

REPORT FOR THE YEAR 1972
of the
COMMISSION OF INVESTIGATION
of the
STATE OF NEW JERSEY
to
THE GOVERNOR AND THE LEGISLATURE
of the
STATE OF NEW JERSEY

THE COMMISSION OF INVESTIGATION
OF THE STATE OF NEW JERSEY

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

The New Jersey Commission of Investigation is pleased to submit its fourth 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,

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ORIGIN AND SCOPE OF THE COMMISSION

Although the New Jersey State Commission of Investigation is now entering its fifth year of existence, numerous inquiries continue to be made about its beginnings and its jurisdiction. For that reason and because it is important that the background leading to the Commission be remembered, the pertinent facts are again set forth.

The Commission was an outgrowth of extensive research and public hearings conducted in 1968 by the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey. That Committee, whose chairman was then Senator but now Congressman Edwin B. Forsythe, was under direction from the Legislature to find ways immediately to correct a serious and intensifying crime problem in New Jersey.

The Forsythe 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 Forsythe 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 Commission of Investigation, patterned after the high-level New York State Commission of Investigation then in its 10th year and nationally recognized for its probes into organized crime, official corruption and other matters.

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 hard hitting, 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 Forsythe Committee recommendations sparked subsequent legislative and executive action. New Jersey now has a Criminal Justice Division in the Department of Law and Public Safety and an independent State Commission of Investigation.

The Commission believes the record presented in this fourth annual report represents a major realization of the two principal desires of the Forsythe Committee for the role of this Commission:

That New Jersey's crime-fighting pose could benefit immensely from the continued presence of a relatively small but expert investigative body.

That the Commission would provide a significant watchdog for the entire system of administering criminal justice in New Jersey.

The Forsythe Committee called for a bipartisan Commission of Investigation that would act in a non-partisan manner. The Commission believes its four-year record also represents a firm achievement of that expectation.

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.*

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.

The Commission's statute was drafted so as to insure that this agency would not be a "crime commission" alone but that it also would have broad civil jurisdiction to probe irregularities and

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

shortcomings not involving criminal processes or implications. The primary and paramount statutory responsibility vested in the Commission is 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.
 - (c) Any matter concerning the public peace, public safety and public justice.

The statute also provides 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 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 Investigating 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 investigating 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 true test, therefore, of the success of the public hearings and public reports of this Commission is not the number of indictments that may result but rather the corrective actions sparked by the public exposure of deplorable conditions detrimental to the public interest. The Commission takes particular pride in those actions which have resulted in improved governmental operations and laws and in more effective protection for the taxpaying public through the better handling and use of public monies.

RESUME OF THE COMMISSION'S MAJOR INVESTIGATIONS FOR THE PERIOD JUNE, 1969 TO DECEMBER, 1972

This is a summary of the Commission's major investigatory efforts completed and made public from June, 1969 when the Commission became staffed and operational to the end of the year 1972 covered by this fourth 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*

The Commission in June, 1969 began subpoenaing individuals identified by law enforcement authorities as leaders and members of organized crime in New Jersey. The purpose of this continuing effort has been to try to get a firsthand, detailed picture of organized crime's operations from the mouths of those said to be in the Mafia, especially the relative importance of the syndicate's various sources of money, how that money is handled and dispersed, and how the power structure works and is changed from time to time.

The Commission believes that once individuals have been granted witness immunity, a proper balance has been struck between protection of individual rights and the right of the public to know as much as possible about the underworld's operations.

However, eight men identified as organized crime operators in New Jersey, including four reputed Mafia chieftans, have to date elected to go to jail for civil contempt rather than answer with witness immunity the Commission's questions. A ninth Mafia

* See State of New Jersey Commission of Investigation, 1971 Annual Report, issued March, 1972, and pages 17 through 19 of this report.

figure also has been jailed for civil contempt of the Commission's subpoena power.

Additionally in 1972 a tenth Mafia figure, who had fled from New Jersey when first confronted by the Commission in 1969, was discovered and arrested in Florida. He was returned to New Jersey where he pleaded guilty to a charge of criminal contempt of the Commission and was sentenced to a year in prison. Paroled after serving six months of the sentence, he has been re-subpoenaed by the Commission.

All those cited for civil contempt may at any time free themselves by purging the contempt through giving responsive answers to the Commission's questions. The responses have so far been a host of legal challenges principally to the witness immunity section of the statute creating the Commission.

The New Jersey State Supreme Court in 1970 upheld the Commission's witness immunity powers. The matter was appealed to the United States Supreme Court which on May 22, 1972, in a 5-2 opinion, also upheld those same powers.

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.

The Commission subsequently undertook a probe 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 of customer allocation is 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:

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

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 recommendations were along the lines of subsequently enacted state laws, including the new solid waste control acts which have stopped the vicious and costly cycle of unregulated monopoly and price gouging.

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 a Mafia 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. That police chief's widow told the Commission of threats to and harassment of her husband until his death in 1968.

That the next police chief lacked the integrity and will to investigate organized crime and attempt to stem its influence.

After the Commission's public hearings, the police chief resigned and the electorate voted in a new administration. The Asbury

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

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. Copies of that information were sent to the United States Attorney for New Jersey in Newark and were used in obtaining a 1971 federal 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 of 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. In June, 1972, a State Grand Jury indicted the buyer on charges of misconduct in office and receiving money from the building services firm which was doing business with the state.

This investigation met with immediate correctional steps by the State Division of Purchase and Property to change several procedures so as to prevent recurrences of similar incidents.

The Commission commended officials of that Division for moving so rapidly to tighten procedures and 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 on 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

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

products and/or imposition of sweetheart contracts were sometimes the 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 people and firms, directly and indirectly involved in the building maintenance industry, to the unscrupulous and unsavory elements in those areas.

Also, the information developed in the probe was forwarded to the United States Congress' Select Committee on Commerce in response to that panel's request for aid in investigating the infiltration of organized crime into interstate commerce.

Counsel and special agents of the Commission testified at length before that Committee at public hearings in Washington in June, 1972. Sen. Warren G. Magnuson, the committee chairman, later wrote the Commission that the testimony by SCI personnel, plus the cooperation of the SCI staff in assisting the Magnuson Committee's research, greatly enhanced the effectiveness of his Committee's hearings.

The Senator wrote the SCI: "It is only through the assistance of organizations such as yours and the professionals associated with them that progress can be made in the effort to expose the cancer of organized crime in interstate and foreign commerce."

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

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

the executive director from the panel's outside auditors, and kickback payments by contractors and suppliers of up to 75 per cent 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.

Also, 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, his two sons, the Commission's secretary, the Commission's engineer, and a Commission foreman.

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. The other three indictments were dismissed.

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, endorsements 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

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

agent's scheme, an inadequate and questionable investigation was conducted by some county officials and that for the better part of three months thereafter, nothing further was done to try to determine the true amount of public funds involved.

In prefacing its recommendations to the Governor and the Legislature, the Commission noted that, as in its previous county-level probes in Monmouth and Hudson counties, the salient point in the Atlantic County investigation was that misuse of public funds went undetected and uncorrected for so long a period of time despite a reputable accounting firm following approved procedures for auditing the county's fiscal operations.

The Commission concluded that the public trust requires that licensed county and municipal auditors be mandated to exercise more responsibility for maintaining integrity in the fiscal affairs of governments.

The key recommendation of the Commission was that reviews of internal controls of county and local governments should be performed by auditors on an on-going basis, including unannounced reviews of various departments, rather than at set calendar periods. Another principal recommendation was that the auditor on his own initiative periodically verify transactions with vendor firms.

Copies of the Commission report were also sent to all freeholder directors throughout the state to use as a guide in preventing any similar misappropriation of funds in their counties.

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 containership 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.

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

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.

The Commission concluded from this investigation that recommendations for possible legislative action in a number of areas were in order. Those recommendations were presented in detail to the Governor and the Legislature in the Commission's 1971 Annual Report, issued in March, 1972.

The Commission's principal recommendation was for possible formation of a new or revised unit of state government to plan and coordinate the development of valuable lands and to assist private developers in improving and realizing the full potential of those lands.

A bill, recommended by the Governor, has since been introduced in the Legislature to establish a State Community Planning Corporation with power to coordinate and encourage development of lands throughout the state. Enactment of that bill would go a long way toward meeting the objectives of the Commission's prime recommendation.

The Commission also recommended study of the existing tax abatement law, changes in the urban blight and urban redevelopment plan laws, and more up-to-date and effective criminal statutes on bribery and corruption.

10. TACTICS AND STRATEGIES OF ORGANIZED CRIME*

Although not a sworn member of an organized crime family, 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 free himself from a State Prison term for extortion, he did during 1971 cooperate fully with the Ocean County Prosecutor's Office in prosecutions that office was pursuing. That office made Gross available to this Commission in December, 1971.

Gross' testimony during two days of public hearings by the SCI in February, 1972 pinpointed the character and the relentless and

* See pages 39 through 97 of this Annual Report.

ruthless modes of operations of crime figures in the Ocean County area and their ties back to underworld bosses in the northern part of the state and in New York City. His testimony was corroborated by a number of witnesses, including officials of the Ocean County Prosecutor's Office, the City-County Organized Crime Task Force for Essex County, and the Organized Crime Section of the New York City Police Department.

One of the highlights of Gross' testimony was his account of how a New York City crime family consigliere adjudicated a dispute involving two underworld groups at a meeting at a storefront type social club in New York City.

The hearings also showed how mobsters completely encircled and infiltrated a legitimate motel business in Lakewood. The former restaurant concessionaire at that motel testified that through shylock loans arranged by organized crime figures, he lost assets of about \$60,000, in six months and had to leave town a broken and penniless man.

The hearings generated some of the most extensive news media coverage of any of the Commission's public actions and that helped to achieve a principal purpose of this particular investigation, namely to add to the public's knowledge and awareness of organized crime's strategies and tactics and to help maintain a high level of public fervor for a bold fight against crime by all arms of government.

Indeed, New Jersey law enforcement officials testified that the public hearings were a valuable contribution to the task of constantly demonstrating the need for vigilance against organized crime.

The hearings also showed how organized crime follows population growth in areas undergoing rapid suburbanization. The hearings, therefore, served as a warning and example to other areas of the state now undergoing or about to undergo that type of 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

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

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 a public report, completed during June, 1972, pinpointed two critical 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 at a time when the college's site search was common knowledge in Atlantic County.

Lack of expertise and safeguards in the procedures of the State Division of Purchase and Property to enable the Division to determine the faults in the appraisals and correct them.

The report stressed a number of recommendations to insure that future instances of faulty appraisals would not go undetected. The key recommendation was for post-appraisal review of all appraisals received by the Division of Purchase and Property. The review would be done by experts in the Right-of-Way Division of the State Transportation Department, with provision for the Purchase and Property Division to hire expert outside reviewers in cases of emergency.

Another principal recommendation was that no appraisers be listed as eligible to do work for the Division until those appraisers have been pre-qualified as meeting rigorous standards.

The recommendations were developed with cooperation from the state purchase and property director and were implemented by departmental regulations issued by the State Treasurer's Office. As a result, the taxpaying public is assured of better protection for state purchases of millions of dollars of properties in the years ahead.

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 corporations acted as conduits to pass on the funds for the benefit of Santisi and some of his controlled corporations.

The Commission as part of this investigation held a series of private hearings which extended into 1972. At the request of federal bank examiners, who were fearful about the effects of adverse publicity on the bank's financial position, the Commission did not as intended proceed to a public hearing stage on this investigation in the Spring of 1972.

Instead, the records of the investigation were made available to the examiners, and the Commission referred the matter to federal authorities for any prosecutorial action they might deem in order. Federal authorities in August, 1972 arrested Santisi on a complaint charging misapplication of more than \$500,000 in bank funds while he was chief executive officer of the Middlesex County Bank.

Since Santisi's manipulations are now in part on the public record as a result of his arrest, the Commission in a subsequent section of this report reviews publicly for the first time this investigation which may fairly be said to have rendered public service by protecting the investing public from further exploitation by Santisi and his entourage.

* See pages 107 through 113 of this report.

CONTINUED CONFRONTATION

MANNA OPTS FOR PRISON

The Commission during 1972 continued to pursue its policy of subpoenaing known ranking Mafia members in New Jersey in the hope that once granted witness immunity they would impart first-hand knowledge of the underworld's operations in this state.

The policy had two results during the year. One Mafia member, Louis Anthony (Bobby) Manna, was subpoenaed and wound up going to jail for civil contempt of the Commission's subpoena powers. The other result was the disappearance from New Jersey of four known underworld members whom the Commission sought to subpoena.

The Commission's investigation revealed Manna was operating shylocking, bookmaking and numbers operations in the Hudson County waterfront area. He was said to have had ties to Thomas (Tommy Ryan) Eboli, the Genovese crime family chieftan who in 1972 was shot to death in the violence that stemmed from rivalries among New York City-based crime family factions.

Manna was subpoenaed by the Commission in April, 1972. After he lost a motion in Superior Court to quash that subpoena, he appeared before the Commission in executive session in Trenton. He stood mute before the Commission and refused to be sworn as a witness.

The Commission immediately obtained a judgment from the Superior Court finding Manna in civil contempt of the Commission's subpoena power and ordering him confined in the State Correctional Center in Yardville until such time as he purges himself by appearing as a responsive witness before the Commission.

Manna joined at Yardville six other Mafia members previously sent there by the Superior Court for civil contempt of the Commission. In all six cases, the organized crime figures were sworn as witnesses but refused to answer, once granted witness immunity, the Commission's questions about organized crime.

Two of the six, Gerardo (Jerry) Catena of South Orange and Angelo Bruno of Philadelphia, both Mafia chieftans, have been at Yardville since 1970. Two other Mafia chieftans, Joseph (Bayonne Joe) Zicarelli of Cliffside Park and Anthony (Little Pussy) Russo of Long Branch, also went to Yardville for civil contempt of the Commission in 1970 after refusing to answer questions once granted witness immunity. However, they have been transferred to other state prisons to serve time for criminal convictions—Russo for perjury and Zicarelli for a bribery conspiracy scheme. The four other ranking Mafia members in Yardville, sent there in 1971 for civil contempt of the Commission, are Ralph (Blackie) Napoli and John Lardiere, both from Newark; Nicodemo (Little Nickie) Scarfo from Atlantic City, and Nicholas (Nickie) Russo from Trenton.

SOME DISAPPEAR

The Commission's subpoenas, to be fully effective, must be served on a person while he is in New Jersey. Some ranking underworld members are said to have stayed out of New Jersey for more than a year in order to avoid being subpoenaed by the Commission.

Among those who, as far as an eternally vigilant SCI staff can determine, have elected to live in other states are: Anthony (Tumac) Acceturo of Livingston, a Newark-based mobster with ties to the Carlo Gambino crime family and who is now living in Florida; Anthony (Tony Bananas) Caponigro of Short Hills, listed by the FBI as having had associations with Angelo Bruno's crime family and who also is now residing in Florida; John (Johnny D) DiGilio of Secaucus, a Hudson County mobster who is now living in Brooklyn; John Simone of Lawrence Township, a Trenton-based member of Angelo Bruno's crime family and who is now residing in Florida.

The Commission's confrontation policy also has had an inhibiting effect on moves by two New York City-based mobsters, Pasquale (Patty Mack) Macchiarole and Alphonse (Funzi) Tieri, to extend their underworld influence into New Jersey. Intelligence reaching the Commission indicates they have made at most rare appearances in New Jersey and that those appearances have been most surreptitious and brief. Tieri is said to have assumed leadership of the Genovese crime family. Macchiarole is listed as a soldier in that family.

COCCHIARO RETURNED

The organized crime figures initially confronted by the Commission in the summer of 1969 included Frank (Condi) Cocchiaro, an associate in the underworld operations conducted in the Long Branch area by Anthony (Little Pussy) Russo. Cocchiaro at that time was facing the prospect of answering the Commission's questions about organized crime or facing civil contempt proceedings.

The Commission was having executive session hearings in the State House Annex in Trenton at that time. Cocchiaro went to the cafeteria in that building for coffee and promptly left the building and the state. That became one of the longest coffee breaks on record. Cocchiaro's exact whereabouts remained a mystery for almost three years. Meanwhile, the Commission moved successfully to have the Attorney General's Office obtain a State Grand Jury indictment of Cocchiaro for criminal contempt. That indictment, and the arrest warrant based on it, were made known to the National Crime Information Center, a reference agency for police departments throughout the nation.

In April 1972, an individual who claimed his name was Frank Tagnotta was involved in a traffic accident in North Miami, Florida. Police there investigated that incident and asked to see the individual's driver's license. In an obviously agitated state, the individual started to pull out one license, said it was the wrong one, and attempted to give the police a license with the name of Tagnotta on it. The police asked to see the other license which was in the name of Frank Cocchiaro.

Their suspicions aroused, the police checked both names out with the National Crime Information Center. The information about Cocchiaro's indictment and the arrest warrant was obtained, and the description supplied clearly indicated the man in the accident was Cocchiaro. He was arrested by the Dade County, Florida, Police and was returned to New Jersey in June, 1972. Later that month, he pleaded guilty to the criminal contempt charge and received a sentence of one year's incarceration.

He was paroled in December, 1972 after serving six months. A new State Commission of Investigation subpoena was served on him and he appeared at a private hearing of the Commission in January, 1973.

LEGAL BATTLES

LANDMARK DECISIONS

The principal reaction of organized crime figures incarcerated for civil contempt of the Commission has been to mount sustained legal attacks on the Commission's statutory power to grant witnesses immunity against prosecution for their responsive answers to the Commission's questions.

In May, 1972 the United States Supreme Court in two 5-2 decisions put an end to those attacks by upholding the witness immunity afforded by the Commission's statute and a similarly worded federal statute. Those statutes provide for granting immunity not only against the use of the answers in any subsequent criminal prosecution but also against the use of any investigatory leads and evidence directly or indirectly derived from those answers. This is referred to as the use-plus-fruits or use-and-derivative-use doctrine. It leaves room for future prosecutions generated independently from the compelled testimony or its fruits, with the burden of proof on the state to show lack of taint in any subsequent prosecution.

The two United States Supreme Court decisions—*Kastigar et al. v. United States*, 406 U. S. 441 (1972), and *Joseph Arthur Zicarelli v. the New Jersey State Commission of Investigation*, 406 U.S. 472 (1972)—were of particular significance in that they departed from an 80-year-old holding that only transactional immunity, which provides total immunity against prosecution for the offense to which the compelled testimony relates, is sufficient to supplant the Fifth Amendment protection against self-incrimination.

The decisions also represented a major victory for the federal government and for the Commission. Both argued before the United States Supreme Court that use-and-derivative-use witness immunity was co-extensive with the scope of the Fifth Amendment privilege, namely that "No person . . . shall be compelled in a criminal case to be a witness against himself." But more importantly, the landmark decisions assure that the federal government and the states will continue to have available in their crime

fighting arsenals the powerful and flexible weapon of use-and-derivative-use witness immunity.

The *Kastigar* case stemmed from refusals to testify with witness immunity before a federal grand jury in a case involving draft evasion. The United States Circuit Court of Appeals for the Ninth District in that case upheld the federal use-and-derivative-use statute. The United States Supreme Court decision in *Kastigar* affirmed that ruling.

The *Zicarelli* case grew out of the refusal by Hudson County Mafia boss Joseph (Bayonne Joe) Zicarelli to answer this Commission's questions about organized crime after he had been granted witness immunity. In 1970 the New Jersey State Supreme Court upheld the Commission's statute, including the use-and-derivative-use witness immunity powers. The United States Supreme Court decision affirmed this State Supreme Court's opinion, *In re Zicarelli*, 55 N. J. 249, 261 A 2d 129 (1970).

The majority opinions in the United States Supreme Court decisions in *Kastigar* and *Zicarelli* were written by Justice Lewis F. Powell. Chief Justice Warren E. Burger and Justices Potter Stewart, Byron R. White and Harry A. Blackmun joined in Justice Powell's opinion. Justices William O. Douglas and Thurgood Marshall wrote dissenting opinions. Justice William J. Brennan and William H. Rehnquist did not participate in the decisions.

Justice Powell chose *Kastigar* as the vehicle for a primary decision on the constitutional sufficiency of use-and-derivative-use witness immunity. The key to the majority decision in that case was stress on the underlying conceptual standard in the case of *Counselman v. Hitchcock*, 142 U.S. 547 (1892), the case in which the high court established the transactional or total immunity standard that held sway for eight decades.

Justice Powell noted that the primary conceptual standard in *Counselman* was that the immunity protection must be co-extensive with the scope of the Fifth Amendment privilege. Justice Powell also stressed that *Counselman* dealt with a statute which provided immunity only against the use of the compelled testimony and which had no prohibition against use of evidence directly or indirectly derived from the testimony. The Justice then went on to reason:

That use-and-derivative-use immunity was co-extensive with the scope of the Fifth Amendment privilege.

That a grant of transactional or total immunity amounted to pardon or amnesty and was therefore broader than the scope of the privilege. Justice Powell wrote:

We hold that such immunity from use-and-derivative-use is co-extensive with the scope of the privilege against self-incrimination, and therefore is sufficient to compel testimony over a claim of privilege. While a grant of immunity must afford protection commensurate with that afforded by the privilege, it need not be broader. Transactional immunity, which affords full immunity from prosecution for the offense to which the compelled testimony relates, affords the witness considerably broader protection than does the Fifth Amendment privilege. That privilege has never been construed to mean that one who invokes it cannot be prosecuted. Its sole concern is to afford protection against being 'forced to give testimony leading to the infliction of penalties . . . affixed to criminal acts.' Immunity from the use of compelled testimony and the evidence derived therefrom affords this protection. It prohibits prosecutorial authorities from using the compelled testimony in any respect, and it therefore insures that the testimony cannot lead to the infliction of criminal penalties.

The majority opinion in *Kastigar* also discounted arguments that it would be impossible to detect and expose various subtle ways prosecutorial authorities might make use of compelled testimony given under use-and-derivative-use immunity. Justice Powell wrote that a person accorded such immunity was not dependent for the preservation of his rights upon the integrity and good faith of prosecuting authorities, because they must sustain a strong burden of proof that any prosecutions are totally untainted. Justice Powell added:

This burden of proof, which we re-affirm as appropriate, is not limited to a negation of taint; rather it imposes on the prosecution the affirmative duty to prove the evidence it proposes to use is derived from a legitimate source wholly independent of the compelled testimony.

This is very substantial protection, commensurate with that resulting from invoking the privilege itself. It usually operates to allow a citizen to remain silent when asked a question requiring an incriminatory answer. This (the federal) statute which operates after a witness has given incriminatory testimony, affords the same protection by assuring that the compelled testimony can in no way lead to the infliction of criminal penalties. The statute, like the Fifth Amendment, grants neither pardon nor amnesty. Both the statute and the Fifth Amendment allow the government to prosecute using evidence from legitimate independent sources.

THE ZICARELLI OPINION

The majority of the United States Supreme Court then went on to apply its conclusions in *Kastigar* to *Zicarelli*. Justice Powell recited the use-and-derivative-use immunity language of the Commission's statute. Justice Powell wrote:

This is a comprehensive prohibition on the use and derivative use of testimony compelled under a grant of immunity. Appellant (*Zicarelli*) contends that only full transactional immunity affords protection commensurate with that afforded by the privilege and suffices to compel testimony over a claim of privilege. We rejected this argument today in *Kastigar* where we held that immunity from use and derivative use is co-extensive with the scope of the privilege, and is therefore sufficient to compel testimony. We perceive no difference between the degree of protection afforded by the New Jersey statute and that afforded by the federal statute sustained in *Kastigar*.

THE CATENA MOVE

With the door firmly closed to any more legal attacks via the witness immunity route, some of the organized crime figures incarcerated for civil contempt of the Commission moved to try other avenues of attack.

The first such move came from Gerardo (Jerry) Catena who in April, 1972 filed an appeal with the Appellate Division of the State

Superior Court, contending punishment for contempt of the Commission could not exceed six months. Catena has been confined to the State Correction Center at Yardville since 1970.

After receiving briefs and hearing arguments, the appeals court in November, 1972 issued a decision rejecting Catena's appeal. Counsel for Catena argued that since the 1970 State Supreme Court decision upholding the Commission in the Zicarelli matter recognized the Commission as being legislative in nature, punishment for contempt of the Commission should not exceed punishment for contempt of the Legislature which is limited to six months by the law governing the Legislature and its committees.

The court found in the Commission's argument what they determined was a short and totally adequate response, writing that while the Commission's main purpose may be legislative, it is not "the Legislature" and also is a commission separately ordained by its own statute. That statute, the court continued, bespeaks a special and different purpose and authority for the Commission and creates a vast difference between the Commission and the legislative committees covered by a separate statute.

THE MANNA APPEAL

As previously noted, Louis Anthony (Bobby) Manna was incarcerated by order of the Superior Court in July, 1972 for civil contempt of the Commission after he refused to be sworn as a witness at a private hearing of the Commission. He subsequently filed an appeal with the Appellate Division of Superior Court.

The appeal argued for reversal of the incarceration order on a number of grounds, most of which had previously been considered and rejected in other cases decided in the state and federal courts. The one major new argument advanced by Manna's counsel in his brief submitted to the appeals court was that the indeterminate nature of incarceration for civil contempt constitutes cruel and unusual punishment as prohibited by the Eighth Amendment to the United States Constitution.

The Commission's brief contended that Manna offered no legal or factual support for that allegation. The Commission argued that civil contempt is not "punishment" within the meaning of the Eighth Amendment. Civil contempt, the Commission stated,

is employed as a coercive solution to compel a witness to do what the law made it his duty to do.

"The purpose of civil contempt is to offer a litigant a remedy against an opponent's refusal to do what he is supposed to do," the Commission's brief states. "The purpose of criminal contempt is to vindicate the authority of the court by *punishing* the wrongdoer . . . This distinction according to purpose indicates that a party incarcerated under a civil contempt order is not enduring a sanction which the Eighth Amendment intended to limit. It is long settled that such a man 'carries the keys to his prison' in his own pocket."

The Commission's argument ended by citing the New Hampshire case of *Wyman v. Uphaus*, 100 N.H. 436, 130A 2d 278 (1957), Affd., 360 U.S. 72 (1959), where the state court considered the Eighth Amendment argument of a man committed under civil contempt for refusal to testify before a Subversion Activities Board.

"The court held such coercion was not punishment within the meaning of the Eighth Amendment," the Commission's brief stated. "The Commission submits that reasoning is still applicable."

As this annual report went to press, the Appellate Division had yet to hear oral arguments and issue a decision on this appeal.

RESULTS FROM PREVIOUS INVESTIGATIONS

WASHINGTON HEARINGS

The United States Senate Committee on Commerce has been making an exhaustive investigation into the effects of organized crime on interstate and foreign Commerce. That Committee's staff studied at length the public and private records of this Commission's 1970 investigation into the building maintenance industry in New Jersey.

Later, the Committee, headed by Senator Warren G. Magnuson of the State of Washington, decided the information developed by this Commission would provide the basis for a second round of public hearings in Washington, D.C. Those hearings were held in June, 1972 and generated nationwide news coverage.

The four lead-off witnesses, testifying as a team, were members of this Commission's staff—Counsel B. Dennis O'Connor, Special Agent/Accountant Julius Cayson and Special Agents Joseph Corrigan and Cyril Jordan.

The foursome related how this Commission's 1970 probe discovered that a product known as Poly-Clean was being widely used in cleaning services by the building maintenance industry in New Jersey and how that product was being distributed by All Purpose Chemical Co. of East Orange.

The real power in that company was discovered to be Thomas (Timmy Murphy) Pecora, identified by law enforcement authorities as a soldier in the Genovese crime family and then business agent of Local 97, Brotherhood of Teamsters. The SCI personnel also testified how purchase of Poly-Clean by building maintenance companies bought labor peace for those companies and, for one company, a labor contract providing for wages only five cents above the minimum wage.

The SCI personnel testified further about the existence of the New Jersey Contractor's Management Association headed by Sam "Red" Leonard. The association was a competition-thwarting organization which made sure that member building maintenance companies held sway in their respective territories, with their

customers guaranteed. Also, 15 companies which purchased Poly-Clean represented the bulk of the association's membership.

Finally, the SCI personnel testified about a meeting involving Pecora, Leonard and Simone (Sam the Plumber) DeCavalcante, a Mafia leader who has since been sentenced to a federal prison term. At that meeting, DeCavalcante arbitrated a dispute between Leonard and a building maintenance company which had complained to DeCavalcante that Leonard was taking away its customers.

Subsequent sessions of the Magnuson Committee's public hearings dealt with Poly-Clean's interstate use by chain stores and other businesses, including the phone company. Those sessions also covered the GNR Corp. which manufactures Poly-Clean in Palmer, Mass.

One result of the Magnuson Committee's hearings was that the United States General Services Administration (GSA) amended its regulations to prevent further purchases of Poly-Clean and other mob-connected products. The GSA determined in the wake of the exposure of Poly-Clean's underworld links that the GSA had contracted for \$51,000 of that product.

Senator Magnuson wrote the following letter to the Commission about the contribution and performance of the SCI and its staff relative to his Committee's hearings:

As you were previously advised, the Senate Committee on Commerce conducted its second public hearing relative to the effects of organized crime on interstate and foreign commerce during the week of June 5, 1972. Mr. Dennis O'Connor, Mr. Cyril Jordan, Mr. Julius Cayson, and Mr. Joseph Corrigan testified on behalf of the Commission concerning the involvement of members of organized crime in the control and distribution of a detergent product, Poly-Clean, through All Purpose Chemical Company in the State of New Jersey. In addition to their testimony, these gentlemen and Mr. John Gildea worked closely with our staff in assembling information and made many suggestions which enhanced the effectiveness of the hearings.

By their professionalism, expertise, and knowledge, and their ability to correlate meaningful information

and communicate in readily understandable language, they clearly showed the real danger of organized crime. Judging by the comments we have received from the public and the press, everyone was impressed by the professional contributions made by these dedicated men, and they reflected great credit on the entire Commission.

I want to assure you of our appreciation for the truly outstanding contribution that your representatives made at the hearing before this Committee. I also want to express appreciation to the members of the Commission for the resolution they passed making available to the Committee the information and other resources of the Commission in connection with our over-all investigation of the effects of organized crime on interstate and foreign commerce. It is only through the assistance of organizations such as yours and the professionals associated with them that progress can be made in the effort to expose and eliminate the cancer of organized crime on interstate and foreign commerce.

Thank you for your whole-hearted cooperation and please extend our appreciation to Messrs. O'Connor, Cayson, Jordan, Corrigan, and Gildea for their participation in this investigation. We look forward to working with you in the future.

Sincerely,
WARREN G. MAGNUSON

CRIMINAL REPERCUSSIONS

As previously noted, the Commission's 1970 public hearings on irregularities in certain practices of the State Division of Purchase and Property included allegations that a buyer in that division had received kickback type payments in return for awarding contracts to certain building maintenance companies.

The records of this investigation were forwarded to the State Attorney General's Office. In June, 1972 a State Grand Jury indicted the buyer, Joseph W. Seaman of Middlesex, since dismissed from state employment, on charges he took money from a New Brunswick building services supplier doing business with the state.

The indictment contained one count of misconduct in office and a second count of receiving unspecified amounts of money from Sol Adoff, president of Middlesex Building Services Inc., New Brunswick.

Disposition of this indictment was still pending when this annual report went to press.

Also during 1972, C. Harry Callari was sentenced to two to four years in prison after he pleaded guilty in 1971 to embezzlement. His two sons, Ronald and Benjamin, were each fined \$1,000 and placed on two years probation after pleading guilty to conspiracy.

Callari was executive director of the Hudson County Mosquito Extermination Commission when the State Commission of Investigation in 1970 probed that agency. As previously noted in the resume section of this report, that probe brought out at public hearings shakedown type payments, kickbacks and fraudulent voucher schemes all attributable to Callari's operation of the Mosquito Commission.

The records of that investigation were turned over to the Hudson County Prosecutor, and a Hudson Grand Jury in 1971 indicted Callari and his sons on the embezzlement and conspiracy charges for which they were sentenced in Superior Court in 1972.

Additionally, Anthony (Little Pussy) Russo was sentenced to three years in prison during 1972 in Federal District Court for failure to file corporate income tax returns. The sentence is to run concurrently with Russo's state court sentence for perjury for which he is now serving time in the State Prison system.

The Commission, during its 1970 investigation of Russo's underworld influence in the Long Branch area, developed detailed fiscal information and records related to corporations formed by Russo. That information was forwarded to the United States Attorney for New Jersey in Newark, and later in 1971 Russo was indicted by a federal grand jury on corporate income tax charges. He pleaded guilty later that same year.

CITIZENRY COMPLAINTS

(The Commission's Role as Ombudsman)

The Commission each year receives numerous complaints from individuals residing throughout the state. During 1972 the Commission received 98 such complaints.

The complaints range from allegations of criminal offenses and abuses in the administration of governmental offices to requests for help in personal matters. Each complaint is evaluated by the Commission's staff, and at a minimum a letter of reply is sent to all but those complainants who insist on anonymity. Often the Commission is helpful in directing a citizen's attention to other remedies when the complaint obviously does not fall within the ken of the Commission's powers and duties.

Evaluation of the complaints by the staff indicates whether a preliminary inquiry is in order and whether such an inquiry should be followed by the investigative actions of interviewing witnesses, examination of books and records, and other steps requiring considerable staff effort. This section of the report presents some examples of the varying types of citizen complaints and the Commission's response to them.

The Commission was contacted both in writing and by telephone during 1972 by a citizen, who also happened to be an elected state official, concerning allegations of possible irregularities in the award by a state authority of a contract to a private security agency for security services. The complaint asked the Commission to investigate whether the agency awarded the contract met experience and licensing qualifications and whether that agency was the low bidder for that contract.

Preliminary inquiry by the Commission indicated the facts could be ascertained only by an investigative effort. Accordingly, counsel and special agents were assigned to examine records of the state authority which awarded the contract and to interview officials of that authority and the principal in the security agency awarded the contract. The investigation revealed that the principal in the agency had more than the five years of required private

security experience, that he was licensed at the time the contract was awarded, and that his firm was the lowest bidder.

The Commission concluded this investigation by informing the complainant of these facts and the Commission's finding that the agency "appears to be not unqualified under presently existing statutory law and applicable regulations and specifications."

Another complaint during 1972 was from a municipal level civic association which raised questions about the proprieties of certain membership and actions relative to the Planning Board of a township in Northern New Jersey. The letter hinted in question form at possible legal and ethical conflicts.

The Commission decided to make a preliminary inquiry in this matter. That inquiry showed that a Planning Board member questioned in the letter was serving as a voting member of that board by statutory right and that some of the questions raised in the letter had either been reviewed by local officials or were more appropriately subjects to examination by local authorities should occasions arise in the future. On the basis of that preliminary inquiry, the Commission concluded no further investigation was in order lacking any specific allegations of illegal or unethical conduct.

The data and findings adduced by the inquiry were forwarded by letter to the civic association for its information. The Commission's letter added that the Commission's responsibility does not extend to refereeing local political problems.

Another complaint was received in 1972 from a citizen of a Northern New Jersey town, stating his belief that the mayor of the town, who also is a venetian blind salesman, might be in conflict of interest in the purchase of blinds by units of that town's government.

The Commission decided after preliminary inquiry that the investigatory step of examining the purchasing records of those units of government should be undertaken. That investigation documented a number of purchases of blinds from the company with which the mayor is associated.

Believing there might be a violation of statute involved, the Commission forwarded the data adduced in this investigation to the prosecutor of the county in which the town is situated for such action as he might deem appropriate.

OTHER ACTIVITIES

COOPERATION WITH THE LEGISLATURE

The Commission has always considered cooperation with the Legislature to be a primary function of this agency which, by court interpretation of statute, has been found to be primarily legislative in nature. During 1972 the Commission had occasion to be of service to committees of the Legislature.

The Commission during the year accepted a request by the Joint Legislative Committee on Ethical Standards that the Commission serve as that Committee's fact-finding arm in any substantial dispute arising from allegations of violations by legislators of the State Conflicts of Interest statute. The Committee, on the basis of the facts found by this Commission, would render judgment as to those allegations.

To date the Committee has not had cause to refer any matters for fact finding. The Commission's acceptance of the fact-finding role, however, has made unnecessary the expenditure of state funds by the Committee to retain expert legal and investigative personnel to cope with any fact-finding missions which might arise.

Additionally in 1972, this Commission responded to a request from the Local Government Conflicts of Interest and Code of Ethics Study Commission that this Commission of Investigation consider the making of recommendations relative to possible legislation for establishing ethical standards of conduct for county and municipal officials. The matter was studied by the Commission's staff, and it was determined that Commission expertise and experience could provide the basis for meaningful suggestions in this area.

Accordingly, B. Dennis O'Connor, Commission Counsel, presented the Commission's recommendations to the Study Committee in January, 1973 at a public hearing in the Assembly Chamber in the State House. Those recommendations are reviewed in this report's next section entitled "Legislative Recommendations."

The Study Commission through Mr. O'Connor expressed gratitude to this Commission for presenting a well prepared and precise

report. The Study Commission also said it was extremely helpful to have presented for the first time specific recommendations relative to a code of ethics and an agency for administering such a code.

LIAISON WITH LAW ENFORCEMENT AGENCIES

One of the principal keys to the accomplishments of this Commission to date has been a strong and continuing emphasis on maintenance of close liaison and cooperation with law enforcement agencies at the federal, state, county and municipal levels.

The web of organized crime in particular is so complex and in a state of such constant flux that no investigative agency can afford to be an island unto itself. Through mutual interchanges of information between this Commission and the F.B.I., the Federal Strike Force, the U. S. Attorney's Office, the State Attorney General's Office and its staff, the State Police, the County Prosecutors' Offices and their staffs, and the local police departments, the full weight of all data gathered and filed by all the agencies involved can be brought into use in the constant effort to keep pressure on and beat back the underworld in New Jersey.

During 1972 more than 75 visits to the Commission were made by representatives of the aforementioned agencies to examine the Commission's records and files and to discuss matters with the Commission's legal and investigative staffs. A like number of visits was made during the year by Commission staff members to the aforementioned agencies for similar research and discussion.

The files compiled by this Commission in its three and a half years of full operation have become most comprehensive and extensive. The Commission's special agents have been assigned on a statewide, 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 offices 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 204 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 1972 responded to 54 requests for information from L.E.I.U. affiliated agencies in other states. The Commission during the year in 40 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.

More SCIs

Virginia during 1972 established a State Commission of Investigation. The New Jersey Commission has responded on a number of occasions to requests for advice and assistance from the new Virginia Commission on how best to structure, staff, administer and operate that agency.

Additionally, Connecticut officials communicated further with this Commission during 1972 as Connecticut moves closer to enactment of legislation establishing a State Commission of Investigation. The New Jersey Commission has informed Connecticut officials that it is prepared to give further advice and assistance as needed.

New Jersey Commission personnel in December, 1971 testified before a Connecticut legislative committee looking for ways to make more aggressive the fight against crime and corruption in that state. In March, 1972, that legislative committee recommended creation of a State Commission of Investigation patterned after the New Jersey and New York SCIs.

PRIVATE HEARINGS

Private hearings are a key part of the Commission's investigative process. They are used to follow-up field investigations by the Commission's special agents. Witnesses are examined under oath, and pertinent documents are introduced and marked.

On the basis of the record established at private hearings, the Commission determines whether public hearings and/or public reports are in order. During 1972 the Commission held 43 private hearing sessions at which 93 witnesses were examined. To further the progress of investigations during 1972, 147 subpoenas were issued by the Commission for production of records and for appearances by 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 communication with the public are its public reports and public hearings. Those reports and hearings receive prominent and 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

This Commission respectfully requests that the Governor and the Legislature take under advisement the following recommendations on the following legislative proposals:

(1) 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. With certain as yet undesignated limitations, the Agency be given the power to initiate, hear, receive and review allegations that public officials are in violation of the Uniform Code.

E. With certain as yet undesignated limitations, the Agency be given the 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 Commission, from experiences with investigations at the county and local levels, finds a confusing vacuum of ethical guidelines for official conduct, a vacuum amounting to something much

less than the public deserves and expects and which leaves the well intentioned public official without any firm guidelines for his conduct. Existing statute is woefully lacking as to specific guidelines.

(2) Possible enactment, after appropriate study, of a statute to amend the Public Employees Immunity statute to eliminate the automatic grant of witness immunity to a public employee who responds to a call to be a witness before the courts, grand juries and this Commission.

The Commission has devoted considerable study to this statute, since the Commission has found the automatic immunity grant an inhibiting factor in several investigations involving county and municipal government. The law now provides that an employee may be removed from office only if he refuses to appear at the call of the aforementioned agencies or, when on appearing, he refuses to testify with the automatic immunity grant or in the course of his investigation he testifies to a wrongful act.

There is frequently a question of whether the testimony a witness might offer is of sufficient value and import to be worthy of a grant of immunity. This Commission believes strongly that there should be a fair trade between the grant and the breadth and usefulness of the testimony it will produce.

Furthermore, an investigation might indicate appearances by numerous officials of a governmental unit. Under present law, to call those witnesses would amount to an almost total and unwarranted immunity bath for the individuals and the governmental unit.

The Commission therefore recommends serious consideration be given to amending the statute to recognize the discretionary witness immunity powers available to the courts, grand juries and this Commission. The amending statute should permit a public employee to come before any of those agencies and, if he feels he must, invoke his Fifth Amendment right to silence, leaving it up to the agency to decide whether an immunity grant is in order.

(3) Enactment of a statute subject to automatic forfeiture to the state of an automobile, boat or airplane used or intended for use in the perpetration of any misdemeanor or high misdemeanor or to transport any person perpetrating such an offense. Forfeited vehicles would become the property of the state, and any agency

of a county or municipality could, on demonstrating appropriate need, apply for and obtain the use of those vehicles.

The Commission notes that expensive vehicles frequently are used by criminals as a cover for weapons, contraband and the fruits of the crime. They supply a capacity to strike without warning and leave without a trace. Enactment of a statute of the type recommended would make the criminal apprehensive as to the forfeiture of an expensive automobile and also would provide law enforcement officers with ideal undercover vehicles at no expense for use in apprehension of law violators.

(4) The Commission repeats its recommendation made in last year's annual report that consideration be given, after appropriate study, to enactment of a statute establishing a new or revised unit of state government with the financial, jurisdictional and operational powers and resources to plan and coordinate the development and redevelopment of valuable lands throughout the state and to assist private developers in realizing the full potential of those lands.

That recommendation stemmed from the Commission's 1971 investigation and public hearing on the development of the Point Breeze area of the Hudson County waterfront into a modern container ship port. That investigation offered a specific example of the need for greater coordination and planning for development of valuable lands and also demonstrated how private developers can be impeded and discouraged by having to deal with a vast array of various federal, state and local agencies.

The Commission has examined Assembly Bill 1420, an act to create the New Jersey Planning Corporation with the type of broad jurisdiction and powers and resources mentioned in the Commission's 1971 recommendation for a new or revised unit of state government. The Commission recommends this bill be given prominent consideration and study as a possible major step towards better coordinated and more effective land development and redevelopment.

INVESTIGATION OF OPERATIONS OF ORGANIZED CRIME IN PARTS OF NEW JERSEY

INTRODUCTION

Ocean County was once a predominantly rural county, famed principally for its many miles of Atlantic Ocean beaches. But during the decade of the 1960's, Ocean became the county with the fastest growing population of any county in the nation. The population increase during 1960 to 1970 alone was 100 per cent. And in the summer, vacationers increase that county's population to well over the one million mark.

This intense population explosion turned the county into an area of mushrooming suburbs and commercial centers. Those conditions created a new hunting ground for underworld crime families whose branches reached down from the north but whose roots remained largely in the northern part of the state.

KEY WITNESS

Herbert Gross, a hotel operator and real estate man in Lakewood, a resort-oriented community in Ocean County, became deeply involved with elements of the underworld in the middle and late 1960's. In fact, so deep was his entanglement because of the larceny in his heart, he became a virtual part of the mob, although he never became a sworn member of an organized crime family.

In 1969, Gross was indicted in an extortion case involving a Lakewood area bookie, and Gross subsequently pleaded guilty and was sentenced to prison. By late 1970, in order to enhance his prospects of early release from prison and because of a personal decision to try to atone for what he had come to feel were the serious wrongs of his past, Gross began giving law enforcement authorities, first in Ocean County, but also later in other counties and jurisdictions, vast amounts of information about the workings of and the persons involved in the underworld. As a result, convictions, based largely on Gross's testimony, were obtained in the state courts for bribery of public officials and other offenses.

Through the cooperation of the Ocean County Prosecutor's Office, Gross was made available to this Commission. It quickly became apparent that Gross's willingness to testify publicly in great detail about the underworld would enable the Commission to accomplish, at least in part, a goal so far denied by the continued refusal of organized crime figures to testify before the SCI even when granted witness immunity. That goal is to expose publicly the inner workings of organized crime and, thereby, to heighten the public's awareness of the underworld's operations and to maintain a high level of public fervor for a bold fight against the underworld.

Accordingly, after SCI agents in an extensive investigation had determined substantial corroboration for Gross's story, public hearings were held February 15 and 16, 1972 in the State Senate Chamber in Trenton.

THE UNDERWORLD IN OCEAN COUNTY

Palmer J. Herbert, Captain of Detectives in the Ocean County Prosecutor's Office, was called as the first witness to give the history and nature of organized crime activities in Ocean County and to name those persons suspected of playing leading roles in underworld activities in that area.

Capt. Herbert said John (Johnny D) DiGilio, a Hudson County mobster, had since 1966 been exerting considerable influence in Ocean. DiGilio was until recently allied with the Hudson-based organized crime group headed by Joseph (Bayonne Joe) Zicarelli. But Capt. Herbert indicated DiGilio has had a falling out with Zicarelli since Zicarelli was incarcerated for civil contempt of this Commission and subsequently for conviction of a bribery-extortion scheme in Hudson County. Testimony before the Commission showed DiGilio has switched allegiance to Pasquale (Patty Mack) Macchiarole, who is affiliated with the Genovese crime family and who is making a power bid in New Jersey in Zicarelli's absence.

Capt. Herbert also named Anthony (Tumac) Acceturo as having exerted influence over organized crime operations in Ocean. Acceturo, who is linked by law enforcement authorities to the Carlo Gambino crime family, used Newark in Essex County as his home base until he went to Florida to escape an SCI subpoena in 1970. Capt. Herbert said that until that time, Acceturo exerted influence

over Nicholas (Nicky Boy) Valvano, a former Newark mobster who moved into numbers and bookmaking operations in the Lakewood area of Ocean.

Acceturo in February, 1972 was convicted in Florida on a federal extortion charge and given a sentence of five years on probation. He has since elected to remain in Florida.

Capt. Herbert also named Gaetano (Corky) Vastola as an underworld figure exerting control over loan sharking and gambling operations in Ocean County.

Capt. Herbert, being duly sworn, testified as follows:

Q. Well, Captain, I'm sure you are aware of the fact that one of the main concerns of our Commission is organized crime, and with your law-enforcement background, sir, and your personal experience being a resident of Ocean County, I pose this question to you: Did you notice an increase in organized crime activity in the Ocean County area with the increase in population?

A. I would have to say most definitely, yes.

Q. Would you care to expound on that? Is there a particular reason behind it, in your opinion?

A. I think that as the people, the population expands, people who profit from a density of population normally follow them. I think, also, that when you have an expanding population you get new businesses. Quite often these businesses are not adequately financed, leaving the ways wide open for the usurious loans, things of that nature. You also find that with a density of population you have a demand from the people for the gambling activities, which are one of the lifelines of organized crime.

Where there aren't people organized crime would not seem to profit.

Q. Well, Captain, during the course of your statement, your testimony, you did refer to certain influences. I believe your term was "from up north." Are there any particular counties, in your opinion, that have exerted organized crime influence in Ocean County over the past ten years, sir?

A. It would be my opinion that most of the organized crime influence in Ocean County has emanated from Essex County and Hudson County, and some in the southern part of Ocean County from the Philadelphia area.

Q. Well, there has been much talk, sir, that a line has actually been drawn midpoint across the State of New Jersey, the southern portion thereof being owned and controlled by Angelo Bruno. Now, in your experience, sir, have you had any experiences in Ocean County which would lead you to agree with that theory?

A. We would certainly agree that the Bruno family controls the southern portion of the county. I don't know if it's such a thing as a direct geographical boundary or if it's only by virtue of the fact that the tourists and the influx of people into the southern portion of the county are basically from the Philadelphia-Trenton area as opposed to the northern end, they are from the North Jersey area.

There are really several elements working in the Ocean County area, and it seems to be nothing of a hard and fast geographical boundary. It appears to be that they're working together, and if one of their people can make an operation, it appears to be go.

Q. Well, would you briefly, sir, again drawing upon your own experience, state in your opinion the names of the organized crime families that are actually operating in the Ocean County area?

A. We have always felt that the Bruno family was exerting influence in the South Ocean County area. We have felt that the DeCavalcante group was exerting influence usually in the Northern and Central Ocean County area, and we most certainly have felt that the Zicarelli group, which I believe goes back to the Bonanno family, if I'm not sure, exerts a considerable amount of influence. It would appear that the greatest amount of influence and probably due to the population density, is exerted in the northern portion of the county and coming from the DeCavalcante group and the Zicarelli group.

Q. Captain, over the past five years with the increased activity on the Federal level by way of prosecution, certainly the successful ventures that your office has embarked upon by way of investigation and prosecution, the state grand jury and also the efforts of the New Jersey State Commission of Investigation all put together resulting in the incarceration of many top organized crime figures, sir, I pose this question to you: Do you see any activity in the lower rank with regard to certain lesser lights becoming major figures in organized crime today?

A. Well, we feel that Mr. Vastola is becoming a major figure at this point. We felt that Tumac, Anthony Acceturo, was one of the shining lights until he was recently arrested in Florida by the Federal Bureau, which would tend to dim his stature at some point. And with the major elements such as Bruno, Zicarelli and DeCavalcante incarcerated, it's getting at this point as though I myself can hardly tell the number—the players without a score card.

There seems to be John DiGilio who is apparently making a move toward a great deal of stature.

* * * * *

There are still any number of persons associated in one way or another in organized crime in Ocean County. Some of them live there, some of them summer there. We are striving to maintain intelligence information regarding their activities and we certainly have not eliminated organized crime in Ocean County, but we have recognized that it does exist and it has existed in Ocean County and I firmly believe it exists in every county of any size throughout this state to a greater or lesser degree.

GROSS GETS INVOLVED WITH THE MOB

Herbert Gross, as previously noted, was serving the first year of a State Prison term for extortion when in 1970 he decided to give to law enforcement authorities his voluminous and detailed knowledge about the workings of the underworld.

Gross, who is 56, came from fairly affluent family beginnings in New York City. He graduated from St. John's University, attended that university's School of Law for two years, and studied the violin at the Juilliard School of Music. After working for a number of years in New York as a meat salesman, Gross in 1965 moved to Lakewood where he managed the Claridge Hotel and other properties owned by his mother. Gross also became a real estate salesman in Lakewood.

Gross began betting with local bookmakers in Lakewood and, as a result, became acquainted with Vincent (Jimmy Sinatra) Craparotta, who ran some numbers as well as bookmaking operations and who had ties back to underworld figures in Essex and Hudson counties.

Gross, being duly sworn, testified about his initial involvement with Craparotta:

Q. Now, during the early part of 1966 were you in any way associated or did you know personally anyone who, in your opinion, could be considered to be a member of organized crime?

A. Yes, sir.

Q. And who was that individual, sir?

A. Jimmy Sinatra.

Q. Jimmy Sinatra. Is he known to you by any other name, Mr. Gross?

A. Vincent Craparotta.

Q. What, in the early part of 1966, was your relationship with Mr. Craparotta, or Jimmy Sinatra?

A. Well, it originally started with my betting into his bookmaking operation as a bettor. We became very friendly and fraternized, and then subsequently because of certain political activities on my part he suggested to me that I connect up with him, so to speak, and report any dealings that I may have to him. He put it, record with him so that in case I had any problems he could see that they were solved properly.

Q. So, in other words, Mr. Craparotta suggested that you ally yourself with him for economic reasons; would that be a fair statement, sir?

A. That would be a statement that I would make, yes.

THE DISPUTED \$5,000

Gross, as a real estate man, was involved in bringing a new Holiday Inn to Lakewood. The public hearings by the SCI showed how that ostensibly legitimate business was infiltrated by organized crime.

Gross testified that Al Olshan, head of the Route 9 Realty Co., the firm which financed the building of the Holiday Inn, referred the two newly franchised innkeepers, Carmen Marino and Richard Vogedes, to Gross for help in establishing the new inn's operations. Gross said he "offered his services" to Marino and Vogedes to expedite the town's granting of a liquor license to the inn and set his price for those "services" at \$5,000. Gross conceded that the request for the \$5,000 was in effect a shakedown.

The license was issued to the inn in August, 1966, and Marino and Vogedes subsequently refused to pay the \$5,000 to Gross. Marino, having been duly sworn, testified about Gross's offer of services and the eventual refusal to pay the \$5,000:

Q. Did there come a time when a man named Herbert Gross approached you with a proposition regarding the acquisition of a liquor license?

A. Yes, there was. We had an appointment to meet Mr. Al Olshan, who is a representative of the landlord and a principal in the landlord who leased the motel to us, that is either Lakewood Associates or Route 9 Realty,—I believe they're one and the same—and he told us to meet him in the Claridge Hotel in Lakewood on this particular day. This is about July sometime of 1966 or perhaps the latter part of June.

We went there and we met Mr. Gross, Herbert Gross. He said Mr. Olshan had called, could not make it that day, and we had conversation with Mr. Gross.

He welcomed us to the town; asked us a lot of questions about the business, et cetera; told us how well we were going to do. And then he said—he mentioned if we—asked if we had made application for our liquor license. We said we had not as yet but we had a lot of time.

He said whenever you're ready, why, he could be of assistance. He just acted very nice about it, and at that point we left.

Q. Did you again meet with Mr. Gross and discuss the topic of liquor license?

A. We met with him again about a week or so later, perhaps two weeks later, and at that time he said everything was going fine, that the—all we have to do is make application and he would help us with the red tape and everything, but it would cost us \$5,000 to get the liquor license. He said there was nothing wrong with the application or anything, but it could be delayed for a year if the town so desired, and he had all the connections and everything in the town and it would cost \$5,000 to do it.

Q. You had no personal experience at this time about the applications for liquor licenses or business of that nature, did you?

A. That is correct, I had no experience at all.

Q. And did you feel at this time that Mr. Gross was acting on behalf of Mr. Olshan in his dealings with you?

A. Well, at that particular point I was not sure. I didn't know how, in what way he was acting except I thought he was acting on behalf of town officials.

Q. And he told you that the \$5,000, I believe, would have to be spread around; is that correct?

A. That's correct.

Q. Now, was the license subsequently granted?

A. Yes, it was.

Q. And after it was granted did Mr. Gross ask you for the \$5,000?

A. After it was granted we met with Mr. Gross in Paramus Holiday Inn, Paramus, New Jersey, on Route 17. Present at that time was Mr. Frank Newman, who was Mr. Gross's partner in the Claridge Hotel, and Mr. Olshan. At that point we told Mr. Gross we were not going to pay him the money.

Q. Why did you tell him you weren't going to pay the money?

A. Because we had found in the interim time that the—no one—everyone that he said was getting the

money all denied that they were getting the money; that no one was getting the money, and we refused to pay him.

Q. And on that basis you told Mr. Gross that you had no intention of paying him the \$5,000 that had previously been agreed to; is that correct?

A. That's correct.

At that point he hollered and screamed and said it would not be the end of it, and, "Al, don't let them do this to me," et cetera. And we walked out.

A MOBSTER MENACES

When Gross was refused payment of the \$5,000, he went to Vincent (Jimmy Sinatra) Craparotta who said he would take care of the matter for Gross. Shortly thereafter, Gross, on notification from Craparotta, met that mobster and another man, who turned out to be John (Johnny D) DiGilio, the previously identified Hudson-based underworld figure, in the parking lot of a shopping center in Brick Township. From there, the three men drove to Marino's home in Manasquan. Gross testified about what happened in Manasquan:

Q. What happened when you got there?

A. We pulled up in front of the house. He directed me, Johnny D directed me to get out of the car, go to the door of the house and request Marino to come out to the car.

Q. Did you request Marino to come out to the car?

A. Yes, I did.

Q. What happened when he got out to the car, sir?

A. He was directed to get into the back seat.

Q. By whom?

A. Johnny D.

Q. All right. What conversation took place when Mr. Marino got into the back seat?

A. Well, at the very moment that he sat down Johnny D began to become very abusive, to say the least, in language, tone; made threats and told him

that he'd wind up in the river if he didn't come up with the money.

Q. What was Mr. Marino's reaction to the threats made to Mr. DiGilio?

A. My—he appeared calm, but it could very well have been a state of shock.

Q. Well, did he say anything to Mr. DiGilio?

A. Well, he started to. I recall one thing he did say, "Listen, Buddy." And with that Johnny D came down like a ton of bricks again. "Don't call me 'Buddy' you (obscenity), you," and, "Just come up with the money or else."

Q. All right. Did anything else happen during the course of that conversation, sir?

A. Not that I recall at this moment.

Q. Was Mr. Marino at this point permitted to leave the car?

A. Yes.

Q. Did anybody lay hands upon him at any time during the period of time he was in the car?

A. No, sir.

Q. So the incident was limited to threats, then by Johnny D?

A. That is correct.

Q. Now, at this point in time, Mr. Gross, had you ever met Johnny D before?

A. It is possible. I have no direct recollection. It is possible that I may have, but I doubt it because I was introduced in the lot. I had heard his name mentioned.

Q. In what context had you heard his name?

A. I'm fairly certain that in one context he was as a silent partner with Vincent Craparotta in J P's, which is a bar and restaurant on Route 88.

Q. Did you at the time consider John DiGilio to be a member of organized crime?

A. Oh, yes.

Q. And what did you base your opinion upon at the time?

A. Well, I had certain knowledge without having been present. I had heard his name mentioned in connection with the power plant in Lacey Township, with getting certain labor contracts down there, also having something to do with the gambling operation in the power plant.

Marino in his testimony corroborated Gross's version of the visit to the Marino home. Marino added that DiGilio looked at three children playing in the Marino front yard and asked menacingly, "Are those your children?" They were Marino's children.

COUNTERATTACK VIA THE UNDERWORLD

Marino told Vogedes of the menacing visit. Both men were scared. They decided to reach out for Vogedes's acquaintance, Vincent Ordine, who heads construction and real estate firms in the Bergen County area. Vogedes, being duly sworn, testified about his and Marino's contact with Ordine:

Q. How did you come to call Mr. Ordine to help you solve this problem?

A. Well, I had heard he knew somebody that could help us, that was part of the mob or something like that.

Q. Did you know Mr. Ordine previously?

A. Yes, I did.

Q. And how did you know him?

A. He was a builder that I did work for and a real estate salesman at a place where I did business.

Q. And this is in the Fort Lee area?

A. At that time he was working in the Dumont area, but he lived in Fort Lee.

Q. Now, what did Mr. Ordine tell you he could do for you?

A. Well, he didn't know at that particular time. He said—we explained everything to him and he said he'd call me and let me know what, what could be done.

Q. Did he call you later on?

A. Yes, he did.

Q. And what did he tell you to do?

A. He said if—when these guys came around again, that we should just tell them to call Hicky, and if they know how to get in touch with Hicky they were mobsters.

Q. Now, he didn't tell you this over the phone, did he?

A. No. We met with him in Fort Lee.

Q. And do you recall the place where you met with him?

A. It was on the street on 9W.

Q. And that was the meeting, you Mr. Ordine and Mr. Marino; is that correct?

A. Yes.

Q. Now, did you know Mr. Ordine through any other relationships besides the fact that you worked with him?

A. No.

Q. Mr. Vogedes, is it also true that one of the reasons you reached out for Mr. Ordine was because you knew he had a brother-in-law by the name of Frank that might be able to help?

A. He either had a friend or relative that might be able to help.

Two members of the New York City Police Department's Intelligence Division, Lt. Walter J. Stone and Det. William J. Ralph, were called as expert witnesses at various stages of the hearing to identify names and places involved in underworld operations. They identified Hicky as Anthony (Hicky) DiLorenzo, a soldier in the Genovese crime family and presently incarcerated in the federal penitentiary at Lewisburg, Pa.

Part of the privately taken testimony of Vincent Ordine before the SCI was read into the public record. That testimony disclosed that Ordine has a brother-in-law named Frank LaBelle who is vice president of Jet Air Freight, Inc.

Lt. Stone and Det. Ralph testified that in 1965, Anthony (Hicky) DiLorenzo assumed control of the company that was later to be named Jet Air Freight, Inc., but, because of law enforcement pressures in 1969, DiLorenzo stepped down and Frank LaBelle assumed control of the company. The two New York officers also testified that the mob is infiltrating the air freight business.

ARBITRATION, GANGLAND STYLE

Marino and Vogedes, after their contact with Ordine, went to the Golden Grill in Lakewood where they met Gross in the company of Vincent (Jimmy Sinatra) Craparotta and John (Johnny D) DiGilio. There, the two innkeepers told Gross and company they had better get in touch with Hicky about Gross's demand for \$5,000. That remark was greeted by silence, and the two innkeepers left.

Within a matter of days, Craparotta drove to the Claridge Hotel, picked up Gross and started driving north. Gross testified about the purpose of that trip:

Q. Now, on the way to Bayonne did Mr. Craparotta explain to you the reason to take the trip to Bayonne?

A. Yes. He told me there was a meeting arranged; that we're to pick up Johnny D and someone else in Bayonne and from there we were going to proceed to New York for a sit-down as he called it.

Q. What did he mean by "sit-down"?

A. We might call it that hearing, a pretrial examination, a decision to be rendered where the contending or opposing parties were to submit the stories to a judge or a committee—in this case it turned out to be a judge—and a decision was to be rendered and there is no right of appeal from that decision. That's the high court.

Q. In effect, then, it's binding arbitration?

A. Very binding. The penalties are most severe if you don't abide by it.

The first destination was Bayonne in Hudson County where Gross and Craparotta met John (Johnny D) DiGilio and transferred to his car. They proceeded to an apartment house in Bay-

onne where they picked up another man who was not identified to Gross at that time. Gross, however, did identify that man for the SCI from pictures as Joseph (Bayonne Joe) Zicarelli, who was at that time the underworld kingpin in Hudson.

DiGilio drove the group to Manhattan to a store front type social club on East 12th Street between Avenue A and First Avenue. The two New York police intelligence officers identified that store front as the Shore View Social Club, which was kept under surveillance by New York police as a hangout for the Bonanno and Gambino crime families until it closed in 1968.

The Gross group lingered on the sidewalk in front of the store front. Shortly thereafter another group, consisting of Marino and Vogedes, Hicky DiLorenzo and Nicholas (Nicky the Blond) Frustaci, an underworld cohort of DiLorenzo, gathered on the sidewalk nearby the Gross group. Gross in his testimony often refers to Frustaci and DiLorenzo as Nicky and Hicky. Gross testified as to the events that ensued in front of the store front:

Q. What happened after you recognized these individuals as you were standing on the sidewalk?

A. Bayonne Joe approached them almost immediately.

Q. Approached whom?

A. Nicky and Hicky.

They stood somewhat separate and aside from all this. I don't know what conversation was. It was very short duration because almost at that very moment, I noticed a very dignified looking man walking down the street on 12th Street coming from the direction of First Avenue down towards the store front. He was noticed immediately by Bayonne Joe, Nicky and Hicky, who almost fell over each other to get to him and kiss him on the cheek.

Q. Kiss him on the cheek?

A. Yes, sir.

Q. Would you explain that, please Mr. Gross?

A. Well, they greeted him as if he were a member of their family, a very close member, grandfather or father image. For all I know they may have been related by blood. But they did this openly on the street.

Q. *Well, the kiss—*

A. Embraces.

Q. *—was more a sign of respect, then?*

A. Oh, yes. I don't know if there's any affection between them, but respect there was.

Q. *Were you able to observe this man's face?*

A. Yes.

Q. *Have you subsequently, Mr. Gross, identified the individual who was embraced and kissed by Nicky, Hicky and Bayonne Joe.*

A. Yes.

(Whereupon, a photograph is shown.)

A. That's him.

Q. *Have you ever seen that man?*

A. That's the one I described as the don.

MR. O'CONNOR: For the record, Peter Crociata.

By MR. O'CONNOR:

Q. *Mr. Gross, after the don was greeted and embraced was there any conversation in your presence?*

A. No, sir.

Q. *What is the next thing that these people did after they greeted each other?*

A. The four of them proceeded into the store or some social club, into that area where the lone table was with chairs, and seated themselves at the table.

Q. *Where did you go?*

A. We were on the street outside.

Q. *Now, when you say "we,"—*

A. I asked them—

Q. *Go ahead. I'm sorry.*

A. I asked Craparotta, "If this is a hearing, trial or sit-down, how come our men and Dick aren't in there, and me, to offer our stories and see if there's any discrepancy and whatnot?"

He says, "No, they all know the story, and, in any event, if they want to know something they'll come out for it. But only Sicilians can sit at that table."

Those were his words.

Q. Did DiGilio go in?

A. No, sir.

Q. So he and Craparotta remained outside with you. Where were you in location to Marino and Vogedes?

A. I would say I was directly in front of the window that looked in at the meeting itself and they were standing in front of the window that looked in at the card playing.

Q. Now, during the period of time that these people were inside, namely Nicky, Hicky, Zicarelli and the don, Crociata could you hear their conversations?

A. No, sir.

Q. At any time during the period of time that they were inside did anyone come out and speak to you?

A. On two occasions. Bayonne Joe came out, beckoned Johnny over to him, Johnny D. Then Johnny D came over to Craparotta and me and asked for whatever bit of information was needed. I gave it to him. Then he went back to Bayonne Joe, gave it to him and then Bayonne Joe went back in and sat down.

Q. Even then Mr. Zicarelli did not speak directly to you?

A. That is correct.

Q. Mr. Gross, do you know of any reason why Zicarelli would not speak directly to you?

A. Well, you don't have to be too smart to recognize that they have a system of protocol, a caste system, if you will. They might be degrading themselves to directly address a low man on the totem pole, or something like that, and so they go through the necessary steps and then back up again.

Gross testified further how the don's arbitration decision was that Gross lower his demand for \$5,000 and how Gross so did and a settlement was reached:

Q. How long did they remain in that store front, Mr. Gross, approximately?

A. At the most, at the most, thirty minutes.

Q. What happened when they came out?

A. Bayonne Joe approached Johnny D, Craparotta and myself and almost immediately behind him the don, and Bayonne Joe said to Johnny D, "We got the decision." But I can't recall the way he described who I call the don. He suggests—and that's my word, "suggests", because again I don't recall the exact word Bayonne Joe used. But I got it to be, you better go along with it. He suggests that in order for Hicky and Nicky to have some sort of face-saving, that I drop the price of \$5,000.

And I said to Craparotta, "How much?" He says, "You make the decision."

So I figures, let it be a real face-saving job. "\$2,500, okay?" They say, "Great."

Then the don proceeded on his way.

The don, Peter Crociata, was identified by the two New York intelligence officers as a consigliere in the Bonanno-Sciacca crime family. He was found with four bullets in him during the 1968 Bonanno crime war in Brooklyn but managed to survive.

Marino and Vogedes in their testimony corroborated Gross's version of the arbitration by the don at the store front type social club in Manhattan.

Marino, the morning after that arbitration, delivered the agreed-on \$2,500 compromise settlement to Gross at the Claridge Hotel in Lakewood. Gross testified that on Craparotta's advice, he gave \$1,200 of that sum to John DiGilio, \$625 to Craparotta and kept only \$625 for himself.

ON WHO OWNS WHOM

After the don left the Manhattan store front, Gross, Bayonne Joe Zicarelli, Johnny DiGilio and Jimmy Sinatra Craparotta got back in DiGilio's car and returned to New Jersey. Gross testified about a conversation in the car pursuant to mob intentions to infiltrate the Holiday Inn in Lakewood.

Q. Well, as Johnny D was driving you back to your car did either you or Craparotta have any conversations with him?

A. He made a comment to Craparotta that "You really got a good thing here. These guys belong to you now forever."

Q. Referring to whom?

A. Marino and Vogedes.

Q. And they at the time were the innkeepers of the Holiday Inn?

A. Right.

Q. What did DiGilio mean by this?

A. Well, if I can take it from the last thing and go back, Craparotta got juke box, cigarette machine, candy machines, other service machines in there. You got the garbage in there. We attempted the linen. Meat purveyors, wherever there was a buck to be made.

Q. In effect, then, Mr. Gross, it was the opinion of Craparotta that he now owned them?

A. That's the word they used; "I own."

RESTAURANT MAN IS HOOKED

Arthur P. Moccia was a resident of Pennsylvania in 1966 when his wife inherited an estate consisting of some stocks and bonds but principally of several houses and garages in Philadelphia.

That inheritance enabled the Moccias to realize their desire to move to Ocean County where Moccia hoped to establish himself in a restaurant business. The Moccia's net worth when they settled in Ocean County was \$60,000.

Moccia had often vacationed in Ocean and had frequented Nick's Bar where he bet on horse races. Once settled in New Jersey, he again bet the horses at that bar with a man he remembered only as Andy. The horse race betting eventually led to Moccia's meeting Vincent (Jimmy Sinatra) Craparotta. Moccia, being duly sworn, testified as follows:

Q. There did come a time when you hit and you were not paid?

A. Yes. We hit a daily double for \$90 or something like that and it was not paid off. I said, "No more until I see the top man who has the book. I will deal with him. No in-betweens."

Q. To whom did you say this? To Andy?

A. I said it to Andy.

Q. *What did Andy say?*

A. He said he would get me an introduction to the top man, the man that had the book in the Toms River area.

Q. *Did he, in fact, introduce you to this man?*

A. Yes, sir.

Q. *Who was that man, sir?*

A. Vincent Craparotta.

Q. *Do you recall under what circumstances you met Mr. Craparotta?*

A. I was sitting in Mack's Bar. I don't remember the time of the meeting, but he was supposed to be there at a specified time, and he came in and had another person with him who I later found out was his phone man. His name was—Stanley Gray is the name he used. And we went over, and I was introduced and I told him what had happened, and he said not to worry about it.

And I said, "Well, I'm good for my money. I want to make sure you're good for your money." He said, "Believe me. I'm the book, I'm the man, and I'm good for the money."

Q. *Now, from that point in time, Mr. Moccia, did you in any way develop a relationship with Mr. Craparotta?*

A. No, sir, only on—no personal relationship. There was no social relationship. It was just that when I hit, if I called bets in and I hit, he would come to my house and pay me, or if I did not hit for the week, then if I had a balance with him I would pay him.

Q. *Directing your attention, Mr. Moccia, to the midsummer or the latter part of the summer of 1966, I ask you, sir, whether or not at any time you discussed your desire to go into the restaurant business with Mr. Craparotta?*

A. He asked me what I was doing in the area on one of these occasions when there was either a collection or a payoff on my part and I told him I was look-

ing for a business, and he asked what type and I told him I had planned on a McDonald's or a Burger Chef but there was a Burger Chef or Burger King on the site that I had originally liked, so I told him I would probably try to find a bar and if something didn't happen soon I was either going to get a job tending bar in the area or do something for the winter months.

Craparotta remembered Moccia's interest in getting into the restaurant business and in the fall of 1966 contacted Moccia and got him interested in being the restaurant concessionaire at the inn. Moccia testified about that contact with Craparotta and some events that resulted therefrom:

Q. At any time during your conversations with Mr. Craparotta did he discuss with you the possibility of taking over the restaurant at the Holiday Inn which was being constructed in Lakewood?

A. In—and I don't remember the exact date, it was either late September—it seems to me the kids were back at school, so it was after Labor Day—late September, early October I was having lunch at this Burger Chef with two of my children and he drove up beside my car and said he had just the thing for me, a brand-new Holiday Inn going in Lakewood, New Jersey. And I said, "Lakewood, New Jersey? Where's that? Is there any traffic there?"

And he said, "This is the Jewish resort area of New Jersey," and I didn't believe it. He said, "Well, let me take you over and introduce you to the people that have the motel."

Q. Well, did he, in fact, introduce you to the people that were running the Holiday Inn?

A. Yes. He set up a meeting at the Claridge Hotel, and there I met Herb Gross, Franky Newman and shortly thereafter Mr. Marino and Mr. Vogedes came into the Claridge.

Q. Well, did you come to a point in time where you actually engaged in serious discussions with these people with regard to your taking over the restaurant at the inn?

A. Yes, sir. They asked me what my qualifications were and I related to them my background in bar and

food, and they asked me if I had any money and I assured them that I did. They showed me some figures of what the expectancy, the expectancy of business volume at the Holiday Inn would be.

Q. Did you ultimately arrive at an agreement with Marino and Vogedes with regard to taking over the restaurant concession?

A. Yes, sir, I did.

Q. Now, as best you can recall, Mr. Moccia, what were the terms of that agreement?

A. \$20,000 cash security guarantee and I was to pick up an option from Herb Gross for the amount of \$5,000 and—but that's in reverse order. I was to pick up the option first and then make my arrangements as far as the twenty-thousand-dollar cash-security guarantee was concerned.

Q. Do you recall who first called your attention to the fact that there was an outstanding option in the hands of Herb Gross?

A. I think Vincent Craparotta. I couldn't honestly say, sir, but between Carmen and—Carmen Marino, Richard Vogedes and Vincent Craparotta it was brought up. I couldn't say who broached the subject.

Q. Well, at any time was the fact of the existence of the option discussed in the presence of Marino and Vogedes?

A. Yes, sir.

Q. At any time did they indicate to you that there was no such option?

A. No, sir.

Q. During that period of time?

A. No, sir.

Q. So would it be a fair statement, then, Mr. Moccia, to say at this time that when you were negotiating to take over the restaurant you honestly believed that it was necessary to purchase a five-thousand-dollar option?

A. Yes, sir.

Gross testified he thought up the idea of an "option" as a way of getting \$5,000 out of the restaurant concession deal for himself. He testified that there was no need for an option and that the "option" which was presented to Moccia was simply a figment of Gross's imagination.

A USURIOUS LOAN

The "option" was for 30 days, and that time limit gave Moccia the feeling he had to raise the money for the cash security guarantee, plus the "option," in a hurry. He felt it would take too long to raise the money through normal banking channels. Craparotta immediately preyed on Moccia's money-raising anxieties. He told Moccia he (Craparotta) had an uncle, Michael Leon, in Newark, who operates the West Side Motors car dealership in that city. Leon also is known to law enforcement authorities in Essex County as a lender of funds at exorbitant interest rates.

Moccia testified as follows about his meeting with Leon and how he obligated himself to pay \$23,000 in a year for the privilege of getting \$17,000:

Q. Now, when you arrived at West Side Motors did you actually meet Mike Leon?

A. Yes, sir, in a sort of an upstairs office.

Q. And what conversation, if any, did you have with Mr. Leon?

A. I told him that I needed at that point about \$17,000 and I was willing to pay interest and I understood that there was to be, as a term, vigorish on it; I had to pay the vig.

Q. Well, did Mr. Leon ever actually use the term "vig"?

A. No, sir.

Q. Where did you hear that?

A. From Vincent Craparotta.

Q. I see. Now, did you, in fact, borrow the \$17,000 from Mr. Leon?

A. Yes, sir.

MR. O'CONNOR: May we have these marked as exhibits, please.

(Promissory notes received and marked Exhibits C-1 and C-2.)

Q. Mr. Moccia, I place before you Commission Exhibits 1 and 2 and ask you to examine those documents, sir, and tell me whether or not the signature of yourself and your wife appear on either?

A. Yes, sir, my signature is on the bottom line and my wife's is above mine.

Q. Does that relate to both documents, sir?

A. Yes, sir.

Q. Now, could you tell me what those two documents are?

A. One is for the amount of the loan for a term of one year including six percent interest on the \$17,000. I believe the total was \$18,080. And the other is for the interest of \$5,000, the consideration for lending me the \$17,000 and I see they have added six percent interest to the interest, which makes it \$5,300, sir.

Q. Now, these two documents, Mr. Moccia, are in fact, promissory notes payable to Michael Leon; isn't that a fact, sir?

A. Yes, sir.

Q. And aren't they also mortgages on your real estate in Pennsylvania?

A. Yes, sir.

Q. Now, is it my understanding, Mr. Moccia, that in order for you to borrow the \$17,000 you had to agree to pay him \$5,000?

A. Yes, sir.

Q. In vig?

A. Yes, sir.

Q. And he added six percent interest to the \$5,000; is that correct, sir?

A. Sad, but true, sir.

Q. Now, the \$17,000 that you were privileged to borrow from him, is it also my understanding that the promissory note here in the amount of \$18,020 includes six percent interest on that?

A. Yes, sir.

Q. All right. Do you recall what the monthly payments were on these two loans?

A. I was to pay him \$400 a month for the year until—this was on the premise that the property in Philadelphia would be sold, and we had a firm belief that it would be sold. I was to pay him \$400 a month for a period of one year, and at the end of that year pay him the balance of the totals.

Q. How much cash did you actually walk out of West Side Motors with?

A. It was less than \$17,000 because at the same time Jimmy had sold me, Vincent Craparotta, had sold me a car. There was \$700 to him.

Q. So you, in fact, sir, obligated yourself to repay the sum of \$23,000 within one year for the privilege of borrowing \$17,000?

A. Yes, sir.

THE MOB DIGS DEEPER

Moccia started operating the restaurant and bar at the Holiday Inn in January, 1967. It soon became clear to him that he did not have sufficient financial resources to pay his employees and the supplier firms. The result was a vicious cycle of getting into more usurious loan debt via Craparotta. Moccia testified further:

Q. Now, during the period of time within which you were the restaurant manager was Mr. Craparotta gracious enough to arrange any additional loans for you?

A. During that time until I took over?

Q. During the period of time within which you were actually operating the inn?

A. Yes, sir. I started a little late, granted, but I started to see that this was a dead end. I didn't have

the money to hold out. And I had good employees and I paid my employees. I tried to meet my obligations with my purveyors, also. And when I was short I would go to James Craparotta and tell him I needed a thousand or \$1,200, and the rate of interest on that was \$60 per week for a thousand.

Q. That's in excess of 300 percent per annum, isn't it?

A. Roughly.

Q. Do you recall approximately how much money you actually over that period of time borrowed from Craparotta?

A. No. I don't recall the exact amount. There was always some coming and some going. I would get money to pay him his vigorish on the \$60 a week, and on a portion of what I borrowed, and then there was another crisis or emergency.

I was not aware of the fact that you really needed quite a sum of money to hold out for the year that Holiday Inn expectancy figures come through.

Q. During that period of time, again, sir, that you were then operating the inn did you have any conversations with Mr. Craparotta with regard to his numbers operation?

A. In several—there were several trips to this Orange Avenue or Street address to see Michael Leon. We would get up there and he wasn't available, we'd have to turn around and come back. Or Jimmy, Vincent Craparotta, would drive somewhere. He hated to drive and I loved to drive. He would say, "Drive me over here or there."

In one of the trips up there he said, "What I should do and what you should do is buy into my numbers operations in Lakehurst, New Jersey," not Lakewood. And he said, "For \$15,000 you could have that action over there."

He said there was a Jewish fellow running it but he didn't like the way he was handling things.

Q. Did he have any suggestion with regard to where you would get the \$15,000?

A. Not at that time, but I suspect that I would probably have to borrow it from him for a little bit more vigorish.

Q. What was your response to Mr. Craparotta with regard to his offer to buy in?

A. I told him I didn't know how to be dishonest; that I had been legitimate all my life and I wanted a legitimate business and that's how I intended to make my living.

Q. Did he ever discuss with you, sir, what your reaction would be to any law enforcement personnel who might ask you about him?

A. Yes. One time he said, "What if the cops had come to you and say, 'Do you know Jimmy Sinatra?'" And I said, "Well, I would tell them, yes."

He said, "Well, what if they ask you such-and-such about me?" And I said, "Well, I don't know anything about you."

And he laughed. He said, "You answered too many questions. We'd make a meatball out of you." And I didn't know what he meant until I read in Life magazine that I think there was a character up there that actually does grind up human beings. But he said it jokingly. I guess he could afford to joke a little.

Q. Mr. Moccia, approximately how long did you last as a restaurant manager of the inn?

A. My sanity ran out in about three months. My money ran out before that, but I held on for about six months. I was there till June of '67.

RESTAURANT MAN IS BROKEN

Moccia managed to pay the basic \$400 per month payments to Mike Leon for only three months. Shortly thereafter, Leon foreclosed on the Moccias' property in Philadelphia.

Moccia by June, 1967 was in such a financial bind that he decided to get out of the concession at the inn and return to Pennsylvania. Moccia testified further:

Q. Directing your attention, sir, to June of 1967 when you left the Holiday Inn, would you explain under what circumstances you left?

A. I told Mr. Marino I was getting out. Like I was on—I think I was on the verge of losing my sanity at that point. On the phone, you have fourteen phone calls a day from purveyors dunning for money and I didn't have it. I didn't have money to meet my payroll any more, and it was just Jimmy (Craparotta) was too far into me. I couldn't go to him for any more. It was endless. It was a dead end right there. I ran out of money.

Q. Directing your attention to June, again, of 1967, could you approximate Mr. Moccia, for the Commission what your net worth was at that time?

A. Zero. I don't know what my equity in the property was, but not much.

Q. Do either you or your wife presently have any interest whatsoever in that Philadelphia property?

A. No, sir.

Q. What happened to it?

A. We lost it.

Q. To whom?

A. Mike Leon foreclosed on it.

NO FEAR OF THE UNDERWORLD

Moccia told the Commission why he was in no fear of reprisals from mobsters for testifying before the SCI at public hearings:

Q. Mr. Moccia, are you at this time in any way in fear of your personal safety for having testified before this Commission?

A. No, sir.

Q. And why is that?

A. I'm a terminal cancer patient, sir.

Q. Is there anything you would like to add for the record, sir?

A. I would like you to stop what these people are doing.

Q. Well, with the help of yourself and people like you, maybe we will.

Thank you, sir.

BUYING INTO A NUMBERS BANK

By early 1967, Gross was only a step away from becoming an integral part of the mob's illicit operations. Craparotta induced Gross to take that step. He got Gross and his partner, Frank Newman, to bail out Craparotta's numbers bank from financial trouble. Gross testified further:

Q. Now, during the early part of 1967 did you ever have conversations with Jimmy Sinatra with regard to his numbers business?

A. I did.

Q. At any time during the course of those conversations, Mr. Gross, did he offer to sell you a piece of his numbers operation?

A. He did.

Q. Would you describe to the Commission in detail just how that came about, sir?

A. Yes. One day early in 1967 he appeared at the Hotel Claridge, which I managed in concert with a Frank Newman. This was a legitimate operation. He came in. He was quite agitated and he opened the conversation by saying that he's in a bind; his numbers bank had been hit for approximately \$6,500 the day before; that he was tight for money and cash was unavailable and he had to get that \$6,500 out on the street that day otherwise his business would suffer. He offered to sell me and Frank Newman a two-thirds' interest in the bank if we would give him the \$6,500 and an additional \$1,000 to throw into the bank itself.

Frank Newman and I discussed it for a few minutes and we came up with \$7,500.

Q. Mr. Gross, where did you get the \$7,500?

A. Borrowed it from Ben Scop, an independent shylock.

Q. And where is Mr. Scop located, sir?

A. In Lakewood.

Q. Could you spell his name, please?

A. S-c-o-p.

Q. You borrowed \$7,500 from Mr. Scop and invested that money with your partner into Sinatra's numbers bank; is that correct?

A. Yes, sir.

Q. Now, where was the bank located?

A. Ocean County.

Q. What particular town or towns in Ocean County did the operation cover?

A. Well, there were thirteen runners. Of the thirteen, eleven were located in the Township of Lakewood and two were in South Toms River. Now, the two in South Toms River possibly picked up business on the shore, which would be in the Seaside Heights area and South Toms River, which was predominantly a black area.

Q. Could you estimate for the Commission, Mr. Gross, the weekly gross of the numbers operation at that time, sir?

A. \$6,000 a week was the gross.

Q. And what specifically was your participation in the operation of the numbers bank? What were your responsibilities?

A. Frank Newman—I can only tell you about Frank Newman and myself as to our responsibilities.

Frank Newman was to take charge of the bank, the actual cash. He was the one who would distribute the cash, whatever cash had to go out to pay off hits. I was to be the contact man with the comptroller who picked up the work from the thirteen runners.

Q. Who was the controller?

A. Sam Mathews.

MOB TIES NORTHWARD

Gross soon learned that control over the numbers bank was exerted from the north by Anthony (Tumac) Acceturo, the previously identified Newark-based mobster.

Gross related how the numbers bank had to pay \$100 per week to Acceturo or, as Gross put it, "to the family for the privilege of having the territory." Late in 1967, Craparotta went to Florida for an extended vacation. That left Gross, not a sworn member of organized crime, in charge of the numbers operation. Angelo Sica, a numbers racket controller for the Ruggiero (Richie the Boot) Boiardo crime group based in the Newark area, decided the moment was ripe to move in and take over the territory from Craparotta.

Sica sent his Boiardo family cohort, Nicholas (Nick) Verdi, to accomplish that task. Verdi's strong-arm tactics in Ocean eventually led him to a confrontation with Gross and Verdi's demanding that the operations or "the work" of the numbers bank be turned over to him and Sica. Gross testified as follows about that meeting and how he coped with it:

Q. What was your conversation with Nick Verdi, sir?

A. I didn't get in much comment. He did most of the talking.

Q. What did he say?

A. Quote?

Q. As best you can, sir?

A. "You Jew bastard, you turn over that work. I've been sent down here. You have no business having this. Sinatra is out of it and turn over the work."

I tried to protest that Sinatra was part of it; that we had bought in; he's in Florida on vacation; when he returns he'll straighten it out. He didn't want to hear any thing. He'd been sent down by Angelo Sica.

Q. Angelo Sica?

A. Right.

Q. What was your response?

A. Well, he threatened. I refused to accede to his demands and he threatened bodily harm, whereupon

I said, "Well, now, let me make one phone call. He'll verify that what I say is true, although he's not involved in the numbers."

And he said, "Who's that?" And I said, "Johnny D from Bayonne."

And he says, "Well you better not be dropping any names. Go ahead and make a call."

So I placed a call from the Hotel Allaben to Bayonne and I got Johnny D, and I acquainted him with the situation and he said, "Put this guy on."

I only heard Verdi's side of the conversation. Later perhaps weeks later, when I met Johnny on some occasion he told me what his part of the conversation was. From Verdi's reaction, he became very servile.

Q. Servile?

A. Right.

Q. What do you mean by that, sir?

A. He cringed.

Q. Well, could you hear what he said?

A. Oh, yes.

Q. What did he say?

A. "Oh, I didn't believe him. Yeah, Johnny. Oh, I'd like to meet you. I heard a lot about you." And "Oh, no, nobody's going to harm him. Yeah. Okay, we'll straighten it out between us. Don't worry. I won't touch him," words to that effect. You know, disjointed, short, snappy. As I said, he cowered, visibly.

Q. He was afraid of him?

A. I think so.

When he hung up, he said, "Well, maybe we can get together on this."

I says, "Yeah, I just had an idea. I'll tell you what I'll do, Nick. I'm going to turn over the work to you until this is straightened out and there's a sitdown over who has the bank. But I'm going to hold you

responsible, and I'm sure Sinatra will, for any losses that are incurred during the time that the work is turned over to you, because I'm going to keep a record of it and should there be," because we were in the midst of a terrible losing streak, "should there be any winnings, you're going to have to return them." And he agreed to it.

Gross quickly got in touch with Craparotta who within a few days returned to Lakewood. Craparotta made a phone call in Gross's presence to Anthony (Tumac) Acceturo requesting a prompt sitdown or arbitration meeting to settle disputes over who had the numbers territory.

Gross was later told that the sitdown was held, and the results were that the territory belonged to Craparotta until he decides to relinquish it. If Craparotta gets out, Angelo Sica would have first rights to taking over the territory. Verdi was to return the numbers bank operations or "the work" to Craparotta and Gross and was to make up any losses incurred during Verdi's stewardship.

MEETING WITH TUMAC

After the dispute over the numbers bank was settled, Gross continued to manage that operation. During 1969, he got word from Frank (Big Frank) Pasqua, a henchman of Tumac Acceturo and said to be a button man in the Gambino crime family, that Acceturo was furious about delinquencies in the \$100 per week which the numbers operation was supposed to pay him. Gross explained to Big Frank that he (Gross) gave the \$100 to Jimmy Sinatra Craparotta and that Craparotta was the cause of the delinquencies. Gross also testified why Craparotta had reason to be envious and spiteful toward Tumac Acceturo.

Q. How old would you say Tumac was at this time? And I believe we're talking, now, in early 1969?

A. Right. Early thirties, at the oldest.

Q. About my age?

A. Perhaps thirty-five. You look much younger, Mr. O'Connor.

Q. Thank you. For the record, I am thirty-one. But you would say early thirties?

A. Yes.

Q. Now, approximately how old would you say Jimmy Sinatra was at this time?

A. He was in his forties.

Q. Would you say that Sinatra was particularly pleased with having to be subservient to a man younger than he?

A. Very upset about it.

Q. Did Craparotta ever express his displeasure to you prior to that meeting you had with Tumac?

A. On several occasions.

Q. What was his general feeling? What did he say?

A. "Who the hell is he to move up ahead of me? He's nothing but a punk kid." He knew him as a kid, and very upset about the position, eminent position, that Tumac was succeeding to and getting very rapidly, because Big Frank—I forgot to mention this—did tell me when he first contacted me and told me he's arranged this meeting with Tumac to straighten out this matter that Tumac was the coming big man in the state. Those were his words.

Big Frank Pasqua believed Gross's statement that Craparotta was the cause of the delinquencies in the \$100 per week payments to Acceturo. But Big Frank said Gross would have to tell his story personally to Acceturo in Newark.

That meeting was arranged. Gross was ultimately directed to a store front type social club in Newark where he was greeted outside by Big Frank and Joseph (Joe Rackets) Casiere, another Acceturo henchman. They accompanied Gross to a back room where the meeting with Tumac Acceturo took place.

Gross testified that Acceturo was upset not only about the delinquencies in the \$100 per week payments but also at Craparotta's not cutting Tumac in on other illicit mob activities:

Q. All right. Getting back, Mr. Gross, to your meeting with Tumac in early 1969 at the social club on South Orange Avenue in Newark, what conversation did you actually have with Tumac?

A. He believed what I told him. I told him that we gave Sinatra \$100, among other moneys, we gave him

\$100 every week to be sent out because at the time we bought in Sinatra acquainted us with the fact that \$100 a week had to go up north. Now, we felt that our responsibilities, especially since Tumac never contacted us directly for approximately a year and a half from the time we bought in, that our responsibility for the \$100 ended with our giving it to Sinatra.

Sinatra refused to go up to talk to him. He was contemptuous of him. He was very vehement. He wouldn't even talk to him. I think the first time he talked to Tumac was in my presence. At least, he never mentioned to me when he appeared there with his big cousin, Novia.

Q. You are referring to Sinatra's cousin, Novia?

A. Right.

Q. We'll get to that at another point. But basically, what was the conversation that you had with Tumac at the time. I mean, other than the fact that he satisfied himself that it was Sinatra and not you that was holding back the \$100 a week, did he have anything additional to say, that you recall?

A. Yes. He wanted to know what ventures I had participated, because he had heard rumors of certain successful ventures that I had participated in with Sinatra, because, again, he wanted to make certain that, number one, Sinatra never had sent any tribute up from the proceeds of those other ventures and that Sinatra committed a heinous crime in bypassing his family and going outside of the family for assistance in the perpetration of these other criminal activities, which was a cardinal sin.

Q. Without going into great detail, Mr. Gross, what were the other activities in which Sinatra left his own family and hooked up with other people?

A. Well, the biggest and most successful at that point was the Fairmount Lodge robbery where there was \$413,000 in cash and about \$70,000 worth of jewelry, which was a successful venture.

Q. You participated in the planning of that robbery, didn't you?

A. I planned it, yes.

Q. All right. And in the planning stages was Crapotta also involved?

A. No. He was just involved in the tip to me, the layout to me, and from there on he left it in my hands. He would discuss it with me on occasion.

Q. But Tumac was unhappy that neither he personally nor any of his people were brought in by Sinatra to that operation?

A. None of the five actual perpetrators were connected at all to Tumac in any way. They were recruited elsewhere.

* * * * *

Q. Mr. Gross, was there any other transaction which caused Tumac any particular chagrin?

A. Bonds, conversion of bonds, stolen, embezzled bonds.

Q. Well, let me pose the question to you now. During the years 1968 and 1969, Mr. Gross, were you in any way involved in the encashment or conversion to cash of stolen or embezzled securities, sir?

A. Yes, sir.

Q. And on approximately how many occasions did you involve yourself with this type of activity during that time period?

A. Three.

Q. On three separate occasions?

A. Yes, sir.

Q. Now, can you estimate for us the total value of the stolen or embezzled securities that were involved on the three occasions?

A. In excess of four and a half million dollars.

Q. And did you actually see the securities involved, sir?

A. Yes, sir.

MR. O'CONNOR: I would like to state at this point for the record that Mr. Gross will not be able to go into any detail with regard to these transactions since they are presently under Federal investigation.

Although Gross was unable to go into detail about the transactions, he did go into considerable detail about the underworld figures active in the Ocean County area. The result was some sharp portraits of the characters of some of the members of the underworld. The names mentioned by Gross, in addition to the previously identified Vincent (Jimmy Sinatra) Craparotta and Nicholas (Nicky Boy) Valvano were:

Joseph Celso, whose Jackson Township farm was dug up by federal authorities as a suspected Mafia graveyard.

Frank (Franky D) DiGilio, brother of John (Johnny D) DiGilio, the previously identified Hudson-based mobster.

Gross testified about Celso, Frank DiGilio and Valvano as follows:

Q. All right. Let's get back to Joe Celso for a moment, Mr. Gross. Did you know him personally during this period of time?

A. I knew him.

Q. And he is the same Celso that has the farm over in the Jackson Township area?

A. That's right.

Q. What can you tell us about Celso?

A. A would-be big shot who was trying to travel on a reputation that he gained through the newspaper publicity about the farm and the graves that were found and the bones that were found on his farm, and he was laughed at and mocked by members of organized crime, outside of his presence, not because they feared him but because he could be helpful to them as a goffer. But to the punks he represented a somewhat impressive figure because of that grave situation on his farm.

Q. Did he ever try to pass himself off as being close to either Joe Zicarelli—

A. Oh, yes.

Q. —or Johnny D?

A. Yeah. He was bragging about his close friendship with Bayonne Joe, and, so, I had him checked out and I discovered his friendship consisted of a counter

of aborted fetuses in an abortion mill in which Bayonne Joe had an interest, his job being to make sure that Bayonne Joe wasn't shortchanged on abortions that were being committed in that abortion ring. That was the extent of his closeness to Bayonne Joe and the pre-eminence that he held in organized crime.

Q. So, in your opinion, this is the real Joe Celso?

A. The real Joe Celso is a punk.

Q. What about Johnny D's brother, Frank DiGilio; he has no known criminal record?

A. Right. Not through lack of trying. He has tried on many occasions when I was friendly with him, but I had been asked by Johnny D to keep an eye on him. He's a younger brother of Johnny D, very envious and jealous of his brother's reputation in the criminal community, wanting very much not just to emulate but to surpass him, and, so, would engage in wild schemes with the likes of a Joe Celso even. And Johnny D had asked me to stay close to him and keep him out of trouble and that he should tell me anything that he wanted to get into, and if it's something wild, to immediately contact Johnny D because he did not want him in any way connected. Johnny D as stupid as he was, Franky was even more stupid. And, so, I said he made many efforts. He did get involved in a bond deal, but just on the fringe of it.

Q. What about Nicky Boy Valvano?

A. This is a dangerous psychopath.

Q. Why do you say that, sir?

A. A somewhat grudging respect that was paid to him by big men. Yet he flaunted all the rules and regulations. And when I say "dangerous psychopath," I was present at a ten or twenty-cent poker game when he became angry at Jimmy Brush, that's Nicky Boy Valvano, and he leaned over, grabbed him by the head and bit off his ear lobe and spat it out.

Q. Did this to whom?

A. Did this to the Brush, Jimmy Brush.

Q. Jimmy Brush?

A. Yeah.

Q. Is that James Fyfe?

A. James Fyfe, in an argument in a ten-cent poker game.

THE SHARP'S LODGE FIASCO

In September, 1968, Gross, at Valvano's urging, took title to Sharp's Lodge, a large hotel in Lakewood. The longtime owners of the hotel, Abraham Sharp and his wife, were getting old and wanted to sell the place.

The first buyer was actually Valvano with one Angelo Bertelli fronting for him in the purchase agreement. Valvano not only committed himself to mortgage payments to the Sharps but also ran up \$50,000 in bills for refurbishing the hotel, even though there was a question whether the hotel's liquor license would eventually be renewed.

Valvano ended up by running out of money and defaulting in his payments to the Sharps. He struck up a deal whereby Gross would be the new buyer of the hotel and would, if the hotel's operations were a success, pay Valvano \$50,000 for the refurbishing.

Gross made the hotel purchase for \$50,000 principally by taking a mortgage from the Sharps and assuming the hotel's outstanding obligations. The hotel by that time had become a hangout for Valvano and his cronies. Gross testified about the nature of that clientele and its financial impact on him.

Q. All right. Once you took title and proceeded to run it, what type of an operation was it? Was it a successful venture? Unsuccessful? Did you have good clientele or shoddy clientele?

A. The clientele was, in the majority, terrible because they were mostly my confederates in crime.

As far as it being a successful venture, it was a highly successful business venture from their point of view because whatever they got, they got on the arm. I went, to use the vernacular, for my guts.

I recall one instance when I spent two weeks in the hospital with a kidney attack. Nicky Boy's girl friend was working as a desk clerk, all the income from the

bar and rooms supposedly turned in to her. She was to make deposits. They came up to my hotel room and said they'd been making the deposits, but, unfortunately, they can't make any withdrawals to pay any bills and, so, would I sign a series of checks in blank. I signed twelve of them. Before I got out of the hospital I had to make good a little over \$12,000 in bum checks that they had floated and cashed.

I, the brilliant one, became the prime sucker.

During late 1968 and early 1969, Gross went to Chicago to execute a scheme for cashing some stolen securities. That scheme never was fully carried out, principally because Valvano called the hotel at which Gross was staying under an assumed name and insisted Gross was in the room registered to that name. That blew Gross's secret identity, and he washed his hands of the scheme.

The purpose of Valvano's call was to get Gross to raise \$5,000 which Valvano said was needed to carry on the business of Sharp's Lodge. By phone, Gross arranged a \$5,000 loan from Ben Scop, previously identified by Gross as an independent shylock, and had Scop deliver the money to Valvano.

Shortly thereafter, Gross returned to Lakewood to be with his mother who had been hospitalized for an emergency operation. After tending to his mother, Gross turned his attention to Sharp's Lodge. He found that \$4,200, or the bulk of the \$5,000 Scop had given to Valvano, had not been used for hotel business purposes. Gross also found out some other things which led him to try to drive from the hotel the bad clientele, including Gaetano (Corky) Vastola, a protege of the Sam DeCavalcante crime family who moved to Ocean County in 1960 and exerted influence over book-making and gambling operations. Gross testified further:

A. In any event, on, I think it was, the 12th of January I discovered that my mother had gone into the hospital in Lakewood for an emergency operation, so I left immediately for New Jersey, proceeded from the airport to the hospital, satisfied myself that my mother was okay and then went directly to Sharp's Lodge and then discovered for the first time that the \$4,200 that he had spent for the so-called booked affairs was not spent for that; that he had spent this \$4,200 throwing a blowout for Corky Vastola and

friends. And it was at this time, perhaps a day or so later—oh, and one other thing, and this I could never understand on the part of big utilities in the State of New Jersey. He (Valvano) ordered the conversion from oil to gas heat in my absence for this large hotel, and New Jersey Natural Gas converted without an authorized signature.

Now, one of the obligations that I had assumed when I took over title was a twenty-two-hundred-dollar oil bill with Acme Oil, and now they want to get paid because they're not even selling me oil any more; I'm getting heated by gas.

I called up New Jersey Natural Gas and I said, "Do you have an authorized signature from the owner?"

They said, "Well, Mr. Valvano authorized it."

I said, "Do you know who he is? Does he own it?"

Well, they just do this automatically. They came in and converted to gas. So I told them to shut off the gas because I'm not paying any bills. I called up Jersey Central Power & Light. I told them to shut off the electricity because I'm not going to pay the bills. I called up the insurance broker. I told him to cancel out the fire insurance. And to all intents and purposes during that month of January that place should have emptied out. But these punks continued to live there in the dark, in the cold, and that's a fact.

Q. Valvano included?

A. No, no. He went back to his warm house.

Q. Well, after you shut off the power and cancelled the insurance did you have any conversations with Valvano as to what you were going to do with the lodge.

A. As far as I was concerned, the mortgagee, who was the original owner, could take it back. They wouldn't even have to foreclose. I would sign a quick claim or whatever they call it.

Q. Did Valvano have any thoughts on the matter?

A. If he did, he didn't express them to me. Subsequently, when the place caught fire, or if it was set I don't know, he claimed that he set it and I just looked at him to myself, because again I describe him as a psychopath, and say, this is a complete idiot. Why didn't he set it when I had \$98,000 insurance on it? And instead it was set when, ostensibly, I had cancelled the insurance as far as he knew.

SHYLOCK LOAN SPELLS TROUBLE

During 1968, Frank (Franky D) DiGilio came to Gross with a request that Gross raise some money. That request touched off a series of events that led to Gross's getting in deep trouble with underworld factions. That trouble ultimately led to another gangland sitdown or arbitration meeting in New York City.

Franky DiGilio wanted Gross to raise \$5,000 which Franky DiGilio would give to Joseph Bellucio, a developer building a senior citizen's project in Neptune. Bellucio was in danger of losing the project contract if he didn't immediately get \$5,000 to cover payroll and other obligations. If Bellucci lost the contract, Franky DiGilio would lose out on the \$26,000 contract he had with Belluccio to do painting on the project.

Gross finally agreed to raise the \$5,000 through a loan at shylock interest rates or vigorish from Ben Scop, previously described by Gross as an independent shylock in Lakewood. Scop, according to Gross, demanded \$1,000 vigorish for use of the \$5,000 for one month when the loan was due to be repaid in full.

Bellucio was supposed to pay Gross the \$1,000 plus the \$5,000 during that first month. But the developer could come up only with the \$1,000 in vigorish at that time.

Gross got another month's extension from Scop. But at the end of that month and for about 10 months thereafter, Bellucio didn't show up with any money and could not even be located by Gross.

DIPPING INTO THE NUMBERS BANK

Each month, Gross had to come up with the \$1,000 in vigorish to gain further extensions of the loan from Scop. For a few months Gross used his own money to pay Scop. During the last

half-dozen months, however, Gross was short of funds and he dipped into his and Craparotta's numbers bank in order to keep up the vigorish payments.

Craparotta eventually noticed a shortage in the numbers bank. His reaction was to go, with Gross, to Franky DiGilio and insist that Franky DiGilio produce Bellucio and the total of \$15,000—\$10,000 for the monthly vigorish Gross had paid Scop, plus the \$5,000 principal part of the loan.

Franky DiGilio's reaction, according to Gross, was to get "snotty" and to refuse to produce Bellucio. Gross testified how Craparotta then struck on an idea for bringing pressure on Franky DiGilio through his mobster brother, John (Johnny D) DiGilio.

Q. What was Craparotta's reaction to (Frank) DiGilio's arrogance?

A. His reaction was, "I'll tell you what, Herb. You borrowed \$2,500 from (John) DiGilio. You're making payments."

The loan of that \$2,500, or shylock loan from Johnny DiGilio, was at a time when we were short in the bank and we had to get money out and I reached out very quickly. Sinatra was aware of this.

He said, "You stop making your payments to Johnny DiGilio on the \$2,500."

I argued with him. I said, "Two wrongs don't make a right, Jimmy. I never welshed on a thing. I want to continue."

He said, "No. You'll get your head knocked off. I'm telling you, you stop."

So I was caught in the middle, but I had to stop because Johnny was up in Bayonne but Sinatra was in Lakewood and he was closer to reaching my head. I stopped.

Gross soon got a call from Johnny DiGilio demanding that Gross resume payments on the \$2,500 loan. Gross explained he could not do that because Craparotta had instructed Gross not to pay on pain of having his head handed to him.

This dispute between Craparotta and Johnny DiGilio, Gross learned later, was supposedly arbitrated at a sitdown in Hacken-

sack presided over by Joseph (Bayonne Joe) Zicarelli. Craparotta told Gross that Zicarelli ruled in favor of Craparotta and Gross with these additional specifics:

There was to be a moratorium on Gross's payments to Johnny DiGilio.

During the moratorium, Johnny and Franky DiGilio were to attempt to produce Bellucio and the \$15,000.

If that attempt failed, it would be up to the DiGilios to raise the money to repay Gross for the \$10,000 in vigorish and Scop for the \$5,000 principal amount of the loan.

MOBSTERS ADMINISTER A BEATING

Gross felt secure in the wake of that arbitration. But his sense of security was short lived. The principal reason for that short life was that Johnny DiGilio had shifted his allegiance from Bayonne Joe Zicarelli to Pasquale (Patty Mack) Macchiarole, identified by the two New York police intelligence officers as a soldier in the Genovese crime family.

Macchiarole was not present at the sitdown in Hackensack and felt in no way bound by the arbitration from that meeting. He instructed DiGilio to go after Gross, physically beat him, and, thereby, force another sitdown or arbitration on the subject of which underworld faction owns or controls Gross.

John DiGilio soon carried out that directive with a vengeance. He and two of his musclemen-enforcers, John (Red) DeFazio and Jerry (Nap) Napolitano, went to the Claridge Hotel in Lakewood. Gross testified about the incidents that ensued:

Q. Now, what communication or contact did you have with DiGilio two weeks after you found out about the meet?

A. It was more of a contact and it was—it was actually contact, not communication. I was recuperating from a kidney attack in Room 4 of my hotel, Hotel Claridge. I was lying in bed when suddenly, without knocking, the door opened and there Johnny DiGilio came into the room. Directly behind him was Red DeFazio and Jerry "Nap" Napolitano.

* * * * *

Q. What happened when they entered your room, Mr. Gross?

A. Before I had a chance to even greet him he came in. He had his hand in his pocket. I'm referring to Johnny D. He withdrew his hand and he had a switchblade knife that he opened up. And I recall just staring at that knife. And as he approached the bed he began muttering obscenities, curses, and he leaned over the bed and put the point of the knife to my stomach and held it there while the other two went to work on me. Red DeFazio began punching and beating me about the head and face and eyes and Napolitano, privates.

When he finished he said, "Now, tell Sinatra what we did to you," and they left.

Q. Did you tell Sinatra?

A. I certainly did.

Q. And what did Sinatra say at this point?

A. "I'll take care of it." And this is when I blew my stack. "I'm getting sick and tired of being caught in the middle. I don't like your solutions. I'm not enjoying this in the least. I'm fed up with your crap."

He came rushing up, pacifying me.

I had an eye like that. Semi-detached retina in the left eye. I had been recuperating from the kidney attack. I was passing blood for several months after that where the condition had stopped prior. And the Jew got caught in the middle.

He said, "Herbie, I swear to you, they're going to die for this." Those were Sinatra's words. He'll take care of it.

As in the past, Craparotta was short in delivering on his promise to take care of things for Gross. Only days after the beating was administered, Johnny DiGilio, with his same two henchmen, showed up again at the Claridge Hotel. But for the intervention of Novia Milazzo, more violence might have ensued. Milazzo is a cousin of Craparotta who came to this country recently from Sicily where

he was highly ranked in the Mafia. He brought much of the Mafia stature with him to this country.

Gross testified as follows about the second visit of the Johnny DiGilio gang:

A. Now, about four or five days later I was in the kitchen area of the Hotel Claridge, the windows of which look out on the parking lot of the Hotel Claridge, and I was—as I was just casually glancing out the window I saw Johnny D's car pull up in the parking lot and Red DeFazio and Jerry getting out with him.

I rushed to the front to the switchboard, plugged in, dialed Sinatra's number. I said, "Get up here and get up here fast because they're back and I'm not taking it again."

And I barricaded myself in the rear office, and this was in broad daylight again.

Now, this is a senior-citizen hotel, a legitimate operation, with elderly people who maintain themselves. They're not paid for by any state agency or otherwise, and they paid well.

These three goons came in and, I could say, practically took over the hotel in broad daylight. So I decided, well, I got to come out.

"Where's Herbie," screaming, "We don't believe you," raining obscenities down at the switchboard operator. So I came out of the rear office.

"Come on, Jew bastard. Let's go into your room."

I says, "I'll go into the room with you, Johnny. Leave the other two out." He said, "Okay."

So we had to go through the ballroom to get to my room, Room 4. Johnny was walking directly behind me. I took my key out and opened the door, and before I had a chance to step across he shoved me across and the other two came in with him.

I picked up a chair, and I said, "If you make one move I'm going to fling it through a window and that

will call the cops. Now, I'm sure you don't want it and I don't want it."

And with that—Jerry had locked the door behind him. He was the last one in.

Q. Jerry Nap?

A. Jerry Nap.

And there was a knock at the door and I called out, "Who is it?" And the voice on the other side of the door said, "Sinatra."

And Johnny D said, "Oh, Open the door for my friend, Sinatra. Open the door for him. Let him in."

And Jerry Nap unlocked the door and Sinatra sauntered very casually into the room and as he's doing this Johnny is raining obscenities on him, saying, "See what I did to your man. You're a big shot. What are you going to do about it?"

And just at that moment Sinatra's cousin, Novia, appeared in the doorway. And when Johnny laid eyes on Novia, "Oh, Novia. Listen, I didn't do anything." And he began cringing like a yellow dog; and Novia said, "My friend, Johnny." And his hands became like claws like he was ready to reach out for his throat, and then some Italian ensued. He wants to go outside to talk to him in the corridor and Novia says, "Okay, come on."

So they go outside in the corridor outside the door of the room, and perhaps two or three minutes later Johnny D pokes his head in and says, "Come on, Jerry. Come on, Red. We're leaving," and they scurried out and then Novia came back in the room.

Q. Now, after DeFazio and Johnny D and Jerry Nap left did you have any conversations, Mr. Gross, with Milazzo and Craparotta as to what was going to happen next?

A. Who's Milazzo?

Q. *Novia Milazzo.*

A. Oh, Novia, yes. He spoke in Sicilian or Italian to Sinatra and Sinatra explained to me that what Johnny told him in the corridor was the following: that Johnny D belongs to Patty Mack.

Q. *Who is Patty Mack, Mr. Gross?*

A. A button man.

Q. *Do you know his real name?*

A. It was told to me. It escapes me at the moment. Pasquale, Pasquale something.

Q. *Have you identified Patty Mack from a series of photographs, sir?*

(Whereupon, a photograph is shown.)

A. Yes, sir. That's him, Pasquale Macchiarole. That he belongs to Patty Mack and Patty Mack's family, and that Patty Mack was not at this meeting in Hackensack; he was in Florida at the time, he is not bound by any decision that was handed down because he was not truly represented at this sitdown, and that he ordered Johnny, and expressly ordered that Johnny himself go; that Johnny does not, should not only dispatch henchmen to do the job on me but that he should go to precipitate a confrontation by the way of beating me first so that there would have to be another sitdown.

And I remember my reaction.

"Jimmy, why don't they beat you first?"

Q. *What was his reply?*

A. He didn't reply. He'll take care of things.

Q. *Well, Mr. Gross, it was Novia, then, that advised you that Johnny D belonged to Patty Mack; is that correct, sir?*

A. That's right.

Q. *And this was when, now, in point of time?*

A. The summer of '69.

ANOTHER NEW YORK MEETING

The sitdown or arbitration meeting that Patty Mack Macchiarole had successfully sought to force was soon arranged. The place was a storefront at Spring and Mulberry Streets in New York City. The question to be arbitrated was whether Tumac Acceturo via Craparotta controlled or owned Gross or whether that control and ownership rested with Patty Mack Macchiarole via John DiGilio.

Gross went to the meeting with Craparotta, Acceturo and Novia Milazzo. Acceturo had given Gross the impression that Acceturo would argue strongly at the meeting for a ruling favorable to Gross and Craparotta. But that was not the script when the meeting took place. To make matters worse for Gross, the "judge" for the meeting was Alphonse (Funzi) Tieri, then a caporegime or lieutenant in the Genovese crime family, the same family to which Patty Mack Macchiarole belongs. Tieri is now listed as acting head of that crime family.

Gross, unlike the 1966 arbitration meeting in New York, was this time allowed in the meeting since he was the object of that session. Gross testified about that meeting and how the cards were stacked against him from the start:

Q. Now, could you describe the premises within which the meeting took place?

A. The rear portion, most of the store was filled with boxes of—contents of which indicated it was shirt boxes, hosiery, et cetera. It looked to be sort of like a warehouse store.

Q. Would you relate, now, Mr. Gross, in detail exactly what transpired at this meeting?

A. Patty Mack almost immediately took over the prosecution. And if I may describe Patty Mack, of all the people connected with organized crime, from what you have described as high figures and all the way down, Patty Mack had probably the most intelligence of all of them and in any contest he would have to prevail as far as wits are concerned.

He took over the prosecution, so to speak, and he hammered away at Sinatra. At each question and answer he would stop that Funzi could translate to

Sicilian for the benefit of Novia, and during this entire process Tumac stood against the wall, never opening his mouth, and nodding his head in agreement with each point that was being scored by Patty Mack.

The whole thrust of the questioning and attack on Sinatra was that he had forfeited any rights to claiming me in that he didn't record me with Tumac, related back to all the incidents where he bypassed Tumac in anything that he did with me and brought out that he even put me out on loan, so to speak, to work with John DiGilio on several things, and that as a result of these episodes in which I participated with Johnny DiGilio and Patty Mack, illegal activities, I belong to them and that, therefore, in conclusion, if there was a disagreement over a shylock loan to another member of their group, this is an intra-family squabble outside the jurisdiction of Sinatra, Tumac and Novia and that they would settle and clean their own house.

Q. But, yet, Mr. Gross, it was Sinatra and it was also Tumac who told you don't worry?

A. That's right.

Q. What, if anything, sir, did they say in your defense?

A. In my defense, nothing. Tumac didn't say anything in anybody's defense. It became immediately apparent to me that Tumac was selling us down the river deliberately to retaliate against Sinatra for his continued disdain and contempt that he showed for Tumac over the past previous years regarding his ascension in the hierarchy of organized crime and the fact that he was delinquent in his payments of tribute.

Q. Well, do I understand you, Mr. Gross, to say, then, that the purpose of that meeting was to decide who owned you?

A. That's right.

Q. Now, what does ownership of a person mean to you in these terms?

A. Well, under their statute book it means that any moneys that they benefited or were benefited by

through my efforts were illegally gotten as far as the organization is concerned and, therefore, they would have to turn this money over to the proper family who owned me.

Q. In other words, the moneys that Craparotta was able to make in ventures with you he now owed to Patty Mack?

A. That's right.

* * * * *

Q. Again, Mr. Gross, what was the decision rendered by Funzi?

A. That I belonged to Patty Mack.

Q. Did he set forth any terms and conditions of that ownership?

A. Beyond the claim of several thousands of dollars that I now supposedly owed and would have to pay, there was no further conditions because of the intervention at that point of Novia and Funzi having to grant this respite.

Q. Could you expound on that, sir? It's not clear. Now,——

A. I'm sorry. I thought I had testified to it. This was in executive session. I thought I had testified to it.

When they had been berating and hammering away at Sinatra, showing where he had been deviating from the procedure and recording somebody, recording jobs, seeking aid for certain particular jobs, because within the family if you needed someone for an armed robbery they had certain people who did that, if you needed somebody for a B & E, they had people who did that, he bypassed them in those areas, in all areas where I was concerned, and sought outside help through Johnny DiGilio in many instances, who was not part of his family. This ran counter to what was the practice and the rule.

So we finally—they finally reached a point in this conference where a decision was rendered by Funzi that I belonged, as a result of all these revelations

and admissions by Sinatra, that I belonged to Patty Mack.

Q. Now, let me get that clear. Is it your testimony, then, that based on the fact that Sinatra never recorded his ownership to you, plus the fact that he permitted you to function independently of him with John DiGilio, he did not have an exclusive claim upon you that he could raise at that hearing?

A. Right. But instead of the word "ownership," his connection with me, because he was a lesser figure in the family and I could never be owned by him. Through his connections to me, if he recorded me with the head, titular head, or the heir apparent, Tumac, then I would have belonged or been connected with that family.

As a Jew I could not have been a part of the family, but connected to it.

* * * * *

Q. All right. You referred as part of Funzi's judgment that there was a matter of a couple of thousand dollars that would be due and owing from yourself. What was that based upon, sir?

A. Couple of thousand?

Q. Yes.

A. No, a lot more than a couple of thousand. My actual debt, I claimed, which was so, was \$2,500, a shy loan that I had made from Johnny DiGilio. But they were totaling up amounts that Sinatra had conceded had been earned by him in association with me, and after they got him to agree to these amounts on jobs that he admitted had been perpetrated and done successfully, they turned to me and said I owe it, not Sinatra. And I recall looking at them and then looking at Tumac and ending at Tumac and saying, "Is that the decision?" and he said, "Yes."

And with that, Patty Mack approached me, practically nose to nose. I was up against a wall. We were all standing, incidentally. This was not a sit-down meet. And when he delivered the so-called ultimatum: "You either pay or you run to the cops." And I re-

plied, "I'll pay what I owe, \$2,500, and I don't run to the cops," at which point Funzi said, "You're a man, I want to shake your hand."

And I had thoughts at that time that the shake of the hand to me was possibly the kiss of death to Valachi, you know, that he got. It wasn't a friendly shake of the hand, if you know what I mean.

Q. But he did shake your hand?

A. Yeah, he grabbed it.

* * * * *

Q. Did DiGilio or Patty Mack at the end of the meeting indicate to you in any way that you would be hearing from them again?

A. Oh, yes.

Q. Well, how did they get that point across to you?

A. In a not very subtle manner. A final remark made by Johnny D as I was bringing up the rear on the way out, "You Jew bastard, we'll get to you. You'll hear from us."

THOSE WHO INSPIRE FEAR

Gross on the ride back to New Jersey after the New York City meeting expressed fear at being controlled or owned by Patty Mack. He also testified about how some mobsters, particularly a man named Moose, inspire fear:

A. These are dangerous—you know, there are some members of organized crime who could be your next-door neighbor and you not know it. There are some members who you would normally draw back from because they have what I describe as a real dead look in their eyes; completely unemotional. They have the look of a killer. I'm not trying to overdramatize this. There are some who even I, who was engaged in illegal activities and crime, and willingly and voluntarily, feared just from looking at them.

They had an enforcer, Moose. Well, he'd scare the strongest man in the world just to look at. You would have to recoil from him. Appearances could do it in

the case of some of these people, and they were utilized in a lot of instances because of their appearance. But those who were connected to the people on high were not all mouth. They performed acts. They proved themselves.

Q. Did you ever meet Moose?

A. Yes.

Q. Whose enforcer was he?

A. Johnny D's.

Q. Did you ever see him work?

A. No. I saw him look at Carmen Marino and Carmen almost passed out.

Q. Could you describe Moose?

A. He weighs about two hundred and forty. He's about six feet tall. He looks like he walked into a large destroyer tank and the tank lost.

Q. When is the last time you saw Moose?

A. The last time I saw him was at the Holiday Inn in Lakewood.

Q. Do you recall when?

A. In 1966, I think, and I have never forgotten him.

Q. Do you recall who he was with when you saw him?

A. My recollection is me, only me. I was called by Johnny D to meet Moose at the entrance to the Holiday Inn and introduce him to Carmen Marino. This is before the meeting in New York with Nicky and Hicky and after the confrontation in Manasquan at Carmen Marino's home.

Mr. O'CONNOR: For the record. Moose has been identified as John Marinello, M-a-r-i-n-e-l-l-o, Apartment 807, 60 S. Munn Avenue, East Orange, New Jersey. Date of birth: July, 1936. Height: 5' 11". Weight: 240 pounds. Description: Scars on face. Words L-O-V-E tattooed across front four knuckles of right hand. That's Moose.

PRISON SENTENCE

Patty Mack Macchiarole and Johnny DiGilio never had much time to exert their ownership of Gross. By September, 1969, Gross had been indicted in the previously mentioned extortion case involving a Lakewood area bookie. A month later Gross pleaded guilty to extortion and bribery and was sentenced to three to five years in the state prison system.

As previously noted, after serving a year of that sentence, he decided to tell law enforcement authorities all he knew about the underworld and its violations of the laws.

ABC INVESTIGATIONS

The Commission called as the two final witnesses at the public hearings Eugene F. Hennicke, supervisor of the State Alcoholic Beverage Control (ABC) Division's investigative unit, and Ciro M. Trantino, a member of that unit. They conducted investigations relative to liquor licenses at the Holiday Inn in Lakewood in 1967 and 1970 and into Sharp's Lodge in 1968.

Their testimony about the 1967 investigation into the Holiday Inn corroborated Gross's statements that Craparotta had very much infiltrated that motel business at that time. The two ABC men testified as follows about that point:

Q. Now, during the course of your investigation did you discover either any interests or any associations that this motel might have had with people known to you to be as either felons or associated with criminal activity in the area?

A. (By Mr. Hennicke) Yes. Immediately upon the beginning of our investigation in the Holiday Inn, upon inspection of the checkbook we noticed several large check payments to a Vincent Craparotta and we questioned Mr. Marino about these checks, to which he replied that Craparotta had been a finder of their restaurant operator, who was at the time Arthur Moccia, and we asked him to explain this and he said that Marino and Vogedes were looking for someone who knew the restaurant business to come in and take over the operation of the bar and the restaurant and he had told Marino that "If I find a good man for

you, I will expect a finder's fee or a commission," and Marino and Vogedes agreed to pay him \$2,500 to find a man for their kitchen and their restaurant.

Q. Did you ask Mr. Marino about this?

A. (By Mr. Hennicke) Yes, I did, and that essentially is the story he gave me.

He also said that Craparotta did some carpentry work on the motel.

* * * * *

I would like to insert at this point, the same investigation, upon entrance into the motel itself to talk to Mr. Marino, I think on the second visit to the motel, I asked for the boss. I asked the clerk behind the counter for the boss and both Marino and Craparotta walked out of the motel office, and I recognized Craparotta from having seen a picture of him, a mug shot, and Craparotta seemed to me to be in a position of telling Marino what to do with the motel. And then later on in the investigation when I was taking a statement from Marino, I asked him why that the fact that Moccia didn't work out, he was only at the motel four or five months and he left the place in debt and why, if Moccia being a product of Craparotta's bringing him in, why didn't he try to get part of his commission back from Craparotta. And he said that Craparotta's a person you just don't push. He said, "I asked him in a joking way and he wasn't joking, so I didn't push it any further."

The ABC men in 1968 investigated Sharp's Lodge after Lakewood refused to renew that hotel's liquor license. After the ABC probe, that license was cancelled.

The investigation showed that Nicky Boy Valvano had an undisclosed interest in the licensed premises and that he and other underworld figures, including James (Jimmy the Brush) Fyfe, were living there. The ABC men testified as follows about their encounters with Valvano at Sharp's Lodge:

Q. When you entered the establishment on your investigation, did you ask to see the owner?

A. (By Mr. Hennicke) Yes, we went to the desk and asked to see the boss.

* * * * *

Q. Now, when you asked this question, what was the reply that you were given?

A. (By Mr. Hennicke) Well, Valvano was the man behind the desk and we knew who he was from having seen his mug shot prior to this, and he told us to go into the dining room and sit down, and in a little while he joined us in the dining room. It was myself and another agent. And he immediately began, by, in a very loud tone of voice, why were we harassing people in the Lakewood area, trying to find out about investments into the Sharp's Lodge, and we advised him that we were merely conducting a legitimate investigation into the ownership and purchase of the lodge. And apparently he was upset because we had been to see his girl friend the day before and she had let us into the house and submitted to our interview, and he told us this day at the hotel that if he had been there he would have seen that we didn't get in, and some references to breaking our arms or something of that nature.

* * * * *

Q. Did you have any other conversations with Valvano after this in relation to what he could do in this investigation?

A. (By Mr. Hennicke) Well, two instances. The same day, after seeing that he was not gaining anything by being tough with us, he asked us how we would like to spend the rest of the summer in Atlantic City with our families, and he told us that he owned part of a hotel down there, indirect interest in a hotel on the beach front, and that he would pay all expenses. So we advised him that we didn't think our families would care for Atlantic City, and we just brushed it off and continued the interrogation.

Now, at a later date one of our agents, Investigator Brennan, served a subpoena on Valvano at the Sharp's Lodge and Valvano stated to Brennan he said, "It's a shame." He said, "Jack Kennedy gets shot for what? Nothing. Bobby Kennedy gets shot. For what? Nothing. I've got \$60,000 in this hotel. That's something. If I lose that, that's a reason to

kill somebody." And he said, "I've already killed a couple of people in Newark and," he said, "one more isn't going to make any difference."

Q. Now, during the course of your investigation, besides Mr. Valvano did you run across any other people that have been mentioned so far in the hearings?

A. (By Mr. Hennicke) Up to this point Jimmy the Brush frequently. In almost every investigation in Lakewood we would come across Jimmy the Brush. He was in the Sharp's Lodge the morning that it burned down. He was asleep on the first floor and he had to jump out into the parking lot to save his life.

There were other people that we knew had criminal records that were frequent visitors or constantly hanging around in Sharp's Lodge.

In 1970, when the ABC again investigated the Holiday Inn, that motel was then being operated by Paul Brucato, and the inn's liquor licensed premises were being managed by Dominick Bombacci.

Brucato before moving from Jersey City to Lakewood had associations with Armand Faugno, an underworld figure whose principal base is the Hudson County waterfront.

In fact, the ABC men testified that Faugno's wife, Louise, got commission payments from the Lakewood Holiday Inn reportedly in return for referring clients to that motel. The Faugnos live in Englewood Cliffs in Bergen County.

Bombacci had been at one point a runner for Craparotta's numbers bank. Later, Bombacci began making book in Ocean County in partnership with Joseph Celso of the Jackson Township farm fame.

The ABC men also found that the previously mentioned Jimmy the Brush Fyfe was close enough to Bombacci to help him look for some of the Holiday Inn's liquor license records when the ABC men asked to see those documents.

They found that Thomas Rocco, a former bookmaking operator for Anthony (Little Pussy) Russo in Long Branch, was at the inn and had access to a telephone specially installed on March 3, 1970 and disconnected July 4, 1970. Phone company records

showed 233 calls to Bombacci's house on that line during that period of time, a frequency more indicative of a bookmaking or numbers operation rather than the construction business in which Rocco claimed to be involved.

CONCLUSION

The public hearings centered on Gross's and related testimony prompted some of the most extensive and prominent news media coverage of any of the Commission's major public actions to date. That result in itself went far toward achieving the principal goals of the hearings—to heighten public awareness of the continued existence and operations of organized crime in New Jersey and to provide a warning to all areas undergoing new suburban growth to be on the lookout for organized crime infiltration.

Martin G. Holleran, then director of the Newark-Essex Organized Crime Task Force and now executive director of the SCI, was one of the expert witnesses called by the Commission to aid in identifying names and places mentioned by Gross in his testimony. Holleran also gave his opinion as to the value of the public hearings:

Q. Now, in your opening statement, Mr. Holleran, you mentioned that as part of the weapons that you feel can be used against organized crime, one of them is exposure?

A. Yes, sir.

Q. Do you feel that a hearing such as this where the names are mentioned and a witness comes forth and gives detailed information about the everyday activities of men would help law enforcement from the idea of exposing these people for what they are to the public?

A. Yes, I do. It's my opinion that many people within the United States and within the State of New Jersey would like to sweep under the rug the fact that there is such a thing as organized crime. By exposure we are able to indicate to these people that there is organized crime and whether they like it or not they're victims of it by being citizens of the state in which organized crime does exist.

The Commission's chairman, John F. McCarthy, Jr., said in his closing statement that the alert sounded by the hearings should be heeded by "businesses large and small, and by important people and just Mr. and Mrs. Average citizen." He added:

The hearings have demonstrated that organized crime figures don't mind starting in a small way—a favor here or there or a relatively small shylock loan. From small beginnings, the intent of organized crime is to spread its tentacles and ensnare as many people and businesses as possible.

"After a favor and a loan come threats, ruthless extortion and even complete financial ruin, as in the case of the witness Arthur Moccia. He came to Lakewood with assets of \$60,000 and left only a half-year later completely broke. And he was broken by shylock loans with interest rates of up to 300%.

Those in legitimate businesses should be particularly alert. Certainly these hearings have shown in specific ways how mobsters can almost completely encircle and infiltrate a motel business.

We believe these hearings have also made it clear that even with the top organized crime leaders in jail, there are lesser lights who are always prepared to move into the vacuum and continue to threaten, extort, bribe, shylock, run the numbers and bank the bookies. Eternal vigilance is still a necessity not only for law enforcement authorities, but also for all the citizenry.

The Commissioners again would like to give special thanks to the private citizens who had the courage to come forward and testify about the mob at these hearings.

It is our hope these hearings will have helped to generate more of that spirit in the public as a whole. And that could go a long way toward making a reality of the hope of Mr. Moccia and all of us—that the mob be stopped.

INVESTIGATION OF PROPERTY PURCHASE PRACTICES OF THE STATE DIVISION OF PURCHASE AND PROPERTY

INTRODUCTION

One of the major steps in the recent expansion of the New Jersey state college system has been the establishment of two new colleges in the northern and southern parts of the state. The new southern unit was named Stockton State College and is situated in Galloway Township, Atlantic County. The state paid \$1.7 million for a total of 1,586 acres eventually assembled for that college's campus.

The largest single tract in that total was 595 acres on the west side of the Garden State Parkway with frontage on Jimmy Leeds Road. The new college's Board of Trustees decided this was the best available site for the college's initial building needs, and the site was subsequently purchased by the state in July, 1970.

The Commission during 1971 received information that the state may have paid too high a price for the 595-acre tract. That allegation was substantiated by a full field investigation by SCI agents, followed by private hearings which extended into 1972. In fact, on the basis of findings by two appraisal review experts retained by the Commission, the state paid an excessively high price, perhaps as much as three times more than a proper appraisal figure for the acreage.

The Commission in July, 1972 issued a 159-page public report and recommendations based on the investigation. The report cited two critical flaws as leading to the overpayment. They were:

Inadequate and misleading appraisals of the acreage by the two firms retained by the state to make the appraisals and lack of expertise and safeguards in the State Division of Purchase and Property to detect the faults in the appraisals and have them corrected.

The Commission made detailed recommendations for improvement in the procedures of that Division to prevent re-occurrences

of overpayments. Those recommendations were developed with the full cooperation of the Division's present director, James A. O'Connor.

Most importantly, the recommendations have been put into effect by order of the State Treasurer's Office. Thus, the principal and overriding goal of this investigation has been realized. That goal is the governing of expenditures now and in the future of millions of state dollars on property purchases by the wisest and most effective procedures devisable.

Since this investigation and resulting recommendations were presented in detail to the Governor and the Legislature in the aforementioned public report, only a summary is presented for purposes of review in this annual report.

SAW MILL-TANNERS BROOK

The key 595-acre tract for the college campus comprised the bulk of a 622-acre tract assembled during 1954-67 by two corporations directed by some Atlantic City businessmen and professionals.

The corporations were Saw Mill Ponds, Inc. and Tanners Brook, Inc. Mr. Paul Burgess was president of both corporations. Mr. Elwood F. Kirkman was treasurer of Saw Mill. The Saw Mill corporation owned 612 of the 622 acres. Tanners Brook owned the other 10 acres of the 622-acre tract.

The initial purposes of the owners of Saw Mill were to acquire land in and around an old cranberry bog and create ponds in the bog area for the enjoyment of the families involved in the corporation. Those purposes were carried out and five cabins were erected on the acreage. However, Saw Mill over the years continued to acquire more land in the Galloway area by outright purchase, quit claim deeds and tax foreclosure sales.

As of 1969, the 612 Saw Mill acres were carried on the corporation's books at a cost of \$23,804.14 or \$39 per acre. The five cabins erected on the acreage were carried on the same books at a net depreciated cost of \$11,180. The total cost of the land and improvements as indicated on the corporate records was \$34,984.14.

COUNTY COLLEGE INTERESTED

In 1964, the Saw Mill property was considered as a possible site for what is now the Atlantic County Community College. The college, however, dropped Saw Mill as a possible site principally because of unsatisfactory access to local roads.

Subsequently, during 1964, Tanners Brook bought for \$7,000 a total of 10 acres of land abutting the Saw Mill property and having frontage on Jimmy Leeds Road. The purpose of the purchase was to solve the road access problem and thereby enhance the sales potential of the Saw Mill tract.

Adding the \$7,000 cost of the purchase of the 10 acres by Tanners Brook to the \$34,984.14 cost of the Saw Mill acreage, the total cost of the 622 acres assembled by the two corporations was \$41,984.14.

DECISION TO SELL

During 1968, a majority of the stockholders in Saw Mill Ponds decided to make a concerted effort to sell the land, and Mr. Burgess listed the 612 Saw Mill acres plus the 10 Tanners Brook acres for sale with a number of agencies. The effort to sell the 622 acres extended into the spring of 1969.

PUBLIC KNOWLEDGE

The possibility of a new state college in southern New Jersey, with particular reference to Atlantic County, was the subject of extensive coverage by news media in 1968 and 1969, as new state bonds issue proposals were formed and eventually approved for financing, among other things, expansion of the state college system.

The appointment of the first Board of Trustees of the new Stockton State College was publicly announced in January of 1969, with that Board publicly disclosing the initiation of a search for a campus site. By early May, 1969, the Board let it be known publicly that the search had been narrowed to the southeast portion of Atlantic County. One trustee of the college testified that he by May, 1969 had sounded out the availability of land adjacent to the Seaview Country Club in Galloway as a possible campus site.

PRIOR KNOWLEDGE DENIED

The Commission noted, however, that the selection of the particular acreage in Galloway Township by the Board of Trustees was not publicly announced until the fall of 1969. The Commission also noted that Messrs. Burgess and Kirkman testified before the Commission that they had no prior knowledge or indication that the state would eventually buy the tract when Saw Mill and Tanners Brook on May 21, 1969 entered into an agreement to sell the 622 acres to a New York-based land investment group at an estimated \$500 per acre.

The New York group was headed by Sheldon Farber, who is in the factoring business and is also an attorney, and by Bernard Stuchin, who operates a real estate business.

CLOSING AND COINCIDENCE

A tentative date for closing the sale from Saw Mill Pond and Tanners Brook to the Farber-Stuchin group was set for July 23, 1969, but the closing was postponed on the contention that a new survey was needed to guarantee the exact amount of Saw Mill's acreage involved in the sale.

Once the survey was completed, the closing was rescheduled for September 4, 1969 in the offices of the Chelsea Title Company, Atlantic City. The day before, the Farber and Stuchin group officially formed a limited partnership known as Oak Pond Associates for the purpose of making the purchase.

September 4, 1969 also happened to be the day that Stockton College ordered active evaluation of the Saw Mill-Tanners Brook tract as a possible site for the college campus.

The Commission noted, however, that Dr. Richard E. Bjork, now president of Stockton College and the person who directed active evaluation of the site on September 4, 1969, testified he was unaware that that was the same day the acreage was sold to the Farber-Stuchin group. He also stated categorically that the two events happening on the same day was pure coincidence.

The Commission also noted that Mr. Kirkman testified he was unaware of the two events coinciding on the same day and that he also stressed in his testimony that the agreement to sell the acreage had been entered into in May, well before the September 4, 1969 date.

FALSE PRICE LISTED

Settlement sheets for the September 4, 1969 closing were prepared by Charles Morgenweck, then a representative of Chelsea Title, but who has since left that company. The sheets listed the selling price of \$329,250, which was \$33,000 higher than the actual, agreed-on selling price of \$296,250 or \$476 per acre for the 622 acres. The per-acre price was double the most comparable large-tract land sales in the Galloway area.

SCI agents discovered that a Chelsea Title check for \$33,000 was drawn and made payable to Samuel Bobbins, the Atlantic City real estate man representing the Farber-Stuchin group, under the guise of being a commission payment to Bobbins.

Acting as a conduit on Farber's instructions, Bobbins took the \$33,000 check, plus \$9,000 from his actual commission payment of \$28,625, and purchased a bank cashier's check for \$42,000 payable to the order of "Gramercy Account."

The \$42,000 cashier's check was deposited September 8, 1969 to the account of "Sheldon Farber Gramercy Account" which was maintained at the Royal National Bank, New York City. Subsequently, Farber and Stuchin divided the proceeds of that check, each receiving \$21,000.

Farber, in an interview with SCI agents, initially did not recall receiving the \$42,000 check from Bobbins. But when confronted with the details concerning the \$33,000 Chelsea Title check and the \$9,000 from Bobbins' commission, Farber changed his position by stating he and Stuchin were entitled to "an override" or "finders fee" for putting the deal together.

He also claimed the false settlement sheets and the covert return of the \$42,000 were irrelevant as far as other partners in the group were concerned. The Commission, however, noted that other partners had already granted Farber and Stuchin a \$40,228 percentage allowance for "managing" the deal.

In addition, the final Oak Pond Associates partnership tax return overstated the actual purchase price by \$33,000 by listing \$329,250 as the price paid for the land.

THE SITE SEARCH PROCEEDS

From the beginning, the Board of Trustees of the Stockton State College emphasized prompt selection of a campus site so the college could open its doors on schedule in the fall of 1971. By May, 1969 the Board had let it be known publicly that the site search had narrowed to southeastern Atlantic County which includes the Galloway area.

The Board, as of August 27, 1969, had in its possession a consulting firm's evaluation of 13 possible southeastern Atlantic sites. But those sites did not include the Saw Mill-Tanners Brook acreage.

The Saw Mill-Tanners Brook acreage was first brought to the attention of the then president of the Board of Trustees, David L. Taylor, a consulting engineer from Moorestown, by G. Raymond Wood, now deceased but then executive director of the Southern New Jersey Development Council.

Testimony given before the Commission indicated that Mr. Taylor learned about the site from Mr. Wood in either late July or more probably in early August and that Mr. Taylor subsequently brought the site to the attention of the Board of Trustees and college officials.

After Dr. Bjork, on September 4, 1969, ordered active evaluation of the Saw Mill-Tanners Brook site, that site rapidly surged toward total prominence in the Board's considerations.

The site was included in lands surveyed by air on helicopter flights taken by the trustees September 8, 1969. On that day, the Board unofficially decided that the Saw Mill-Tanners Brook tract should be the location for the college.

A revised consulting firm report containing the tract was ready for the September 15 meeting of the Board. On that day, the trustees voted 9-0 to choose that tract as the core site for the college campus. Subsequently the Board, through the State Department of Higher Education, requested the State Division of Purchase and Property to purchase the tract.

THE APPRAISALS

Charles F. Sullivan, then director of the Division of Purchase and Property but who left office February 13, 1970, selected from a list of appraisers maintained by the Division, two firms to ap-

praise the tract. They were Atlantic Appraisers, a division of S. C. Scheffrin and Co., South Orange, and Interstate Appraisal Co., Cherry Hill.

Mr. Sullivan testified that he checked out the capabilities of all appraisers before retaining them and that he tried to get geographical balance in appraisers chosen for specific appraisals. But the Division did not have any firm, written standards or procedures for pre-qualifying appraisers before putting them on the list. In fact, appraisers got on the Division's list of appraisers simply by making a written request to be so listed.

On October 28, 1969, Mr. Sullivan by letter, authorized appraisals of the site by the two firms. Atlantic Appraisers began initial moves toward its appraisal in November, 1969. Interstate Appraisal began its appraisal of the site during December, 1969.

Atlantic submitted its appraisal of \$485,788 on January 19, 1970, and Interstate submitted its appraisal of \$541,500 on February 4, 1970. Atlantic was paid \$26,200 for its appraisal and Interstate was paid \$24,700 for its appraisal.

APPRAISALS ARE PROCESSED

The appraisals, once submitted to the State, were processed by the then long established procedure of reference to the Purchase and Property Division's Bureau of Special Services.

The Commission noted that the Bureau personnel, although well seasoned in what has been an appraisal processing procedure, includes no person with M.A.I. (Member, American Institute of Real Estate Appraisers) or near-equal qualifications for expertise in post-appraisal analysis.

The testimonial record before this Commission showed that the Bureau called in the two appraisers for discussions about reconciling differences in the two appraisals. Because of those differences, one of the appraisers decided to increase his appraisal figure by a formula he devised for adding 10 per cent for "assemblage," another 10 per cent for "time," and \$25,000 for "interest."

Because the Division, through the Bureau, lacked the procedures and expertise to detect the shortcomings in the two appraisals, they continued to provide a seeming veneer of accuracy and served for what appeared to be an outwardly valid basis for

the Division, then headed by Mr. Edgar H. Myers, since deceased, to make an initial purchase offer of \$500,000 for the 595 acres and on July 8, 1970 to close the purchase for \$550,000 or \$924 per acre.

CRITIQUES REQUESTED

At the Commission's request, two respected M.A.I.s in New Jersey analyzed the two appraisals and submitted reports to the Commission. Both those M.A.I.s found that less than reasonable and acceptable standards had been used in arriving at those appraisal figures and that the figures, therefore, were considerably higher than they should have been.

One of those M.A.I.s and his staff found on the basis of their market analysis of what they determined to be the most reasonably comparable large-tract land sales in the Galloway area (including the September 4, 1969 sale of the key tract), the proper appraisal figure for that acreage should have been \$300 per acre.

The Commission noted that that figure is far below the \$1,084 per acre that the State paid on the average for the 1,586 acres eventually acquired for the college campus at a cost of \$1.7 million.

SUMMARY OF PRINCIPAL RECOMMENDATIONS

(1) Fee appraisers shall be pre-qualified by the Purchase and Property Division before being considered eligible for appraisal work for the state. This recommendation includes specific standards and education and experience levels which must be met by applicant appraisers.

(2) Appraisal reports submitted to the Purchase and Property Division shall be independently reviewed by an authorized and qualified review appraiser before the start of property acquisition negotiations or testimony in court. The authorized review appraiser shall be the Right-of-Way Division of the New Jersey State Transportation Department. In event of emergencies precluding prompt review by that Division, the State Purchase and Property Director may retain qualified outside review appraisers on a retainer commensurate with the project in question.

(3) There shall be minimum requirements as to procedures, format and content for all fee appraiser contracts which should all be in writing and be subject to approval by the State Purchase and Property Director.

(4) Expert legal advice shall be available to both the state agency for which the property is being purchased and the Purchase and Property Division from the inception of negotiations for a purchase through the closing of the purchase. The Commission noted that fears about a resort to condemnation causing inordinate delay in the college's construction could have been allayed by timely and expert legal advice.

INVESTIGATION OF MANIPULATIONS OF SECURITIES AND BANK FUNDS IN MIDDLESEX COUNTY

INTRODUCTION

The Commission in accord with its statutory responsibilities is continually probing reports of organized crime activities throughout the state. Sometimes those on-going investigative efforts put the Commission's special agents in touch with other information relative to the faithful execution and full enforcement of the laws.

Such was the case during an investigation, which is still continuing, of loan sharking in Middlesex County. The agents in the course of that probe received information that directed the Commission's attention to Santo R. Santisi who until his ouster in January, 1972 was president of the Middlesex County Bank which he founded.

The Commission's agents concentrated at first on the Otnas Holding Company which Santisi controlled. From there, the investigation broadened to other Santisi influenced companies and to the operations of the Middlesex County Bank. The investigation continued into 1972 with extensive private hearings being held in the Commission's offices in Trenton.

The investigative record details schemes involving possible securities fraud, use of publicly solicited stock sale funds by corporate insiders solely for their own gain, and use of misapplied bank funds for that same end.

BANK EXAMINERS REQUEST

By the spring of 1972, the Commission was about to go to a public disclosure stage with this investigation. At that time, however, federal bank examiners were given access to the Commission's records in this investigation. Those examiners requested that the Commission not hold public hearings or issue a public report for fear that resultant publicity might do irreparable harm to the bank's fiscal situation.

The Commission honored that request and the matter was referred to federal authorities for any prosecutorial action they might find in order.

ARREST AND SUITS

In August, 1972 the United States Attorney's Office for New Jersey announced the arrest of Santo R. Santisi on charges of misapplying more than \$500,000 in Middlesex County Bank funds during the time he was chief executive of that institution. Disposition of that federal complaint was still pending when this annual report went to press.

Also the bank has since filed two court suits against Santisi charging he and others defrauded the bank in land deals connected with construction of branches of the bank.

Since Santisi and some of his schemes are now matters of public record, the Commission finds this annual report an appropriate time to make a public review of the principal facts uncovered by this Commission's investigation.

It may be fairly stated that this investigation performed an important public service by laying bare the manipulations of Santisi, his cohorts and his companies and thereby protecting the investing public from further involvement with corporations operated by insiders solely for their own personal gain.

REGISTRATION FALSITIES

The Otnas Holding Co., headquartered in Middlesex County, was formed in December, 1968 by Santo R. Santisi, Charles Luizza, John Santisi (brother of Santo), Frank Maltese, Alphonso Covino and Anthony Raspa. Luizza, John Santisi and Maltese were at the time directors of the Middlesex County Bank.

Word spread rapidly that Santo Santisi, who had enjoyed great success with the Middlesex County Bank, was forming a new business venture which was going public in its financing. Investors in the bank and many others were quick to buy 419,151 shares of Otnas stock at \$1 per share. Many of the stock sales were consummated on the premises of the bank during business hours. Although there were numerous common share holders, all the voting stock and therefore complete control of the company was in the name of Santo R. Santisi.

Otnas began public offering and sale of its stock prior to approval of its application for state registration, a fact that appears to be clearly incompatible with existing state laws governing such a corporation. The New Jersey Uniform Securities Law (49:30-47 et seq.) requires that before any security is sold, it must be registered. The application must contain detailed information about the company and its officers and directors or owners. Registration is effective when the state bureau chief says it is. Application for the Otnas registration was filed with the state July 16, 1969 and was not approved until September 1969.

The application contained a number of false statements, the chief falsity of which was that the funds received from the prior public sale of stock were attributed to "loans" purported to have been made by Santisi and his associates. The "loans" were listed as follows:

Santo R. Santisi	\$106,925.29
Carmine Luizza	75,000.00
James Genito	25,000.00
Raymond Sachs	25,000.00
Arthur Brinkman	25,000.00
Anthony Policastro	25,000.00
Louis Meltzer	25,000.00
Alphonso Covino	25,000.00
Alfred Raspa	10,000.00

The listing of the non-existent loans was designed to foster Santisi's nefarious scheme in two ways. First, the loans made it look as if the company had substantial financing without owning up to the apparently illicit public sale of securities prior to state registration. Secondly, it gave the appearance that the principals in Otnas had considerable financial resources which they were willing to put into Otnas.

Otnas's first operation as a corporation was to buy the Hostways Motel and Cloud Nine Lounge in East Brunswick. To do so, Otnas had to pass muster as a liquor licensee with the State Alcoholic Beverage Control Division (ABC).

The cash receipts book submitted by Otnas to the ABC was examined by this Commission's special agents-accountants in Newark. That book was written to conform with the false information previously submitted to state securities registration officials.

Entries were recorded to credit all cash received, prior to approval of the registration, as having derived from "loans" from the same persons listed in the registration application, or from banks or from alleged original subscribers to the initial private offering of 75,000 shares of Otnas stock.

The falsity of not showing the money raised by the public sale of stock to many unsuspecting investors is documented by a list in the Commission's possession. That list identifies the many public offering subscribers and corresponds day by day with deposits of funds received from public sale of the stock in account number 02-1758-1 maintained by Otnas in the Middlesex County Bank.

Further investigation by the Commission showed how Otnas, or Santisi and his stooges, used the funds they got from the unsuspecting investing public:

1. They purchased the Hostways Motel and Cloud Nine Lounge. To effect this purchase, Otnas paid off mortgages totaling \$90,000 held on motel and lounge by the Canaveral Capital Corporation and the Middlesex County Bank.
2. They bought one-half of the Joseph Levine's interest (98 per cent of all the stock) in the Canaveral Corporation at a cost of \$125,000 and put that one-half interest in the name of Santo R. Santisi. Levine at the time was a business partner of Santisi.
3. They purchased 1,526 shares of Middlesex County Bank stock in the name of Charles Luizza, one of the founders of Otnas and still at that time a director of the bank.
4. They used this newly purchased Middlesex County Bank stock as collateral for a \$100,000 loan from the Peoples Trust Co., with that loan being used to buy the Midtown Motel in Trenton. This turned to be an abysmal business deal. The motel was bankrupt when purchased. Otnas was never able to open it and ended up selling it for a nominal sum.
5. They bought property with frontage on Routes 130 and 27 property which Santisi owned through his control of the Donang Corporation. Thus, Santisi used Otnas to buy at a profit to him land which in effect he owned. The purchase price was \$25,000. Since Santisi was a principal in Otnas, it was decided to pay him in the form of giving him 25,000 additional shares in Otnas rather than paying him \$25,000.

MISAPPLIED BANK FUNDS

The investigation of Santo R. Santisi and the Otnas Holding Co. and its principals led the Commission's special agents-accountants to examine closely certain transactions at the Middlesex County Bank. This phase of the investigation uncovered instances where Santisi as the bank's chief executive officer engineered accommodation loans totaling hundreds of thousands of dollars of bank funds to persons who either personally or through their corporations acted as conduits to pass on the funds for use to the benefit of Santisi or some of his controlled corporations. Some of the specific instances uncovered by the Commission's investigation are as follows:

1. Anthony Policastro, operator of White Sales and Service Corp., Edison, was one of those falsely listed on the Otnas registration application as having "loaned" that company \$25,000.

In testimony before this Commission in April, 1972, Policastro stated that in 1969 at the request of Santisi, he (Policastro) signed a note to the Middlesex County Bank for \$90,000 which he never received. Significantly, the federal complaint against Santisi charges that Santisi authorized a \$90,000 loan to White Sales and Service Co. which was not approved by the bank's Board of Directors and which was used for the benefit of Santisi and one of his controlled corporations, SPN Inc.

2. During 1970 Santisi engineered loans totaling \$250,000 to five men. Each of the five checks for \$50,000 were later endorsed to the Angco Co. of North Brunswick which at the time was controlled by Santisi. The federal complaint charges that also in this instance the loans were made by Santisi without the necessary approval of the Board of Directors.
3. Alphonso Covino, operator of Covino Industrial Disposal Service of New Brunswick, was an officer of Otnas and one of those falsely listed on the Otnas registration application as having "loaned" that company \$25,000. The records of the Middlesex County Bank show a loan was made to Covino in 1971 in the amount of \$11,800.

Covino in an interview with Commission personnel stated that he never borrowed or received that money and that he found out about the loan only when he received a past due notice from the bank. When he was shown two bank treasurer checks issued to him with his endorsement and countersigned by Santisi, Covino stated his signatures were forgeries.

4. Louis Meltzer, operator of the Park Roofing Co., New Brunswick, was interviewed by Commission personnel. He too was among those falsely listed in the Otnas registration application as having "loaned" that company \$25,000.

Meltzer also was a principal in the 1963 founding of SPN Inc., along with Santisi and his long time friends Phillip Cantore and George Nicola who also were principals at that time in the Middlesex County Bank.

The SPN corporation's only asset was a building with some rent paying tenants in New Brunswick. The building had to be extensively improved after purchase by SPN, and the corporation became deeply in debt. In fact, investigation showed that since SPN could not pay the contractors who did the improvements, Santisi and his cohorts used their influence at the Middlesex County Bank and other banks to procure loans for the contractors. SPN paid the interest on those loans.

Meltzer was asked during the interview with Commission personnel about a \$60,000 loan he obtained from the Middlesex County Bank in April, 1969. Meltzer stated that this money was put into the SPN corporation and that he personally paid Santo Santisi in cash the interest on this note. Thus Santisi used Meltzer as a conduit to funnel \$60,000 into a Santisi controlled operation.

Meltzer in the interview with Commission personnel stated that he eventually paid off the \$60,000 note at the Middlesex County Bank by obtaining a loan of a similar amount from the People's Trust Co.

It is significant to note that the federal complaint charges that in April, 1969 Santisi engineered a loan by the Middlesex County Bank to Meltzer, a loan which was not approved by the bank's Board of Directors and which was used for the benefit of Santisi and SPN Inc.

5. Anthony Iero, listed as a director of Otnas, was interviewed by Commission personnel about his role in the Brunswick Industries Inc., formerly Brunswick Heating and Air Conditioning Co., North Brunswick. Iero conceded he actually had no control over that company which in fact was owned by Santo Santisi and Carmine Luizza. Luizza was among those falsely listed on the Otnas registration application as having "loaned" that corporation \$75,000 and was also a director of the Middlesex County Bank.

Investigation showed Iero is listed on the books of the Middlesex County Bank as having obtained a loan of \$23,500. Iero told Commission personnel he received this money as a "accommodation loan" for someone else. The Commission was informed the money was used to pay interest on a loan from the People's Trust Co. to SPN Inc.

INVESTIGATION OF THE WORKMEN'S COMPENSATION SYSTEM IN NEW JERSEY

The State Commissioner of Labor and Industry during 1972 met with Commission personnel to discuss the possibility of the Commission's looking into rumored abuses, inequities and inefficiencies in the workmen's compensation system whereby persons in New Jersey may obtain monetary compensation for work-connected injuries.

After an evaluation of that request and the undertaking of preliminary research and inquiries, the Commission decided to conduct a full investigation under its statutory power to probe in connection with the faithful execution and effective enforcement of the laws of the state.

The probe has been extended to all phases of the massive and complex system which involves annual insurance premiums of more than \$273 million. Those phases include the roles of claimants, attorneys, doctors, insurance companies and judges.

The Commission hopes to complete the confidential phase of this investigation in the near future and proceed to a public fact-finding and recommendation stage.

INVESTIGATION OF THE OFFICE OF THE STATE ATTORNEY GENERAL OF NEW JERSEY

On August 1, 1972 George F. Kugler, Jr., Attorney General of the State of New Jersey, requested in writing that this Commission investigate allegations relative to his office's handling of the matter that ultimately resulted in the state's indicting, trying and obtaining a conviction of Paul J. Sherwin, then the New Jersey Secretary of State. The Attorney General thereby invoked the provisions of N. J. S. A. 52:9M-4 which states the Commission shall investigate the affairs of a state agency on the request of the agency's head.

Subsequently, the Senate Committee on Law, Public Safety and Defense by letter dated August 3, 1972 advised this Commission that it had determined this Commission to be the appropriate bipartisan agency to conduct an investigation of the "Sherwin matter."

The Commission promptly undertook a full and thorough investigation with dispatch but in such a manner so as to safeguard the right of a fair trial in the then pending "Sherwin conspiracy trial." Commencing in August, 1972, this investigation was given top priority by the Commission and absorbed most of the Commission's time through the balance of the year and into early 1973.

In the course of that investigation the Commission took from 22 witnesses sworn testimony consisting of more than 1,300 pages, plus 60 exhibits introduced and marked. The Commission on January 24, 1973 unanimously adopted a resolution to make public in their entirety that testimony and those exhibits, plus a report based on them. This was pursuant to the Commission's obligation and desire to make full and complete disclosure of the investigation to the people of the state and their elected and appointed officials.

Since the report, replete with all the testimony and exhibits, was just recently forwarded to the Governor and the Legislature, no further review of this investigation need be presented in this annual report.

The Commissioners desire to express publicly their gratitude to John J. Francis, Esq., former Justice of the New Jersey Su-

preme Court, who served, without compensation, as Special Counsel to the Commission in the development and completion of the investigation and the attendant public report relative to the handling of the "Sherwin matter" by the Office of the State Attorney General of New Jersey.

Mr. Francis, in a spirit of service to the public, gave unstintingly of his time, expertise and experience in counseling this Commission in all phases of this investigation, including compilation of the testimonial and documentary record and preparation of the report and findings based thereon.

INVESTIGATION OF MUNICIPAL PLANNING AND ZONING PRACTICES

A concerted effort in recent years by federal, state and county authorities has brought to light in the courts numerous instances of corruption at the municipal level in connection with land development and construction projects.

Those exposures have given some credence to what had previously been mostly rumor, namely that it may be a quite common practice in New Jersey to force or attempt to force developers to pay sums of money, either directly to public officials or in the guise of a campaign contribution, to secure necessary approvals for development projects.

The Commission decided during 1972 that it might make a valuable contribution to the overall effort to expose and stamp out corrupt practices. Accordingly, an extensive investigation was undertaken with the ultimate goals being to delineate the types of pressures that lead to payoffs and to make recommendations for better laws for eliminating instances of corruption or attempted corruption.

The investigation by September, 1972 was ready to proceed to the public stage with testimony on irregularities in planning and zoning matters in communities in Somerset, Essex, Bergen and Middlesex Counties. The public hearings were begun September 19 but had to be suspended the next day because of litigation seeking to bar the public appearances of three key witnesses.

That litigation has been prolonged. As soon as it is terminated, the Commission intends to complete this investigation and make whatever report and recommendations deemed to be in order.

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, and L. 1970, C. 263

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 examina-

tion. 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, 1974.

APPENDIX II

MEMBERS OF THE COMMISSION

The Commission's activities since February 22, 1971 have been directed by John F. McCarthy, Jr., who was named chairman at that time by Governor William T. Cahill. The other two commissioners are Charles L. Bertini and Wilfred P. Diana. A fourth commissioner, Thomas J. Shusted, resigned in June, 1972 to take the post of Prosecutor of Camden County. The vacancy created by that resignation was not filled by the time this annual report went to press.

Mr. McCarthy, of Princeton, who was appointed to the commission by Governor Cahill and took his oath of office July 8, 1970. A graduate of Princeton University and the University of Pennsylvania Law School, he is the senior partner in the law firm of McCarthy, Bacsik and Hicks in Princeton. He was attorney for the borough of Princeton during 1957-1960.

Mr. Bertini, of Wood Ridge, was sworn in as a commissioner January 3, 1969 following his appointment by former Governor Richard J. Hughes. A graduate of the former Dana College and the Rutgers University School of Law, 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. Commissioner Bertini conducts a general law practice in Wood Ridge.

Mr. Diana, of Watchung, was appointed to the commission by then Senate President Raymond H. Bateman and took his oath of office June 14, 1971. A graduate of Colgate University and Harvard Law School, Mr. Diana was serving as Senator Bateman's chief legislative aide and as Township Attorney for Berkeley Heights and Attorney for the Bedminster Board of Adjustment when he was named to the commission. He was Commissioner of Assessments for the city of Plainfield in 1962 and served as Assistant City Attorney for Plainfield during 1963-65. His law firm, Diana and Diana, has offices in Plainfield.

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.