators who testified about what they said *because that would be an improper act.*” (Italics supplied.)

#### 2 *Private Acts.*

Mr. Weller’s statement to the newspaper was sound in theory. In practice it became rather chopped up.

The previous pages describing the investigation of the Senate Committee have already set forth Mr. Weller’s frantic attempt to label as ‘biographical background’ an exploration into the antecedents, religion, and law practice of the members of the Senate Committee.

#### a *Warning to Pross.*

But the most clearcut demonstration of Mr. Weller’s dual code of honor comes from the testimony of Investigator Pross. Pross disclosed that on the same day Mr. Weller made his high-flown statement to the newspaper that it would be improper to talk to the investigators about their testimony, he was warning Pross that someday he would find out every word said before the Senate Committee.

The newspaper statement appeared on September 19, 1958. Pross said the previous day, September 18, 1958, Mr. Weller had called him into his office.

This was one day after the first private hearing at which former Investigator DeSesa and Investigators Wilson and Bergen were questioned. Here is Pross’s account:<sup>94</sup>

“A. My investigation—was nil. In other words he was implying that he had something else on his mind. And Mr. Weller turned around to me and said, ‘You know, I’m no dope’—which I agree with, he’s no dope.

<sup>94</sup> Private hearing, Pross testimony, page 65.

He said, 'I know a little bit about investigating,' and he said, 'don't you think that I won't find out someday every word that each and every one of these men said down there before that Committee.' "

**b Effort to Influence.**

This was a clearcut attempt to intimidate Mr. Pross who was scheduled to be and was a witness at a subsequent hearing.

Mr. Weller went beyond that. He attempted to color any testimony Mr. Pross might have been called on to give regarding the discharge of former Investigator De Sesa. Here is Pross's account of that incident:<sup>95</sup>

"A. Mr. Weller told us that we were to come down and tell the truth but in the same breath would say, 'Now, you remember this, this is the way it happened.' Referring to the day that Johnny De Sesa, after he was discharged, came back to the office to find out why he was discharged and what he had coming. And I was sitting—this was during that period of time that my desk was in Mr. Weller's office—I was sitting there and I listened to the conversation and I heard the conversation. In other words, he more or less, to me, refreshed my memory in his way of thinking. In other words, 'This is the way it happened.'

"Q. In other words, Weller knew that De Sesa had been subpoenaed by this Committee. Right?

"A. Yes, I believe he did.

"Q. He knew that De Sesa was a dismissed employee; he had dismissed him, as a matter of fact.

"A. Right.

"Q. And he knew that one of the items that was a part of De Sesa's record here—a part of De Sesa's record with the Commission was that there had been a conversation in which he and De Sesa had made certain statements to each other, which you knew because you were in the room, of necessity, and would hear.

<sup>95</sup> *Ibid.*, page 22.

"A. Right.

"Q. So, Weller called you in when this hearing came on for hearing, or when this matter came on for hearing, and he began to talk to you about what happened—

"A. Right.

"Q. —at the meeting between him and De Sesa, at which you were present.

"A. Right.

"Q. Now, he didn't tell you that he wanted you to testify in one way or another, did he?

"A. No.

"Q. He just told you what it was that he said happened.

"A. Right.

"Q. And what inference did you take from what he said had happened, to you? Did you take any inference from that, coming from him?

"A. Well, I didn't particularly like it.

"Q. All right. You didn't like it.

"A. I mean, I knew what was said. I was there.

"Q. All right.

"A. I didn't have to have anybody remind me of the way it transpired.

"Q. Well now, the way he put it, was it exactly true the way he put it or did he give it to you the way that would sound best or—

"A. Oh, the way it would sound best, definitely. A man's voice has a lot to do with the way he speaks to a person. Right?

"Q. Right. Now, I want you to tell this Committee in your own language, the point that you are trying to make, if any, of Weller coming to you and saying, 'Now, you were in the room when De Sesa and I talked.' What was the real point that he was trying to make? What was the thing that he was trying to achieve with you?

"A. *He was trying to get me to say what he wanted me to say.*" (italics supplied.)

c *Pumping Bergen.*

Mr. Weller also tried to wheedle some information on testimony out of Investigator Bergen after Mr. Bergen's appearance on September 17, 1958. Mr. Bergen drove Mr. Weller home, as usual, that evening, and he recounted what happened:<sup>96</sup>

"Q. And did he ask you then about what your testimony was?"

"A. He didn't come out directly and ask me, no. But he hinted that maybe I should say something to him. . ."

And on the next morning driving up to work, the pressure continued:<sup>97</sup>

"Q. What did he have to say to you the next morning?"

"A. The discussion was about the newspaper article, (concerning the Commission investigation of the Senate Committee) that the focus was on me more or less."

d *After the Hearing.*

Mr. Weller, of course, tried several other means of exerting some sort of control over the testimony of the Commission investigators.

On the day of the first private hearing, all the investigators were instructed to meet Mr. Weller in Trenton at an early hour. They went together to the Attorney General's Office. Mr. Weller sought, unsuccessfully, to have a representative of the Attorney General's Office appear with the investigators at the private hearing. Deputy Attorney General David Satz, according to the testimony, advised them to appear without counsel and to tell the truth.

The investigators uniformly had the feeling that Mr. Weller was attempting to have an attorney appear with them so they would be testifying under some restraint.

Former Investigator Wilson's testimony discloses this:<sup>98</sup>

<sup>96</sup> Private hearing, Bergen testimony, September 22, 1958, page 2.

<sup>97</sup> *Ibid.*, page 3.

<sup>98</sup> Private hearing, Wilson testimony, September 17, 1958, page 5.

"A. But the whole truth is this: Not so much what he actually said, but in other words I was told, among others, that it would be advisable—I was given an unmistakable, clear impression that it would be a good idea for me to be represented by a Deputy Attorney General.

"Q. Why?"

"A. Well then maybe I wouldn't be able to talk.

"Q. And they're afraid that you'll talk. Is that it?"

"A. It's my belief that they're afraid that any one of us will talk.

"Q. And when you say, 'they,' you mean Weller and who else?"

"A. I just mean Weller."

Investigator Pross was quite definite on the result that would have come from the investigators appearing with counsel:<sup>99</sup>

"Q. Incidentally, do you feel the need for any counsel?"

A. Definitely not. If I had counsel here, I wouldn't be talking.

"Q. You mean if you had the Attorney General here?"

"A. That's right.

"Q. If you had your own lawyer here you'd be talking, wouldn't you?"

"A. Definitely, but I have no—"

"Q. Well, do you need your own lawyer?"

"A. Definitely not. I have nothing to hide. I'm here to tell the truth."

On the morning of the first private hearing, September 17, 1958, after his unsuccessful effort to have a Deputy Attorney General assigned to the investigators, Mr. Weller left his men and went to the Stacy-Trent Hotel lobby in Trenton.

He was not at the hearing, but the impact of his presence was on each of the investigators who testified.

<sup>99</sup> Private hearing, Pross testimony, page 38.

Before the first witness was called, Investigator Wilson went to the Stacy-Trent Hotel to inform Mr. Weller of the progress of the hearing.

The reason he gives for this volunteer effort on his part discloses that Mr. Weller apparently intended to keep a close hand on the men at this first hearing.<sup>100</sup>

“A. I told him that no one had been called yet, to let him know that it looked to me like a long hard summer. And incidentally, we were supposed to meet with Weller after it and I preferred not to meet with Weller and I figured if I told him it was going to be a long hard session that maybe he would take off. I had a personal interest in telling him. It wasn't a favor to Weller, it was to do myself a favor.

“Q. What was that?

“A. Well, I didn't want to meet with him after this was over.

“Q. You don't want to meet with Weller again after this?

“A. No, but after this whole thing was over we were all to get together and talk it over.

“Q. In other words, when everybody had been called in here today Weller had issued the instructions that you all get together and talk over your testimony. Is that right?

“A. That's right.”

**(9) *The Non-operating Business Machine.***

The budget application by the LGCCC for the fiscal year July 1, 1959 to June 30, 1960 contains the following item under the heading “F-30-303-05 Rent: Office Appliances”:

“Installation of IBM equipment in order to simplify record keeping and filing, has been accomplished during the past fiscal year. The \$5,880.00 figure is a set figure for the rent of this IBM equipment for one year.

<sup>100</sup> Private hearing, Wilson testimony, September 17, 1958, page 12.

“The installation of this equipment will result in greater accuracy in the Commission's work and an ultimate saving to the people of the State.”

The Senate Committee understands the great contribution to efficiency that can be made by business machines, but the above glowing language is at variance with the testimony taken concerning the use of the machine installed at the office of the LGCCC. This is not intended as any reflection on the machine. It is definitely intended as a reflection on the fact that it had not been put to any practical use between July and December 1958 when the private hearings were underway.

The testimony of the acting Executive Officer, Mr. Segal bears on this point:<sup>101</sup>

“Q. The system's not working, is it?

“A. Not to my satisfaction, to my knowledge.

“Q. Nor to anyone else's satisfaction?

“A. No, sir, I wouldn't say so.

By Mr. Consodine:

“Q. It hasn't been used very much, has it?

“A. Except for punching cards and getting cards ready with names of the organizations and things like that, and filing them. That's all. No pertinent information.”

Another office man, Investigator Richards, testified as follows:<sup>102</sup>

“Q. You have an IBM machine, down there, do you not?

“A. Yes.

“Q. You got it in last April or thereabouts?

“A. Well, I'd say part of it came in about April or May of this year.

“Q. Has it been used up to the present time?

<sup>101</sup> Private hearing, Segal testimony, November 7, 1958, page 55.

<sup>102</sup> Private hearing, Richards testimony, page 27.

"A. We don't know what is going on as far as the IBM machine is concerned. There was one fellow on that.

"Q. That is Mr. Weston?

"A. Mr. Weston was sent to school and what he is doing on the operations of the IBM machine, I really couldn't answer. The only thing I could say, not that I am knocking IBM, but in a department like that, I think it is just an expense to the State.

"Q. Has the machine been used since it came in last April?

"A. It is being used. What he is doing with it—the operation he is doing on it, I couldn't explain.

"Q. Has any operation on the IBM machine since it came in last April contributed anything to the efficiency of the Bingo Commission?

"A. No."

Even more revealing is the testimony of Investigator La Capra, also an office worker:<sup>103</sup>

"A. Yes, he was the boss. Mr. Weller was a great guy for doing this—the idea of the IBM machine was brought up and the Commission didn't go for it because it was too much money. Mr. Weller figured if he had the IBM here, he could hire more people and make his organization bigger, that he would be—maybe demand a big salary and make his category bigger than what it was. After two years, we finally got the IBM machine. We got the IBM machine there since April or May and not a stick of work has been done on that machine and we are paying rent for it and they are complaining now over there that we don't have money for certain things because it is going for the IBM machine. In the meantime he put on this fellow, John Weston, who, I believe, helped him on the investigation of the Senators from his brother who I hear now is retired in Florida. And about three months ago, Mr. Weller was ready to fire

<sup>103</sup> Private hearing, LaCapra testimony, page 22.

Mr. Weston for doing no work and for talking and because he lives in Brooklyn. But after that, about a month later, we got a directive making him our superior of three men. I may have something here, Mr. Consodine you might want to see, making him our boss with all authority. This is the last one we got. (Witness shows Mr. Consodine papers.) He has just been fooling around with the IBM ever since and doesn't do any work to help us at all with the office."

And later on in the same testimony:

"Q. Have a lot of cards been purchased to use this IBM machine?

"A. They have, sir.

"Q. Can you estimate how many, either by number or the amount of space the cards are taking up?

"A. Well, there was about 20 cases downstairs. I think 8 went back. I am not sure of that, but I think it is something like \$1,200 for cards and every four cards they make, three are wrong and have to be thrown out.

"Q. But no official use has been made of the IBM machine?

"A. No. I think he asked them once to get a record of all the fire companies in New Jersey. That was done on the machine only once. Outside of that, the machine is not being used at all."

After the private hearings concluded in late 1958 there was a determined effort to get the IBM machine in operation.

Mr. Lane sent out a memo to the office on December 17, 1958, which stated:

"Office Memorandum:

"Effective December 22, 1958, the IBM system of posting records will go into effect. The present system will be kept up in the manner in which it is now functioning until further order.

“On and after December 22, 1958, all applications, after being screened, will be key-punched. They will then be posted as they are now being posted.

“Effective January 2, 1959, all reports received, after being screened, will be key-punched and then will be posted as they are now being posted.

“Effective January 2, 1959, the rotary file of identification numbers will be discontinued.

“From December 22, 1958, Arlene’s principal job will be to key-punch and to file IBM records.

“Mr. Weston will be in charge of the IBM system and it will be expected that he will receive full cooperation from all employees in initiating and operating the system.

“Investigators will prepare and type their own reports unless there is a secretary with no available work.

“By order of the Commission.

“MERRITT LANE, JR.,  
Secretary.

Dated: December 17, 1958.”

Mr. Lane testified that the IBM machine finally went into full-time operation January 1 and that from January 1 to the end of April there was a switch-over period from the old record system to strict IBM.<sup>103</sup>

Interestingly enough, Mr. Lane blamed part of the delay in getting the machine system to function on Mr. LaCapra and Mr. Richards. And just as interesting, sure enough, after the public hearings in the spring of 1959 both LaCapra and Richards were sent out in the field to join the others who made the mistake of giving testimony concerning the administration of the LGCCC.

Mr. Makin was a lot franker on the subject of the effectiveness of the IBM operation.<sup>104</sup>

<sup>103</sup> Public hearing, May 14, 1959, Lane, Vol. 4, page 69.

<sup>104</sup> Public hearing, May 8, 1959, Makin, Vol. 3, pages 108, 109.

“Q. Is the machine one hundred per cent in operation? A. No, not quite.

“Q. Does the machine do one hundred per cent of its job at the present time? A. We have every reason to believe that it will.

“Q. It will. Now, do you have every reason to believe when it will? A. Well, it has been a whole lot longer than we had hoped. There is no question about that. There have been bugs in it and there have been problems in putting this into operation. No, I can’t give you a date as to when it will be functioning perfectly.”

The rental of the IBM machine for the office of the LGCCC appears to be nothing but a case of conspicuous consumption—a policy which the State of New Jersey can ill afford.

#### (10) *The Fountain of Rules and Regulations.*

One aspect of public relations was handled more than adequately by the LGCCC—the Commission made sure there were always plenty of copies of the rules and regulations on hand.

Since 1954 the LGCCC has had printed some 70,000 copies of its rules and regulations—a booklet which in its latest form runs more than 150 pages.

For these booklets the Commission has spent \$11,875.15.

During the course of the hearings, Mr. Weller directed that when the new printing of the rules and regulations came in, Mr. Segal should dispose of the old stock of booklets.

The result was that more than 10,000 leftover booklets were hauled away by a Newark junkman.

This concludes the portion of this report devoted to the activities of Mr. Weller. There remains the problem of assessing which of the remarkable series of administrative derelictions and wrongdoings are solely his, and which are assessable in whole or in part to the failure of the Commission to exercise the supervision with which it is charged by the statute.

#### d. USE OF FUNDS TO MAINTAIN BUILDINGS

Under the whiplash of the inquiry by the Senate Committee, the Commission finally got around to settling a problem that had been perplexing to it and a source of fiscal difficulty to many veterans organizations.

Among the miscellaneous complaints about the Commission which led to this legislative inquiry were those from veterans organizations concerning their inability to use proceeds of games of chance to maintain buildings used for charitable purposes.

The firm feeling of the various veterans groups on this point were set forth at the public hearing of June 5, 1958.

##### (1) *The Legion's Position.*

The American Legion position was provided by Mr. Vance, and appears at page 4, public hearing:

"In regard to our charge that the Commission has failed to understand the basic nature of the American Legion, we have on file letters from the Commission wherein they state that, in their opinion, the American Legion Post is a fraternal organization and also that these Posts are not permitted to use a small percentage of Bingo and Raffles proceeds for Post homes because they operate bars for pecuniary profit.

"In reply to this, the American Legion has been chartered by the Congress of the United States as a non-profit service organization. If an organization has been chartered as a non-profit service organization, it is impossible to earn a pecuniary profit. It stands to reason that any excess funds such an organization receives, from whatever sources, must be expended for the non-profit purposes for which it was incorporated. The American Legion Posts have adopted and put into practice what we feel is one of the most comprehensive service programs conducted by any charitable organization in the State."

And continuing on page 6.

"Senator Jones: All right. Now let's go back. What does the State of New Jersey, through the Commission, do to differentiate you from the status which you hold with the United States Government?

"Mr. Vance: Well, it revolves primarily around the use of bingo and raffles funds. Now, probably a classic example is where I come from in Morristown. The American Legion was a large home up there, a renovated school building. This building is used by many non-profit organizations free of charge, which is allowed by the American Legion. I think there are 36 different organizations. For two years we were allowed to deduct around \$150 every three or four months toward maintaining this community center, which is also a civilian defense center. Suddenly they made us stop.

"Senator Jones: You were allowed to do that by whom?

"Mr. Vance: The Commission.

"Senator Jones: O.K. I want you to be specific.

"Mr. Vance: The Commission allowed us to do it for two years. Then suddenly they made us stop, and their reason for making us stop, which was given to me in a letter from Mr. Merritt Lane, Secretary of the Commission, was that in the Commission's opinion the American Legion was a fraternal organization and they were not entitled to use these moneys to offset some of the expenses of this Community Center because we had a bar in the building which was there for the incidental use of the members and we were making a pecuniary profit on the bar; therefore, we could not use bingo funds for this purpose. Our contention is that if we made \$20,000 a year on the bar, which we don't—but if we did, the \$20,000 would be going for the purposes that our post does. We send Boy Scouts to camp every summer; we send boys to Boys' State; we carry on rehabilitation work for veterans. Therefore, we were not earning a

pecuniary profit in the sense that we, the members of the American Legion, benefit from these profits. In other words, we are differentiated against as compared to what Congress thinks we are.”

The various charitable programs of the American Legion were set forth in detail by Mr. Vance. He also made the point that the Internal Revenue Service accepts the Legion as a non-profit organization. Then at page 12:

“Senator Jones: And it is this Commission, so far as you know, that has made an exception to the treatment accorded to you in other departments of Government; is that right?

“Mr. Vance: That’s correct.

“Senator Jones: But you don’t have an Attorney General’s opinion which sets forth that you are eleemosynary or charitable, as such?

“Mr. Vance: Not to my knowledge. Well, we are incorporated under the laws of New Jersey as a non-profit organization.

“Senator Jones: You are incorporated under the non-profit laws of New Jersey, is that it?

“Mr. Vance: That’s right.

“Senator Jones: You are not under the Private Corporations Act; you are organized under the non-profit or charitable organization; is that right?

“Mr. Vance: That’s correct.

“Senator Jones: You may continue.

“Mr. Vance: Now, to go on to our second charge; in regard to our charge that the Commission has issued contradictory orders, we have on file many complaints from our Posts and, in comparing these complaints at a State wide conference, we have found that the Commission has granted permission for one Post to do one thing and has denied another Post the same permission even though the circumstances were the same. For example:

“Post A was denied permission to use a small percentage of its funds to maintain a Legion Home which was a community center used by many non-profit organizations, because the building contained a small bar which was maintained primarily for the convenience of the members.

“Post B was granted permission to use funds to maintain their building even though they have a larger bar for the convenience of their members, and they did not even own the building at the time they made their request.

“Post C was granted permission to use funds for the maintenance of their building only if they would pass a resolution stating that their bar would only be open at certain times for the convenience of their members.”

The American Legion also set forth two other rather startling instances of considered opinions by the Commission. One appears on page 13 of the public hearing:

“In regard to the issuing of confused directives, we have on file a case where one of the Posts applied to the Commission to conduct a raffle and place the funds in a building fund account. After much correspondence, the Commission granted permission for the Post to conduct their raffle. Permission was granted with the following qualification, which we thought was ridiculous: ‘There is no guarantee that the Commission will not rescind this authorization in the future.’

“The Post went ahead and conducted their raffle, only a short time later to receive a directive from the Commission telling them that they could not use the money for a building fund. This Post’s complaint was: Why weren’t they told right away either that they could or couldn’t instead of stringing it out over six months. Here they expended great effort in a raffle and then when they got the money they couldn’t use it after they thought they could.”

And at page 14:

"We have another case which we think is classic. We have another case where a Post wishes to donate to its community \$75,000 for a playground. In order to obtain the funds and build the playground immediately, the Post made arrangements with a bank to supply the money by giving them a mortgage on their Post home. They then applied to the Commission for permission to conduct bingo and raffles to raise the money to pay off the \$75,000 mortgage. Permission to do this was denied by the Commission, thereby depriving the community of an urgently needed playground for children, due to the overlegalistic thinking of the Commission.

"Senator Jones: Just stop a minute there. I want to get the purport of that.

"Senator Cowgill: Did this deal go through?

"Mr. Vance: No, it didn't.

"Senator Cowgill: Did they place this mortgage? Was the thinking of the Commission that since they were paying off a mortgage on the building which they owned, they couldn't use the fund? Was that it?

"Mr. Vance: That is correct."

### (2) *Decision, At Last.*

After vacillating on this question for years, the Commission finally came to what appears to be a firm stand on this question. The Commission viewpoint appeared in the annual report for the period January 1, 1958 to December 31, 1958, at page 9:

"During the year the Commission resolved what has been one of its most troublesome problems. The Constitutional Amendment authorizing bingo and raffles provides that the entire net proceeds must be devoted to educational, charitable, religious, patriotic or public-spirited purposes. Many veterans posts applied to use the proceeds of raffles for their post homes. The Commission has had difficulty in interpreting the Constitu-

tional Amendment in such situations because the post home is not exclusively used in many cases for patriotic or public-spirited purposes. It is used in some cases for social purposes. Initially the Commission adhered to a policy of not allowing proceeds of games of chance to be used for a building if there were not significant profit-making activities carried on in the building and if the building was used more for a social purpose rather than a patriotic or public-spirited purpose. (There is an obvious inconsistency in the phrasing of the last sentence, but it is reprinted as it appears in the annual report of the Commission.) The Commission has clarified that policy so that now if the building is used primarily for patriotic or public-spirited purpose and only incidentally for social purposes and, if the proposed expenditure of funds is reasonable, the Commission will authorize it."

### (3) *The Governor's Counsel.*

Earlier in this report the Senate Committee made reference to the fact that Governor Meyner's attitude toward the Commission cooled as the summer of 1958 wore on and brought with it some astonishing revelations which have already been discussed.

The Governor's critical comments about the Commission appeared in newspapers of September 24, 1958.

The Governor was particularly critical of what he termed the independent attitude of the Commission. In one paper appeared the following:<sup>105</sup>

"Trenton—Governor Meyner said yesterday he would prefer more control over the bingo-raftles commission whose 'independent attitude' he questioned. In remarks bordering on outright criticism, Meyner told newsmen that because of the Commission's attitude, Secretary of State Edward J. Patten has been unable to

<sup>105</sup> *Newark Star Ledger*, September 24, 1958.

control the agency. On paper, at least, the commission is in Patten's department.

"Meyner noted that the commission never seeks legal advice *from the attorney general's office*, as other agencies do. He also observed that the commission habitually goes over his head to the Legislature when it wants funds." (Italics supplied.)

It is an interesting comment when contrasted with the minutes of the Commission only five days later, on September 29, 1958. The minutes disclose that the long-delayed decision of the Commission to permit veterans organizations to use bingo and raffles funds for maintenance came immediately after a conference of the Commission with two of the Governor's closest legal advisors—Vincent P. Biunno, the Governor's Counsel, and Deputy Attorney General David M. Satz, Jr.

The minutes of the September 29, 1958 Commission meeting relating to the conference are reproduced hereafter, along with correspondence which ensued between Commissioner Lane and Mr. Biunno.

"The Commission met with Deputy Attorney General David M. Satz, Jr. and the Governor's Counsel Vincent P. Biunno. The discussion of the meeting was whether a Veterans Post could use proceeds from games of chance for the repair, maintenance and carrying charges on the Veterans Post. The advice given to the Commission by Deputy Attorney General Satz and Governor's Counsel Biunno was that the Constitutional Amendment, Raffles and Bingo Licensing Law and Rule 3b of the Rules and Regulations should be interpreted so that where a Veterans Post has an activity conducted in the Post home which activity produces some income but when such activity is incidental to the patriotic activities of the Post, games of chance funds may be used for the repair, maintenance and upkeep including mortgage payments on the Post home if such Post home is owned by the Post. The Commission can and should check on

the actual use of the funds to see that the funds are in fact used for the repair, maintenance and upkeep in reasonable amounts and in good faith. It was also pointed out that this would not be the rule where a Post home is operated strictly on a commercial basis and has no patriotic activities."

"September 30, 1958.

*The Hon. David M. Satz, Jr.  
Deputy Attorney General  
Dept. of Law and Public Safety  
State House Annex  
Trenton, New Jersey*

Dear Dave:

The minutes of the meeting of the Commission held September 29, 1958 contain the following excerpt:

"The Commission met with Deputy Attorney General David M. Satz, Jr. and the Governor's Counsel Vincent P. Biunno. The discussion of the meeting was whether a Veterans' Post could use proceeds from games of chance for the repair, maintenance and carrying charges on the Veterans Post. The advice given to the Commission by Deputy Attorney General Satz and Governor's Counsel Biunno was that the Constitutional Amendment, Raffles and Bingo Licensing Law and Rule 3b of the Rules and Regulations should be interpreted so that where a veterans post has an activity conducted in the post home which activity produces some income but when such activity is incidental to the patriotic activities of the post, games of chance funds may be used for the repair, maintenance and upkeep including mortgage payments on the Post home if such Post home is owned by the Post. The Commission can and should check on the actual use of the funds to see that the funds are in fact used for the repair, maintenance and upkeep in reasonable amounts and in good faith. It was also

pointed out that this would not be the rule where a Post home is operated strictly on a commercial basis and has no patriotic activities."

If this does not correctly reflect your advice to us, I wish you would let me know.

On behalf of the Commission I thank you and Vince for taking the time to meet with and give us this advice.

Very truly yours,

LEGALIZED GAMES OF CHANCE  
CONTROL COMMISSION

By:

Merritt Lane, Jr.  
*Secretary*

ML/cg

c.c. Vincent Biunno"

"October 7, 1958

*Merritt Lane, Jr., Esq.*  
*Legalized Games of Chance Control Commission*  
*1100 Raymond Boulevard*  
*Newark, New Jersey*

DEAR MERRITT:

I very much appreciate your having sent to me a copy of your September 30th letter to Dave Satz, in which you set forth the text of the excerpt from the Commission minutes.

It is difficult to summarize a long discussion and then, on reducing it to writing, hope to have it contain the various thoughts expressed. Accordingly, the comments made here are to be understood in that light.

Speaking only for myself, I would consider the minute entry of the discussion of September 29 to have

a fuller meaning of the conversation if the following were taken into account:

1. I did not attend in any official capacity. Over the years, as you know, I have furnished whatever help I could, simply in the interest of seeing a difficult experiment work well. My attendance on the 29th was in that same capacity.

2. I expressed a number of views, but did not give advice, as that could not be my function.

3. I suggested that the question under discussion was a fact problem, which could vary from case to case. At the same time, I did not think that incidental use of the licensee's building for activities, that, viewed separately, might seem to be other than 'authorized purposes' would in and of itself prevent the application of funds. It seems to me that the real question in each case was whether the activity was incidental to or in furtherance of the major objects. I illustrated that church and other groups held cake sales; that public schools rent out auditoriums; that hospital groups run food and gift counters; that organizations for the blind sell handicrafts; that educational groups establish and operate actual business enterprises; and on. The effect of such activities have depended largely on motive and relationship, and actually go to the fundamental question whether the organization is "bona fide" or not. And very often, while the activity shows a "profit" in the cash sense, yet if the cost of rent, heat, light and the services of volunteers were taken into account, most, if not all of these operations, would be likely to be a loss.

4. I commented that the question whether the intended use seemed a wise one could not properly be gone into unless the aberration were clear and obvious. I drew the parallel to the rule of 'business judgment' applicable to directors of private corporations, and mentioned the unreported decision of Vice-Chancellor Stein, in the

*Dawella Mills* case, where this same view was ably presented by the late Arthur T. Vanderbilt and Ralph E. Lum.

5. Mention was made that the specific problem discussed was but one aspect out of many that might bear upon the outcome in a given instance, and that it was not necessarily controlling in and of itself except where the absence of 'bona fide' character clearly appeared from one or another element.

Of course, it would be impossible to reconstruct the whole conversation, especially since views were expressed and questions were asked by more than one person. Nonetheless, I hope that the foregoing major points will be of some help to the Commission in its difficult tasks. The Commission, to my knowledge, has struggled with this problem for some years, and has gone deeply into the matter. While the application of general principles to specific cases can never be easy, I am sure that with each discussion the problem has become clearer. Please do not hesitate to call on me for whatever help I may provide.

Sincerely yours,

VINCENT F. BIUNNO,

*Counsel to the Governor*

VPS:rk''

“October 10, 1958

*The Honorable Vincent P. Biunno  
Counsel to the Governor  
Office of the Governor  
State House  
Trenton, New Jersey*

DEAR VINCE:

Thank you very much for your letter of October 7, 1958. I did not feel that you had attended the meeting

in any official capacity. On re-reading the minutes which I made, you are quite correct. Such fact does not clearly appear. In addition, I quite agree with you that you did not give any advice, but you joined in the general discussion.

I will make your letter a part of the minutes so that there will be no confusion at a future time.

On behalf of the Commission I thank you for your time and advice not only in this instance but in every other instance when we have had any kind of a problem.

Sincerely yours,

MERRITT LANE, JR.,  
*Secretary*

ML/cg''

The Senate Committee has no interest in the technical capacity in which the two distinguished counsel, Mr. Biunno and Mr. Satz, appeared before the Commission.

Certainly the Commission was entitled to seek legal assistance.

Very obviously it was gravely in need of legal assistance in the instant question of maintenance funds.

The Senate Committee feels that Mr. Biunno and Mr. Satz provided badly needed and sound advice on the question which had troubled the Commission for so long.

The Commission's inability to come to any conclusive decision on this point for four years is another indication that it just did not have a clear concept of its job.

## B. ALLEGEDLY HARSH PENALTIES

The second major area of administration considered by the Senate Committee was the specific question of whether the Commission had imposed harsh and extreme penalties on charitable organizations.

### 1. *The Commission's Attitude.*

The Commission has set forth its theory of penalties in the Interim Report, page 9, as follows:

“After the hearing, the Commission then determines what the penalties should be. The theory of penalties, when penalties are fixed has been that they should act as a deterrent to other organizations and each particular case is decided on its own merits having in view the nature of the offense, the prior warnings, and the knowledge on the part of the organization that it was violated.”

So we have established by the Commission the following ground rules for fixing sentences:

- a. The sentence should act as a deterrent.
- b. Each case is decided on its merits considering:
  1. The nature of the offense.
  2. The prior warnings.
  3. Guilty knowledge by the organization.

The sentencing policy, however, has to operate against the background of the general theory of a Legalized Games of Chance Commission. The Commission has also set forth that general policy in its Interim Report, page 3:

“ . . . The underlying policy of the Commission has at all times been and is to make the Bingo and Raffles Licensing Law work so that qualified organizations may raise funds for their purposes. . . .”

The Commission first began its sentencing under rules which limited the maximum suspension for a violation to a

12-month period. Later this was extended to a 30-month period on the theory that a 12-month suspension was no penalty at all to a group which ran only one affair a year.

What happened, however, is that some of the penalties which have brought forth cries of harshness have been levied against organizations which ran weekly, not yearly affairs.

Examples of this will be set forth subsequently. First, it is necessary to look more closely at the ground rules set down by the Commission and some of the strange interpretations that have been assigned to them.

### a. *The Deterrent.*

The Senate Committee is in reasonable agreement with the theory of the sentence as a deterrent.

### b. *The Merits.*

There is no argument on the thought that each case should be considered on its merits.

But we come now to the three subheadings which the Commission has indicated it considers in assigning a sentence—(1) The nature of the offense; (2) The prior warnings; and (3) Guilty knowledge by the organization.

#### (1) *The Nature of the Offense.*

It is clear from a study of the 79 cases of violators sentenced by the Commission that the major offense has been in the field of raffles. As is pointed out in the Interim Report, only 11 of the 79 hearings concerned bingo violations. The remaining 68 were involved with raffles.

Of the 68 raffles violations, the most frequent were in two main categories—off-premises cash raffles and unlicensed raffles.

Although many of the cases involved dual violations, there were approximately 31 off premises violations and 28 unlicensed violations. The fact that many of the off premise cash violations and many of the unlicensed viola-

tions occurred in conjunction with a regularly licensed raffles perhaps led to the interesting theory of presumptive guilt adopted by the Commission, which theory is hardly in keeping with the nature of the charitable organizations controlled by the Commission.

(2) *The Prior Warnings.*

The Commission in its annual report for the year 1957 said quite plainly that in each of the cases of suspension there had been adequate prior warning, page 3:

“...In each one of the formal hearings the violation was flagrant and persistent after ample notice to desist.”

This point was emphasized in the Interim Report at page 8:

“Most organizations have practiced self-restraint, but there have been a few organizations that instead of doing that have done just the opposite. They have done everything possible to evade the Law even though they knew what the Law was and even though they were of such a character that one would expect that rather than violate the Law they would uphold the Law and seek, if they thought the Law was unjust, an appropriate amendment from the Legislature.”

The Commissioners at the private hearings echoed this sentiment, that in each of the 79 cases which resulted in suspension there had been ample prior warnings.

Commissioner McGough said:<sup>106</sup>

“Q. On the one point when you are talking about intentional, you are stressing mainly there that these people had prior warning, aren't you?”

“A. They did, or the prohibition was such a well-publicized one that it amounted to a prior warning.”

The Commission obviously felt that the copies of the rules and regulations sent to charitable organizations and

the letters and newspaper releases distributed by the Commission constituted a prior warning. This theory of presumptive knowledge assumes that thousands of individuals all over New Jersey who are concerned with raising funds for charitable purposes have taken the time to become part time lawyers. It is one thing to read through the 150-odd page booklet of rules and regulations—it is another to absorb and understand it. This has been a cause of part of the trouble, but the Commission has refused to acknowledge it.

This is implicit in the testimony of Commissioner Brophy who was being questioned on whether the 79 violators had received any instruction or warnings beyond those of general communication and newspaper articles:<sup>107</sup>

“Q. Well, the answer then, as I understand it,—because I'm not altogether sure it was responsive—the answer is that you don't know that they received any specific instruction, or do you?”

“A. I don't know of any other that they would have needed.”

When the Senate Committee got down to specific cases, the unfairness of the presumptive knowledge theory becomes painfully obvious. For the present it is sufficient to list one specific instance discussed with Commissioner Makin—others will be set forth later on:<sup>108</sup>

“Q. Mr. Makin, the only thing I was trying to get at—I wasn't trying to lead you into anything: Father Gerbino testified at the public hearing and they didn't appear before your Commission; I mean, the testimony he gave was absolutely contrary to the things that were in Mr. Segal's report. That's why I was wondering, because that penalty was so severe, was there any further exploration by the Commission into this violations?”

“A. No, because as you say, the organization didn't appear but pleaded guilty, and I believe this is one of

<sup>107</sup> Private hearing, Miss Brophy testimony, page 21.

<sup>108</sup> Private hearing, Makin testimony, page 35.

<sup>106</sup> Private hearing, McGough testimony, page 31.

the organizations that had had several warnings and had visits from investigators trying to get them to cooperate and live up to the law.

“Q. Now, had it come to the attention of the Commission—I am thinking now of the Commission taking reports made by investigators and presented to the Commission by Mr. Weller—had the Commission received information that there wasn’t any warning in many of these cases, would the penalties have been so harsh, such as 30 months?

“A. Your question is that if the Commission found out that they were misled by information insofar as prior warnings were concerned, would the penalties have been less. I would say, yes, in all probability.

By Senator Cowgill:

“Q. I would like to inform you, then, Mr. Makin, that *there were no prior warnings* in the case of Our Lady of Mount Carmel and there were *no prior investigations* of Our Lady of Mount Carmel, and they got the works.

“A. Well, I would like an opportunity to check that information. I’m not sure just how I had it in my records, but it might be only that the question was asked of Mr. Weller, ‘Has this organization been warned about any of these violations?’ and he might have said yes and he might have picked up his papers and said that on such a time I sent an Investigator so and so down there on this problem, which has happened many times, but I can’t particularly tie this organization down.”

(3) *Guilty Knowledge by the Organization.*

The Interim Report at page 5 states:

“ . . . No organization has been charged with a violation of the Rules and Regulations or the Bingo or Raffles Licensing Law unless it has been felt that that organization has been warned sufficiently or that the violation was deliberate, and that the violation was of such a character that if it were not proceeded against

it would damage the entire fabric of the enforcement of the Bingo and Raffles Licensing Law.”

This statement, and the other comment in the Interim Report declaring that some organizations have done everything possible to evade the law, clearly established the fact that the Commission felt that every organization in the list of 79 convicted violators represented an organization that had not only violated the law but had done it deliberately and with the guilty knowledge that it was so doing.

This attitude was also emphasized in the private testimony of the Commissioners.

The purported attitude of one of the Commissioners, Mr. Lane, must be mentioned since it came up at one of the public hearings.

Mr. La Capra testified that he was called before the Commission in April, 1959, in line with a new Commission policy to ask employees of the Commission for suggestions. Here is his testimony on the reaction of Mr. Lane to one of his suggestions:<sup>109</sup>

“Q. And your suggestion was what? A. Well, he had recalled about 3,000 numbers, the numbers that haven’t been used or had been used once, but not been used for two years afterwards. I told them that we still had another thousand numbers and I thought it would be a good idea if we sent out letters, public relations, to have these organizations use their numbers and use their money for charity, which was the purpose of bingo and raffles. Mr. Lane says ‘Oh, no.’ He says ‘We are out to knock them out of the box’ and that was the end of the conversation.”

Mr. Lehman said he did not recall any such remark by Mr. Lane.<sup>110</sup>

However, it is interesting to note the presence of this unusual language “knock them out of the box” in the records of the LGCCC in Mr. Lane’s own handwriting.

<sup>109</sup> Public hearing, May 7, 1959, La Capra, Vol. 2, page 73.

<sup>110</sup> Public hearing, May 8, 1959, Lehman, Vol. 3, page 88.

It appears in the file of the Commission in an investigation of the Creighton Mayes American Legion Post 312 of Morristown. The following is a copy of a report on that matter:

“State of New Jersey

LEGALIZED GAMES OF CHANCE CONTROL COMMISSION

1100 Raymond Boulevard  
Newark 2, N.J.  
MArket 4-1414

If no answer call MArket 4-0437

November 27, 1957

To: MERRITT LANE, JR., Secretary  
From: MR. SEGAL, Investigator  
Re: CREIGHTON MAYES AMERICAN LEGION POST #312

The attached report of operations was received on November 5th which listed expenses of \$239.24 for material for car display.

Clerk was contacted to have an itemized accounting for the expenditure listed. Attached hereto is itemized list indicating the purposes for which the \$239.24 was utilized.

Please advise.

PS/ec  
encs.”

Written across the face of this memo in handwriting that was identified at the public hearing October 13, 1959 as that of Mr. Lane was the following notation:

“Art:

I think we ought to knock it out——  
What do you think?”

The next item in the file was a memorandum dated December 2, 1957, to Merritt Lane, Jr., from Arthur A. Weller, executive officer, which stated:

“You are entirely correct. Please knock it out!”

The final repetition of that interesting phrase came in the next slip in the file, a small piece of note paper bearing the following typewritten message:

“Art:

Why don't you knock the Creighton Mayes post off in the usual forms to the clerk, and we'll see what happens.

ML/cg 12/4/57”

If nothing else, the file of the Creighton Mayes Post incident clearly indicates that the phrase “knock them out” was a popular one with the two men who ran the LGCCC, Mr. Weller and Mr. Lane.

## 2. *The Commission's List.*

As a result of the Commission's attitude, the Senate Committee felt obliged to examine more closely the list of suspended organizations. Senator Jones wrote to Chairman Lehman on November 26, 1958 and requested:

“Would you be good enough to submit to the Committee a report showing in each of the 79 cases the following information.

- “1. The date of any prior warning.
- “2. The manner in which it was given to the organization.
- “3. The evidence which showed the organization was in willful violation of the Statute.”

The Commission Secretary, Mr. Lane, forwarded a 35-page summary of the 79 cases along with copies of each of the newspaper releases and advisory letters sent out by the Commission since its inception.

Even a casual analysis of this summary discloses that the Commission has succeeded in disproving its own claim of 100 per cent willful and deliberate violations after specific, prior warnings.

a. *The Absent Warnings.*

In only 30 of the 79 cases does the Commission claim there was any prior warning aside from the general information available in newspapers and Commission announcements.

It is a well-recognized maxim that ignorance of the law is no excuse. But certainly a Commission which prides itself so much on its attempts to educate the charitable organizations concerning rules and regulations should not hold to such a legalistic principal as the theory of presumptive knowledge on which it has operated in the past.

Of the 30 cases mentioned above in which the Commission claimed a prior warning had been afforded the organization, there were actually only 18 cases where there is any indication that the organization had committed a prior violation.

Finally, in only one of the 79 cases was the Commission faced with a convicted second offender. This was an organization which had been given a 12-month suspension for an illegal cash raffles in 1955 and after reinstatement again violated the cash raffles regulations and received a 30-month revocation in 1957.

Other than that, the Commission had before it for sentence, in each of the 79 cases, organizations which were for the first time convicted of violating the rules and regulations of the Commission. The Senate Committee is well aware that in some of these cases the violations were flagrant, and that in some there had existed practically open warfare between the organization and the Commission. But the above recital, documented by the Commission itself, certainly provides support for the claim that the Commission followed a harsh policy in approaching the question of sentence. All the presumptions were against the defendants.

b. *The Maximum Effort.*

An examination of the sentences imposed shows that in 80 per cent of the cases the revocation was for a year or

more. In 63 out of the 79 cases, the organization was suspended for anywhere from 12 to 30 months. Again, this was for, in all but one instance, a first conviction.

Commissioner McGough admitted he could not account for the 80 per cent figure:<sup>111</sup>

“Q. I am taking into consideration exactly that in 62 of the recorded 76 suspensions, the penalties have been suspension for a year or more; in other words, that’s about 80 per cent of the suspensions that have been at the maximum. How do you account for that?”

“A. I can’t account for it. I don’t know the point that you’re driving at. I do know this, that in each case the testimony was heard, there was an exchange of ideas on the amount of penalty, first of all whether they were guilty or not guilty as charged, and when that issue was disposed of, if they were found to be guilty then there was an exchange of ideas on the amount of the penalty and a serious attempt made to fix the penalty to the particular offense, taking into consideration all of the circumstances. There are a variety of violations.”

1. *The Auxiliary Units.*

And beyond the fact of the 80 per cent record of 12-month sentences, we came to a policy of the Commission which came under heavy attack at the first public hearing because it was felt it contributed to the heavy effect of penalties.

The Commission has held to a policy of suspending the license of not only the organization guilty of the violation but also of all auxiliary or subsidiary units. For instance, if the Holy Name Society of a Roman Catholic Church were suspended for a year, the same suspension would apply to the Sisters of the Sodality or any other affiliated group.

The Senate Committee has no disagreement with the logic that prevents an organization from escaping a penalty by having a different group take over the games of chance.

<sup>111</sup> Private hearing, McGough testimony, page 33.

But when the policy of heavy sentence is aligned with the policy of total exclusion, it has a harsh effect.

For instance, if a Holy Name Society, to continue the analogy, were to operate a bingo game and the Sisters of the Sodality were to run a raffle on the same date, the following would occur. In the first place both would be in violation for having a raffle run in conjunction with a bingo. So we have the violation present right there.

If the result of this imagined violation followed the trend in 80 per cent of the cases, the penalty would be 12 months suspension or more. As a result, both the raffle and the bingo operation would be closed down for a year. If the raffle had been used only yearly or monthly, the effect on the organization would not be grave. But if the bingo had been used weekly, as it is by so many organizations, the effect would be a grave setback in income for the charitable organization. This effect would be aggravated by the fact that no other auxiliary unit would be allowed to pick up the bingo game and continue to operate it.

What we have here is a conflict between the Commission theory of suspensions of over 12 months to cover raffle violations and the practical effect of that theory which is to impose stringent penalties on many organizations operating bingo games weekly.

### 3. *Equal Punishment?*

Aside from the question of the general theory of penalties, the Senate Committee came across what appeared to be some weird variations in the sentences levied against some organizations. Whatever the reason for them, on the basis of the information supplied by the Commission they appear to present sharp contrasts in punishment. They certainly represent anything but equal treatment.

Some examples of contrasting sentences will be set forth to demonstrate some of the vagaries of the sentencing procedure:

#### a. *The Two "Our Lady of Mount Carmel" Cases.*

By a strange coincidence, two of the church groups which were penalized by the Commission bear almost identical names although they are in opposite ends of the State. Commission case No. 58 concerns Our Lady of Mount Carmel Church in Jersey City. Commission case No. 63 concerns the Church of Our Lady of Mount Carmel of Camden.

The two Our Lady of Mount Carmel cases afford an unusual demonstration of inconsistent sentencing policy. This is revealed in the summary of the two cases prepared by the Commission itself. The summary in each case is set forth below because it provides, without any need for further exposition, a picture of complete inconsistency:

"58.

#### *"Our Lady of Mount Carmel Church*

"This organization was charged with conducting three on-premise nondraw raffles which were not licensed at the same time as it conducted licensed raffles; with conducting games at which there was no license posted; with conducting games at the same time when the Holy Name Society conducted its games on July 12th and July 16th. The member in charge of these games was Reverend Salvatore Citerella. This man was well aware of the provisions of the Raffles Licensing Law having had a great number of visits from our office and receiving instructions from our office. Father Citerella was advised by the clerk of Jersey City prior to the games that two organizations could not conduct games of chance at the same location on the same day at the same time. This organization was the only organization that had ever been charged by a municipality. The City of Jersey City charged this organization and found them guilty of conducting unlicensed raffles on July 11, 1955 to July 17, 1955. The license for the bingo game was suspended for 30 days, however, the suspension was immediately lifted. Although Father

Citerella was advised of the illegal games, he refused to stop them stating that he was not going to stop any of the games and that he would tell it to the Commission that he and others were sick of Meyner jumping for a bunch of Protestants that were dominating the Bingo and Raffles Board. For a period of two years previous to the violations charged, there were 56 letters forwarded to the organizations involved with this Church concerning operations reports which they had not submitted. On a number of occasions, we found the organization exceeding the charge for specials during the game, which they adjusted. On a number of occasions, we found persons working for the licensee who were also working for affiliated organizations in violation of the Rules and Regulations. This was adjusted in the field. On three occasions, we found the organization conducting extra games in excess of their licensed number. This was adjusted in the field. On many occasions, the Commission found persons under the age of 18 assisting in the conduct of the games. These persons were immediately removed and the licensee was warned. This organization has been in constant violation and was a continual aggravation as far as the Commission was concerned. The violations with which the organization was charged were as willful as any violations that the Commission came across. The organization pleaded guilty to all of the charges. The organization was suspended for 24 months."

Here is the other Church of Our Lady of Mount Carmel, of Camden:

"63.

*"Church of Our Lady of Mount Carmel*

"This organization was charged with giving away a thing of value in connection with a bingo game other than the prizes; with holding an illegal door prize raffle; with charging more than \$1.00 for a single opportunity to participate in all special games; with holding an il-

legal cash raffle in connection with a game held October 28, 1957; with conducting a raffle in connection with a bingo game on October 28, 1957; with allowing a person who was not physically present at the bingo game to play. The evidence showed that this was one of the most flagrant violations of the 50/50 off-premise cash prohibition that the Commission has ever come across. This organization was fully familiar with the Rules and Regulations having conducted bingo games for some time. When the violation was detected, the Pastor in charge asked the investigators if it was necessary for them to report the improper raffles. This violation was as willful as any that has ever been seen. The organization pleaded guilty and was suspended for 30 months."

The Senate Committee does not suggest that either of these churches should have escaped penalty. Nor are we now discussing the fact that the 30-month suspension given to the Camden church resulted in a \$65,000 to \$70,000 loss of income to the parish.

What the Senate Committee does seek to emphasize is the complete disparity between the two sentences—sentences which were given out in the same period of time, one in October 1957 and one in January 1958.

In the Jersey City case there was a 24-month penalty against an organization which had been a continual thorn in the side of the Commission and which had had the continual presence of investigators and a stream of special letters. There was certainly prior warning and guilty knowledge.

In the Camden case there was a 30-month penalty against a church which had never before been investigated, which had no prior warning and, which, at worst, had presumptive guilty knowledge.

In addition, there is a grave dispute in testimony between the pastor of the church and a Commission investigator. The pastor insists the Commission investigator practiced entrapment; the investigator denied it under oath.

**b. Four Consecutive Cases.**

An examination of four consecutive cases on the Commission list affords another study in contrasting sentences. Here are Commission cases 66 through 69:

No. 66—Loyal Order of Moose, Passaic Lodge 542 was given a 24 month suspension.

The organization was charged with running an unlicensed—illegal cash raffle in connection with a licensed raffle.

No. 67—Queen of Peace Church, North Arlington was given a 24 month suspension.

The organization was charged with conducting four non-draw raffles illegally under a license calling for merchandise prizes. The prizes were cash. There was a prior record of complaints by the Commission to the County Prosecutor.

No. 68—R. C. Church of the Holy Assumption was given a 3 month suspension.

The organization was charged with conducting early bird bingo games and with announcing the winner of an illegal off premise cash raffle at a bingo game.

No. 69—Townsend C. Young Post No. 3620, V. F. W. was suspended for 18 months.

The organization was charged with giving a thing of value at various bingo games, with selling tickets to an unlicensed illegal cash draw raffle at the bingo games, and with conducting an illegal, unlicensed cash draw raffle. The drawing for the raffle was held at a closed meeting.

There is no attempt in the Commission summary to justify a 24 month suspension for the Loyal Order of Moose on what appears to be a first offense. Yet this same sentence was given to Queen of Peace which had a prior history of trouble with the Commission. The 24 month sentence for the Loyal Order of Moose is even more incomprehensible when set against the 3 month suspension for the Church of the Holy Assumption. Finally, why should the Loyal Order of Moose get 24 months for a cash raffle violation while

Townsend C. Young Post No. 3620, V. F. W. received 18 months for a raffle run in secret?

There is no rhyme or reason running through any of these sentences.

**c. Four Other Cases.**

No. 73—West Side Advisory Board was suspended for 24 months for conducting four unlicensed, non-draw raffles in connection with a licensed raffle.

No. 75—St. Theresa's Council, K. of C. No. 4186 was suspended for 12 months for conducting illegal off-premise raffles on 9 different dates when the license called for an on-premise 50/50 raffle.

No. 77—Atlantic City Hospital Nurses Alumnae Association was suspended for 6 months for an illegal 50/50 cash raffle.

No. 78—Shore League for Camp Deal was suspended for 6 months for giving a cash prize in a raffle calling for a merchandise prize.

Here we have the Atlantic City Hospital Nurses Alumnae Association getting 6 months for a cash raffle while the West Side Advisory Board received 24 months. A cash raffle is considered the worst possible offense by the Commission, yet the Atlantic City group received the same sentence as that given to Shore League for Camp Deal for giving cash instead of merchandise. Where is the equality in successive sentences of 24, 12 and 6 months in cash raffles cases?

**d. Two Consecutive Church Cases.**

No. 60—St. Joseph's Guild (Missionary Servants of the Most Holy Trinity) was suspended for 20 months for conducting an illegal cash raffle in connection with a licensed raffle.

No. 61—Holy Name Society, St. Bartholomew's R. C. Church was suspended for 12 months for allowing persons under 18 years to play and for having unauthorized persons assist in the games.

In the St. Joseph's Guild case the prior warning consisted of a visit by an investigator 2 years before the date of the illegal raffle. The guilty knowledge consisted of the fact that the organization had run many raffles.

In the St. Bartholomew's case the organization had been warned on prior days not to let minors play and not to let unauthorized people help out. In addition, there was evidence that on the first day of the carnival an investigator discovered two slot machines and a Big Six Wheel.

Yet, St. Joseph's received a 20 months sentence and St. Bartholomew's a 12 month suspension.

#### e. *The Commercial Operator Case.*

The Commission's prime objective is to keep organized commercial operators out of legalized games. Yet in two consecutive sentences by the Commission, an organization which permitted a commercial operator to run its games was given a 12 month suspension while an organization which ran an illegal card party in connection with its raffle and permitted wives of members to participate was given a 30 month sentence.

No. 54—Fairmount Fire Company No. 1 was suspended for 12 months for letting a commercial operator take 75 per cent of the proceeds and for other violations.

No. 55—Bergen County Chapter Unico National was suspended for 30 months for running an illegal raffle in connection with a licensed raffle at an illegal card party and for letting wives of members participate.

#### 4. *The Effect on Charities.*

There is little argument that some of the penalties have been harsh in their effect on charitable organizations. Commissioner McGough conceded this:<sup>112</sup>

“Q. And you don't think that any of the penalties have been harsh?

“A. They have been harsh in their effect—I know that by the newspapers—but they have not been harsh,

<sup>112</sup> Private hearing, McGough testimony, page 32.

as far as I'm concerned, considering them in the abstract. We have tried to measure each penalty to the particular offense.”

We have had testimony on this point from a number of sources, beginning with the estimate by the Queen of Peace R. C. Church in North Arlington that the two year suspension it received meant a loss of \$25,000 to the church.

The American Legion and other veterans groups have all stated that long-term penalties have had serious financial effects on the charitable work they perform.

At the public hearing in June—1958 there was testimony that gave a startling range to the effect of penalties on charitable organizations:

a. Rev. Peter Kelly of St. Bartholomew's Church, Camden, said the 12 month suspension meant a loss of \$15,000—half of the church's yearly income in what Father Kelly termed a very poor parish.

“It has put me back on the road. I have to go to other parishes now taking up collections to keep my parish going,” testified Father Kelly.<sup>113</sup>

b. Rev. Richard Gerbino of Our Lady of Mount Carmel estimated the 30-month penalty would cost his church \$65,000 to \$70,000 in funds.

c. Rev. Julian Fuzer of Holy Assumption Church, Roebling, said even the 3-month suspension meted out to his church cost the parish \$3,000.

None of this is intended as an argument against penalties for organizations which violate the rules and regulations of the LGCCC.

It is intended as a means of drawing attention to the fact that a Commission which is not in close touch with its work and which does not achieve equal punishment can wreak tremendous harm to organizations which are working for commendable charitable purposes.

<sup>113</sup> Public hearing, Father Kelly testimony, page 75.

### 5. *Another Example of the Unknowing Commission.*

As another example of the Commission's lack of contact with many phases of its work, the Senate Committee was struck by some language appearing in the summary of 79 violations made up by the Commission.

Rev. Lawrence W. Donovan, pastor of St. Joseph's Church in Toms River, testified at the public hearing on June 5, 1958. When he was questioned about the amount of the loss suffered by the Church by reason of the 12-month suspension, he said there was no loss and explained:<sup>114</sup>

" . . . As I said, we had this very fine organization of Jewish ladies that help out at Deborah Sanatorium in Browns Mills. They were using our other hall and we asked them, since they had a license to have six bingos a month and they were only using four since there were only four weeks in those particular months—so they took over and used their license to run our bingo and then returned the profits to us."

The Commission made note of this fact in its summary of case #35, St. Joseph's Holy Name Society, as follows:

" . . . It is to be noted that the Pastor of the Church, Father Donovan, testified before the Senate Committee that following the suspension, which was for 12 months later reduced to seven months, that an organization of the Deborah conducted bingo on Church property and donated the proceeds to the Church. If this be so, then the Deborah organization filed false reports. The Control Commission had no knowledge or information that the Deborah organization donated any proceeds of their games to the Church."

If the Commission had no knowledge of this arrangement it was because the Commission's Executive Officer did not tell the Commission about it. Father Donovan testified that the arrangement with the Ladies of Deborah was approved by Mr. Weller.

<sup>114</sup> Public hearing, Father Donovan testimony, page 55.

Father Donovan expressed it rather colorfully:<sup>115</sup>

"Now, this was all done legally and certainly we checked everything with Mr. Weller before we did anything, to stay out of jail. And that's as far as we have gone on this report.

"In other words, it was very embarrassing, there's no question about it, but as far as Mr. Weller is concerned he certainly helped us out tremendously."

It is difficult to believe that one of the charitable groups would comment so generously about Mr. Weller without some reason. This leaves us with the bare fact that the Commission never knew about the arrangement and does not to this day.

### 6. *The Hidden Policy of Remitting Sentences.*

Still another peculiar habit of the Commission in regard to sentences is a technique that is without parallel in the judicial arena. This is the Commission's unknown, unpublished, and unexplained occasional review of sentences.

A review of the 79 cases in which the Commission suspended licenses discloses that in 11 cases the Commission subsequently reviewed the case at the request of the organization and shortened the term of the penalty.

Commissioner Lehman explained it this way:<sup>116</sup>

"A. We have made a policy—it's not written of course—but it has been an unwritten policy that reductions of penalties are seriously considered after 50 per cent of the penalty has been served, and it only means a letter from the organization to have such a review made by the Commission.

By Senator Jones:

"Q. The difficulty of that policy, Mr. Lehmann, talking to you strictly as a lawyer, is that since it's an unpublished policy it has a lack of uniformity in operation.

<sup>115</sup> Public hearing, Father Donovan, page 53.

<sup>116</sup> Private hearing, Lehman testimony, page 59.

A fellow who happens to know that that's your policy can come in and get half of his sentence; the fellow who doesn't happen to know that's your policy, a fellow from down in Cape May or Bergen County or in some far-flung area who isn't closely associated with your hub would say 'We got 30 days, 30 years,' or whatever they got, 'and that's it.' And in two cases, therefore, both similarly bottomed on the same set of facts, with similar penalties, assuming a 30 month penalty, one fellow would serve a 15 month penalty and the other fellow would serve a 30, for only one fortuitous reason, and that is that one fellow knew and the other didn't know. Now, that's a criticism, I think, of that unpublished policy of giving people—

"A. Well, it may be a very good thought, Senator."

It is hardly necessary to labor the unfairness of this policy. One example will suffice, again occurring in consecutive cases appearing before the Commission.

Commission No. 62 involved the Church of Our Lady of Mercy which was suspended for 12 months for conducting a raffle at the same time and place as another organization conducted a raffle and with paying a reward to persons for assisting in the conduct of the raffle. The Commission declared that the organization knew what it was doing and knew it was a violation.

The next successive case was No. 63 involving the Church of Our Lady of Mount Carmel which was suspended for 30 months for holding an illegal door prize raffle, for giving away a thing of value other than prizes, for conducting a raffle in connection with a bingo game, and for conducting an illegal cash raffle. This organization was suspended for 30 months.

The Church of Our Lady of Mercy applied for review of its sentence and was granted a reduction in sentence to 7 months instead of 12 months. Our Lady of Mount Carmel at last reports, still had a 30 month sentence.

Aside from the foregoing example, there is another point in connection with this strange policy which came up during the testimony and which should be developed. Again, it demonstrates that the Commission operated in a vacuum, unaware of the machinations of Mr. Weller.

The point came up during the testimony of Investigator Fletcher. Mr. Fletcher testified that sometime after Labor Day, in September 1958, he was present in Mr. Weller's office when Mr. Weller received a telephone call. As a result of that telephone call Mr. Weller asked Mr. Fletcher whether Mr. Fletcher thought it would be smart to return the suspended licenses of Our Lady Queen of Peace in North Arlington and St. Bartholomew's R. C. Church in Camden. Here is a portion of Mr. Fletcher's testimony which reflects the thinking of Mr. Weller on this question:<sup>117</sup>

"Q. In other words, didn't Mr. Weller make the comment that it would be a good public relations to reduce those penalties and then these fellows would have nothing to go on? Well, now he did or didn't he. I don't see why you hesitate.

"A. I'm just trying to—It was his opinion.

By Senator Jones:

"Q. Whose opinion? Weller's opinion?

"A. Yes. That there was no harm in restoring the numbers due to the fact that we're presently engaged in this investigation and it would be an asset to us to—

By Senator Cowgill:

"Q. An asset to whom?

"A. To the Commission to let the organizations operate again.

"Q. And did you attach any significance to the fact that one of these churches which had been penalized was from Camden County and one from Bergen County and Senator Jones and I just happened to be from these two counties?

<sup>117</sup> Private hearing, Fletcher testimony, page 80.

“A. Actually, with the Queen of Peace, I’m more familiar with that. That’s in Bergen County.”

Mr. Fletcher later on provided in his own language the apparent effect Mr. Weller had in mind in mulling over the thought of re-instating the licenses of Queen of Peace and St. Bartholomew’s:<sup>118</sup>

“Q. All right, Now, you said Weller said to you, ‘Now, don’t you think, Fletcher, it’s a good idea?’ Now, what was it that he specifically said to you? I want to get that for the record.

“A. Well, we were discussing the length of time that the penalty had to go and the reduction of the penalty, or the restoration of the number to the organization so that they could continue on with their games of chance. Naturally I said, ‘Sure.’ I don’t know the exact words that I used but to the effect that it might—if the Queen of Peace Church goes back into business it might put a hush to everything—something to that effect.”

Mr. Fletcher testified that Mr. Weller had expressed the opinion that there was some doubt in his mind whether the Commission would go along with the plan to soften up the Senate Committee by restoring the licenses of the two churches from the home counties of Senator Jones and Senator Cowgill.

There is no record, however, of the question ever having been put to the Commission.

The important thing is not Mr. Weller’s duplicity.

The important thing is that this incident demonstrates with utter clarity an even more dangerous aspect of the hidden policy of remitting sentences. It permits an executive officer to bestow or withhold the significant fact that organizations can seek a reduction in sentence.

It is a further invitation to unequal sentences. It further permits unequal treatment.

<sup>118</sup> Private hearing, Fletcher testimony, page 85.

And finally, as another indication of the unyielding quality of the Commission’s attitude, it soon became apparent that despite Mr. Lehman’s comment that “. . . it may be a very good thought, Senator.”, to review the question of remitting sentence, the Commission intended to go on in its old way.

The proof of this pudding came when the Queen of Peace R. C. Church of North Arlington wrote requesting an identification number for the General Societies of Queen of Peace Church to conduct a bazaar and automobile raffle in the third week of October, 1959.

Mr. Lane wrote back to Monsignor O’Connor that since the church was still under a 24 month suspension dating from January 28, 1958, it was not eligible for a license or identification number.

The last paragraph of Mr. Lane’s letter of July 14, 1959, to Monsignor O’Connor is noteworthy:

“If you wish to apply for a reduction of the penalty, you may. *The Commission would consider any such application.* Of course, we cannot advise you as to what action the Commission will take prior to the application being made. If you wish to so apply, you may do so by letter setting forth the reasons for the application.” (Italics supplied.)

So, despite Mr. Lehman’s expression of understanding of the unfairness of the hidden policy of remitting sentences at the private hearing on November 17, 1958, we find the Commission pursuing the same old policy on July 14, 1959.

#### 7. *The Confident Commissioners.*

Aside from Commissioner Lehman’s concession that it might be well to look into the hidden policy of remitting sentences, the general attitude of the Commission was that in each of the penalties that had been levied it had been completely in the right.

It is perhaps best summarized in Miss Brophy's public testimony:<sup>119</sup>

“Q. You have no question in your mind but that the right thing was done in the St. Bartholomew's situation, no question about the right thing in the Lady of Mount Carmel-Queen of Peace situation, and no question in your mind about the Queen of Peace in North Arlington.

A. None at all.

“Q. None at all. A. I hold the opinion emphatically.”

It must be nice to be so sure—also frightening!

<sup>119</sup> Public hearing, May 8, 1959, Miss Brophy, Vol. 3, page 43.

#### IV. FINDINGS OF FACT

##### A. *The Commission Has Been Derelict in Its Duty.*

No review of the record of testimony compiled by the Senate Committee during this investigation can result in any conclusion but that the LGCCC has been derelict in some of its fundamental duties.

##### 1. *Who's on First?*

There is a complete conflict between the Commissioners' claim of active participation in the affairs of the Commission and the testimony given by them and by employees of the Commission.

Again and again in testimony, in annual reports, and in the Interim Report the Commissioners reiterated their claim that they were in full control of the operation of the Commission and its policies. The phrase “The Commission has reviewed the entire operation of the staff” occurs and recurs in varying shades and wordings.

Yet look at the evidence to the contrary:

The Commissioners all swore they knew nothing of the investigation of the Senate Committee. Every member of the staff who testified knew about it.

The Commissioners all swore they knew nothing of the policy against hiring Negro employees. Every member of the staff who testified knew about it.

The Commissioners all swore they knew nothing about falsification of expense accounts. A surprising number of the investigators were aware of this criminal activity.

All of the Commissioners, except Commissioner McGough denied knowledge of Mr. Weller's reign of terror in the Commission Office. The testimony of the staff is eloquent on this subject.

It is unnecessary to go further down the long list of things that an alert and active Commission would have known about and corrected. The simple fact is this:

The Commissioners have failed to exercise proper control over the activities of the employees of the Commission and as a result discredit has ensued to the Commission, to the Executive Department, and to the State of New Jersey.

## 2. *Admission Against Interest.*

Astonishingly enough, some of the Commissioners have admitted their knowledge of some of the grave incidents described in this report:

Commissioner McGough conceded he knew about Mr. Weller's shocking fear technique of personnel control.

Both Commissioner McGough and Commissioner Lane admitted they knew of the gross favoritism shown to the stenographer, Mrs. Smyth—the only stenographer in Civil Service history who was delivered of child while on duty and who was then provided with State office equipment in her home and a \$5,000-a-year chauffeur to ferry her work from the office and back again. Commissioner Lane not only said he knew of it, he insisted it was the best way to get the work done at the time.

Commissioner McGough said he saw nothing wrong about the investigation of Senator Jones's birth certificate initially, but on reflection conceded it should not have been done. Commissioner Lane was much more positive. At a private hearing he conceded only that an investigator of the Commission should not have been used at public expense to find and examine Senator Jones's birth certificate. Other than that, he said he saw nothing improper about it, although conceding it had nothing to do with either the work of the Commission or the Senate Committee.

All of the Commissioners admitted they never questioned Mr. Weller closely about the investigation of the Senate Committee after the newspaper publicity. They conceded that they took no action to discipline him for this wanton abuse of administrative authority.

All of the above actions, and others described in detail in the report, disclose that the Commissioners either do not comprehend their obligations as State officials or are unwilling to carry them out.

## 3. *The Abdication of Authority.*

The key to the major troubles of the Commission quite obviously lies in the complete abdication of authority to the Commission's Executive Officer, Mr. Weller.

There is a small-boy wistfulness in the repetitive assertions by the Commission that Mr. Weller was not a policy maker.

Wishing does not make it so. The bare facts indicate that Mr. Weller not only ran the Commission but the Commissioners as well.

The testimony is replete with quotes attributed to Mr. Weller by various members of the staff. One of them was to the effect "I am the Commission." It had a familiar ring to it. But familiar or not, it was absolutely accurate.

There is an important place in the operation of this type of commission for a strong executive officer to keep the show on the road through the workaday regime.

But there is no place, in commissions or in any other form of government, for out and out dictatorship.

This is what happened to the LGCCC. The Commissioners abdicated. Whether they did it because of the high regard they felt for Mr. Weller, or for any other reason, they are still accountable for the result. It was a bad result, and the State of New Jersey is stuck with it.

The Commissioners quit cold on a vital aspect of their job. The result was that Mr. Weller became, not a sixth Commissioner, but the Commissar of the LGCCC.

## 4. *The Conduct of Weller.*

Mr. Weller resigned during the conduct of the Senate Committee Investigation, giving as his reason ill health. There is no point, therefore, in laboring the obvious fact

that had he not resigned, his conduct as Executive Officer would have compelled the Senate Committee to demand his immediate discharge from State service.

Mr. Weller was also given the opportunity to appear before the Commission to testify in his own behalf. He declined that opportunity and stated in a letter to the Senate Committee that his doctor had advised him against it.

The actions of Mr. Weller were reprehensible by nature—some were criminal in fact. But perhaps the gravest result of his strange pattern of behavior was the growth of a steady but ever-rising resentment against the LGCCC on the part of charitable organizations whom it was set up to help, not hinder.

The majority of the members of the LGCCC continue to regard Mr. Weller as a magnificent administrator. The Senate Committee can only regard him as a martinet whose gross indignities against the personnel of his office, against various minorities, and against the spirit of the Bingo and Raffles Law have done incalculable harm.

Although the Commission has indicated it would examine into the question of Mr. Weller's expense account, alleged illness has placed him beyond the purview of the Commission.

The Senate Committee finds, however, that unless the statute of limitation has run, he is not beyond the activity of the Prosecutor of Essex County where the false affidavits regarding his mileage were filed, nor is he beyond the activity of the State Division against Discrimination. There will be further comment on this matter under the recommendations of the Senate Committee.

The conduct of Mr. Weller was as inexcusable as the failure of the Legalized Games of Chance Control Commission to take any disciplinary action against him.

##### 5. *Harsh Penalties.*

The Senate Committee finds that there was ample justification for the complaints of many charitable groups that

they were treated unfairly by the present Commission on the matter of penalties.

The record of cases submitted to the Senate Committee by the Commission was a revealing document which clearly demonstrated that there was no general pattern running through the sentences except the pattern of making life as miserable as possible for the charitable groups.

The most astounding fact of all uncovered by the Senate Committee on the question of harsh penalties was that in all the 79 cases penalized covering a period of several years, there was only one second offender.

Against this fact, the argument of the Commission that its penalties were not harsh becomes a bewildering exercise in semantics.

Where is the deliberate attempt to evade the law; where is the guilty knowledge; where are the prior warnings? Unfortunately they existed for the most part in the minds of Mr. Weller and the distant Commissioners.

The damaging effect of some of these penalties on church and other charitable organizations has been set forth in the report.

The public at large also resented the Commission.

One other effect can only be adduced from the large number of charitable groups who have abandoned their licenses rather than face the hodge-podge of rules and regulations and red tape that beset a simple desire to operate a game for the benefit of a charity. In a word, thousands of charitable groups just threw up their hands and forgot about it.

This was not the intent of the Bingo and Raffles Licensing Laws.

The Senate Committee finds that the Commission has followed a policy of harsh penalties in dealing with charitable groups which has severely affected the inclination of these groups to raise funds for their proper purposes under the statute.

#### 6. *Use of Funds to Maintain Buildings.*

One of the Commission's regulations which was most annoying and irritating to veterans groups was that ruling which prohibited the use of proceeds from the games to maintain buildings.

The "Nighttime" Commissioners dawdled with this one for several years and it was not until after the first Senate Committee hearing in June, 1958, that the Commission finally got around to making up its mind.

The Senate Committee finds that the inability of the Commission to come to any conclusive decision on this point for four years is another indication that it just did not have a clear concept of its job.

### V. RECOMMENDATIONS

#### A. OPINION OF THE HONORABLE WALTER H. JONES CHAIRMAN OF THE SENATE COMMITTEE

As the Chairman of this Senate Committee I make the following recommendations as a result of the inquiry conducted into the administration of the Legalized Games of Chance Control Commission:

1. That in the interest of public confidence the Governor immediately ask for the resignation of the members of the Legalized Games of Chance Control Commission who were members at the time of the investigation and appoint new Commissioners who will carry out their duties with greater competence and with a full appreciation of the intent of the referendum which established the Commission.

I feel that the fault lies not with the plan of organization but with the notion that such important activities may be discharged intermittently and by leaving them in between time in the hands of an executive officer. Essentially, the difficulties of the Commission were created by one-man rule and under the recommendations of the majority I believe such difficulties would either be continued or aggravated. Furthermore, I agree with the language of the Commission itself as expressed in the "Interim Report" that "The pressures that would be put on a single person from various organizations would be so tremendous that we do not feel that he would be able to withstand them."

I find that the members of the present Commission permitted themselves to be led by Mr. Weller and apparently, consciously or subconsciously, subscribed to a "knock 'em out" theory.

All of the members of the Commission are certainly good citizens of indisputable integrity who have a sincere interest in the proper operation of government. They have demonstrated this by their willingness to undertake a non-salaried

government position. Unfortunately, there is a sharp distinction between their theories and how they permitted the Commission to be administered.

2. That the Legislature consider the passage of an amendment to the Bingo and Raffles Law which would restrict the imposition of a maximum sentence to the case of a second offender.

3. That the Legalized Games of Chance Control Commission lay more stress on the education of charitable groups and co-operation with them, rather than the police activity of seeking out any offense, however slight.

4. That the Legalized Games of Chance Control Commission seek to improve its administration in the following areas by the following means:

a. Revise the present manual of regulations and reduce it to simpler language, possibly by using the services of a consulting group consisting of an experienced operator of bingo and raffles, a veteran LGCCC investigator, an attorney, and a public relations expert.

b. Review the need for the multitudinous forms now required from charitable groups by retaining a business forms consultant.

c. Review the need for an IBM installation in a State office of this size, particularly in view of its present limited use.

5. That the Secretary of the Senate Committee forward to the State Division against Discrimination those portions of the public and private hearings relating to the statements made by Mr. Weller concerning minority groups, not with any interest in prosecution in view of Mr. Weller's health considerations, but rather for whatever warning they may provide of how easy it is for one warped individual to destroy the good works of so many over the years.

6. That the Secretary of the Senate Committee forward to the appropriate law enforcement agency those portions of the private and public hearings relating to the mileage expense accounts of Mr. Weller and the false affidavits he directed Mr. Bergen to file.

**B. OPINION OF THE HONORABLE JOSEPH WILLIAM COWGILL,  
A MEMBER OF THE SENATE COMMITTEE**

I have read and given some thought to the preliminary draft prepared by Senator Jones of a proposed report to the Senate resulting from our investigation as a Senate Committee of the Legalized Games of Chance Commission. I have the following comments:

1. I agree that from the beginning there was a desperate effort to block the Senate inquiry. I agree that the effort began with the Commission. However, I disagree with the statement by Senator Jones in the rough draft that the effort to block the inquiry "received impetus from Governor Meyner." I consider this statement to be absolutely false and an effort to inject a political aspect into this probe which I have diligently attempted to avoid. It is true that Governor Meyner vetoed legislation which would have appropriated \$10,000.00 to defray the expenses of the investigation. I consider this veto to have been an unfortunate one which caused the Committee to depend upon voluntary counsel, thus protracting and delaying the investigation. However, viewed in the light of the then Republican cries that they were the champions of economy, the veto could well have been justified in the eyes of the Governor. I think it would be well if we propose to bring about a proper result with corrective and beneficial legislation, that the members of the Committee refrain from indulging in efforts to obtain political advantage. If the policy of attempting to obtain political advantage is to be pursued I shall not shrink from pointing out the weaknesses on the Republican side of this entire picture.
2. I personally favor very strongly the substitution of a single paid administrator for this Commission.

Great emphasis has been laid upon the idea that by its methods of operation, and by the harshness of its penalties, commercialized operation of games of chance was never permitted to gain a foothold. If this was a real threat then the Commission, in its early operations, deserves credit therefor. However, it is evident from the knowledge we now have from the operation of legalized games of chance, that there is no commercialized operation, and that there are no racketeers operating in this field. It is equally certain that the Commission has had, from its outset, the attitude of a policeman, which attitude has been, "We must ferret out violators and we must punish them severely." This is not the attitude which I feel should be had by this Commission. We are dealing with charitable and benevolent enterprises. We are dealing with religious societies who use the proceeds from these games to do charity and to pay for parochial school education and to foster enterprises which I am sure all of us consider worthy. I do not feel that we should visit upon the organization fostering such games of chance the cudgel of a policeman. We should, on the contrary, help them and encourage them. We should show them where they make mistakes so that they can correct them.

The revelations of the testimony taken by this Committee have shown that this Commission completely abdicated its power and authority to an executive secretary with some supervision by Commissioner Merritt Lane. The first executive secretary, Mr. Arthur Weller, was obviously a modern day "Jekyll and Hyde." His ability to completely fool the members of this Commission is, to state it mildly, astounding. The obvious ignorance of all of the Commissioners of the actual operations of the Commission is probably the best argument that can be given for the elimination of the Commission. The

type of operation which is necessary in this field cannot be delegated to non-paid Commissioners who attend a meeting once a week, and who can be so completely taken in by a person of such demonstrated viciousness as Arthur Weller. It is a further commentary upon the members of this Commission that rather than admit their failure to properly supervise they took the attitude that they were completely perfect and that anyone who dared criticize them or Mr. Weller was doing so for ulterior motives. The testimony of the employees of this Commission, when compared with the testimony of the Commissioners themselves, is demonstrative of their complete ignorance of what was going on. The Commissioners in the testimony seemed either aghast at the revelations or simply denied that they could have happened. The testimony of some of the Commissioners, particularly Miss Brophy, was given to flippant answers, which answered no questions, but demonstrated a blind loyalty to Arthur Weller. Indeed the testimony of Miss Brophy demonstrated a loyalty to Mr. Weller which might well have been dedicated to a more worthy recipient. The contempt for the Commissioners which was held by Mr. Weller is documented time and time again in the testimony of the witnesses.

Certainly we have no assurance that another Commission made up of another group of individuals will not follow the same pattern. I have heard much praise for the operation of the A.B.C. commissioner in policing an industry which has possibilities of far greater social evil than do the legalized games of chance. For some 25 years, under various single Commissioners, this Department has been operating without the breath of scandal or without the charges of harshness that have characterized the activities of the Legalized Games of Chance Com-

mission. A lot of words are used which seem to say that there are stresses and strains in the operation of legalized games of chance and that an individual would be subject to greater pressure, and that a Commission of several persons would not be so subjected. To me these are mere words and have no basis and fact. Indeed, it is a fact that in the legislation provided for the so-called "boardwalk games of chance" a single Commissioner has been provided. It is true that many of our best citizens are willing to give of themselves and their time to perform public functions, but it is too much to ask a group of citizens to be in constant meeting to run a Department such as the Legalized Games of Chance Commission. It is my considered opinion that all of these Commissioners should be immediately removed from office and there should be substituted for them a single Commissioner who is adequately paid and whom the Chief Executive would be much less loath to remove from office if his conduct warranted removal than he would to remove an unsalaried Commission of five citizens. In this connection, it seems to me that the Senate could have been much more careful in considering the qualifications of the present Commissioners before they were confirmed, because if any blame attaches for the performance of these Commissioners it must be borne, not only by the Governor who appointed them, but by the Senators who confirmed them, including myself.

3. I feel that definite steps must be taken to give some sort of protection, either by way of Civil Service, or by a Tenure Act to the employees of the Commission. The reign of terror which was visited upon these employees by Arthur Weller, aided and abetted primarily by Commissioner Merritt Lane, and concurred in by the rest of the Commissioners, is one to which no American citizen should be subjected

because of his necessity to earn a living. There have been high sounding phrases about having responsible investigators, but all noble words of the Commissioners evaporate in the light of the vicious conditions under which the investigators of this Commission were forced to work, and in spite of the revelations brought out in the testimony, the members of this Commission have changed their position not one whit. Indeed, they have reiterated their intention to rule by fear and to take reprisal on those employees who did not abjectly worship at their shrine. Under the new executive secretary men who testified before the Commission in a manner not favorable to the Commissioner have been sent to "Siberia," subjected to long and wearying travels from one end of New Jersey to the other to perform duties which in the light of the expense and trouble involved seem ridiculous. This Commission has recently capped the climax by rewarding those investigators whom they felt were favorable to them by raising their salaries and denying to those investigators who testified unfavorably any increment in salary, even though the Legislature provided funds to give these employees normal increments. The disdain, or rather the contempt which this Commission has demonstrated for the Senate and the members of this Committee, is appalling. It began with the stupid attempt to investigate the three Senators comprising the Committee and has continued up to the present moment when they used their power concerning salary raises to punish those employees who co-operated with the Committee.

C. OPINION OF THE HONORABLE CHARLES W. SANDMAN, JR.,  
A MEMBER OF THE SENATE COMMITTEE

I am in accord with the statement in the Jones report that the Legalized Games of Chance Commission did immediately attempt to block the Senate inquiry. At this point in the report I would recommend great emphasis upon their unwarranted investigation of the three Senators on the Investigating Committee, as well as their attempt to brain-wash possible witnesses that would be called before the Committee. As for the interference on the part of the Governor, perhaps we would do well to point out the facts as they exist, merely that he vetoed the appropriation of \$10,000 to carry on this investigation. The veto in itself must be considered as an act which did not in any way attempt to help the investigation but quite to the contrary was an act that could have prevented the investigation because of the great amount of work that was required to conduct a thorough investigation. I think it is worthy of note that the Governor has not at any time said that the Legalized Games of Chance Commission should not be investigated. Certainly from the information available to him on July 31st, when he vetoed the appropriation bill, was ample to support the fact that an investigation should be made. I don't think that either political party should attempt to take credit for this investigation and I think that we should make our report as free from political accusations as possible. As Senator Cowgill sets out in his letter, we cannot entirely blame the Governor for the appointment of the Commissioners since all of the Commissioners were confirmed by the Senate. Any other reference to efforts on the part of the Governor to block the investigation I think should be deleted. Other than the Governor's original comment that the investigation was politically motivated and his veto of the appropriations bill which would have given the Committee funds with which to work is about as far as we should go in this matter, although I do think it entirely

proper to include page 12 (rough draft) of the Jones report because it does pertain to the appropriation.

I think that we should emphasize that if it were not for the assistance of Messrs. Considine and Besser who expended countless hours and days of their time as attorneys that this investigation could not have been conducted. These gentlemen have rendered a very worthwhile service to the State of New Jersey and although they did so without pay, I am firmly of the opinion that they should be paid.

The Jones report gives a very accurate account of the investigation. This I think should remain intact in our report and this takes us up to page 183 of the preliminary draft.

All of us, I am confident, are of the opinion as expressed in capital letters on page 184

“The Commissioners have failed to exercise proper control over the activities of the employees of the Commission and as a result discredit has ensued to the Commission, to the Executive Department, and to the State of New Jersey.”

This I would also point out that for the most part was not done deliberately by the Commissioners but done as a result of the system under which they operated. There is unquestionably a dereliction of duty to let Director Arthur Weller carry on as he did, but this I think we must resolve was due to the fact that all of the Commissioners relied completely upon the recommendations of Mr. Weller and were never close enough to the situation to act otherwise. The resignation of Mr. Weller during the course of the investigation is most significant. Although he claimed he resigned because of his health, we must all be of the opinion that he had other reasons. How any man could have such accusations made against him and at the same time decline to defend himself is more than any prudent person can understand. This investigation was carried on over a long period of time and during that time Mr. Weller must have had some

improvement to his health and he must have had, if he were innocent of the charges against him, a strong desire to either testify himself or submit proof to the contrary of the testimony of the many investigators who testified against the actions of Mr. Weller. The charges made against him I feel are most conclusive, yet the thing that I have the greatest difficulty in understanding is the fact that all of the Commissioners, especially Miss Brophy, went at great length to defend the actions of Mr. Weller and praised his work to the high heavens. I can understand to some extent that the Commissioners could have been ignorant of the actions of Mr. Weller and probably could have been misled by what appeared to them to be his good intentions, but how they could defend this man and praise him at a time after they had full knowledge of all of the accusations made against Mr. Weller during the investigation, is totally without reason. To be of the opinion that the Commissioners gave honest testimony after knowing the charges that were against Mr. Weller can only lead this Committee to the conclusion that Mr. Weller must have had the Commissioners completely under hypnosis at all times, even up to and including the time they testified before the Senate Committee.

It is my personal observation as a result of this investigation that the action of Mr. Weller was highly uncalled for, improper and contrary to good enforcement of the Bingo and Raffles Act. I am of the opinion that the failure of the Legalized Games of Chance Commission to take disciplinary action against Mr. Weller is inexcusable. To stretch my imagination to extremes and to be of the opinion that the Commissioners did not know what Mr. Weller was doing as the Executive Director of this Commission for the many years that he held that position, I then must, of necessity, be of the opinion that because of the ineffectiveness of the Commissioners that this system should and must be abolished.

It was very interesting to get the opinions of these Commissioners as to the fairness of the penalties they inflicted upon churches and other non-profit organizations. Each of the Commissioners testified that they felt the penalties were fair. They attempted to justify closings that lasted as long as 30 months against a church for technical violations and admitted at the same time by their testimony that such a penalty is almost never given to an Alcoholic Beverage Control licensee, regardless of how serious the violation may be. In this connection I like the words used in Senator Cowgill's report "from its outset, the attitude of a policeman, which attitude has been, 'We must ferret out violators and we must punish them severely.' is not the attitude which this Commission should have had. We are dealing with charitable and benevolent enterprises. We are dealing with religious societies who use the proceeds from these games to do charity and to pay for parochial school education and to foster enterprises which I am sure all of us consider worthy. I do not feel that we should visit upon the organization fostering such games of chance the cudgel of a policeman. We should, on the contrary, help them and encourage them. We should show them where they make mistakes so that they can correct them."

The testimony given as to how Mr. Weller and this Commission operated in their cloak and dagger fashion is certainly inconsistent with the Bingo and Raffles Act and contrary to the intent of the Legislature which enacted this legislation. The Legalized Games of Chance Commission under the direction of Mr. Arthur Weller actually instructed their investigators to pull every surprise trick in the bag in an effort to catch somebody. The testimony of the investigation proves beyond all reasonable doubt that the effort of this Commission was to prosecute and not to correct alleged violations.

Senators Sandman and Cowgill have sharp disagreement of the opinion of Senator Jones as expressed on pages 189 and 190 of the preliminary report. Senator Jones is of the

opinion that the system of Commissioners is good, he recommends a continuation of that system and further recommends that all of the Commissioners resign and that a new Board of Commissioners be appointed. With this I cannot agree. I was impressed by the fact that these Commissioners came highly recommended and worthy of appointment to the positions they held. Their devotion to duty and to the State prompted them to accept their individual appointments to this Commission without pay. They also spent many hours at their meetings. I am of the opinion that these Commissioners are good people and attempted to do a good job. I doubt very much if any other Commissioners that may be appointed at future dates under Senator Jones' recommendation would be able to do much better. We must take into consideration that these Commissioners functioned under the grip of Arthur Weller who was a master of deception, although as I have stated previously, the Commissioners should have been aware of what Mr. Weller did. By not having been subjected to the whims of Mr. Weller it is altogether possible that what we may expect an ordinary prudent person would do under the circumstances may not apply under the reign of Arthur Weller. The chief reform that I feel that can come from this investigation is that a change be made in the system. "Night-time Commissioners" cannot adequately administer this Act. I, therefore, agree wholeheartedly with Senator Cowgill that the Commission be abolished and placed under a single Director according to the same administrative procedures as presently adopted by the Alcoholic Beverage Control Commission. Under a single Commissioner or Director there will be no duplication of authority and there will be no "passing the buck" and the complete responsibility shall be placed on the shoulders of one person. The reason given by Senator Jones as being his chief reason for continuing the Commission is groundless. Senator Jones agrees with the language of the Commissioners as expressed in the celebrated "Interim Report" that "The pressures that would be put on a single person from various organiza-

tions would be so tremendous that we do not feel that he would be able to withstand them." This reasoning in my opinion is ridiculous. The pressures already upon the Commissioner of Alcoholic Beverages are far greater than the pressures that a Director of this administrative body will ever have. A good director of this administrative body would not have to yield to anyone.

As a member of this Senate Committee I make the following recommendations as a result of the inquiry conducted into the administration of the Legalized Games of Chance Commission.

1. That the original bill as sponsored by Senator Cowgill and myself abolishing the Legalized Games Control Commission and setting forth an administrative system whereby a single Director shall be appointed by the Governor, upon the advice and consent of the Senate, and paid an adequate salary, be enacted forthwith.
2. That the new Director be authorized to promulgate rules and regulations for the enforcement and operation of Bingo and Raffles, the promulgation of such rules to include all things except the term of penalties.
3. That the Legislature enact legislation pertaining to the sentence of offenders of the Bingo and Raffles Law providing for maximum sentences in the case of first, second and third offenders to the end that the enforcement of this Act be tempered with liberality, under which law a maximum effort shall be made to instruct and correct rather than merely to punish.
4. In the interest of economy, since the receipts from bingo and raffles permits do not pay for the administration of the Act, I therefore recommend that the jurisdiction now controlled by the Legalized Games of Chance Commission be transferred to the jurisdiction of the Alcoholic Beverage Control Commissioner, who also has under his jurisdiction the Amusement Games of Chance Commission.

5. That the new Commissioner in charge of Legalized Games of Chance (bingo and raffles) improve the administration of the Act in the following areas:

(a) Revise the present manual of regulations and reduce it to simpler language.

(b) To review the need for the multitudinous forms now required from charitable groups.

(c) Review the need for an IBM installation in a State office of this size, particularly in view of its present limited use.

(d) That all employees in this department be placed under civil service.

## APPENDIX

### CHARLES W. SANDMAN, JR.

Senator Charles W. Sandman, Jr., was born in Philadelphia, Pa., on October 23, 1921. He graduated from Cape May High School, and attended Temple University, Philadelphia, and Rutgers University Law School.

He is an attorney, having been admitted to the New Jersey bar on November 17, 1949. He serves as solicitor for Lower Township, West Cape May and Cape May.

During World War 2 he served with the Armed Forces of the U. S. as a Navigator in the Army Air Force, European Theatre of War.

He is married to the former Marion C. Cooney and they have five children.

### JOSEPH WM. COWGILL

Senator Cowgill was born in Camden, April 24, 1908. He graduated from the Camden High School, 1925; University of Pennsylvania (B.S.), 1929; University of Pennsylvania Law School (L.L.B.), 1933.

He was admitted to the practice of law as Attorney in 1934 and as Counsellor in 1946. He served in the New Jersey Assembly in 1941; Surrogate of Camden County 1942; served in the United States Navy from 1943-1946 as a Lieutenant; Assistant Prosecutor, Camden County, 1945; County Counsel, 1947-1953, and from 1957-1960; Freeholder, 1953-1956. He was a delegate to the 1947 Constitutional Convention from Camden County. Senator Cowgill was elected an Alternate Delegate-at-Large to the 1956 Democratic National Convention. Senator Cowgill served as Minority Leader of the Senate during the session of 1957.

Senator Cowgill is a member of the American Bar Association; New Jersey Bar Association; a member and former President of the Camden County Bar Association; American Judicature Society; Selden Society; a former Vice-President, N. J. Association of Freeholders, Trustee of the Greater Camden County Chapter Multiple Sclerosis Foundation, and a Trustee of the United Fund of Camden County.

### WALTER HENRY JONES

Mr. Jones is a counsellor-at-law with offices at the Peoples Trust Building, 15 Main Street, Hackensack, and at Raymond Commerce Building, 1180 Raymond Boulevard, Newark. He resides at 234 Tappan Road, Norwood.

He was born in New York City, August 18, 1912.

Mr. Jones is a graduate of Rutgers University (Dana College), 1934; Rutgers University Law School (University of Newark), 1937; and holds a Master of Law Degree from New York University, 1942. He was an assistant Professor of Law at Rutgers University Law School.

He is a member of the Bergen County, New Jersey State, and American Bar Associations, the American Judicature Society, and the Gerontological Society, Inc.

Aside from his law practice, Mr. Jones is a director and officer in a number of corporations. He attends Norwood Episcopal Church, Norwood.

On May 5, 1939, he married Alice Ferris Henshaw, daughter of a well known New York architect. They have four children. Walter H., 3d, born September 1, 1942; Graham Osear, born May 16, 1944; Susan Henshaw, born July 18, 1947, and Deborah, born September 10, 1952.

Mr. Jones was elected to the General Assembly in November, 1942, and won re-election for consecutive terms through 1953. He was chosen Majority Leader in 1945 and Speaker in 1946, during which year he served also as Acting Governor. In 1945 he was appointed by then Governor Edge to the State Administrative Reorganization Commission.

Mr. Jones was elected to the Senate in 1953 and was re-elected in 1957.

Mr. Jones served as a member of the Inter-Governmental Committee on European Migration an appointment by Secretary of State John Foster Dulles in 1954 and 1955 in Geneva, Switzerland.

He surveyed European casualties in connection with the Refugee Relief Program in 1955. In 1956 he was a delegate to the Republican National Convention.