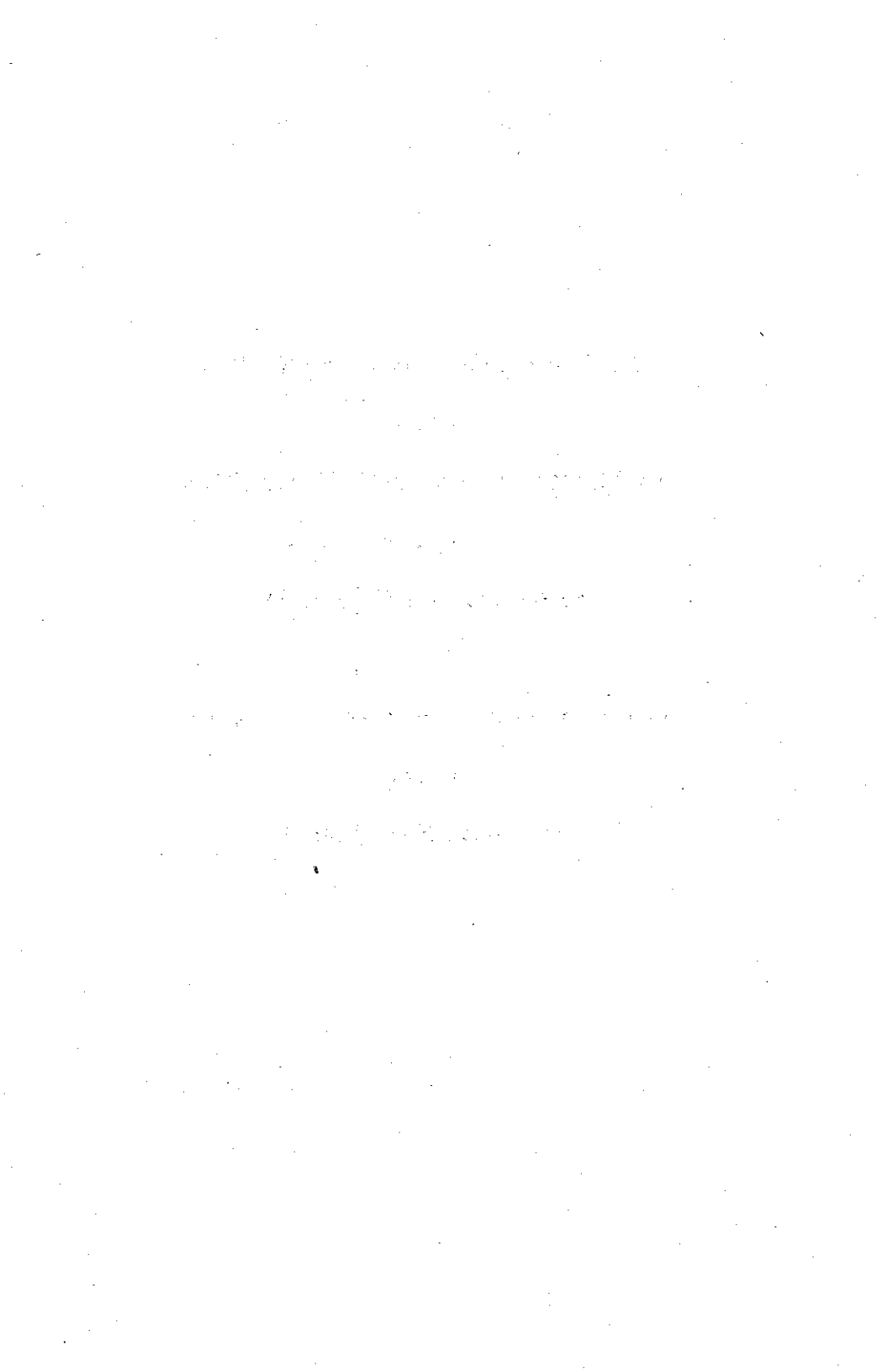


REPORT FOR THE YEAR 1974
of the
COMMISSION OF INVESTIGATION
of the
STATE OF NEW JERSEY
to
THE GOVERNOR AND THE LEGISLATURE
of the
STATE OF NEW JERSEY



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March, 1975

*TO: The Governor and the Members of the Senate and
the General Assembly of the State of New Jersey*

The New Jersey State Commission of Investigation is pleased to submit its sixth annual report and recommendations pursuant to Section 10 of P. L. 1968, Chapter 266 (N. J. S. A. 52:9M-10), the Act establishing the Commission of Investigation.

Respectfully submitted,

Joseph H. Rodriguez
Charles L. Bertini
Thomas R. Farley
David G. Lucas

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FOREWORD

The year 1974 was a period of both recommencement and particular progress for the New Jersey State Commission of Investigation (S.C.I.).

It was a period of recommencement because it was the final year of the Commission's initial term and the embarkation point for the Commission's second five-year term as enacted by the Legislature. It was a period of particular progress because the Commission established a new dimension of investigative and recommendation-making scope under the broad purview afforded by the Commission's statute. During 1974 the Commission's public reports and public hearings covered the following diverse areas: judicial and other reforms in the Workmen's Compensation system, the curbing of criminal-element distribution of narcotics, improved controls for the purchasing procedures of schools, districts, the operations of profit-oriented companies making pseudo-charitable appeals to sell high-priced goods, possible conflicts of interest by the chairman of a bi-state authority, and official corruption and other abuses at the municipal level with particular reference to the Borough of Lindenwold.

Near year's end the Commission commenced an inquiry at the request of the Governor into the Medicaid program of publicly funded health care for the poor which now annually involves the expenditure of \$200 million a year of state funds and a like amount of federal funds in New Jersey. That request once more has emphasized the vital role set out for the Commission by the drafters and enactors of its statute, namely that it not be just a "crime commission" alone but that it also have a broad civil purview to probe and bring to public attention improprieties and abuses not necessarily involving criminal dimensions but obviously injurious to the public good and public purse, all to the end of deterring further public injury and prompting improved laws and governmental operations.

The need for the S.C.I. as an independent, investigation arm of the Legislature was stressed by both State Attorney General William F. Hyland, who was the first Chairman of the S.C.I., and State Criminal Justice Director Matthew P. Boylan at a joint press conference with the S.C.I. following the Governor's request to evaluate the Medicaid program. Mr. Hyland stated that the S.C.I. is uniquely situated as a fact-finding agency to detect possible abuses and by highlighting them at public hearings, to have a

deterrent effect against any further abuse of the program. He also noted that the S.C.I.'s statute envisions that the Commission will cooperate with law enforcement and civil agencies of government "in an effort to see that the people are getting the kind of government and the kind of value they are expected to get."

Mr. Boylan, who is responsible for pursuing criminal prosecutions on a statewide basis, stated in pertinent part:

The deterrents from the S.C.I. would be that if there is a public hearing, the problem would be aired and the public would be informed, whereas in a criminal investigation you either return an indictment or generally you do nothing . . . I think if you keep in mind the difference of a civil tax fraud and a criminal tax fraud, you see the S.C.I. is very helpful. It can look at a problem in an entire area and if it is necessary, bring to public attention abuses which may not be criminal in nature but which ought to be brought to the public attention . . .

While the S.C.I. will maintain its policy of vigorous confrontation of known members of organized crime in New Jersey, a policy which has been credited by law enforcement authorities with making a significant contribution to the fight against the underworld, the Commission will continue to stress the development of new and varied investigations which will provide further factual bases for prompting improvements in laws and governmental operations in ways to make them more protective of the public interest and public trust.

The move towards Workmen's Compensation system improvements which this Commission's investigation has been instrumental in sparking and the improved procedural controls issued by the State Board of Education for some school purchasing practices, as recommended by the S.C.I., are reviewed on subsequent pages of this report. When added to other results from those investigations and the numerous other S.C.I. probes reviewed in brief and in detail in this report, the resultant record, the Commission believes, demonstrates that the S.C.I. has kept faith with the demanding standard set for it by the bi-partisan legislative committee which recommended the Commission's creation—that, "The State will benefit immensely from the continued presence of such a small but expert investigative body." That standard will continue as the Commission's guide in the years ahead.

ORIGIN AND SCOPE OF THE COMMISSION

Despite the Commission's work being generally known throughout the state, inquiries continue to be made about its origin and its jurisdiction. The Commission believes this important information should be conveniently available, and, accordingly, the pertinent facts are again summarized here.

The Commission was an outgrowth of extensive research and public hearings conducted in 1968 by the bi-partisan Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. That Committee was under direction from the Legislature to find ways immediately to correct a serious and intensifying crime problem in New Jersey. The Committee found that a crisis in crime control existed and that the expanding activities of organized crime could be attributed to "failure to some considerable degree in the system itself, official corruption, or both."

Concerned over a lack of new and meaningful developments which would help alleviate the problem, the Committee offered a series of sweeping recommendations for improving the administration of criminal justice. The two major priority recommendations were for a new State Criminal Justice unit in the executive branch of government and an independent State Commission of Investigation (S.C.I.), patterned after the high-level New York State Commission of Investigation, now in its 17th year of probing organized crime, official corruption and other governmental abuses.

The Committee envisioned the assignments of the proposed Criminal Justice unit and the proposed Commission of Investigation to be complementary in the fight against crime and corruption. The Criminal Justice unit was to be a relatively large organization with extensive manpower and authority to coordinate and press forward criminal investigations and prosecutions throughout the state. The Commission of Investigation, like the New York Commission, was to be a relatively small but highly expert body which would conduct fact-finding investigations, bring the facts to the public's attention, and make recommendations to the Governor and the Legislature for improvements in State laws and the operations of government.

The bi-partisan Committee's recommendations prompted subsequent legislative and executive action. New Jersey now has a Criminal Justice Division in the State Department of Law and Public Safety and an independent State Commission of Investigation which is structured as a Commission of the Legislature. Nor is there any conflict between the functions of this purely investigative, fact-finding Commission, and the prosecutorial authorities of the state. The latter have the responsibility of discerning violations of law and bringing the wrongdoers to punishment. This Commission has the equally somber responsibilities of publicly confronting the truth and recommending new laws to protect the integrity of the political process.

The bill creating the New Jersey Commission of Investigation was introduced April 29, 1968 in the Senate. Legislative approval of that measure was completed September 4, 1968. The bill created the Commission for an initial term beginning January 1, 1969 and ending December 31, 1974. It is cited as Public Law, 1968, Chapter 266 N.J.S.A. 52:9M-1 et seq.* As previously noted, the Legislature on November 12, 1973 completed enactment of a bill, cited as Public Law 1973, Chapter 238, which renewed the Commission for another term ending December 31, 1979.

To insure the integrity and impartiality of the Commission, no more than two of the four Commissioners may be of the same political party. Two Commissioners are appointed by the Governor and one each by the President of the Senate and the Speaker of the Assembly. It thus may be said the Commission by law is bi-partisan and by concern and action is non-partisan.

The primary and paramount statutory responsibilities vested in the Commission are set forth in Section 2 of the statute. It provides:

2. The Commission shall have the duty and power to conduct investigations in connection with:
 - (a) The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering.
 - (b) The conduct of public officers and public employees, and of officers and employees of public corporations and authorities.

* The full text of the Commission's statute is included in the Appendices section of this annual report.

- (c) Any matter concerning the public peace, public safety and public justice.

The statute provides further that the Commission shall conduct investigations by direction of the Governor and by concurrent resolution of the Legislature. The Commission also shall conduct investigations of the affairs of any state department or agency at the request of the head of a department or agency.

Thus it can be seen that the Commission, as an investigative, fact-finding body, has a wide range of statutory responsibilities. It is highly mobile, may compel testimony and production of other evidence by subpoena, and has authority to grant immunity to witnesses. Although the Commission does not have nor may it exercise any prosecutorial functions, the statute does provide for the Commission to refer information to prosecutorial authorities.

One of the Commission's prime responsibilities when it uncovers irregularities, improprieties, misconduct, or corruption, is to bring the facts to the attention of the public. The objective is to insure corrective action. The importance of public exposure was put most succinctly by a New York Times news analysis article on the nature of Investigation Commissions:

Some people would put the whole business in the lap of a District Attorney (prosecutor), arguing that if he does not bring indictments, there is not much the people can do.

But this misses the primary purpose of the State Investigation Commission. It is not to probe outright criminal acts by those in public employment. That is the job of the regular investigation arms of the law.

Instead, the Commission has been charged by the Legislature to check on, and to expose, lapses in the faithful and effective performance of duty by public employees.

Is sheer non-criminality to be the only standard of behavior to which a public official is to be held? Or does the public have a right to know of laxity, inefficiency, incompetence, waste and other failures in the work for which it pays?

The exact format for a public action by the S.C.I. is subject in each instance to determination by the Commission which takes into consideration factors of complexity of subject matter and of

conciseness, accuracy and thoroughness in presentation of the facts. In the course of its conduct, the Commission by law adheres to and is guided by the State Code of Fair Procedure. (Chapter 376, Laws of New Jersey, 1968, N.J.S. 52:13E-1 to 52:13E-10, printed in full on Pages 117 to 119 of this Annual Report.) That Code sets forth those protections which the Legislature in its wisdom and the judiciary by interpretation have provided for witnesses called at private and public hearings and for individuals mentioned in the Commission's public proceedings. Section Six of the Code states that any individual who feels adversely affected by testimony or other evidence presented in a public action by the Commission shall be afforded the opportunity to make a statement under oath relevant to the testimony or other evidence complained of. The statements, subject to determination of relevancy, are incorporated in the records of the Commission's public proceedings. The Commission in statements at the opening and close of its public hearings and in its public reports issues reminders that the opportunity to make statements on one's own behalf is afforded by the Code. Also, the Code is printed in full on all S.C.I. subpoenas. That Code has been cited in some of the federal and state court decisions* which have consistently and conclusively upheld the Commission's statute and proceedings as comporting with due process and other Constitutional requirements. Additionally, by firmly established policy and practice, the Commission recognizes the need to balance individual rights against the public's right and need to know the truth. Accordingly, the Commission carefully analyzes and evaluates investigative data in private before determining whether that balance is sufficiently weighted on the public interest side so as to require a public action under the S.C.I.'s statute.

The Commission believes the true test of the efficacy of its public actions are not any indictments which may result from referral of matters to other agencies but rather the corrective actions sparked by public exposure of deplorable conditions detrimental to the public interest. The Commission takes particular pride in actions which have resulted in improved governmental operations and laws and in more effective protection for the taxpaying public through safeguards in the handling of matters involving expenditures of public funds and maintenance of the public trust.

* See *U.S. Ex Rel Catena v. Elias*, 465 F 2d 765 (3rd Cir. 1972); *In Re Zicarelli*, 55 N.J. 249, 261 A 2d 129, 1970, and *Zicarelli v. the New Jersey State Commission of Investigation*, 406 U.S. 472, 1972, (to be read in conjunction with *Kastigar et al. v. United States*, 406 U.S. 441, 1972).

RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS FOR THE PERIOD JUNE, 1969 TO DECEMBER, 1974

This is a summary of the Commission's major investigative efforts completed and made public from June, 1969 when the Commission became staffed and operational to the end of the year 1974 covered by this sixth annual report. In describing them as major investigations, it is meant that they required considerable time and effort and, where appropriate, resulted in a public hearing or a public report or both.

Since the following investigations have already been discussed fully in separate reports or in previous annual reports or in the subsequent sections of this report, only a brief statement about each will be set forth.

1. ORGANIZED CRIME CONFRONTATIONS*

Since the summer of 1969 the Commission on a continuing basis has from time to time issued subpoenas for the appearance and testimony of individuals identified by law enforcement authorities as leaders and/or members of organized crime families operating in New Jersey. This effort has been part of the Commission's on-going program designed to increase the storehouse of meaningful intelligence, mutually shared with law enforcement agencies, about the status and modes and patterns of operations of the underworld in this state. No individuals are in a more informed position to provide first-hand, detailed data about those operations than the persons responsible for directing them and carrying them out.

The Commission firmly believes that once individuals have been granted witness immunity against the use of their testimony or any leads derived therefrom a proper balance has been struck between protecting individual rights and the right of the state to know as much as possible about the underworld. This philosophy

* See State of New Jersey Commission of Investigation, Annual Reports for 1970, 1971, 1972, and 1973 and pages 42 to 45 of this report.

and approach has met with the approval of the highest courts of state and nation.

At the time of publication of this report six organized crime figures served with S.C.I. subpoenas still have elected to undergo extended periods of court-ordered incarceration for civil contempt for refusal to answer the S.C.I.'s questions, with one of those six currently on temporary release under court order for treatment of a serious internal bleeding ailment and another presently serving a lengthy sentence in the state prison system for a criminal conviction. Ten other organized crime figures served with subpoenas have testified before the Commission, with three of those doing so only after prolonged court-ordered incarceration for civil contempt in first refusing to testify once granted immunity. The Commission's continued confrontation policy has been credited by law enforcement authorities with having a major disruptive effect on the structure and operations of organized crime in New Jersey due to the prolonged incarcerations and the flight from this state of nine other underworld operatives to avoid being served S.C.I. subpoenas. Additionally, the intelligence gathering needed to maintain the policy of continued confrontation has been instrumental in development of several of the S.C.I.'s major public hearings which serve to maintain a level of public awareness supportive of vigorous crime-fighting steps.

2. RECOMMENDATIONS ON THE GARBAGE INDUSTRY*

The Legislature in 1969 passed a resolution requesting the Commission to look into the garbage industry and make recommendations for possible corrective action at the state level. An investigation was subsequently undertaken by the S.C.I. of certain practices and procedures in that industry. The investigation ended with two weeks of private hearings, concluding in September, 1969. A public report was issued in October of that year.

A principal finding of the Commission was that the provisions and practices of some garbage industry trade associations discouraged competition, encouraged collusive bidding, and preserved allocations of customers on a territorial basis. Unless the vice

* See New Jersey Commission of Investigation: A Report Relating to the Garbage Industry, October 7, 1969.

of customer allocation was curbed by the state, more and more municipalities will be faced with the situation of receiving only one bid for waste collection, the Commission concluded.

The Commission recommended legislative action leading to a statewide approach to control of the garbage industry. Specific recommendations were: Prohibit customer territorial allocation, price fixing and collusive bidding; provide for licensing by the state (to the exclusion of municipal licenses) of all waste collectors in New Jersey, and prohibit discrimination in the use of privately owned waste disposal areas.

The subsequently enacted laws for state control of the solid waste industry encompassed the substance of these recommendations. Those laws have inhibited the vicious and costly cycle of price gouging by previously unregulated monopolies.

3. ORGANIZED CRIME INFLUENCE IN LONG BRANCH*

The New Jersey shore city of Long Branch had since 1967 been the focus of publicized charges and disclosures about the influence of organized crime. One charge was that an organized crime leader, Anthony "Little Pussy" Russo, controlled the mayor and the city council. Official reports indicated mob figures were operating in an atmosphere relatively secure from law enforcement. The Commission began an investigation of Long Branch in May, 1969. The exhaustive probe culminated with public hearings in the spring of 1970. Among the major disclosures of those hearings were:

That a Long Branch city manager was ousted from that job by the city council after he began taking counter-action against organized crime's influence; that Russo offered to get the city manager job back for that same person if he would close his eyes to underworld influences and act as a front for the mob; that impending police raids on gambling establishments were being leaked in time to prevent arrests despite the anti-gambling efforts of a then honest police chief who died in 1968, and that the next police chief lacked the integrity and will to investigate organized crime and attempt to stem its influence.

*See State of New Jersey Commission of Investigation; 1970 Annual Report, issued February, 1971.

After the Commission's public hearings, the police chief resigned and the electorate voted in a new administration. The Asbury Park Press commented editorially that the Commission's hearings did more good than four previous grand jury investigations. Also, during the Commission's probe of the Long Branch area, the Commission's special agents developed detailed fiscal information and records relating to corporations formed by Russo, information which was used by federal authorities in obtaining a 1971 indictment of Russo on a charge of failure to file corporate income tax returns. He pleaded guilty to that charge and received a three-year prison sentence.

4. THE MONMOUTH COUNTY PROSECUTOR'S OFFICE*

The Long Branch inquiry quite naturally extended to the Monmouth County prosecutor's office, since the prosecutor had prime responsibility for law enforcement in this county. This probe determined that a disproportionate share of authority had been vested in the then chief of county detectives. Twenty-four hours after the Commission issued subpoenas in October, 1969, the chief committed suicide.

Public hearings were held in the winter of 1970. Testimony showed that a confidential expense account supposedly used for nine years by the chief of detectives to pay informants was not used for that purpose and could not be accounted for. The testimony also detailed how that fund was solely controlled by the chief with no county audit and no supervision by the county prosecutor. In fact, the then county prosecutor testified that he signed vouchers in blank, and without the knowledge they were to be used to pay informants.

The Commission, after the hearings, made a series of recommendations to reform the county prosecutor system. A principal recommendation was for full-time prosecutors and assistants. A state law, since enacted, has established full-time prosecutorial staffs in the more populous counties of New Jersey, thereby providing the citizenry with better administrated and more effective law enforcement.

* See State of New Jersey, Commission of Investigation, 1970 Annual Report, issued February, 1971.

5. PRACTICES OF THE STATE DIVISION OF PURCHASE AND PROPERTY*

The Commission in February, 1970 began investigating charges or corrupt practices and procedures involving the State Division of Purchase and Property and suppliers of state services. Public hearings on that matter were held in the spring of that year.

Public testimony showed payoffs to a state buyer to get cleaning contracts for state buildings, rigging of bids on state contracts, renewal of those contracts without bidding, unsatisfactory performance of work called for under state contracts, and illegal contracting of such work.

After the investigation, the state buyer was dismissed from his job. Records of the investigation were turned over to the State Attorney General's Office which obtained an indictment charging the buyer with misconduct in office. He pleaded guilty and was fined and placed on probation for three years.

This investigation met with immediate correctional steps by the State Division of Purchase and Property to change several procedures to prevent reoccurrence of similar incidents. The Commission commended officials of that Division for moving so rapidly to tighten procedures in order to better protect the public purse.

6. THE BUILDING SERVICES AND MAINTENANCE INDUSTRY*

The probe of the Division of Purchase and Property brought to the Commission's attention anticompetitive and other improper practices and influences in the building services industry. A follow-up investigation was carried out with public hearings being held in June, 1970.

Testimony showed the existence of a trade organization designed to thwart competition by limiting free bidding and enterprise. The hearings also revealed that a union official with associations with organized crime figures was the real power in the trade organization and that coerced sales of certain detergent cleaning products and/or imposition of sweetheart contracts were sometimes the

* See State of New Jersey, Commission of Investigation, 1970 Annual Report, issued February, 1971.

price of labor peace. Another disclosure was that a major organized crime figure in New Jersey could act as an arbiter of disputes between some cleaning companies.

The hearings served to alert legitimate persons and business firms in the building maintenance industry and users of the industry's services to the presence of unscrupulous and unsavory elements in that industry. Also, the information developed in this probe was forwarded, on request, to the United States Congress' Select Committee on Commerce which based extensive public hearings on the S.C.I. information in Washington in 1972. That Committee by letter thanked the S.C.I. for making a significant contribution to exposing "the cancer of organized crime in interstate and foreign commerce." This investigation continued to have repercussions in 1974 when, after its representatives had studied S.C.I. records, the U.S. Justice Department obtained anti-trust indictments against 12 firms and five individuals, all first publicly exposed at the S.C.I.'s hearings.

7. THE HUDSON COUNTY MOSQUITO EXTERMINATION COMMISSION*

During 1970 the Commission received complaints about possible corrupt practices in the operation of the Hudson County Mosquito Extermination Commission. The subsequent investigation led to public hearings at the close of 1970.

The mosquito commission's treasurer, almost totally blind, testified how he signed checks and vouchers on direction from the agency's executive director. The testimony also revealed shake-down type payments made by the New Jersey Turnpike and other organizations with projects or rights of way in the Hudson meadowlands, the existence of a bank account kept secret by the executive director from the panel's outside auditors, and kickback payments by contractors and suppliers of up to 75 percent of the amounts received under a fraudulent voucher scheme.

One result of this investigation was abolition of the Hudson County Mosquito Extermination Commission which served no valid governmental function and whose annual budget, paid for by the taxpayers of Hudson, was approaching the \$500,000 mark.

* See State of New Jersey Commission of Investigation, 1970 Annual Report, issued February, 1971.

Additionally records of the investigation were turned over to the Hudson County Prosecutor's Office which in 1971 obtained conspiracy and embezzlement indictments against the Mosquito Commission's executive director and his two sons. The executive director pleaded guilty to embezzlement and in June, 1972 was sentenced to two to four years in prison. His sons pleaded guilty to conspiracy and were fined \$1,000 each.

8. MISAPPROPRIATION OF FUNDS IN THE GOVERNMENT OF ATLANTIC COUNTY*

The Commission in 1970 was asked to make a thorough investigation of the misappropriation of at least \$130,196.00 in public funds that came to light with the suicide death of a purchasing agent in Atlantic County government. The Commission in December of that year issued a detailed public report which documented in sworn testimony a violation of public trust and a breakdown in the use of the powers of county government.

That purchasing agent, through a scheme involving fraudulent vouchers, endorsement and other maneuvers, diverted the money to his own use over a period of 13 years. The sworn testimony showed that for years prior to 1971, monthly departmental appropriation sheets of many departments contained irregularities traceable to the agent but that no highly placed county official ever tried to get a full explanation of those irregularities. The testimony also disclosed that after county officials were first notified by the bank about the false check endorsement part of the agent's scheme, an inadequate and questionable investigation was conducted by some county officials.

Copies of the Commission's report were sent to Freeholder Boards throughout the state for use as a guide in preventing any further instances of similar misappropriations of funds. As a result of fiscal irregularities uncovered in the probes not only of Atlantic County government but also of county agencies in Monmouth and Hudson counties, the Commission has recommended that licensed county and municipal auditors be mandated to exercise more responsibility for maintaining integrity in the fiscal affairs of government, with stress on review on an on-going basis of the internal controls of county and local governments.

* See Report on Misappropriation of Public Funds, Atlantic County, a Report by the New Jersey Commission of Investigation, December, 1971.

9. DEVELOPMENT OF THE POINT BREEZE AREA OF JERSEY CITY*

The lands that lie along the Jersey City waterfront are some of the most valuable and economically important acreage in the state. The Commission in the spring of 1971 began an investigation into allegations of corruption and other irregularities in the development of the Point Breeze area of Jersey City as a container port and an industrial park.

The investigation showed that that particular development, undertaken by the Port Jersey Corporation, could offer a classic and informative example of how a proper and needed development project could be frustrated and impeded by improper procedures. Public hearings were held in October, 1971. Testimonial disclosures included a payoff to public officials, improper receipt of a real estate commission, and irregular approaches to the use of state laws for blighting urban areas and granting tax abatement.

Commission recommendations stemming from this investigation have been incorporated in bills, which have been introduced in the Legislature, to close a loophole in the statute on brokerage fees in sales of public lands, to improve certain blight and redevelopment laws and to study possible ways of making more effective the existing tax abatement law. After reference of data in this investigation to prosecutorial authorities, a Hudson County Grand Jury returned an indictment against a former Jersey City building inspector on a charge of extorting \$1,200 from an official of the Port Jersey Corp. for issuance of a building permit.

10. TACTICS AND STRATEGIES OF ORGANIZED CRIME**

Although not a sworn member of organized crime, Herbert Gross, a former Lakewood hotel operator and real estate man, became during 1965-70 a virtual part of the mob through involvement in numbers banks, shylock loan operations, cashing of stolen securities and other activities. In order to shorten a State Prison term in 1971, Gross began in 1971 to cooperate with government agencies, including this Commission.

* See State of New Jersey, Commission of Investigation, 1971 Annual Report, issued March, 1972.

** See State of New Jersey Commission of Investigation, 1972 Annual Report, issued February, 1973.

Gross' testimony during two days of public hearings by the S.C.I. in February, 1972 pinpointed the relentless and ruthless modes of operation of organized crime figures in the Ocean County area and their ties back to underworld bosses in Northern New Jersey and New York City. His testimony and that of other witnesses also detailed how mobsters completely infiltrated a legitimate motel business in Lakewood. The former restaurant concessionaire at that motel testified that because of shylock loans arranged by an organized crime figure, the concessionaire lost assets of about \$60,000 in six months and left town a broken and penniless man.

Records of this investigation were made available to federal authorities who subsequently obtained an extortion-conspiracy indictment against nine organized crime figures relative to a shylock loan dispute which culminated with an underworld "sitdown" or trial. The individuals and incidents named in the indictment were first described by Gross in his S.C.I. testimony. New Jersey law enforcement officials testified at the S.C.I. hearings that the public exposure afforded by those sessions was a valuable contribution in meeting the need for continually stimulating vigilance against organized crime, with a particular alert going to areas subject to suburbanization, namely that organized crime follows population growth.

11. PROPERTY PURCHASE PRACTICES OF THE STATE DIVISION OF PURCHASE AND PROPERTY*

The Commission during 1971 received information that the State may have overpaid for land for the site of the new Stockton State College in Galloway Township, Atlantic County. Subsequent field investigations and private hearings extending into 1972 showed that the state's purchase of a key 595-acre tract for \$924 an acre was indeed an excessively high price.

Substantially the same acreage had been sold only nine months earlier by two corporations headed by some Atlantic City businessmen to a New York City-based land purchasing group for \$476 per acre, which was about double the per acreage price of two comparable large-tract land sales in the Galloway area. The Commission in public report, completed during June, 1972, cited two critical

* See Report and Recommendations on Property Purchase Practices of the Division of Purchase and Property, a Report by the New Jersey State Commission of Investigation, issued June, 1972.

flaws as leading to excessive overpayment for the land by the state: Inadequate and misleading appraisals of land that had recently changed hands at a premium price and lack of expertise and safeguards in State Division of Purchase and Property procedures to discover the faults in the appraisals and correct them.

The report stressed a number of recommendations to insure that the Division's processes would in the future detect and correct faults in appraisals. Key recommendations were post-appraisal reviews by qualified experts and strict pre-qualification of appraisers before being listed as eligible to do work for the state. The recommendations were promptly implemented by executive orders in the Division, thereby assuring the taxpayers of properly protective procedures in the state's purchasing of many millions of dollars of properties—then, now and in the future.

12. SECURITIES AND BANK FUNDS MANIPULATIONS IN MIDDLESEX COUNTY*

Investigative activities by the Commission during 1971 in Middlesex County directed the Commission's attention to Santo R. Santisi, then president of the Middlesex County Bank which he had founded. The resulting full-scale probe by the Commission's special agents and special agents/accountants concentrated on Santisi-controlled corporations, in particular the Otnas Holding Company, and ultimately broadened to investigation of certain transactions at the Middlesex County Bank.

The probe uncovered schemes by Santisi and his entourage involving the use of publicly invested funds in Otnas solely for their own personal gain, apparently illicit sale of stock publicly before required state registration, and misapplication by Santisi of hundreds of thousands of dollars of funds of the Middlesex County Bank. Those funds went in the form of loans to members of the Santisi entourage who either personally or through their corporation acted as conduits to pass on the funds for the benefit of Santisi and some of his controlled corporations.

During the first quarter of 1972 the Commission completed private hearings in this investigation but deferred planned public hearings at the request of bank examiners who expressed fears

* See State of New Jersey, Commission of Investigation, 1972 Annual Report, issued February, 1973.

about the impact of adverse publicity on the bank's financial health. Instead, the S.C.I. referred data from this investigation to federal authorities who later obtained indictments on charges involving the misapplied bank funds against Santisi and several other individuals. All pleaded guilty. Santisi was sentenced to three years in prison. The Commission made a public report on this investigation in its annual report for 1972. The S.C.I. stated in that report that this investigation rendered a public service by protecting the investing public from further exploitation by Santisi and his cohorts.

13. THE OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF NEW JERSEY*

In the summer of 1972 the Commission was requested by the then Attorney General of New Jersey, George F. Kugler, Jr., to investigate his office's handling of the matter which ultimately resulted in the state's indicting and obtaining a conspiracy conviction of Paul J. Sherwin, then Secretary of State, in connection with a campaign contribution made by a contractor who had bid on a state highway contract.

The request, under the S.C.I.'s statute, triggered a major investigation which extended into early 1973 and during which the Commission took from 22 witnesses sworn testimony consisting of more than 1,300 pages of transcripts and also introduced and marked exhibits consisting of more than 300 pages. The Commission, by unanimous resolution, issued in February, 1972 a 1,600-plus-page report on the investigation, a report which included in their entirety the transcripts of the testimony and the exhibits in keeping with the Commission's resolve and obligation to make full and complete public disclosure. The report was forwarded to the Governor and the Legislature and to all news media. Copies of the report were supplied to individual citizens on request until the supply was exhausted. File copies of the report remain available for public scrutiny at the Commission's offices and at the State Public Library.

In issuing the report, the Commission expressed publicly its gratitude to John J. Francis Esq., the retired Justice of the New Jersey Supreme Court, who served without compensation as

* See Report on Investigation of the Office of the Attorney General of New Jersey, A Report by State of New Jersey, Commission of Investigation, issued January, 1973.

Special Counsel to the Commission in the investigation and the report preparation. A final conclusion of the report was that the political campaign contribution from those aspiring to public works and the acceptance of those contributions by public officials or political parties is a malignant cancer rapidly spreading through the bloodstream of political life and that "unless the giving and receiving of such contributions are made criminal under a statute which provides a reasonable mechanism for discovering and preventing them, our governmental structure is headed for most unpleasant erosion."

14. THE WORKMEN'S COMPENSATION SYSTEM*

The New Jersey system for compensating individuals for employment injuries during the early 1970s became the object of intense scrutiny and analysis. In addition to established arguments and statistics indicating ills in the system, there were new and persistent reports that the atmosphere of the system, including its courts, had gone astray to a point where irregularities, abuses and even illegalities were being ignored or tolerated. The mounting hue and cry about deficiencies in the system led the State Commissioner of Labor and Industry to request an investigation, a task which fell to the S.C.I.

The 1972-73 probe which resulted was one of the most comprehensive ever conducted by the S.C.I. It touched not only on all aspects of the Workmen's Compensation system but also certain related heat treatment abuses in the liability and negligence field. The facts, as presented by the S.C.I. at nine days of public hearings in Trenton in May-June, 1973, documented abuses which included the costly practice of making unwarranted allegations of impairments in compensation claims, a pervasive atmosphere conducive to lavish gift-giving and entertaining and to questionable conduct by some judges, and the use by some law firms of favored heat treating doctors or "house doctors," an abuse which led to costly overtreatment of patients and in some instances to outright bill padding to falsely inflate claims.

As a result of the investigation, three Judges of Compensation were given disciplinary suspensions, with one of them eventually

* See Final Report and Recommendations on the Investigation of the Workmen's Compensation System, a Report by the New Jersey State Commission of Investigation, January, 1974.

being dismissed from office by the Governor. Most importantly, the Commission's final report and recommendations on this investigation issued in 1974 were a major input in the major administrative reforms for the Workmen's Compensation system, including the conduct of judges, promulgated recently by the State Commissioner of Labor and Industry. Data from the investigation relative to alleged fraudulent bill padding has been referred to prosecutorial authorities. Legislation to more effectively bar heat treatment frauds, as recommended by the S.C.I., has been approved by the Assembly and was before the Senate as of this writing.

15. THE DISTRIBUTION OF DONATED FEDERAL SURPLUS PROPERTY AND SCHOOL PURCHASING PROCEDURES*

A citizens' complaint was received by the S.C.I. in January, 1973 via reference from a Federal law enforcement agency and prompted the Commission to make inquiry into the handling and distribution by the State of federal surplus property donated for use in schools and other institutions. The inquiry resulted in additional citizens' complaints being received and a consequent full investigation which extended to questionable procedures relative to the business affairs of the Passaic County Vocational and Technical High School in Wayne. The investigation was capped by five days of public hearings conducted at the Passaic County Courthouse in Paterson.

The hearings presented facts concerning a woeful lack of attempts by the school's purchasing agent, who also was its business manager, to obtain truly competitive prices for many goods purchased, the purchasing of substantial amounts of goods and services through middlemen, one of whom marked up prices by more than 100 per cent, and regular payoffs to the school's purchasing agent by one of the middlemen. Additional facts were elicited about the purchasing agent's conversion of the services of some school employees and property to jobs at his home and how the school had become a virtual dumping ground for millions of dollars of federally donated surplus property under a chaotic and mis-managed state program for distribution of that property.

This investigation formed the basis for S.C.I. recommendations for administrative corrective steps to establish a well run, efficient

* See State of New Jersey, Commission of Investigation, Annual Report for 1973, issued in March, 1974.

program of state distribution of the surplus property and for improved procedures for school boards in overseeing purchasing practices. The State Board of Education communicated the S.C.I. recommendations to all school boards in the state and instructed the Boards to be guided by them. Reference of data from this investigation was made to the State Criminal Justice Division which during 1974 obtained an indictment charging the Passaic County Technical and Vocational High School's purchasing agent-business manager with bribery in connection with the previously mentioned payoff testimony and with misuse of school personnel and property as outlined at the S.C.I.'s hearings.

16. THE DISTRIBUTION OF NARCOTICS AND LAW ENFORCEMENT PROGRAMS*

Narcotics and their relationship to law enforcement in New Jersey are a natural area of concern for the Commission since the huge profits to be made from illicit narcotics trafficking are an obvious lure to criminal elements. As a result of an increase in the S.C.I.'s intelligence gathering during 1973 relative to narcotics, the Commission obtained considerable information about certain criminal elements in Northern New Jersey. A subsequent investigation provided a wealth of detail about drug trafficking, replete with high risks, high profits, violence and death.

At three days of public hearings in late 1973 in Trenton, witnesses told of their involvements in actual heroin and cocaine trafficking in Northern New Jersey, including accounts of one killing and an attempt by criminal element figures to get one of the witnesses to kill another individual. Expert witnesses from federal, state and county agencies testified in considerable detail about the international, interstate and intrastate flow of heroin and cocaine and the programs and problems of law enforcement units responsible for the fight against illicit narcotics distribution.

Due to a combination of an extremely knowledgeable and accurate informant and an extensive follow-up investigation by S.C.I. Special Agents, this probe had significant collateral results which led to the S.C.I.'s playing a key role in solving cases involving a gangland style slaying, a stolen jewelry fencing ring and a crime federation burglary ring of more than 30 individuals. Both

* See State of New Jersey, Commission of Investigation, Annual Report for 1973, issued in March, 1974.

the Essex County, N. J., Prosecutor and the Lackawanna County, Pa., District Attorney complimented the S.C.I. for its role aiding law enforcement agencies through its broad statutory purview and investigative expertise. The hearings also established a factual basis for S.C.I. recommendations for improved law enforcement capabilities to combat narcotics distribution and for revisions of the narcotics law, including sterner penalties for non-addict pushers.

17. PSEUDO-CHARITABLE APPEALS*

A growing number of companies in recent years have been established in New Jersey as incorporated-for-profit entities to sell by telephone exorbitantly high priced household products, principally light bulbs, in the name of allegedly handicapped workers. Although different in age, size and some operating procedures, all indulge in degrees of deception by creating a false illusion of charitable works for the handicapped through telephonic sales presentations which stress references to "handicaps" or "the handicapped." Consumers by the hundreds in New Jersey have become so outraged upon learning they had been duped into thinking these profit-oriented businesses were charities that they registered complaints with the State Division of Consumer Affairs. That Division sought a full S.C.I. investigation of these pseudo-charities because of the broader purview of the Commission's statute, the Commission's investigative expertise and its public exposure powers.

Facts put on the public record at hearings held by the S.C.I. in June 1974 in Trenton included: That people were willing to pay such high prices, marked as much as 1,100 per cent above cost, only because the phone solicitations of the various companies had given them the illusion they were aiding a charity; that some of the companies used healthy phone solicitors who stated falsely that they were handicapped to induce sales; that a large company's claim to employ only handicapped phone solicitors was open to serious question; that phone solicitors, whether handicapped or not, were subject to prompt dismissal if they did not produce enough sales to make a profit for the owners; that an owner of one of the large companies received a total of more than \$1 million in four years

* See Final Report and Recommendations on the Investigation of Profit Oriented Companies Operating in a Pseudo-Charitable Manner, a Report by the New Jersey State Commission of Investigation, September, 1974.

from the business; that any authentically handicapped phone solicitors could be harmed by having to constantly dwell on their ailments in order to induce sales, and that pseudo-charitable appeals drain off millions of dollars each year that otherwise could be tapped by bona fide charities.

The public airing of these facts accomplished a principal purpose of the S.C.I. and the Consumer Affairs Division, namely to make the consuming public more informed and, therefore, more discerning in the receipt of any telephonic sales pitches in the name of the allegedly handicapped. The Commission's recommendations for tougher state statutes to bar deceitful practices by pseudo-charities have been introduced in bill form in the Legislature, with the bills having been passed by the Senate when this report was published.

18. POSSIBLE CONFLICT OF INTERESTS OF THE CHAIRMAN OF THE DELAWARE RIVER PORT AUTHORITY*

The State Executive Commission on Ethical Standards during 1974 requested the S.C.I.'s assistance in investigating allegations of possible conflict of interests of Ralph Cornell, Chairman of the Delaware River Port Authority and a Commissioner of that authority since its inception in 1951. The reason for the request, as stated by the Ethics Commission, was "that the State Commission of Investigation is better equipped in terms of personnel, resources and operating procedures to conduct this inquiry."

The resultant investigation involved the subpoenaing and analysis of a virtual mountain of books and records of the Authority, corporations and banks in order to lay bare certain business relationships relative to sub-contracting work done on Authority projects. After holding private hearings on 14 occasions from March through August of 1974, the Commission issued a comprehensive public report on this inquiry and sent it to the Governor and the Ethical Standards Commission, appropriately leaving to that Commission the final conclusionary judgments on the full factual picture presented by the report. The Attorney General's Office also was given copies of the report.

The principal facts brought forth by the S.C.I.'s investigation were that Mr. Cornell's Cornell and Company had received sub-

* See Report on the Compatibility of the Interests of Mr. Ralph Cornell, Chairman of the Delaware River Port Authority, a Report by the New Jersey State Commission of Investigation, October, 1974.

stantial income for work performed on Port Authority projects on a sub and sub-sub-contracting basis while other companies were listed in the Authority's records as the subcontractors with no listing of Cornell and Company in those documents; that he was the recipient of substantial dividend payments as a major stockholder in the insurance company which was the New Jersey broker for the insurance coverage needs of the Authority, and that as an investor in lands subject to value enhancement by proximity to existing or proposed Authority projects, Mr. Cornell had received more than \$1.9 million in unadjusted profits. The report stated, however, that the probe found no evidence of Mr. Cornell making land purchases on the basis of "insider information" and that the purchases could have been made by any well informed citizen with substantial monetary resources.

19. THE GOVERNMENT OF THE BOROUGH OF LINDENWOLD*

A citizens' complaint letter alleging abuses in the government of the Borough of Lindenwold, a rapidly developed suburban community in Camden County, was received by the Commission in the latter part of 1973. One of the letter's signatories, a former Borough Councilman in Lindenwold, in a subsequent interview with S.C.I. special agents told not only of abuses concerning ethical standards but also of official corruption. He brought with him to the S.C.I.'s offices \$5,000 he received, but never spent, as his share of payoffs made for votes favorable to land development projects, money he came to feel to have been ill garnered in detriment to the public trust.

During 1974 the Commission obtained substantial corroboration for this man's story of amorality in the Borough's government in a lengthy probe involving full use of the Commission subpoena and witness immunity powers and its investigative and accounting expertise. At three days of public hearings in Trenton in December, 1974, the Commission heard testimony supported by numerous exhibits that \$198,500 had been paid by land developers to Lindenwold public officials in return for favorable treatment and cooperation of the Borough government, that a Borough official and a county official had accepted substantial amounts of cash from companies owning land subject to the officials' regulation, and that

* See pages 64 to 108 of this Report.

Lindenwold public officials used strawmen to mask their purchases of properties which were offered for sale by the Borough and the value of which could be enhanced by the officials' acts.

The public disclosure of what the Commission called "the democratic process of local government operating at its worst" served to sound a warning and present a deterrent factor to communities throughout New Jersey. The Commission on pages 107 and 108 of this report presents in detail its final recommendations based on this probe. They include a proposed tough local conflicts of interest law and changes in the extortion-bribery statute to heighten deterrence against official corruption. The records of the investigation have been forwarded to the State Criminal Justice Division.

WORKMEN'S COMPENSATION REFORM

In its 1974 Final Report and Recommendations on the Investigation of the Workmen's Compensation System, the Commission respectfully urged both executive and legislative action to reform the system in order to eliminate abuses and to progress toward an improved system which will adequately and equitably protect the injured worker and will assure that more of the compensation dollar flows expeditiously to that worker. The Commission is gratified by and takes note of the advances made to date to achieve that goal.

MAJOR CHANGES THROUGH NEW RULES

The most far-reaching action taken to date has been the promulgation of extensively changed and expanded rules governing the operation of the system under the Workmen's Compensation Division of the State Labor and Industry Department. Both State Labor and Industry Commissioner Joseph Hoffman and Workmen's Compensation Division Director Donald Ungemah have acknowledged the S.C.I.'s investigation and report as a major input in the formulation of the rules which are designed to reduce administrative delays, halt abuses, eliminate shoddy practices and inefficiencies, speed payments to injured workers, and impose strict ethical standards on hearing officials, attorneys, physicians and other participants in Workmen's Compensation cases. The rules were issued on a preliminary basis last November and were due, as of publication of this report, to be promptly adopted and enforced by the Division. The rules changes and additions accomplish through executive action not only corrective steps which the S.C.I. report considered to be achievable by such action but also a number of additional steps which the S.C.I. report indicated might need legislative action. The more extensive executive action reforms find a firm basis in two Superior Court Appellate Division decisions* which issued after publication of the S.C.I.'s report.

* See *Bonafield v. Cahill*, 127 N.J. Super. 149 (App. Div. 1974), and *Grzankowski v. Heymann*, 128 N.J. Super. 563 (App. Div. 1974). James J. Bonafield was removed from office as a Judge of Compensation by gubernatorial order after a hearing officer found beyond a reasonable doubt that Bonafield had in contravention of statute covertly practiced law while a Judge, a fact first disclosed at the S.C.I.'s public hearings in 1973. Joseph Grzankowski, a Judge of Compensation, was given a five-day disciplinary suspension after the S.C.I. heard public testimony that he had sold a set of incomplete law books at a high price to a law firm whose members regularly appeared before him. The Appellate Division voided the suspension on the grounds the Judge had not been afforded a proper hearing procedure but, in so doing, specifically upheld the right of the State Labor and Industry Commissioner to impose disciplinary suspensions once proper hearing procedures have been followed.

The decisions basically upheld a strong line of authority flowing from the Governor through the Commissioner of Labor and Industry to discipline and remove from office Judges of Compensation having been found in appropriate hearing procedures to have violated the Division's rules or the statutes applicable to the Division.

STRONG DIRECTOR

The S.C.I.'s primary recommendation was for a clarifying and strengthening of the powers of the office of the Director of the Workmen's Compensation Division to supervise and regulate the conduct and performance of Judges and other hearing officers. The Commission observed in its report that expert witnesses at the public hearings were unanimous in stating that a strong, active Director enforcing regulations and standards would be a giant step in remedying the ills of the system.

The new rules specifically provide that the Director may initiate an action which could result in disciplinary suspension and/or removal from office for a Judge or other hearing officer by filing a misconduct-in-office complaint with the State Commissioner of Labor and Industry. The rules provide further that the Commissioner on receipt of such a complaint shall designate a hearing officer to conduct appropriate hearings and find whether there has been violation of rules and/or statutes. If a violation is found to have occurred, the Judge or other hearing official may be removed from office. The Commissioner also may suspend without pay a Judge or other hearing officer on receipt of the misconduct-in-office complaint. Only if no violation is found to exist would the suspended person receive salary lost during the suspension.

CONDUCT OF JUDGES

The new rules impose rigid ethical standards and set out conflict of interest provisions which Judges of Compensation and other hearing officers must follow. The Judges may not solicit or accept gifts, favors or gratuities from litigants, attorneys, physicians, witnesses or any respondent's representative. The S.C.I. investigation revealed that a long-standing practice in the Workmen's Compensation system was to regularly entertain court personnel, including some Judges, during the lunch hour, with the

lunches being paid for by various attorneys, physicians or insurance company representatives. Indeed, the Commission heard testimony that one Judge had not paid for his meals with one regular lunchtime gathering for three years. Further facts put on the public record by the S.C.I. involved Christmastime gift-giving and party-giving, principally involving Workmen's Compensation Division employees but also known to have included some hearing officials.

Under the new rules, it is the affirmative duty of the Judges and other hearing officials to notify the Division Director if they have any reason to believe that a medical bill or report was altered falsely by a physician, attorney or anyone else; to report to the Division Director all instances of unethical or illegal practices by attorneys or any witnesses, interpreter or any other party appearing before him, and to ascertain the veracity of both testimony and exhibits to protect those involved in court proceedings. These rules provisions are in response to the following facts disclosed at the S.C.I.'s public hearings: That three doctors admitted padding at the behest of some attorneys heat treatment bills which were used to obtain settlements in compensation and negligence actions; that another doctor permitted gross overtreatment of patients in compensation and negligence cases; that there were numerous indications that finders fees were being paid to persons who directed prospective clients to certain attorneys, and that Judges and other hearing officials had a tendency to take all testimony and exhibits at face value.

One of the principal revelations at the S.C.I.'s public hearings was that a Judge of Compensation, who was later dismissed from office, had practiced law while a Judge in contravention of statute. A new rule of the Division adds additional deterrence to any further instances of Compensation Judges practicing law by expressly prohibiting them from so doing.

IMPROVING THE ATMOSPHERE

A major finding of the S.C.I.'s investigation was that many of the abuses uncovered could be attributed to a pervasive or clubhouse atmosphere existing in the Workmen's Compensation system, an atmosphere encouraged to flourish by the same doctors and lawyers appearing before the same Judge or hearing officer in the same geographical location on a daily basis for extended periods

of time. The Workmen's Compensation Division has since instituted a policy of periodically rotating judges among various compensation courts in line with an S.C.I. recommendation. Additionally, one of the new rules of the Division provides that the Director review performances of all Judges and make evaluations which could prompt the Director to order transfers of Judges, promote Judges to Supervision Judges, or remove a Judge from a supervising capacity for specific periods of time.

ACCELERATED FORMAL AWARDS

The S.C.I. investigation discovered that in 90 per cent of the formal Workmen's Compensation claims processed in the system's courts, the only issue in the dispute was the nature and extent of the degree of permanent impairment. Settlement of these cases was nothing more than a simple compromise where, for example, the petitioner's doctor found a 15 per cent impairment, the respondent insurance company's doctor found a 3 per cent impairment and the Judge would simply go down the middle road and make an award of 8 or 9 per cent.

Despite the limited nature of the issue and the simplicity of the compromise, petitioners have been forced to wait many months before their cases are settled and they receive awards. Under the new rules, there will be an accelerated award procedure in which the Judge will expeditiously review medical reports and make a decision. No medical testimony will be taken. To spur promptness by attorneys on both sides, the rules provide for assessment of penalties against their fees. To further shorten the time between the filing of a claim petition and final settlement of a case, the new rules provide for additional penalties on attorney's fees for filing incomplete and inaccurate petitions. A principal S.C.I. recommendation was for imposition of fee penalties to deter dilatory tactics.

HALTING THE MULTIPLE ALLEGATIONS ABUSE

One of the most flagrant abuses brought to light by the S.C.I.'s investigation was the making of a host of unwarranted and unsubstantiated allegations of disabilities in claim petitions, principally as a wedge to obtain higher settlements. The S.C.I. hearings documented how this growing abuse leads to higher Workmen's

Compensation insurance rates. The new rules of the Division implement the S.C.I.'s recommendation that disability allegations not fully supported by medical examinations be disallowed. The rules accomplish this end by requiring Certificates of Readiness be filed by all parties to actions within a specified time period of 20 days. The certificates must include a statement by the petitioner that the case is ready, and for a case to be ready, all medical reports for each allegation of disability must be in the possession of the petitioner or the case may not proceed to formal hearing. An attorney filing an incomplete, inaccurate, misleading or untimely readiness certificate is subject to a 25 per cent reduction of any fee awarded in a compensation case.

PROMPTER TEMPORARY DISABILITY BENEFITS

Testimony at the S.C.I.'s public hearings documented frequent long delays in initiation of temporary disability benefits payments to injured workers while their Workmen's Compensation claims are being processed. Since temporary disability payments are a partial substitute for the worker's weekly paycheck, their prompt payment is essential to the worker and his family.

The new rules inhibit delays in the hearing of motions for temporary disability payments by imposing a scale of monetary penalties on both petitioners and respondents for unnecessary foot dragging tactics.

PROPOSED LEGISLATION

Several bills which carry out the S.C.I.'s recommendations to halt any further instances of heat treatment billing frauds and other abuses, as exposed at the S.C.I.'s public hearings, have been introduced in the Legislature. The Commission notes that one of the measures, which would require doctors to certify as to the truth and accuracy of bills rendered in compensation and negligence matters and bar them from using a two-tier billing system where higher than normal charges are made for compensation and negligence action clients, has been approved by the Assembly and was before the Senate when this report was published.

Additionally, as of time of publication, the State Labor and Industry Department and its Workmen's Compensation Division

were preparing a package of some 10 bills which would carry out additional Workmen's Compensation reforms, as well as to reinforce some of the improvements achieved in the rules changes. The S.C.I.'s final report on its investigation was, according to the Division Director, a major input in the drafting of legislation, as it was in the rules changes. Additionally, bills based directly on the S. C. I.'s final recommendations have been introduced in the Assembly, with one measure already approved by that House and having been sent to the Senate when this report was published.

The Star-Ledger in an editorial published in the wake of the issuance of the new rules took note of the role played by the report of the S.C.I. and that of the Debevoise Commission which studied basic procedural changes in the system. The editorial stated in pertinent part:

Most important of all, the rule changes mark a significant turning point in the role of the state: From impassive arbiter to an active agency working to expedite the delivery of fair compensation to accident victims while recognizing the need to keep New Jersey industry competitive by holding costs of the program to a minimum.

The administrative changes are expected to go into effect early next year, following public hearings and minor revisions that may result from them. They should be welcomed by workers and employers as an important first step in developing a first-rate compensation system that can serve as a model for the nation.

Completion of the change over will have to await legislative revision next year. In the meantime, the rule changes are expected to accomplish vast improvement by themselves and should be implemented without unnecessary delay.

IMPROVED SCHOOL PURCHASING PROCEDURES

In its September, 1973 public hearings on the investigation of certain business management practices at the Passaic County Vocational and Technical High School in Wayne, the Commission heard a total factual record which showed how costly inefficiencies, laxities, abuses and even corruption can develop in a public school's purchasing of supplies and services, all at the expense of the tax-paying public. Of all the facts uncovered by this probe, the Commission found most disturbing and regretful the widespread lack of concern by the school's administration to obtain competitive prices from potential suppliers. One witness who sold supplies to the school on a helter-skelter, small-order-at-a-time basis likened the school's purchasing approach as akin to that of a "corner candy store."

The Commission noted in its final recommendations in this investigation that the importance of the best possible practices and controls being employed in purchasing by all public schools is underscored by the fact that more than half of the nearly \$3 billion annually paid by New Jersey residents in property taxes goes for the support of those schools.

THE BOARD IMPLEMENTS IMPROVEMENTS

In its 1973 Annual Report to the Governor and the Legislature, issued in March, 1974, the Commission reviewed this investigation and advanced in detail the previously mentioned final recommendations to improve the purchasing procedures of all public schools in the state, with emphasis on a competitive price approach even for items costing less than the present \$1,000 cost level at which competitive bid processes are required under Title 18A of the New Jersey Statutes Annotated, about which more will be stated later in this section of this report. The final recommendations suggested that some of the S.C.I.'s proposed corrective steps could be carried out by promulgations of the State Board of Education under Title 18A. The Commission is gratified to note that the Board in May, 1974 caused a memorandum to be issued to county and municipal public schools in which the Commission's recom-

mendations were set forth and each school board was called upon by the Board to adopt a policy concerning purchasing "with specific attention to the Commission's recommendations." Quoting from the Commission's recommendations, the memorandum stated:

The Commission recommends that all school boards who have not already done so, prescribe the following regulations concerning the purchase of materials, supplies and services by its business agent without bids.

1. Prior to the purchase of any material, supply or service in excess of \$250 a reasonable effort be made to determine a competitive price for such material, supply or service;

2. That such a reasonable effort shall be presumed to have been made if three quotes are solicited and received from independent sources for such material, supply or service;

3. That such quotes or other evidence of reasonable effort be recorded in writing and annexed to the contract which by existing law (N.J.S.A. 18A:54-26) must be presented and passed on at a regularly called meeting of the board;

4. That reasonable effort shall be presumed to have been made if the purchase of such material, supply or service is made from the list of supplies and suppliers maintained by the State Bureau of Purchase and Property or the Surplus and Vending Distribution Service within that department;

5. That the board or a committee of its members review on a quarterly basis with its purchasing agent its purchasing practices."

The Commission has received testimony that indicates some potential suppliers of goods and services are reluctant to deal directly with school boards due to the inordinate volume of paper work involved and excessive period of time between submission of

their bill and actual receipt of payment. In order to insure that such difficulties, whether real or imagined on the part of the supplier, will not exist, we recommend:

1. All payment invoices should be reviewed by the school board within 20 days of receipt of such invoice at a public meeting and approval of such payments should involve thorough review and not become a "rubber stamp" procedure which was found in the investigation.

2. All payments due suppliers for materials or services, except those whose invoices for incremental payments (such as on capital construction or major reconstruction contracts), should be made within 10 days of voucher approval. This, then, would indicate payment within 30 days of receipt of demand for payment (invoice). This is normal business procedure which suppliers have a right to expect.

THE NEED FOR STATUTORY REFORM

Among the principal disclosures at the S.C.I.'s public hearings besides the widespread lack of a competitive price approach, was that the school's purchasing agent, subsequently indicted by a State Grand Jury, had relied on purchasing without bid through a favored "middleman" who marked up above cost to him the price of goods supplied to the school by as much as 400 per cent but who added nothing whatsoever in value to those goods. Additionally, in many instances where the purchases were made pursuant to the bidding laws, the same favored suppliers were frequently the only successful bidders. The Commission states again that the purchasing abuses at the school had the cruelly logical result of the school's, and through it, the taxpaying public's suffering severe financial penalty in the form of grossly inflated prices paid for goods and services.

In order to provide for better controls to inhibit further instances of such purchasing abuses by any public schools, the Commission's final recommendations respectfully but strongly urged that the Legislature act to amend the confusing variances between N.J.S.A.

18A governing school purchasing and the newer, more realistic and more effective Local Public Contracts Law (N.J.S.A. 40A-11). The S.C.I. noted then and does so now that the Local Public Contracts law spells out what the bid advertising requirements are and provides for the governing body to fix the qualification of bidders, a provision which would prevent any further instances of school purchasing agent reliance on profit-greedy "middlemen." Further, the newer law forbids the governing body to adopt specifications which knowingly exclude prospective bidders by reason of impossibility of performance or qualifications by any but one bidder.

The State Department of Education upon receiving the S.C.I.'s final recommendations drafted a bill to carry out the above discussed recommendation and has joined the Commission in urging early enactment. Indeed, the memorandum to all school districts containing the S.C.I.'s recommendations noted that the Department under the direction of the State Board of Education is presently preparing a purchasing manual for the guidance of all local boards of education. The memorandum added, however, that "these guidelines cannot be completed until the confusion between statutes governing purchase by bid have been removed through enactment of the proposed bill.

The S.C.I. hopes and trusts that 1975 will be the year for that enactment, so that the recommended improvements in school purchasing procedures to better protect the public trust and public purse will have been completely effectuated.

COLLATERAL RESULTS FROM PREVIOUS INVESTIGATIONS

FEDERAL ANTI-TRUST INDICTMENTS

As previously noted in the resume section of this report, the Commission's investigation and public hearings on the building maintenance service industry exposed, among other facts, that there existed a restraint-of-competition type association which allocated business in certain areas to member building maintenance companies and that the real power in the association was a union official with ties to organized crime. S.C.I. staff members subsequently testified to those facts in a major segment of the United States Senate Commerce Committee's public hearings in Washington on organized crime infiltration of interstate commerce. This prompted the Anti-Trust Division of the United States Department of Justice to dispatch personnel to the S.C.I.'s office in Trenton to inspect the records of this investigation and discuss them with S.C.I. staff members.

On May 16, 1974 a Federal Grand Jury in Trenton returned an indictment charging 12 building maintenance service companies and five company officials with conspiring from at least 1967 to shut out competition in the industry by rigging bids and fixing prices on millions of dollars worth of window cleaning and janitorial service contracts in violation of the Sherman Anti-Trust Law. The Commission was pleased that the Federal Anti-Trust Division in a letter to then S.C.I. Executive Director Martin G. Holleran credited the importance of the S.C.I.'s role in assisting the federal investigation. The letter reads as follows:

Dear Mr. Holleran:

I am pleased to report that a Federal grand jury in Trenton, New Jersey on Thursday, May 16, 1974, returned three Indictments, one of which charges twelve companies and five individuals with violating Section I of the Sherman Act. Also, there was filed a civil injunctive Complaint which seeks to enjoin the perpetuation of certain trade practices by these same

twelve companies and one of these five individuals operating as a sole proprietorship. Copies of the Indictments and Complaint are enclosed.

I wish to express the gratitude of my office for the cooperation extended by the Commission to the staff in my office. Over the past several months, the Commission has provided very able assistance and has played an important part in this office's investigation.

I hope that our offices can continue to work closely together in the development of further matters.

Sincerely yours,

Thomas E. Kauper
Assistant Attorney General

By: John J. Hughes, Chief
Middle Atlantic Office
Antitrust Division

The two other indictments referred to by Mr. Hughes charged Samuel Turen, Vice President of the Bloomfield Window Cleaning Co., Bloomfield, with conspiring to obstruct justice during the investigation and Samuel S. Usdin, sole proprietor of City and State Window Cleaning Co., Newark, with giving false testimony to the Federal Grand Jury. Mr. Turen has pleaded guilty to the obstruction charge and no defense to the anti-trust violation charge against him and his company. A second firm, Building Service Corp. of New Jersey, Jersey City, has through an official also pleaded no defense to the same anti-trust charges. The other 10 firms and four executives have entered innocent pleas, with trial scheduled for the fall of this year. They are in addition to Mr. Usdin and his firm:

American Building Maintenance Corp., Newark; Atlantic Window Cleaning Co., Newark, and its President, Erwin S. Francis; Eastern Maintenance Co., Newark and its President, Henry Herzfeld; International Services, Irvington; MacClean Service Co. of New Jersey, East Orange; Metropolitan Maintenance Co., Nutley, and its President Norman Rockwell; Middlesex Building Services, New Brunswick; Pioneer Maintenance Corp., Elizabeth; Trenton Window Cleaning Co., Trenton, and Yankee Building Maintenance Co., Nutley.

SCHOOL BUSINESS MANAGER INDICTED

The Commission's 1973 public hearings on abuses in the business management, in particular purchasing practices, of the Passaic County Vocational and Technical High School dwelt in considerable part on the conduct of Alex Smollok of Clifton, who held simultaneously the posts of Purchasing Agent and Business Manager of the School and Secretary of the Board of Education of the Vocational School of Passaic County. As previously reviewed, Mr. Smollok often ignored a competitive price approach to purchasing and also dealt through a "middleman" who grossly marked up prices of supplies sold to the school. That middleman, Joseph Carrara, President of Caljo Contractors Supply Co., testified he regularly passed along kickback type payments to Mr. Smollok from the profits generated in Mr. Carrara's "middleman" role. Additionally, the Commission heard testimony from members of the school's custodial staff that Mr. Smollok required them to perform work at his private residence while they were on school-paid time and that they brought school-paid-for supplies to that residence for use in enhancing it.

After the hearings, the S.C.I. referred the records of this investigation to the State Division of Criminal Justice which during 1974 obtained a State Grand Jury indictment charging Mr. Smollok with bribery and with misconduct in office in using personnel and materials of the school to remodel and repair his private home. The nine counts of bribery in the indictment alleged Mr. Carrara was Mr. Smollok's "middleman" in kickback type transactions with several firms which supplied goods and services needed by the school. The firms were all identified at the S.C.I.'s public hearings. The Attorney General in announcing the indictment noted that Division's investigation was prompted by S.C.I. referral of data. Trial of the case was still pending when this report was published.

As well as obtaining an indictment against Mr. Smollok, the Attorney General also filed during 1974 a civil complaint in Superior Court seeking Mr. Smollok's removal from office because of his refusal to testify before the State Grand Jury despite his having witness immunity for any testimony given as a public employee. A decision from the Court on this matter was still pending when this report was published.

CONVICTION FOR MURDER

A Luzerne County, Pa., jury on October 30, 1974 convicted Gerald Donnerstag, 41, of Belleville, N.J., of first-degree murder in the gangland style execution of Jed Feldman of Newark whose body was found in a pond near Scranton, Pa., in the spring of 1971. That conviction, plus the guilty pleas to lesser charges by two other individuals who turned state's evidence and are further cooperating with law enforcement authorities in New Jersey and Pennsylvania, brought to a successful conclusion the bi-state investigation of that homicide, a probe which was ignited by the S.C.I. using its broad jurisdiction and investigative expertise.

As was reviewed at length in the Commission's previous Annual Report for 1973, the Essex County Prosecutor's Office during that year referred data to the S.C.I. when that office came across matters which were beyond its jurisdiction and venue and which were appropriate for reference under the Commission's statutory mandates to cooperate with and assist law enforcement agencies in New Jersey and other states. Using the referred data as a starting point, S.C.I. Special Agents Cyril T. Jordan and Anthony N. Rosamilia through alert and intensive investigation were able to firmly establish the identity of the body found in the pond in Pennsylvania in 1971 as being that of Jed Feldman whose slaying occurred after he had been wrongly fingered as an informant for Essex County, N.J., law enforcement authorities and whose homicide had defied any solution until his body's identity was determined by the S.C.I. The information developed by Agents Jordan and Rosamilia was given to Pennsylvania State Police and New Jersey law enforcement authorities. Several weeks later Donnerstag and the other two individuals, Gerard Festa of Newark and Harold Ellis of St. Petersburg, Fla., formerly of Newark, were arrested on Lackawanna County, Pa., District Attorney charges accusing them of killing Feldman. In then announcing the apprehension of Donnerstag and Festa in Essex County, Prosecutor Joseph Lordi stated, "This is a graphic demonstration of what can be done by law enforcement through cooperation based on mutual respect, and it certainly is another true validation of the merits of the State Commission of Investigation as an aid to law enforcement."

After Donnerstag's murder conviction in Pennsylvania, the Commission was pleased to receive the following letter to Chairman Rodriguez from Captain Nicholas Kordella of the Pennsylvania

State Police in which he expressed that agency's appreciation for the key role played by the S.C.I.:

Dear Mr. Rodriguez:

The recent conviction on October 30, 1974, of Gerald Donnerstag, Belleville, New Jersey, on a charge of first degree murder in the death of Jed Feldman has a special significance to us at Troop "R" Headquarters, especially the criminal investigators assigned to this case.

The countless hours devoted to the investigation were really as a result of information provided by former Director of the New Jersey Commission of Investigations, Martin Holleran, and Agents Cy Jordan and Anthony Rosamilia.

The pall over an unsolved murder traditionally has haunted investigators. In this case, several years old, we not only did not have a positive identity of the victim but were thwarted in many continuing aspects of the investigation by this one condition alone.

The Feldman matter was a classic example of the accomplishments that dedicated law enforcement officers can achieve when the spirit of cooperation is omnipresent. The flow of information from the aforementioned men that provided a clue to identity of Feldman and also suspects in his death was the significant factor in the future course of the investigation by the Pennsylvania State Police.

We are deeply grateful to your agency for its assistance. I ask that you transmit our feelings to Messrs. Holleran, Jordan, and Rosamilia, for their dedication and assistance. In closing, I have included newspaper articles related to the case for your review.

Respectfully,

Nicholas Kordilla,
Captain PSP
Commanding Troop "R"

CRIME RINGS BROKEN

The indictments of more than 31 individuals by Essex County and Federal Grand Juries were announced May 16, 1974 in Newark in what was described as the smashing of a loosely knit federation of crime rings which had engineered scores of armed robberies and burglaries, as well as numerous homicides, arsons, atrocious assaults, and receipts of stolen goods. In announcing the more than 20 indictments returned by the Special Essex Grand Jury investigating organized crime and general criminal element lawlessness, the Essex County Prosecutor's Office placed the S.C.I. at the head of the list of a group of state, federal and local agencies whose participation and cooperation led to the indictments in a complex probe which traced robbers and thieves operating across county and state boundaries. Since May, more indictments have been returned in this investigation and numerous convictions have been obtained, including several homicide convictions.

The reason for the S.C.I.'s being so prominently credited for its role in the joint probe by various agencies has its origins in the investigative work done by S.C.I. Special Agents Jordan and Rosamilia in the previously reviewed Feldman murder case and the subsequent arrest and conviction of Gerald Donnerstag. The agents in that investigative effort developed considerable data and productive leads with the help of an exceptionally knowledgeable and accurate informer who provided extensive detail about certain criminal element activities in Northern New Jersey.

This continued investigation by the agents, as reviewed in the S.C.I.'s previous Annual Report, first developed information which, when transmitted to Essex Prosecutor Lordi's Office, enabled that agency's Organized Crime Strike Force to promptly arrest two proprietors of a long established Newark jewelry store on charges of receiving stolen goods. The two, Frank Martin, 54, and his son Richard, 28, both of Edison, and owners of Martin and Sons Jewelers, were awaiting trial when this report was published.

Agents Jordan and Rosamilia continued to press this investigation and were able to develop more information about burglary and robbery activities in Northern New Jersey and Pennsylvania. A particular key break in this further investigation was the turning of a member of one of those rings into an informant who has subsequently turned state's evidence in prosecutions by the Essex County Prosecutor's Office.

CONVICTION FOR EXTORTION

A Middlesex County Grand Jury on February 21, 1975 found Donald Tierney, a former Madison Township Councilman but presently residing in Short Hills, guilty of misconduct in office and extorting \$10,000 from a land developer in Madison Township in 1971 in exchange for arranging a sub-division approval. This is the first conviction resulting from the 1973 indictments returned by a Middlesex County Grand Jury against three individuals after the S.C.I. referred data to that county's Prosecutor from the Commission's 1972 probe of abuses in zoning and planning practices in Madison Township and several other communities

Trial of Donald Borst, a former Chairman of the Madison Township Planning Board and indicted on charges of perjury and false swearing before the Grand Jury in denying he distributed payoff moneys to public officials, was still pending when this report was published. His appeal to have the indictment dismissed has reached the State Supreme Court after having twice been denied by lower courts.

The third individual, Joseph Pandozzi, also a former Chairman of the Madison Township Planning Board, was successful in moving in Superior Court to have dismissed his indictment for giving false information to investigators. The Middlesex Prosecutor has appealed this dismissal to the Appellate Division of Superior Court.

ORGANIZED CRIME PROGRAM

The S.C.I.'s statute directs that the Commission shall investigate the full enforcement and faithful execution of the laws of the state, with particular but not exclusive reference to organized crime. This emphasis on organized crime by the drafters and enactors of that statute, which became law at the end of 1968, was in response to an accumulation of allegations and revelations that the underworld had become so wealthy and powerful and had so deeply penetrated the governmental life of New Jersey that it was reaping illicitly made millions of dollars per year with only token detection by law enforcement authorities. The sense of urgency and alarm over what was deemed to be a crisis in crime control prompted legislative action on a number of major measures, including the creation of this Commission and the State Criminal Justice Division as complementary to one another and enactment of statutes for statewide grand juries, legalized wiretapping and a state anti-trust law.

In the intervening seven years, the concerted battle against organized crime by state agencies, including this Commission, and by federal, county and municipal law enforcement authorities has sufficiently thwarted and confused the underworld so that the state is now on the back of organized crime instead of the opposite being true. Nevertheless, the fight against organized crime is far from having been won. Organized crime, blunted and re-shaped as it may be, continues to exist to some degree in all the more populous counties of the state. That existence is a testament to the still huge profit potential of bookmaking, numbers betting, loansharking and other traditional sources of money-making by the mob. Indeed, with deepened recession, all indicators point to an increase in loansharking activities as the criminal element preys on the misfortunes of others. And, with law enforcement having increasing success in detecting illicit operations, the underworld has sought to infiltrate legitimate businesses on a grander scale so that its ill-gotten millions may be put to gainful work.

Because of the direction of its statute, the S.C.I. has since becoming fully operational in mid-1969 maintained an organized program which constantly monitors through the Commission's

own investigative activities and through liaison with federal, state, county and local law enforcement authorities the operations of organized crime figures in New Jersey. Besides creating a useful, constantly updated storehouse of knowledge about organized crime, the program has over the years prompted actions by the S.C.I. in two principal areas—the holding of public hearings which have exposed organized crime operations and infiltrations and the continued confrontation of some of the ranking members of organized crime with subpoenas which require them to appear and give testimony before the Commissioners. Law enforcement officials have testified that continued public exposures about organized crime are vital to the prevention of a return to public apathy and indifference to a still present danger. Those officials also have told the Commission that the policy of organized crime confrontations, which have resulted in some cases in civil contempt incarcerations and in others in flights by individuals from the state to avoid S.C.I., subpoenas, has had a significant disruptive effect on the structure of organized crime in New Jersey and has heartened anti-underworld law enforcement efforts by demonstrating that any organized crime figure, no matter how lofty his status in the underworld structure, is not beyond the reach of the state.

During 1974 Anthony “Little Pussy” Russo of Long Branch became the third organized crime figure to testify before the Commission after prolonged incarceration for civil contempt. The Superior Court, which had cited him for the contempt for refusing to answer S.C.I. questions once granted witness immunity, ordered him freed when Russo notified that court he was willing to testify. He appeared at several private sessions of the Commission. Also during 1974 Simone Rizzo “Sam the Plumber” DeCavalcante of Princeton was served a subpoena and appeared before a private session of the Commission. He has since been given several continuances for further appearances due to illnesses, but he remains under S.C.I. subpoena.

As this report was published, four organized crime figures remained incarcerated for civil contempt at the State Reformatory in Clinton for their continued refusal to testify before the S.C.I. They are Gerardo “Jerry” Catena of South Orange, John “Johnny Coca Cola” Lardiere of Newark, Ralph “Blackie” Napoli of Fairfield, and Louis Anthony “Bobby” Manna of Jersey City. Angelo Bruno of Philadelphia continued during 1974 to be by Superior Court order temporarily released for medical reasons from incarceration for civil contempt. Joseph “Bayonne Joe”

Zicarelli of Cliffside Park, who was originally incarcerated in 1970 for civil contempt for refusal to answer S.C.I. questions, continued during 1974 to serve a lengthy prison term in the state prison system for a bribery-extortion conspiracy conviction.

Catena during 1974 pressed his latest *habeas corpus* petition (*Catena v. Seidl*, Sup. Ct. Docket No. A-55, September term, 1974) in the state courts, with the matter twice reaching the State Supreme Court which twice remanded it to the Superior Court for further proceedings. The Superior Court in December, 1974 issued an opinion which found no reasonable likelihood that continued incarceration would coerce Catena, who has been under civil contempt citation since 1970, to testify before the S.C.I. Catena remains incarcerated while this matter is to be considered a third time by the State Supreme Court. In its latest brief to that court, the S.C.I. has contended that the facts do not support the lower court's holding and has stressed that Catena has advanced no articulated moral principle on which to sustain his obstinacy.

Regardless of the final outcome of this matter, the rulings of the Superior and the State Supreme Courts to date have strongly re-affirmed the legitimacy and constitutionality of the Commission's policy of confronting organized crime figures in order to tap their first-hand knowledge of the inner workings of the underworld. Specifically, those courts have found, as federal and state courts have in previous legal moves by Catena and others incarcerated for civil contempt for refusal to answer S.C.I. questions:

That the state through the S.C.I. has a legitimate right to the knowledge of suspected organized crime figures.

That those figures have information which would be timely and valuable in considering corrective steps to battle more effectively the underworld.

That the processes of the S.C.I. in granting them witness immunity against use and derivative use for responsive answers to questions are soundly based on statute and court interpretation of that statute in relation to constitutional guarantees.

That the pursuance of civil contempt citations in the courts with resultant indeterminate incarcerations is an established and thoroughly valid method of

coercing an individual to do what the law requires of him, since he may gain instant freedom at any time by answering the Commission's questions.

That an individual who refuses to answer S.C.I. questions once granted witness immunity may by his own obstinancy lose his personal freedom for an indefinite period.

Accordingly, the S.C.I. will with due diligence and vigor continue its policy of organized crime confrontations now and in the years ahead, in the knowledge that the policy has made, is making and will continue to make a significant contribution to the total effort to turn the tide ever more strongly against the underworld.

SOME LEAVE NEW JERSEY

At the close of 1974, Antonio "Tony Bananas" Caponigro of Short Hills, who had fled New Jersey in 1970 to avoid an S.C.I. subpoena, returned to his New Jersey home. Federal authorities, with whom the S.C.I. is in constant liaison, learned of Caponigro's re-appearance in this state and lured him out of his house in order to serve him with a Federal Grand Jury subpoena. Because of a resulting collision between his automobile and a federal agent's car, Caponigro was arrested and booked at Millburn police headquarters where S.C.I. agents served him with a subpoena. The Commission intends to call Caponigro as a witness when his encounter with federal authorities has been completed.

Nine individuals identified by law enforcement authorities as ranking members of organized crime in New Jersey have, in addition to Caponigro, originally fled the state and set up an alternate place of residence to avoid being served S.C.I. subpoenas. They are: Anthony "Tumac" Acceturo of Livingston, Frank "The Bear" Basto of Newark, Joseph "Demus" Covello of Belleville and Emilio "The Count" Delio of Newark, all of whom went to Florida; John "Johnny D" DiGilio of Paramus, now residing in Brooklyn; Tino Fiumara of Wyckoff, Carl "Pappy" Ippolito of Trenton, Joseph Paterno of Newark and John "Johnny Keyes" Simone of Lawrence Township, all of whom went to Florida. Acceturo, Basto, DiGilio, and Fiumara have since their original flights had their out-of-state residences interrupted from time to time by federal and state indictments charging them with criminal violations in New Jersey.

Dade County, Florida, law enforcement authorities have become concerned with the development of organized crime activities in that area in Florida due to the flight of so many organized crime figures from New Jersey, as well as other underworld figures from this state who regularly make visits to residences maintained in that same area. The Florida authorities have discerned a total of some 30 New Jersey organized crime figures either living permanently in Dade area or visiting it regularly. Officials in that area have concluded that a Florida S.C.I. should be created to complement the efforts of traditional law enforcement agencies, as the New Jersey S.C.I. does in this state.

OTHER ACTIVITIES

LIAISON WITH LAW ENFORCEMENT AGENCIES

The Commission has since its inception emphasized the maintenance of close liaison and cooperation with law enforcement agencies at all levels of government. Indeed, it may be said that emphasis of this policy is one of the principal keys to the accomplishments of the Commission to date.

The web of criminal element activity is so complex and in such a constant state of flux that no investigative agency can afford to be an island unto itself. Through mutual interchanges of information between this Commission and the Federal Bureau of Investigation, the Federal Drug Enforcement Agency, the Federal Organized Crime Strike Force, the United States Attorney's Office, the State Attorney General's Office, the State Police, the County Prosecutors' Offices, and local police departments, the full weight of data gathered and filed by all agencies can be brought to bear in the constant effort to keep pressure on and beat back criminal elements, organized and otherwise.

Hardly a week goes by without representatives of one or more law enforcement agencies visiting the Commission's offices to examine records and discuss matters with the Commission's staff and without members of the S.C.I. staff doing likewise at the offices of the various agencies.

Previous pages of this report have reviewed the key role the S.C.I. played during 1973-74 in assisting the Essex County, N.J., Prosecutor's Office and the Luzerne County, Pa., District Attorney's Office and the Pennsylvania State Police in solving a series of criminal element burglaries, homicides and other violations which have been and continue to be the subject of prosecutions in both states.

Because of the expertise the Commission has built up in its investigations of official corruption and other matters concerning the conduct of public officials, law enforcement agencies frequently seek the S.C.I.'s assistance in advising and training their personnel in the techniques of detecting so-called "white collar crime," with

emphasis on analyses of financial books and records. For the second year in a row in 1974, the S.C.I.'s Chief Accountant, Julius Cayson, was among the featured lecturers at the Training Course on the Investigation of Criminal Financial Transactions—"White Collar Crime" and "Official Corruption." This course, sponsored by the State Division of Criminal Justice, is attended by some 100 individuals associated with law enforcement and regulatory agencies at the state, county and municipal levels. A feature of this past year's course was a detailed study of how S.C.I. personnel, principally through painstaking analysis of thousands of fiscal documents, was able to uncover certain work performed on Delaware River Port Authority Projects by companies owned and/or directed by the then Chairman-Commissioner of the Authority. The study was presented by S.C.I. Counsel Michael R. Siavage and S.C.I. Special Agent/Accountant Frank Zanino.

Additionally during 1974, Mr. Cayson and Special Agent James Collins responded to a request from the Atlantic County Prosecutor's Office for an S.C.I. briefing on the techniques and methodology of investigating through analyses of fiscal books and records.

The files compiled by this Commission in its five and a half years of full operation have become most comprehensive and extensive. The Commission's special agents have been assigned on a state-wide, continuing basis to obtain and analyze large amounts of information that now are on file, as well as to determine current trends and directions of organized crime. The investigative staff carries out that mission through surveillance, cultivation of informants, and intelligence gathering. The data is compiled and returned to the Commission's office where it is evaluated and placed in a current file. Investigations are initiated on the basis of the evaluated data.

Since organized crime is interstate as well as intrastate in nature, the Commission has continued to stress active membership in the nationwide Law Enforcement Intelligence Unit (L.E.I.U.). That network consists of 405 state and local police departments and other agencies throughout the United States. The organization's aim is to keep abreast of the whereabouts and activities of suspected criminal individuals through confidential investigation, surveillance and maintenance of liaison with official and other sources of information.

The Commission during 1974 responded to 68 requests for information from L.E.I.U. affiliated agencies in other states. The Commission during the year in 33 instances asked for and received information from agencies in other states on the background and whereabouts of suspected organized crime figures and operations with possible connections to underworld activities in New Jersey.

COOPERATION WITH THE LEGISLATURE

By consistent and definitive court interpretation of statute, the Commission has been found to be primarily a legislative agency and it is structured as a Commission of the Legislature. Quite naturally, therefore, the Commission has always considered cooperation with the Legislature to be a primary function of this agency.

The Commission takes pride in the fact that the Joint Legislative Committee on Ethical Standards has now come to view the S.C.I. as its continuing fact-finding arm in any substantial dispute that may arise from allegations of violations by legislators of the State Conflict of Interest Statute. The Committee, on the basis of the facts found by the Commission, would render judgment as to those allegations.

So far, the Committee has not had cause to refer any matters for fact-finding. The Commission's presence as the possible fact-finder, however, continues to make it unnecessary to expend state funds to support any retention by the Committee of expert legal and investigative personnel to cope with any fact-finding missions which might arise. It is germane to note at this point that the State Executive Commission of Ethical Standards requested during 1974 that the S.C.I. be its fact-finder in the previously mentioned matter of possible conflict of interests by the then Chairman of the Delaware River Port Authority. A brief review of the resultant S.C.I. investigation appears on subsequent pages of this report.

PRIVATE HEARINGS

Private hearings held by the Commission play a vital role in the S.C.I.'s investigative process. They are used to follow-up and explore fully data uncovered by the inquiries and analyses made by the Commission's staff. Witnesses are examined under oath and pertinent documents are introduced and marked as exhibits.

The record established at private hearings, where the Commission is made totally aware of what a witness will say under oath, forms the basis for determination by the Commission whether an investigation should proceed to a public action stage or whether the available factual picture justifies only private communications and referral of matters to other agencies.

Furthermore, after private testimony is initially taken, the Commission frequently expends considerable additional investigative effort in seeking corroborative and supportive data as part of the painstaking, deliberative and evaluative approach followed by the Commission in reaching a decision on whether to take a public action. In this matter, the Commission may carefully avoid unnecessary use of names in public and the cluttering of the public record with testimony not meaningfully relevant to a public action.

During 1973 the Commission held 42 private hearing sessions at which 110 witnesses were examined. To further the progress of investigations during 1973, the Commission served 202 subpoenas for the production of records and for appearances of witnesses before the Commission.

PUBLIC AWARENESS

A major responsibility of the Commission is to keep the public continually informed. Indeed, N.J.S.A. 52:9M-11 specifically directs that the Commission shall keep the public informed as to the problems of organized crime, problems of criminal law enforcement in the state and other activities of the Commission. It is quite obvious that the Legislature in creating this Commission desired that it help to maintain an informed and aroused public supportive of crime fighting efforts and to deter public apathy and lethargy which can lead to the ever-present dangers of organized crime being ignored. The Commission's basic forms of communications with the public are its public reports and public hearings. Those reports and hearings receive extensive coverage in the news media. Copies of the Commission's reports also are sent to citizens requesting information about the Commission. As part of the Commission's continuing effort to keep the public informed, members of the Commission are available to speak before appropriate groups as the Commission's schedule permits.

LEGISLATIVE RECOMMENDATIONS

The Commission respectfully requests the Governor and the Legislature take under advisement the recommendations, advanced below, on proposals for new legislation.

OFFICIAL CORRUPTION AND UNETHICAL CONDUCT IN GOVERNMENT

The Commission in accord with the direction in its statute has conducted several investigations relative to the conduct of public officials, with the latest probe involving the government of the Borough of Lindenwold. That investigation which covered corruption and unethical practices relative to land development projects and land sales is reviewed in detail in subsequent pages of this report, and the Commission's final recommendations appropriately appear at the conclusion of that review. Accordingly, the chief recommendation areas for legislative action are presented in brief summary form below:

Local Conflicts of Interest Statute

A statute should be enacted to create a Uniform Code of Ethics for all county and municipal officials and to create an agency to administer and enforce the code. The code should be specific enough to define clearly the ethical standards to be met and adhered to, and the proposed agency should have among its powers the recommending of removal of public officials from office and the imposition of lesser penalties for violations of the uniform code.

The Commission notes it has for two years previously made a recommendation along this line based on previous probes at the county and municipal levels. The ugly facts revealed in the Lindenwold investigation in 1974 add new urgency to the carrying out of this recommendation. Legislation which meets the S.C.I.'s criteria has been drafted and introduced in the Legislature. The Commission trusts 1975 will be the year of enactment of this much needed legislation.

More Effective Statutory Deterrence Against Official Corruption

The Commission recommends that the present statute of limitations of five years from the date of an extortion-bribery offense involving a public official be changed to provide that the statute shall not have run until five years from the date a public official leaves office. The S.C.I. believes this change will provide a significantly higher deterrence level against public officials either demanding payments of money from those who would do business with public bodies or acquiescing in any way in the receipt and distribution of such payments.

CONSUMER PROTECTION AGAINST PROFIT-ORIENTED COMPANIES OPERATING IN A PSEUDO-CHARITABLE MANNER

The Commission's 1974 public hearings and recommendations based on the investigation of profit-oriented companies which sell by telephone exorbitantly high priced household goods, principally light bulbs, in the name of the allegedly handicapped were presented in detail to the Governor and the Legislature in the final report on this investigation issued in September, 1974. Since then, bills have been drafted to carry out the Commission's recommendations. Those bills, the S.C.I. is gratified to note, have been approved by the Senate and were as of publication of this report before the Assembly. Accordingly, the recommendations are reviewed in brief form only, with the expressed hope that if Assembly approval of the bills has not occurred by the time of issuance of this report, such approval will be forthcoming in the near future. The S.C.I.'s principal recommendations for increasing consumer protection in this area are:

- State control over the use and registration of misleading corporate names and trademarks by profit-making companies by requiring prior state permission to use any name or trademark connoting charitable works.
- Require profit-making companies whose solicitations could reasonably be interpreted to suggest charitable purposes to register with the state and make full public disclosures as to receipts and disbursements of monies.

- State control over the identification of goods produced by handicapped persons by requiring companies to register and to authenticate that they meet certain standards in employing truly handicapped persons and use such employees in the production of goods offered for sale.
- Supplement the Consumer Fraud Act to make it unlawful to sell or offer for sale any goods where the consumer has been falsely led to believe the solicitation is on behalf of a charitable organization.
- Require the disclosure of facts about the true nature of the soliciting organization at the start of any telephonic solicitation for funds or the sale of goods.

WORKMEN'S COMPENSATION SYSTEM REFORM

As previously reviewed in this report, major reforms are being effected in the Workmen's Compensation system by new and changed rules promulgated by the State Commissioner of Labor and Industry and based in large part on the recommendations and/or findings of the S.C.I. in its investigation of and public report on the ills of the system. However, legislative action is still needed to complete needed reforms. The State Labor and Industry Department is in the process of drafting a legislative package based in part on S.C.I. recommendations, to meet this goal. Additionally, bills stemming directly from the S.C.I.'s public report have been introduced in the Legislature, and the S.C.I. urges their enactment. The bills would:

- Require, under possible penalty of being a disorderly person, that doctors render true, accurate and itemized copies of bills to patients for treatment rendered in instances where the bills will form the basis of a legal claim. A further requirement of this bill is that the doctor by his signature attest to the actuality and accuracy of treatment rendered, a provision which would protect a patient in event of a criminal prosecution of a doctor who had treated that patient. This has been approved by the Assembly and is before the Senate.
- Impose a 25 per cent penalty payment on employers or their insurance companies who unreasonably or

cancelled checks. This exhaustive approach required painstaking investigative and accounting effort necessitated in the reconstruction of certain labyrinthine business relationships relative to work done on Delaware River Port Authority projects on a sub-contracting basis. That effort perforce had to be completed before a thorough factual base could be established for examining a number of the witnesses who appeared at the private hearing sessions which were held on fourteen occasions from March 21 to August 14, 1974, when the last witness, Mr. Cornell, was examined.

Subsequently, the entire investigative record was studied and analyzed by the Commission and its staff, and a public report was prepared and published. The Commission believes the extended period of time required to develop fully and codify all discoverable facts resulted in a document which was comprehensive but, at the same time, succinct in presenting a factual basis on which to make informed judgments. The report was forwarded to the Governor and the Ethical Standards Commission and members of the Legislature.

THE APPROPRIATE ROLE OF THE S.C.I.

The Commissioners of the S.C.I. emphasized in the report what they deemed the function of the S.C.I. to have been during the course of the investigation. The S.C.I. has three primary functions with respect to its mandate concerning public officials: 1) it is a fact finding body, 2) it suggests legislative reforms in areas which are in apparent need, and 3) it assists other branches of government. The Commissioners were of the opinion that the instant investigation fell into the third general category.

The Commission was requested to assist in finding facts in a specific area, and this was done. No opinion was expressed on the issue of whether Mr. Cornell is or was, in fact, in a conflict of interest with regard to any of the areas which follow, for this is the function of the referring agency. On the other hand, some minimal exercise of judgment was necessitated as to what should and what should not be included in the report. The Commissioners reviewed the facts and then, exercising their judgment as practicing attorneys with knowledge of ethical precepts, compiled a list of situations of relationships which they deemed significant to a determination of the present or past existence of a conflict, or the appearance of conflict of interests.

The final, conclusive judgments in those areas have been rightly left to the body responsible for rendering such judgments, the Executive Commission on Ethical Standards. This is the same, appropriate stance taken by the Commission in its continuing commitment to serve as fact-finder for the Joint Legislative Committee on Ethical Standards, should occasions arise where the Committee would request the S.C.I. to make in-depth investigations of conflicts allegations.

Since the report has been widely disseminated, only the concluding section of that document is presented below:

SUB-CONTRACTOR BUSINESS ON DELAWARE RIVER PORT AUTHORITY PROJECTS

During the periods 1956-59 and 1964-68, Mr. Cornell's company, Cornell & Co., received \$1,002,822 as a result of work sub-contracted, sub-sub-contracted or sub-sub-sub-contracted to that company by two companies officially recorded as sub-contractors on Delaware River Port Authority projects. One of the officially listed sub-contracting companies was Hull Erecting Co., now defunct, of which Mr. Cornell was a 50 per cent owner and which during 1956-1959 was a vehicle for payment for 70 per cent of the steel erection work on the Walt Whitman Bridge in the amounts of at least \$15,000 going directly to Mr. Cornell via one secret bank account and \$608,689 going to Cornell & Co., via another secret bank account both opened in the name of Hull Erecting. The other sub-contracting company was S.A. Lindstrom Co. which during 1964-68 sub-sub-contracted to Cornell & Co. 10 sub-contracts for structural steel erection on the Lindenwold High Speed Line in the amount of \$379,133.

In both the Hull and Lindstrom instances, those companies were recorded as the sub-contractors in the documents of the Delaware River Port Authority, said documents containing no listing or reference to Cornell & Co. performing work on those projects. During both periods of time, Ralph Cornell, as a Commissioner of the Delaware River Port Authority, passed judgment upon award, change orders and extra work orders on the contracts while his company was performing a portion of the work as sub-contractor or a sub-sub-contractor via Hull and Lindstrom.

Since 1968, the ties between S.A. Lindstrom Co., whose principal owner is Ralph Cornell's son, Charles Cornell, and Cornell & Co.,

have become so strong and numerous that the two companies are, for all practical purposes, one functional entity. During 1968-73, the total amount of work performed by S.A. Lindstrom on projects involving the Delaware River Port Authority's construction of the Betsy Ross and Commodore Barry Bridges was \$1,913,447. Mr. Cornell, as a Commissioner, again passed judgment by his votes with respect to these contracts, too.

Mr. Cornell, in testimony presented at length in the report, states essentially that various business factors and considerations, including competitive forces, fiscal controls and personnel capabilities, were the reasons for the sub-contracting and sub-sub-contracting arrangements with the Hull and Lindstrom companies and that no actual sham existed in those arrangements, since Cornell & Co. equipment and personnel were openly present at the construction sites and that presence was known to Port Authority engineers and others.

A third business relationship instance germane to determining whether Mr. Cornell has been or is in conflicts of interest involves his roles as a majority stockholder of the Carroll Steel Co. and subsequently, as 21 per cent owner and a director of Predco Inc., now the parent company of what is called Carroll Manufacturing. During 1964-67, Carroll Steel did business on a monthly basis with the Delaware River Port Authority and supplied \$192,275 worth of structural steel for the Port Authority's Lindenwold High Speed Line project, and Carroll Manufacturing has supplied miscellaneous steel items to the Port Authority in connection with the Commodore Barry and Betsy Ross Bridge.

THE SMITH-AUSTERMUHL INSURANCE COMPANY

Mr. Cornell in the five-year period 1969-73, while serving as a Commissioner of the Delaware River Port Authority, received \$23,092 in dividends as the owner of 5,020 shares (fifth largest stockholder) or a 5 per cent interest in the Smith-Austermuhl Insurance Co., the New Jersey broker for the insurance coverage needs of the Delaware River Port Authority. During the same five years, Smith-Austermuhl received a total of \$418,290 in commissions for Port Authority insurance, a figure equal to 9.2 per cent of the company's gross income for that period.

Minutes of the Delaware River Port Authority disclose that Mr. Cornell in 1968 abstained from voting in the vote by which the

Port Authority Commissioners selected Smith-Austermuhl as the Authority's insurance broker. The S.C.I., however, was unable to locate any record of a statement which Mr. Cornell said he made at that meeting to the effect that he had abstained because of his financial interest in Smith-Austermuhl and that he believed it might be a statutory violation to have such an interest. Mr. Cornell testified additionally that he saw no conflict on his part for having such an interest.

REAL ESTATE HOLDINGS

Ralph Cornell through agreements, joint ventures or individually has been and is involved in the ownership of substantial land holdings in Camden and Gloucester Counties, holdings which have, are or will be enhanced by Delaware River Port Authority projects. The Commission, however, found no evidence of land purchases by Mr. Cornell based on "insider information." In each instance, the purchases were made after possible Port Authority plans and projects which might enhance the lands' value had been openly discussed on the public record. Mr. Cornell's transactions could have been made by any well informed citizen with substantial monetary resources.

The record established by this report shows that Mr. Cornell during 1957-73 was involved in the ownership of lands which were sold for a total of \$10,720,680, with the total unadjusted profits to all investors being \$8,289,729 and Mr. Cornell's share of those profits being \$1,993,450. Since the lands involved in those sales are near proposed extensions of the Lindenwold Highspeed Line or, in one instance, near the approach to a Delaware River Port Authority bridge, the S.C.I. leaves to the State Executive Commission on Ethical Standards the question of deciding whether there has in fact been an appearance of conflict of interest.

Mr. Cornell, in testimony presented at length in this report, states that in instances of land investment by him, his decisions have not been influenced by Port Authority plans and projects and that, with one exception, the land investments have been initiated by others who have subsequently approached him as a possible investor.

INVESTIGATION OF THE GOVERNMENT OF LINDENWOLD

BACKGROUND OF THE INVESTIGATION

The public hearings held on December 4, 5, 6, 1974, by the Commission on the government of the Borough of Lindenwold were based on an investigation which began when a former public official of that Borough came to the S.C.I. with information alleging gross betrayals of the public trust by himself and some other former or then present officials of the Borough. The betrayals, he asserted, involved votes favorable to proposed land development projects in return for payoffs from would-be developers. Indeed, for John Nowak, personal remorse had reached a pressure point which virtually compelled him to bring his story and the tainted money he had received but not spent to this Commission in order, to use his own words to us, "to right the wrong that had been done to the people of Lindenwold when I held their public trust."

The Commission during 1974 probed deeply and at great length to determine if this man's picture of amorality in the government of Lindenwold could be substantiated. All of the statutory powers granted to the commission by the Legislature were utilized during this intensive investigation: Public records and private business entities were examined pursuant to duces tecum subpoenas; citizens and public officials were subpoenaed to give testimony; and, where absolutely necessary, their testimony was compelled by proper grants of immunity. Attorneys, accountants and special agents worked as an integrated team throughout the entire investigation.

This extensive investigative effort demonstrated factually that the ideals of public trust and honest public service were not just put on the back burner by some public officials in Lindenwold but rather were jettisoned overboard in a pell-mell rush to personally profit from the pressures attendant on land developments in a rapid-growth suburban community. The Commission found that major governmental decisions on certain land development projects were made on the basis of self-interest and greed to the detriment of the community. Some of the principal facts discovered in the investigation included:

- A total of \$198,500 was paid by land developers to obtain favorable treatment from and the cooperation of the borough government. The facts are that money was demanded and the expected results were forthcoming when the money was pledged and paid by the developers. The standard used was not whether the community was obtaining the most desirable development of its lands but whether an action favorable to a developer's desires would generate a payoff for personal profit.

- Then there was an instance of an attempt to pry a \$400,000 payoff from a developer who was fully prepared and financed to build a multi-million-dollar project with a mix of commercial, shopping and residential structures. This project which would have added to economic opportunity and tax ratable wealth in Lindenwold never got off the ground. The would-be developer decided to walk away from the planned project because the demands for large-amount payoffs soured his taste.

- The Tax Assessor of Lindenwold and the then Secretary to the Camden County Tax Board accepted substantial amounts of cash from corporations owning large tracts of land in Lindenwold and elsewhere in Camden County.

- Public officials used strawmen to mask their purchases of properties subject to sale by the borough, properties whose values might be benefitted by the officials' acts. The Lindenwold Borough Building Inspector raised the money to buy land from individuals subject to his regulation.

All these conflict-of-interest situations, the Commission found, created an atmosphere of clubhouse dealing by a clique in power, an atmosphere which fosters public distrust toward its governing officials and sets a less than scrupulous ethical tone conducive to the occurrence of the more serious abuses reviewed above in this statement. As one witness testified, he at first did not think it a crime to transmit payoff money to a public official because the system had become so decayed that "everyone was doing it."

Having been given the sorry factual picture in the private hearing room, the Commission decided that under its statute a public hearing was mandated in order to inform not only the citizens of Lindenwold but those of other municipalities throughout the state about a gross degeneration in public government to the end that further public harm be deterred and that a full and accurate public record be established as the basis for making recommendations. The public hearings are reviewed in detail on the subsequent pages of this Annual Report, followed by the Commission's recommendations for improving the statutory framework which governs actions by public officials.

A MAYOR GETS AN OFFER

The first witness called at the hearings was Jack M. Liss, the Mayor of Lindenwold from November, 1969 to December, 1971. Mr. Liss recalled that in November, 1970 while driving his car, he was hailed by then Borough Councilmen William J. McDade, Jr. and Arthur Scheid who asked to speak to him. Mr. Liss agreed and entered their automobile. Mr. Liss testified as follows:

Q. All right. Mr. Liss, to the best of your recollection, give us the substance of that conversation.

A. Okay. They told me of things they knew of the nature of my business, which at the time was a trucking business, construction trucks, and they noted that I was having problems with my cash flow, collecting monies. I was also having a labor dispute, and that the men were on strike, and they indicated to me that they knew the union official involved and that they were instrumental in stalling the strike from reaching a conclusion, and they also had contact with contractors that I was working for and that they could perhaps help or hinder my position there as far as collecting money, et cetera.

Q. Mr. Liss, can I stop you for a minute. Was there any indication to you that perhaps Mr. McDade or Mr. Scheid was behind some of these problems that you were having?

A. Yes, they led me to believe that they were. I have doubts, but they did indicate to me that they were instrumental in doing that and that they could

be just as instrumental as to turn things around favorably.

* * * *

A. Well, I was surprised to know that they knew so much about it, so it led me to believe that perhaps what they were telling me may be—it may have some truth to it. Then the conversation was leading to, they told me that if I was to resign and put my full time into my business, they could appoint somebody to take my place. And they said that if I were to write a letter of this nature, they would see to it that \$10,000 would be deposited into any bank that I would choose.

Q. \$10,000?

A. \$10,000, yes.

Mr. Liss was shocked by this proposal and asked them why they wanted his job.

A. No. I questioned the offer. I first wanted to know why they would want to do a thing like this. They had won the election. They still controlled council four to two, and I was just trying to feel them out to find out their motivative, motives, and they then indicated to me that there was a lot of development coming into town; there's been a lot of rezoning, and that they could collect finders' fees for locating developers and sellers and buyers of ground, et cetera, and that these finders' fees are something like five per cent, and they indicated a forty-million-dollar development that was being talked about and come in for discussion at council at the present time.

Q. Mr. Liss, which development, do you recall?

A. Yes, it was the Lake Worth tract.

Q. Is that also known by another name?

A. Haines tract would be the name of the present owner of the ground.

And they indicated five per cent finders' fee on a forty-million-dollar project would range in the neighborhood of \$800,000, and various deals like this that would be well worth their investment of \$10,000.

Q. What was the exact terminology used in this regard?

A. I believe Councilman Scheid stated that in the next few years they could rape the town.

Q. Excuse me. Was that they said they could rape the town?

A. Yes, that was their words.

Q. Councilman Scheid?

A. I'm pretty certain.

Q. And Mr. McDade had no objection to the use of that term?

A. No, he didn't.

Mr. Liss testified that he told them he would think over their offer and get back to them. He then confided what had transpired with his friend and fellow worker, Councilman Charles Ciardullo. These two men sought the advice of an attorney who indicated that without proof they could do nothing. When Mr. Liss finally did see Mr. McDade again the latter suggested that they "cool it" since there was talk about the offer around the Borough.

In order to corroborate the testimony of Mr. Liss, the Commission called former Councilman Charles J. Ciardullo to testify. Mr. Ciardullo clearly recalled speaking to Mr. Liss about this offer and going with Mr. Liss to an attorney's office to seek his advice.

Q. Were you aware of any suggestions being made to Mr. Liss that he should, perhaps, resign?

A. Yes, Mr. Liss and I, we confided in each other very much. He was offered some monies.

Q. How do you know?

A. Well, Mr. Liss had told me. He told me that he had ran into Mr. McDade and Mr. Scheid and they went for a ride and they talked about asking Mr. Liss to resign and they would make it worth his while, you know. They offered him \$10,000.

Q. When did Mr. Liss tell you of this meeting?

A. Oh, let's see. It was the day after—well, he met with them on the day after election, and it was the following day, I believe, on a Thursday.

A PAYOFF REQUEST SOURS A DEVELOPER

In order to further corroborate Mr. Liss' testimony and investigate all of the inferences raised by the alleged offer, the Commission sought the testimony of the proposed developer of the Haines tract—Dr. Leonard S. Abrams. The Commission, by proper grant of immunity, compelled the testimony of Dr. Abrams who is a practicing podiatrist and land developer. Dr. Abrams testified that in 1970 he became interested in acquiring this particular parcel of property.

The land was then zoned for use as an amusement park but Dr. Abrams conceived of far broader use. On October 15, 1970 he met with then Councilmen William McDade and Arthur Scheid and explained his proposal for a complex of multiple dwellings and commercial stores that would cost in the neighborhood of 50-75 million and bring numerous jobs into the community.

Dr. Abrams testified that to accomplish this goal he had to have a zoning change and the cooperation of the borough. In the beginning he was treated fairly and quickly obtained complete preliminary approvals. In January of 1971 a new element was introduced:

Q. Would you elaborate, please?

A. Yes. January, approximately middle of January, 1970,—I'm sorry. I think I'm missing one year. Let me see. That's right.

1971, January 15th, approximately, we had a meeting, preliminary meeting, with McDade and Mr. Scheid and they suggested that there's a problem with sewerage; that we should meet with the sewer authority, and approximately a week or two weeks later we had an appointment with Mr. LaPorte at the sewer authority building in Lindenwold.

Q. How did this particular appointment come about?

A. Mr. McDade had made the appointment.

Q. And did you go to that meeting?

A. Yes, it was at night and I had met. Present was Mr. Scheid, Mr. McDade and Mr. LaPorte.

Q. Do you know Mr. LaPorte's—did he hold any position?

A. Yes, he was chairman of the sewer authority.

Q. I see. And what was the substance of that particular meeting?

A. Well, the basic part that they were talking about was that it would cost the borough \$100,000 to bring sewerage to the property and they felt that they were entitled to approximately \$400,000.

Q. \$400,000 to be paid to?

A. To LaPorte and the two gentlemen that were present.

THE CHAIRMAN: Who are the other two gentlemen?

THE WITNESS: Mr. Scheid and Mr. McDade.

Q. What did you understand this fee to be?

A. I understood it that it was a way of getting rich fast; paying somebody off.

In addition to demanding this payoff Mr. McDade, Mr. Scheid and Mr. LaPorte suggested other conditions, according to Dr. Abrams:

Q. You considered this to be a payoff. Can you tell us, was there any other conditions that were involved?

A. Well, then they sort of played around with, in a round-about direction, saying, well, possibly Mr. Scheid could have a liquor store on the premises, and possibly Mr. McDade could handle the security for the property.

Q. And this was in addition to the \$400,000?

A. Yes.

Dr. Abrams was shaken by this demand and eventually backed out of the entire transaction. He emphasized for the Commission that not only did he lose because of this but that the Borough of Lindenwold suffered a substantial detriment too by way of lost employment opportunities and housing.

AN INITIAL \$10,000 IS REQUESTED

Morton Silver, who is a land investor, first became involved with officials in the Borough of Lindenwold in 1965-1966 when he and a group of investors were steered to what was known as the Pine Lake Tract by John J. Piper, a local builder. At that time the tract consisted of approximately 35 acres of undeveloped land which was zoned for use as a swim club.

Mr. Silver's group purchased the property for approximately \$232,000 and immediately requested a change in zoning to permit residential use. This request and subsequent ones were refused. Finally, in 1968, Mr. Piper came to Mr. Silver with advice on how someone went about obtaining such a change in the zoning requirements. Mr. Silver testified pursuant to a proper grant of immunity:

Q. Did Mr. Piper at any point in time indicate to you that he could obtain the rezoning that was so necessary to your development?

A. At one—I believe it was in 1968, after a few of these efforts had died aborning to have it rezoned, he told me that he had discussed with township officials the rezoning and had learned that it could be rezoned the way we wanted on a payment of certain moneys. At that time he told me that \$10,000 would be required for the rezoning.

Q. Was this the first time in your career as a developer in property that you had been confronted with such a demand?

A. Yes, sir, it is.

Q. What was your reaction to Mr. Piper when he told you this?

A. I—my reaction was, "Isn't there some other way? I mean, we have a two-hundred-thirty-two-thousand-dollar investment here and it has no value as it is."

He said, "We've tried every other way. This is the sure way. I-I have been assured that this is the way to do it," and I did finally agree to do it.

THEY WANTED MORE

However, once Mr. Silver paid this original \$10,000 demand, he found that he had only whetted their appetite.

Q. Well, before obtaining the rezoning in March of 1969 did Mr. Piper indicate to you at any point that \$10,000 would not be enough?

A. Yes, before——

Q. I have the benefit of your prior testimony here before me.

A. I'm sorry. Yes, sir.

There were two. He paid two separate renewals to me. The 10,000, as I recall, was paid to him somewhere along about the time that the request was made, in cash given to him, and I do not know or recall what he said he did with it. Not too long after that, he came to me again and said that we have to pay more; there's an additional 10 that will be due because the township officials know the value of the ground will be vastly increased and they want more. And I didn't like it, but I suppose once you're involved in it, and I did agree ultimately to pay the additional 10 and did pay the 10 to Mr. Piper in cash.

I don't recall when that second 10 was paid. My thinking was that it was paid around about the time that the zoning was accomplished, because that usually was the arrangement made; that the money was paid when the zoning was done.

At around that same time that the zoning took place, Mr. Piper came to me once again and said, I'm sorry to report that an additional 10 is requested by the township for the same reasons given me before; the value has increased and so on.

At this point, naturally, I was concerned with the continuing nature of it. I said to him, "Is there some way we can be sure that this is it, that there isn't any more, that I'm not involved in any more?"

"Absolutely, you have my word. They understand how you would react to this, but that will do it."

And then I think it was then that we agreed that the 10 would not have to be paid until we either commenced building on the ground or until we sold it, in either event. But ultimately the 10 was given him in cash again.

Q. What was the total amount of monies that you were required to pay through Mr. Piper in order to obtain the rezoning that finally occurred in March of '69?

A. \$30,000 was paid to him in cash.

The public records of the borough show that on March 13, 1969 the Borough Council approved an amendment to the zoning ordinance permitting this tract to be developed for multiple family dwellings.

Rather than develop it themselves, Mr. Silver and the other investors sold the property to Austin Properties Corporation in the summer of 1971 for \$660,000. Mr. Silver specifically attributed this rise in value to the change in zoning.

The Commission decided to follow out the history of the development of the Pine Lake Tract by taking the testimony of the actual builder, Richard Kahr.

A PAYOFF FOR SEWER HOOKUP PERMITS

The Commission, by proper grant of immunity, compelled the testimony of Mr. Richard Kahr, a builder who was the principal representative of Austin Properties Corporation and the Pine Lake Development Company.

In the summer of 1971 he became interested in the Pine Lake Tract through the recommendation of Mr. John Piper. After the parties had contracted for the sale but prior to the actual purchase, Mr. Piper advised Mr. Kahr that if he wanted to secure the issuance of sewer hookup permits at the then prevalent rate of \$100/unit, money would have to be paid to certain public officials.

Q. Now, did anything happen between the time of this first meeting with Piper and the eventual agreement of purchase which you signed on behalf of Austin

Properties with respect to another conversatoim with Piper?

A. Yes. Piper told me after, after we had submitted certain plans to the town, that there was going to be a certain amount of money that was going to be required as a payoff.

Q. Do you know what amount of money that was?

A. Yes, it ended up to be somewhere between 20 to \$22,000 for lower sewer permits.

Q. Did Piper at another discussion discuss with you prior payoffs that had been made on that property?

A. Yes.

Q. And what was the nature of those payoffs?

A. He had just told me that he had made various payoffs to get the property in the position that it was in.

Q. In other words, for a favorable position so that you could develop it——

A. Right.

Q. —in the way you wished?

A. Correct.

Q. Did he tell you how much money he paid to bring that to a conclusion?

A. No.

Q. Did he tell you who he paid?

A. He intimated that he had dealings with Nelson Shaw and Bill McDade.

Q. William McDade, the Mayor of Lindenwold?

A. Right.

Q. What were the payoffs for that Piper was describing to you?

A. They were going to have a new evaluation of sewer hookup charges, which would have cost the company a considerable amount of money.

Q. And what did Piper tell you with respect to those sewer hookup charges?

A. That it would cost me between 20 and \$22,000 to get in under the wire before the new prices went up.

Q. In other words, that you would save money on behalf of the corporation—

A. Right.

Q. —if you paid off the town officials?

A. And, also, that he thought that it was a wise thing to do; that, you know, in the town it was just better to do it than fight it or even pay the higher price.

Q. Now, this was prior to the time when Austin Properties actually owned the land; is that correct?

A. Correct.

Q. The land was under an agreement of purchase to Austin Properties?

A. Correct.

Mr. Kahr described the method he used to generate the cash which he eventually gave to Mr. Piper for the payoff and testified further:

Q. Did Piper ever tell you to whom that cash was going?

A. Directly, that he always said to me that what he did was he always delivered the cash to Nelson Shaw.

Q. And what would Nelson Shaw do with it, to your knowledge?

A. Probably distribute it to other people.

Q. Did Piper ever tell you who Shaw distributed it to?

A. The only other name that he mentioned was McDade.

Mr. Kahr further explained that the \$22,000 he paid to Mr. Piper resulted in a saving to his corporation of approximately \$50,000.

FREE KITCHEN APPLIANCES FOR THE MAYOR

In addition to these payoffs, Mr. Kahr testified that Mayor McDade demanded that Kahr supply him with certain kitchen appliances for his home:

Q. How did you find out that Mayor McDade wanted some appliances for his kitchen?

A. From Jack Piper.

A. It would have been '72.

Q. —late '72?

A. Yeah.

Q. All right. What did Piper tell you that Mayor McDade wished?

A. He wanted—I had gotten him a refrigerator, a stove and a dishwasher.

Q. Did he tell you why it would be advantageous for you to get the appliances for Mayor McDade's kitchen?

A. Well, the transaction went that McDade paid for those appliances.

Q. Did he give you a check, in fact, for that amount?

A. Yes.

Q. How much was that check?

A. Either 5 or \$600.

Q. And you bought the appliances from your purchasers?

A. Correct.

Q. Your retailers are the ones you normally dealt with on the development, right?

A. Right.

Q. And McDade paid \$500 for it?

A. Yes.

Q. Did anything happen after that with respect to the transaction?

A. Yes. I took out either 5 or \$600 as a check to me, or petty cash, and I gave it to Jack Piper.

Q. Do you know what Piper did with it?

A. Piper said he gave it to McDade.

Q. So, did the appliances cost McDade anything?

A. No.

Q. Why do you think McDade gave you a check for that amount even though it didn't cost him anything?

A. Either two reasons. I might have asked for it, which I probably did because in construction you want to have some idea of where the appliances go. Or Piper might have suggested it.

Q. Why did you feel, as a developer, that it would be good for you to supply appliances for free to Mayor McDade?

A. That's—in that town that would have been a very cheap amount of favors for anyone.

Q. In other words, when you were paying \$21,000, \$500 was a small amount?

A. Correct.

THE PURCHASE IN FEBRUARY OF 1967

In February of 1967 a 69-acre tract of property owned by the Borough of Lindenwold was offered by the Borough at public auction. This parcel represented approximately one half of all the property then zoned for industrial use. The minimum acceptable bid placed on it by the Borough Council was \$40,000. Considerable use restrictions, which were made conditions to the sale, indicated that the Borough intended this property be developed as an industrial park. At the time of the public auction only one bidder, Morton Silver, participated, and he was, of course, successful for the minimum price.

It was made plain to the Commission during its investigation that it was the use restrictions together with a reverter clause, which would have allowed the borough to regain the title to the property if the owner reneged, that frightened away other bidders and dictated a very low sales price. Since the purchaser was Mr. Morton Silver, who had been involved in the Pine Lake transaction, we again compelled his testimony.

Mr. Silver explained that he soon found himself unable to finance the industrial construction as required by the deed and discussed this predicament with his business associate, John J. Piper:

Q. Did Mr. Piper at any time indicate to you that he could protect you and the other members of the investing concern from the possibility that the township would exercise its reverter clause?

A. Yes. I'm not sure it was in those words. My concern always was the reverter clause, most particularly, although, of course, the other conditions had to be met.

Q. Yes.

A. During the course of that first year many times discussing with him jeopardy under which we were placed because of that reverter clause, he finally said to me during the course of that year, I—I—"You don't have to worry about it. I have talked to township officials and they will not do anything. They won't enforce the reverter clause, nor even the conditions immediately; that you take the worries out of your mind and"—shall I continue?

Q. Who did he say that he spoke to?

A. And then he mentioned to me that there were two people most, most likely to protect us and that he was sure would be our protectors in the township, and that we would have to somehow compensate them, and he even told me how that would have to be done.

Q. Who did he say those two people were that would have to be compensated?

A. The two people named were Nelson Shaw and Harold Walters.

TWO PUBLIC OFFICIALS GET STOCK

Mr. Silver and Mr. Piper discussed how they could meet the demands of Harold Walters and Nelson Shaw. Mr. Piper suggested that Silver's corporation (Lindenwold Industrial Park Corp.) issue each man one share of stock. Mr. Silver considered that method too dangerous and instructed Piper to check back with the two officials:

A. He came back to me later and said it is—"They agree that they should not be shown as stockholders. Therefore, what you do is, whatever my share is in

this corporation, you'll take two of my shares," and he would hold one each for each of the two gentlemen involved. And I told him that if this had to be done, that it wasn't necessary to be taken from his share; that we would just take it from the corporation capital structure and I would issue two additional shares, which in fact it was done although the two shares were issued in the name each of John Piper, which he told me that he was going to hold for the two gentlemen involved, and he was given the stock, those two shares plus his own, by me.

REZONING IN RETURN FOR \$100,000

On January 17, 1968, Mr. Silver obtained a major concession from the Borough Council. On that day, the Borough passed a resolution waiving its reversionary interest in the front portion of the industrial tract fronting on Egg Harbor Road and granting Mr. Silver a one-year extension in order to comply with the other restrictions.

Nothing was done between January of 1968 and January of 1972 towards development of this property as an industrial park. In late 1971 Mr. Silver discussed with Mr. Piper the possibility of having the tract rezoned. Mr. Piper told Mr. Silver that he would ask the township officials regarding this. Mr. Silver received the following advice:

A. And when he Mr. Piper came back to me, he said, "I have now got the word from the township that the only way you can get that zoned, and you can get it zoned to"—I don't think apartments was wanted by the township—"You can get it zoned for townhouses or for condominium, but you will now have to pay a certain sum of money to the officials in order to have that rezoned."

This maybe was in late '71 that this was told me by him.

Q. Who did Mr. Piper indicate that he was dealing with in the township?

A. He told me that he had talked to, I believe he was then the mayor, William McDade, and McDade had told him that he could get the zoning as we talked and that it would cost \$100,000.

Mr. Piper arranged for this sum to be paid in three installments: \$25,000 was to be paid at the time of zoning; \$50,000 when the property was sold, and \$25,000 more one year later. Mr. Piper specifically told Mr. Silver that Mayor William McDade was setting the price. Mr. Silver testified:

Q. Did Mr. Piper indicate to you who set the price of \$100,000?

A. He said he got that from William McDade.

Q. Is my understanding correct that you actually paid these monies in three installments?

A. I did. It was paid somewhat less than the total figure I've given you.

Mr. Silver identified 23 checks, some of which were drawn upon his attorney's trust account that generated the cash to make these payments.

GETTING BACK THE STOCK

The Borough actually rezoned the property to permit the construction of multiple family dwellings on March 27, 1972. In December of 1972 Mr. Silver, on behalf of himself and other investors, sold the stock of the Lindenwold Industrial Park Corporation to Austin Properties Corporation for one million dollars. This sale represented a gross profit to the sellers of \$960,000.

Shortly after the sale of stock, Mr. Silver faced the problem of what to do about the shares of stock that had been given to Mr. Piper for Mr. Harold Walters and Mr. Nelson Shaw when the Lindenwold Industrial Park Corporation had been started. Mr. Silver testified.

Q. When you liquidated your corporation and sold the stock to Austin Properties, what did you and Mr. Piper do with those two shares?

A. Well, I went to Mr. Piper and I told him, "We must resolve this matter of the two shares which you're holding intended to be for Mr. Shaw and Mr. Walters; that there's no way I can continue to pay out cash, and I won't pay out cash any more. Furthermore, they're in your name and you're going to have to account for all of the receipts for those two shares because you have to get a distribution just like every-

one else. Isn't there some way, now, we can deal with these people finally and settle whatever their obligation is here?" And I decided that I would not pay any more cash; that whatever we did decide would have to be a check that would be shown for their interest.

And then I said—well, he said, "There's no way they're going to take a check as a distribution." And, in fact, I couldn't think of how I would give a check out from the distribution to them unless he assigned it to them, or somehow.

And then I said to him, "Is it possible that you owe them money or can say that you owe them money so that I can be directed to pay to them a certain sum out of this money which is due you, directly to them in full payment for what you owe them?"

He came back and he said, "Yes, I"—again, later, "We can make what I consider to be a good deal. Each gentleman is happy to get \$15,000 in total payment for whatever that share of stock is."

And, therefore, I drafted myself a direction, an authorization from Mr. Piper to me giving me the authority to pay them directly each \$15,000 in payment for a loan made to him by them, each of them, and I told him to get it receipted, both a check and a separate receipt, I believe, which he did and gave me back.

Mr. Silver identified two \$15,000 checks drawn to Mr. Harold Walters and Mr. Nelson Shaw which had been endorsed and deposited by each individual.

THE REVERTER CLAUSE PROBLEM

In addition to receiving the rezoning of the industrial tract, Mr. Silver also obtained, as part of the total accommodation received from the Borough, the dismissal of a law suit that had been instituted on October 20, 1969 by the Borough Solicitor:

Q. Did you become aware during this period of time, also, that a suit had been commenced by the Borough of Lindenwold against yourself and other

parties in interest for the reclamation or repossession of this property?

A. Yes, sir, I did. I think my awareness of that was in around the same time. It was late in '71 that I became aware that a suit had been started by the Township of Lindenwold to enforce the reverter, although I believe that suit had been started a year in advance. I never had any notice of it. I wasn't served any papers. The title owner of the ground was listed as a taxpayer in Lindenwold and the taxes were paid and the address was there. There was no reason why I didn't have notice, but I didn't. But I did become aware of the suit, not directly, not by service of any papers.

Q. In your discussions with Mr. Piper concerning the rezoning and the total accommodation that you'd receive for this \$100,000, was the suit mentioned?

A. Was the suit mentioned?

Q. Yes. Was that part of the total accommodation, that you expected to get out from under this suit?

A. Truthfully, I don't believe I—I don't believe I knew of the suit at the time we talked about the zoning. I just don't believe that I did and didn't make that an issue.

Q. Did you know about the suit during the time that you generated the cash that was ultimately paid?

A. Yes. Yes, sir, I did, and I mentioned that to Mr. Piper.

Q. And what was Piper's reaction?

A. His reaction always was, the best he could find was that we just don't have to worry about it; that he couldn't promise me anything specific about it. In fact, I had a lot of difficulty making him aware of the nature of that suit.

But it was always the same; "These things will be taken care of. Don't worry about it. It's part of what we're getting," and without specifics, that's what was told to me.

TRACING THE PAYOFFS

With testimony and supporting exhibits in the record about payments of money in return for favorable actions by borough officials, the hearings turned to tracing the flow of the money to its ultimate receipt by the officials. Mr. Nelson Shaw who had been Tax Assessor of Lindenwold since July, 1960 was given a grant of witness immunity by the Commission in order to obtain his testimony about how he acted as a conduit to transmit the money to then Borough Council President William J. McDade Jr.. Mr. Shaw testified that he knew both Morton Silver and Jack Piper, the principals in the Lindenwold Industrial Park Corp. He testified further that during 1970 he was given two shares of stock in that corporation by Mr. Piper. A year or so later, Mr. Shaw testified, Mr. Piper approached him and asked to deliver some envelopes containing money to Mr. McDade who presently is the Mayor of Lindenwold.

Mr. Piper, according to Mr. Shaw, told him that the money was in return for the rezoning of the Lindenwold Industrial Park. Mr. Shaw estimated from what he heard from Mr. Piper and what he saw in one of the envelopes that about \$100,000 in cash was transmitted to Mr. McDade in three envelopes. The Commission was curious to know why Mr. Shaw, Manager of the Clementon Branch of the Peoples Bank, agreed to be a conduit for the pay-offs and was disturbed on hearing his description of the degeneration of the ethical atmosphere in governmental circles in Lindenwold:

Q. All right. Then he (Mr. Piper) comes to you, sir, and approaches you to be a conduit for illegal payments to a borough official. Do you know why he selected you?

A. Well, we've known each other for quite a number of years and he just thought that I would deliver it where it was supposed to go.

Q. Do you think you knew each other well enough that he could assume that you would not recoil from the fact that he was asking you to perform an illegal act?

A. I guess so.

Q. All right. So, then, again, you were picked as the conduit for no particular reason except that he knew you?

A. I said, we've been friendly.

* * * *

Q. One question. Mr. Shaw, you weren't particularly shocked or disturbed when Piper asked you to be the payoff man, were you?

A. No.

Q. It was a part of the system, isn't that your understanding, that you have testified that it was being done all around?

A. Yes.

Q. Excuse me?

A. Yes.

Mr. Shaw testified that Mr. Piper would bring an envelope to Shaw's bank offices and request him to deliver it to Mr. McDade. Mr. Shaw described the first and second instances of him delivering envelopes to Mr. McDade, including Mr. Shaw's taking of \$5,000 from one of the envelopes.

Q. And at the time that he (Mr. Piper) gave you this envelope, you say it was at your bank where you were working?

A. Yes.

Q. Did he have any conversation with you?

A. Pertaining to the envelope? I would say, maybe he just said, "Here's a package for you to deliver."

Q. Is that what he said, "Here's a package for you to deliver"?

A. The best I can remember.

Q. Now, did you give Mr. McDade the envelope which Mr. Piper had given you in the bank the same day?

A. Yes.

Q. And where did you give Mr. McDade this envelope filled with money?

A. In the borough hall.

Q. And when you gave him the envelope in the borough hall, was there any conversation between you and Mr. McDade insofar as that envelope with cash in it was concerned?

A. The best I can remember—pardon me—I just said, “Here’s an envelope from Piper.”

Q. And what was his response, if any?

A. Just took it. Didn’t say—I don’t recall him saying anything.

* * * *

Q. And how long after the first time did Mr. Piper give you another envelope filled with what you felt was cash for Mr. McDade?

A. Two, three months. Three months.

Q. Was it the same type of envelope?

A. Yes.

Q. Did he give it to you in the bank like he gave you the first one?

A. Yes.

Q. Now, did Mr. Piper have any conversation with you relating to this delivery insofar as the second envelope is concerned?

A. No, other than just possibly he would say, “Here’s another one to be delivered.”

Q. He possibly could have said, “Here’s another one to be delivered”?

A. I don’t recall.

Q. When he——

A. I don’t recall any——

Q. When he handed you the envelope, did it have any markings on it; any names on it?

A. No.

Q. Anything that would indicate to you, if he didn’t say a word, who was to get it?

A. No. The only thing, it was the same as the first envelope. It was wrapped in tape, black.

* * * *

Q. Thank you.

Now, with this envelope, did you take this directly to Mr. McDade?

A. Not right away, no.

Q. What did you do with it?

A. Put it in the top drawer of the desk.

Q. And how long after you put it in the top drawer of your desk did you take it out?

A. Oh, maybe after three o'clock it would have to be, after the bank closed.

Q. And what did you do with it?

A. Took it over to Mr. McDade's house in the evening, early evening.

Q. Mr. Shaw, did anything occur insofar as that envelope is concerned between the time that you took it out of your desk and the time that you delivered it to Mr. McDade?

A. I took some money out of it.

Q. Could you relate to us exactly what happened in taking the money out of the envelope?

A. Yes. I had borrowed—I had borrowed some money from the bank to give to Mr. McDade.

Q. How much money was that, sir?

A. 4,000.

And I took it, took—opened the envelope and took 5 out.

Q. Mr. Shaw, why would you take 5 if you had lent Mr. McDade 4,000?

A. Interest.

Q. Interest?

A. It's high interest.

* * * *

Q. Now, getting back to the second, where did you give it to McDade, now?

A. At his home.

Q. Any specific room?

A. In the rec room.

Q. Now, at the time you were standing in the rec room with Mr. McDade, was there any conversation concerning the envelope?

A. I would say, no.

Q. Well, what did you say to him when you gave him the envelope?

A. Just, "Here's another present, another envelope."

Q. "Here's another present"?

A. Something similar.

Q. Another envelope. Would you speak up, sir?

A. Something similar to that.

Q. Did he respond to you in any way?

A. Not that I recall.

Q. Did you, in your conversation of telling him "Here's another present," tell him that you took \$5,000 out of the envelope?

A. Did I tell him?

Q. Yes, that's correct.

A. No.

Q. You did not tell him that?

A. No.

Mr. Shaw testified that he did not for certain reasons go along with a third request from Mr. Piper to deliver an envelope to Mr. McDade but that he was told Mr. Piper did deliver it to Mr. McDade, and that Arthur Scheid, a Lindenwold Borough Councilman, evidently knew of the delivery of the third envelope:

Q. And did you, in fact, deliver that third envelope that Mr. Piper gave to you?

A. No, I gave it back to him.

Q. Would you tell us the circumstances as to why you gave it back to him?

A. Mr. McDade and Mr. Piper had a meeting, and because I had taken the money from the previous envelope for the loan, he wanted all future ones delivered direct and not through me.

Q. Now, did Mr. Piper ever tell you personally that he delivered that third envelope himself to Mr. McDade?

A. Yes.

Q. And do you recall how long after Mr. Piper gave you the third envelope that he told you he had delivered it?

A. No.

Q. So, now, we have three instances where you know of, to your knowledge, that you have testified to, that money in envelopes was given to Mr. McDade for payoffs on a rezoning of a tract of land which had already occurred; is that a correct statement?

A. I'm positive of two. I have hearsay on the third.

Q. Are you familiar with a man named Arthur Scheid?

A. Yes.

Q. Did Mr. Scheid at any time discuss with you these payments we have just discussed?

A. He asked me about the third envelope.

Q. And where did he ask you this?

A. What I had done with it.

Q. Where and when did he ask you these questions?

A. Oh, when: I can't pinpoint. Where: He stopped in the bank and was talking to me about it early in the day.

Q. And why do you think Mr. Scheid would be interested in whether or not that third envelope was delivered?

A. I don't know.

Q. You have no idea?

A. Unless he knew what was in it.

Q. To your knowledge, did Councilman Scheid ever ask McDade about the envelopes?

A. Yes, he had to, because he come back and asked me about them.

Q. Did he tell you that he had spoken with Mr. McDade about this?

A. Yeah.

Q. He did say that?

A. Because he wanted to know what I had done with them, and I said I didn't have it in the very beginning.

Q. And can you recall, as close as you can, the exact words that Councilman Scheid used when he asked you about the cash in the third envelope?

A. No, he only asked me where the envelope was.

Q. From this transaction which involved Mr. Scheid, is it a fair statement to say that Mr. Scheid may have been getting some funds on ultimate disbursement, from what you know about the situation?

A. Well, I could say that most likely he knew what was in the envelopes.

Q. He knew there was a payoff going to Mr. McDade; is that correct?

A. I'd say, yes.

Q. And this was knowledge of a transaction involving payments?

A. Yes.

LARCENY IN THE HEART

An instance where Mr. McDade gave Mr. Shaw \$2,500 from one of the envelopes was related by Mr. Shaw:

Q. Mr. Shaw, did you ever receive any money from Mr. McDade out of these envelopes—

A. Yes.

Q. —that you gave to him?

A. Yes.

Q. And how much was that, sir?

A. \$2,500.

Q. What is your recollection, or do you recall the circumstances surrounding that twenty-five-hundred-dollar payment to you out of these envelopes?

A. It was just given to me for my share.

Q. *Your share of what, sir?*

A. Of the money that had been delivered.

Q. *And did you accept it?*

A. Yes.

Q. *Why did you accept it, Mr. Shaw?*

A. I have no answer for that.

Q. *You did once before in executive session, and if I might quote—*

A. Oh, yes. I had larceny in my heart?

Q. *You have larceny in your heart, sir, yes that's correct.*

MONEY IS PAID FOR "ASSISTANCE"

About a half a year after Mr. Shaw had performed his services in delivering the envelopes containing money to Mr. McDade, Mr. Shaw received a check for \$15,000 from Mr. Silver via Mr. Piper ostensibly to buy back the two shares of industrial park stock given to him previously by Mr. Piper. Mr. Shaw testified about that payment and its connection to "assistance" provided by him:

Q. *How long after these payments were made to McDade, et als., did Piper approach you in order to discuss these shares of stock that he had given you back in 1970, I think you testified, in the Lindenvold Industrial Park, Incorporated?*

A. He came back and asked for them back because he was going to sell the property and they wanted to close the corporation out.

Q. *Was it at this time that he recovered the certificate of shares or was it he just discussed the possibility that he was going to redeem them from you in the future?*

A. No, if I recall correctly, when he came in, he asked me where did I have them; that he needed them to close the things out, close the corporation out.

* * * *

Q. Now, I am going to show you a check already marked on the record, Check No. 131, drawn on the Girard Bank, Philadelphia, Pennsylvania, Morton Silver, Trustee. Could you identify this, please?

A. Yes.

Q. That's C-25. You can identify it, sir?

A. Yes.

Q. How would you identify this check?

A. How would I?

Q. Does this check represent to you the check—is this the check that was given to you by Mr. Piper for the shares of stock?

A. I would say, yes. I didn't turn to see if my signature's on the back of it, but I've either seen this one or another one.

That's it; that is it.

Q. When did Mr. Piper—strike that. We know it was January, 1973.

Where did he give you this check?

A. My house.

Q. And when he gave you that check, what was the conversation?

A. That this is the check that he had spoken about months and months prior to that for assistance I had given him in different things.

Q. Did he at any time mention the fact that that \$15,000 might be for the stock of shares that the—certificate of shares.

A. Well, he said, yes, it was to represent the shares that I had, but mainly it was for the favors that I had done.

Q. I show you Exhibit C-26 marked for the record. Could you identify this, please? There are two documents there, sir. I would like you to peruse both of them and tell me if you can identify them.

Mr. Shaw, have you seen those documents before?

A. Yes.

Q. Would you explain what the documents are and what they were used for?

A. One was a letter from Jack Piper to Morton Silver stating to make a check out for \$15,000 for me, and the other piece of paper was a receipt for it.

Q. At the time you signed the document, which I believe has your signature on it—does that signature represent yours, sir?

A. Yes.

Q. Did you receive the check that you identified just prior to those documents at the same time?

A. I would say, I signed the document at the same time I got the check.

A SYSTEM FOR OBTAINING AND SHARING PAYOFF MONEY

The previously mentioned John P. Nowak of Lindenwold, who was for six years a Lindenwold Borough Councilman and who initiated the S.C.I. investigation of the government of the Borough of Lindenwold by his revelations of payoffs, appeared as a witness at the public hearings immediately after Mr. Shaw's appearance and testified under a grant of witness immunity. Mr. Nowak related that from 1969 until 1972, the Lindenwold Borough Council had four Democratic members and two Republicans, with the Mayor at that time being a Republican. After the municipal election in 1969, according to Mr. Nowak, the Democrats, including besides himself Mr. McDade, Mr. Scheid, and Dominic Stranieri, caucused to discuss how the Democratic majority would exercise its power, to elect Mr. McDade Council President, and to establish a system for receiving and distributing payoffs expected in return for favorable treatment of developers:

Q. Besides caucusing on these matters of political power, did you discuss what would be the position of the Democrats or of the controlling people in interest when developers would seek rezoning or other favorable treatment from council?

A. They would see Mr. McDade.

Q. What do you mean by that?

A. Well, he was to take care of any matters that were to be brought up in front of council to be voted on.

Q. Did you discuss whether or not people who would be seeking actions from council would be requested to pay monies or other things of value?

A. It was discussed that monies would be transpired.

Q. Who was to handle the transactions of the monies?

A. Mr. McDade.

Q. Did this meet the approval of yourself?

A. It did to a degree; that as long as the town benefited from the action that was to be taken, I would not be in objection to it.

Q. Was it also with the approval of the other people attending that caucus?

A. Yes.

Q. Was it understood that you and the other people attending that caucus would share in the monies paid by developers and others seeking action from council?

A. That was the understanding.

Q. When you came before the State Commission, did you identify for the Commission those transactions with regards to which you felt that monies had been paid to Mayor McDade?

A. Yes, I did.

Q. Are you prepared today to identify those transactions for us?

A. Yes, I am.

Mr. Nowak could recall several instances where he received shares of money said to have been paid by developers for favorable actions by the government of Lindenwold. He testified as follows:

Q. Do you recall a transaction in March of 1970 when Dr. Edward Rab, a dentist in the Borough of Lindenwold, approached the planning board and town council seeking rezoning?

A. Yes, I do.

Q. Can you identify the property or the project which he was seeking approvals for?

A. They're now known as Kenwood Apartments and Lindenwold Apartments on Blackwood Clementon Road.

* * * *

Q. Okay. In October of 1970 did you and Mr. McDade have a discussion in the—let me pinpoint that for you—in the dining room of an establishment—

A. Yes.

Q. —then known as Wally's Bar?

A. It was then known as Wally's Bar, yes.

Q. What is it now known as?

A. Aiello's Tavern.

Q. What happened at this discussion?

A. I was given an envelope with \$900 in it.

Q. Who gave you that envelope?

A. Mr. McDade.

Q. Was anyone else present?

A. Two other councilmen were present, not in the same room at the time the envelope was given.

Q. Who were those other councilmen?

A. Mr. Scheid and Mr. Stranieri.

Q. Do you know whether or not those two gentlemen received an envelope, also, at this meeting in Wally's Bar?

A. They received envelopes.

Q. How much was in the envelope that you received?

A. \$900 that I received.

Q. To what do you attribute this payment?

A. It was for the rezoning of the now Kenwood Apartments and Lindenwold Apartments.

* * * *

Q. Are you familiar with a development in the Town of Lindenwold that is known, or was known as the Lindenwold industrial tract?

A. Yes, sir.

Q. Are you familiar with the fact that the Lindenwold industrial tract was sold in 1967 by the borough for \$40,000?

A. I believe the figure was closer to \$65,000. That's the figure that I recall.

Q. Well, I give you as a fact after having seen the records of the sale that it was 40,000. Do you accept that?

A. Thank you.

Q. Okay. Were you a member of council at this sale?

A. No, I was not.

Q. Are you familiar with the restrictions placed on this property when it was sold?

A. It was brought to our attention, yes.

Q. Was anything ever accomplished towards developing this property as an industrial piece?

A. It was begun. A road was roughed through with some sidewalk and curbs put in, and that's as far as it went.

Q. Did this property ever receive any favorable action from council?

A. Yes, it did.

Q. What type of favorable action did it receive?

A. The original, I believe, 900 feet were—there was a restriction on that the developer could only build in the 900 feet and the rest of the property would not be developed until he put up a building on that first, on the 900 feet abutting Egg Harbor—excuse me—Egg Harbor Road, and that restriction was listed so that the whole tract of ground now had no restrictions.

* * * *

Q. Are you familiar with the fact that this property at one point in time was rezoned, the entire tract, to allow for the development of multi-family dwellings on it?

A. Yes.

* * * *

Q. Did you discuss with Mr. Shaw whether or not monies were paid to public officials with regards to the rezoning of the Lindenwold industrial tract?

A. Yes.

Q. Where did you have that discussion with Mr. Shaw?

A. In the bank where he works.

Q. How did that discussion come about?

A. I don't recall exactly, but it was—well, I usually do my banking there at the bank and I stopped in and talked to him and asked him if he knew whether or not any monies or any payment was made.

Q. What did he reply?

A. He said, yes, and he did give me a rundown account of the monies that were paid by the buyer and another source. He didn't give me the name of the source, but he did give me the values that were given.

Q. How much did he indicate to you was paid over this transaction?

A. It was over \$100,000.

Q. Why did you ask Mr. Shaw about this transaction?

A. Because the councilmen were supposed to get a portion of the monies.

* * * *

Q. In March of 1973 did you receive anything from Mayor McDade with reference to the rezoning of the Lindenwold industrial tract?

A. Yes, I did. It was prior to a planning board meeting, which I was a member of. I was in a back office with Councilman Dominic Stranieri and I was arguing with him because he wouldn't back me up on

certain measures that I supported. During the argument, which was quite boisterous, Mr. McDade came into the room and asked Dominic Stranieri to leave.

I was quite upset at the time and the mayor thereafter proceeded to quiet me down. The mayor indicated that he had money that was owed to me. At first I didn't want to take it. However, I subsequently took the money, totaling \$2,500.

The money was not specifically associated with any particular deal, but I am assuming that it was for my vote on the industrial tract now known as Meadowview Station.

Q. For the record, it was shortly before this payment that the Lindenwold industrial tract was rezoned?

A. Yes.

* * * *

A. I received monies, not for being a councilman, but for my vote as a councilman.

Q. Who did you receive that money from?

A. Mr. Shaw.

Q. When did this take place?

(Whereupon, the witness confers with counsel.)

A. I can't recall the actual date.

Q. Well, can you recall the year?

(Whereupon, the witness confers with counsel.)

Q. Let me withdraw the question and ask you if you can recall the transaction that this payment was associated with.

A. It was for voting for additional apartments for Lynn Brook apartment complex on White Horse Pike.

Q. Where did Mr. Shaw give you this money?

A. It was given to me outside of the borough hall.

Q. How much did he give you?

A. \$500.

Q. Were you shocked by this?

A. Yes, I was, because I felt that I didn't do anything to deserve it.

Q. What did Mr. Shaw say to you when he gave you this money?

A. He had told me that Martin Etores, who was the owner of the Lynn Brook apartment complex, would like me to have it for my—I don't know whether you call it my vote since I didn't—I just felt I voted the way I should have.

Q. Well, did you accept the money?

A. Yes, I did.

Q. Why?

A. I—I really don't know.

Q. Was it given to you in any particular holder or case?

A. It was in an envelope, a white envelope.

THE TAINTED CASH IS PRODUCED

Mr. Nowak testified that he received a total of \$5,900 in payoff monies from Mr. McDade of which he spent \$900 to buy a piece of property which abutted his property. Because he became increasingly concerned and upset at having received tainted money, he kept the \$5,000 balance stored in his house until the fall of 1973 when he brought the \$5,000 in an envelope to the S.C.I. offices in Trenton. Mr. Nowak was given a receipt by the S.C.I. for the envelope and its contents which were kept in a safe deposit box, until the Commission produced them at the public hearings where Mr. Nowak identified the cash contents of the envelope as payoff money he had received from Mr. McDade. Mr. Nowak was asked why he came to the S.C.I. with the tainted money:

Q. When you came to the State Commission in November of 1973, what was your purpose?

A. My purpose was to try to get something accomplished or bettered for the people of Lindenwold, who were—who had put their trust in the officials, and I felt that we weren't really accomplishing what they had put us up there for.

Q. Did you come as part of a group?

A. Well, I was one of the eleven people who have—who had signed a petition to try to get Lindenwold back on the right track.

Q. What did you do with the money that you received from Mr. McDade?

A. I kept it in my home.

* * * *

Q. Why did you retain these funds over all of these years?

A. Well, I felt it wasn't really mine because I didn't earn it, physically work for, and just held onto it.

Q. Mr. Nowak, I can understand the courage that it took for you to first come to the Commission. I understand that you came unsolicited and for that I thank you.

THE FIFTH AMENDMENT IS INVOKED

William J. McDade Jr., the present Mayor of Lindenwold and a former President of the Lindenwold Borough Council, was called as a witness. He was accompanied by his attorney, Charles H. Nugent Esq. When asked anything relative to his official duties and the previous testimony about a system of payoffs from developers, Mr. McDade stated that on the advice of his counsel he was invoking his Fifth Amendment privilege against possible self-incrimination.

Arthur Scheid, a Lindenwold Borough Councilman, and George LaPorte, a former Mayor of Lindenwold and presently a member of the Lindenwold Borough Municipal Utilities Authority, both appeared as witnesses at the public hearings and both on the advice of their attorneys invoked their Fifth Amendment privilege when asked questions similar to those posed to Mr. McDade. Mr. Scheid was represented by Ira Rabkin Esq., and Mr. La Porte by Allen Nickerson, Esq.

The previously identified Jack Piper who was the principal middleman in the payoff system was subpoenaed to testify at the

public hearings but failed to appear, claiming he was too ill. The Commission verified that he was, in fact, that ill at that time. Charles Sapienza, then Counsel to the S.C.I., stated for the public record that Mr. Piper's attorney, Francis Hartman Esq., had authorized Mr. Sapienza to say that if Mr. Piper had been well enough to appear, he would have asserted his Fifth Amendment privilege to all questions as he did when he appeared privately before the Commission during the investigation.

THE REVERTER CLAUSE SUIT

As previously reviewed, Morton Silver, a principal in the Lindenwold Industrial Park Corp., testified that the withdrawal of the Borough's legal action to enforce the reverter clause on the industrial park land was part of the total accommodation which he believed that he received in return for paying \$90,000 on the rezoning of that tract. In light of that testimony, the Commission delved deeply into the conduct of the law suit.

An examination of the records of the Superior Court clerk revealed that a complaint was filed for repossession of the property on October 20, 1969 by the Borough Solicitor, Joseph Maressa. Nothing else was done on the suit until January 18, 1971 when an amended complaint was filed by Mr. Henry Miller, an attorney retained by Mr. Maressa to handle this particular matter. On December 22, 1971 a consent order, dismissing the litigation, was filed by Mr. Maressa on behalf of the Borough.

The Commission found it necessary to call the Borough Solicitor as a witness so that it might have a better understanding of why the suit was dismissed, why the industrial tract was rezoned and why the reverter clause was officially rescinded by resolution of the Borough on October 5, 1972.

Mr. Maressa testified that he was appointed Borough Solicitor in January of 1968 but had no recollection of why the suit was commenced nor why the Borough, on January 17, 1968, passed a resolution waiving its reversionary interest in the front portion of the industrial tract.

Mr. Maressa testified that he had no recollection of why nothing was done to prosecute this suit between October of 1969 and January of 1971:

Q. When you referred the matter to Mr. Miller, two years had elapsed where nothing was done on the suit, not even service upon the named defendants. Is there any particular reason why that happened?

A. I can't understand that other than to say that whoever was handling it, filing the complaint and not doing anything about it, it just has to be a situation whereby the file was misplaced or it was overlooked or something. I don't understand why. After a complaint is filed and summonses don't issue, I thought that there would be a motion to dismiss immediately.

Q. It was on the dismissal list, but an order by your firm was entered continuing the matter. Did anyone in the borough ask you to just let this suit lie for a while and not do anything on it?

A. I have no such recollection.

The Commission had previously reviewed Mr. Maressa's legal files concerning this transaction and questioned him regarding certain correspondence appearing therein. One particular document, a letter from Mr. Henry Miller to Mr. Maressa dated October 14, 1971, contained an opinion by Mr. Miller that the Borough would be successful in its suit against the large rear portion of the tract that was owned by Morton Silver. In this regard, Mr. Henry Miller testified as follows:

Q. And would it be a fair paraphrasing to say that in this letter you told the solicitor that you felt that you had a good chance of winning as against Silver and, as a matter of fact, you thought you might even be able to obtain a summary judgment against Silver—

A. That is correct.

Although Mr. Maressa had no specific recollection about the October 14, 1971 letter his file indicated that he forwarded this letter to Mr. McDade. The Commission also inquired into a letter from Mr. Miller to Mr. Maressa dated November 8, 1971 in which Mr. Miller suggested that the entire suit be dismissed. Mr. Miller attributed this change to his general reevaluation of the file in expectation of trial:

Q. What happened between October 14th, 1971, and November 8th, 1971, that would account for this reversal on your part?

A. Well, I can't answer what happened, but I assume that what I usually do is, in preparing for trial I review my file and reevaluate the case, and I believe by reason of such action on my part I came to the conclusion that this being landlocked and I'd go before the judge, I might be embarrassed. He'd say, "What are you trying to take away here? What's the town going to do with this if you get the reverter? There's no way in or out." That was one of my thoughts in the matter.

Mr. Miller testified that he did not recall doing any further legal research on the matter between October 14 and November 7 and although he considered the property to be landlocked, which would be a detriment to the Borough's case, he did not personally view the property, did not request a survey and failed to weigh the property's propinquity to the railway that ran next to it and the Borough's legal power to condemn an access strip.

Mr. Maressa had no specific recollection of reading Mr. Miller's letter of November 8, 1971 nor of discussing it with Mr. Miller. Mr. Maressa did authorize Mr. Miller to dismiss the suit by letter of December 14, 1971.

Mr. Maressa testified that he may have assigned the entire suit to some other attorney in his office and that no one in the Borough ever suggested that he not prosecute the suit. He denied any knowledge of any payoffs in the Borough to public officials.

LAND PURCHASES THROUGH STRAW MEN

The Commission took the testimony of Mr. John J. Patterson, a former Chairman of the Lindenwold Planning Board and long time resident of the Borough. Mr. Patterson explained that in December of 1969 he was approached by the then Mayor, George LaPorte, who requested that he bid for him at a scheduled public auction of Borough owned property. After he agreed, Mr. LaPorte provided him with a list of properties he wished to purchase as well as the amounts he was willing to bid on each.

On the day of the sale, Mr. LaPorte as Mayor, along with the Borough Solicitor, actually conducted the public sale. Mr. Patter-

son, acting as a straw man for Mr. LaPorte, was successful on approximately 15 purchases. The money for these purchases was supplied by Mr. LaPorte and Mr. Charles Keister, an associate of Mr. LaPorte.

The records of the County Clerk reflected a deed to John Patterson from the Borough for all of the parcels purchased by Patterson at the public sale. Mr. Patterson testified that he never received a deed. The files of the Borough Solicitor indicated that this deed was in fact sent to George LaPorte by the Solicitor.

Mr. Patterson also testified that after the sale he became ill and was hospitalized. When he was released, Mr. LaPorte and Mr. Keister came to his home. At this meeting, Mr. LaPorte displayed a number of blank deeds which he asked Mr. Patterson to sign. Mr. and Mrs. Patterson signed the blank deeds but received no compensation whatever. A search of the County Clerk's files indicated that these blank deeds were eventually filled out and did effectively transfer title in the purchased parcels to a number of individuals. Four of the deeds showed a transfer to a Mrs. Kaspak of Brooklyn who is Mr. LaPorte's sister. One other deed transferred property to Mr. Keister while another transferred property to Mr. LaPorte. Four more deeds transferred property to a Mr. Peter Husband. The Commission became concerned about these transfers since the deeds stated that a total consideration was paid of approximately \$9,000—which the grantor, Mr. Patterson, denied receiving.

Each deed bore the notation "Prepared by Joseph Maressa" and contained a notarization of Mr. and Mrs. Patterson's signatures by Muriel Mannsmann, an employee of Mr. Maressa's law firm.

Mr. Maressa testified that he handled the gavel at the public auction in December of 1969. He stated that he was not aware that Mr. Patterson was bidding on behalf of Mr. LaPorte, nor did Mr. LaPorte ever tell him this was the case. Mr. Maressa had no specific recollection of sending Mr. Patterson's deed to Mr. LaPorte but did acknowledge his signature on the letter of transmittal and offered his opinion that Mr. LaPorte must have requested the deed. When asked about the series of deeds from Mr. Patterson to the third parties, Mr. Maressa denied any personal participation in their preparation but offered that his secretary, Muriel Mannsmann, handled them. Mr. Maressa testified:

Q. We have received testimony from Mr. Patterson that a series of deeds were prepared which transferred the property that he bought at the public land sale to various third parties shortly after he became ill. These transfers, as the exhibits indicate, took place in and about June of 1970. Did you handle these matters personally?

A. Well, my office did. I think my secretary took care of all of that.

Q. But did you discuss these transactions with Mr. George LaPorte?

A. No, I didn't.

Q. Did you discuss them with Mr. Charles Keister?

A. No, I didn't.

Q. Did you discuss them with Mr. John Patterson?

A. No, I didn't.

Q. Is it your testimony, then, that whatever services your office provided for Mr. LaPorte or the others I have mentioned on these transactions were done strictly by your secretary?

A. Yes. I understand that the deeds came into the office and that my secretary notarized them and so forth. I can only re-emphasize the fact that Miss Mannsman is a para-legal and many people ask for her in preference to talking to me on many of the matters, and she handles all of my municipal work and deeds and so forth. I'll go to a meeting, I'll come back and throw it on her desk and she follows it up. So, I'll say that she didn't do this unauthorized as an unauthorized person. She has my consent to do these. I know of her knowledge and expertise and I feel, if she does them, I know it's going to be done correctly.

Mr. Maressa acknowledged that his office filed these deeds with the Registrar of Deeds and billed someone for the recording fee and his legal fee. Mr. Maressa was asked if he knew that the various grantees from Mr. Patterson were straw men for Mr. LaPorte and Mr. McDade:

Q. Were you aware that the grantees on these deeds from John Patterson were also straw men or straw women for George LaPorte and/or William McDade?

A. No, I wasn't.

Q. Do you know a Mr. Peter Husband, who is a grantee on two of these matters?

A. Yes, I do.

Incidentally, I want to amend my answer to your last question.

Q. Sure.

A. Probably if I did know, it wouldn't have made any difference to me if they acted as straws. It was none of my business.

Miss Muriel Mannsmann testified that she did not prepare the deeds from Mr. Patterson to the various third parties but did notarize the signatures of Mr. and Mrs. Patterson:

Q. Miss Mannsmann, you are the secretary in the office of Mr. Maressa; is that correct?

A. Yes.

Q. We have marked a series of deeds out of John Patterson as grantor to various grantees. These deeds all indicate that they were prepared by the office of Senator Maressa. Did you, in fact, prepare these deeds?

A. They were not prepared by our office.

Q. Who prepared them?

A. Well, I don't know the actual person who prepared them. Mr. LaPorte came in the office one day and asked me for several blank deeds and I gave them to him. A short time—I don't remember the day he came in. A short time later he came back with the typed deeds and asked that I notarize them.

Q. And did you notarize the signature of John Patterson and his wife, Kathryn?

A. Yes, I did.

Q. But they did not, in fact, sign these deeds in front of you, did they?

A. They did not sign in front of me, no.

Q. This is not your normal way of doing things, is it?

A. No, it isn't.

Q. Did you rely on Mr. Patterson—strike that—on Mr. LaPorte's representation that, in fact, the Pattersons had signed these?

A. Not that I recall. Mr. LaPorte explained that Mr. Patterson had had a—was ill or had had a heart attack and he wanted to have the deeds drawn out of his name in the event something might happen to him, and I spoke with Mr. Patterson on the telephone, verified his signature, and, I assumed, his wife's. I would not have notarized them, without some sort of verification, just on Mr. LaPorte's sayso.

Q. Mr. Patterson has testified that he received no telephone call from anyone with regards to his signature. Are you certain that you called Mr. Patterson or is it—

A. I spoke to someone, yes, on the phone, who identified himself as Mr. Patterson. I would not have notarized them otherwise.

Q. Who dialed Mr. Patterson for you, do you know?

A. I frankly don't remember, truthfully.

Miss Mannsmann testified further that when she received the recorded deeds back from the registrar, she mailed them to Mr. Keister rather than to the named grantees. The only exception was those deeds in which Mr. Peter Husband was the grantee—these she mailed to Mr. McDade.

Miss Mannsmann was also questioned regarding the letter from Mr. Henry Miller to Mr. Joseph Maressa, dated October 14, 1971 which contained Mr. Miller's opinion that he could win the law suit as against the property owned by Morton Silver. The upper right hand corner of this memo contained the pencil names "Walters" and "McDade". Miss Mannsmann acknowledged that they were written by her but could offer no explanation of why she did write them on this letter.

FINAL RECOMMENDATIONS

1. A Conflict of Interest Statute Governing Public Employees.

The public hearings regarding the government of the Borough of Lindenwold are but one more shocking example of public deceit that this Commission has revealed since its creation in 1969. It is apparent to us that the widespread disillusionment and loss of confidence in public officials is due in large measure to confusion on the part of the public and on the part of those who hold the public trust as to what activities may and may not be engaged in by public officials at every level of government.

Those hearings have demonstrated a broad spectrum of activities on the part of a small group of public officials, which range from outright official corruption to the use of straw men by public officials in order to mask their purchase of properties sold by the Borough at public auction. Therefore, we renew a recommendation originally made by this Commission in its Annual Report for 1972 and re-emphasized in its Annual Report of 1973, which called for the legislative action on the following fronts:

- Enactment of a statute which would create a Uniform Code of Ethics for county and municipal officials, together with an agency for enforcing such a code. The Commission suggests further that any statute along those lines meet the following standards:

- a. There be sufficient specificity in the Uniform Code of Ethics to clearly define to all who hold public office exactly what is expected of them.

- b. That the Uniform Code of Ethics be applicable to all municipal and county employees throughout the state.

- c. There be created a non-partisan agency to administer the code for the sake of uniformity.

- d. The Agency be given sufficient power to initiate, hear, receive and review allegations that public officials are in violation of the Uniform Code.

- e. The Agency be given sufficient power to recommend to the appointing authority suspension or removal of persons from public office and

imposition of fines upon those found to be in violation of the Uniform Code of Ethics.

f. That the Agency be empowered to render advisory opinions to those public employees and officials throughout the state who are in doubt as to their status.

The statement has often been made that it is difficult, if not almost impossible, to legislate integrity and honesty into government. But if they are difficult to legislate into government, that should not be a deterrent to a continued search for the most effective laws which will circumscribe and inhibit amoral conduct in public life and aid in bringing to justice those who betray their public trust for self-enrichment. After all, the human equation is not composed entirely of angels but rather individuals of widely varied character and ethical outlook.

2. A Broadening of the Statute of Limitations for Those Criminal Offenses Dealing with Violation of a Public Office by an Elected or Appointed Official.

During the course of this investigation the Commission has elicited testimony and gathered facts which indicate gross violations of public trust in the government of the Borough of Lindenvold from 1967 to 1973. The Commission is aware that regular prosecutorial arms are foreclosed from filing a criminal charge against individuals whose acts fall outside the present five-year statute of limitations. This investigation and others have indicated to us that such violations often do not come to light during the offenders term in office, crippling effective prosecutorial investigation at a later date.

The Commission recommends that the Legislature re-examine the present five-year statute of limitations on extortion-bribery offenses. A statute of limitations extending from the time an official leaves public office could provide a higher deterrence to those individuals who might be tempted to engage in illegal activity and rely on their ability to hold their job for an extended period of time and thus escape detection.

The Commission notes that in these types of cases the only injured party is often the community which has no access to inside information and which may only learn of the wrongdoing years after the fact.

APPENDIX I

STATE COMMISSION OF INVESTIGATION

New Jersey Statutes Annotated 52:9M-1, *Et Seq.*

L. 1968, C. 266, as amended by L. 1969, C. 67, L. 1970, C. 263, and L. 1973, C. 238.

52:9M-1. Creation; members; appointment; chairman; terms; salaries; vacancies. There is hereby created a temporary state commission of investigation. The commission shall consist of 4 members, to be known as commissioners.

Two members of the commission shall be appointed by the governor, one by the president of the senate and one by the speaker of the general assembly, each for 5 years. The governor shall designate one of the members to serve as chairman of the commission.

The members of the commission appointed by the president of the senate and the speaker of the general assembly and at least one of the members appointed by the governor shall be attorneys admitted to the bar of this state. No member or employee of the commission shall hold any other public office or public employment. Not more than 2 of the members shall belong to the same political party.

Each member of the commission shall receive an annual salary of \$15,000.00 and shall also be entitled to reimbursement for his expenses actually and necessarily incurred in the performance of his duties, including expenses of travel outside the state.

Vacancies in the commission shall be filled for the unexpired term in the same manner as original appointments. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission.

52:9M-2. Duties and powers. The commission shall have the duty and power to conduct investigations in connection with:

a. The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering.

b. The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;

c. Any matter concerning the public peace, public safety and public justice.

52:9M-3. *Additional duties.* At the direction of the governor or by concurrent resolution of the legislature the commission shall conduct investigations and otherwise assist in connection with:

- a. The removal of public officers by the governor;
- b. The making of recommendations by the governor to any other person or body, with respect to the removal of public officers;
- c. The making of recommendations by the governor to the legislature with respect to changes in or additions to existing provisions of law required for the more effective enforcement of the law.

52:9M-4. *Investigation of management or affairs of state department or agency.* At the direction or request of the legislature by concurrent resolution or of the governor or of the head of any department, board, bureau, commission, authority or other agency created by the state, or to which the state is a party, the commission shall investigate the management or affairs of any such department, board, bureau, commission, authority or other agency.

52:9M-5. *Cooperation with law enforcement officials.* Upon request of the attorney general, a county prosecutor or any other law enforcement official, the commission shall cooperate with, advise and assist them in the performance of their official powers and duties.

52:9M-6. *Cooperation with federal government.* The commission shall cooperate with departments and officers of the United States government in the investigation of violations of the federal laws within this state.

52:9M-7. *Examination into law enforcement affecting other states.* The commission shall examine into matters relating to law enforcement extending across the boundaries of the state into other states; and may consult and exchange information with officers and agencies of other states with respect to law enforcement problems of mutual concern to this and other states.

52:9M-8. *Reference of evidence to other officials.* Whenever it shall appear to the commission that there is cause for the prosecution for a crime, or for the removal of a public officer for misconduct, the commission shall refer the evidence of such crime or misconduct to the officials authorized to conduct the prosecution or to remove the public officer.

52:9M-9. *Executive director; counsel; employees.* The commission shall be authorized to appoint and employ and at pleasure remove an executive director, counsel, investigators, accountants, and such other persons as it may deem necessary, without regard to civil service; and to determine their duties and fix their salaries or compensation within the amounts appropriated therefor. Investigators and accountants appointed by the commission shall be and have all the powers of peace officers.

52:9M-10. *Annual report; recommendations; other reports.* The commission shall make an annual report to the governor and legislature which shall include its recommendations. The commission shall make such further interim reports to the governor and legislature, or either thereof, as it shall deem advisable, or as shall be required by the governor or by concurrent resolution of the legislature.

52:9M-11. *Information to public.* By such means and to such extent as it shall deem appropriate, the commission shall keep the public informed as to the operations of organized crime, problems of criminal law enforcement in the state and other activities of the commission.

52:9M-12. *Additional powers; warrant for arrest; contempt of court.* With respect to the performance of its functions, duties and powers and subject to the limitation contained in paragraph d. of this section, the commission shall be authorized as follows:

a. To conduct any investigation authorized by this act at any place within the state; and to maintain offices, hold meetings and function at any place within the state as it may deem necessary;

b. To conduct private and public hearings, and to designate a member of the commission to preside over any such hearing;

c. To administer oaths or affirmations, subpoena witnesses, compel their attendance, examine them under oath or affirmation, and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation; and the commission may designate any of its members or any member of its staff to exercise any such powers;

d. Unless otherwise instructed by a resolution adopted by a majority of the members of the commission, every witness attending before the commission shall be examined privately and the commission shall not make public the particulars of such examination. The commission shall not have the power to take testimony

at a private hearing or at a public hearing unless at least 2 of its members are present at such hearing.

e. Witnesses summoned to appear before the commission shall be entitled to receive the same fees and mileage as persons summoned to testify in the courts of the state.

If any person subpoenaed pursuant to this section shall neglect or refuse to obey the command of the subpoena, any judge of the superior court or of a county court or any municipal magistrate may, on proof by affidavit of service of the subpoena, payment or tender of the fees required and of refusal or neglect by the person to obey the command of the subpoena, issue a warrant for the arrest of said person to bring him before the judge or magistrate, who is authorized to proceed against such person as for a contempt of court.

52:9M-13. Powers and duties unaffected. Nothing contained in sections 2 through 12 of this act [chapter] shall be construed to supersede, repeal or limit any power, duty or function of the governor or any department or agency of the state, or any political subdivision thereof, as prescribed or defined by law.

52:9M-14. Request and receipt of assistance. The commission may request and shall receive from every department, division, board, bureau, commission, authority or other agency created by the state, or to which the state is a party, or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

52:9M-15. Disclosure forbidden; statements absolutely privileged. Any person conducting or participating in any examination or investigation who shall disclose to any person other than the commission or an officer having the power to appoint one or more of the commissioners the name of any witness examined, or any information obtained or given upon such examination or investigation, except as directed by the governor or commission, shall be adjudged a disorderly person.

Any statement made by a member of the commission or an employee thereof relevant to any proceedings before or investigative activities of the commission shall be absolutely privileged and such privilege shall be a complete defense to any action for libel or slander.

52:9M-16. Impounding exhibits; action by superior court. Upon the application of the commission, or a duly authorized member of its staff, the superior court or a judge thereof may impound any exhibit marked in evidence in any public or private hearing held in connection with an investigation conducted by the commission, and may order such exhibit to be retained by, or delivered to and placed in the custody of, the commission. When so impounded such exhibits shall not be taken from the custody of the commission, except upon further order of the court made upon 5 days' notice to the commission or upon its application or with its consent.

52:9M-17. Immunity; order; notice; effect of immunity. a. If, in the course of any investigation or hearing conducted by the commission pursuant to this act [chapter], a person refuses to answer a question or questions or produce evidence of any kind on the ground that he will be exposed to criminal prosecution or penalty or to a forfeiture of his estate thereby, the commission may order the person to answer the question or questions or produce the requested evidence and confer immunity as in this section provided. No order to answer or produce evidence with immunity shall be made except by resolution of a majority of all the members of the commission and after the attorney general and the appropriate county prosecutor shall have been given at least 24 hours written notice of the commission's intention to issue such order and afforded an opportunity to be heard in respect to any objections they or either of them may have to the granting of immunity.

b. If upon issuance of such an order, the person complies therewith, he shall be immune from having such responsive answer given by him or such responsive evidence produced by him, or evidence derived therefrom used to expose him to criminal prosecution or penalty or to a forfeiture of his estate, except that such person may nevertheless be prosecuted for any perjury committed in such answer or in producing such evidence, or for contempt for failing to give an answer or produce in accordance with the order of the commission; and any such answer given or evidence produced shall be admissible against him upon any criminal investigation, proceeding or trial against him for such perjury, or upon any investigation, proceeding or trial against him for such contempt.

52:9M-18. Severability; effect of partial invalidity. If any section, clause or portion of this act [chapter] shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective and

no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

52:9M-19. There is hereby appropriated to the Commission the sum of \$400,000.

52:9M-20. This act shall take effect immediately and remain in effect until December 31, 1979.

APPENDIX II

MEMBERS OF THE COMMISSION

The Commission's activities are now under the direction of Joseph H. Rodriguez who in December, 1973, was appointed to be a Commissioner and Chairman by then Governor William T. Cahill. He succeeded John F. McCarthy Jr. who had been Chairman since February, 1971 and a Commissioner since July, 1970. The other Commissioners are Charles L. Bertini, Thomas R. Farley and David G. Lucas.

Mr. Rodriguez, of Cherry Hill, took his oath of office as Commissioner and Chairman in January, 1974. A graduate of LaSalle College and Rutgers University Law School, he was awarded an Honorary Doctor of Laws Degree by St. Peter's College in 1972. Mr. Rodriguez was a member of the Board of Directors of the Camden Housing Improvement Project during 1967-71. He was appointed to the State Board of Higher Education in 1971 and the next year was elected Chairman of that agency which oversees the operation and growth of the state colleges and university. Mr. Rodriguez resigned that Chairmanship to accept his appointment to the Commission. He is a partner in the law firm of Brown, Connery, Kulp, Wille, Purnell and Greene, in Camden.

Mr. Bertini, of Wood-Ridge, was sworn in as a Commissioner in January, 1969 following his appointment by former Governor Richard J. Hughes. A graduate of the former Dana College and the Rutgers University Law School, he was president of the New Jersey Bar Association when he was named to the Commission. Bloomfield (N.J.) College awarded him an honorary Doctor of Laws degree in 1970. Mr. Bertini conducts a general law practice in Wood-Ridge.

Mr. Farley, of West Orange, took his original oath of office as a Commissioner in March, 1973 following his appointment to the Commission by then Speaker of the State Assembly Thomas H. Kean. A graduate of the University of Notre Dame and Rutgers University Law School, Mr. Farley served as an Essex County Freeholder during 1968-70 and as Essex County Surrogate in 1971. He has been an instructor in insurance finance courses at Rutgers

University and St. Peter's College. His law firm, Farley and Rush, has offices in East Orange.

Mr. Lucas, of Somerville, took his oath of office as a Commissioner in November, 1973 following his appointment to the Commission by then State Senate President Alfred N. Beadleston. A graduate of Seton Hall University and Columbia University Law school, he was Deputy Director of the State Criminal Justice Division in 1970-73, during which time he also held successively the posts of Deputy State Attorney General and Assistant State Attorney General. As Deputy Director, he was assigned at various times to serve as Acting Prosecutor of Ocean, Bergen and Hunterdon Counties. Mr. Lucas is a partner in the law firm of Imbriani, Westling and Lucas, Bound Brook.

APPENDIX III

CODE OF FAIR PROCEDURE

Chapter 376, Laws of New Jersey, 1968, N. J. S. 52:13E-1
to 52:13E-10.

An Act establishing a code of fair procedure to govern state investigating agencies and providing a penalty for certain violations thereof.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

(a) "Agency" means any of the following while engaged in an investigation or inquiry: (1) the Governor or any person or persons appointed by him acting pursuant to P. L. 1941, c. 16, s. 1 (C. 52:15-7)), (2) any temporary State commission or duly authorized committee thereof having the power to require testimony or the production of evidence by subpoena, or (3) any legislative committee or commission having the powers set forth in Revised Statutes 52:13-1.

(b) "Hearing" means any hearing in the course of an investigatory proceeding (other than a preliminary conference or interview at which no testimony is taken under oath) conducted before an agency at which testimony or the production of other evidence may be compelled by subpoena or other compulsory process.

(c) "Public hearing" means any hearing open to the public, or any hearing, or such part thereof, as to which testimony or other evidence is made available or disseminated to the public by the agency.

(d) "Private hearing" means any hearing other than a public hearing.

2. No person may be required to appear at a hearing or to testify at a hearing unless there has been personally served upon him prior to the time when he is required to appear, a copy of this act, and a general statement of the subject of the investigation. A

copy of the resolution, statute, order or other provision of law authorizing the investigation shall be furnished by the agency upon request therefor by the person summoned.

3. A witness summoned to a hearing shall have the right to be accompanied by counsel, who shall be permitted to advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the hearing. Counsel for any witness who testifies at a public hearing may submit proposed questions to be asked of the witness relevant to the matters upon which the witness has been questioned and the agency shall ask the witness such of the questions as it may deem appropriate to its inquiry.

4. A complete and accurate record shall be kept of each public hearing and a witness shall be entitled to receive a copy of his testimony at such hearing at his own expense. Where testimony which a witness has given at a private hearing becomes relevant in a criminal proceeding in which the witness is a defendant, or in any subsequent hearing in which the witness is summoned to testify, the witness shall be entitled to a copy of such testimony, at his own expense, provided the same is available, and provided further that the furnishing of such copy will not prejudice the public safety or security.

5. A witness who testifies at any hearing shall have the right at the conclusion of his examination to file a brief sworn statement relevant to his testimony for incorporation in the record of the investigatory proceeding.

6. Any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing or comment made by any member of the agency or its counsel at such hearing tends to defame him or otherwise adversely affect his reputation shall have the right, either to appear personally before the agency and testify in his own behalf as to matters relevant to the testimony or other evidence complained of, or in the alternative at the option of the agency, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of, which statement shall be incorporated in the record of the investigatory proceeding.

7. Nothing in this act shall be construed to prevent an agency from granting to witnesses appearing before it, or to persons who

claim to be adversely affected by testimony or other evidence adduced before it, such further rights and privileges as it may determine.

8. Except in the course of subsequent hearing which is open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview conducted before a single-member agency in the course of its investigation shall be disseminated or made available to the public by said agency, its counsel or employees without the approval of the head of the agency. Except in the course of a subsequent hearing open to the public, no testimony or other evidence adduced at a private hearing or preliminary conference or interview before a committee or other multi-member investigating agency shall be disseminated or made available to the public by any member of the agency, its counsel or employees, except with the approval of a majority of the members of such agency. Any person who violates the provisions of this subdivision shall be adjudged a disorderly person.

9. No temporary State commission having more than 2 members shall have the power to take testimony at a public or private hearing unless at least 2 of its members are present at such hearing.

10. Nothing in this act shall be construed to affect, diminish or impair the right, under any other provision of law, rule or custom, of any member or group of members of a committee or other multi-member investigating agency to file a statement or statements of minority views to accompany and be released with or subsequent to the report of the committee or agency.

