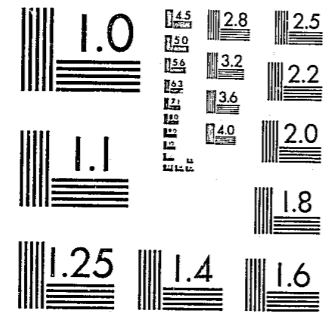


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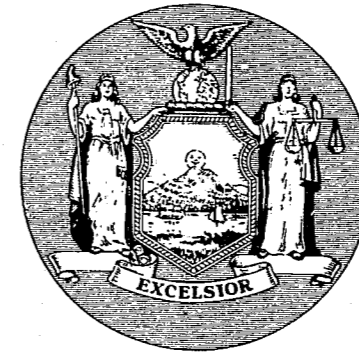
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STATE OF NEW YORK
COMMISSION OF INVESTIGATION
REPORT

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5-9-83



REPORT



COMMISSION OF INVESTIGATION
OF THE
STATE OF NEW YORK

COMMISSIONERS

LOLA S. LEA
Chair

THOMAS J. CULHANE

EARL W. BRYDGES, JR.

BERNARD C. SMITH

U.S. Department of Justice 86827
National Institute of Justice

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The mandate of the Commission of Investigation (Laws of 1958, Chapter 989; McKinneys Unconsolidated Laws, Section 7501, *et seq.*) grants it the duty and power to conduct investigations in connection with:

- a. The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering;
- b. The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;
- c. Any matter concerning the public peace, public safety and public justice.

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ACQUISITIONS

FOREWORD



Left to right: Commissioners Earl W. Brydges, Jr.; Thomas J. Culhane; Lola S. Lea, Chair; and Bernard C. Smith

The Commission of Investigation respectfully submits this Report of its activities for the years 1979 to 1981 to the Governor, the Legislature and the People of the State of New York. The Report highlights several investigations conducted by the Commission during this period and includes the recommendations made to improve or correct the problems revealed. It also provides a retrospective of the Commission's investigations for the years 1958 to 1978 and a summary of legislation enacted, in part, as a result of Commission action. The Report also summarizes the Commission's history, its jurisdiction and statutory authority and provides a discussion of a current problem in the field of criminal law enforcement.

The Commission appreciates the continued confidence placed in it by the Governor and the Legislature and looks forward to continuing as an integral part of the State's law enforcement community.

Lola S. Lea,
Chair

Earl W. Brydges, Jr.
Thomas J. Culhane
Bernard C. Smith
Commissioners

THE COMMISSION OF INVESTIGATION

Background

New York and other states have found it necessary, over the years, to create temporary crime commissions to conduct investigations of problems dealing with crime, racketeering and corruption. In New York, a "State Crime Commission" was established by Governor Thomas E. Dewey in 1951 to "investigate generally the relationship between organized crime and any unit of government anywhere in the State," and to "examine into the relationship between the government of the State and local criminal law enforcement."

The State Crime Commission recognized the failure of law enforcement under certain conditions to cope with organized crime and corrupt officials. It recommended the establishment of a permanent Commission of Investigation and stated:

It is the strong view of this Commission that the creation of such a permanent Commission of Investigation, having members, counsel and staff of the highest calibre, would be a long step forward in destroying the stranglehold which organized crime has had in various areas upon the administration of the criminal laws in this State.

On the basis of this strong recommendation, the Legislature, in 1953, established the Office of Commissioner of Investigation in the State's Executive Department, headed by a single Commissioner (Chapter 887, Laws of 1953; McKinney's Executive Law, Section 11).

Establishment of the Commission and its Enabling Act

The need for an independent statewide investigative agency was confirmed by the experience of the Office of Commissioner of Investigation as well as by the studies of a Joint Legislative Committee on Government Operations established in 1955. The Temporary Commission of Investigation was created in 1958, pursuant to Article V, Section 3 of the State Constitution, which allows the Legislature to create "temporary commissions for special purposes."

The enabling act of the Commission of Investigation (Laws of 1958, Chapter 989; McKinney's Unconsolidated Laws, Section 7501 *et seq.*) was approved on April 25, 1958 by Governor Averell Harriman, who stated his conviction that the Commission "will be effective in dealing with the important area of criminal investigation which is assigned to the new Commission by this measure" (Messages of the Governor, 1958). The Act became effective and the first Commissioners took office on May 1, 1958.

The Commission has the duty and power to conduct investigations in connection with:

- a. The faithful execution and effective enforcement of the laws of the state, with particular reference but not limited to organized crime and racketeering;
- b. The conduct of public officers and public employees, and of officers and employees of public corporations and authorities;
- c. Any matter concerning the public peace, public safety and public justice.

The Commission also conducts investigations and assists the Governor in connection with:

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

In addition, the Commission can investigate the management or affairs of governmental bodies; advise and assist District Attorneys or other law enforcement officers; cooperate with the United States Government in the investigation of violations of the federal laws within the State; and examine matters and exchange information with officials of other states relating to interstate law enforcement problems.

The Commission has been granted a variety of law enforcement tools to carry out its statewide functions. Witnesses may be subpoenaed and compelled to testify under oath or affirmation, at private and public hearings, under threat of penal sanctions. The Commission may require the production of records or other evidence. All governmental bodies in the State are statutorily required to cooperate with and assist the Commission in the performance of its duties. The Commission also has the important power to confer immunity from prosecution in accordance with Section 50.20 of the Criminal Procedure Law.

Information, including the names of witnesses and evidence gathered by the Commission, is protected from disclosure by several specific statutory rules of confidentiality. Violators of the confidentiality provisions of the Commission's statute are subject to penal sanctions.

The Commission's investigatory findings are published in annual or interim reports. Reports of Commission investigations are provided:

1. to the Governor and Legislature—for reme-

- dial executive or legislative action;
2. to prosecutors or State agencies—for criminal prosecution or disciplinary action, including the removal of public employees; and
 3. to the State Attorney General—for civil monetary recovery where appropriate.

Reports are also generally made available to the public. Since its creation, the Commission has reported to the public on the results of over 80 investigations and has conducted numerous public hearings. The Commission also keeps the public informed as to the operations of organized crime and problems of criminal law enforcement in the State.

The Commission, originally created by the Legislature for a five-year term ending on April 30, 1963, has been extended for additional two-year terms in recognition of the importance of its work and the need for its continued existence as a uniquely independent, bi-partisan, investigative and fact-finding body. The Commission's current term expires on April 30, 1983. The Commission looks forward to continuing to be an integral part of the State's law enforcement community.

Related Statutes

The functions, powers and duties of the Commission are directly affected by several statutes which define the procedures used to conduct investigations. The following are some of the relevant statutes.

Civil Rights Law Section 73, the Code of Fair Procedure for Investigatory Agencies, describes certain rights granted to witnesses who appear before specified agencies, including the Commission, such as:

1. the right to review a copy of Section 73 prior to attendance;
2. the right to representation and participation by counsel;
3. the right, in appropriate circumstances, to enter a written or sworn statement upon the record;
4. the right, in specified circumstances, to be provided with a transcript of testimony; and
5. such additional rights and privileges as may be granted by the Commission.

Penal Law Section 215.65, Criminal Contempt of a Temporary State Commission, makes it a Class A Misdemeanor for a duly subpoenaed witness to fail or refuse to appear at a hearing or investigation of the Commission without lawful cause. Civil sanctions are also provided for a person who fails to appear or appears and is uncooperative.

Civil Practice Law and Rules Section 2308, Disobe-

dience of a Subpoena, provides civil sanctions for a person who fails to appear or appears before the Commission and is uncooperative. In such circumstances, the Commission may move in the Supreme Court for an order of compliance and, under certain circumstances, the Court may issue a warrant directing a Sheriff to bring the witness before the Commission or to imprison a witness for failure to answer questions or supply records.

Criminal Procedure Law Section 2.10(3), designates the investigators of the Commission of Investigation as Peace Officers.

Structure of the Commission

The Commission is composed of four Commissioners: two appointed by the Governor and one each by the Temporary President of the Senate and the Speaker of the Assembly. A member of the Commission is designated as Chairman by the Governor and serves as such at the Governor's pleasure. No more than two of the Commissioners may belong to the same political party. While bi-partisan in organization, the Commission in non-partisan in operation.

Lola S. Lea was named Commissioner and Chair by Governor Hugh L. Carey on July 1, 1981.* Commissioners Earl W. Brydges, Jr., Thomas J. Culhane and Bernard C. Smith were appointed on January 1, 1973, September 19, 1977 and November 1, 1979, respectively, and have served continuously since appointment.

The Commission's enabling act provides that:

The commission shall be authorized to appoint and employ and at pleasure remove deputy commissioners, counsel, an executive officer, investigators, accountants, clerks, and such other persons as it may deem necessary...

Currently, in addition to the four Commissioners, there are approximately 50 staff members. A substantial portion of the staff is composed of experienced investigators and accountants who conduct the field work for the Commission's investigations and are designated Special Agents. In addition, there is a Chief Counsel, a number of assistant counsel and legal aides. The legal staff oversee the investigations, gather evidence, conduct hearings, prepare reports, act as liaison to prosecutorial agencies and are the Commission's legal representatives in the State and Federal Courts. The functions of the Commission are assisted by an administrative staff.

*Eric A. Seiff served as Commission Chairman from January 1978 to April 1979; Adam Walinsky was named Commissioner in October 1978 and Chairman in May 1979 and served until June 30, 1981.

PUBLIC REPORTS 1979-1981

During the years 1979 to 1981, the Commission issued six public reports covering a variety of subjects. This variety—from prisons to police contracts, from a union welfare fund for municipal employees to a "no-show" State employee and from insurance commissions to dairy cattle—serves to illustrate the ability of the Commission to function independently in investigating a wide range of civil and criminal matters in order to make recommendations to the Governor; the Legislature, prosecutors and governmental agencies.

This section provides a short summary of these six public reports. What this section does not reflect is the equally wide range of ongoing matters presently being investigated by the Commission and those matters which, for various reasons, are referred to prosecutorial agencies or otherwise closed without a public report. The confidential nature of the Commission's work proscribes any discussion of those matters in this Report.

Corruption and Abuses in the Correctional System: The Green Haven Correctional Facility, May 1981.

On July 15, 1980, the Commission, in an Interim Report on the Escape of Albert Victory, revealed for the first time that Victory, who had been convicted of the felony murder of a Police Officer, escaped as the direct result of a pattern of corruption and malfeasance by personnel at the Green Haven Correctional Facility. The Interim Report, which is updated and included in this final report, disclosed that Victory did not escape with the aid of three shotgun-carrying confederates wearing ski masks, as had been officially reported. Rather, the Commission found, Victory walked away from a room in the Ramada Inn in Newburgh, New York where he had been taken by Correction Officers in a corrupt arrangement to drink alcoholic beverages and engage in sex with his girlfriend.

The Commission's investigation of the Victory escape was part of a wider study of corruption in the prison facilities of the Department of Correctional Services, which centered on Green Haven. The final report details widespread and systematic corruption and abuses at Green Haven and how changes over the past decade within the correctional system, under the impulse of the Attica prison riot and other factors, led to a "let's make a deal" attitude at Green Haven. Inmates roamed freely over substantial portions of the prison. The most junior officers were placed in direct charge of the most violent felons as veteran officers sought assignments with the least inmate contact. The high percentage of officer and inmate transfers to and from Green Haven fostered disorientation and a lack of security.

A system of granting "favors" to inmates developed. The favors grew larger and the price was not only prison peace but cash and gifts. The inmates who could purchase

the largest favors were primarily white, the most favored being those with organized crime connections, in a system where the majority of prisoners are poor and black. The Inmate Visiting Program became the focal point of corrupt activity and contraband operations, as contact visits allowed inmates to smuggle drugs, alcohol and cash into the prison. "Field Day" events became smugglers' flea markets. Guards became friendly with inmates and would eat and drink with them and their families in the outside visiting areas.

Prisoners and guards became involved in large scale pilferage of prison supplies; clothing, food and furniture were regularly reported stolen. Prisoners even cooked meals for the guards in the prison administration building, with food stolen from the kitchen. Guards permitted prisoners to use drugs and alcohol. Bookmakers took bets totaling tens of thousands of dollars. Guards looked the other way or shared in the profits. Inmates gave gifts to favored guards: cash, color televisions, drapes, shoes, microwave ovens, watches, cufflinks, liquor, baked goods, toaster ovens and theatre tickets were all traded for favors or extorted from inmates.

Inmates, primarily those with organized crime connections, on legitimate trips off prison grounds, corruptly arranged with Correction Officers to stop for costly meals, visit criminal associates, have sex or walk off unattended. In return, the officers were paid in cash, sometimes hundreds of dollars a trip, in goods or with the services of prostitutes. Finally, the corrupt and lax system and the breakdown in security fostered escapes as inmates used the prison's problems to their own advantage. Examples of these escapes include Albert Victory, who escaped by paying guards to drink alcoholic beverages in a bar, while he went to a motel room with his girlfriend; William Cody, who walked away from his job assignment outside the prison wall, apparently because no one knew or followed prison regulations; and Herminio Espinal and Antonio Capoul, who took advantage of the normal chaos of the visiting areas to walk out the front gate.

The final report recommended (a) a thorough investigation of the entire State Correctional system by a temporary commission established by the Legislature, with members appointed by both the legislative and executive branches, in order to determine to what extent the abuses uncovered at Green Haven exist on a broader scale; (b) a major expansion and upgrading of the Inspector General's Office; and (c) other specific recommendations concerning prison regulations and records.

As a result of the Commission's investigation, the two guards accompanying Victory were charged with Perjury before the Dutchess County Grand Jury. One pleaded guilty and was sentenced to a ten month term in the Dutchess County Jail; the other pleaded not guilty and his case is pend-

ing. The second prisoner on the Victory escape trip has had his parole rescinded for his part in that day's events. Victory was recaptured in California on February 24, 1981, more than two years after his escape. In addition, information concerning corrupt acts by other Correction Officers was provided to the Dutchess County District Attorney. One officer was indicted by a Grand Jury on felony and misdemeanor charges; action against another officer is pending. Many of the officers implicated in corrupt activities by the Report were dismissed, resigned or have had disciplinary charges filed against them after evidence was provided to the Department of Correctional Services. Other changes were made in the Department's Inspector General's Office and at Green Haven to address some of the problems noted in the final report.

A Trust Betrayed: Fraud, Breach of Fiduciary Duty, and Waste at the Teamsters Local 237 Welfare Fund, March 1981.

The Commission's Report reveals how William Wallach and Calvin Winick, the insurance brokers and consultants for the Welfare Fund of Teamsters Local 237, were paid over \$2 million from 1972 through 1978, under sham service and promotional contracts from the Fund's insurer, the Trans World Life Insurance Company of New York. The payments were ostensibly made for administrative and promotional services (which were either unnecessary or performed by the Welfare Fund's internal administrative staff at a cost to the Fund exceeding \$400,000 per year). Actually, they represented illegal commissions for placing the Fund's business with Trans World. In 1979 and 1980 Wallach and Winick were paid similar amounts directly by the Fund. Wallach and Winick concealed from the Fund, and the State Insurance Department, the illegal commissions they received while falsely representing that Trans World had been selected as the Fund's carrier on the basis of competitive bidding, and that all fees and commissions had been filed with and approved by the State Insurance Department as required by law. As a result of these and other excessive fees, Trans World's administrative charges to the Fund were more than 2½ times as great as the administrative charges ordinarily made by an insurance carrier to a welfare fund the size of Local 237's. Barry Feinstein, President of Teamsters Local 237 and Chairman of the Board of Trustees of the Local 237 Welfare Fund, had retained William Wallach, his close friend and a relative by marriage, as the Welfare Fund's insurance broker and consultant in 1967.

Feinstein protected Wallach and Winick even after learning, from the State Insurance Department, that Trans World, Wallach and Winick had grossly overcharged the Welfare Fund and earlier had used his political influence in attempts to prevent the public disclosure of facts concerning

the overcharges by the New York City Comptroller's Office, which was auditing the Fund. Feinstein, at the same time, used his influence over the Trustees to perpetuate the arrangements which enabled Wallach and Winick to enrich themselves at the Welfare Fund's expense. In March 1980 the investigation by the State Insurance Department resulted in the return of \$1.3 million to the Local 237 Welfare Fund by Trans World, Wallach and Winick, as well as payments to twelve other welfare funds of \$900,000.

In early 1980, when the Insurance Department was negotiating with Trans World, Wallach and Winick, the Fund through its counsel obtained a written opinion of an insurance consulting firm, William M. Mercer, Inc. ("Mercer"), that the settlement with the Insurance Department was "acceptable." The opinion was based in part on the totally erroneous assumption that Trans World, Wallach and Winick had complied with laws requiring the filing with the Insurance Department of information about the fees being paid to Wallach, Winick and others. Feinstein and the Mercer Report assured the Board of Trustees of the Welfare Fund that the Insurance Department has reviewed and approved all fees paid by Trans World and received by Wallach and Winick. As a result, even after the Insurance Department's findings were known, the Board of Trustees voted in June 1980 not to sue Trans World, Wallach or Winick for the return of over \$2 million they still owed the Fund; and Wallach and Winick's company continued on as consultants and administrators of the Welfare Fund earning over \$270,000 a year. Subsequent to the Commission's public hearings, Mercer retracted its report.

The Commission's Report shows that Feinstein dominated the Trustees of the Welfare Fund and that the Trustees relied entirely on Feinstein, Wallach and Winick in the administration of the Fund and never took independent steps to determine whether less costly insurance could be obtained elsewhere, or whether Wallach and Winick were placing the insurance with Trans World solely to maximize their commissions. Even after facts were brought to the attention of the Trustees indicating that the Fund had been the victim of a 'ripoff' by Wallach and Winick, Feinstein was willing to continue using them as consultants, and the Trustees did not question Feinstein's judgment. Only after the Commission conducted public hearings in November 1980, did the Trustees finally take action to discontinue the Welfare Fund's contractual relationship with Wallach and Winick.

Welfare funds like those of Teamsters Local 237 are largely unregulated and are subject to review only to the limited extent that the Insurance Department has jurisdiction over insurance arrangements made by some funds administered jointly by the City and the Union. The New York City Comptroller has the power to audit and to oversee the management of the welfare funds. But, as of the date this

Report was issued, such audits were low priority, and the Comptroller has no independent enforcement powers with respect to any abuses found by an audit. New York City contributes over \$140 million a year to over one hundred welfare funds.

The Report recommended that the Insurance Department and other agencies seek explicit powers from the Legislature to regulate public-employee welfare funds and that New York City consider alternative methods of managing welfare funds and of providing benefits to its public employees. Other recommendations were that Barry Feinstein and other Trustees of the Welfare Fund (the nation's largest Teamster's public-employee union) resign or be removed from their positions of trust and that federal and State prosecutors institute criminal proceedings against those who criminally defrauded the Welfare Fund.

Disease in the Dairy Cattle Industry: The Albert Mendel & Son Case, February 1981.

Since 1976, New York's dairy industry, the nation's third largest, had been endangered by the spread of brucellosis, a highly infectious cattle disease. This Report showed how Albert Mendel & Son, Inc., a family-owned business in Patterson, New York, one of the largest cattle dealers in New York, managed by Ernest Mendel, was able to sell untested and infected cattle to dairymen and cattle dealers in New York, other States, Puerto Rico and foreign nations such as Iran, Mexico and Yugoslavia. The Report disclosed that the Company purchased cattle from a notorious cattle smuggler and, at the same time, evaded cattle testing procedures by drawing and submitting for testing blood samples from animals already tested and found to be free of brucellosis in place of the blood of the thousands of cattle it annually shipped interstate and abroad. A veterinarian, Dr. Charles Frumerie, made the scheme possible by presigning the State and federal health test charts which must be completed before the cattle can be shipped. These acts by Albert Mendel & Son violate various federal or State criminal and civil laws.

For over one year, the State Department of Agriculture and Markets did not act on information from a convicted smuggler concerning Albert Mendel & Son, Inc.'s cattle purchases, early signs of contagion in the Company's herds and test results indicating that the Company was submitting fraudulent blood samples. Eventually the Department did impose a quarantine on the Company's farm and conducted an investigation which showed that the Company was evading brucellosis testing. In September 1979, the Department agreed with the Company on a fine of \$50,000 and a two-year suspension of the Company's cattle dealing license. However, the Department did not enforce the settlement and Albert Mendel & Son, Inc. continued to deal in cattle

through a Massachusetts-based, New York licensed front, I.R. Myers & Son. Dr. Frumerie's only penalty was the denial of his right to sign health test charts for one year.

The Report was also critical of the United States Department of Agriculture for its efforts to lift, for the benefit of Albert Mendel & Son, Inc., the State quarantine, and for providing the Company with assurance that it would not seek any penalties in addition to those imposed by the State despite the Company's violations of federal laws and regulations.

The Report recommended that the State Department of Agriculture and Markets keep the Legislature informed of problems facing the dairy industry and to seek funds to destroy cattle exposed to disease and hire additional investigators. The Report also called upon the United States Department of Agriculture, United States Customs, and other State and federal regulatory and law enforcement agencies to cooperate with and assist the State Department of Agriculture and Markets in its efforts to stem the flow of cattle smuggled into New York and to maintain the vitality of New York's agricultural industries.

The State Department of Agriculture and Markets, at the Commission's recommendation, has already implemented new improved blood testing procedures and has received additional funds from the Legislature to fight brucellosis. With the Commission's assistance, the Department permanently revoked Albert Mendel & Son, Inc.'s cattle dealing license, which, but for the Commission's investigation, would have been restored to the Company in September 1981. Information concerning the Company has been referred to the United States Attorney for the Southern District of New York.

Nassau PBA Arbitration, March 1980.

In this Report, the Commission noted that nothing it learned during an extensive inquiry supported allegations that Nassau County Executive Francis Purcell agreed to accept, without challenge, a favorable pay settlement reached through arbitration with the Nassau County Patrolmen's Benevolent Association in exchange for the PBA's support at the polls. The Report concluded that there is no evidence to support any allegation that Mr. Purcell, or others acting on his behalf, made any agreement or deal whatsoever regarding the arbitration award or sought to exercise influence of any kind upon the award itself. The Commission made no findings concerning the amount of the pay boost awarded the PBA, the qualifications of any of the arbitrators, or the decision of the County not to contest the arbitration panel's award.

The office of Nassau County Attorney Richard McCabe previously investigated charges that one of the ar-

bitrators had failed to disclose possible significant conflicts of interest. It found no evidence of such conflicts. It also submitted a memorandum to the Nassau County Board of Supervisors explaining that it considered there were insufficient legal grounds to contest the arbitration panel's award to the PBA of a 24.5 percent pay boost over a three-year period. The office of the Nassau County District Attorney also completed an inquiry and found no basis for conducting an investigation.

In following these other inquiries, the Commission noted that, unlike the office of the District Attorney which is limited to criminal matters, it also has a responsibility to examine significant allegations of ethical or political wrongdoing concerning the fair and equitable operation of government as well as the proper conduct of public officers and employees. It has the further responsibility to report its findings, whether favorable or unfavorable. The Commission recognized that those in public office are often the subject of allegations of misconduct and such allegations require special attention because of a public officer's reputation and the public's need to know about conflicts of interest on the part of its representatives.

Personnel Abuses at the Department of Labor, July 1979.

This Report detailed how former high officials of the New York State Department of Labor (DOL) deliberately protected a departmental employee who did virtually no State work over a ten-year period for which he received a full-time salary. The employee, John E. Kraemer, was, at the time of the Report's release, President of the Public Employees Federation (PEF).

The Commission found that Mr. Kraemer was allowed to remain on the State's payroll by a combination of indifference and protection afforded by the Department of Labor's hierarchy, often with the knowledge of the Governor's Office of Employee Relations (OER). Indeed, one of Mr. Kraemer's supervisors, to whose office Mr. Kraemer was assigned for over a year, had never even seen him. Mr. Kraemer's lengthy record of absenteeism from his assigned duties, apparently to pursue union organizing work, had been hidden by a false paper record of attendance concocted by middle-level supervisors, who in turn were carrying out the policies of their superiors.

The Commission's Report focused not only on Mr. Kraemer, but above all on the system that was created to conceal and protect his conduct. The Department's higher echelon, particularly former Industrial Commissioner Louis L. Levine, might have openly assumed responsibility for Mr. Kraemer's activities and avoided enmeshing several lower level supervisory employees in the unlawful signing of time records and evaluation reports for which they had no per-

sonal knowledge. The supervisors, were caught up in a web of false statements, apparent violations of law, humiliating frustration and lies.

The Commission did not criticize the desire of labor to organize State employees, and recommended that the State consider an openly declared policy of allowing *bona fide* employee organizations to negotiate with OER to secure time off for a limited number of employees to organize and perform other union-related activities during representation election periods under proper safeguards. However, the attempt to pursue such a policy in secret led to a disgraceful record of mismanagement, supervisory failure and disciplinary paralysis with immeasurable yet definite effects on the morale of the State's fourth largest agency. The Report stated that Mr. Kraemer enjoyed his extraordinary status at DOL for all of these years because all the senior officials of the Department evidenced an enormous concern for the wishes, opinions and influence of organized labor.

Mr. Kraemer's paychecks stopped and actual disciplinary proceedings were commenced in late June 1979, three years after Industrial Commissioner Philip Ross assumed office and one full year after the Commission began this investigation. DOL dismissed Mr. Kraemer from employment for being absent from work without authorization from October 12, 1977.

The Commission recommended that DOL pursue its disciplinary proceedings against Mr. Kraemer to obtain reimbursement of salary which he had wrongly received. In addition, the Commission referred this matter to both the Albany County District Attorney for appropriate prosecutorial action and to the New York State Attorney General to recoup any and all moneys improperly paid to Mr. Kraemer. Finally, the Commission recommended that all State agencies, especially the Department of Labor, should carefully examine their own personnel practices to ensure that no other State employee is enjoying a special status which exempts him or her from the regular attendance rules of the agency.

In May 1981, in a grievance proceeding brought by Mr. Kraemer against DOL to contest his dismissal, an arbitrator found that DOL had proven that Mr. Kraemer was a no-show employee. However, the arbitrator rescinded Mr. Kraemer's discharge as being without just cause because DOL had fired Mr. Kraemer "for doing precisely the same things... for which he received satisfactory and exemplary ratings from his supervisors... [a]nd, [because] it [was] simply unfair to discharge an employee who has worked for fifteen years with an unblemished record for committing acts which were condoned—and, at times, even encouraged—by management for almost as long a period of time." Mr. Kraemer is now on union leave from the Department of Labor.

Insurance Commissions and Party Politics III, February 1979.

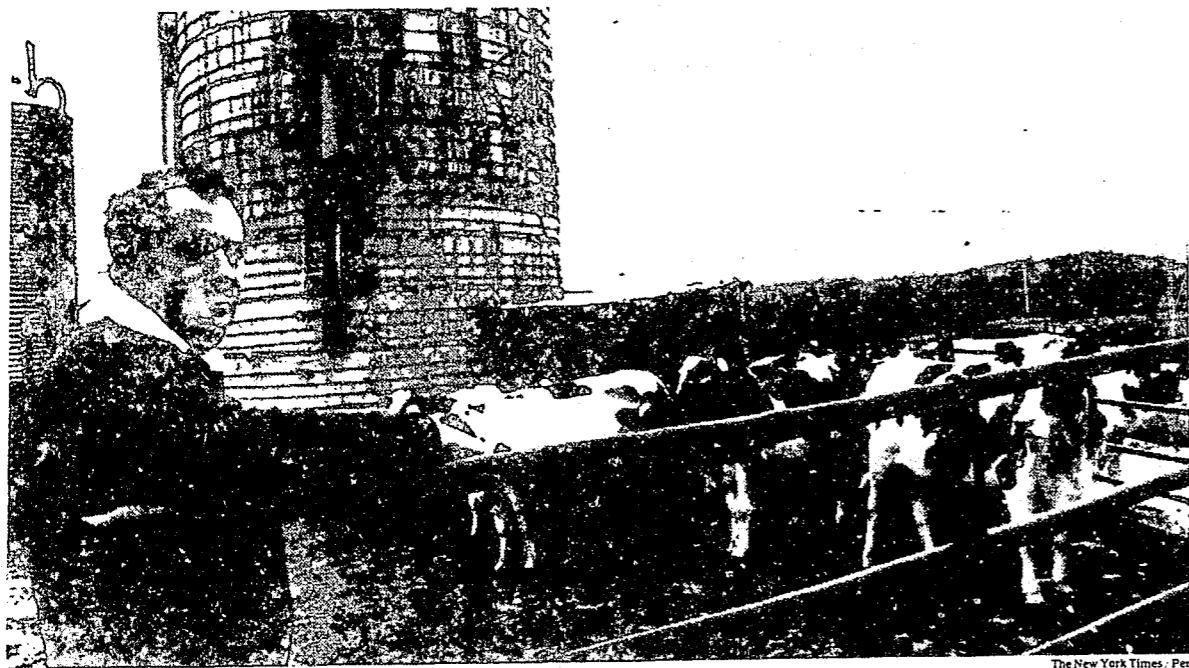
This was the Commission's third of three reports describing the practice of insurance commission splitting directed by the political party in power drawing money from governmental insurance premiums.

Having examined the practice for cities and counties in its two previous reports, this final report focused on the State itself. It examined New York State Insurance programs run by the Insurance Bureau of the Office of General Services during the 1970's. The Report calculated the misuse of taxpayers' dollars, that went in the form of commissions to favored brokers who performed no work at all on policies purchased by the State itself, at about half a million dollars annually prior to 1975. Wasteful practices also occurred prior to this period but the absence of records made it impossible for the Commission to determine exactly when commission sharing at the State level began and at what cost.

It is the Commission's belief, as a result of its findings in numerous communities and counties in New York State, that the abuses described are practiced by Democrats and Republicans alike and, in most instances, have been passed on from one administration to another.

In 1975, Governor Carey's then newly elected administration initiated a reform program for State Insurance programs which eliminated the use of non-working brokers and resulted in a savings of some \$600,000 in returned commissions. However, an erosion of this reform resulted as the State yielded to insurance industry pressures to reinstate the use of brokers. Several major insurance companies threatened to and did cease writing any insurance for the State unless the so-called American agency system of brokers was adhered to, whether or not these brokers performed any service on the policies for which they were paid commissions.

The Report set forth conclusions and recommendations based upon the Commission's findings during its three-part sixteen-month investigation including suggested changes in State laws and regulations which would assist communities in obtaining adequate insurance coverage without submitting to demands which are irrelevant to the services or the coverage required. Criminal indictments and a conviction have already been returned in a case involving the misapplication of insurance commissions. The Report was also forwarded to the State's Attorney General for review with regard to possible restraint of trade violations.



Ernest Mendel on his farm at Patterson, N.Y. Mr. Mendel is one of the state's largest cattle dealers.

Diseased Livestock Linked to Upstate Cattle Dealer

By DIANE HENRY
Special to The New York Times

PATTERSON, N.Y. — The New York State Commission of Investigation is looking into charges that one of the state's largest cattle dealers smuggled hundreds of diseased cattle into New York by driving them across some desolate spot along the Canadian border, falsified health records and resold them to other farmers in other parts of the state.

The Connecticut Department and Attorney General also are looking into the charges about the cattle dealer, who operates here. Those officials are grounds for revoking his license in Connecticut. He has been free of brucellosis for an outbreak last year. The disease that is suspected of having caused the outbreak last September in New York State cattle dealer, suspended by the state Agriculture and Markets Department, is now in a contest to be declared a health hazard.

He also paid the best even-

Mr. Mendel has continued to buy and sell cattle outside of New York State using his valid Connecticut license.

Mendel Denies

In an interview with the commission, Mendel said he was not aware of any diseased cattle being smuggled into New York.

Editors' views:
The state insurance Commission is careful to avoid allegations of criminal liability in its report on the state insurance ripoff. Taxpayers who apparently have lost in the neighborhood of \$5 or \$6 million or more are likely to have different thoughts about the matter. They are likely to call practices described by the commission "stealing with ears" or services in return for political favorites to dip into the treasury.

Investigators said the number of dairy cows in the state might be as high as 1.5 million. That is more than the number of people in the state. The commission of investigation is looking into the matter. The president of the 46,000 member Public Employees Federation held down no-show state jobs for 10 months with ears and collected \$125,000 in salaries while he was in fact engaged in fulltime union organizing. The state probers said yesterday.

By MARTIN GOTTLIEB

The president of the 46,000 member Public Employees Federation held down no-show state jobs for 10 months with ears and collected \$125,000 in salaries while he was in fact engaged in fulltime union organizing. The state probers said yesterday.

Commission of Investigation that because of union member's labor connection he "might enhance his group — as a result of traditional rmer state Industrial Union of Marine and Shipbuilding Workers of America from attempts by supervisors to withhold the Public Employment which last year won present the 46,000 annual state workers with the rival Civil Association, said comment because the page report. Levine, to his state post by feller, is now an up Health Inc., in

mockery
t "a mockery was istrative structure of cy." the commission rd its investigation to district attorney for n and to the state office so that efforts cover the \$125,000 that as early as 1969, rked as an employ- the Division of Em- an Youth Opportuni- accumulated signifi- Efforts by his discipline him were emanded by high- e report says. Later, tenure, the report was promoted to a job under "a system

SIC Study: Abuse In Policy Favoring Insurance Brokers

The State Investigation Commission (SIC) released yesterday its third of three reports on abuses in the areas of governmental bodies awarding insurance commissions to brokers who actually performed no work for their compensation.

The previous two reports focused on the problem in cities and counties in the state. The third report examines New York State's own insurance programs run by the Insurance Bureau of the Office of General Services during the 1970s. The report describes the practice followed by whichever political party was in power of splitting insurance commissions with favored brokers who did no work for their money. Prior to 1975, the report calculates that the amount of taxpayer money that went to favored brokers was \$500,000 annually.

The SIC has no records to verify the amount of money awarded to insurance brokers before 1975 due to the absence of records. However, the reports states that "the unearned brokerage commissions were used as patronage by the Republican State Committee with the active participation of Office of General Services officials." While this practice was in vogue, "hundreds of brokers shared hundreds of thousands of dollars."



"\$00-00-E-E-E! HERE'S SOMETHING TO CHEW ON!"

Labor boss is accused in \$125G 'no-show' deal



SIC Chairman Adam Wallnsky speaking in Albany yesterday. In background is Thomas J. Culhane, another commissioner.

of secrecy and protection that effectively concealed the true nature of his activities. Levine's successor, Industrial Commissioner Philip Ross, put a stop to Kraemer's paychecks two years ago, but disciplinary proceedings were not begun until last month.

False time sheets
"What is exceptional about this case is that it involves 10 years of blatant nonattendance, with supervisory employees having to sign time sheets they knew were false," Investigation Commission Chairman Adam Wallnsky said.

He said the commission had uncovered no evidence that the reported efforts to cover for Kraemer went above the office of Industrial commissioner.

SUMMARY OF INVESTIGATIONS 1958-1978

Since the Commission was established in 1958, it has conducted hundreds of investigations on matters ranging from simple complaints, possibly affecting only a few persons, to institutionalized corruption, affecting the entire State. The Commission's published reports are but a partial indication of the results of these investigations. Often, the Commission will develop information and supply it to a cooperating agency, including federal, State and local prosecutors or the Attorney General, for prosecution or other action without issuing a public report. The Commission also receives and handles many complaints or allegations which do not warrant public reports, and, on many occasions, substantial staff work will underline a decision to close a matter without issuing a report when the allegations were not or could not be substantiated. Some of the major public reports issued by the Commission from 1958 to 1978 are listed below. Often, the report was preceded by a public hearing. In appropriate cases, a short summary has been provided.

Copies of most of the reports of the investigations summarized in this section are still available. Requests should be made in writing, by mail only, to the Commission's New York City office. A fee of five dollars, in check or money order (do not send cash), must be enclosed for each copy of a report requested.

1958

1. The Apalachin Meeting

On November 14, 1957, the largest known gathering of major underworld figures convened at the home of Joseph Barbara in the rural town of Apalachin, Tioga County, New York. A number of investigations were conducted of the Apalachin Meeting by several investigative bodies; most were frustrated by the wall of silence behind which those involved retreated. However, Apalachin attendees who refused to answer Commission questions at public hearings, were confined to jail for periods ranging up to sixteen months—the only prison time ever served by some of these major racketeers.

1959

2. The Police Department of the Town of Hamburg, Erie County

The Commission investigated charges that the Police Chief of Hamburg (located near Buffalo) was involved in an "accident chasing" scheme on behalf of certain attorneys. On the day of the Commission's public hearing, the Police Chief resigned. A new Chief was appointed, the Department was completely reorganized and the irregular practices and conditions disclosed by the Commission were eliminated. Further inquiry by the Erie County Bar Association resulted in the disbarment of the attorneys for whom the Police Chief

was soliciting automobile accident cases.

3. Professional Gambling and Law Enforcement in the City of Ithaca, Tompkins County

4. An Investigation of Harness Racing Commissioner George P. Monaghan and Related Matters

This investigation concerned the conduct of Commissioner George P. Monaghan and his staff, and the administration by the Harness Racing Commission of its duties and obligations regarding the Capital Construction Fund. Immediately following the Commission's public hearing, Governor Rockefeller called an Extraordinary Session of the Legislature which met on July 1, 1959, resulting in the reorganization of the Harness Racing Commission.

5. Criminal Activities in the City of Utica, Oneida County

The Commissioners were requested to look into a pending investigation concerning alleged criminal activities in Utica. The Commission's recommendation to Governor Averell Harriman that a special prosecutor be appointed was accepted.

1960

6. The Wiretapping Dilemma

On April 5 and 6, 1960, the Commission held a public hearing concerning the use in State criminal trials of evidence from court authorized wiretaps. Distinguished representatives of law enforcement, and other persons deeply concerned with the problem created by Federal Court decisions based upon the interception of telephone communications, appeared and testified. A transcript of the hearing was forwarded to every member of Congress and to interested federal and State law enforcement agencies. Several Commissioners testified before Congressional Committees with regard to remedial legislation.

7. Gambling and Corruption in Piermont, Rockland County

The Commission received information that professional gamblers were operating in Rockland County and that the local police were taking no action. A raid on March 25, 1959, resulted in the arrest of forty men. As a result of the investigation, the Police Chief resigned and, with others, was indicted.

1960-1961

8. Special Unit Investigations into the Affairs of the City of New York

The Special Unit of the Commission was created on May 5, 1960, by Executive Order of Governor Nelson A. Rockefeller with staff transferred from the Commission on

Governmental Operations. The Commission held public hearings and issued the following reports concerning investigations developed by the Special Unit:

a. The Purchase of Rock Salt by the City of New York

Evidence at a public hearing in June 1960 revealed instances of collusive bidding, contract rigging, improper personal relations between vendors and the Commissioner of Purchase and the payment of \$3,050 in bribes to an inspector in the Comptroller's office. As a result of this investigation, the Commissioner of Purchase resigned (on the day following the issuance of the Commission's Report), the inspector in the Comptroller's Office was dismissed, the City of New York recovered \$350,000 from the prime vendor of rock salt and a number of new procedural safeguards recommended by the Commission were adopted by the City.

b. Bureau of Real Estate

This investigation disclosed that, at least up to 1958, New York City was being cheated in maintenance work on city properties by the actions of corrupt City employees who continued to hold key positions of trust in the Department of Real Estate up to the time of the public hearing held in November 1960. Following the Commission's public hearing, procedures were changed and other corrective measures were taken to prevent similar occurrences.

c. Electrical Inspectors of the Department of Water Supply, Gas and Electricity of the City of New York

Evidence at a public hearing in December 1960 showed that the practice of making regular payoffs to electrical inspectors had been an accepted way of doing business in the industry in order for contractors to avoid harassment and delay in the approval of their work; and that serious electrical violations had been overlooked by inspectors on jobs where payoffs had been made. As a result of this investigation, disciplinary action was instituted against City inspectors named as recipients of bribes and against all the State Rent Commission employees named in the hearing who were involved in irregularities and new procedures were instituted for the supervision of personnel in the Department.

d. New York City Lighting Maintenance Contracts

The Department of Water Supply, Gas and Electricity and Department of Traffic were responsible for overseeing the proper installation and maintenance of the City's street and traffic lights (maintenance costs for street and traffic lights in 1960-61 was more than \$6,000,000). The Commission's public hearing in May 1960 disclosed a general breakdown in the responsibility exercised by these Departments, a long-standing division of the

maintenance market between two supposed competitors, discouragement of potential bidders, very high profits and substantially inadequate performance.

In addition, the Special Unit also issued the following reports: (a) Corrupt Practices in New York City's Department of Buildings relating to Corruption in the Plan Examination Division of the Department of Buildings, which outlined specific evidence of corruption and contained a summary of the principal improvements which were necessary to eliminate long-standing abuses; and (b) the Conduct of Public Officials of the City of New York, containing information relating to the conduct of several high-ranking officials in office.

1961

9. Law Enforcement in Buffalo

This investigation concerned law enforcement in Buffalo relating to gambling, vice and alcoholic beverage control; and the efficiency, conduct and operations of the Buffalo Police Department. Following the Commission's public hearing and recommendations, substantial changes were made in the Police Department, including the appointment, by the newly elected Mayor of Buffalo, of a new Police Commissioner, who undertook a large-scale reorganization. The Commission's Report was made required reading for high-ranking officers of the Police Department.

10. Syndicated Gambling in Central New York

This investigation, based upon information that bookmakers in Ithaca were in regular and constant contact with their counterparts in neighboring cities and towns, resulted in simultaneous raids by members of the Commission's staff and the State Police on bookmakers and policy writers in twenty counties and thirty cities and towns throughout the Central New York section of the State. Ninety-nine bookmakers and 46 policy operators were arrested. After the Commission's Report was issued, new anti-gambling laws were enacted by the Congress and the State Legislature.

11. Real Estate Tax Delinquencies in Albany County

The Commission's investigation and public hearing concerning the accumulation of delinquent real estate and wasteful tax compromise practices and policies in the County of Albany disclosed the following basic causes for the magnitude of the accumulated delinquencies and the dissipation of tax liens: (a) ineffective billing; (b) absence of collection follow-up; (c) wasteful and unjustifiably lenient compromises of tax delinquencies; (d) actions by the County Board of Supervisors on compromise applications which were governed by no definite criteria; and (e) advantages

gained by "insiders." Recommendations were made for more effective and efficient tax collection through the use of existing statutes.

12. Bingo Operations in New York State

The Commission's investigation disclosed that much of the lobbying activity for the legalization of Bingo was organized by a twice-convicted associate of racketeers who, with his associates, financed, controlled, operated and misappropriated substantial profits from Bingo games after legalization. In many areas of the State, Bingo was actually run by promoters, using charitable, civic and veterans' organizations as fronts and who reached into the investigative staff of the Lottery Commission resulting in the corruption of some staff members and affecting the conduct of other public officials. Following the Commission's public hearing, Governor Rockefeller appointed a Moreland Act Commissioner to investigate all phases of the supervision, licensing and regulation of Bingo in the State. In addition, the Lottery Commission promulgated new regulations and amended others in an effort to curb abuses and violations; and also instituted disciplinary action against organizations which were found to be involved in violations of the law. Finally, the Legislature reorganized the former Lottery Commission and created the State Bingo Control Commission.

13. Fraud and Waste of State Funds in the Construction of Yonkers Raceway

This investigation, based on information obtained during the Commission's inquiry into the administration of the Harness Racing Commission in 1959 (see above No. 4), indicated that extreme carelessness, waste and fraud were evident in the handling of \$21,000,000 of public funds (from the Capital Construction Fund) for construction projects at Yonkers Raceway in 1957 and 1958. Evidence at the Commission's public hearing revealed that underworld figures were associated with the project's subcontractor; there was duplicate billing for the rental of construction equipment; and exorbitant costs were paid for various types of work and unusually high profits were realized. As a result of the investigation, payments were reviewed by appropriate State agencies and part of the excessive costs were recovered.

1962

14. The New York City School Construction Program

The Commission's investigation into New York City's \$1 billion public school construction program revealed that almost all new schools showed significant design or construction defects with, in many instances, Board of Education personnel approving faulty and defective construction; and it also showed widespread administrative inefficiency. The

Commission found evidence of violations of the law and improper practices concerning the relationships between contractors doing business for the Board of Education and inspectional personnel whose responsibility it was to check the work of these contractors. The Board of Education instituted several administrative changes towards the end of this investigation. Following the investigation, an Extraordinary Session of the Legislature was called by Governor Nelson A. Rockefeller and legislation was enacted which removed and reorganized the City's Board of Education.

15. Suffolk County

This investigation into matters which were considered not completed by a Suffolk County Special Grand Jury, dealt primarily with charges of possible corruption in the purchase of highway materials by the Towns of Huntington and Brookhaven. Recommendations were made by the Commission concerning the more efficient purchasing of crushed stone for highway construction and the use of other materials to avoid monopolistic practices and provide economic savings.

1963

16. Syracuse Police Department

In 1960, a Commission investigation revealed illegal gambling activity which had been in operation for over twenty years with hardly any interference by the Syracuse Police Department. In 1962, a second investigation and public hearing disclosed police corruption, gambling, prostitution, violation of the liquor laws, "tipoffs" by detectives of impending police raids, improper police associations with criminals, inadequate leadership in the Police Department, a breakdown of Police discipline and morale, professional incompetence, lack of training and many other departmental deficiencies. After the beginning of the Commission's public hearing, the two highest ranking members of the Police Department resigned and the Department was reorganized.

17. Misconduct by the Mayor of Johnson City, Broome County

In early 1962, a complaint alleged that Mayor William F. Ott of Johnson City had demanded and received money from a supplier of garbage disposal equipment who had been awarded the contract although its bid was the highest submitted. After the investigation, the Commission submitted testimony and records to the District Attorney and, as a result, Mayor Ott resigned and later pleaded guilty concerning the receipt of the money and was fined.

1964

18. Purchasing Practices and Procedures of Albany County

Information came to the attention of the Commission concerning possible deficiencies and questionable practices in the operation of the Albany County Purchasing Agent's office. The evidence revealed serious irregularities, deficiencies, laxities and incompetence in the administration and operation of the office of the Purchasing Agent and certain other County units, as well as improper practices, such as short deliveries, deliveries of goods not conforming to bid specifications and gross overcharging. In spite of the obstructive tactics of the County officials and their efforts to impede the investigation and public hearing, the evidence of impropriety and waste was so overwhelming that some corrective action was undertaken by the County even before the public hearing was held; afterwards additional corrective steps were taken. An Albany County Grand Jury commenced an inquiry concerning the evidence gathered by the Commission and the County Attorney instituted court action against one of the largest vendors to the County to recover for overcharges on sales.

19. Pistol Licensing Laws and Procedures in New York State

20. Gambling and Law Enforcement in Westchester County

On March 26, 1962, 170 law enforcement officers, including members of the Commission's staff, conducted simultaneous raids upon 37 separate gambling locations in ten communities of the County resulting in 56 arrests and the seizure of over \$20,000 in cash and vast quantities of equipment, gambling records and policy slips. The investigation and disclosures made at the public hearing held in October 1963 established the existence of widespread violations of the gambling laws carried on by deeply entrenched professional syndicates and serious deficiencies in the police department.

1965

21. Loan-Sharking Operations in New York State

The Commission's investigation sought to ascertain and expose the nature and extent of the loan-shark racket and the problems in dealing effectively with it. Testimony and other evidence detailed the extent of loan-sharking, the loan-shark's method of operation, the tactics employed in collecting, the fear and helplessness of the borrower and the manner in which loan-sharks corrupted officers and employees of certain banking institutions, enabling the loan-sharks to utilize bank funds. Following the public hearing, at the request of the Governor, the Commission recommended the enactment of criminal usury legislation which was passed by the Legislature.

22. Charges Involving County Executive Eugene H. Nickerson and District Attorney William Cahn of Nassau County

In 1965, a controversy developed between Nassau County Executive Eugene H. Nickerson and District Attorney William Cahn, who were members of different political parties. Mr. Nickerson publicly charged Mr. Cahn with the commission of certain crimes and demanded that the Governor remove him from office; and the District Attorney charged that the County Executive, by design or effect, had frustrated a Grand Jury investigation of the Nassau County Jail. At the request of Governor Nelson A. Rockefeller the Commission conducted an inquiry concerning the charges and countercharges and found that there was no basis for the charges made by Mr. Nickerson and insufficient evidence to support the countercharges by Mr. Cahn. The Commission's Report called for mutual respect and cooperation among governmental officials.

1966

23. Narcotics Addiction in New York State

The Commission undertook an investigation to assess the extent of narcotics addiction in New York State and its impact on the community in terms of crime and law enforcement, and to examine existing addiction programs. At the conclusion of the investigation and four days of public hearings, the Commission made comprehensive recommendations including calling for: more effective training, operation and cooperation by law enforcement officials; the passage of legislation to strengthen law enforcement efforts; an increase in sentences for certain types of narcotic related crimes; treatment, rehabilitation and educational programs concerning narcotics addiction; and the creation of a specific State agency to coordinate these programs.

24. Organized Crime Activities and Problems of Law Enforcement in Rochester

The Commission undertook an investigation into the facts and circumstances surrounding a clandestine meeting, on Sunday morning, May 23, 1965, between Frank Valenti, an underworld figure and two detectives of the Vice Control Unit of the Rochester Police Bureau, in the back room of a cigar store on State Street in Rochester, which was well known to police as a location for illegal gambling. A detailed report by the Commission revealed influence peddling and political interference in police activities manifesting itself on nearly every level of the police hierarchy, including the release of confidential information, promotions and matters as routine as a change of work assignment.

25. County Jails and Penitentiaries in New York State

In 1965, acting on complaints of improprieties and deficiencies in the operation of county jails and penitentiaries, the Commission found that in a few institutions certain

aspects of inmate treatment and housing required improvement and that there was a statewide need for meaningful rehabilitation programs for the chronic alcoholic and criminal offender. The Commission made several recommendations concerning alcoholics in the penal system, rehabilitation programs in upstate and New York City institutions and the need for community based projects such as work-release and half-way houses.

26. Charges Relating to the Organization of the 1965 New York State Legislature

On January 16 and 18, 1965, New York City Mayor Robert F. Wagner, in public statements, charged that the Chairman of the New York State Democratic Committee had offered Legislative Committee Chairmanships and expense moneys to influence the election of legislative leaders as part of the organization of the 1965 Legislature. The Commission received requests from members of the Legislature for a full investigation of the facts. After conducting private hearings, the Commission decided that it was in the public interest that all the facts be made known and held public hearings on January 27, 28 and 29, 1965. After these hearings, it was decided that no further action was required.

1967

27. The Limited-Profit Housing Program

The Limited-Profit Housing Companies Law (often called the Mitchell-Lama Law) was enacted by the New York State Legislature in 1955 to meet the need for housing for middle-income families. The Commission found that this housing program was basically sound and had furnished much necessary housing. However, certain abuses and deficiencies were disclosed which, if permitted to continue, threatened to frustrate the concept and purpose of the law which created the program. In this regard, recommendations were made concerning legislation to amend existing middle income housing laws. Significant administrative reforms were instituted by the program's supervising agencies in response to Commission recommendations.

28. Law Enforcement Problems in Niagara Falls

In 1966, the Niagara Falls Police Club charged the Chief of Police with ineffective administration leading to low Department morale and a breakdown in enforcement and police services. A Commission investigation disclosed that there was a laxity in enforcing the laws, particularly those relating to gambling, vice and alcohol beverage control and that certain high-ranking police officials frequented unlicensed or "after-hours" bars while in uniform. On November 25, 1966, the Chief of Police resigned and a new Chief was appointed. This was followed by a number of per-

sonnel changes within the Department and the creation of a new confidential squad to address the problems in enforcement revealed in the Commission's Report.

1968

29. Racketeer Activities in the Air Freight Industry

The Commission conducted an investigation concerning illegal activities at John F. Kennedy Airport. The evidence at a five day public hearing, which began in December 1967, disclosed thefts and pilferage of air cargo; loan-sharking; illegal gambling; assaults related to labor strife; and infiltration by organized crime figures into the truckmen's association (Metropolitan Import Trucking Association) and Teamsters Union Local 295. On February 18, 1968, Governor Nelson A. Rockefeller, in a Special Message to the Legislature on Crime, referred to the evidence disclosed in the Commission's investigation and public hearing and proposed an expansion of the Waterfront Commission to regulate the air freight industry. The Air Transportation Association of America, on behalf of the airline industry, opposed the bill and it did not pass. Subsequently, the airline industry, in an agreement entered into by member airlines, established the Airport Security Council for the prevention and detection of crime at airports in the New York Metropolitan area. In 1969, however, the Legislature broadened the mission of the Waterfront Commission and renamed it the Waterfront and Airport Commission.

30. The Conduct of Police Officers and Public Employees in Connection with an Application to the State Liquor Authority for a Liquor License

In October 1966, the Commission, at the direction of Governor Nelson A. Rockefeller, investigated charges that an investigation by Queens County District Attorney Nat Hentel, had disclosed evidence of corruption in the State Liquor Authority (SLA) with respect to the application of Imperial Inn, Inc. of Richmond Hill, Queens, for a tavern liquor license. In November 1966, as a result of the Queens District Attorney's investigation, Judge Benjamin H. Schor of the New York City Criminal Court and his friend, Jack Brodsky, manager of Tri-County Motors, Inc. on Bedford Avenue in Brooklyn, were indicted. The indictment was later dismissed on the ground that there was insufficient evidence before the Grand Jury to support the charge of Judge Schor's involvement in the alleged conspiracy. Shortly thereafter, Judge Schor retired from the Bench. In October 1967, as the result of evidence developed in the Commission's investigation, former Judge Schor was arrested and indicted by the Queens County Grand Jury for prejury before the Grand Jury (10 counts); SLA Supervising Investigator, Sidney Balsam resigned from the State Liquor Authority; and Jack Brodsky pleaded guilty to a charge of

conspiracy to obstruct justice.

31. Conduct of Sheriff Robert W. Burns of Wayne County

In May 1967, members of the Board of Supervisors of Wayne County complained to the Commission, that County Sheriff Robert W. Burns had certified for payment from County funds, charges for foodstuffs, automobile servicing, telephone service and other materials and supplies which he obtained and appropriated for his personal use. Prior to the Commission's public hearing, Sheriff Burns resigned. On October 6, 1967, a Wayne County Grand Jury returned a multi-count indictment against Burns, charging him with grand larceny and filing false and fraudulent claims. Burns pleaded guilty to petit larceny under the indictment and received a suspended sentence.

1969

32. The New York City Municipal Hospital Affiliation Program

During 1961, New York City commenced an affiliation program between municipal hospitals and selected medical school and non-profit voluntary hospitals. Under the program, the City paid these institutions to staff and operate certain professional and related services in 19 of its 21 municipal hospitals. The Commission conducted an investigation which disclosed widespread abuses in the affiliation program and serious deficiencies throughout the City hospitals which adversely affected patient care. In early 1969, the Legislature created the New York City Health and Hospitals Corporation, designed, in part, to address these problems.

33. Racketeer Activities in Mason Tenders Union Locals

This investigation concerned the criminal domination of mason tenders unions in the New York metropolitan area. Testimony at a six-day public hearing disclosed: racketeer infiltration of union locals; the alliance of contractors with racketeers; contractors who, at a price, frequently under-reported wages of employees to save enormous sums of money in required contributions to the union pension and welfare funds; contractors who reported fictitious employees to the welfare funds for benefit purposes; contractors who did not report laborers actually employed to the welfare funds; contractors who hired union and non-union laborers at lower than union scale; widespread submission of false and fraudulent disability and welfare claims and payment of such claims; and payoffs to a union business agent. Following the public hearing, the State Superintendent of Insurance made an application to the Supreme Court in New York County, for orders to take possession of the property and rehabilitate the Mason Tenders District Council's Pension

and Welfare Funds and indictments were filed against the doctors who conspired in the filing of false disability claims.

34. The Management and Operations of the Lackawanna Police Department

The Commission had looked into problems involving the Lackawanna Police Department in 1962 and 1967. In July 1968, the Commission received information that confidential records of the Police Department were surreptitiously removed from the Department's vault by the Chief of Police. Evidence revealed that the Police Department was marked by political interference and internal conflicts; a disregard of the gambling laws by several members of the department; and that, since January 1, 1968, the management and operations of the Police Department have been dominated, and to a great extent controlled, by the new Mayor. Following a public hearing, the Erie County District Attorney presented certain aspects of the evidence to a Grand Jury which returned several indictments.

1970

35. Racketeer Infiltration into Legitimate Business

Based upon the accumulated information contained in its files, the Commission undertook a full investigation of racketeer infiltration into certain businesses. As the investigation proceeded, it became obvious that although the businesses looked into were different (cutlery grinders, meats and kosher provisions, bagels, night clubs, unions, manufacturing, etc.), the means used by racketeers to accomplish the infiltration and take-over fell into recognizable forms. They ranged from extortion and strongarm methods to such subtle means as merely mentioning the name of a known underworld figure as being interested in a particular enterprise. The Commission's seven-day public hearing and Report provided detailed evidence of methods of racketeer infiltration and can serve as a blueprint for future law enforcement efforts.

36. The Troy Garbage Disposal Contract and Other Matters in Troy and Rensselaer County

The Commission investigated the questionable circumstances under which a garbage disposal contract was awarded by the City of Troy and allegations that racketeers were linked with a company which held the Troy contract as well as other garbage disposal contracts in the area. Evidence presented at a public hearing in July 1969 confirmed that Troy was run mainly by political fiat rather than by the independent judgment of elected public officials and revealed the deficiencies, mismanagement, waste and abuses in the City's governmental operations. On January 5, 1970, the District Attorney of Rensselaer County presented evidence

provided by the Commission, shortly after its public hearing, to a Grand Jury which returned a number of indictments.

37. An Alleged Attempt to Bribe Legislators in Connection with the Quarter Horse Harness Race Track Bill

Newspaper stories indicated that a representative of a Queens advertising company had offered legislators "payoffs," by means of campaign commitments, in return for "Yes" votes on the recommitment of a bill to amend the law in relation to the State Quarter Horse Racing Commission. The Commission's investigation disclosed that the advertising company representative did, in fact, make offers to certain Assemblymen in return for their voting in favor of the bill. This was denied at a private hearing before the Commission, and again before the Grand Jury. On February 16, 1970, the New York County District Attorney filed an indictment charging the representative with four counts of Perjury in the First Degree.

38. Supervisory and Reviewing Functions of the Public Service Commission

After the indictment in August 1968 of 14 major construction companies (concerning collusive bidding in over \$49,000,000 in contracts with the Consolidated Edison Company, Brooklyn Union Gas Company and a New York Telephone Company subsidiary in New York County) and similar indictments in January 1969 by a New York County Grand Jury of 12 construction firms located in Westchester County, complaints were received by the Commission alleging that the Public Service Commission had failed in its obligation to supervise the utilities properly; that Consolidated Edison Company had the highest electric rates in the entire country; and that excess costs from collusive bidding practices were reflected in higher costs to the consumer. It appeared from the Commission's investigation that (1) contractors doing business with the Consolidated Edison Company made high profits; and (2) the Public Service Commission did not review the contractors' costs and profits—not even on a sampling basis. Subsequently, at the insistence of Governor Rockefeller, there was a reorganization in the Public Service Commission.

39. The Construction of the Traphagen Elementary School in Mount Vernon, Westchester County

A committee of residents of the City of Mount Vernon complained to the Commission in 1969, concerning the construction of the Traphagen Elementary School and made allegations involving irregularities in the construction of the school; the high cost of the landfill used in its construction; the inflated cost of the school because of change orders approved by the architect and the Board of Education during construction; and possible evidence of structural defects in

the building. The evidence gathered by the Commission did not support the allegation that the Traphagen School was structurally defective to the point of being unsafe; however, it did appear that substantial profits were realized by certain contractors.

1971

40. Narcotics Law Enforcement and Related Problems in the New York City Metropolitan Area

In 1966, the Commission had conducted an investigation into the problem of narcotics addiction in New York State. Recommendations were made for stricter law enforcement, treatment and rehabilitation but the situation did not improve. On February 24, 1970, Governor Nelson A. Rockefeller, the Temporary President of the Senate and Majority Leader, Earl W. Brydges and the Assembly Speaker, Perry B. Duryea, publicly issued a joint statement announcing legislation and administrative support for an attack on the narcotics problem. In the area of law enforcement, the joint statement requested that the Commission undertake a comprehensive inquiry and conduct hearings, if appropriate, of all facets of the heroin and hard drug problem faced by law enforcement authorities, particularly in the New York City metropolitan area. In November 1970, the Commission prepared and forwarded to the Governor an Interim Report of its investigation and later held a ten-day public hearing. Comprehensive recommendations were issued by the Commission on July 6, 1971. Significant changes were made both in the personnel and in the narcotics law enforcement practices and procedures of the New York City Police Department as a result of disclosures made at the Commission's public hearing.

41. Illegal Gambling Activities in a Bronx County Social Club and the Ineffectiveness of Gambling Law Enforcement

42. Alleged Irregular Practices and Official Misconduct in Connection with Construction of Sewers on Staten Island, Richmond County

In the spring of 1970, allegations were made to the Commission by a Staten Island contractor and a City official concerning irregularities in connection with sewer installation in Staten Island and certain practices and procedures of the New York City Department of Water Resources. An investigation of alleged mismanagement and abuses in the application for and granting of permits for the construction of sewage facilities in Staten Island revealed a variety of irregularities and abuses. New York City Comptroller Abraham D. Beame agreed with certain findings in a Commission Report of this matter and urged the City Council to approve a bill transferring jurisdiction over sewers to the of-

fices of the five borough presidents of the City of New York. Water Resources Commissioner Martin Lang stated that he and his staff would review permit approval procedures in order to ascertain if there was any way to expedite the permit process. Several inspectors of the Sewer Division were transferred to other parts of the City and a former Engineer-in-Charge for the City was suspended, and later discharged, from his position.

43. Racketeer Infiltration into the Sex-Oriented Materials Industry in New York City

At a public hearing in October 1970, evidence developed by the Commission revealed that racketeers had infiltrated the sex-oriented materials industry. Following these disclosures, the New York City Police Department embarked on a vigorous law enforcement campaign against book stores, massage parlors and other sex-oriented operations, with beneficial results.

44. Allegations Made by a Former Police Commissioner of New Rochelle of Political Interference in his Department

On April 21, 1970, Police Commissioner Edward F. Carey of New Rochelle, made allegations to the Commission (and the news media) that (1) a New Rochelle Councilman had met with a New Rochelle Police Captain and Sergeant who were supposed to be on patrol, at which they conspired to have the Police Commissioner removed from office and replaced by the Captain; and that (2) the Captain was consorting with known criminals. Shortly thereafter, Commissioner Carey was removed by the City Manager of New Rochelle. Evidence developed at the Commission's private hearings did not substantiate the allegations.

45. The Awarding of Contracts and the Purchases of Supplies by the City of Yonkers

Yonkers Mayor James F. X. O'Rourke met with the Commission to express his concern about widespread rumors of alleged corruption in his administration especially concerning the awarding of municipal contracts. The Commission conducted a six-day public hearing in December 1969 which substantiated the Mayor's allegations and revealed frauds in connection with the filing of 1969 snow removal claims. This evidence produced four criminal indictments. Evidence was also revealed which indicated the personal involvement of a Yonkers Councilman with a garbage disposal firm owned by a known underworld figure, which had received favored treatment at the taxpayers' expense. A Grand Jury investigation by the Westchester County District Attorney resulted in several indictments and a reorganization of the Yonkers government by the new Mayor and City Manager.

1972

46. The Illegal Importation and Distribution of Untaxed Cigarettes in New York State

On April 12, 1971, Governor Nelson A. Rockefeller requested that the Commission investigate criminal involvement in the cigarette industry, with particular emphasis on conditions in New York City, to determine the scope and effectiveness of present law enforcement efforts to combat distribution of contraband cigarettes and the appropriateness of existing laws. The Commission's investigation disclosed (1) the illegal importation of untaxed cigarettes and the loss to the State and the City of approximately \$384,000,000 in tax revenues during the years 1966 to 1971; (2) organized crime involvement in the illegal importation of untaxed cigarettes; and (3) the ineffectiveness of law enforcement in combating the bootlegging of untaxed cigarettes. Following a public hearing in January 1972 action was taken by local and State authorities to review and strengthen law enforcement efforts.

47. Operations of West Hempstead (Nassau County) School Board #27

In 1970, several residents of the West Hempstead School District in Nassau County alleged that: (1) the School District issued Revenue Anticipation Notes in violation of law and, in fact, improperly showed such notes as items or revenue in the school budgets; (2) the annual salary paid to the Superintendent of Schools was excessive and considerably higher than the amounts provided for in his contracts; and (3) the cost of busing the children to District schools was out of proportion when compared with other Nassau County districts. The Commission's review of this matter showed that: (1) there did not appear to be any statutory prohibition (prior to 1970) against the use of a Revenue Anticipation Note to make up a deficit, but that such inclusion in this case was an undesirable fiscal management practice (per the State Education Department); and (2) the alleged excessive salary budget of the Superintendent was due to recognizable factors. The third charge, concerning the cost of school busing, is discussed below (see No. 48).

48. Alleged Collusive Bidding and School Busing Contracts in Nassau County

The Commission received allegations of collusive bidding agreements among private bus operators, which adversely affected school busing contracts in virtually all Nassau County School Districts, while investigating the operations of the West Hempstead School Board (see No. 47). The investigation revealed bidding patterns which indicated a considerable degree of pre-arrangement among busing contractors; busing contract specifications drawn to

give incumbent bus operators a distinct advantage over new competitors; and busing prices which were distinctly higher than in those districts where there was true competitive bidding. The Commission's Report was forwarded to each of the County's School Districts which undertook a review of their respective school busing contracts resulting in considerable savings.

1973

49. Real Estate Tax Assessments in the City of New York

The Commission received allegations concerning inequalities and questionable practices relating to New York City's assessments of real property for taxation, in particular, the uneven treatment of commercial properties and the role of political influences in the determination of assessments. Evidence gathered in the investigation (which focused on high income producing properties in the Boroughs of Manhattan and, to a lesser extent, Brooklyn) showed that (1) the City's Tax Commissioners had granted substantial reductions on real estate tax assessments without even briefly stating the basis for these reductions; (2) in a number of instances, reductions were granted on the basis of false financial statements filed by real estate owners; (3) the treatment by the Tax Commissioners of similar properties, at least with respect to high income producing properties, was erratic and there were conflicting views between the Tax Commissioners and assessors; and (4) to a great extent, Tax Commissioners were political appointees and continued their political activities after their appointment. The Commission's Report brought about significant changes in the operations and management of the City's Tax Commission.

50. Purchasing Practices and Procedures, and Other Related Matters, of the City of Albany

The Commission, acting on complaints in 1972, nine years after investigating purchasing practices and procedures in Albany County which disclosed overcharging and deficiencies by the County's Purchasing Agent (see No. 18), began an investigation into the purchasing practices and procedures of the City of Albany. The evidence presented at a public hearing showed, to a great extent, some of the same deficiencies, laxities and incompetence in connection with the purchasing of goods and services for the City of Albany, which were previously found with respect to the County. Following the public hearing, a landfill contract was cancelled by the city; indictments were filed by a Special Albany County Grand Jury against the company that operated the landfill and its President; and, after an independent audit was made by private accountants retained by the City of the company's books and records, the company refunded approximately \$450,000 to the City of Albany for overcharges

in connection with its operation of the landfill.

51. The Police Department and the Village Justice of the Village of Saranac Lake

The Deputy Mayor of the Village of Saranac Lake alleged that several hundred dollars in cash, representing traffic fines paid to the Saranac Lake Police Department, was missing from police headquarters and that the Police Chief could not adequately account for these funds. The Commission's inquiry revealed a trail of ineptitude and inefficiency, extending through the Village's Police Department and the local court system. The Commission's Report was sent to the Presiding Justice of the Appellate Division, Third Department, which had disciplinary jurisdiction over village justices. A judicially appointed Referee conducted an investigation into the conduct of Village Justice Karl Griebisch and issued a report which supported the Commission's findings; indicated that the problems revealed had been corrected; and made recommendations for the more efficient functioning of local justice courts.

1974

52. Police Corruption and Related Matters in the City of Albany

At the Governor's request, the Commission conducted an investigation of corruption in the Albany Police Department and other law enforcement problems in the City of Albany. The evidence at a nine-day public hearing showed that members of the Albany Police Department: (1) organized burglaries of businesses; (2) took money collected from parking meters; (3) received regular payoffs from persons involved in narcotics and prostitution; (4) permitted after-hours "joints" to operate openly where liquor was sold illegally, and which were patronized by police officers, pimps, prostitutes and narcotics addicts and sellers; and (5) failed to enforce gambling laws. The Commission's Report contained specific recommendations in such areas as corruption, internal discipline, leadership, narcotics law enforcement, professional training and proper record keeping. Transcripts of testimony were provided to the Albany County District Attorney and a Grand Jury returned indictments against present and former Albany Police Officers; the first guilty verdict was rendered after trial in January 1975. A complaint was filed alleging judicial misconduct by Supreme Court Justice John H. Pennock (Third Judicial District), based upon his conduct during legal proceedings in connection with this investigation and during an earlier investigation of purchasing practices and procedures in the City of Albany (see No. 50). The Appellate Division found that the judge's actions violated the high standards of judicial officers. In addition, Albany Mayor Erastus Corning advised the Commission that a number of changes, conforming in principle to

the Commission's recommendations, were planned for the Albany Police Department.

53. The Criminal Justice System in New York City

On September 19, 1972, Governor Nelson A. Rockefeller directed the Commission to evaluate the administration of justice in New York City. The Commission established a Special Unit, to examine the performance of the different agencies involved and to examine these agencies as an inter-related system, which issued several reports including:

a. Discipline of the Judiciary in the First and Second Departments (April 1974)

The study of disciplinary procedures within the First and Second Judicial Departments revealed that the judiciary, over the past several years, had failed to fulfill its obligation to properly discipline judges. In particular, in certain cases where serious allegations were made involving corruption, ulterior motives for decisions, and failure to accord litigants basic rights, the responsible persons in the judicial system either took little action or at best investigated in a cursory and unprofessional manner. District Attorneys openly expressed the belief that a formal complaint against a judge would not result in meaningful action and might jeopardize their efforts in the courts. The facts disclosed concerning the First and Second Judicial Departments demonstrated that the present practice of allowing the judiciary to police itself had not worked and an independent body to investigate, evaluate and, where necessary, discipline the judiciary was needed. The independent Commission of Judicial Conduct was established subsequent to this Report.

b. The Warrant Division of the New York City Police Department (September 1974)

The Commission found that, generally, very little investigation was done with respect to most felony warrants and even less with respect to the other types of warrants. In addition, the Commission found that significant problems existed in the New York City Police Department's Warrant Division. The result was that most of the warrants were cleared either through the voluntary appearances of the fugitive or upon arrests for the commission of a new crime (in 1973, over 9,000 fugitives were apprehended in this manner). In addition, even when a fugitive was arrested for the commission of a new crime, the warrant for that fugitive may not be discovered by the police. The Commission recommended that: (1) efficient management procedures be developed throughout the Warrant Division; (2) the number of persons available to investigate fugitives be increased; (3) immediate measures be taken to see that

all pertinent information is routinely provided to field investigators; (4) the warrant system be computerized and the equipment necessary for proper warrant enforcement be installed; and (5) statistical data be developed to track the work of the Warrant Division and allow for an evaluation of its activities.

c. The Availability, Illegal Possession and Use of Handguns in New York (October 1974)

In addition, the following reports were also issued: Interim Report Concerning the Operations of Special Narcotics Parts of the Supreme Court (April 1973); and The Criminal Justice System in the City of New York—An Overview (November 1974).

54. The Administration of the Estate of Elsie M. Owen, an Incompetent Person, in Putnam County

A member of a Putnam County Grand Jury alleged that a recent Grand Jury had attempted to inquire into the conduct of local attorneys and public officials in connection with the proposed sale of certain real property belonging to Elsie M. Owen, who was a judicially declared incompetent. However, the Grand Jury's request for an extension to continue the investigation was denied. A preliminary inquiry revealed that the proposed real estate contract would have realized less than one-half of the amount that was finally received after a court-ordered auction and that the original Committee for the incompetent had failed to file annual accountings as required by law. The investigation brought to light, among other things, the indifference, laxity and lack of responsibility on the part of court-appointed committees of an adjudicated incompetent, resulting in a failure to fully protect the incompetent's estate.

1975

55. The State Commission of Correction

Governor Hugh L. Carey directed the Commission to investigate the management and affairs of the State Commission of Correction and certain allegations concerning the Dutchess County Jail. The Commission found that the seven Commissioners of the Correction Commission were unfamiliar with the powers they possessed under their own statute; met only once a month, and, with the exception of one Commissioner, rarely visited the institutions over which they had jurisdiction; postponed matters from one meeting to the next with the final result often being "no action"; and, in general, appeared to take little interest or devote much time to improving conditions in the penal system. The Commission's Report, together with its recommendations, was forwarded to the Governor on June 16, 1975, who then made the Report public. As a result, the Commission of Correction was abolished and reestablished in a reorganized form.

56. Contracting Practices and Procedures of the New York City Board of Education and Related Matters

This investigation concerned the relationship between the New York City Board of Education and a computer firm (Computer Specifics Corporation) which had received approximately two and a half million dollars from the Board of Education for payroll processing (a procedure which violated the Board of Education's by-laws and State law). The Commission found that a number of Board of Education employees received various gifts from Computer Specifics and a recently resigned employee of the Board of Education was one of two principals of the company, in violation of the City's Administrative Code. Although the Board was advised by the State Department of Audit and Control in October 1972 of the impropriety of doing business with a former employee, this illegal arrangement was not terminated until November 1974, after the Commission's investigation became public. Following the investigation, the Commission provided the City's Corporation Counsel's Office with testimony, materials and other information and advised them that there was a basis for an action for civil damages by the City.

57. Infiltration and Financial Investments by Organized Crime Elements in Legitimate Businesses and the Improper Use of Union Welfare Funds

The Commission received information that money was being made available by organized crime figures to purchase resort hotels, especially in the Catskill Mountains region, in anticipation of the passage of legislation legalizing casino gambling. After the legislation failed to pass, the investigation proceeded into a related area involving a labor union's financing of irregular and irresponsible real estate transactions. Evidence presented at a six-day public hearing showed the scandalous nature of such transactions and their effect on the union's United Welfare Fund-Security Division.

1976

58. The Operation and Management of Rehabilitation and After-Care Facilities of the New York State Office of Drug Abuse Services

In April 1975 the Governor directed the Commission to investigate possible criminal conduct at the Otisville Rehabilitation Center, a drug treatment facility operated by the New York State Office of Drug Abuse Services (ODAS). The Commission's inquiry disclosed the existence of serious problems not only at Otisville, but also at other ODAS residential facilities. As a result of the Commission's public hearings, disciplinary charges were brought against a number of ODAS employees; some residential centers were closed and others turned over to the New York State Department

of Correctional Services; administrators were reassigned; and the Governor appointed an Executive Deputy Commissioner to make administrative improvements within the agency.

59. The State Racing and Wagering Board

On December 16, 1975, Governor Hugh L. Carey directed the Commission to review the management and affairs of the State Racing and Wagering Board (SRWB), with particular reference to its supervision of the harness racing industry, the financial affairs and conditions of Yonkers and Roosevelt Raceways, the allocation of racing revenue between the State and track operators and related matters.

a. Initial Report—The Financial Condition and Operation of Roosevelt and Yonkers Raceways and their Regulation by the State Racing and Wagering Board

The Commission, in its initial investigation (described in this Report), conducted audits of the books and records of Yonkers and Roosevelt Raceways; examined pertinent financial transactions between these tracks and their respective owners; and questioned the president of Roosevelt Raceway. The Commission's investigative conclusions are discussed in the Second Report.

b. Second Report—The State Racing and Wagering Board

In the second part of this investigation, the Commission reviewed SRWB records and interviewed its past and present employees and the Chairmen of the New York State Harness Racing, Racing and Quarter Horse Racing Commissions, the predecessors to the SRWB (created in 1973). The Report also reviewed the financial condition of the New York State Racing Association. The Commission recommended (a) a review and overhaul of SRWB's statute to achieve consistency; (b) the development for each track of a professional, skilled resource capable of providing effective security and protecting the integrity of racing; and (c) a review of "exotic betting" and pending the results of such a study, a careful restriction of the extension of such wagering.

c. Third Report—State Licensing Agencies and Emprise Corporation

The Commission's two previous reports discussed the financial activities of Yonkers and Roosevelt Raceways, the management and affairs of SRWB and the financial condition of the New York State Racing Association. This third Report revealed how the State's licensing agencies, including SRWB, which licenses two upstate tracks and concessions to a successor of the Emprise Corporation ("Emprise"), have dealt with Emprise since its 1972 federal conviction in California concerning

business transactions involving organized crime figures.

60. Report on Improper Disclosures of Grand Jury Proceedings

61. Waste and Solid Waste in Putnam County

In 1975, the Commission received information concerning improper conduct by public officials in Putnam County, relating to the development of a County landfill and a resource recovery center in the Town of Carmel. The Commission found that Carmel Supervisor Thomas Bergin, who is also a member of the six-person County Board of Supervisors, apparently decided to shift Carmel's waste disposal problem to the County, and, in the final analysis, hundreds of thousands of dollars were unnecessarily spent or encumbered due to a lack of planning, foresight and responsible management by elected and County officials. The Commission recommended: (1) that the State Department of Environmental Conservation and the interdepartmental task force established by Governor Carey should take an active role in assisting municipalities and counties in promoting regional solid waste disposal facilities; (2) the examination of the manner in which various Putnam County officials pursued or failed to pursue their official duties, indicated the need for full-time administrative competence within the County government; (3) that the Board of Supervisors should consider the implementation of procedural safeguards, such as the holding of public hearings to promote more careful consideration of major legislation, particularly legislation leading to large capital expenditures; and (4) there should be a public disclosure by every elected and appointed official of any financial interest in any business transaction with Putnam County or any of its political subdivisions.

62. The Nadjari Office and the Press

The Commission uncovered a pattern of deliberate transgression and failed responsibility on the part of former Special Prosecutor Maurice H. Nadjari and his chief assistant, Joseph A. Phillips, in examining complaints of unauthorized disclosures by the Office of the Special Prosecutor for the Investigation of the New York City Criminal Justice System (OSP). The investigation revealed that staff assistants were not given adequate instruction regarding OSP press policy, nor were they monitored; and despite criticism as to the proven failure of the OSP to protect investigative information adequately, there was a notable absence of effort by OSP leadership to correct the situation. The Commission Report also found that several groups responsible for oversight of the abuses revealed had failed to be even minimally vigilant.

63. The Sheriff's Jury of New York County

This Commission was asked by four State Legislators to look into the practices surrounding the Sheriff's Jury of New York County. The Sheriff's Jury, representing 450 of the most distinguished and influential members of New York City's financial and commercial community, are automatically exempt from ordinary jury duty and enjoy a long-standing tradition of elaborate dinners and gift giving extravaganzas to public officials each year financed by the members. The work of the Sheriff's Jury is limited by the Legislature to one category—determinations of legal competency, which itself has become almost non-existent. Since 1972, the Sheriff's jury had one work session which lasted less than one day. In addition, the Sheriff's Jury had no women or Hispanics and only a token number of blacks. The Commission's Report opposed the continued existence of the Sheriff's jury in its present form and recommended its abolition. Subsequently, limited reforms of this panel took place.

1977

64. The Sheriff's Department of Dutchess County

In 1975, the Commission authorized an investigation of the Dutchess County Sheriff's Department. The Report criticized the Sheriff's administration of the Department including intervention in criminal and traffic cases; alteration and distribution of accident reports; sale of firearms; failure to account for or destroy confiscated weapons; and inadequate training, record keeping and financial accounting. The Commission recommended that Sheriff Lawrence M. Quinlan be removed from office.

65. Onondaga County District Attorney's Office: The Anthony Aloï Cases

In 1976, the Commission was one of several agencies to receive an allegation that the Onondaga County District Attorney's Office had failed to prosecute Anthony Aloï, concerning five complaints of rape and sexual misconduct, because he was the nephew of New York State Supreme Court Justice Thomas Aloï. The Commission found that suggestions which had been made that Judge Aloï acted on behalf of his nephew were without foundation. However, in examining the disposition of the Anthony Aloï cases, it was concluded that during the period 1972-1975, the District Attorney's Office failed to pursue and adequately prosecute serious criminal complaints brought by three women against Anthony Aloï. The reasons for such professional dereliction in the District Attorney's Office during that period could not be fully determined.

66. Life and Death at the Bronx Psychiatric Center

This Report was the culmination of an eight-month

Commission inquiry into one serious assault, three suicides, one homicide and one death by natural causes of six patients at the Bronx Psychiatric Center between July 1975 and July 1976. The Report revealed that the unauthorized administration of the drug Haloperidol, contributed to the death of one patient; that another patient's "suicide" occurred under suspicious circumstances; that one patient committed suicide in the absence of adequate preventive measures by the hospital; and that there were serious delays in obtaining emergency treatment for a patient who died after being beaten by another patient. It was found that quality control of patient care was lacking; that little was done to prevent the incidents; that corrective measures taken in response to the incidents were inadequate; and that the Bronx Psychiatric Center filed false incident reports. The Commission recommended the enactment of pending legislation which established the State Commission on Quality of Care for the Mentally Disabled.

67. After Ten Years of Educational Opportunity Programs (EOP) in New York State

When this Report was issued, a form of the Educational Opportunities Program had existed in the State for over ten years. Public funds of almost \$400 million had been spent on the stated objective of the program—to aid qualified disadvantaged high school graduates who have the potential to obtain a college degree. Continuous abuses of this program resulted in the waste of funds and the loss of human potential. The cost of administering the program was also found to be excessive. Many State and City University officials failed to adequately audit, monitor, or evaluate their respective programs; and their reports were so obscure and late as to be all but useless. It was recommended that clear guidelines be established and strictly enforced for the administration of this program.

68. The New York State Office of Vocational Rehabilitation

The Commission's investigation of the Office of Vocational Rehabilitation (OVR) revealed that the program was rife with abuse, waste, fraud and neglect. Specifically, the Report detailed that: one major vendor of training services charged OVR two-and-one-half times what it charged the public for exactly the same program; OVR's counselors processed a large number of cases from the same vendor without making a serious effort to determine client eligibility or whether the vendor was meeting the client's needs; OVR paid for training courses which were never provided and paid for more hours of training than were given; clients with feigned disabilities were allowed to qualify; OVR continued to do business with vendors despite evidence of vendor fraud; and questionable payments were made to relatives of OVR employees. As a result of the Commission's recom-

mendations, substantial changes have been effected in the administrative structure of OVR.

69. The Department of Motor Vehicles (DMV) Under Three Commissioners

At the request of Governor Hugh L. Carey, the Commission investigated the DMV, one of the State's largest service organizations with revenues of \$294 million. The investigation disclosed that the DMV neglected to collect all of the revenues to which the State was entitled and that the chief administrators under the last three DMV Commissioners were responsible for the loss. The abuses uncovered by this investigation, primarily the result of improper administrative procedures and control, included inventory loss; employee theft; the selling of licenses; the existence of "favor lists"; and gift giving and contributions to win the DMV Commissioner's favor. The Report called for the removal of Commissioner James P. Melton and recommended adequate controls to prevent the abuses disclosed.

70. Insurance Commissions and Party Politics I

Beginning in August 1977, the Commission investigated allegations that brokers who handled virtually all of the major insurance policies for the City of Binghamton and the County of Broome shared the commissions received on those policies with other brokers, in exchange for which the other brokers would make political contributions. The investigation disclosed a plan, devised and executed by the political party in power, in which, for over a quarter of a century, insurance commissions were paid to brokers who wrote the policies for the city and county. These commissions were shared with other brokers who, when interviewed, admitted that they had not "aided" the sharing broker in procuring or servicing the policies, at the specific direction of the political party in power to perpetuate its own interests. In Binghamton, former Mayor Esworthy and then Mayor Libous, allowed the practice to continue unchallenged until 1975. In Broome County, past and present county officials actively participated in the county's commission-sharing scheme. The Commission continued its investigation into similar insurance practices in other areas of the State and issued recommendations when the investigation was completed. (See No. 72.)

71. Law Enforcement and Gambling in the City of Amsterdam

The Commission, in cooperation with Commissioner Frank Rogers of the Division of Criminal Justice Services, District Attorneys Eugene Gold of Kings County and John Santucci of Queens County and Commissioner Michael Codd of the New York City Police Department, organized and undertook an undercover investigation of gambling

activities in Amsterdam, New York. The investigation confirmed allegations that gambling activities were openly taking place and that the City of Amsterdam's Police Department and the District Attorney's Office had not conducted a gambling investigation for five years prior to the Commission's involvement, although they had knowledge of the open gambling in the City. The Commission recommended sanctions against those who had failed to fulfill their responsibilities and the resignation of District Attorney Charles Hardies and the appointment of a full-time District Attorney.

1978

72. Insurance Commission and Party Politics II

The Commission's second public Report on insurance described: (1) the lack of control exercised by Nassau County's public officials over the tax dollars spent on insurance; (2) the continuing support given by public officials to an insurance program which is operated by and for the benefit of the interests of the political party in power in the County; and (3) the waste of public funds in this program, where thousands of tax dollars are given to 74 insurance brokers with strong connections to the Party but who perform little or no worthwhile services. Information concerning this investigation was provided to the United States Attorney for the Eastern District of New York. The Commission continued to look into similar insurance practices elsewhere and withheld recommendations until the investigation was completed. (see Public Reports 1979-1981: *Insurance Commissions and Party Politics III.*)

73. Fencing, the Sale and Distribution of Stolen Property

The Commission conducted an undercover "sell operation" which involved its Agents selling property, explicitly described as stolen, to merchants. Seemingly legitimate businessmen located outlets for the Commission's "hot" merchandise in return for a promised five percent fee; alerted a Commission informant about "safe and unsafe" firms who handle stolen merchandise; falsified business records to conceal transactions in stolen merchandise; and conspired with other merchants to conceal these purchases. As a result of the year long investigation into the involvement of "legitimate" businesses in the disposal of illicitly obtained merchandise, it was determined that seemingly legitimate businessmen played a crucial role in the redistribution of stolen property. The Report revealed the magnitude of taxes lost to federal, State and local governments as well as the massive volume of stolen goods available on the black market virtually free of law enforcement efforts.

SUMMARY OF LEGISLATION

The Commission's public reports, including many noted in the Summary of Investigations, often reveal the need for remedial legislation or the amendment of existing laws or regulations. In addition, the Commission has, on occasion, found that its recommendations or suggestions are similar to those of other public interest or law enforcement groups in the State which have recommended legislative action. The Commission has also recommended changes in its own statute to allow it to function more effectively. Often the Legislative Memoranda submitted in support of a pending bill, specifically cites the Commission as the catalyst for the passage of a new Act. Some of the laws enacted as a result of these activities are listed below.

Legislative Recommendations Enacted Between 1959 and 1981

1959

Penal Law Section 580.6 (Laws of 1959, Chapter 611)—A felony criminal conspiracy statute.

Tax Law Section 376.6 (Laws of 1959, Chapter 610)—Statue of limitations for criminal violation extended to six years; certain crimes increased from a misdemeanor to a felony.

Penal Law Section 215.65 (Laws of 1959, Chapter 608 as amended by Laws of 1970, Chapter 245)—A new statute, Criminal Contempt of a Temporary State Commission made it a misdemeanor for a person to fail to respond to a Commission subpoena without lawful cause.

1965

Penal Law Sections 120.05, 120.10(4), 190.40, 190.45; General Obligations Law Article 5, Sections 523 and 525; Criminal Procedure Law Section 190.40 (Laws of 1965, Chapter 328)—A criminal usury statute.

1968

General Business Law Section 352-e (Laws of 1968, Chapter 1085)—Amended the statute to require that a written prospectus be filed with the Attorney General concerning any contemplated public offering or sale of cooperative apartments, including publicly assisted housing corporations.

1969

Penal Law Article 415 (Laws of 1969, Chapter 920)—Provided for the seizure and forfeiture of vehicles used in the transportation of policy, pool selling and bookmaking records by persons engaged professionally in illegal gambling activities.

Public Health Law Section 2805.6 (Laws of 1969, Chapter 762)—An amendment to provide that emergency care and treatment of an unidentified person in any hospital in the State shall not be delayed because of problems in establishing

identity or birth date.

1970

McKinney's Unconsolidated Laws Section 9801 *et seq.* (Laws of 1970, Chapter 951)—Broadened the mission of the renamed Waterfront and Airport Commission to combat the infiltration of organized crime and the increase in air cargo thefts at the major New York-New Jersey metropolitan airports.

Private Housing Finance Law Section 13 (Laws of 1970, Chapter 332)—Amended the Private Housing Finance Law to provide that when a cooperative is organized under the Limited Profit, Limited Dividend or Redevelopment Companies Law, the Commissioner of Housing shall designate an additional director to serve until the tenant stockholders take title.

Criminal Procedure Law section 160.10 (Laws of 1970, Chapter 68)—A statute to assist law enforcement officers in obtaining accurate identification of a person under arrest where the officer has reason to believe the defendant is lying or intentionally withholding his identity.

Criminal Procedure Law Section 660.20 (Laws of 1970, Chapter 996)—Allowed for a conditional examination of a witness who possesses information material to a criminal action or proceeding.

1971

Penal Law Section 220.50 (Laws of 1971, Chapter 970, Section 2)—A statute to control the sale and distribution of certain narcotics and paraphernalia.

1973

Penal Law Section 220 (Laws of 1973, Chapters 276-278)—Enacted mandatory minimum sentences for narcotic(s) crimes and established special correctional facilities for narcotics offenders.

1974

Judiciary Law Article 2-A, Section 41 (Laws of 1974, Chapter 739)—Established a Commission on Judicial Conduct.

Penal Law Sections 265.05, 60.50, 70.00 (Laws of 1974, Chapter 1041)—Illegal possession of a handgun raised from a Class D felony to a Class C, requiring mandatory imprisonment and the maximum prison term increased from seven to fifteen years.

1975

Correction Law Article 3, Section 40 *et seq.* (Laws of 1975,

Chapter 865)—Reorganized the State Commission of Correction.

1976

Tax Law Article 34, Section 1600 (Laws of 1976, Chapter 92)—Abolition of State Lottery under State Racing and Wagering Law; creation of independent State Division of Lottery.

1977

Mental Hygiene Law Article 45 (Laws of 1977, Chapter 655)—Established the State Commission on Quality of Care for the Mentally Disabled.

Mental Hygiene Law Section 1.01 (Laws of 1977, Chapter 978)—Reorganized the Office of Drug Abuse Services within the Department of Mental Hygiene.

Judiciary Law Section 321(c) (Laws of 1979, Chapter 200)—Provided more flexibility in the number and placement of grand jury stenographers.

1979

Education Law Section 6215 (Laws of 1979, Chapter 305)—Reorganized the City University system of the City of New York.

1980

Title 1 New York Code of Rules and Regulations Section 53.10(b)(6)—Increased the quarantine period for imported cattle to eradicate brucellosis in New York State.

1981

Agriculture and Markets Law Section 90(4) (Laws of 1981, Chapter 845)—Allows the Commission of Agriculture and Markets to order the destruction of cows exposed to brucellosis and grants partial State reimbursement for the destroyed cows.

CRIMINAL LAW ENFORCEMENT

Defining the Procedure for Search Warrant Application and Execution

A search warrant is defined by the State's Criminal Procedure Law as "a court order . . . directing a police officer to conduct a search . . . for the purpose of seizing . . . property." A recent Appellate Court¹ interpretation of an earlier decision of New York's highest court² has apparently stripped law enforcement agencies employing Peace Officers of their long standing right to *apply* for search warrants.

Under the previous law governing criminal procedure, it was clear that Peace Officers could apply directly to a criminal court for a search warrant because the affidavit for the warrant required the name and assignment of the *Peace Officer* making the application.³ The new Criminal Procedure Law does not use the word Peace Officer in the section on search warrant applications. Instead, it states that "a local criminal court may, upon application of a police officer, a district attorney or *other public servant acting in the course of his official duties*, issue a search warrant (emphasis supplied)."⁴ The clear intention of the new law was to assure that the search warrant is directly related to the duties of the "public servant" who applied for it. The phrase "other public servant" should be read together with the new Peace Officers Law,⁵ which contains language to assure that Peace Officers exercise their special powers only in relation to their official duties.

The Appellate Court, however, interpreted the phrase "other public servant" to mean that the agency which employs the person who is applying for the warrant must, itself, have special statutory authorization to seek the warrant. This decision destroys one of the sources of a law enforcement agency's powers, as powers are commonly conferred on law enforcement agencies by designating certain employees as Peace Officers or Police Officers who, therefore, have special statutory powers. The power to apply for search warrants is one of those powers conferred on an agency's employees rather than the agency itself. Indeed, the authority to apply for warrants does not appear in the enabling legislation of any agency—not even those whose employees are designated Police Officers. Thus, the Appellate Court has made the term "other public servant" meaningless.

¹ *People v. Cardillo et al.*, 80 A.D.2d 952 (3rd Dept. 1981).

² *B. T. Productions, Inc. v. Barr*, 44 N.Y.2d 226 (1978).

³ Code of Criminal Procedure ("CCP"), Section 797-a.

⁴ CPL Section 690.05(1).

⁵ CPL Sections 2.10-2.30; see also Section 140.25.

The ability to *apply* for a search warrant should be distinguished from the power to *execute* the warrant, which is specifically granted only to *Police Officers** (who are different from Peace Officers). The Appellate Division decision does not relate to the power to *execute* a search warrant.

The ability to apply for a search warrant is a limited but important right. Its loss will limit the effectiveness of all law enforcement agencies whose employees are designated as Peace Officers. The Commission requests that the Legislature consider amending the statute to make it clear that the phrase "other public servant acting in the course of his official duties" includes Peace Officers and the law enforcement agencies which employ them.

Organized Crime and Racketeering

The Commission, since its establishment, and indeed because of it, has had an active interest in all aspects of organized crime and racketeering. In the past, this interest has been reflected in the subject matter of numerous investigations which have been conducted by the Commission including:

1. the infamous "Apalachin Meeting" of November 14, 1957—the largest known gathering of major organized crime figures, at the home of Joseph Barbara in the Town of Apalachin, in Tioga County;
2. gambling in central New York and Westchester County;
3. Bingo;
4. the loan shark racket;
5. inquiries into the operations of major police departments in the New York area;
6. racketeer activities in the New York metropolitan area air freight industry;
7. racketeer infiltration into certain union locals and into union welfare and retirement funds;
8. racketeer infiltration into various legitimate business; and
9. other reports related to the activities of organized crime figures.

More recently the Commission has continued its efforts in investigating different aspects of organized criminal involvement in society. A recent inquiry, which revealed systematic corruption in a major State Correctional Facility, including the sale of unauthorized trips outside the facility to known organized crime figures, is highlighted above (see Public Reports 1979-1981: *Corruption and Abuses in the*

*CPL Section 690.25.

Correctional System: The Green Haven Correctional Facility). In addition, the Commission has conducted investigations and has uncovered sophisticated frauds which are not necessarily related to organized crime, such as the fraud in a major union health care plan, discussed in the Commission's Report, *A Trust Betrayed: Fraud, Breach of Fiduciary Duty, and Waste at the Teamsters Local 237 Welfare Fund* (see Public Reports 1979-1981).

Organized criminal syndicates are a continuous and challenging problem to law enforcement officials. Using vast cash resources, sophisticated techniques and often nothing more than the power and menace of a big underworld name (in addition to traditional strong arm methods, when necessary), racketeers have penetrated virtually every area of commerce and industry. The growth of this penetration presents a serious threat to the State of New York, as well as other States.

The continued exposure of organized criminal operations is a very effective means of combating and curtailing these activities. Keeping the public and the Legislature informed in these matters has resulted in remedial legislation and improved law enforcement. The Commission, as it has been since its beginnings in the days of the "Apalachin Meeting" (see Summary of Investigations, No. 1), will continue to use creative law enforcement techniques and methods to further its inquiries into the activities of organized crime and racketeers and to reveal sophisticated white collar crimes, whether or not they are related to organized crime.

Cooperation With Other Agencies

Apart from statutory requirements, it has always been the policy of the Commission to offer its fullest cooperation to all agencies and departments of local, State and federal government in the fight against all forms of criminal activity and official misconduct. Many such opportunities were presented to the Commission during the past year. In addition, the Commission also cooperates with investigative or "crime" commissions of other states. This cooperation included the dissemination of criminal intelligence information, the submission of evidence for prosecutorial purposes and advising and assisting law enforcement officials and government departments in the performance of their powers and duties.

PROFILE OF COMMISSIONERS



Earl W. Brydges, Jr., Republican of Niagara County, has been a member of the Commission since he was appointed in December 1972 by his late father, the Senate Majority Leader and later reappointed by the current majority leader Senator Warren M. Anderson. He has been a member of the Rockefeller Commission to Revise and Simplify the Penal Law and Code of Criminal Procedure and the Advisory Board of the Governor's Crime Control Planning Council and is Special Counsel for environmental matters to the City of Niagara Falls. Commissioner Brydges was admitted to practice law in New York in 1962 after attending Syracuse University and St. John's University Law School; he served as Confidential Law Clerk to the late Chief Judge Fred Young of the Court of Claims.



Thomas J. Culhane, Democrat, has been a member of the Commission since he was appointed by the Speaker of the Assembly in September 1977. He was a member of the State Assembly, representing the 82 A.D. in Bronx County, from January 1973 to September 1977 and was a member of several committees and Chairman of the Temporary State Commission on Management and Productivity in the Public Sector. Commissioner Culhane was admitted to practice law in New York in 1954 after attending Brooklyn Law School and was awarded a Master of Laws (Labor) by New York University School of Law in 1970. Prior to his election to the Assembly, Commissioner Culhane was a Detective with the New York City Police Department and served as a commissioner of the Taxi and Limousine Commission of the City of New York.



Lola S. Lea, Democrat of Kings County, was appointed by Governor Hugh L. Carey to Chair the Commission on July 1, 1981. Commissioner Lea was admitted to practice law in New York in 1958 after attending New York University and Yale University Law School; she has served as Law Clerk to Judge Alexander Bicks, District Judge for the Southern District of New York; and as an Assistant United States Attorney for the Southern District of New York.



Bernard C. Smith, Republican of Suffolk County, has been a member of the Commission since he was appointed by the Governor in November 1979. He was a member of the State Senate, representing the 2nd District in Suffolk County, from 1965 to 1978 and was Chairman and a member of several committees and commissions. Commissioner Smith was admitted to practice law in New York in 1950 after attending Cornell University and Cornell Law School and, prior to entering the Senate, was District Attorney of Suffolk County for two terms.

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