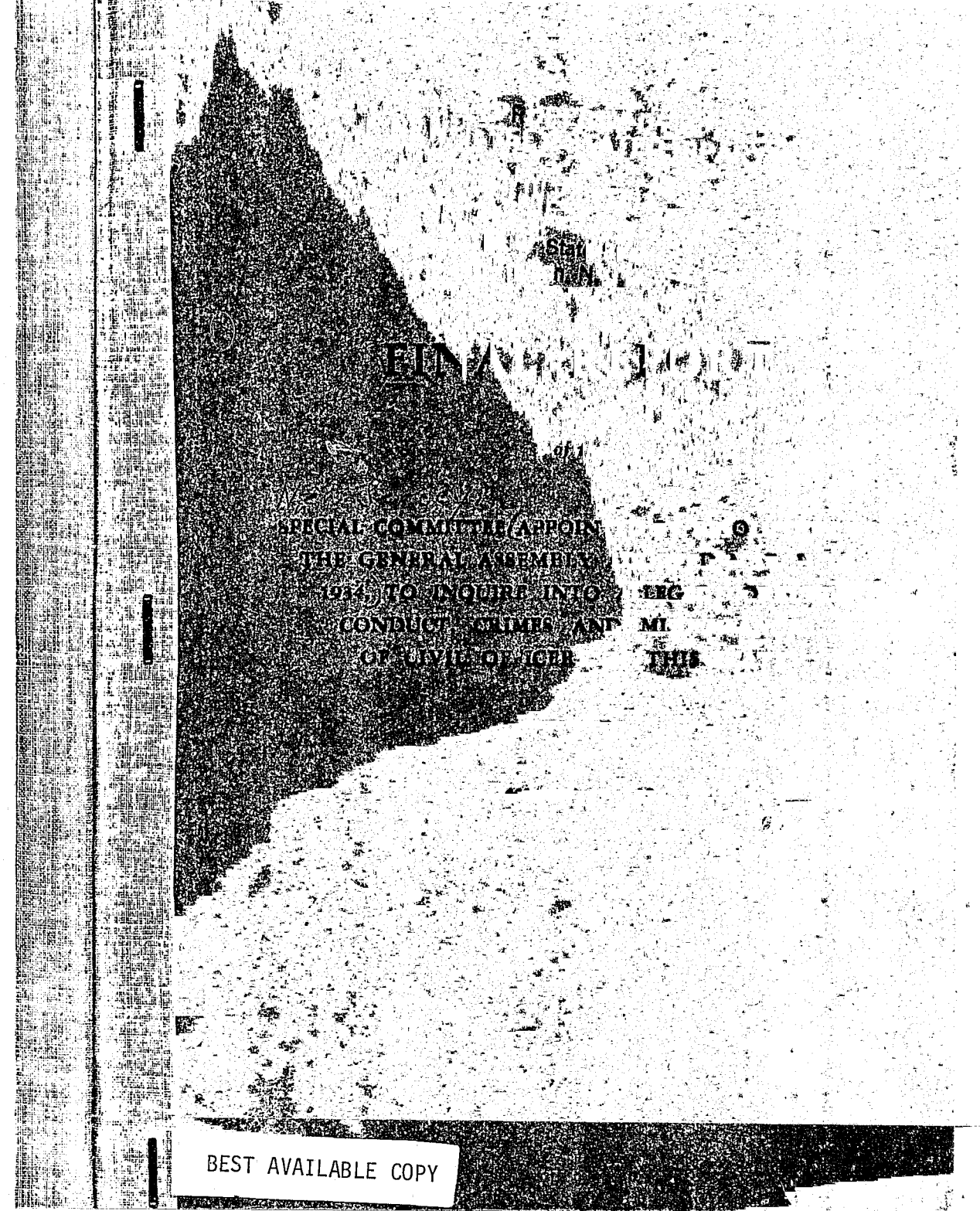
New Jersey. Special Committee To Inquire Into Alleged Corrupt Conduct, Crimes and Misdemeanors of Civil Officers of this State.

FINAL REPORT

1934. Copy 3.

Fraud, Waste, and Abuse

Charge 5131 (not 5114)



The Committee:

W. STANLEY NAUGHRIGHT, *Chairman,*
ANTHONY J. SIRACUSA
THOMAS S. DOUGHTY
ERWIN S. CUNARD
JOHN J. RAFFERTY

FREDERICK A. BRODESSER, *Secretary*
ALEXANDER CRAWFORD, *Sergeant-at-Arms*

JOSIAH STRYKER, *Counsel.*

FINAL REPORT of the Special Committee appointed by resolution of the General Assembly to inquire into alleged corrupt conduct, crimes and misdemeanors of civil officers of this State.

To the House of Assembly of the State of New Jersey:

This Committee was created by resolution of this House adopted on March 19, 1934, and directed to inquire into alleged corrupt conduct, crimes and misdemeanors of civil officers of this State and to report thereon to this House as soon as practicable, to the end that impeachment proceedings might be instituted against any civil officer of this State who should appear to be subject to impeachment.

This Committee presented its first report to this House on June 4, 1934, recommending the impeachment of John McCutcheon, former Comptroller of the State of New Jersey, and of William B. Harley, former Common Pleas Judge of the County of Passaic, to which report was appended suggested articles of impeachment. The proceedings which followed this report have become a matter of legislative history.

The preamble of the resolution creating the Committee referred not only to the McCutcheon-Harley matter, but also to the charges made against the Prosecutor of the Pleas of Monmouth County. These charges have been investigated by this Committee.

The Committee deemed it advisable to commence its inquiry in Monmouth County prior to the completion of the Harley-McCutcheon investigation. To that end it engaged investigators early in the month of April and assigned to them the work of inquiring into the enforcement of the law in that county. The number of these investigators was increased from time to time during

the summer of 1934 and their work was conducted under the supervision of this Committee and its counsel.

The first public hearing was held on September 11th. Fourteen public hearings have been held and a large volume of testimony has been taken. Prior to the commencement of public hearings, as well as subsequent thereto, the Committee conducted numerous private hearings, at which 123 witnesses were examined. The investigation made by the Committee was attended with great difficulty. Almost all of the Monmouth County witnesses who were summoned before the Committee were very reluctant to tell what they knew with regard to conditions in the county, and it is the opinion of the Committee that but for this attitude on the part of witnesses who were summoned at private hearing much additional testimony of importance would have been obtained.

It is impossible to state the testimony in detail without unduly extending this report. A summary only can be given of the more important matters covered thereby.

Among the witnesses examined at public hearings were Jonas Tumen, the prosecutor, Harold McDermott and J. Victor Carton, the assistant prosecutors, Harry B. Crook, chief county detective, and John N. Woodward, chief clerk in the prosecutor's office. The testimony of Messrs. Sacco, Zuckerman, Mustoe and Kent, four of the five county detectives in the prosecutor's office, was taken at private hearing. With the exception of Mr. McDermott and Mr. Kent, the witnesses connected with the prosecutor's office were frequently evasive in their answers and impressed the Committee as being either unwilling to tell what they knew concerning the manner in which the prosecutor's office has been conducted or as being grossly ignorant of matters which should have been within their knowledge. The prosecutor during the course of his testimony professed a startling lack of knowledge of the affairs of his office, which in itself is significant.

A complete examination of the files in the prosecutor's office would have been impracticable because of the

time and expense involved. As a result of the partial examination which was made of such files some startling irregularities were disclosed.

Burglary Indictment Against Thomas Calandriello.

Jonas Tumen became prosecutor of Monmouth County on April 1, 1930. On the 20th day of June, 1930, Thomas Calandriello and Walter Buckley were indicted by the grand jury of Monmouth County for burglary, the charge being that they had broken into the office of the American Railway Express Company at Red Bank late at night and had stolen a number of express packages.

Both the prosecutor and Mr. Crook, his chief county detective, when examined concerning this case, testified that the State had a strong case against the defendants and that in their judgment the evidence was sufficient to secure a conviction. The prosecutor further stated that this evidence had been obtained and was available shortly after the commission of the offense. Notwithstanding this, the prosecutor has failed for four and a half years to bring this indictment to a trial. When questioned by this Committee concerning the reason for this failure he gave no explanation except to say that on three occasions the case had been set down for trial. He was unable to say, however, why the trial had been postponed or whether the postponement had been at the request of the State or of the defendants. He admitted that he had had ample opportunity to bring on the trial. No more adequate reason for this delay was secured from any member of the prosecutor's staff. Carton, when testifying before the Committee, disclaimed all knowledge of this case, although the files of the prosecutor's office disclose that he wrote at least one letter concerning the date to be fixed for the trial thereof.

Both the prosecutor and Chief Crook admitted that Thomas Calandriello has a very bad reputation in Monmouth County. This is borne out by the prosecutor's

records. They show a charge for assault and battery which apparently has not been disposed of, the record being marked "weak case"; two other charges of assault and battery, both of which were dismissed by the justice of the peace before whom the complaint was made and another criminal charge against the same man, the nature of which is not stated. In addition to this they show a charge of atrocious assault and battery against him which appears to have occurred in 1934, in which no indictment was found, although it would appear from the record that the case was presented to the grand jury. An additional charge of malicious mischief appears to have been presented to the grand jury in April, 1934, but no indictment was found.

While Crook denied friendship for Thomas Calandriello, it is significant that he was a guest at Calandriello's wedding, which occurred more than two years after the indictment for burglary. A group photograph of the wedding guests was produced in evidence before the Committee, from which it appears that not only Crook but a number of other men prominent in the political life of Monmouth County were present on this occasion.

In the opinion of this Committee a delay of over four years in prosecuting an indictment for burglary where the evidence was sufficient to secure a conviction and where the defendant is a man of bad reputation constitutes serious nonfeasance in office on the part of the prosecutor. This delay appears from the prosecutor's own testimony to have been entirely inexcusable. This Committee has been unable to discover any mitigating circumstances. All the facts which have been discovered concerning this delay have tended to aggravate rather than to excuse the nonfeasance.

Charge Against Lillien and Silver for Carrying Concealed Weapons.

Another case disclosed by the examination of the prosecutor's files was a charge against Alexander Lillien

and Henry Silver for carrying revolvers in a motor vehicle on the 13th day of January, 1932, in violation of Chapter 138 of the Session Laws of 1922.

Lillien was reputed to be a notorious racketeer, rum runner and bootlegger. The prosecutor admitted that in 1932 he knew of his reputation as a racketeer. Lillien was found in Spring Lake by a state trooper, with a man who gave his name as Silver, at 2 o'clock in the morning with two .38 calibre revolvers and forty-eight .38 calibre cartridges in the car which they were driving. He was arrested and held in bail to await the action of the grand jury.

While the minutes of the grand jury were not available to the Committee, the records in the prosecutor's office show that an indictment was voted by the grand jury on April 28, 1932, and that three months later, on July 28, 1932, the grand jury reconsidered this indictment and withdrew it. The prosecutor, both assistant prosecutors and the chief county detective were questioned concerning this case. None of them, except Mr. Carton, the second assistant prosecutor, would admit that he had ever heard of it. Mr. Carton, who admitted that he had heard of the case, claimed to have no definite knowledge concerning it. No reason was given why the indictment which was voted on April 28, 1932, was not presented to the Court prior to July 28th in that year, and no information of any kind or character could be secured as to the reason for the unusual disposition of this serious case.

This Committee believes that this case presents a grave miscarriage of justice. We find it hard to believe that any honest grand jury would have been willing to withdraw the indictment had they been advised of the facts in the case.

The Conspiracy to Rob the Berkeley-Carteret Hotel.

A shocking miscarriage of justice attributable, in the opinion of your Committee, to grave misfeasance or non-

feasance on the part of the prosecutor occurred last summer.

Sergeant Robert McAllister of the New York City Police Department, while staying at the St. George Hotel in Asbury Park during his vacation in June, 1934, was awakened early in the morning of June 28th by a crash in the adjoining room. He heard loud talking by several men which indicated that one or more of these men had been involved in a murder in New York. He also heard a conversation which led him to believe that these men were planning to rob the Berkeley-Carteret Hotel. His suspicions were aroused and he decided to keep the men under surveillance.

At 10 A. M. while he was still waiting in his room he heard someone knock on the door of the adjoining room and heard this man say: "It's Mike, let me in, I want to talk to you." After some further conversation the man, subsequently identified as Michael Chalverus, was admitted to the room.

Following this incident McAllister went to police headquarters in Asbury Park and told Captain Giles, acting police chief, of the conversation which he had overheard. Captain Giles detailed Detective Sullivan to work with McAllister and they went to the St. George Hotel, watched the room in which the men were staying and followed them when they left the hotel.

Three men left the room and went to a miniature golf course in Asbury Park. Two of them played a number of games at this place, while the third, a man later identified as David Schulman, carried a package wrapped in brown paper and kept score on this package, while his companions played golf. The three men later left the golf course and after walking along the Boardwalk went into a swimming pool on Seventh Avenue.

Detective Sullivan and Sergeant McAllister took off their coats and pretended to be employees of the establishment. They saw Schulman place the package, which he had been carrying, in his locker. After the men went into the pool a key was obtained by the detectives from

the manager of the pool and the locker was opened. They opened the package and found therein a .38 calibre revolver, fully loaded with five cartridges. The cartridges were removed from the revolver and were marked by Detective Sullivan and Sergeant McAllister.

After the gun had been found, Detective Sullivan called police headquarters and told Sergeant Hicinbothem that the men were armed and requested that other officers be sent to the swimming pool.

Sergeant Hicinbothem came to the pool and when the men left the pool they were placed under arrest. When Schulman went to his locker to dress, he took the above mentioned package out of the locker and handed it to Sergeant McAllister, stating that it contained a gun.

These men, who later identified themselves as George Sherman, David Schulman and George Ryne, were then taken to the Asbury Park police headquarters, and Captain Burke ordered Detectives Sullivan and Griggs and Sergeant McAllister to arrest a dishwasher employed at the Monterey Hotel, whose name was Michael Chalverus and concerning whom the police had previously received unconfirmed reports that he was planning a robbery of a hotel.

At police headquarters Michael Chalverus was questioned by Captain Burke. Judge Andrew, a member of the Bar of this State, and police judge of Asbury Park, was called in. He asked Chalverus whether he wished to make a statement, and cautioned him that whatever he said must be voluntary and would be used against him in the future. Judge Andrew told Chalverus that he only wanted him to tell the truth and again asked him whether he was willing to make the statement. Chalverus replied "Yes." The confession was then taken down by Officer Rowland in typewriting as Chalverus gave it.

After the statement had been written it was read to Chalverus by Judge Andrew and he was asked if the statement was true, to which he replied in the affirmative. Judge Andrew then said: "You read it yourself," hand-

ing the statement to him. Chalverus took the statement and spent quite some time in reading it. Judge Andrew then asked him: "Do you wish to sign that and swear to it?" He said: "Yes" and signed it. Judge Andrew then administered the oath and filled in and signed the jurat.

Edward J. Burke, captain of detectives of the Asbury Park police department, testified that he was present when Chalverus began his statement which was taken by Rowland on the typewriter, but that he did not remain until it was completed.

Subsequently Schulman, Sherman and Ryne made statements which were reduced to writing by Rowland and signed by them. These statements, however, were not sworn to before Judge Andrew, as he left the police station before they were completed.

The testimony before this Committee was that no force was used to secure these confessions; and that the men were interviewed in a room with three large windows facing on Mattison Avenue which were open at the time. Later, after these confessions had been given, officers from New York came to the police station in Asbury Park to question the men concerning a murder which had been committed in New York. There is no evidence before the Committee as to what occurred at that time.

Following this, the men were given a public hearing before Judge Andrew and were each held in $15,000 bail to await the action of the grand jury. They were committed to jail in default of bail and the complaints and other papers were forwarded to the prosecutor.

The confession of Michael Chalverus stated in part that he had met Dave Schulman and George Sherman in Brooklyn about two weeks prior to the day of the arrest; that he had told them that he "had a good job in Asbury Park and *a chance to make some real dough by sticking up the Berkeley-Carteret Hotel.*" They told Chalverus to get more details and send them word.

On the evening before the date of the arrest, he had met Schulman and Sherman in Asbury Park. They asked him why he had not sent them word and he told them "the joint was too hot." They then inquired if there was anything else in town and decided to go to Spring Lake and "pull a stiff," meaning that they were going to rob some place in Spring Lake to be selected by them at random. Chalverus further stated that he saw Schulman, Sherman and Ryne the next morning at 10:45 at their hotel and asked them whether they were going to Spring Lake. They said they would go there and "pull a stiff" anyway. The confession further stated that Chalverus was to receive a split of whatever they got in robbing the Berkeley-Carteret Hotel or any other place. He said in his confession that he had told Schulman and Sherman that Saturday night was the best night to rob the hotel as "there would be plenty of dough in the auditor's room and they could put some guns in the auditor's stomach and tie them up."

The statements made by Schulman and Sherman referred to the meeting with Chalverus in Brooklyn, and stated that they had procured the gun and had come to Asbury Park for the purpose of robbing the Berkeley-Carteret Hotel. Schulman stated that Sherman had secured the gun from a friend, but that he (Schulman) had carried it and had intended to use it in the robbery. He said that Chalverus had told him that "the payroll at the Berkeley-Carteret was too hot and couldn't be taken," and that they had then decided to rob any place in Spring Lake that looked good. Sherman's confession was to the same effect.

In explanation of Chalverus' statement to Sherman and Schulman that "the joint was too hot," it may be said that the Asbury Park police, after they had received a report that Chalverus was planning to rob a hotel, had searched his room during his absence. Following this search, Chalverus had gone to the police station and inquired why the search had been made. He

was told that the police had a bad report on him, and that he had better "watch his step."

Ryne stated in his confession that he had gone with Sherman and Schulman to Asbury Park at their request; that they had told him that they would get a few dollars in Asbury Park, although their plans were not disclosed to him. He said, however, that after Sherman and Schulman had had a conversation with Chalverus, which he did not hear, they had decided to go to Spring Lake and rob any place that looked good; that they had then planned to steal an automobile and make their get-away.

Copies of these statements were found by the Committee's investigator in the prosecutor's files. The signed originals were produced at the hearing before this Committee.

The case was presented to the grand jury on July 26, 1934, by Prosecutor Tumen. Sergeant McAllister and Captain Burke appeared before the grand jury. Detectives Sullivan and Griggs were subpoenaed to attend as witnesses before the grand jury, but were not called, although they waited at the court house until the grand jury had finished their consideration of the case. The original confessions and the gun and cartridges were presented to the grand jury. The criminal records of the men were also produced and presented.

On this occasion, according to the records in the prosecutor's office and the testimony of the prosecutor, the grand jury voted an indictment against the four men for conspiracy. No suggestion was made to the grand jury that Schulman should be indicted for carrying a concealed weapon, although there was ample evidence of this offense entirely independent of the confessions. There is a question, however, as to whether this evidence was presented to the grand jury.

The next session of the grand jury was held on August 9th. Prior to this session the following letter was received by Prosecutor Tumen at his private law office in Asbury Park:

DANIEL J. SIEGLER
LOUIS A. SIEGLER

SIEGLER & SIEGLER
Counsellors at Law
104 Pennsylvania Avenue
Brooklyn, N. Y.

Applegate 7-7050

"August 7th, 1934.

"Mr. Tuman,
Prosecutor, Freehold County,
Asbury Park, New Jersey.

Dear Sir:

I am interested in the case of State *vs.* Sherman, Schulman, Chavaralek and Ryan. *I was retained by the parents of the first three defendants mentioned to represent them and I have been conducting negotiations in your State through the office of Joseph F. Mattice.*

Will you please inform me whether the above named defendants have been indicted by the Grand Jury and if they have what the charge against them is. If they have not been indicted, kindly advise me as to whether or not they are still awaiting action by the Grand Jury.

Thanking you for any courtesy or consideration you may extend to me in this matter, I am,

Yours very truly,

(signed) LOUIS A. SIEGLER."

(LAS:RS

(Italics ours.)

It will be noted that Louis A. Siegler, the writer of this letter, stated therein that he represented three of the defendants and that he had *"been conducting negotiations in the State through the office of Joseph F. Mattice."* It may here be mentioned that Mattice had appeared in behalf of one or more of the defendants before Judge Andrew at the hearing in Asbury Park.

The prosecutor was questioned before this Committee as to whether he knew the character of the negotiations

conducted by Siegler through Mattice and he denied that he had any such knowledge. He was further questioned as to whether he had made inquiry about such negotiations and he admitted that he had not.

It is significant, however, that on August 9th, which was the date of the next session of the grand jury after the date on which the indictment had been found, the grand jury reconsidered the indictment and voted to rescind it. On the following day the men were released from custody.

In addition to Sergeant McAllister, Judge Andrew and the Asbury Park policemen who participated in this affair, Prosecutor Tumen, First Assistant Prosecutor McDermott and Chief Clerk Woodward testified before this Committee concerning this matter. Woodward testified that after the indictment had been voted Mattice told him that the men had been beaten before the confessions were made, and gave him a list of the names of witnesses who as he said could support his charges. This list included the name of Mattice himself, who was actually called as a witness before the grand jury in behalf of his clients.

Woodward further testified that, prior to the 9th day of August, the prosecutor had told him that the grand jury would reconsider the indictment voted in this case and that he should summon all witnesses who had any knowledge concerning the alleged beating. *He said that he summoned the persons whose names Mattice had given him and no one else.*

Prosecutor Tumen denied that he knew why the grand jury reconsidered the indictment, and, in fact, denied that he knew that they proposed to reconsider it. He said that he believed that the grand jury called for the witnesses whom they desired to be examined. This is in sharp conflict with the testimony of Woodward that the prosecutor himself told Woodward that the indictment would be reconsidered and directed Woodward to summon the witnesses. Inasmuch as Woodward actually

summoned the witnesses his story is the more probable of the two.

On the morning of August 9th the prosecutor called Woodward on the telephone and said that he could not appear before the grand jury that day and directed Woodward to ask Mr. McDermott to appear. Woodward gave McDermott the list of the witnesses whom he had summoned and the copies of the confessions which were in the file. McDermott testified that he had no knowledge of the case and did not know what evidence had been presented to the grand jury by the prosecutor on the day the indictment was voted. He secured no information concerning it prior to the presentation of the matter to the grand jury, although he glanced through the confessions while the matter was being heard. He said that he did not know how the matter came before the grand jury but stated that he *assumed* that some member of the grand jury moved the reconsideration of the case.

The sole subject of inquiry before the grand jury on the reconsideration of the indictment was the question as to whether the men had been beaten at or prior to the time that they confessed. Judge Andrew, who took the confession of Chalverus and who, as above stated, testified before this Committee that Chalverus was warned that any statement which he made must be entirely voluntary and would be used against him, was not called before the grand jury either on July 26th when the indictment was voted or on August 9th when it was rescinded. Captain Giles, Detectives Sullivan and Griggs and Officer Rowland, were present when the confessions were made, but none of them were called at any time before the grand jury. It appears from Captain Burke's testimony that he was not subpoenaed to attend in this case on the day the indictment was reconsidered, but that he happened to be there on another case and was called as a witness.

McDermott testified that he did not know that the testimony of the police judge and the police officers who participated in the taking of the confessions had not been

presented to the grand jury at the earlier hearing, although he conceded that the slightest examination of the minutes of that hearing would have disclosed that fact. He, however, failed to make the examination. He did not suggest to the grand jury that, without regard to the confessions, Schulman was indictable for carrying a concealed weapon. It does not appear that he knew that this was the fact although Tumen was informed or should have been informed of that fact.

As above stated although the grand jury had not heard the testimony of the officers who took the confessions, they voted to rescind the indictment because in their opinion the confessions had not been properly taken. On that evening or the next morning either McDermott or Woodward advised Tumen that the indictment had been rescinded and Tumen instructed Woodward to secure an order from the court for the discharge of the men from custody. They were discharged on the next morning without disclosing any of the facts to the court, except that the grand jury had not found an indictment.

McDermott admitted that if he had been prosecutor and had known the facts of the case and the manner in which the case was presented to the grand jury at the earlier hearing, he would not have permitted the defendants to be discharged without disclosing all of the facts to the court and opposing such discharge.

No effort has subsequently been made to indict these men and it is, of course, doubtful if they could now be apprehended if they were indicted.

This case involves a very gross miscarriage of justice which, in the opinion of this Committee, is primarily attributable to the prosecutor. The prosecutor must have known when he received Siegler's letter of August 7th that the defendants' counsel was endeavoring to interfere with the orderly processes of justice. We can think of no lawful negotiations which might be conducted by the counsel of a person charged with crime whose case was pending before the grand jury. That

such negotiations were conducted either with members of the grand jury or with the prosecutor's office or more probably with the prosecutor himself whose private law office was in the same building as the office of Mattice is apparent from the fact that the prosecutor knew prior to August 9th that the case would be reconsidered by the grand jury, although the grand jury had not been in session since July 26th, when the indictment was voted.

The action of the prosecutor's office in calling Mattice, the attorney of these defendants, before the grand jury as a witness, notwithstanding the fact that he was not present at the time the confessions were taken, cannot be too strongly condemned. It is significant that the only witnesses subpoenaed to attend before the grand jury at the time of the reconsideration of the indictment were the men whose names were given the prosecutor's chief clerk by the defendants' attorney. The fact that the witnesses who were present when the confessions were taken were not called and that the grand jury never heard their testimony is sufficient to utterly condemn the prosecutor for gross inefficiency or worse.

The proof, which was readily accessible to the prosecutor, and which was entirely independent of the confessions, that Schulman carried a loaded .38 calibre revolver concealed in a box while on the Boardwalk in Asbury Park, was entirely ignored and no suggestion was made to the grand jury that Schulman should be indicted for this serious offense. The conduct of this case presents either a gross failure to perform a clear and easily understood duty or a corrupt connivance with the counsel of dangerous criminals to the end that such criminals might escape punishment.

The prosecutor was afforded ample opportunity to explain his conduct of this matter and his testimony relating thereto confirms our conclusion as to his guilt. We are convinced that the manner in which this case was handled is in itself a sufficient ground for impeachment of the prosecutor. The facts concerning the prosecutor's

conduct of this case should be presented to a grand jury with the assistance of an able and fearless prosecutor.

Gun Permits to Gangsters.

This Committee ascertained that on December 29, 1932, Irving Wexler, a notorious gangster, otherwise known as Waxey Gordon filled out an application for a permit to carry a revolver. This application was sworn to before David H. Davis, an attorney at law, who at that time was and who now is employed in the law office of Tumen and Tumen in Asbury Park, New Jersey. Jonas Tumen is a member of this firm. Davis also took the affidavits of the three men who vouched for Irving Wexler and delivered the application to Horace L. Byram, who was then Chief of Police of Asbury Park. Byram certified that he had investigated the statements contained in Wexler's application and that such investigation had satisfied him that the applicant might safely be permitted to carry a revolver concealed upon his person. Byram sent the application to the county clerk. It was the practice of Judge Truax to refuse to issue gun permits unless the prosecutor endorsed the application. The application for Waxey Gordon's permit bears the endorsement "O. K. H. B. Crook," which is in Crook's handwriting. Judge Truax issued the permit.

On December 29, 1932, Max Greenberg, also a gangster and bootlegger, filled in an application for a revolver permit. His affidavit and the affidavits of the persons who vouched for him were also taken before David H. Davis, who subsequently took the application to Chief Byram. Chief Byram made the same certificate on the Greenberg application as on the Waxey Gordon application and that too was forwarded to the county clerk and referred to the prosecutor for his O. K. The permit was issued presumably after the O. K. of the prosecutor's office had been secured.

A similar application was made by Max Hassell, also a notorious underworld character, on January 7, 1932.

Hassell's affidavit and the affidavits of the persons who certified to his good character were taken before Davis on January 7, 1932, after which Davis took the application to Chief Byram, who made a certification thereon similar to the one made in the Wexler case. This application was forwarded to the county clerk's office and then taken to the prosecutor's office. It is endorsed "O. K. Jonas Tumen, prosecutor." This endorsement was in the handwriting of Mr. Woodward, chief clerk in the prosecutor's office, who was authorized by the prosecutor to make it. This permit was also issued.

Mr. Tumen, Mr. Davis, Mr. Crook and Chief Byram all testified that they did not know that any of the applicants were gangsters or underworld characters. Byram admitted, however, that he made no investigation of any one of the three, but that his certificate was based solely upon the application and the affidavits of the men who vouched for the applicants.

While there is no direct proof in this case that anyone connected with the prosecutor's office knew that the applicants were underworld characters, this Committee is of the opinion that the failure to prosecute Lillien, a noted gangster, for carrying a gun without a permit, the like failure to prosecute Schulman for the same offense in its most aggravated form and the issuing of gun permits to Waxey Gordon and his associated gangsters upon mere formal applications without investigation all demonstrate absolute indifference to the public safety, gross inefficiency or serious corruption on the part of the prosecutor.

The Personnel of the Force Employed by the Prosecutor and the Destruction of Their Reports.

Immediately upon assuming the duties of his office as prosecutor of the pleas of Monmouth County, Mr. Tumen requested the resignations of John M. Smith, who had been chief county detective for nearly twenty years, and of four of the other five county detectives then employed

in the prosecutor's office. These county detectives, being protected by the civil service law of this State, refused to resign. The only explanation given by Mr. Tumen when testifying before this Committee was that he desired to have county detectives of his own selection.

Immediately upon his appointment he engaged Harry B. Crook as chief investigator. Mr. Crook was then placed in charge of the county detectives, who were instructed to act only upon his orders. This assertion is based upon the testimony of Mr. Sacco and Mr. Kent, two of the county detectives. Messrs. McDermott and Carton, the two assistant prosecutors, stated that it was their understanding that Crook was placed in charge of all the detectives when he first came into the office. Notwithstanding this testimony, Messrs. Tumen and Crook both denied that Crook was placed in charge of the county detectives until after Mr. Smith left the office. The evasive manner in which this denial was given would cast doubt upon it, even though it were not directly contradicted by the testimony to which reference has above been made.

Mr. Crook was subsequently appointed chief county detective on July 23, 1931, after civil service examination. Mr. Tumen, when asked why he selected Mr. Crook, stated that he had known him for about a year, although his contact with him had been very slight. While he claimed to have made various inquiries about him, the only persons from whom these inquiries were made, who were mentioned by Mr. Tumen, were Mayor Hetrick and Richard W. Stout. Mr. Crook appears to have had but slight qualifications for the post to which he was appointed. At the time of his appointment he was acting as house detective for Steinbach's Store and for several hotels in Asbury Park. He was not a regularly licensed detective, although he and certain relatives of his had formed an association not for pecuniary profit for the purpose of investigating crimes. He testified that his purpose in forming this association was profit and that through a "joker in the act" he was able to utilize this

association for his purpose. He had conducted a finger-print school in Newark and had also been engaged to supply guards for estates in Monmouth County, among which was the Mansion House, which was reputed at that time to be a gambling house. The prosecutor said that Crook claimed to have done some work for the Essex County prosecutor's office. He stated that he believed he made inquiry as to the character of the work, but could not name the person from whom such inquiry was made. He was quite positive that he had not inquired of Mr. Hargan, who was then chief of county detectives in Essex County.

Prior to the appointment of Mr. Tumen as prosecutor it had been the custom in Monmouth County to engage private detective agencies to make investigations for the prosecutor's office. The Northwestern Agency had been employed by Mr. Tumen's predecessor and the services of this agency continued for a time after Mr. Tumen's appointment.

On the tenth day of March, 1930, one Frank Campbell, who is a brother-in-law of Harry B. Crook, applied to the Comptroller of New Jersey for a license as a private detective, stating that he intended to operate under the name of National Bureau of Investigation. In his application which was verified by his oath, he stated that he resided at 1016 Fourth Avenue, Asbury Park, which was then the residence of Harry B. Crook, and Mr. Crook was a surety on the bond which Campbell gave at the time his license was secured.

Mr. Campbell at this time did not reside in Asbury Park, or, in fact, in the State of New Jersey, but was a resident of the State of New York. One Leo F. Meade, a former post office inspector who had been removed from the Federal service for failure to report a shortage in a postmaster's account, was engaged to conduct the National Bureau of Investigation, Campbell giving it no personal attention. This bureau was retained by the prosecutor to make investigations for his office during the entire period of his incumbency and received as con-

sideration for this service the aggregate amount of $85,186.05.

Most of the bills submitted to the prosecutor's office by the National Bureau of Investigation state that detailed reports of the investigation made were supplied to the prosecutor. This Committee endeavored to secure copies of these reports, but without success. Mr. Meade testified that he had kept copies of all reports submitted to the prosecutor, but that in December, 1932, after the Hobart Act had been repealed, he destroyed all copies of reports involving liquor violations, except reports which covered cases then pending.

He further testified that in July, 1933, he destroyed his copies of all other reports which had been made to the prosecutor up to that date, except reports in cases then pending. He said that he did this because he expected to leave the service of the National Bureau of Investigation at that time, and the bureau was moving into smaller offices. He subsequently determined, however, to remain with the bureau.

The reason which he gave for the destruction of the copies of these reports impresses the Committee as most improbable.

When he first appeared as a witness before the Committee he stated that he had in his possession copies of all reports made subsequent to July 1, 1933. When subpoenaed, however, to produce such copies and also to produce the books of account of the National Bureau of Investigation he applied to the Supreme Court for a writ of certiorari to set aside the subpoena. This attempt on his part having failed, he appeared before the Committee and produced very meagre accounts *for the years 1933 and 1934* and then stated to the Committee that his books of account for prior years had been destroyed in July, 1933.

He produced no copies of reports prior to January, 1934, saying that copies of the previous reports had been destroyed, although this statement was in direct conflict with his previous testimony.

Mr. Woodward, the prosecutor's chief clerk, was subpoenaed to produce all reports sent to the prosecutor by the National Bureau of Investigation. He appeared in response to the subpoena without producing a single report. He stated that no such reports had been received by him, except where prosecutions based on such reports had been instituted, in which event the reports were in the files of the prosecutor's office. He, however, failed on this occasion to produce any of the reports which were said to be in such files.

Subsequently Mr. Tumen was examined as a witness, and he testified that all of the reports of the National Bureau of Investigation were sent to his private law office in Asbury Park; that they were examined by him alone, and that he determined whether or not prosecutions should be based on such reports. *He further stated that all of the reports on which prosecutions had not been based had been destroyed by him* and that the reports on which prosecutions had been instituted were in the files of the prosecutor's office. When questioned, however, concerning specific cases of record in his office in which employees of the National Bureau of Investigation had acted as complaining witnesses and in which no reports from the bureau appeared in the files of the prosecutor's office, he stated that perhaps he was in error in his previous testimony that the reports in all cases in which prosecutions had been instituted were in the prosecutor's files. He said that he did not know what reports were now in the prosecutor's office.

Several former employees of the National Bureau of Investigation were examined. They testified that they were instructed to visit only the places named on lists furnished to them by Mr. Meade. Mr. Audley, one of such employees, mentioned two occasions where he secured evidence of violations of the intoxicating liquor law in places not included on the list furnished by Mr. Meade and was severely reprimanded for so doing. He stated that he was not permitted to report these violations to the prosecutor.

Both Mr. Audley and Mr. Brower, another employee of the same agency, testified that although they secured evidence of numerous violations of the liquor law, they were never called before the grand jury in Monmouth County, although in other counties where similar evidence was secured by them they invariably appeared as witnesses before the grand jury.

It is, we believe, significant that the reports furnished by this agency to the prosecutor and the copies of such reports retained by the agency covering the years 1930-1933 inclusive should have been destroyed. As will be hereafter shown, the years 1930-1932 cover the period when Philip L. Phillips was active in the collecting of graft from speakeasy proprietors and other law breakers.

Protection Money Paid During Tumen's Administration by Persons Engaged in Illegal Manufacture or Sale of Intoxicating Liquor.

Shortly after Mr. Tumen's appointment as prosecutor of the pleas, one Philip L. Phillips, who conducted a small men's furnishings store in Asbury Park, commenced his operations as a collector of protection money from persons engaged in the illegal manufacture or sale of intoxicating liquor. The method followed by him was either to send for or to make a personal call upon individuals engaged in this business and to tell them that if they desired to continue in such business they must make a payment to him. The amounts demanded varied from a few hundred dollars to fifteen hundred dollars a year. At least in one instance he stated that he represented the prosecutor's office. In other instances he demanded what he designated as "campaign contributions" without, however, stating for which party he was soliciting funds. His victims almost without exception testified that they were paying him for protection of their illegal business. In some instances his demands were not met until after his victims had been raided by the prosecutor's office. In such cases prosecutions did not follow the

raids if his demands were complied with, except in one or two instances which will be hereinafter mentioned.

Cases Where Raids Were Made.

In August, 1930, Mr. Raymond Thorne, who had a farm near Freehold, on which he conducted a cider mill and on which he also had some distilling equipment, was raided by Harry B. Crook and his staff of detectives. The distilling equipment and a considerable quantity of apple whiskey were seized at this place. Mr. Thorne was held in bail for the action of the grand jury. Two weeks after the raid, as testified by Mr. Thorne, Leo F. Meade of the National Bureau of Investigation called him on the telephone and asked him to appear at Meade's office. Thorne went to the office of the National Bureau of Investigation and Meade asked him if he had an attorney, to which Thorne replied in the negative. Meade then advised him to consult Louis Tumen, a brother of the prosecutor.

Thorne did not consult Louis Tumen, but was subsequently advised by Harry Forman, whom he understood to be engaged in the liquor business, to go to see Philip L. Phillips about his case. Thorne went to Asbury Park, saw Phillips and tried to make an arrangement with him whereby, in consideration of the payment of a sum of money, he would not be prosecuted. Phillips was apparently reluctant to do business with Thorne, but asked him to return within a week. Upon Thorne's second visit to Phillips he paid Phillips $500 for the purpose of keeping his case from going to court. Patrick Collins, who was a half owner of the distilling equipment seized on Thorne's farm and who also appeared as a witness before the Committee, testified that he contributed one-half of this sum. The records of the prosecutor's office show that the grand jury failed to indict Mr. Thorne, notwithstanding the fact that the evidence as disclosed by such records appeared to be convincing. The Committee has been unable to examine the minutes of the

grand jury for the purpose of ascertaining whether or not the case was presented to it.

Thorne further testified that on the occasion of his second visit to Phillips he asked Phillips how much he (Thorne) would be required to pay to continue in the business of distilling and selling apple whiskey. Phillips stated that he would be obliged to consult his associates. He later tried to make an arrangement with Thorne under which Thorne would make a payment based upon the number of gallons of apple whiskey produced by him. This arrangement was not satisfactory to Thorne and ultimately an arrangement was made under which Thorne agreed to pay Phillips $1500 a year.

Thorne testified that he paid Phillips $1500 in 1930 and $1300 in 1931, these payments being made in installments of $100 or $200 and taken by him to Asbury Park. He said that in consideration of these payments Phillips agreed that Thorne would not be molested by the county and would be notified if any Federal prohibition agents were working in his vicinity. After Thorne made his initial payment of $500, he was advised by Phillips that if he would go to Abrams' junk yard he could secure the return of his distilling equipment upon paying an amount of money to Abrams. This, however, Thorne did not do. *Thorne continued in the distilling business for approximately two years and was not disturbed by the county.*

Meade denied that he had suggested to Thorne that he consult Louis Tumen, but admitted that Thorne had had an interview with him (Meade) in his office at Red Bank. Phillips admitted talking to Thorne about the raid, but denied that he asked for or that Thorne paid him any money.

The prosecutor, when questioned as to why he did not send his detectives to inspect Thorne's place after the grand jury had failed to indict, stated that perhaps he did, but that he could not tell whether or not he had done so and that he had no records in his office or elsewhere from which this information could be secured.

Andrew Dougherty of Fairhaven testified that prior to the repeal of the Eighteenth Amendment he was engaged in the lunchroom business on Shrewsbury Avenue in Red Bank and that he commenced such business in 1930.

In April, 1931, Mr. Dougherty's place of business was raided by county detectives and he was arrested. The raiding party found several bottles of whiskey which were confiscated. Dougherty gave bail to await the action of the grand jury.

During the latter part of April, 1931, or early in May, Phillips called at Dougherty's place of business and stated that he desired a contribution of $350. He told Dougherty that people who were in the liquor business were making such contributions. On the following day Dougherty went to Phillips' store in Asbury Park and paid him $350 in cash.

Dougherty testified that he never heard anything further from the raid and to the best of his knowledge no indictment was ever found against him. *He continued in business until about the end of 1932 and was never again disturbed by the county authorities or by anyone else.* In the year 1932, however, Phillips called upon him again and asked for a further payment of $350, which, Dougherty paid to Phillips out of the proceeds of a bonus check which he had received from the government. He stated that he made these payments to Phillips because he realized that he was in an illegal business and that he wanted protection for that business and hoped that by paying Phillips he would secure that protection.

Tory Kawamoto (known as Tory) of Monmouth Road, West Long Branch, testified that he had operated a restaurant in that town for about six years and that during the period of prohibition he had sold intoxicating liquor at that place. In April, 1930, his place was raided by the county detectives and the intoxicating liquor found in his place was confiscated. He gave bail before Edward G. Forman, Supreme Court Commissioner, to answer to any indictment that might be found against him. The

records in the prosecutor's office show that on April 12, 1930, a search warrant, issued against Tory's place, was returned showing the seizure of champagne, gin, rye and bacardi.

In May, 1930, one Al Elliott, who is now deceased, called at Tory's place of business and suggested that Tory contribute to the "campaign fund." Tory told him that he did not have the money at that time but would give it to Elliott later in the fall and in the autumn of 1930 he gave Elliott $500 in cash. The records of the prosecutor's office show that Tory was not indicted, although they indicate that his case was presented to the grand jury. The Committee has no means of determining in what manner this presentation was made.

Tory continued to sell liquor at his restaurant and in 1931 Elliott collected $350 from him.

In the autumn of 1932, Elliott having died, Tory went to Phillips' store in Asbury Park and paid Phillips $350. Tory was never troubled by the county after the 1930 raid.

Tory testified that he knew that if the county authorities raided him any more, he could not continue his business and that the payments were made by him to avoid this trouble.

Mr. Tumen when asked about this case stated that the evidence was presented to the grand jury, although he could not say who presented it. He said that he had never had a complaint against Tory. He insisted that he had given general instructions to have all places which had once been raided subsequently investigated, although he could mention no specific instructions given with regard to Tory's place. He stated that notwithstanding the fact that Tory knew that he was the prosecutor of the pleas, he himself had attempted to personally secure evidence of illegal sale of liquor there.

The fact is that after making payments to Phillips, Tory continued his illegal business without further molestation on the part of the county.

Ray Sanborn of Shrewsbury testified that during the period of prohibition he operated a speakeasy on Shrewsbury Avenue, Shrewsbury, adjoining the Red Bank airport. He testified that he opened his speakeasy in the summer of 1932 and ran it during 1932 and 1933; that just before Christmas in 1932 he was arrested by the state police, who had come to his speakeasy in the course of a search for a defaulting contractor. They found a large quantity of intoxicating liquor and three slot machines on his premises, and seized both the liquor and the machines. He gave bail before Supreme Court Commissioner Forman, but he was never indicted.

We think that he must have been in error as to the date of the raid for the records in the prosecutor's office show that Arthur Wise, a trooper of the state police, participated in a raid on Sanborn's place on December 19, 1931, at which a considerable quantity of gin, scotch whiskey, port wine, rye whiskey and applejack were seized; that one quarter slot machine, one dime slot machine, and one nickel slot machine were also taken in the raid.

Sanborn testified that shortly after he had opened his place, Phillips called upon him and told him that he must pay Phillips or go out of business. Sanborn paid him $250 that year in installments of $25 or $50 each. These payments were made at Phillips' clothing store in Asbury Park on some occasions and on other occasions they were made to Phillips at Sanborn's place of business. At the time of the raid, he had paid at least $200 to Phillips.

He said that immediately upon his return from Freehold, after giving bail, he returned to his speakeasy and opened it and resumed business. He was not indicted. This is shown not only by Sanborn's testimony but also by the record in the prosecutor's office. The following year he paid Phillips $200 in installments. *No other raid was made upon him by the prosecutor's office.*

Mr. Tumen, when questioned about this matter, stated that he got no further evidence against Sanborn, al-

though he could give no specific information as to subsequent investigations. He was asked what witnesses were called before the grand jury in the Sanborn case, but was unable to answer the question. He was then asked if he would join the Committee in an application to permit them to inspect the minutes of the grand jury, but stated that he would regard it as his duty to oppose such an application.

George McDonald of 215 Main Street, Keansburg, testified that he was in the hotel business and had operated a hotel at the above address since 1928. During the period of prohibition he sold intoxicating liquor at this hotel. In 1931 he was raided by Chief Crook and other county detectives and intoxicating liquor and beer were seized. A short time after the raid, Phillips made his first visit to McDonald's place and introduced himself. McDonald was reluctant to testify as to what Phillips said to him on this occasion. He said, however, that Phillips let him know that he (Phillips) knew that McDonald had been raided and led McDonald to understand that if no payment were made to Phillips, it would go hard with him, but that if such payment were made, Phillips could help him. McDonald had heard that Phillips was collecting. Phillips asked McDonald for $500 which McDonald testified he paid to Phillips in installments of $250 each on two occasions when Phillips called at his hotel. No prosecution against McDonald followed the above mentioned raid.

In 1932 Phillips called upon McDonald again and asked for $500. McDonald paid Phillips $200 during that year in three installments. He stated that when he paid this money he had the idea that if he paid he would not be troubled by the county authorities. *He was not raided again.*

Mr. Tumen testified that he knew McDonald and believed him to be a truthful man. In this case, as in the others, Tumen was unable to testify specifically concerning any further efforts to ascertain whether McDonald

continued to sell intoxicating liquor in violation of the law.

Frank Horan of Highlands testified that in 1930 he was selling whiskey. He did not have a speakeasy but delivered whiskey to his customers. In the spring of 1930 Mr. John Ahearn introduced Horan to Phillips at Horan's house. Phillips asked Horan for $500 and told him that Ahearn had contributed that amount. Horan did not pay Phillips anything at that time but shortly thereafter, in response to a telephone call from Phillips, he went to his store in Asbury Park and paid him $250.

Horan testified that Phillips was not satisfied with this amount and shortly thereafter Horan was raided by Chief Crook and other county detectives. After the raid Horan went to see Phillips again and paid him an additional $250. Some time after this payment was made Phillips called Horan on the telephone and told him that he had been indicted. Horan knew nothing of his indictment until he heard of it from Phillips. Subsequently Horan was fined by the court at Freehold.

In 1931 Horan was again asked for a $500 payment by Phillips and this time he paid the money to him in several installments. *He was not raided in 1931. Horan testified that his trouble with the county commenced when he stopped paying Phillips.* The raid was said to have occurred about six months after the first payment had been made to Phillips during which period Horan had not contributed the additional $250 which Phillips had demanded. In fact, Phillips had called upon Horan and asked for the balance of the payment and Horan had stated that he could not and would not make any further payment. Horan testified that in 1931 he paid $500 because he thought if he did that he would not be raided and indicted as he had been during the previous year, *and, in fact, the payment having been made, no such raid occurred.*

Steve Canonico, who lives in Red Bank, testified that he had been in the restaurant business during the period of prohibition at 191 Shrewsbury Avenue, Red Bank and

that he had sold intoxicating liquor in his restaurant. He testified that he had been raided by Chief Crook and Detective Mustoe and that liquor and beer had been found in his restaurant. He gave bail and subsequently pleaded guilty and was fined $100 and costs. He was placed on parole for three years, during which time he paid off his fine at the rate of $2 a week.

About three months after the raid he was advised by Andrew Dougherty, of whom mention has above been made, to go to see Phillips to get protection for his liquor business. He went to Phillips' store in Asbury Park and told him that he was selling liquor, whereupon Phillips told him that if he wanted protection it was necessary to make a payment of $200. Canonico paid Phillips $100 at that time and an additional $100 two weeks later, both payments being made at Phillips' store. He testified that his plea of guilty was entered after he had called on Phillips. During the time he was on parole he continued to sell liquor.

In 1932 Canonico paid $200 to Phillips in two installments. He was not raided during that year.

The experience of Jacob Sibilio is in striking contrast with the cases of which mention has above been made. He testified that from 1926 to 1932 he conducted a speakeasy at various locations in Asbury Park. In June, 1932, Phillips called at his speakeasy and said that he wanted to see Sibilio, and the latter went to Phillips' store to have a talk with him. On this occasion Phillips told Sibilio that it would cost him money to continue in his business, and that he must pay $500. Sibilio said that he did not have that amount of money. Phillips gave him three weeks' time in which to raise it, at the expiration of which time Sibilio requested and received a further extension of one more week.

At the end of the fourth week Phillips called at Sibilio's speakeasy and told the latter to come to Phillips' store. Sibilio complied with this request, and Phillips again asked for money. Sibilio stated that he could not pay because he did not have the money. A few days later Sibilio was raided by Byram, who was then Chief of Police of Asbury Park. He was taken before Louis Tumen, a brother of the prosecutor, who was then judge of the Asbury Park police court, and fined $100. He continued in business, and the following week was raided again. Nothing was found in his store at this time, and he was not fined. Later in the same week he was raided a third time, and again nothing was found. The following week he was raided for the fourth time. He then decided to close his business, and from that time on he did not conduct a speakeasy.

Cases in Which Collections Were Made and No Raids Occurred.

The Committee examined a number of former speakeasy proprietors concerning the story that Philip L. Phillips had collected protection money from them during prohibition. Considerable testimony was adduced on this point and such testimony conclusively demonstrates that collections were made on a large scale from speakeasy proprietors and others engaged in the illegal sale of liquor. Practically all the witnesses were reluctant to tell their stories, since they all seemed to fear some sort of reprisal from the county authorities who are still in office, but notwithstanding this, a great deal of evidence was collected.

The Committee feels that it but scratched the surface in this line of investigation. It would, however, take an incalculable amount of time to examine all of the very numerous speakeasy proprietors who operated in Monmouth County during prohibition, and the Committee is satisfied that it has sufficient evidence in this line to show that it was a common practice for speakeasy proprietors throughout the county to pay protection money.

Joseph Popok, of Asbury Park, was engaged in the bottling business during prohibition and sold large quantities of beer. In 1930 he received a telephone call from Philip L. Phillips, who told him that somebody wanted to see him at the Kingsley Arms, in Asbury Park.

Popok and Phillips went to the Kingsley Arms and went to a room on the third floor, which Phillips indicated. Popok entered the room and found David Tumen, a brother of the prosecutor, Jonas Tumen, in the room. Tumen asked Popok for payment of $1 on each half-barrel of beer which the latter sold. Popok refused to agree to this price, and subsequently Phillips called Popok on the 'phone and asked for money. Popok agreed to pay Phillips $1,000, which amount he paid in four payments of $250 each. These payments were made at Phillips' store in Asbury Park.

In 1931 Phillips called Popok on the telephone and told him that he still owed money from the year before, specifying the amount as being $1,000. Popok did not pay that amount, but in 1931 he paid Phillips $750 at his store in Asbury Park.

Popok testified that his business had fallen off in 1931 and that he was told it was because he wasn't "in right" and that he had better fix things up. He said that he thought that the reason his customers were leaving him was because a competitor of his named Michaelson was paying $1.00 per half-barrel for beer, and because of that Michaelson stood in better with the authorities. The county detectives did not raid Popok's business and he was never prosecuted.

Emil Hofmann, who operated a hotel at Colts Neck, paid Philip L. Phillips $200 in 1931, of which amount $100 was paid at his hotel and the other $100 at Phillips' store in Asbury Park. Hofmann offered Phillips a check for $200, but Phillips refused the check and insisted on cash. *Mr. Hofmann was not raided by the prosecutor's staff during the Tumen administration.*

Daniel Mack, of Atlantic Township, Monmouth County, whose name had appeared on a list submitted by Phillips to Norman Mount (an operator of slot machines, hereinafter mentioned) as a list of men who were likely to be raided, was introduced to Phillips by Mount, and made an arrangement with Phillips that he would pay $400 per year while he operated a still. Mack paid

Phillips $400 in cash in 1930, after offering Phillips a check, which the latter refused. The payment was made to Phillips in his car on the street in Red Bank. *Mr. Mack was not raided by the county authorities during the Tumen administration.*

Wilbur Gardner, of Eatontown, conducted a place at Port-au-Peck, in which he sold liquor. In 1930 and 1931 Gardner paid various amounts of money to Phillips, to whom he had been introduced by Mr. Ford, a slot machine operator. In 1930 the total amount paid by Gardner was about $350. In 1931 he made one payment of $200 and several payments of $50 each. *Mr. Gardner was not raided by the prosecutor's staff during the Tumen administration.*

Arthur Lawrence of Asbury Park, who formerly conducted a small Inn at Oakhurst in Monmouth County where he sold intoxicating liquor, agreed to pay Phillips $300. He paid Phillips either $100 or $150 at the time the agreement was made, but gave up his business very shortly after that and made no further payment. *Mr. Lawrence was not raided by the county authorities during the Tumen administration.*

William F. Conway, who with his partner William Cashen conducts an inn about a mile outside of Freehold in Monmouth County, sold liquor during the period of prohibition. Phillips called at the inn in 1930 and asked Conway for $300 and Conway paid that amount at that time. In 1931 Phillips called again at the hotel and again Conway paid him $300. In 1932 Phillips called again and Conway paid him $100 at the time and subsequently took an additional $100 to Phillips' store in Asbury Park. *Mr. Conway was not raided by the county authorities during the Tumen administration.*

James Perry of Long Branch, who has operated the Hill Top Club in Oceanport from 1932 to date, went to see Phillips at his store in Asbury Park in response to a card which had been left at his place telling him to go to Phillips' store and although he could not pay Phillips on the day of his first visit he subsequently, in August,

1932, paid $100 to Phillips. He agreed to pay Phillips an additional $100 but never did so. Prior to 1932 Perry had not been engaged in any illegal business and he made no payments to Phillips prior to that time. *James Perry was not interfered with by the prosecutor during the Tumen administration.*

Rene Brown, of Highlands, sold intoxicating liquor during Prohibition which he delivered to his customers. He did not have an established place of business. In 1930 Phillips called him on the telephone, arranged for an appointment with him, and when they met Phillips asked him how much he could pay. Brown offered to pay $100 and at that time paid $50 in cash. Later in the summer, Brown paid an additional $50 to Phillips at his store in Asbury Park. In 1931 Brown again paid $100 in two installments to Phillips. *He was not molested by the prosecutor's staff.*

James Cartwright, of Freehold Township, testified that he had operated an inn just outside of Freehold since the spring of 1932. Prior to that time he did some bootlegging; in which business he was engaged for eight or ten years. In 1932 Philip L. Phillips called him on the telephone and asked him to come to Asbury Park to contribute some money. Cartwright did not go and Phillips made two more telephone calls. Finally Cartwright went to Phillips' store in Asbury Park and paid Phillips $200. This money was placed in an envelope on which was written Cartwright's name and the envelope was placed, at the direction of the clerk in Phillips' store, on the desk in the back room of the store. At the time Cartwright made the payment, he was selling liquor at his inn.

Joseph Crine, who operates a hotel business in Sea Girt, was a partner of James P. Cartwright in 1932 in the Cartwright Inn, and he testified that Mr. Cartwright made a payment of $200 to someone in Asbury Park; that he had found the slip for $200 in the box in which petty cash was kept, which indicated that $200 had been withdrawn therefrom. Written on the slip were the

words "$200 paid to campaign fund in Asbury Park." Crine testified that Cartwright had considered the payment necessary; that although he was upset about it, he had accepted Mr. Cartwright's judgment concerning the necessity of making the payment. *Mr. Cartwright was never raided.*

Charles Reppard, of Red Bank, was in the restaurant business on Wharf Avenue, in Red Bank, from 1931 until March, 1934. Prior to opening his restaurant, he went to see Philip L. Phillips in Asbury Park, at the suggestion of some of his friends, to purchase protection for the business in which he was about to engage, which was to include selling intoxicating liquor. The appointment was made by telephone and when Reppard called at Phillips' store, he told Phillips that he desired to sell whiskey. Phillips told him that protection would cost him $150 and Reppard paid that amount in cash. In 1932, Phillips called at Reppard's restaurant in September, and Reppard paid him another $150. *Mr. Reppard was never raided.*

Frank Markstein, of East Keansburg, testified that he had been in the restaurant business eleven years and that he had sold intoxicating liquor at his restaurant during Prohibition. In July, 1931, Philip L. Phillips called at his place of business and asked Markstein if he expected to donate to the campaign. Markstein asked if the rest of the boys were doing it and Phillips replied in the affirmative. Phillips asked Markstein for $250. Markstein understood that all the men engaged in the liquor business were making these payments and about a week after Phillips' visit, he paid Phillips $250 in cash when Phillips called at his restaurant.

In July, 1932, Phillips asked for $300 and Markstein paid this amount in three payments of $100 each. *Markstein was never raided by the county authorities after he had made his payments to Phillips.* He testified that he would not have paid this money had he not been engaged in the liquor business.

Charles Melvin Johnson, 152 Bay Avenue, Highlands, testified that he had been engaged in the hotel business for eight or ten years at the Highlands and that during the period of Prohibition, he sold intoxicating liquor in his hotel. Shortly after Jonas Tumen became Prosecutor of Monmouth County, Philip L. Phillips called on Johnson at his hotel and asked Johnson for $500. Johnson paid him $250 on the first day on which he called. Johnson was prepared to pay this amount because of the stories which he had heard that Phillips was authorized to make these collections.

Johnson further testified that he paid the money because he thought that if he did, he would not be bothered by the county authorities and that that was the only reason which prompted him to make such a payment. In 1931 Johnson paid Phillips $500 in installments of $50 and these payments were made on an average of once a week in Phillips' store in Asbury Park.

In 1932 Johnson paid Phillips $450 in installments of $50. *During the period in which Johnson made these payments to Phillips, he was not raided by the County authorities.*

Robert Brower, of Red Bank, testified that he had conducted a restaurant at Red Bank for thirteen or fourteen years and that during the period of Prohibition, he sold liquor at this restaurant. In 1930 Philip L. Phillips was introduced to him at his place of business by someone whose name he did not know and Phillips told him that he knew what kind of a business Brower was in and that he would have to come down to Asbury Park and fix things up if he wanted to continue. He told Brower it would cost $300 to fix things up and Brower agreed to pay that amount. A week or so later, Brower went to Phillips' store in Asbury Park and paid him $300, the payment being made in the back room of the store.

In 1931, Phillips stopped at Brower's place again and told Brower to come down and see him again. Brower did so and again paid Phillips $300 in cash.

In 1932, Phillips called again and asked for the same amount but when Brower went to see him, he paid him only $150. Phillips was not satisfied with this amount and told Brower to come back in two weeks and give him another $150. Brower said that he could not do so because he did not have the money. *During the Tumen administration, Brower was never raided by the County authorities.*

August Kleinschmidt testified that he had operated a hotel in Red Bank during the period of Prohibition at which he had sold liquor. In the early part of the summer of 1930, Phillips called at Kleinschmidt's hotel *and introduced himself as connected with the Prosecutor's office* and asked Kleinschmidt for a contribution. Phillips told Kleinschmidt, "You are on the list for $500." Kleinschmidt said that he was unable to pay and Phillips told him that he would be sorry if he did not. Kleinschmidt finally paid him $200 sometime during the following week and $50 some time during the fall of that year.

The second payment was made at Phillips' store in Asbury Park. Phillips gave Kleinschmidt to understand that he could continue in business if he made these payments, but that if he did not, he would be sorry. In 1931, in the early part of the summer, Phillips called on Kleinschmidt again and asked for $300, but Kleinschmidt paid only $150, making the payments in two instalments. Phillips called for one payment but the second was made at his store in Asbury Park.

In 1932 Phillips again demanded $300, but Kleinschmidt paid only $50 and told Phillips that he was going out of business because he was broke. No further payment was made by Kleinschmidt. *During the Tumen administration, Kleinschmidt was not raided by the County authorities.*

James Kelleher, of Red Bank, testified that he conducted a wholesale beverage establishment at 210 East Front Street, Red Bank, which place he opened in 1929. During the period of prohibition, he sold illegal liquors at this place. In the summer of 1930 Philip L. Phillips

called at his place and asked for a campaign donation of $300. Kelleher did not pay the money at this time, but about one week later, when Phillips called at his store again, he paid him $300 in cash. In 1931 Kelleher again paid $300 to Phillips.

The following year Phillips called again, and asked for $250, which amount Kelleher paid in two installments, the second payment of which was made at Phillips' store in Asbury Park. *During the Tumen administration, Kelleher was not raided by the County authorities.* Kelleher testified that he made these payments so that he would not be raided.

Charles Van Kelst, of Rumson, testified that he had been engaged in the liquor business since 1928. In August, 1930, someone called at Van Kelst's place of business and told him that he should make a contribution which should be delivered at Phillips' store in Asbury Park. Van Kelst placed $300 in an envelope and went to Phillips' store and handed the envelope to a clerk in the store. Van Kelst's name was written on the back of the envelope. The man who called had told him that his assessment was $300.

In 1931, someone came to Van Kelst's place again and told him that he should contribute, and again Van Kelst took the sum of $300 to Phillips' store in Asbury Park and left it in an envelope with his name on it. During 1931 Van Kelst also paid $1 for every half-barrel of beer which he sold in Monmouth County. This money was paid to a man whose name, according to Van Kelst, was "Benny." The payments for the beer amounted to about $35 or $40 per week during the summer of 1931. Van Kelst understood that the money which he was handing over to Benny for beer was being delivered to Phillips by Benny.

Harry Hubbard, who was a partner of Van Kelst in the operation of this business from 1929 to 1932, inclusive, testified that Van Kelst had told him that $300 was paid to Phillips in 1930 and 1931 and that these amounts were entered on the books of the partnership. He also

testified that in 1931, the partnership paid a dollar for each half-barrel of beer which they sold and that these sums amounted to around $30 or $40 per week.

In 1932 Hubbard dealt with the collector, because Van Kelst had had an argument concerning the payments for the beer, it having been Van Kelst's contention that this money should not be paid for beer which was sold in their own place of business, since they were already paying protection money for that place. The argument had become so intense that it was necessary for someone other than Van Kelst to deal with Phillips, because Phillips told Hubbard that he would not have Van Kelst in his office. Phillips called Hubbard and told him that he wanted to see him, and when Hubbard went to Phillips' store he paid Phillips $300 for the season of 1932. Nothing was paid by the partnership for the beer during that year. *Neither Van Kelst nor Hubbard was raided during the Tumen administration.*

Robert Jones, of Reevytown, testified that he ran a roadhouse at that place for a number of yea[illegible] which he sold intoxicating liquor. In the Spring of 1930, Al Elliott and Phillips called at Jones' place of business and Elliott told Jones that Phillips was "the man." Jones understood by this that Phillips was the man to do business with if he wanted to sell liquor. Elliott had told Jones about Phillips before he brought Phillips to Jones' place. Phillips asked Jones for $200 and wanted to know when he could pay it. Jones promised to see him during the summer.

At the height of the season, Phillips came in with a man known to Jones as "Larry" and asked Jones for his contribution. Jones wrote out a check for $200, which he gave to Phillips and Phillips in turn handed it to Larry, who said that he would cash it. The check was drawn to "Cash." In 1931 Larry called on Jones and although he demanded $200, Jones paid him only $100 which likewise was paid by a check drawn to "Cash." The following year, Larry called on Jones a number of times. Jones said that he had not the money to make

any payment but after a great number of visits, he finally paid Larry $25 in cash. Jones testified that he was unable to find the voucher checks covering these payments. *Jones was not raided by the county authorities at any time during the Tumen administration.*

Dennis Murray, of 15 East Westside Avenue, Red Bank, testified that he ran a speakeasy in Red Bank, which he opened on July 3, 1931. About a month after he started his business, Phillips came in and said that he would like to talk to him and the two men went upstairs. Phillips introduced himself and said, "You know it costs money to run a speakeasy." After some further conversation, Murray asked what it was going to cost him and Phillips replied that it would cost $250. Murray did not have the money but promised that he would pay it to Phillips if he could make it. After six months had passed, Phillips telephoned Murray and wanted to know if he had any money and asked him to bring it down. Murray took $25 to Phillips' store in Asbury Park. Phillips said that he wanted more than that and Murray promised to do the best he could to get more. Phillips called on Murray later and telephoned, but Murray insisted that he did not have the money and nothing further was paid. *Murray was never raided by the county authorities* but he was raided by the Federal agents some time after he had made this payment to Phillips and after such raid he discontinued his business.

Otto Strohmenger, of Rumson, conducted a store in that town during prohibition, at which he sold liquor. In the Summer of 1931, Phillips called at his place of business and told him to go to Asbury Park to Phillips' store. The following Tuesday Strohmenger went there and saw Phillips, who told him that if he wanted to continue in business he would have to pay. Phillips set the price at $300, but reduced it at Strohmenger's request to $150. $75 was paid at that time and $75 was later paid by Strohmenger.

In 1932 Phillips called Strohmenger again and asked him if he were coming down and Strohmenger told him

that he was not. *Strohmenger was not raided during Tumen's administration by the County authorities.*

Joseph Tomlinson, of Eatontown, testified that in 1931 he conducted a boarding house in Shrewsbury, at which he sold liquor. In that year Phillips came to his boarding house and asked for a contribution from Mr. Tomlinson. Tomlinson paid him $100 at that time. *Mr. Tomlinson was not raided by the County authorities.*

Robert Kemmer, 1013 Main Street, Asbury Park, testified that he ran a speakeasy in Asbury Park for about four years and during 1930, 1931 and 1932 he paid $100 each year to a man named Siciliano, a bootlegger from whom he purchased his liquor. These payments, he understood, were for "campaign contributions" and he paid the money in the hope that he would not be raided by the authorities and in fact *he was not raided.*

James Milanos, of Middletown, testified that he had operated a roadstand in that place for about seven or eight years, at which he sold liquor and beer. During Prohibition and while Tumen was Prosecutor, Philip L. Phillips called at his place and talked to Milanos' brother, who was in partnership with him, and after Phillips left, Milanos was told by his brother that Phillips had been paid $150. Milanos also found this amount missing from the cash drawer. The books of the partnership stated that the amount of $150 had been paid to Phillips "for protection." *Milanos was not raided by the County authorities during the Tumen administration.*

John R. Ahearn, of Highlands, testified that he had operated a hotel at Highlands since 1916 and that during Prohibition he sold liquor at this hotel. He testified that Philip L. Phillips called at his hotel several times and bought drinks there, and finally Phillips told him that he was collecting money for the "campaign fund." This was in May or June of 1930. Phillips asked Ahearn for $500 and Ahearn paid this amount. He testified that he would not have paid this money if he had not thought that such payment would prevent any trouble from the

County authorities. Subsequently, at Phillips' request, Ahearn introduced him to Frank Horan, Charles M. Johnson, Walter P. Keener and Edward Weinheimer, all of whom were in the liquor business, and to other people, whose names Ahearn could not recall. These introductions of Phillips to speakeasy proprietors and bootleggers took place in June or July, 1930.

In 1931 Phillips again called on Ahearn, who paid him either $200 or $250. Ahearn testified that he had paid these campaign funds so that he could continue in business without molestation. *Mr. Ahearn was not raided by the County at any time during the Tumen administration.*

Frank Spagnuolo, of 241 Lafayette Street, Newark, who is steward of the John F. Monahan Association, a private club located at Monmouth Beach, testified that in 1930 Phillips called at the club and asked him for $500, because of the bar which the club conducted. He stated that this amount was paid to Phillips.

In 1931 Phillips demanded $1,000, which Spagnuolo paid to him in four weekly installments of $250 each. These payments were made during the month of July.

In 1932 Phillips called Spagnuolo on the 'phone and told him that he must pay $1,000 during that summer. Spagnuolo began making weekly payments of $50 or $75, which payments were made to Phillips in the back room of his store at Asbury Park and were continued until Phillips had received a total of $700 during 1932. On the day after Labor Day in that year Phillips called Spagnuolo on the telephone and inquired if he was going to make any further payments. Spagnuolo replied that the club was closed for the season and no further payments would be made. *The Monahan Association continued to sell intoxicating liquor to its members and guests and was never raided.*

Walter P. Keener of Highlands, New Jersey, testified that during prohibition he had been engaged in the wholesale liquor business on an extensive scale. In July, 1930, John Ahearn introduced Phillips to Mr. Keener

and Phillips asked Keener for $500. Keener told Phillips that he had contributed $100 to David Tumen for campaign expenses prior to the preceding election and claimed that Phillips should deduct this amount from the $500 which he sought. Phillips agreed to such a reduction and Keener paid Phillips $400 in cash.

At the time Phillips was introduced to Keener Ahearn stated that Phillips was the new collector.

In 1931 Keener paid Phillips $500 in cash when Phillips called on him at his place in Highlands.

In 1932 Keener went to Phillips' store in Asbury Park and paid Phillips $300 in cash. At the time this payment was made Keener saw various other liquor dealers and speakeasy proprietors in Phillips' store.

Keener testified that he assumed that the money which was paid to Phillips was paid for the purposes of protection and that although he was raided on several occasions by the Federal authorities, *he was never raided by the County authorities during the Tumen administration.*

George Grause, 38 Irving Place, Red Bank, was unable to attend the hearing of the Committee to which he was subpoenaed because of illness. A representative of the Committee called upon him and Grause executed an affidavit which set forth that during prohibition he had been engaged in the liquor business in Red Bank; that in 1931 he was told by a man whose name he did not remember that it was necessary for him to pay $500 to the county officials to continue in business. He paid this sum of $500 to a man whose name he did not know but he had been informed that this man was the collector. At the time such payment was made he was told that he could continue in business without fear of interference from the county authorities.

In the spring of 1932 Phillips called Grause and notified him to come to Phillips' store in Asbury Park. Grause went to Phillips' store and Phillips demanded $500 from him. Grause attempted to obtain a reduction in the amount and offered to pay $300 but Phillips re-

fused to make such reduction. Thereupon Grause offered a check for $300 and told Phillips he would get the rest later. This check was made out to cash for $300 and delivered to Phillips. About a week later Grause called at Phillips' store again and gave him another check made out to cash for $200. Both checks were paid by the bank on which they were drawn. Grause attempted to find the cancelled checks for the Committee but was unable to find them. Grause stated to the representative of the Committee that Phillips' name did not appear on the checks as an endorser. *Grause was not raided by the county authorities.*

A Still Discovered but Not Wrecked by the Prosecutor's Detectives.

On or about October 5, 1930, Joseph Tulano was murdered. After he had been shot he was taken into Trenton and the Trenton Police Department asked the prosecutor's office of Mercer County to co-operate with them in solving the crime. Investigation disclosed that the man had been shot at a still in Monmouth County. On November 6, 1930, Chief County Detective Kirkham, of Mercer County, and Lieutenants Kelly and Clow, of the Trenton Police Department, met Detectives Shields and Sacco, of the Monmouth County Prosecutor's office, who had been assigned to co-operate with the Mercer County men in investigating the murder.

The group went to a farm where the murder was supposed to have been committed. After interviewing the people at that place, the party started back to Allentown for lunch, and at that point Mr. Shields asked the others to go along with him while he investigated another matter a short distance from there. They drove to the Gordon farm, which is near Allentown, and found a still located in the barn. A fire was under the boiler, and an Italian, who said his name was Rocco Pagone, was found working at the still. He was placed under arrest.

At the request of the detectives, he drew the fire under the boiler, and then, stating that he wanted to get his coat, went around in back of the still and escaped through a back door. After a search, he was found and brought back to the Gordon farm. Another man was found lying beneath some lumber in the barn, and he also was placed under arrest. When the detectives returned with Pagone to the still, Shields asked Chief Kirkham to accompany him to Allentown while he telephoned Chief Crook. Shields seemed to be embarrassed, and stated that "he was in a barrel," because he had gone to the Gordon farm and found the still "without permission." He asked Chief Kirkham to explain to Chief Crook just how he had happened to go to the Gordon farm. Shields telephoned Crook, and subsequently Crook came to the farm, accompanied by Detectives Zuckerman and Kent.

When Crook arrived at the still, he had a talk with Pagone, which conversation was conducted apart from the other detectives, the Trenton men not hearing what was said. Crook then stated that he was going to Allentown to find out why the wrecking crew, which was supposed to come and wreck the still, had not arrived. When Crook and the other detectives who had accompanied him to Allentown returned to the farm, Crook told the Trenton detectives that the wrecking crew was on the way, and stated that he did not think there was any necessity for the Trenton men staying around. He said: "We are interested in a murder case, and this is only a minor matter, this finding of a still."

Some time before the Trenton men left the still and while Detective William Clow was guarding the two men who had been placed under arrest, Rocco Pagone told Clow that "everything was going to be fixed up, that the boss was fixing it," and that Clow "would get his share." At about this time Detective Kelly came into the barn, and Clow said to him: "I don't like this way of doing business. This dago just said that everything was going to be fixed and that I would get my share.

Let's get out of here." This incident is related as it appears in the report made by Clow to his superior officer, which is dated November 22, 1930, about two weeks after the incident occurred. In Clow's testimony before this Committee, the incident was stated somewhat differently. Before the Trenton men left they requested Crook to hold both of the men who had been arrested until they could bring a man from Trenton on the following day to attempt to identify one of the men as the murderer whom they were seeking. The Trenton detectives then left the farm and returned to Trenton.

Mr. William R. McLaughlin, a druggist now living in Atlantic City, conducted a drug store in Allentown in November, 1930. He appeared as a witness before the Committee and testified that on the day when a still was found on the Gordon farm Crook and some of the other county detectives and the two men who were arrested were in his store at Allentown. He said that Crook or one of the other Monmouth County men used the telephone in his store to call a Trenton number. It was his understanding that this call was made at the request of Pagone to a lawyer in Trenton named Felcone.

Some time after this telephone call had been made Felcone appeared in Allentown in an automobile and parked his car opposite the drug store on the other side of the street, and McLaughlin saw two of the Monmouth County detectives, one of whom he thought was Crook, go across the street and talk to Felcone. This conversation lasted about three-quarters of an hour and subsequently all of the men left Allentown. McLaughlin did not know Felcone but was told by Leonard Iacobino that the man in the car was Felcone. Iacobino appeared as a witness before the Committee and stated that he was personally acquainted with Felcone and that he saw Felcone in Allentown on the day the still was found on the Gordon farm.

Detective Kent, who was at the Gordon farm with the other county detectives, returned to Freehold in advance of them, having been assigned by Crook to another case. He left Allentown en route to Freehold shortly before 5 o'clock and met the Van Brunt truck which had been engaged to bring the wrecking crew on the outskirts of Allentown. This truck was proceeding toward Allentown. At about 6 o'clock the other detectives with the two prisoners left Allentown and returned to Freehold.

The still was left unguarded and nothing was done to wreck it. Crook testified that the still had not been wrecked that night because the truck had not reached Allentown before he left. This testimony is inconsistent with Kent's testimony that the truck was on the outskirts of Allentown before 5 o'clock.

Upon arriving at Freehold the two prisoners were taken before one, Mount, a Justice of the Peace, and charged, not with operating a still, but with disorderly conduct. They were forthwith convicted and sentenced to jail for five days. The names under which they were convicted and sentenced were Patsy Ficaro and Nick Rugaro. Whether these were their correct names we have been unable to ascertain.

There is no record of this case of any kind or character in the prosecutor's office. The Committee were obliged to search the jail records to determine the charge which was made against these men at the time of their commitment to jail.

The following day, Kirkham, Kelly, Clow and Detective Naples from the prosecutor's office of Mercer County went to Freehold and Sacco took them to the jail where Naples was unable to identify either of the two men who had been arrested at the Gordon farm. Although these men had been committed for five days on the disorderly conduct charge and although a charge should have been lodged against them for operating a still, they were forthwith released and walked out of jail. Detective Kelly asked Sacco whether the prisoners had been arraigned before a magistrate, whether they were under bond and what charges had been lodged

against them. Sacco replied that he did not know anything about it, that he had nothing to do with it.

When the Trenton detectives left Freehold on November 7th they went to Allentown to ascertain whether the still had been dismantled. They found the still in exactly the same condition that it was in the night before when they had left the Gordon farm and that nothing had been done to wreck it. They stopped at McLaughlin's store on this occasion and were told by him of the meeting on the previous day between Felcone and the Monmouth County detectives.

The Trenton detectives then went to Trenton and tried to see the Mercer County prosecutor, but he was not in his office and they thereupon went to the United States District Attorney and notified him of the discovery of this still and of the fact that it had not been wrecked. He directed the Federal agents in Newark to go to Allentown and wreck the still. The Trenton detectives met the Federal men at the station in Trenton on November 7th and went with them to the Gordon farm. They found the still unguarded and in the same condition in which it had been left by them earlier in the day. After pointing out the still to the Federal men the Trenton men left the Gordon farm. The Trenton detectives made a report of this entire occurrence to their superiors. A copy of the report which states the facts substantially as stated by them at the hearing was offered as an exhibit. This report refers to the fact that on November 7th, McLaughlin had mentioned to them the fact that the Monmouth County detectives had had a conversation with Felcone on the day previous.

McLaughlin testified that some time after this occurrence, the exact date he could not fix, one of the county detectives, whose name he did not know, came into his store and conversed with him about the incident. At that time, McLaughlin stated, this detective told him that there was going to be some trouble because of the failure of the Monmouth County detectives to destroy the still. McLaughlin asked this man how much had been paid in

the case and the detective stated, according to McLaughlin's recollection, that someone had received about $3,000.

Prosecutor Tumen testified before the Committee that on the next day after the still was discovered Crook told him about it and he took no action with regard thereto. He assigned no reason for his failure to act.

Crook appeared as a witness before this Committee. He testified that after he had been advised by telephone of the discovery of the still, he called Van Brunt, who runs a trucking business in Matawan, and asked him to secure a wrecking crew and come to Allentown and wreck the still. He denied calling Felcone on the telephone and denied talking with him or seeing him at Allentown.

The only explanation that he gave for going to Allentown when the still was discovered was that he feared that hijackers might attack the detectives and that it was well to have a considerable force of armed men there. This statement is in sharp contrast with his subsequent statement that it was not necessary to guard the still as there was no probability that the owner would return to it.

He further stated that while in Allentown he was advised by the prosecutor's office that a murder had been committed and he took his men away to investigate the murder. He attempted to explain his failure to wreck the still by saying that it was so hot that it could not be wrecked until late in the afternoon, that it was customary to engage a plumber when stills were wrecked, so that the stills could be taken apart without destroying them. He stated, however, that it was the custom to destroy the parts that were useful for nothing but distilling purposes.

He admitted that if the Van Brunt truck had reached Allentown at 5 o'clock in the evening there would have been time to wreck the still that night and that this could have been done. He asserted, however, that he did not leave Allentown until 6 P. M. and that the truck had not yet arrived. When told that Kent had said that he had

seen the truck approaching Allentown just on the outskirts of the town before 5 P. M. on November 6th, he swore that Kent had told him on the day on which he (Crook) was then testifying that Kent had not met the truck near Allentown and had not so testified before the Committee. Kent, when recalled in Crook's presence, denied that he had made this statement to Crook and repeated his former statement that he met the truck just outside of Allentown shortly before 5 o'clock. The Committee wishes to commend Kent for his courage under these trying circumstances.

Crook attempted to explain the charge of disorderly conduct against the two Italians instead of the more serious charge for operating a still by saying that the latter charge could not be made except before a United States Commissioner and that none was available on the evening of November 6th when they reached Freehold. This was entirely inaccurate. It may be that Crook intended to say that the charge of operating a still must be made before a Supreme Court Commissioner, which is in accordance with the provisions of the statute as it existed at that time. If this was his intention, it is indeed strange that no such commissioner could be found in Freehold as the Bar Directory for 1930 discloses the names of six such commissioners whose offices were in Freehold at that time.

Crook was unable to explain, however, why the men who were committed for five days for disorderly conduct were released on the following morning. He said that Mount had told him that they had given bail. Whether this statement was made by Mount could neither be verified nor contradicted, because of the fact that Mount died several months ago. It is, however, exceedingly improbable.

The records failed to show that any bail was given by the men and, in fact, the men would not have been entitled to their release on bail after having been convicted and sentenced to five days in jail. Because of Mount's death, the Committee could not ascertain why

he issued a discharge for the men on November 7th when they had been committed for five days.

Crook further stated that no charge was subsequently made against the men for operating a still, because on November 8th he was advised by the Federal authorities that the still had been wrecked by them. He was incensed when he learned that the Federal men had been called in and said that he assumed that they were prosecuting the case. No basis for this assumption appears in his testimony. As above stated, the men had been discharged from custody before the Federal men were notified of the existence of the still.

The following facts in connection with this matter have been established by testimony which the Committee believes to be entirely disinterested and credible and have been in no wise satisfactorily explained by anyone connected with the prosecutor's office, namely, that Shields was embarrassed when he found the still and stated that "he was in a barrel" because he had not been directed to find the still; the fact that after calling Felcone at the request of the men who had been arrested, the county detectives conferred with him for three-quarters of an hour; the fact that the still was not wrecked but was left intact and unguarded until wrecked by the Federal men late on November 7th, although the wrecking crew reached Allentown at 5 o'clock on November 6th; the fact that the men who were found operating the still were charged merely with disorderly conduct and not with the more serious offense; the fact that these men were released on the day following their commitment to jail, although they had been convicted for disorderly conduct and sentenced to jail for five days; and the fact that no prosecution was thereafter instituted against these men by the county authorities for operating a still.

The above facts, in the absence of a satisfactory explanation, afford, in the judgment of your Committee, support to the statement said to have been made by Pagone that "the Boss would fix it up." While there is no direct proof of the receipt of a bribe by Crook in

this case, the Committee is entirely unable to reconcile what occurred with the honest and faithful performance of his duties on the part of Crook. The Committee is unable to understand why prosecutor Tumen, if he was actuated by a desire to do his duty, did not call upon Crook to explain his actions and did not require a vigorous prosecution of this case.

Gambling.

Mr. Tumen, Mr. Crook and Mr. Meade all testified, in a general way, that a vigorous effort was made by the Prosecutor's Office to suppress all kinds of gambling. Meade stated that his operators were sent, from time to time, to places which were suspected of being gambling houses, but that at no time did any of such operators ever find a roulette wheel in Monmouth County. Mr. Dunn, an investigator connected with the Flynn Detective Agency, who was employed by this Committee, had no difficulty in finding gambling in progress at the Ross Fenton Farms on August 25th, where he saw three roulette wheels and one crap game. He testified that there were about one hundred and fifty to two hundred people in the room. He played the roulette wheel and the crap game.

Inasmuch as the Prosecutor testified that he had destroyed all of the reports made to him by the Meade Agency, except those upon which prosecutions were based, and Meade testified that he had destroyed all of his copies of such reports relating to any period of time prior to January 1, 1934, it was impossible to check the statement made by Meade.

In view of the failure on the part of the Prosecutor to prosecute the proprietors of any gambling houses in Monmouth County after the expiration of the first year of his incumbency, the fact that the reports of the undercover operatives, whose duty it was to detect and secure evidence against such houses, were shown to no one except the Prosecutor himself and were destroyed by him, impresses this Committee as significant.

Horse-race Poolrooms.

Leo F. Meade, Manager of the National Bureau of Investigation, testified that he *believed* his operators had tried to secure entrance on several occasions to a horse-race poolroom conducted by Walter Hurley at 724 Cookman Avenue, Asbury Park, but had been unable to do so. His agency never succeeded in obtaining any evidence against this place.

On July 10, 1934, the police of Asbury Park raided this poolroom and also two others, one of which was located at 417 Cookman Avenue, Asbury Park, and operated by James Apicella and the other located at 156 Main Street, Asbury Park, and operated by Frank Yetman. The raid at Walter Hurley's place occurred at 3:20 P. M. The policemen walked into the room through an open door at the head of the stairs and found fifty or sixty persons in the room in front of the desk where Mr. Hurley and his nephew were working on racing sheets. Detective Burke, who was in the raiding party, saw bets being taken at the time the police entered. The police found the room fully equipped as a horse-race poolroom. They took photographs of the place and seized the equipment, and also a small amount of money which was being passed across the desk to Walter Hurley and his nephew at the time the police entered. All of the people in the room were taken to police headquarters and sworn statements were taken from a great many of them. These statements were all of the same general type, stating that the individuals were in the poolroom at the time of the raid; that they were there for the purpose of making bets on horses; that bets on horses had actually been placed by them on this occasion and that Walter Hurley was the man to whom the money for the bets had been given.

Walter Hurley, his nephew, James Hurley, and his employee, Roy Wright, were held in bail to await the action of the grand jury. The complaints, warrants

and recognizances in the cases were sent to the prosecutor at Freehold.

When the matter was presented to the grand jury, Captain Giles, Acting Chief of the Asbury Park Police, produced the gambling equipment, the photographs and the affidavits of the persons arrested in the raid. These affidavits were left with the grand jury for a few minutes, during which Captain Giles was asked to leave the room. Captain Burke, who was subpoenaed to appear before the grand jury, was not called. The proceedings were conducted by Assistant Prosecutor McDermott. No indictments were found against any of these men.

Walter Hurley appeared as a witness before the Committee and testified under a waiver of immunity. He frankly admitted that his business was that of a bookmaker; that he conducted a horse-race poolroom in Asbury Park and had been raided by the Asbury Park police on the day above-mentioned. He further testified that he had never been raided by the prosecutor's detectives, although he stated that in June, 1933, Crook had told him that he must close his business and that if he did not close voluntarily, he would be raided. He closed for a short time, but subsequently reopened and although he was raided by the Sheriff some time later, nothing was found. He was held for the grand jury at that time but was not indicted.

He testified that he was a personal friend of Crook's. He further testified that after the raid on July 10th, he continued to operate his business by taking bets over the telephone. He stated that he believed that the business in which he was engaged was known to Jonas Tumen, and that he thought it was known to everyone in Monmouth County. He said there was no secret at any time about the operation of his business and that his doors were open and anyone could come in.

Although Justice Perskie, at the opening of the September Term, specifically charged the Grand Jury with regard to this matter, Jonas Tumen testified, on November 28th, that the *Hurley* case had not then been presented to the September Grand Jury.

The raids on the poolrooms conducted by Apicella and Frank Yetman were conducted in a similar manner. These establishments were like the one conducted by Hurley, although on a smaller scale. Apicella and Yetman were held for the Grand Jury, but were not indicted. They were not called as witnesses before the Committee.

Evidence was produced before the Committee that a horse-race poolroom was conducted this Summer at Silver's Cigar Store, in Belmar. Mr. Dunn, an investigator employed by the Committee, testified that he was in this poolroom, playing the races on the following dates: August 18th, August 20th, August 22nd, August 24th, August 30th and September 1st, 1934. On each occasion he found about twenty-five men present. On one occasion he was accompanied by Carmine Marinelli, another investigator in the employ of the Committee.

Mr. Dunn also testified that he visited a horse-race poolroom at 311 Main Street, Allenhurst, a place which was frequently visited by Philip L. Phillips. This place was operated by a man named "Chubby" Megill. Dunn found another horse-race poolroom conducted by Tony Pippi on Second Avenue, Long Branch, and played the races at this place. He also located a horse-race poolroom run by a man named Samuel Kaplan, located on F Street, in Belmar, between Eighth and Ninth Streets, and played the races four or five times at this place. He was accompanied on one of his visits to this place by Carmine Marinelli.

It also appears from the testimony of a man named Luke Melee that during the Summer of 1934 his son, Walter, ran a horse-race poolroom in the hotel located at 32 Broad Street, Keyport.

Mr. Flynn, another operative employed by the Committee, testified that a man named McLaughlin and a man named Schermerhorn were conducting a gambling game known as "chemin-de-fer" on the fifth floor of the

Kingsley-Arms Hotel. He did not see this game actually played, but it was explained to him by McLaughlin.

Peter Coller, a resident of Newark, New Jersey, who was employed by the Committee on occasions during the Spring and Summer of 1934, found lottery tickets on sale in various places, including six places in Asbury Park, five places in Long Branch, three places in Freehold, two of which were very near the Court House; two places in Neptune, one in Bradley Beach and two in Belmar. In a considerable number of these places he found other forms of gambling. Some of these places were resorts of a very low type, where prostitutes openly solicited business.

This Committee believes that had an honest and intelligent effort been made by the Prosecutor to suppress gambling, these gambling places, and particularly the horse-race poolrooms, would have been found and the proprietors prosecuted. It is incredible that the operators of the National Bureau of Investigation were unable to locate and enter these places in view of the fact that the operators employed by the Committee had no difficulty in doing so. We think this failure on the part of the Prosecutor's office has not been adequately explained.

Slot Machines.

This Committee ascertained in the course of its investigation that the slot machine business is conducted by operators who own a number of slot machines and place them in speakeasies, cigar stores, clubs and other places where they will receive play. The operator keeps the machine in condition and collects the money therefrom once a week or once in two weeks. There were a number of such operators in Monmouth County during the years 1930, 1931 and 1932.

A number of slot machine operators were called before the Committee but, with one exception, they were decidedly hostile and refused to reveal much of importance concerning their illegal business. They admitted, however, that they had operated slot machines in Monmouth County, although they testified that they were no longer engaged in this business.

Mr. Norman Mount, who resides in Allenhurst, testified that for a number of years prior to 1930 he had operated slot machines in Monmouth County. Shortly after the appointment of Jonas Tumen as Prosecutor, Philip L. Phillips met Mount and told him that a meeting of slot machine operators would be held at Harry's Lobster House, in Sea Bright. Mr. Phillips took Mr. Mount to this meeting, according to Mr. Mount's testimony. Joseph Johnson, a clerk in the post-office at Red Bank, and a Mr. Ford, both of whom were representatives of the Keystone Novelty Company, a company which sells slot machines, attended this conference. James Hughes, Louis Ackerson and Arnold Thompson were also present.

Mr. Mount was told by Mr. Phillips that the Keystone Novelty Company was to have the slot machine concession in Monmouth County and that the various individual operators would be obliged to make arrangements with that company in order to operate. At the above-mentioned meeting, an agreement was reached whereby the Keystone Novelty Company allotted specific territory in the County to the individual operators. Mr. Mount was given Belmar, South Belmar and Allenhurst; James Hughes received Sea Girt, Deal, Ocean Township and the territory surrounding Freehold; Louis Ackerson and Arnold Thompson received Bradley Beach and Neptune. The Keystone Novelty Company retained the balance of the County.

Under this arrangement, the various operators agreed to pay to the Keystone Novelty Company 20% of the proceeds of their business. Mr. Mount testified that this arrangement remained in effect for only three or four days and that the operators were then compelled to take their slot machines down. Mount was notified by Phillips that the agreement was no longer in effect

and was told that different arrangements would be made later on.

In the latter part of June, new arrangements were made and the machines were put out again. Phillips notified Mount that he could have the same territory which had previously been allotted to him, provided he paid Phillips $10 a week, in advance, for each machine which he had in operation. Mr. Mount testified that the same arrangement was made with the other operators. He further stated that he and the other operators were compelled to give Phillips a list of the machines which they had placed in various stores, speakeasies, etc., giving the name of the place in which each machine was set up and a description of the machine.

Phillips told Mount that his reports of machines must be complete and that if any machines were found in his territory which were not listed on his reports, they would be picked up. He also told Mount that someone was checking the reports to see that he reported every machine. Mount at this time had approximately twenty machines in operation and made weekly payment of $200 to Phillips.

Mount tried to keep outsiders from placing machines in his territory by notifying the owners of machines that they might be picked up unless they did business with him. On one occasion, the proprietor of a speakeasy in Belmar took out the machine which he had in his place and substituted Mount's machine after such a warning from Mount.

In 1931 Mount was compelled by Phillips to take a man named Joseph Rosenfield into partnership with him in the operation of slot machines.

Mount's weekly payments to Phillips were made on Tuesday of each week, in Phillips' clothing store in Asbury Park. He testified that on occasions he saw various other slot machine operators in Phillips' store when he called to make such payments, among whom were Mr. Hughes and Mr. Ackerson. He also testified that he had seen County Detectives Mustoe, Sacco and Zuckerman

in Phillips' store at times when he went to make these payments.

The arrangement which was in force in 1930 was continued in 1931 and Mount paid Phillips $10 per week per machine during that year. In 1932, however, the partnership between Mount and Rosenfield was dissolved and the territory of Belmar and South Belmar was allotted to Rosenfield. That year Mount was restricted to Allenhurst and operated his machines there, but he also furnished machines to a man named Michael Brenner, of Bradley Beach, who placed machines in other territory. The price of $10 per week per machine was continued throughout these three years, although Mount unsuccessfully attempted on one occasion to get a reduction in the price. Mount testified that he regarded the payments which he made to Phillips as payments for protection of his illegal business.

Arnold Thompson and Louis Ackerson, who were named by Mr. Mount as having attended the meeting at Harry's Lobster House, were examined before the Committee at a private hearing. Both testified that they were present at the meeting at Harry's Lobster House on the day named by Mount as the time when the meeting occurred but denied that they had attended any such meeting. Thompson testified that Ackerson, Mount and James Hughes were also present in Harry's Lobster House at that time, but denied seeing Phillips there. Neither of these men gave any reason for being at Harry's Lobster House at that time, except to state that they went there for luncheon, although the lobster house was located a distance of about twelve or fourteen miles from their homes or places of business. They each stated the locations in which they placed slot machines and these locations were within the territory which Mount said had been allotted to them.

The fact that the slot machine business in Monmouth County was conducted during a considerable part of Tumen's term of office by operators who placed their machines in speakeasies, hotels and stores, is supported not

only by the testimony of Mount, Hughes, Ackerson, Thompson, Ernest Bade and Thomas Ryan, who admitted that they had been slot machine operators, but also by the testimony of at least twelve other witnesses who had slot machines in their places of business. In fact only three witnesses who appeared before this Committee said that they owned the machines which they had in their places of business.

The machines belonging to two of these three were seized by the County detectives and almost immediately thereafter an operator appeared and offered to replace them with his machines. The evidence before this Committee indicates that few, if any, of the machines belonging to the operators seem to have been disturbed by the Prosecutor's staff. This indicates that the activities of the prosecutor were directed against privately owned machines rather than against machines owned by operators.

George McDonald, of Keansburg, testified that on the occasion when his place was raided by Crook and other County detectives, two slot machines were in his barroom which were not disturbed during the raid. These slot machines were secured by him from an operator named Walling. While he testified that they may have been enclosed in a cabinet at the time of the raid, any detective who was making an intelligent effort to suppress slot machines would have no difficulty in finding them.

Frank Spagnuolo, steward of the John F. Monahan Association, testified that in 1930 the Association owned two slot machines which were placed in the clubhouse, the proceeds of which were used entirely for club purposes. One Saturday night, early in the Summer of 1930, County Detective Sacco and two other men, whose names were unknown to Mr. Spagnuolo, came to the clubhouse and asked if the club had slot machines. Upon receiving an affirmative reply, Sacco said that they wanted the machines, and the machines were taken out of the club by the detectives.

On the following day a man unknown to Spagnuolo, called at the club and said: "I hear your machines were taken out of here last night." Spagnuolo said that this was true, to which the man replied: "I will put machines in." Spagnuolo objected, because he did not want to have any trouble over slot machines, but the man assured him that if his machines were placed in there, there would be no trouble. A week later this man placed two of his machines in the clubhouse, one in the bar and one in the dining room. These machines remained there until the club closed at the end of the season and were not disturbed by anyone.

The following year a slot machine operator, whose name was not given, placed two slot machines in the club. The club received 40% of the money taken in by these machines, and the operator the other 60%. In 1932 Spagnuolo told Philip L. Phillips that the club desired to have its own slot machines. Inasmuch as the club had paid Phillips $500 in 1930, $1,000 in 1931, and was paying him a considerable sum in 1932, Phillips stated that it would be all right for the club to have its own machines.

During the above-mentioned period, while the club had slot machines placed there by an operator, Crook called at the club to inquire about a man who was found dead in the meadows near Sea Bright or Monmouth Beach. On this occasion, he was in the dining room of the club, where one of the slot machines was in plain sight. He did not disturb it.

Mr. Meade, who, as above stated, was the Manager of the detective bureau employed by the County, testified that he never made any effort to ascertain the names of the slot machine operators. He said that he had never heard of Ford or Mount or Ackerson. He admitted that he had heard of James Hughes, but said that he understood that Hughes was a bootlegger, although he had never gotten any evidence against him. He was asked if he knew that there were operators who put out slot machines and shared in the amount received. His answer to this question was:

Crook would give them the names and addresses of places where slot machines were located and they would go to these addresses and seize the machines. At first they took the machines and the money in them to a storehouse in Red Bank. After the machines reached the storehouse, the money would be removed and given to Crook. They kept no record of the money turned over in this manner. They said that after the first year and a half or two years, they destroyed the machines at the places where they were seized and took the money found in the machines and gave it to Crook.

Both Sacco and Zuckerman declined to state how many slot machines had been destroyed or seized by them, both of them insisting, in answer to questions, that they could not tell whether the number seized or destroyed was "six or one hundred." They referred to the fact that a number of slot machines which had been stored in the Red Bank storehouse had been burned at one time, but refused to state how many machines were included in this bonfire. Mr. Meade, who referred to this incident, stated that it occurred in 1931 or 1932 and that the number of machines destroyed was between three hundred and four hundred machines. He said that a moving picture had been taken of the bonfire. Mr. Kent, who testified at a private hearing, fixed the number destroyed at this time at forty.

Mr. Crook attempted to explain the small amount of money turned in to the County Treasurer from this source by stating that the crusade against slot machines was so vigorously conducted that the persons having them left no money in them, but paid off the winners from their cash drawers. In view of the fact that the persons having machines were, in most instances, not the owners thereof and that the owner received his compensation by unlocking the machine and taking the money from it, this reason seems to us to be very improbable.

Mr. Sacco, in his testimony given before the Committee at a private hearing, stated that "Lately, within

a year or so" no money was left in the slot machines. If this is true it affords some explanation for the small amount of money turned in to the County Treasurer from slot machines within the last year, but it does not serve as an explanation for the years 1930, 1931 and 1932.

Furthermore, it is evident that the money was not turned in to the County at the time it was received if, as has been testified, any real effort was made to suppress slot machines. As has above been shown, no money from slot machines was turned over to the County from April 1st until July 24, 1930. Following this, there was a lapse of ten months before any money was given to the County, the next payment having been made on May 27, 1931. In fact, money was turned in to the County on only seventeen days during the whole period.

On June 15, 1933, Mr. Crook deposited $21 in silver in his account in the Asbury Park National Bank and Trust Company. When asked the source of this deposit, he said "I haven't the slightest idea."

The money taken from confiscated slot machines was money belonging to the County. It was clearly Crook's duty to keep an accurate account of it at all times and the Prosecutor should have required him so to do. Crook's failure to do this creates at least a grave doubt as to whether all of the money received by him was turned over, which doubt is strongly supported by the insignificance of the amounts paid into the Treasury of the County and the long intervals between such payments.

This doubt is also supported by the testimony of Mr. Audley, who lives next door to Crook in Asbury Park, that he had seen slot machines taken by County detectives into the cellar of Crook's residence and had seen Crook's brother take money from them. Although the brother, when asked what would be done with the money, said that it would be turned over to the County, the Committee can see no reason why the machines were

taken to Crook's house if this were the intention. Crook, instead of attempting to explain this incident, denied it.

While the number of slot machines in the County has undoubtedly been reduced within the last year or so, Peter Coller found eighteen such machines in use in the course of his investigation for this Committee.

The evidence before this Committee concerning slot machines shows:

1. No serious effort to stamp out the slot machine evil by locating and punishing the slot machine operators.

2. No prosecutions of persons having slot machines in their places of business.

3. A system whereby slot machine operators made payments to Phillips for the purpose of securing protection.

4. Failure to keep any account of the money taken from confiscated slot machines, which is money belonging to the County and should have been accounted for in detail.

5. An insignificant amount of money turned over to the County as coming from confiscated slot machines, which at least indicates the misapplication of funds belonging to the County.

The Harry Taylor Case.

Another form of gambling which is prevalent in Monmouth County is known as the Number Game. The Committee had before it one witness who had been engaged in this activity.

Harry N. Taylor testified that between May, 1928 and January, 1934, he owned and operated a shoe-shining parlor at 412 Corlies Avenue, Allenhurst. While he was engaged in such business he wrote numbers as a side line. His method of operation consisted in keeping a small book in which he would write the number upon which his customer placed his bet and the amount of money which the customer played on that particular

number. The number slips so written were collected from him by a man named Dean, who also took the money which Taylor had collected. If a customer won his bet, Dean would make payment to Taylor and Taylor would pay the customer. Dean worked for a number banker named Waters in Asbury Park. Taylor was well acquainted with Philip L. Phillips, he having worked in a barber shop which Phillips frequently visited.

Taylor testified that in 1932 Phillips called him on the telephone and said: "This is Phillips and I will do the talking." Phillips then told Taylor that someone would come to see him and that Taylor was to turn over his number business to this man. On the same day, a man whom Taylor did not know called at his shoe-shining parlor and told Taylor that he was the man who Phillips had said would call upon him. This man told Taylor to turn over his number business to him and that if Taylor got into trouble, Taylor would be protected. Taylor replied that he did not wish to make any change. Two or three days later a number writer, known to Taylor as Eddie, called upon Taylor and told him that if he did not turn his number business over to the man sent by Phillips he would be raided. Taylor did not make any change although Eddie called a second time and told him the same thing.

Subsequently, Nick Vetrano, who is reputed to be a number banker in Asbury Park, called on Taylor and told him to turn his number business over to him and that Taylor would be protected if he got into trouble. Vetrano told Taylor that if he did not do this, Taylor would be raided. Taylor refused to comply with Vetrano's demands.

Shortly after this, Chief County Detective Crook called at Taylor's place with another detective and with a warrant for Taylor's arrest. At this time, Crook took a number book and $37.50 which he found in the shoe-shining parlor. Taylor gave bail for his appearance before the grand jury, a man named Fesperman being his surety.

He never heard anything further concerning the case against him. As he was not indicted, the prosecution was barred by the statute of limitations prior to the date of the hearing before this Committee.

Crook admitted taking the money from Taylor's place but stated that the amount taken by him was not $37.50 but $34 and some cents. He was asked the question, "Where is that money?" His answer was, "The money is in our office, held intact as evidence." This testimony was given at a public hearing on September 28th. Subsequently, at a public hearing on November 27th, at Freehold, while Tumen was being questioned concerning this money, Crook volunteered the following statement, "That money is in a vault right across the street, so that it won't be missing in the morning." Mr. Tumen then testified that he believed that the Prosecutor's Office had a vault in a bank in Freehold, the key to which was kept by the chief clerk. Subsequently, when the chief clerk was called, he testified that the Prosecutor's Office had no vault in any bank. On November 30th, Mr. Crook testified that this money had been in his private safe deposit box in the Freehold Trust Company since shortly after he rented the box on November 20, 1933.

The record of this case in the Prosecutor's Office indicates that the case was never presented to the grand jury. The disposition marked in the Prosecutor's record is, "Dismissed by Wainwright," although Taylor testified that he was held for the action of the grand jury and it appears from the Prosecutor's record that a recognizance was given. Wainwright was the Justice of the Peace before whom the original complaint was filed.

The history of this case indicates that the Prosecutor's Office, when making this raid, had something in mind other than the suppression of the number game.

Concerning Phillips and Tumen.

Tumen testified that he had no connection whatever with Phillips and that Phillips did not represent him or

his office in any collections which he may have made from persons who were violating the law. He admitted that he had been acquainted with Phillips for five or six years but stated that he knew him only casually, and that he had never had any business contacts with him.

He denied that prior to the public hearings conducted by this Committee he had heard any rumors that Phillips claimed to be a collector for the prosecutor's office. He admitted, however, that in 1933 he had heard rumors that collections were being made and referred to a grand jury investigation which occurred at that time. He stated, however, that these rumors were not substantiated by the evidence produced before the grand jury.

He subsequently changed this testimony by saying that he had not heard *rumors* of collections but that he had read *charges* in the press that collections were being made. He denied that these charges referred to Phillips. He later admitted that in February or March, 1934, he had heard the charges that Phillips was making collections.

When asked if he had not frequently met Phillips at the Long Branch dog track in the Summer of 1934, he admitted seeing him on those occasions, but denied that he had had any extended conversation with him.

Mr. Tumen further admitted that since the commencement of the public hearings before this Committee he had learned of the press reports of the collections by Phillips of various sums of money and that he had never talked to Phillips about the matter, although he had seen him on numerous occasions since he had read the press reports.

He also admitted that he was personally acquainted with some of the witnesses who had appeared before the Committee and had testified that they had paid protection money to Phillips, but that he had not mentioned the matter to them.

The Committee has secured no definite proof that any of the money collected by Phillips was ever received by Tumen, nor has it been able to secure any definite proof

that Tumen authorized Phillips to make such collections or that he protected the persons who paid Phillips with knowledge that such payments had been made.

Such proof, in its very nature, would be unobtainable unless it could be secured from Phillips or unless the money collected by him could be traced. This the Committee has been unable to do although it has made a very earnest effort to accomplish this result.

There are many circumstances connected with this matter, however, which indicate that Tumen and Phillips cooperated in extorting money from law breakers and protecting them in their continued violation of the law. Among such circumstances the following may be mentioned:

The fact that Phillips, who was a haberdasher in Asbury Park, was able to locate speakeasy proprietors, still operators and other persons violating the liquor law throughout the entire county, indicates that he had means of securing information not ordinarily available to small storekeepers. The reports of the National Bureau of Investigation covering this period were seen by no one but the prosecutor unless a prosecution was based thereon, and such reports have been destroyed by him without any apparent reason for such destruction. The copies of such reports previously retained by Meade have been destroyed by him. An analysis of these reports, if in existence, would go far toward proving or disproving the prosecutor's cooperation with Phillips. Persons who paid Phillips after raids on their places of business had been made escaped prosecution. With very few exceptions, the persons who paid protection money to Phillips were not disturbed in their unlawful business. In this connection the fact should be mentioned that one, Popok, one of the law breakers who made substantial payments to Phillips, visited Dave Tumen, the prosecutor's brother, at Phillips request and discussed with him the amount of payment which should be made. Although this was denied by Tumen it cannot be ignored.

No effort was made to discover or prosecute the slot machine operators, although it is well known that the slot machine business was conducted by such operators. The fact that Crook, Sacco, Zuckerman and Mustoe were seen on several occasions in Phillips' place of business and that Crook and Phillips were frequently seen together at the dog track may be mentioned in this connection. While these facts may not be sufficient to establish Tumen's connection with Phillips beyond a reasonable doubt, the Committee reports that in view of these facts it is not satisfied that such connection did not exist.

It is true that Phillips denied making these collections, but in the face of the overwhelming testimony given by unwilling witnesses, who appeared only because they were compelled to appear by the subpoenas issued by this Committee, we think that his denial is entitled to no credit whatsoever.

The mere fact that such an extensive system of graft collection existed in the County, is a serious indictment against the administration by the prosecutor of his office, even though it were assumed that he knew nothing of it. The slightest diligence and efficiency on his part would have led to its discovery.

Examination of Bank Accounts.

An examination was made of all of the bank accounts that could be located in the name of Harry B. Crook. These accounts were as follows:

Seacoast Trust Company (Savings Account), Asbury Park and Ocean Grove Bank (Savings Account), Asbury Park National Bank & Trust Co. (checking account), Allenhurst National Bank and Trust Co.

The Committee also examined the deposit slips which accompanied deposits made by Crook in order to ascertain which deposits were made in currency.

Mr. Crook testified that from May 1, 1930 to May 1, 1931, being the first twelve months spent by

him as chief investigator in the prosecutor's office, his only sources of income were his salary, which amounted to $2,500, and the net income received by him from the operation of an armored car business in Asbury Park. He testified that the gross income from this business was between $140 and $150 per week. On November 30th he testified that not much was left for him out of this income after paying the expenses of the business. On this occasion, however, he did not specify just how much net income, if any, he derived from this business. During this year he made total deposits of $10,858.50, $3,858.50 being deposited in his active account in the Asbury Park National Bank, $3,100 being deposited in his savings account in the Seacoast Trust Company and $3,900 being deposited in his savings account in the Asbury Park and Ocean Grove Bank, savings department. No withdrawals were made during the year from either of the savings accounts, the deposits to which during the twelve-month period aggregated $7,000. Withdrawals were made from the Asbury Park National Bank & Trust Company account slightly in excess of the deposits made during such period in such bank. Of the total deposits made during this period $8,597.50 were made in currency.

During the following year, commencing May 1, 1931 and ending May 1, 1932, he deposited $7,318.70, $4,630 of which was deposited in currency. All of this was deposited in his active account except $500, which went into his savings account in the Asbury Park and Ocean Grove Bank. His total receipts from salary during this year were $3,538.14, and the aggregate of his expense checks amounted to $1,041.76. In July of this year he severed his connection with the armored truck business.

In the year commencing May 1, 1932, his total deposits were $3,679.65, $2,807.50 being in currency. The salary which he received for this year was $3,615.82 and the aggregate of his expense checks was $1,214. On May 6, 1932, he paid off an $8,000 mortgage on his residence in Asbury Park. This was a building loan mortgage

upon which installment payments had previously been made, the amount due in May, 1932, being $5,452.50. This was paid in currency.

In the month of December, 1933, he purchased a farm for the consideration of $7,750; $3,000 of this consideration was paid by a mortgage, $204.45 was paid by discharging tax liens, $3,700 was paid by a treasurer's check on the Freehold Trust Company received by Crook in exchange for cash of like amount, and the balance was paid in cash.

It will be noted from the foregoing statement that during the first twelve months that Crook was employed in the Prosecutor's Office he saved $7,000, although his salary during that year amount to but $2,500, out of which he was obliged to pay the living expenses of his family and himself. When questioned on December 7th concerning this saving he endeavored to account for it in part by saying that he had received a net profit from the armored truck business during this year of from $35 to $40 per week, although he had testified just one week earlier that there was not much left for him from the receipts of this business after paying its expenses. He also stated that he had made loans to friends and some of these *might* have been repaid to him during this period. When pressed as to the amount of these loans, he said that the entire amount did not exceed $2,000. He was very uncertain as to the amount which had been repaid to him during the twelve months period in question.

He professed to be entirely unable to account for the amount saved by him during this period. Although he had been subpoenaed to produce all his books of account, check book stubs and voucher checks, he produced nothing, except a comparatively recent pass book in the Asbury Park National Bank and Trust Company; two receipts from the Department of Banking and Insurance for Savings account books in the Asbury Park & Ocean Grove Bank and the Seacoast Trust Company, and a check book dating back only to November, 1933, which

ing of a character which seemed to warrant detailed questioning of Mr. Tumen along this line.

Other Irregularities in the Prosecutor's Office.

Great laxity in the conduct of the prosecutor's office was established by the testimony of Mr. Tumen and his subordinates. There are apparently no records in his office from which it can be ascertained whether any particular case is handled by the prosecutor or by one of the assistant prosecutors.

This laxity was also apparent in the manner in which seized liquor was kept and disposed of. No record was kept of the liquor stored in any particular place. An effort was made to trace the disposition of liquor which had been seized during the prosecutor's term of office. Mr. Tumen contributed little to this inquiry. He stated, however, that there were orders for the destruction of liquor in every case in which liquor had been destroyed that he thought those orders would be found in his office and that Mr. Woodward was the man who could produce the orders.

When further questioned on this subject he said that "as far as he could recall no liquor was destroyed without an order." He admitted, however, that he had been told by the county detectives that a number of cases of liquor found in the residence of "Buff" Marson after his murder had been destroyed without an order. There was no record in the prosecutor's office of the destruction of this liquor. Two of the prosecutor's detectives, who testified at private hearing, stated that it had been taken from the residence of Buff Marson to a garbage dump and destroyed. One of them, however, said that the dump was located in Red Bank while the other said that it was at West Long Branch although each stated that he had been present when the destruction occurred. The testimony of neither of them on this point was convincing.

Mr. Woodward, when called to produce all orders for the destruction of liquor, brought but one order before the Committee which was dated February 26, 1931. When asked where the other orders were he stated that some were in the jackets (meaning, we suppose, the files of the prosecutor's office) but that he could not find them and that the Committee would have to wait until he went through the files. He was summoned a week later and was asked if he had found any orders for the destruction of liquor and replied that he had not.

He was specifically asked what had become of a considerable quantity of liquor seized at Ray Sanborn's place and his answer was: "I could not tell you, probably placed in the warehouse, it might have been destroyed on a later list." When asked where the order for destruction was, he said: "I can't place my hands on it just this minute. It is probably around somewhere." He admitted that it should be in the safe and that it was not there.

The prosecutor was questioned about a truck that was seized by a state police officer with a load of unlabeled beer in May, 1930. One Harry Meyer was driving the truck at the time of the seizure. A note on the record of this case in the prosecutor's office is as follows: "Truck and beer returned to the defendant." The truck and beer when seized were placed in the custody of the prosecutor's department. The truck was later released pursuant to law upon the giving of a bond to the officer who seized it conditioned for its return if a forfeiture should be adjudged. A receipt by Meyer made out to a prosecutor's detective showing the receipt of the key for the truck was produced.

The prosecutor was unable to say whether the beer was returned at the time the truck was delivered to Meyer, although that would be indicated by the notation in his records. He was also unable to say whether the beer was legal or illegal beer. He stated that his practice in such a case would be to have the beer analyzed; that if it had been analyzed he *presumed* the record of

the analysis would appear in his files. Since no such record appeared he assumed that the beer had not been analyzed. He said he did not recall that particular transaction and admitted that there could be no justification for returning the beer unless upon analysis it had appeared to be legal beer, but that he could tell the Committee nothing about what had happened until he had talked with some members of his force.

This case is mentioned as illustrating the difficulty in securing definite information from the prosecutor or any member of his staff. The records are insufficient, and the prosecutor professed to have very little definite recollection about many important matters connected with his office, but many times expressed his assumption that everything was all right, although he could suggest no way in which definite proof of the actual facts could be secured.

The records in the prosecutor's office, in so far as they were examined, disclose other apparent irregularities.

In the case of *State* v. *Skinny Wilson,* an indictment was presented for illegal sale of liquor at the December Term 1930. The record in the prosecutor's office shows that the defendant pleaded not guilty in September, 1931. That record further shows that he retracted his plea of not guilty and pleaded guilty on October 2, 1931, and the matter was set down for sentence on October 9, 1931, on which day he was permitted to retract his plea of guilty and the indictment was *nolle prossed* for lack of evidence. It is possible that some explanation may exist as to this matter, but the Committee was unable to obtain it.

In the case of *Carlo Mazza* an indictment was found on July 9, 1931. The prosecutor's records state that this indictment was *nolle prossed* on February 3, 1932, although a competent lawyer, who was engaged to investigate the prosecutor's records for this Committee, could find no record in the Quarter Sessions' minutes of any motion to *nolle pros.*

In the case of *State* v. *Barbara Cardone,* indictment for prostitution on October 22, 1931, the prosecutor's records show that the indictment was *nolle prossed* on April 4, 1932, although the Committee's investigator could find no record in the Quarter Sessions' minutes of any motion to *nolle pros.*

In the case of *State* v. *Arthur T. Keefe,* indictment in September, 1930, for false pretenses, the prosecutor's records show that the indictment was *nolle prossed* on July 24, 1931. The Committee's investigator was not able to find any record of a motion to *nolle pros* in the Quarter Sessions' minutes.

In the case of *State* v. *Sam Morgan,* on an indictment for illegal sale and possession of liquor at the April Term, 1932, the prosecutor's records contain this entry: "*Nolle prossed,* 7/26/32, liquor only 8%, weak case." The return of the search warrant shows that 11 barrels of mash and two 10-gallon kegs partly filled with corn liquor were seized. There was a report of an analysis in the prosecutor's files in this case showing that the liquor seized contained approximately 8% of alcohol. The prosecutor was entirely unable to explain why this indictment had been *nolle prossed.*

In the case of *State* v. *Nello Piazza* an indictment for illegal sale of liquor was presented in the April Term 1930. A plea of guilty was entered and the case set down for sentence for June 10, 1931. No entry appears in the Quarter Sessions' minutes with reference to this case on the date last mentioned. The records in the prosecutor's office show that the indictment was *nolle prossed* on June 26, 1931, the words: "wrong defendant" appearing in parentheses. The Committee was unable to secure any explanation of his case from the prosecutor.

The matters mentioned under this heading all appear to be irregularities which may or may not be of a serious nature. The prosecutor denied that any indictments had ever been marked "*nolle prossed*" in his records unless the court had granted a motion to *nolle pros.* If this is

the fact, however, it is indeed strange that no record of such motions appears in the Quarter Sessions' minutes.

The Committee endeavored to secure from the prosecutor an explanation of why the plea of guilty was withdrawn in the *Wilson* case and the indictment subsequently *nolle prossed,* but was unable to secure any explanation. The prosecutor was unable or unwilling to explain why the above mentioned indictment against Morgan was *nolle prossed* apparently on the ground that the liquor contained only 8% of alcohol.

Notwithstanding the fact that the Committee has expended its best efforts to thoroughly investigate the work and methods of the prosecutor and his staff, it has been entirely unable to verify and establish many reports which have come to it of serious misconduct. As has above been stated, most of the witnesses who appeared before the Committee were unwilling witnesses. Many of the witnesses who appeared at private hearing denied all knowledge of facts which the Committee believes were within their knowledge. The Committee is convinced that fear of reprisals through the exercise of the power reposed in the prosecutor was a very effective obstruction to the work of the Committee. It is the belief of the Committee that if Mr. Tumen were replaced by an honest, fearless and able prosecutor such prosecutor would be able to discover and establish many offenses of which the Committee has been able to secure no proof.

During the course of its investigation, the Committee was informed that its process server had been followed while serving subpoenas. Mr. Meade, the manager of the detective agency employed by the prosecutor, admitted that this was done by his direction, although he disclaimed any knowledge of the fact that the man, who was being followed, was working for this Committee. We cannot accept this disclaimer and we attribute the refusal of some witnesses when subpoenaed to repeat under oath, the stories which they had told to others, to efforts made by or in behalf of the prosecutor

to silence such witnesses. The prosecutor testified that he had no part in any efforts which were made along this line and we have no direct evidence that his statement was false.

Recommendations of the Committee.

Paragraph 11 of Article V of our Constitution provides as follows:

> "The Governor and all other civil officers under this State shall be liable to impeachment for misdemeanor in office during their continuance in office and for two years thereafter."

The term "misdemeanor in office" as used in the above recited provision of the Constitution is not restricted to an indictable offense, but includes neglect of duty, and misconduct or misbehavior in office of a character which demonstrates unfitness for the office in question. (See: *State* v. *Jefferson* (Ct. of E. & A.), 90 N. J. L. 507, and *McCran* v. *Gaul* (Ct. of E. & A.), 96 N. J. L. 165.)

In the case last cited Justice KALISCH said:

> "The words 'misdemeanor in office' as used in the Constitution, must be given its general meaning and not a technical, legal meaning. In the sense in which it is used in the Constitution, it includes neglect of duty or misconduct or misbehavior in office, regardless of the fact whether or not such neglect of duty or misconduct or misbehavior amounts to an indictable offense. * * * The framers of the Constitution clearly intended through the court of impeachment to protect the public against incompetent, neglectful and dishonest officials. This could only be effectually accomplished by removal of the official found guilty and to disqualify him from holding office hereafter."

While the language above quoted forms a part of Justice KALISCH's dissenting opinion, it is not inconsistent with the prevailing opinion and is, we believe, expressive of the law of this State.

The view above expressed with regard to the nature of an impeachable offense is supported by numerous impeachment cases throughout the country, among which may be mentioned the impeachment in this State of Patrick W. Connelly, a justice of the peace (1895), the impeachment of Judge Archbald before the United States Senate (1912), of Judge Hubbell (Wisconsin, 1853), of Judge Hardy (California, 1862), of Judge Jones (North Carolina, 1871) and of Governor Sulzer of New York (1913). It is also supported by learned commentators on the law of impeachment, including John Randolph Tucker in his Commentaries on the Constitution, Judge Cooley in his Principles of Constitutional Law, George Ticknor Curtis in his History of the Federal Constitution (Vol. 1, p. 481) and Watson in his work on the Constitution (Vol. 2, p. 1034).

In the opinion of this Committee, Jonas Tumen has been guilty of misdemeanor in office. He has delayed for over four years the trial of Thomas Calandriello on an indictment for robbery, notwithstanding the fact that at the time the indictment was found, he had evidence which, in his judgment, was sufficient to convict and there was no reason why the trial should not have occurred promptly.

Through his gross negligence or through his connivance with the counsel for the defendants, he has permitted the release from jail of four dangerous criminals who came into this State with a loaded revolver for the purpose of committing a robbery, this release being accomplished through the medium of obtaining a reconsideration of an indictment previously voted and presenting evidence to the Grand Jury suggested by the counsel of these criminals including the testimony of such counsel and suppressing material and important evidence on the part of the State.

He has permitted his office to be so conducted that no account has been kept by his subordinates of moneys received by them belonging to the County, so that at this

time it is very difficult if not impossible to determine whether or not such moneys have been embezzled.

He has failed to enforce the laws prohibiting the sale of intoxicating liquors and gambling and by his inaction, or worse, has permitted the growth and development of a system under which violators of the law have paid for and secured protection for their unlawful business. Without specifying further his various offenses of omission and commission as disclosed by the testimony we are convinced that he merits impeachment.

The time which will elapse, however, between the date of the submission of this report and the end of this legislative session is so short and the evidence in the case is so voluminous that it will be absolutely impossible to conduct an impeachment trial before the end of the present legislative session. The term of Mr. Tumen will expire on April 1st next, and while this fact alone would not prevent this Committee from recommending that he be impeached if sufficient time were available for a trial, it is reassuring to know that he cannot continue in office beyond the date last named.

Furthermore, the Justice of the Supreme Court holding the Circuit in Monmouth County, if, in his opinion, the situation in that County is such that the criminal business of the State should not remain in the charge of Jonas Tumen until the expiration of his term, has the power under Chapter 184 of the Session Laws of 1911, as amended by Chapter 1 of the Session Laws of 1922, to request the Attorney General to attend personally in that County or to designate an assistant or assistants for the purpose of prosecuting the criminal business of the State therein. This is the practice which has heretofore been followed in this State, where Prosecutors of the Pleas have been false to the trust reposed in them.

Your Committee recommends that a resolution be adopted, directing the Clerk of this House to transmit a copy of this report to the Honorable Justice of the Supreme Court who may be holding the Monmouth County Circuit, to the end that he may have an oppor-

tunity to consider the same and take any action with regard to the prosecution of criminal offenses in Monmouth County which may seem to be advisable and that such Justice be advised that a transcript of the testimony taken before this committee will be forwarded to him by the Chairman of this Committee if he so desires.

Respectfully submitted,

W. STANLEY NAUGHRIGHT,
Chairman,

THOMAS S. DOUGHTY,
ERWIN S. CUNARD,
JOHN J. RAFFERTY.

ANTHONY J. SIRACUSA was not able to attend many of the meetings of the Committee and therefore prefers not to join in signing this report.

END