

WATERFRONT CORRUPTION

HEARINGS

BEFORE THE

PERMANENT

SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON

GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

FEBRUARY 17, 18, 25, 26, AND 27, 1961

BY THE STAFF OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

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**WATERFRONT CORRUPTION**

**TUESDAY, FEBRUARY 17, 1981**

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, D.C.*

The subcommittee met at 9:30 a.m., pursuant to notice, in room 4232, Dirksen Senate Office Building, under authority of Senate resolution 361, dated March 5, 1980, Hon. Sam Nunn presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire; Senator Sam Nunn, Democrat, Georgia; Senator Lawton Chiles, Democrat, Florida.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. P. Goodwin, Jr., staff director to the minority; Eleanore Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key, Raymond Worsham, Raymond Maria, and Glenn Fry, investigators to the minority; Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Members present at the convening of the hearing: Senators Rudman, Nunn and Chiles.]

**OPENING STATEMENT OF SENATOR NUNN**

Senator NUNN. This morning, the Permanent Subcommittee on Investigations begins hearings on the influence and control by organized crime of the shipping industry in a number of east and gulf coast ports.

These hearings are the culmination of an investigation which was begun early last year under my chairmanship. I want to express my deep appreciation to our new chairman, Senator Roth, and to our new vice chairman, Senator Rudman, for their complete cooperation and support of our efforts to carry this inquiry through to completion.

For the record, this investigation and these hearings are conducted under authority granted the Committee on Governmental Affairs and its duly authorized subcommittees by Rule XXV of the Standing Rules of the Senate and by Senate Resolution 361, which was agreed to on March 5, 1980.

Section 3 of Senate Resolution 361 specifically authorizes the committee and its subcommittees to conduct investigations of labor racketeering and organized criminal activities and to identify the individuals involved.

That authority was first incorporated into our subcommittee's charter 20 years ago when the late Senator John L. McClellan was chair-

man. Many of us remember vividly the McClellan committee's investigations which exposed a wide pattern of racketeering and organized crime infiltration of several labor unions, most notably, the Teamsters. Those hearings lent considerable support for laws which were designed to assist in stamping out labor union corruption.

Actually, the McClellan hearings followed the work of the Kefauver crime committee of the early 1950's and its successor, the Subcommittee on Waterfront Racketeering and Port Security of the Senate Commerce Committee.

The Kefauver committee touched on corruption within the ILA, and the Waterfront Subcommittee followed with an extensive investigation in 1953. In its interim report on the New York-New Jersey waterfront,<sup>1</sup> the subcommittee said of "the Nation's tough and trouble-ridden waterfronts":

For many years these areas have remained lawless frontiers, with segments that have consistently defied (organized crime) infiltration. Yet they are also bottlenecks for foreign and intercoastal commerce. Here the mob is still entrenched, gorging itself on the flow of shipping, and resisting all attempts to break up what has been characterized as "the last of the business rackets."

The subcommittee found that:

Criminals whose long records belie any suggestion that they can be reformed have been monopolizing controlling positions in the International Longshoremen's Association and in local unions. Under their regimes, gambling, the narcotics traffic, loansharking, short-ganging, payroll "phantoms," the "shakedown" in all its forms—and the ultimate brutality of murder—have flourished, often virtually unchecked.

During that same year—1953—the American Federation of Labor, under the leadership of the late George Meany, delivered an ultimatum to the ILA to purge itself of criminal elements. When it failed to do so, the ILA was kicked out of the A.F. of L.

In 1975, more than 20 years later, the Justice Department launched a nationwide investigation of racketeering in the ILA. This sweeping inquiry has culminated in the criminal convictions of more than 100 high level ILA officials and shipping company executives.

These persons were charged with a variety of offenses ranging from violating the Taft-Hartley Act to extortion, payoffs, kickbacks, threats, intimidation, buying and selling contracts, obstruction of justice, and income tax evasion.

The activities and associations of several of the convicted ILA officials apparently placed them within the recognized organized crime network, and some of their ILA activities dated back to the time of the Waterfront Subcommittee, years ago.

The fact that a number of shipping company officials were convicted indicated that organized crime's influence still reaches right through the ILA to significant portions of the shipping industry.

Despite the convictions, reports reaching the Permanent Subcommittee indicated that corrupt ILA officials still control certain ILA locals and exert tremendous influence over the union's international structure.

<sup>1</sup> "Waterfront Investigations: New York-New Jersey," Interim Report of the Committee on Interstate and Foreign Commerce (83d Congress, 1st session), July 27, 1953.

All of these factors were disturbing to me, and to other members of the subcommittee, for they all point to a continuation of the underworld's control of our waterfronts that was revealed nearly 30 years ago. If so, has the work of three Senate committees and the tremendous efforts of the Justice Department and the FBI gone for naught?

In order to answer this disturbing question, I ordered a preliminary inquiry about a year ago. I instructed the staff to go beyond the evidence introduced in the recent criminal trials. Much information regarding organized crime membership and associations often cannot be introduced in criminal trials because of the Federal Rules of Evidence, and I wanted the subcommittee and the Senate to have the benefit of more evidence than the Justice Department was able to introduce during the various prosecutions.

During the past year we have interviewed numerous witnesses and subpoenaed voluminous records. We also have been privy to tape-recorded evidence, some of which will be introduced for the first time during these hearings.

We found a much more pervasive pattern of organized crime influence over the shipping industry than was able to be shown to the public by the Justice Department—a pattern that is as insidious as when first disclosed in 1953.

As we will hear during the next 2 weeks, the corruption bred by organized crime is still "business as usual" in some port cities. We will hear that certain ILA officials have direct links to organized crime figures in the traditional "families," and that payoff money was shared with known organized criminals.

This pattern of organized crime control might be viewed as analogous to business if you look at it from that respect. For years organized criminals controlled the waterfronts of New York and New Jersey, making tremendous profits.

In the 1960's they saw new markets opening with the development of ports in the Southeast and along the gulf coast. They decided to get the jump on their potential competitors in these lucrative areas, so they sent a couple of their executives to Miami and opened what we might analogously call a wholly owned subsidiary. This new subsidiary would control the corruption rights to all ports below Norfolk, Va., while they retained control over the Northeast. The profits of the subsidiary would be shared with the parent organization back in New York and New Jersey.

As we shall see, this organized crime subsidiary proved to be extremely profitable, and the criminal monopoly spread along thousands of miles of our coastline.

We will see how workmen's compensation is used to extort money from shipping company executives and how certain ILA work rules are avoided through payoffs and kickbacks. Much of this information was developed by the subcommittee, with the complete cooperation of the Justice Department and the FBI and has not been made public before.

We also will hear testimony about the vulnerability of shipping companies to illegal demands by ILA officials. We also will look at the economic impact of this corruption, the cost of which is passed on to the consumer in the form of higher prices.

Last week Senator Chiles and I toured the Port of Miami, where the Justice Department's investigation began in 1975. We saw firsthand how the waterfront industry works, and it became clear to me why the ILA has such power over this industry.

We went aboard the S.S. *Barber Priam*, one of the largest and most efficient container cargo ships afloat. The *Barber Priam* costs \$25,000 a day to operate. It requires three gangs of longshoremen to load and unload, which in Miami costs a total of \$1,800 an hour. In other words, a work slowdown of 1 hour can cost more than \$2,800—and that is just for one of the hundreds of ships which load at Miami each year. Since these costs can easily mushroom, illegal payments to ILA officials are frequently the final result.

Equally commonplace are the threats of physical harm to those executives who might refuse to pay off. The Port of Miami was a hive of activity when Senator Chiles and I were there. Forklifts and cranes and trucks and lowboys were scurrying about. Tons of cargo and containers were lifted through the air. It is easy to understand how a 40-foot container could be "accidentally" dropped on someone—or, in a less extreme case, a forklift driver could "misjudge" his target and break someone's leg.

On the waterfront, every threat must be taken very seriously.

Senator Chiles and I saw hundreds of rank-and-file ILA members working in the hazardous environment of the docks. I want to make it very clear that we wish to differentiate sharply between these bona fide rank-and-file members and the ILA officials who have been convicted of racketeering.

Those rank-and-file members deserve more than effective union leadership. They also deserve honest leaders who achieve the union's goals through legitimate means—not through kickbacks and payoffs which line their own pockets and do little or nothing for the average ILA member.

The subcommittee is not out to destroy the ILA. We want to examine this union's problems with a view toward constructive legislative and administrative actions that will help protect the interests of the average working man and woman. Millions of Americans count on ILA and other labor organizations to represent them and to provide their pension, health, and welfare benefits. They deserve clean and effective unions that are free of corrupt officials who work hand-in-hand with organized crime.

One of the most important parts of this hearing is to focus on the Justice Department's investigation that is spread over 5 years and really through two or two-and-a-half administrations.

The Justice Department's investigation was a perfect example of just how much effect law enforcement can have on labor union corruption. The FBI and the Government's prosecutors have done all they can to weed out corruption in the ILA, yet the convicted union officials in many cases still hold office or exert control over the ILA through associates or surrogates.

We cannot, as Members of the Senate, Members of the Congress and as American citizens expect the FBI and the Justice Department to devote huge resources to the waterfront on a perpetual basis. They have done their job and done it well. Unless, however, we have a cor-

responding effort by Congress, by the State legislatures, by business and labor leaders, and by the rank-and-file union members, this cancer will continue to grow.

This case also is a perfect example of the role that a congressional investigating committee can play. We can look far beyond the Justice Department's criminal cases. We can examine industrywide patterns of corruption that can only be touched upon in criminal trials. We can look for organized crime connections that may not be relevant to an individual prosecution but which bear heavily on the health of the shipping industry and its unions.

We also can seek answers to problems that cry out for legislative action. Should we, for example, give the Government authority to remove convicted labor union officials before their lengthy appeals have run their full course? Should we stiffen the penalties for violations of the labor laws? Should we make it easier for the courts or the executive branch to put corrupt unions into receivership?

Finding legislative answers to these questions is one of our primary responsibilities, but we also have another important function. That is to alert the Senate and the public to the dangers posed by organized crime and corruption along our waterfronts. Only if the public becomes sufficiently informed can we hope to garner support for the legislative recommendations we make as a result of these hearings, because without any doubt, before we even start it is apparent that we will have very serious opposition to any changes in the status quo.

These hearings will have all the combined ingredients of an X-rated horror story and the "Untouchables," but unfortunately we cannot turn off the picture tube and forget about the corruption, bribes, payoffs, kickbacks, extortion, and threats that are going on even today.

By the testimony and evidence introduced at these hearings, the nature of the individuals who are involved will be clearly shown. Many of these people are thugs who achieve their ends by threats, intimidation, and violence. That should become clear when we hear their recorded conversations later this week and next week.

The influence of these people is shocking, even in ports such as Savannah in my home State. One of our key witnesses, a Miami shipping executive, is expected to testify that he was able to expand his business to Savannah only by paying off ILA officials in Miami. Those officials arranged a lucrative stevedoring contract and promised him "top quality" labor in Savannah in return for the payoff money. This situation brings close to home for us Georgians the enormous control that organized crime, operating out of New York and Miami, has over the entire Atlantic seaboard.

I sincerely hope that these hearings will arouse the public and Congress so that we can make important changes in the law. I also hope that it becomes clear to every American that these are not isolated incidents of corruption. This problem is important to all of us because we each pay a higher price for imported goods, whether bananas from Brazil or coffee from Colombia, because of the costs of this corruption.

I might add that it also has a vital effect on the cost of our exports which are so important for us to remain competitive in a toughening world economic environment.

At this stage again I want to thank Senator Roth, who I am sure will be with us during the course of these hearings, as chairman of the subcommittee, chairman of the full committee. I want to express my appreciation to Senator Eagleton, the ranking minority member on the full committee for his complete and splendid cooperation here in the course of this investigation which has taken a long time and also to Senator Rudman, our new vice chairman, who has had enormous experience in the criminal law area in his own State and I am delighted, Warren, that you could be with us this morning.

At this stage, I would be delighted to have any statement you would like to make on this subject and then turn to Senator Chiles.

Senator RUDMAN. Thank you, Senator Nunn. I will defer at this time. Unfortunately I have to chair an appropriations hearing for about an hour and a half and then I will return for the balance of the hearing.

Senator NUNN. One of the problems in being in the majority, as you will learn, is you have to chair three or four hearings at one time. The minority members can pick and choose a little bit better. I am beginning to find that out.

Senator RUDMAN. I hope you have a long time to enjoy that. [Laughter.]

Senator NUNN. Senator Chiles has been of enormous assistance in this investigation from the very onset. He has really been cochairman, in effect, during the entire course of the investigation. Senator Chiles and I have worked very closely on this and other matters. We are delighted to have you here. I know that having this in your own State as we will hear in the next 3 days is not exactly comforting but you have done an extraordinary job of bringing out some of these unpleasant problems.

I will be glad to hear from you.

#### OPENING STATEMENT OF SENATOR CHILES

Senator CHILES. As we begin this series of hearings on organized crime in the International Longshoremen's Association and the shipping industry, I certainly want to commend you, Senator Nunn, for your leadership in initiating this important inquiry by the Permanent Subcommittee on Investigations.

I join with you in complimenting Senator Roth and Senator Rudman, as the majority now, in the cooperation that they have extended in allowing us to continue to hold these hearings. As the hearings unfold and we examine the massive intrusion of organized crime into the American waterfront industry, I think it will be apparent why this type of investigation is so vital. The Permanent Subcommittee on Investigations has a unique responsibility to investigate criminal activity, evaluate our law enforcement response to that activity and propose corrective legislation. I hope in the 97th Congress the subcommittee will continue to forge ahead in exposing organized crime activities and pointing the way to an improved law enforcement effort.

In these hearings we are focusing on an aspect of organized crime that is not a new story. Labor racketeering on the waterfront has been going on for quite awhile. The shocking news is the extent of the

organized crime involvement in the International Longshoremen's Association and the consequent power that criminal figures now have over the shipping industry.

Labor racketeering should be the concern of each and every one of us. It is a criminal operation that is truly unique in the scope of harm that it accomplishes.

It makes a mockery of the whole concept of labor unions as the interests of the working man are sacrificed for payoffs and kickbacks.

It corrupts the shipping industry as bribery and extortion become an accepted part of doing business.

It completely undermines competitive, free enterprise on the waterfront and the American consumer picks up the tab in higher product prices.

Initially we were looking at the Miami situation, which is, of course, a critical concern to me.

Miami emerged in the last decade and a half as a major port with tremendous economic potential. Unfortunately, along with that growth came the mob eager to cash in. Many of the individuals who came to Miami were persons that were ordered off the New York waterfront for corrupt activities.

Our witnesses this morning will portray how those hoodlums succeeded with their plan to control the Miami waterfront and regrettably it is a story of notable success. Twenty years ago this same subcommittee investigated and exposed a pattern of waterfront corruption in the New York area.

It is disturbing that not only does the corruption continue but has now spread to ports across the country. I hope that as a result of these hearings and the year-long investigation by the subcommittee staff we are going to be in a position to understand why this corruption has flourished and can determine ways to effectively put an end to it.

Senator NUNN. Thank you very much, Senator Chiles.

On the question of the venue of these hearings, I might say we did try to arrange hearings in Miami and New York and two things intervened. One is that we did not feel we would get the same number of Senators outside of Washington when the Senate was in session and of course, one of the main purposes of the hearing is to inform the Senate; second, we have several witnesses who are given immunity. That gets into the jurisdiction and venue of the courts in question and that meant that almost inevitably we had to have the hearings here.

We also have court orders relating to subpoenas and writs and we have protected witnesses. To try to hold hearings in Miami would have been an almost impossible legal and jurisdictional problem. So we are aware of your interest in that. We are aware of the keen interest both in Miami and New York in this subject.

Before turning to Judge Webster, I just want to say a word about him. Of all the appointments I know of in the Carter administration, I would have to rate this one right at the top.

I don't know of any other period in law enforcement where we have had anybody at the top of the FBI who has put as much focus on the high echelon people involved in both organized, white-collar

crime and narcotics in this country. We have a long way to go. Judge Webster has taken an outstanding lead and I think, Judge Webster, we ought to acknowledge that before you start here this morning.

We are not here to criticize the Justice Department and FBI in this case because we don't feel any criticism is warranted. We might in other cases. We have that duty when the time arises but you have done an outstanding job and we are pleased to have you as our first witness today. Having said that I will have to ask you to stand and take the oath like all of our witnesses before this subcommittee.

Do you swear the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WEBSTER. I do.

**TESTIMONY OF HON. WILLIAM H. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE**

Senator NUNN. Judge, why don't you proceed as you see fit?

Mr. WEBSTER. Thank you very much, Mr. Chairman, for what you just said and the opportunity to be here and discuss our work against the labor racketeering in the maritime industry.

Senator NUNN. You might want to pull that mike a little bit closer.

Mr. WEBSTER. As you are aware, a goal of today's FBI is to reach beyond the streets to those who are in the upper echelons of organized crime and white-collar crime. We are directing our investigations at the behind-the-scenes manipulators, the "family bosses," and others who have attempted to insulate themselves from the visible levels of criminal activity.

In 1975, we began an investigation to identify and gather evidence against individuals, corporations, labor unions, and public officials alleged to be engaging in an extensive pattern of criminal activities within the maritime industry of this country. We called the investigation UNIRAC.

Our information indicated that professional criminals associated with several organized crime families had taken de facto control of large segments of the International Longshoreman's Association. They were using that control to engage in a wide range of racketeering activities.

These allegations came from various sources—confidential informants, maritime industry officials, and other law enforcement agencies. The evidence pointed to a vast array of criminal conspiracies, apparently based in Miami and New York, but covering the entire Atlantic and gulf coasts.

UNIRAC is the most successful labor racketeering investigation ever conducted by the FBI. We took an industrywide approach. Instead of focusing on individuals or single crimes, we directed our attention toward the major companies, labor unions, and organized crime groups or enterprises engaging in patterns of racketeering activity throughout the maritime industry.

This morning I want to give you a brief overview of UNIRAC. During the course of these hearings, you will receive a more detailed presentation from agents and witnesses who actually participated in the investigation. It should give you a good indication of the extent to

which we established that criminal activity exists in the shipping industry.

Our investigative techniques included the traditional ones such as physical surveillance, interviews, and review of records; but, we also included more sophisticated ones such as undercover agents who were introduced into and operated within the maritime industry, court-approved electronic surveillances, as well as consensual recordings used covertly by cooperating witnesses. These were necessary to develop the kinds of cases we needed for successful prosecutions.

For example, early in the investigation, three FBI agents went undercover.

One agent took on the role of an executive in a Miami stevedoring company owned by one of our first cooperating witnesses. He was able to develop close relationships with several organized crime members, shipping executives, and officials of the ILA and developed extensive information regarding payoffs and kickbacks being paid to ILA officials and organized crime figures by various shipping companies.

On many occasions, he wore a "body recorder"—a small, concealed tape recorder designed to record conversations in which the person wearing it is a party.

A second agent operated a shipping agency in Mobile, Ala. He established contact with a high-ranking official of the ILA and soon gained his confidence. On several occasions the agent made cash payoffs to ILA officials. He also developed evidence against a number of shipping company executives who were making kickbacks and payoffs to ILA representatives. This agent also made use of a "body recorder" to corroborate the evidence he was obtaining.

The third agent, working undercover as a stevedore on the docks in Miami, made five cash payoffs for labor peace on behalf of a stevedoring company employing ILA labor.

Our success in Miami and along the gulf coast also led us quickly into similar ongoing operations stretching northward up the Atlantic seaboard. Our undercover executive moved from Miami to Savannah, Ga., where he continued to gather evidence. He was soon offered and took a job with a shipping company in New York.

The undercover activities obtained direct evidence against dozens of criminal subjects who demanded and received hundreds of thousands of dollars from the waterfront industry as a condition for doing business in New York. There was also evidence developed of repeated demands and receipt by a high ranking ILA official, more than one, in fact, of thousands of dollars of free labor and materials for their personally owned homes.

We also found evidence of the illegal distribution of contracts by organized crime figures, and boasting by ILA officials and organized crime figures that they regularly received confidential information from law enforcement agencies, including the New York-New Jersey Waterfront Commission. There were also widespread extortions by steamship company officials and representatives against contractors in the port.

In January 1977, the Miami phase of the investigation became public with widespread interviews and the service of hundreds of subpoenas.

Our agents in New York, however, continued to expand their undercover work which went undetected for approximately 2 more years.

Without the use of undercover agents, supplemented by electronic surveillances, we could not have successfully investigated these labor racketeering activities. In the early stages of UNIRAC, cooperative witnesses were almost nonexistent. In almost every instance, our major Government witnesses—with the exception of our undercover agents—agreed to testify only after prosecutable cases were developed against them. Each of them was a full participant in the criminal activities to which he testified.

Our undercover agents, however, were able to develop and give direct evidence of illegal activity. In addition, their efforts provided the basis for several court-authorized telephone wiretaps and hidden microphones.

Electronic interceptions—including telephone wiretaps, hidden microphones, and consensual recordings—identified individuals involved in payoffs to businessmen, shipping line executives, ILA officials, and organized crime figures while they were taking place.

One of our most successful microphone installations was in the office of Anthony Scotto, president of ILA Local 1814 in Brooklyn, N.Y., and, as international vice president, the third ranking member of the international union.

[At this point Senator Rudman withdrew from the hearing room.]

Mr. WEBSTER. Scotto has been previously identified by the Department of Justice as a high-ranking member of a New York traditional organized crime family in testimony before this subcommittee.

These installations recorded extensive evidence of illegal activity including payoffs to public officials, payoffs from management to ILA officials, and discussions regarding obstruction of justice.

When Scotto was later indicted and brought to trial, an impressive lineup of character witnesses testified in his behalf, including several major political and union officials.

I am convinced that without the tape recordings, it would have been impossible to obtain Scotto's conviction. Throughout his trial, as well as those of other defendants, the electronic surveillance tapes produced the best evidence possible.

The recorded conversations were actually admissions of criminal violations by the defendants as the crimes were being committed.

All of the extraordinary investigative techniques I have mentioned here today—the undercover special agents, the court-ordered electronic surveillance, the consensual monitoring—were critical investigative tools, without which an industrywide investigation such as UNIRAC could never have been successfully conducted. Furthermore, there was not a single instance—not a single instance—where evidence obtained by electronic surveillance was suppressed following motions by the defendants in the UNIRAC cases.

The scope of this waterfront conspiracy is now quite clear. Organized crime had seized control of major elements of the ILA and they had done so with impunity. Whether responding out of fear, mere weakness, or the promise of unlawful gain, many elected officials of this important union betrayed the trust of the members whom they represented and opened their organizations to the control of the professional criminal.

Businessmen completed this criminal triumvirate. Many senior executives and owners of major steamship and stevedore companies

yielded again and again to the unlawful demands of the corrupt union officials and racketeers. Finding it easier to make cash payoffs and pass on the resulting costs to the public than to fight this corrupt system, they became accomplices to it.

In some instances, we found that industry officials did not wait for the solicitations of union officials but rather adopted an aggressive posture and sought to make payoffs in an effort to gain an unlawful advantage over their competitors.

To date, Mr. Chairman, our investigation has resulted in 129 indictments and 110 convictions. Among those indicted were 52 union officials, 9 of whom were organized crime members or associates. Of the remaining 77 defendants, which include industry officials and their corporations, 20 were organized crime members or associates. Several defendants are still awaiting trial.

The multibillion dollar maritime industry affects every aspect of our economy. It is an essential corridor of our free enterprise system through which goods travel in interstate and foreign commerce. But UNIRAC shows what can happen when there is illegal interference with commerce.

Where the parties transacting this commerce—management and organized labor—conspire and engage in a pattern of racketeering activity, the American people are victimized.

Unknown to the American consumer, a "racket tariff" is added to almost every service or product being moved in commerce by the shipping industry. This tariff contributes to the economic noncompetitiveness of American goods and services by making them, as well as American ports, more costly.

The illegal alliance of labor and management can put a stranglehold on a particular industry. When that happens, it is our job to break this grip. We have taken a major step toward doing that in UNIRAC.

Thank you, Mr. Chairman.

I will be happy to respond to any of your questions.

Senator NUNN. Thank you very much, Director Webster. You have testified that the FBI utilized what you have termed an industry-wide approach in carrying out the UNIRAC investigation. What do you mean by an "industry-wide approach"?

Mr. WEBSTER. Mr. Chairman, ordinarily an investigation is directed at a particular individual, a particular action that has taken place that is believed to be criminal.

Our information was so widespread with respect to this particular activity that we broadened the focus beyond any particular individual and examined the practices, the patterns and the practices, that were known to exist, the allegations having come to us from a wide range of sources and we began to focus on the entire industry in terms of the patterns so that we would not be limited by a particular set of individual activities but could work our way into and examine and explore the depth and pervasiveness of the patterns that had been established.

Senator NUNN. Do you have to do anything different in this kind of investigation in terms of investigative techniques? Do you have to have specialized training for your people or does this pretty much fit into your modus operandi on normal investigations?

Mr. WEBSTER. I think we have to have more of many things. We have to have a greater awareness of the industry itself and that involves some upgrading of the knowledge and the background of the individual agents assigned to the investigation and how the industry works, the economics of it, the patterns and practices of it. In this case, we have even developed a jargon notebook so that both the agents who were involved in undercover work and those who had to review the results of those investigations and read and listen to the electronic surveillances would understand what was meant by the colloquialisms, the jargons of the docks. Those are two good examples.

Senator NUNN. Do you consider this investigation a successful model for others? Are you going to continue this kind of approach? Or how would you rate UNIRAC in terms of the approach used?

Mr. WEBSTER. Well, I think the UNIRAC is really a paragon of anything we have done to date. It certainly forms in many ways a model for other investigations of similar type. We utilized the same techniques in an ongoing investigation which we call MIPORN, which consisted of a study and then the investigation and subsequent indictment of the major figures in commercial pornography throughout the United States, many of the same techniques which again involved an understanding of the industry and how it functioned, so that we could recognize the criminality that was there for us to see and identify it.

There were 40 indictments in that case, a little more than 40. We are going to use it in other situations.

Senator NUNN. During the course of our hearings, we will have testimony from people who have engaged in payoffs as undercover agents.

What kind of predicate do you, as Director of the FBI, require before payoffs are made by undercover agents? In other words, what conditions precedent are required before you allow undercover agents acting on behalf of the Government to make this kind of payoff?

Mr. WEBSTER. I think it is important in any activity in which the Government itself makes a payoff to establish a crime. These are so-called victimless crimes in which the public is the real victim.

Then we have some basis to believe that the person on the receiving or taking end is interested in receiving a bribe. In UNIRAC, we had a wide range of information. It came to us from people who were victimized themselves, who wanted to do something about it. But in an organized crime-ridden industry, you find so much fear and so much reluctance to cooperate that it takes the work of undercover agents and also in a few cases where we have developed prosecutable cases against the particular witnesses who then find it to their advantage to cooperate where they would not have done so in the past.

We always have an allegation of criminality before we undertake to make a payoff. We attempt to assess the reliability of those allegations and then make a value judgment as to whether to go forward or not.

Senator NUNN. So you don't target people where no allegations have been made about them and you have no reason to believe that they would be susceptible to that kind of bribe?

Mr. WEBSTER. That is correct. Some of the information comes to us from informants and other criminals. We have to assess the reliability

of that information. But we do not select people to see whether they will take bribes without any other information to support that activity.

Senator NUNN. What are the results to society when organized criminal elements control or dominate large parts of a particular union or particular industry?

Mr. WEBSTER. I think, Mr. Chairman, there are a number of consequences to society and to the unions themselves. The union members are victimized in the sense the criminal members of their leadership are considering themselves first and the interest of the union members afterward. It debilitates the requirement in the National Labor Relations Act to create good faith bargaining between union representatives and management. More than this, it develops an unrecognized cost that is passed along to consumers, the American public in general, particularly in an industry of the kind we have been discussing.

The erosion of good faith conduct by trusted representatives of an organization, such as a labor union, has an ongoing adversary effect upon our society.

Senator NUNN. What does it do to the free enterprise system?

Mr. WEBSTER. Well, it may very well destroy that particular industry in which it prevails. If the labor union officials can get together, either by bribing or extorting, with management or if management can corrupt labor officials by bribing them, you can create a kind of monopoly by seeing to it that a certain kind of business goes to those who are willing to play the game and does not go to others who want to compete without playing that game.

Senator NUNN. UNIRAC showed corruption going far beyond this payoff to union officials. It showed corruption of businesses themselves and in terms of contracts awarded to businesses.

Mr. WEBSTER. That's correct.

Senator NUNN. Director Webster, you and representatives of the FBI testified before this subcommittee on previous occasions that there are presently various organized crime groups operating in this country, in addition to the major organized crime group, La Cosa Nostra. Does the information developed in the UNIRAC investigation confirm your belief that organized crime families effectively divide the economic spheres of their various criminal activities for their mutual benefit?

Mr. WEBSTER. It does, Mr. Chairman. The evidence in the UNIRAC case showed geographical division with one family from New York to Norfolk, another group from Norfolk south to Miami, and even in the harbors of New York, a division of turf between the Manhattan area and the Brooklyn area.

Senator NUNN. So it indeed is organized?

Mr. WEBSTER. It is.

Senator NUNN. Senator Chiles?

Senator CHILES. Director Webster, I want to join with Senator Nunn in complimenting you for the job you have done. Since your assuming the directorship of the FBI, I think the morale has changed completely. I think the whole thrust of the FBI has changed. I also want to compliment you on the job you have done in this particular case.

Listening to your testimony, I gathered that you were sending a message to us that some of these devices—undercover agents, electronic

surveillance, court-ordered wiretaps were very important and this investigation could not have been successfully completed without those tools.

Mr. WEBSTER. I am complimented the Senator heard that message. It is a very real one. These are sensitive, intrusive techniques and they need to be managed and the FBI and the Department of Justice must be accountable for their use. The vast majority of them, particularly the electronic surveillances, are under court supervision and there are not that many of them. At one time in the past year I asked specifically how many are now in place and the answer was three. But they are important and I am convinced that in proper cases, and certainly organized crime was the most obvious target of the legislative purpose when the act was passed in the first place, there are situations where they are absolutely important and indispensable to us in getting the information.

The fact they are recorded and the fact they are there for review and re-review makes us doubly accountable for their use because both the Congress and the courts can have an opportunity to see whether our use of those devices was appropriate.

Senator CHILES. This subcommittee and, therefore, the public is going to have an opportunity during these hearings to hear some of the fruits of the conversations that took place from some of these surveillance devices. We continue to hear from those people who are interested in privacy, who talk of the intrusion of individual rights if we have any device like that. Do you know of any way that a case like this could be made against sophisticated criminals as the organized crime leaders are in this particular area without the use of those devices?

Mr. WEBSTER. If there were, we would be using them, Senator Chiles.

As you pointed out, it is a sophisticated criminal enterprise. The evidence that we develop in this way is one of the few places where we can be sure they have to talk to each other because of the network of activity and if we are in a position to record those criminal conversations, we can make our case. We can also answer the character witnesses who have said they have known these people forever and are sure they would never engage in anything of this kind.

Senator CHILES. We also know that in many instances, of course, they operate in secrecy. They don't disclose their activities, but then they are not above intimidating any witnesses that might be ready to testify against them if it is simply a witness' testimony.

But having their own conversation, having surveillance, actually films of the activities in which they engage in makes a tremendous difference.

Mr. WEBSTER. I think the reports we have to make show the effort we have to make to minimize, under court supervision, the intrusiveness of these techniques. Even when we are monitoring particular persons known to be engaged in criminal activity, we minimize the extent of our coverage so as to confine it to those areas in which we have a legitimate interest. That is all subject to court review.

Senator CHILES. In addition to electronic surveillance, were there other investigative tools developed through modern technology that were useful to you in UNIRAC?

Mr. WEBSTER. Yes, Senator. Various types of electronic coverage, including the body recorders by cooperating witnesses, sometimes at

considerable risk to themselves but very effective. The undercover agent technique provided us with important cases and the opportunities to develop cases against the others who became witnesses and in return cooperate. Those are the major—

Senator CHILES. Did you use computer technology?

Mr. WEBSTER. Yes; I almost neglected to mention one of our most important modern techniques and that is the application of computer technology to vast amounts of data. In addition to a more recently developed Organized Crime Information System within the Bureau for purposes of identifying the activities of particular organized crime groups, we will, on an industrywide investigation, assign computer space and capability for the collection of data, large amounts of transactions, hundreds of thousands of transactions of items of information that go into the computer and permit us through analytical processes to determine exactly what is happening to be able to develop the information in terms of knowing the type of criminality, who is involved in it, and what place and time. And also it is enormously useful in long, complicated trials in retrieving the evidence for use in the trials. We have another technique known as our visual investigative analysis system in which we graphically can compute or can display in a graphic way both for purposes of investigative analysis and for courtroom presentation the transactions, the intricate transactions over a substantial period of time. As we take on an industry problem, we magnify in a quantum way the amounts of information that comes in to us. Unless we can deal with it both analytically and manage it for future use, we will stumble and fall. The computer has come to our rescue just in time. We use it extensively.

Senator CHILES. Based on the UNIRAC investigation, can you give us examples of the economic leverage which unions exercise against management in the waterfront industry?

Mr. WEBSTER. Well, the management is dependent upon service at the dock. Threat of a strike, threat of a shutdown, threat of a slow-down means dollars to the shipping industry and it is important that they not have it. So for labor peace, individuals who own small businesses, officials in larger businesses, have been willing to buy that labor peace by making payoffs, sometimes in terms of responding to extortion demands, sometimes in terms of bribery instigated by business to avoid what they know is out there in terms of economic disaster to them.

In other situations, a corrupt businessman, together with a corrupt union official, can prevent various types of job contracts from being let in the open market in a competitive way.

Senator CHILES. Does it disturb you that a management witness who has testified against one of these hoodlums for the Government at great personal risk to himself is later required to deal with that same individual across the bargaining table after the conviction of that individual while he is out, pending appeal?

Mr. WEBSTER. It obviously presents an untenable situation for the parties involved. I suppose that is part of the process of getting swift, more swift justice in the criminal justice system process.

I don't know that it can be avoided, but the timeframe can certainly be reduced. And perhaps those particular individuals ought not to

be—should somehow be precluded from doing business with each other during that period of time.

Senator CHILES. These union leaders certainly hold a position of trust, a fiduciary relationship with their members. They deal with the pension funds, they deal with hundreds of thousands of dollars that are crossing their hands. Do you think we should allow them, once they are convicted, to continue to hold that office, or should we in the Congress be looking at whether they should be suspended pending the appeal?

Mr. WEBSTER. Senator, that is a policy decision. I perhaps ought not to comment on it, other than to confirm what you just said, that it creates major problems in trying to maintain a good faith series of negotiations.

I think if I am not mistaken, in New York there are a number of State laws that come into play when someone has been convicted of a crime in terms of functioning in the waterfront leadership capacity.

Senator NUNN. You don't know of any constitutional right the person has to continue to hold a position, a fiduciary position of trust after conviction of a felony pending appeal, do you?

Mr. WEBSTER. None that I am aware of, Mr. Chairman.

Senator NUNN. It is a policy matter that can be dealt with either by the Congress or State legislatures.

Mr. WEBSTER. That is my understanding.

Senator NUNN. Will the Justice Department be examining this, will you be encouraging them to look at possible legislative suggestions to help remedy this problem?

Mr. WEBSTER. I will, Mr. Chairman.

Senator CHILES. What does it do to the morale of your force, the FBI, the Justice Department, where you bring cases, carry on an investigation that goes over a period of years, are successful in the conviction and later, let's say, even the incarceration of these defendants, labor racketeers and then find that in effect through surrogates, whether it be a relative or some other person they just continue their same power over the operation even from prison and certainly during the time you are pending appeal?

Mr. WEBSTER. Of course that is not an appealing prospect to any of us, particularly our undercover agents who have exposed themselves to considerable permanent danger to make these cases. We have learned to live with this as a reality of life hoping that it will some day be improved. As we develop more and more of these cases and prove our ability to deal effectively against organized crime and corrupt union officials working together with corrupt management officials, I am confident that more and more public officials, rather more and more officials in business, more and more who have been exposed to this thing will refuse to cooperate and come first to us instead of waiting for us to make a prosecutable case against them.

But first they have to be convinced that we can make a difference.

Senator CHILES. They are going to have to be convinced that those people will eventually be removed.

Mr. WEBSTER. That is my point. In making that difference they have to see the people leave the industry forever.

[At this point, Senator Rudman withdrew from the hearing room.]

Senator NUNN. Judge Webster, I think we have gotten at an early stage down to one of the crucial legislative questions that we will have to consider after these hearings because we already know enough to recognize that some of the business people who were cooperative and did testify at some stage have had to go right back and deal with either the union officials they testified against or their surrogates right across the bargaining table and I will certainly look forward to any recommendation the Justice Department will make. I am sure we will have some suggestions after these hearings are concluded.

In light of this, in light of Chief Justice Burger's comments last week about problems in the overall system of justice in our country, do you generally agree with at least the thrust of his remarks without trying to pin you down on each of the proposals he made? Do you agree that something has got to be done to change the criminal justice system in a fundamental way if we are going to be effective in controlling high-level criminal activity, organized crime, as well as violent crimes?

Mr. WEBSTER. I certainly agree with the Chief Justice's statements in principle, particularly those that call attention to the impact of delayed justice in the process and the disillusionment that many Americans feel about their criminal justice systems. That starts with the prosecutive efforts and the resources made available for effective prosecution and it ends with what we do about the individuals after they have been brought to justice and convicted and what we next do about them. There are gaps in our system that need to be addressed. And I believe that the Chief Justice has made a rational effort to voice those concerns, from an area, from a pulpit that will be heard. I think the mood of the country today reflects a willingness to address this serious problem. The fear of crime has been identified in recent reports as being of major concern, a rising fear of crime that perhaps even outdistances the actual rise in the crime rate. That certainly means to me that the American people are ready to support congressional efforts to create a more effective criminal justice system.

Senator NUNN. I think the climate is right. I was delighted to see that the Justice Department indicated that they are going to have some legislative suggestions on the violence in organized crime. As you know, we had hearings last year on that subject. In fact a number of legislative recommendations they came out with were, most of them were the package that we sent down there asking for the Justice Department comments on them about 6 months ago. While we have not gotten that comment, we did read in the paper that they may introduce that package and you might tell them down there we will be glad to help them with our package if they would like our assistance.

Mr. WEBSTER. I will be glad to do that.

Senator NUNN. We do hope on a bipartisan basis we can introduce this year and hopefully get passed a great number of pieces of legislation that have come out of the hearings we held over the last 2 years, including some changes in the Labor Department, the way they go about their business, including some of the problems we have with violence and organized crime, and so forth, including also narcotics, bail reform, posse comitatus statute, the Tax Reform Act. We have got enough to keep a whole committee busy just looking at the legislative implications of it for at least 2 years.

Senator Chiles and myself and hopefully Senators Rudman and Roth and others; I know Senator Percy has already cosponsored many of these bills, will be pushing that very hard in the next year. So I am confident that we will be working together with you and the Justice Department.

Judge Webster, you have experienced tremendous success in the UNIRAC investigation but you had to pull a huge number of resources together in order to do that. Obviously you cannot keep this team together working on nothing but the waterfront forever. How do you allocate those resources and how do you make choices on priorities in the future, both on the waterfront and other areas? Do you need more resources?

Mr. WEBSTER. You speak to a thirsty man in the desert when you ask that question. Of course we need more resources consistent with the economy's ability to supply it and willingness of the American people to dedicate it. We have to make hard choices today. We have had to make hard choices for some time. We do that on, as I think the chairman is aware, a priority system in which organized crime is one of the top priorities of the FBI. Top priorities because of the tremendous impact that organized crime has been shown to have on our society. The damage done not only to the public in terms of actual cost, but in the erosion of confidence in public officials and on our system of government.

We will always address the organized crime issues as we are able to identify them. Sometimes they require monumental commitment of resources. I think in the UNIRAC case we had over 100 special agents working full time for over a year out of over 20 offices.

It was in my view perhaps the best money we ever spent. And we would find the resources again for any similar type activity. But there are other situations in which we, because of the lack of quality of the work, we cannot, and the limitations on our resources, we simply cannot bring that much to bear in a given situation. But this is a sustained investigation. I mentioned earlier in my statement that part of our effort is to reach beyond the streets. Many times we could make simple arrests of street soldiers and two-bit bagmen but we would never make an impact on the crime in the industry. We have to sustain those investigations for as long as it takes, sometimes 2, sometimes 3 years to do so.

Senator NUNN. Would you say that as a result of UNIRAC that you have made a major dent in organized crime and corruption in the ILA on the waterfronts in America and/or do you think we still have a significant existing problem?

Mr. WEBSTER. I say yes to both of those. I believe that we have made an important dent in this industry. I wish I could tell you that we had cleaned it up. That certainly is our objective. We have obtained convictions of most of the major organized crime figures associated with the industry problem. But as Senator Chiles pointed out before, they have their surrogates and in some areas it is business as usual. But we have developed a few things out of this in addition to getting convictions against the major figures. We have demonstrated our ability to do it. I believe we have increased the likelihood of cooperation should there be future pervasiveness in the industry. But it is not a

kind of climate that cures itself forever. If we cease to be vigilant, the conditions will persist just as strongly as they did 3 years ago.  
[At this point, Senator Chiles withdrew from the hearing room.]  
[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts, on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH, Jr.,  
Chairman.

SAM NUNN,  
Ranking Minority Member.

Senator NUNN. So the cancer has been at least attacked but it is continuing to grow unless there are changes made and constant vigilance, unless we have a change in attitude by business people involved and also by labor officials and rank and file members.

Mr. WEBSTER. That is a good statement, Mr. Chairman.

Senator NUNN. Who are the real victims of this kind of pervasive corruption?

Mr. WEBSTER. We are. The American people are in the final analysis. And all those who place their trust in leadership within the union. The stockholders of companies whose money is paid out for this purpose, the consumer who buys the products, those of us who believe that organized—and I am not one of those—but those of us in the country who believe that organized crime cannot be touched and look to areas such as the waterfront as a perfect example of that.

I think in UNIRAC we made a substantial dent in the organized crime macho attitude that they used for purposes of intimidating and extorting future victims.

[At this point, Senator Chiles entered the hearing room.]

Senator NUNN. How about rank and file union members?

Mr. WEBSTER. The rank and file union member is victimized by this type of activity because their leaders are betraying their trust and for personal advantage are making deals and decisions with people with whom they ought to be bargaining in good faith.

Senator NUNN. You will recall in my opening statement I mentioned that back in the 1950's when we had a similar attack on the waterfront that George Meany took very decisive action and expelled the ILA from the AFL. I know that at some point we will be hearing from the AFL-CIO, whether it is in these hearings or later, about their general attitude about union members that are subjected to this kind of pervasive corruption of union leaders, whether they intend to go back to the Meany precedent at some point and consider an order that they either clean up or be expelled. Do you think that is an area that the top officials in the AFL-CIO should at least be considering today?

Mr. WEBSTER. I am sure the top officials of the AFL-CIO and other top labor organizations are concerned about their own reputations as honest effective labor leaders. The concern that I think needs to be expressed both there and among industry associations and in law enforcement and in the Congress is what kind of a signal we are going to send to those who are willing to come forward to identify these problems. If we are saying that all you can expect out of this is a moment of thanks and then perhaps years of intimidation and reprisal after the outfit gets back into control, then we are sending the wrong kind of signal. But if we convince those who deal in this business and have to get along in this business and the union rank and file members that we will sustain our investigative effort through congressional oversight into the industry and we will support their efforts to maintain a clean and decent industry, that is the right kind of signal.

Senator NUNN. Judge Webster, we appreciate very much your being with us today and we appreciate the excellent job done by the FBI in this investigation and also your total cooperation with us in the course of our investigation and our hearings.

Mr. WEBSTER. Thank you very much.

Senator NUNN. We hope you will also express our appreciation to each of the employees of the FBI who played such a vital role in it.

Mr. WEBSTER. I will be glad to do that. Thank you.

Senator NUNN. Thank you. Our next witness is Mr. Michael Levin. Mr. Levin was involved in the UNIRAC investigation as a prosecutor. He came to this subcommittee and was a very capable and dedicated staff member here for about a year. Is that right, Mike?

Mr. LEVIN. I think it was a little bit less than that, but it was worth every month, Senator.

Senator NUNN. He is now back in the executive branch in the Justice Department as head of the Strike Force in Miami, Fla. Mr. Levin, we want you to know that we are appreciative of your work with the subcommittee and your appearance here today. I will ask you to stand and take the oath as we do with all of our witnesses.

Do you swear the testimony you will give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LEVIN. I do.

**TESTIMONY OF S. MICHAEL LEVIN, ESQ., ATTORNEY-IN-CHARGE,  
MIAMI ORGANIZED CRIME STRIKE FORCE, U.S. DEPARTMENT  
OF JUSTICE**

Senator NUNN. Mr. Levin, I know you have a prepared statement and then we will get into questions. Let me ask the staff, is there any way to open a window around here? I think we will need a little fresh air before the day is over for many reasons. [Laughter.]

Mr. Levin, why do you not proceed and then we will get to the questions.

Mr. LEVIN. Thank you, Senator Nunn and Senator Chiles. It is a pleasure to be back here again even though it is on this side of the rostrum.

I have a prepared statement which I would like to read, Senator, if that is all right with you?

Senator NUNN. Yes, Mr. Levin, please continue.

Mr. LEVIN. Thank you for extending an invitation to appear before you to testify at these hearings on corruption in the waterfront industry. As an attorney with the Department of Justice's Miami Organized Crime Strike Force, I have been involved in the Department's investigation of waterfront corruption from November 1975 through the trial of one of the major resulting prosecutions and continuing to date.

The Department's investigation of the waterfront industry began in Miami in October 1975 and was given the name UNIRAC, which stood for union racketeering. That acronym was not quite accurate as the corruption which was uncovered was not limited to unions. The investigation also disclosed a system of kickbacks among businessmen and illegal payoffs to union leaders by businessmen who found it more advantageous to cooperate with corrupt union officials than with law enforcement. Despite the notoriety of the movie "On the Waterfront," and its realistic portrayal of corruption in our ports, the waterfront industry has been a world unto itself, operating by its own rules. The general public has chosen to ignore or simply remain unaware of the extent of corruption. That apathy exists despite the obvious and direct consequences to the public which waterfront corruption generates. The cost of payoffs is shouldered by all consumers. Efficiency was not part of the rules on the waterfront. Efforts at cost cutting are counter-productive in a system replete with kickbacks and extortionate payoffs. Free enterprise itself has been seriously weakened.

Before detailing what our investigation revealed about the Miami waterfront, some historic perspective is helpful. For years, the New York docks were controlled by organized crime both within and without the International Longshoremen's Association. The ILA has been the principal union supplying labor to stevedore and other waterfront companies. In the late 1940's, the New York Waterfront Commission was established to deal with corruption in the New York-New Jersey port area. Longshoremen had to be approved by the commission to work on the waterfront. Individuals with criminal backgrounds were denied that approval.

Ironically, New York's efforts to rid its port of hoodlums proved to be a misfortune for Southern ports, particularly Miami. As criminals were evicted from New York, many sought haven on the growing Miami waterfront where no equivalent waterfront commission existed. In the mid-1960's George Barone, William Boyle, Douglas Rago, and James Vanderwyde came to Miami from New York and formed a checkers local. All of those individuals had been the subject of the New York Waterfront Commission's attention and some of them had been barred from working on the waterfront because of their prior records. Also they were barred from holding union office.

About this same time, the port of Miami began a dramatic transformation from a mere banana port to this country's largest luxury cruise port. Increasing trade with Latin American countries directly resulted in substantial growth of cargo moving through Miami. In order to accommodate the tremendous increase in trade, the city

replaced Miami's original docks with the modern Port of Miami, located on Dodge Island. By 1972, the Dodge Island facility was a well-established and bustling operation.

The ILA, as well as Barone, Boyle, and their associates, shared in this growth. By 1975, in addition to their local union offices, they were both international vice presidents. James Vanderwyde was a paid delegate to the Atlantic Coast District Council—it is interesting to note that the Atlantic Coast District Council does not cover Miami, but rather the Port of New York from which Vanderwyde had been barred.

During this period, the shipping industry itself was also changing. Containerized cargo was rapidly replacing break bulk procedures in an effort to speed cargo movement and reduce losses from theft and breakage. As a result, a container maintenance and repair industry was born and flourished. Having unionized that industry, the ILA required that all repair work be done at repair shops "authorized" by the union. The ILA also required union labor for the movement of cargo on and off the port area. Thus, the ILA effectively controlled not only the movement of cargo in and out of warehouses, on and off ships, and on and off the port, but also the servicing of equipment used in these tasks.

In September 1975, Joseph Teitelbaum, a Miami waterfront executive, was arrested by the Dade County Public Safety Department on State charges. Almost immediately he agreed to cooperate with local officials in documenting payoffs which he had been making to William Boyle and Cleveland Turner, president of the Miami longshoremen's local. In addition, Mr. Teitelbaum agreed to assist in a more extensive investigation on waterfront corruption. An investigation of this type was beyond the resources of the Dade County Public Safety Department, but not beyond those of the Federal Bureau of Investigation. In October 1975, the Miami office of the Federal Bureau of Investigation began debriefing Mr. Teitelbaum. When Teitelbaum had subsequent opportunities to extend his steamship agency and stevedore business into other ports, specifically Savannah, Ga., and Mobile, Ala., the FBI utilized Mr. Teitelbaum in placing three undercover agents in roles as his employees. Each such agent made undercover payoffs to William Boyle.

By the early part of 1976, information and consensual tape recordings obtained through Mr. Teitelbaum's operation established the probable cause for a court order in the southern district of New York authorizing the interception of wire communications there, thus launching the New York end of this investigation.

The covert investigation in the Southeast continued until January 27, 1977. In addition to payoffs to ILA officials in Florida and Alabama, the undercover operations revealed that the ILA had actually divided the country into two sections, one under the control of George Barone and the other under Anthony Scotto, then the third ranking ILA official. This division determined whether companies favored by Barone or Scotto would be contracted to perform services. When Teitelbaum shifted operations to Savannah, he was told that Barone controlled ports south of Norfolk, Va., while Scotto controlled

Norfolk and all ports north. In keeping with that rule, he awarded the contract to a company favored by Barone and Boyle.

Nevertheless, Barone still maintained influence in New York, where he had remained as business manager of ILA, Local 1804-1. By September 1976, Special Agent Robert Cassidy, one of the undercover agents, had been hired by Zim Container Services, Inc., to supervise maintenance and repair of its container equipment. He met with Boyle and Barone in Miami International Airport to obtain their assistance in New York.

During the conversation, Agent Cassidy was told that Barone had a close relationship with one of the principal officers of Zim; that the union officers wanted Teitelbaum to subcontract stevedoring work in Savannah to Neal Harrington, one of Mr. Teitelbaum's competitors who we later determined was making payoffs to Boyle and another ILA official; that Barone would put Agent Cassidy in touch with New York ILA officials Tommy Buzzanca and James Cashin; that Barone did not want Cassidy to send Zim's repair work from New Jersey to a Staten Island repair company because that company had, in Barone's words, "all the business he needs. If you do that, Anthony—referring to Scotto—and I will have to sit down and talk again and we don't want to do that"; and that Barone did not want Cassidy to send Zim's business out of the Port of Elizabeth.

By the close of Miami's covert investigation, the FBI had monitored 34 separate payoffs by Mr. Teitelbaum and 18 separate payoffs by the undercover agents to various ILA officers totaling \$53,000. Those payments had several purposes. Some were for labor peace, that is, to insure uninterrupted receipt of sufficient labor for Teitelbaum's company. Other payments guaranteed Teitelbaum freedom to extend his operation from Miami into Savannah and Mobile. Still other payments were in consideration for ILA support in obtaining contracts.

By its nature, the covert investigation was restricted to Mr. Teitelbaum's sphere of contacts. Yet, all indications were that this type of corruption was a way of life in the industry. A considerable commitment of resources would be necessary to uncover other instances, particularly in ports untouched by the covert investigation. As a first step, we identified the major companies in those ports employing ILA labor. Several stevedoring, trucking, maintenance and repair companies were selected in each South Atlantic and gulf coast port city, and grand jury subpoenas were prepared calling for the production of their records. FBI agents in those cities were briefed on waterfront industry operations. Additional agents were sent to Miami to assist in coordinated, simultaneous interviews, which began on January 27, 1977, and continued intensively over the course of the next 3 days.

Initially, our objectives were severalfold:

1. To obtain evidence to corroborate Mr. Teitelbaum's information, particularly for the period prior to October 1975;
2. To identify companies that were making payoffs to ILA officials;
3. To pursue leads that were developed during the covert investigation;
4. To stimulate investigation in port cities not covered by the covert investigation; and
5. To determine whether any union funds were being embezzled.

Approximately 300 subpoenas were issued on January 27, 1977, to numerous waterfront companies for the production of records and to individuals to appear before a Federal grand jury sitting in Miami. By May 1977, assistant U.S. attorneys and strike force attorneys from Atlantic coast, gulf coast and other Federal districts attended a Miami conference, familiarizing them with the investigation and establishing a format for coordinating all their waterfront prosecutions through the Miami Strike Force or the U.S. Attorney's Office for the Southern District of New York.

In the interim, George Wagner agreed to cooperate with the Government in the Miami investigation in exchange for immunity. Mr. Wagner helped form the Miami ILA checkers local and later was responsible for assigning checkers to Miami stevedore and warehouse companies. In late 1967, Mr. Wagner also became the general manager of Marine Terminals, Inc., a Miami stevedore company. Mr. Wagner joined Marine Terminals when an agreement was struck between George Barone and A. P. Chester, principal officer of Chester, Blackburn & Roder, Marine Terminal's agency counterpart. As Wagner undertook his employer responsibilities, he was directed by Barone, Boyle, and Vanderwyde to watch for opportunities to make money for his union cohorts. By handling union job assignments while acting as general manager at Marine Terminals, Mr. Wagner was able to "ghost" Boyle on Marine Terminals' payroll. In other words, Boyle was listed on the company payroll even though he did not work there.

In addition, at Boyle's direction, Wagner made payoffs through Marine Terminals to Cleveland Turner. Mr. Wagner supplemented these direct payoffs with money he received from kickbacks from vendors dealing with Marine Terminals. Some moneys generated from these kickbacks were contributed to a "pot" that was split up among Barone, Boyle, and Vanderwyde. Wagner also acted as an intermediary between the union and container repair and cartage companies to obtain ILA contracts for those companies. In each instance, principals of those companies gave Mr. Wagner a payoff for the purpose of obtaining a union contract, which money he shared with Barone and Boyle. Our investigation determined that this practice of accepting vendor kickbacks was a common practice among other companies.

Jacob Sklaire, a principal of Chester, Blackburn & Roder was also immunized and identified that company's payoffs to George Barone beginning in late 1967 and continuing until the investigation became public. Initially, these payoffs amounted to \$750 per month. Soon after Chester, Blackburn & Roder began operating an offport loading facility known as Caribbean Freightways. Barone demanded additional payoffs in return for allowing Caribbean to use nonunion labor. In 1973, Sklaire increased the payoffs to \$1,000 per month but continued them even after Caribbean ceased operations.

When Chester, Blackburn & Roder later opened a warehouse terminal for consolidation of container cargo, Barone demanded additional payoffs on a "per-container" basis. After an initial payment of \$1,000, Sklaire paid Barone \$15 per container in addition to the regular \$1,000 per month payoff until January 1977.

The experience of Chester, Blackburn & Roder is a textbook example of businessmen who find it more convenient to pay union officials

than cooperate with law enforcement. Chester, Blackburn & Roder had never employed ILA labor until 1967 when it formed Marine Terminals to do stevedore work. Previously, it had been a steamship agent in New York and Miami. Within 3 weeks after Marine Terminals began operations, George Barone arranged a meeting with A. P. Chester, then president of the parent company to Chester, Blackburn & Roder and Marine Terminals. Barone told Chester that he had stopped a contract on the life of one of the principals of Marine Terminals. Barone told Chester that business on the docks was "different"; that Chester "needed somebody as a consultant and that it would be wise if—the two men—made an arrangement." Barone initially demanded \$1,500 per month as the "consultant" but finally settled on \$750. Chester never disclosed to law enforcement officials either this "contract" or the payoffs until long after the investigation became public despite opportunities to do so. In June 1978, he was indicted along with Barone and 20 other waterfront figures for RICO and Taft-Hartley Act violations and eventually pleaded guilty to several Taft-Hartley violations.

Overall, the investigation disclosed that Joseph Teitelbaum, through his companies, began a series of payoffs to several ILA officials in 1972 which continued until January 1977; that Chester, Blackburn & Roder began its payoffs to George Barone in late 1967 and continued them until January 1977 when the investigation became public; that George Wagner, from 1967 to 1974, made payments of approximately \$800 per month to William Boyle, George Barone, and Jay Vanderwyde on behalf of Marine Terminals; that Wagner also paid Cleveland Turner approximately \$10,000 per year from March 1972 until November 1974; that Great Southern Trailer Corp., a Savannah, Ga. maintenance and repair company, paid Boyle approximately \$21,000, \$6,000 of which was to obtain a union contract for the company in Savannah and \$5,000 for ILA backing in the Port of Charleston, S.C.; that Neal Harrington, on behalf of his Miami stevedoring company, Harrington & Company, Inc., paid Boyle a total of \$57,000 between September 1972 and January 1977 and that between March 1974 and January 1977, he paid Cleveland Turner a total of \$19,000 as well as having loaned Boyle over \$20,000 in 1975; that the principals of Florida Welding Services Corp., a Miami maintenance and repair company, in addition to having paid \$15,000 to Barone, Boyle, and Vanderwyde through George Wagner to obtain an ILA contract, paid those same individuals approximately \$1,000 per month from October 1973 to November 1975; that Jasca Transfer, Inc., a Miami cartage company, paid \$10,000 to obtain a union contract; that United Container and Ship Repair, Inc., another Miami maintenance and repair company, made payoffs to George Barone from August 1975 through December 1976 of \$1,500 per month; that United Container's Jacksonville affiliate, United Trailer Services, made payoffs totaling approximately \$23,000 to Landon L. Williams, president of the Jacksonville ILA local, from October 1975 to January 1977; that Coordinated Caribbean Transport, Inc., another Miami ILA employer, paid Boyle \$14,000 from June 1974 to December 1975; and that numerous other payoffs to union officials in the form of cruise tickets, automobile tires, and other gratuities were made. It is also clear that these payoffs would have continued but for this investigation.

Further, we established that two companies operating in Jacksonville, Fla., and Charleston, S.C., paid kickbacks to an officer of Sealand Service, Inc., in return for the awarding of a contract for the repair of container chassis being shipped to Saudi Arabia; that United Container made kickback payments to several of its vendors; and that in 1976 United Container paid George Barone \$10,000 to obtain a franchise from Thermo-King, a company whose equipment was used in refrigerated containers.

It was interesting to discover that the payoffs that Landon Williams was receiving from United Trailer Services were in lieu of that company's contributions to the ILA's pension and welfare benefit plans in Jacksonville. Apparently Williams had agreed that contributions need not be made as long as the company took care of him. However, when the plans' trustees learned that United Trailer was excessively deficient in its contributions, demand was made for payment.

I should note that the detection of these payoffs was not a simple task. Our success was possible only through the FBI's commitment of agents with accounting backgrounds to review vast amounts of documents and the Internal Revenue Service's participations in the investigation.

Senator NUNN. Let me ask you one question. At the bottom of page 8 you say that payoffs received from United Trailer were in lieu of that company's contribution to the ILA's pension and welfare benefit plans in Jacksonville. So you have got union leaders getting payoffs in order to relieve the company of their obligation to pay into the pension and welfare fund for the rank-and-file members.

Mr. LEVIN. That is a clear example of that, where the corrupt union official was benefiting directly at the expense of the rank and file.

Senator NUNN. Thank you.

Mr. LEVIN. Identifying payoff moneys in corporate records is tedious and often impossible without the cooperation of an insider. We were fortunate to have skillful agents and an occasional break when a corporate bookkeeper or comptroller would agree to identify fraudulent items in his company's books.

On June 7, 1978, the grand jury returned a 70-count indictment charging 22 people with RICO, extortion, Taft-Hartley, obstruction of justice, antikickback and revenue violations. The defendants included 10 ILA officials, 4 of whom were international vice presidents; 11 waterfront company executives and 1 certified public accountant. The indictment charged that the defendants formed an illegal enterprise, corruptly controlling and influencing the activities of the waterfront industry in various ports in the United States from 1965 through 1977. They did so by several means: Payoffs to insure labor peace, union contracts, and business expansion; kickbacks between companies and vendors; and extortion, threats, and intimidation. The indictment charged an enterprise which influenced and controlled ports from Miami, Fla. to Jacksonville, Fla. to Mobile, Ala. to Savannah, Ga. to Charleston, S.C., with plans for expansion into other ports.

On January 29, 1979, the trial of *United States v. Barone, et al.* began. Eight defendants had pled guilty prior to trial. One defendant had been severed from the case and later he, too, entered a guilty plea. On September 1, after 7 months of trial, approximately 100 witnesses,

over 1,000 exhibits, 24,000 pages of trial transcript and 3 weeks of jury deliberation, 9 defendants were found guilty. The jury was unable to agree as to one defendant, two defendants were severed during trial, and a third defendant was acquitted by the court.

The trial was not without some traumatic moments. Shortly after Mr. Teitelbaum took the stand he was hospitalized. Anxiety over his protection and concern for his family's safety aggravated Mr. Teitelbaum's heart problems. Ultimately, he spent 16 days on the witness stand. But the most troubling event was the incapacity of one of the jurors after the jury had retired to deliberate. The trial judge, Hon. William M. Hoeveler, after hearing arguments from both sides, issued an order replacing the incapacitated juror with one of the alternates who had not been discharged.

In January 1980, Judge Hoeveler imposed the following sentences:

George Barone—15 years incarceration and fined \$10,000; William Boyle—12 years incarceration and fined \$8,000; Fred R. Field, Jr.—6 years incarceration; Dorothy Kopituk—3 years probation; Oscar Morales—4 years incarceration; Cleveland Turner—6 years incarceration and fined \$4,000; James Vanderwyde—10 years incarceration and fined \$5,000; and Landon L. Williams—5 years incarceration and fined \$10,000.

In addition, the union defendants were ordered to forfeit their union offices. (Fred Field, formerly ILA general organizer, had already left his position with the union as a result of his conviction in New York for taking \$124,000 in payoffs.) Raymond Kopituk and Oscar Morales, the sole stockholders in Florida Welding Services Corp., were ordered to forfeit to the United States their entire interest in the company. The case is now pending appeal in the U.S. Court of Appeals for the Fifth Circuit.

The Department's investigation has resulted in prosecutions from Massachusetts south to Puerto Rico and west to Texas. According to the most recent figures available to me, a total of 167 persons have been indicted, 5 of them twice, approximately 121 have been convicted after trials or pleas, and 24 are awaiting trial. The investigation and these figures demonstrate the ability and willingness of the Department of Justice to commit substantial resources to examine and prosecute industrywide corruption and to successfully coordinate and support the activities of several prosecutor's offices.

However, neither the Department of Justice nor the Federal Bureau of Investigation nor any other Federal agencies can assume the responsibility for continually policing the waterfront industry. We cannot shoulder the entire burden of preventing continued payoffs, kickbacks, extortion, and other forms of corruption. Early in the investigation we realized that we would have to find some way to motivate businessmen to reject demands from corrupt union officials. Prosecution of corrupt waterfront executives along with ILA officers who took payoffs seemed to be the best technique. It was important that the employers realized that criminal prosecution was a legitimate factor to consider when confronted with the choice of whether or not to make a payoff.

Most of the businessmen we investigated and prosecuted excused their failure to alert law enforcement to payoff demands or to cooper-

ate with us when the investigation became public as justified by fear of retaliation. Also, they claimed that the Government would not prosecute union officials or that cooperation would subject them to reprisals from the ILA. We have established our commitment and ability to prosecute industrywide corruption. The sentences the court imposed reflect its recognition of the problem. Now management must undertake the responsibility of keeping its house clean. If it chooses corruption over cooperation, those employers will be viewed as conspirators and prosecuted. Yet, they will still remain at the mercy of greedy union officials. In addition, they will subject their businesses to forfeiture. On the other hand, if they alert the FBI that illegal demands are being made and commit themselves to aid this and other investigations, they can rid the industry of its unwholesome elements.

I want to make it clear that we are not suggesting that all unions or that all ILA locals are corrupt. There are many honest unions and officials. But the ILA has had an abundance of criminals in its ranks, and payoffs to those officers have been pervasive. Nor do we intend to imply that all employers have easily yielded to the pressure of greedy union officials; management has many examples of honorable, incorruptible men. However, the impact of this investigation can be meaningful only if those people who work daily in this industry are willing to resist the corruption we have been investigating and notify Federal authorities of criminal conduct. Then we can be effective.

Thank you.

Senator NUNN. Thank you very much, Mr. Levin, for an excellent statement.

Senator CHILES. Why don't you lead off with this witness?

Senator CHILES. All right, sir.

Mike, you mentioned the positions of Barone, Boyle, and Vanderwyde. What union position did Douglas Rago hold in Miami?

Mr. LEVIN. He has held, and, I believe, continues to hold, the office of vice president of ILA Local 1922, the Checkers local.

Senator CHILES. Despite being kicked out of the New York ports for criminal activity, however, we see that these same racketeers were apparently allowed to obtain union office in Miami. Is that accurate?

Mr. LEVIN. That is what occurred, Senator. One problem that exists is that the Port of Miami does not have the authority that has been created in the New York-New Jersey area, that is, the New York Waterfront Commission.

Efforts were made to create one, as I recall, several years ago, but the efforts were unsuccessful. Therefore, there is no licensing, certifying, or registering authority to screen ILA officers and workers to determine who should or should not be on the port working in these positions.

Senator CHILES. So there is no waterfront commission in the Miami Port, no screening authority that is set up at all to determine what the past conviction record, character of union officials or workers are on the dock?

Mr. LEVIN. That's correct, Senator. That is why these officials were able to leave New York and set up shop in Miami. It is also interesting, however, that George Barone still retains a position as an employee, which is a technicality, I believe, in the New York Waterfront Com-

mission's rules that allows him to do that. But he still retains an office with ILA Local 1804-1.

I believe that position still remains as a business manager.

Senator CHILES. That is a New York local?

Mr. LEVIN. That's a New York local.

Senator CHILES. So in spite of the fact he has been barred from holding union office, he still retains a position as a business agent, you say?

Mr. LEVIN. As a business manager, obviously, provides him a source of influence and still provides him a source of influence in New York.

Senator CHILES. You referred to George Barone giving Mr. Teitelbaum instructions concerning where he could do business in New York and referred to a conversation where Barone said that if Teitelbaum was to operate in a certain geographical area, he, Barone, and Anthony Scotto would have to have a sit-down. Considering your knowledge and background in this investigation, what does that mean to you?

Mr. LEVIN. There was one conversation that I referred to between George Barone, William Boyle and the agent. There was also another conversation separately between Mr. Teitelbaum and George Barone. What we determined from the investigation was that Anthony Scotto, who has been identified in these hearings—not in these current hearings, but by the Senate in past hearings—was a ranking member of the Gambino organized crime family in New York.

Mr. Barone, who is associated with another organized crime family through Mike Clemente, who has been identified as a member of the Genovese family, had actually divided up not only the East Coast of the United States, but actually within the Port of New York had their own spheres of influence and did not want business going from one part of the Port of New York to another portion of the New York-New Jersey dock areas, and, in fact, they were restricting Teitelbaum's interest in trying to extend his business into New York.

In essence, you had just the territorial interests being protected by Barone in the course of that conversation. He did not want to sit down and have to make compromises—

Senator CHILES. They were so organized, they didn't want him to get over into the area of Scotto where he would have to sit down and have some meeting on that.

Mr. LEVIN. That is correct. I think it can also be viewed in terms of Barone's ability to maintain control over Teitelbaum at that point in time and not have to share the control of Teitelbaum—

Senator CHILES. You mentioned the undercover portion of the investigation in Miami was restricted to Mr. Teitelbaum's contacts. What did you mean by that?

Mr. LEVIN. Because of the nature of this industry and particularly in Miami, the Port of Miami, as you saw last week, it is very difficult for undercover penetration without the benefit of an introduction.

The corruption will only be extended to those people who can be trusted, in essence, within the corrupt circle and Teitelbaum was trusted by Barone, Boyle, Vanderwyde, and the other ILA officials and he was able, by employing these three undercover agents, to insert them as his own employees and make a contact between the officials. Otherwise, the FBI cannot just simply go out to the port and start an undercover operation.

Also, the physical circumstances in most of the port areas makes physical surveillance of activities out there extremely difficult, if not prohibitive, because outsiders are easily recognized.

Senator CHILES. I am sure your successful efforts were extremely important in terms of resolving ongoing criminal transactions, but I would like your opinion as to whether the waterfront situation has changed or do labor racketeers still have the leverage to continue this kind of pervasive corruption?

Mr. LEVIN. It would be lovely to be idealistic and say we cleaned up the waterfront. I think I would be foolish to try and make that statement. The circumstances still remain. Hopefully this investigation has attracted the attention of those people within the industry who, if they want to, can do something about the corruption. But the circumstances remain; that is, George Barone, William Boyle, James Vanderwyde are still officers in the Miami local and are still sitting down at the bargaining tables with these corporate executives, some of whom we actually prosecuted. So the situation still remains ripe for these payoffs to continue.

Senator CHILES. We can't help but notice the Federal judges in south Florida thought that these crimes were serious enough to impose substantial sentences for the main defendants, 15 years for George Barone, 12 years for William Boyle. On the other hand, identified mob members in New York received relatively light sentences by comparison. Does this disparity in sentencing concern you?

Mr. LEVIN. I am sure, Senator, you can understand I am somewhat reluctant to comment on specific disparities in sentences between one area and another, particularly in a case I did not prosecute, that is the New York case. I do not know all the facts that were involved. Inherently, in our system of sentencing, it is at least disparitive.

It would be inappropriate for me to make a formal comparison. However, what I think is very important is that there is generally less of a problem with disparity in sentencing than in obtaining swifter punishment. It is critical—as a prosecutor for 10½ years now, I observe these situations recurring and swift and sure justice is really one of the most effective law enforcement tools that we have.

Senator NUNN. I would like at this point, Mr. Levin, to say that I understand your reluctance to comment on disparity in individual cases. I think that reluctance is probably appropriate in your position, but the subcommittee is not laboring under similar disabilities. I would like to have, for the record, with the cooperation of the Justice Department, a list of everyone that has been convicted, where they were convicted, what judges did the sentencing, and what they were convicted of.

If we could have that for the record and then we will make whatever judgments we would like to make on that. When we get it, it will be available, whatever we can—we will, to the extent we are permitted to, and I don't know of any impediments to our releasing that, we will release that to the public. I understand there is one case that sort of stands out in that respect, that is the *Scotto* case in New York. What sentence did Mr. Scotto receive?

Mr. LEVIN. Senator, my recollection is from the media that it was 5 years, but you will have others here who will know quite well.

Senator NUNN. I believe Director Webster had stated in his opening statement, perhaps you did, also, that he had been previously identified as a member of organized crime.

Mr. LEVIN. Publicly, yes, sir, before the sentencing.

Senator NUNN. His sentence was much less than many of those in Miami.

Mr. LEVIN. Yes, sir. It was less than George Barone, Boyle, and Vanderwyde's.

Senator NUNN. We will get into that. I make no judgment on any of these now. I think it requires careful reflection.

I think it is something the public is entitled to, and certainly the judges have reasons to make individual decisions under our current system, but I think they also have a corresponding duty to let us know what those reasons were.

When you have people working on cases for 5 years and some of those who are most involved and actually at the top of control receive sentences that are not any longer than the investigative work that took place, it does raise a certain question.

Senator CHILES. You commented about getting the courts to forfeit the offices of convicted union officials. Isn't the loss of office automatic after the conviction of union officers?

Mr. LEVIN. It is not a simple process, Senator. There are a number of provisions that are involved. One is title 29, section 504 of the United States Code. It does prohibit certain convicted individuals from holding union office. However, it is not clear that all the provisions of the Taft-Hartley statute, which was the principal underlying statute in this prosecution, would pertain.

In addition, the Rico statute, which we utilized effectively in this case, also provides for the forfeiture of union office. However, by tradition, in neither case, under section 504 of title 29, or under the Rico statute, does that forfeiture occur until after the appellate process has been accomplished.

There is a further shortcoming under the Rico statute, that is the forfeiture that is accomplished under criminal provisions. While it is absolute, it is not continuing. It does not act as a continuing bar to that union officer and he can be immediately re-elected to office. The only remedy we have is to utilize the civil remedies of the Rico statute which then involves another piece of litigation, and normally that would have to wait until after the appellate process is completed.

Senator NUNN. Do you have any recommendations for us to consider in terms of legislative remedies in this area? It seems to me this is one of the most important problems with the law.

Mr. LEVIN. Well, Senator, obviously if Judge Webster was in a difficult position in that regard, so am I. I perhaps can make some observations.

Senator NUNN. Can we ask for your personal views? We know you are not speaking for the Department.

Mr. LEVIN. Yes, that is clear, I am not speaking for the Department in this regard. My observations after prosecuting for a number of years, particularly a number of labor racketeering cases, I think it is imperative that the Senate look at the Taft-Hartley statute and determine whether the punishment in the Taft-Hartley statute is an

adequate deterrent and whether or not it has an adequate deterrent effect.

I think, personally, that payoffs under a certain amount can remain as misdemeanors which the Taft-Hartley statute currently provides. The punishment for a misdemeanor carries a maximum sentence of 1 year. If the payoffs are above a certain amount there ought to be felony punishment for violation of that statute.

Additionally, one problem that we encounter frequently in multi-district investigations, particularly where we had to coordinate an investigation between the U.S. attorney's office in the southern district of New York and our investigation out of the Miami strike force office, is the problem created under the wiretap statute which provides for disclosure to intercepted parties, at a certain point in litigation, of the fact they had been intercepted.

We had a situation where George Barone, who was a defendant in our case, had been intercepted in conversations in New York, we were able to obtain a protective order by clearly demonstrating to the court that disclosure at that time would jeopardize an ongoing investigation in New York. However, it is still the burden on the Government to make that justification.

I think it would be helpful as a prosecutor if it were clear that the statute contemplates that kind of problem.

Additionally, the problem that I referred to in my statement regarding the juror is not one that is taken care of by the Federal Rules of Criminal Procedure. The Federal Rules of Criminal Procedure, to the extent that we have to deal with a potential disability of a juror after a jury is retired to deliberate and after a very lengthy trial, which is very expensive, is a problem which ought to be addressed.

There should be some provision clearly stated in the Federal Rules of Criminal Procedure allowing what Judge Hoeverler did, which I believe is quite proper. Judge Hoeverler took pains to protect all the rights of the defendants in that situation and at the same time accomplish the interests of justice. Of course, this is a matter on appeal and I do not want to comment about it too much, but it is a serious problem and it is magnified because immediately after we finished the Barone trial, another major trial in Miami that took several months to try encountered exactly the same problem where, after the jury retired to deliberate, a juror also became incapacitated to continue service and the judge in that trial followed the same procedure that Judge Hoeverler did in the *Barone* case.

Senator NUNN. What about the immediate disbarment from union activities of a union official who has been convicted of either a felony or violating his union trust while the appeal is going on with certain protections for that official like escrowing his salary in the event the conviction is reversed?

What do you think about that personally?

Mr. LEVIN. It is interesting to note that in many areas of our society, individuals who are subject to investigation or prosecution are suspended from the responsibilities of their offices. That frequently happens with police departments. I personally feel that such a provision, obviously protecting the individual's rights, would be very helpful in the area of labor racketeering prosecutions because, as you see now,

that Barone was indicted in June 1978 and we are now in February 1981 and the appeal process in the *Barone* case is really just getting underway. The matter has not been briefed in the Fifth Circuit.

Senator NUNN. Senator Chiles?

Senator CHILES. Why don't the union members themselves object to this kind of a pervasive corruption?

Mr. LEVIN. It is very difficult for them, Senator Chiles.

First of all, particularly on the waterfront, they owe their jobs—some of those jobs are very nice jobs—to these ILA officials. In addition, they have obtained a great many benefits through the bargaining that has been done by these corrupt union officials. One unique factor in the International Longshoreman's Association is that it has what is known as guaranteed annual income.

Obviously, the union members are quite fond of this. This does not really attack their ire and in addition they are somewhat intimidated and concerned about their own welfare in terms of the jobs they have.

Senator CHILES. We note from all the exposure in the media about the organized crime influence in south Florida and the fact that south Florida is considered to be an open city in which up to 10 or more organized crime families are operating in some degree. Does the waterfront reflect this same kind of open city basis?

Mr. LEVIN. The Miami waterfront, Senator, is principally controlled by the Barone interest or interests, and Mr. Barone, according to our information, as I indicated, is closely associated with an individual by the name of Mike Clemente who was convicted in one of the New York waterfront prosecutions. Mr. Clemente has been previously identified as a member of the Genovese family.

So the waterfront interests in Miami seem to be Genovese interests.

Senator CHILES. Just the one family rather than an open situation?

Mr. LEVIN. Yes.

Senator NUNN. What was the result of your investigation on corruption in Savannah, Ga., Mr. Levin? Were there indictments, convictions that came out of that?

Mr. LEVIN. Yes. We prosecuted two corporate officials, individuals who owned a maintenance and repair company who had made payoffs to Boyle for a union contract and continued payoffs for labor peace as well as additional payoffs in order to extend their operation into the Port of Charleston, S.C.

Senator NUNN. Do you have the names of those companies? Is that a matter of public record?

Mr. LEVIN. It is a matter of public record, Senator. It brings to mind James Hodges.

Senator NUNN. What were the company names?

Mr. LEVIN. I have just drawn a blank.

Senator NUNN. Furnish it for the record, if you would.

Mr. LEVIN. I believe it is part of my entire statement.

In addition, we have indicted one union officer there who was acquitted at the trial in the *Barone* case.

Senator NUNN. Acquitted by the jury?

Mr. LEVIN. Acquitted by the courts, Senator.

Senator NUNN. On a technicality or on factual—

Mr. LEVIN. I feel the court ruled properly in that situation. It was a matter of whether or not there was sufficient evidence to submit the

case to the jury. It was a very close matter. With regard to that union officer, there was information that he was receiving payoffs through William Boyle. Payoffs being made to Boyle would go to that union officer.

No undercover agent, cooperating informant, or cooperating individual, such as Mr. Teitelbaum, made any direct payments to that union officer, nor had there been times when he acknowledged having received payments from Boyle.

Senator NUNN. In pursuing the investigation into Savannah, Ga., were any attempts made during the course of that investigation to obstruct the investigation?

Mr. LEVIN. Shortly after the investigation became public, Mr. Boyle had a meeting with Mr. DeMott and Mr. Hodges. And during that meeting made reference to the fact that it would be kind of nice if Mr. Teitelbaum and the undercover agent were not available to testify.

Senator NUNN. Where did that information come from?

Mr. LEVIN. From Mr. DeMott and Mr. Hodges, who ultimately cooperated with us and pleaded guilty to Taft-Hartley charges, testified at the trial of Barone. Mr. Boyle was convicted of obstruction of justice.

Senator NUNN. He was convicted in that case?

Mr. LEVIN. Yes, Senator.

Senator NUNN. Because of that threat or—

Mr. LEVIN. Because of that threat. Our obstruction of justice charge was based on the threat that was communicated to DeMott and Hodges. Boyle was convicted on that obstruction of justice violation.

Senator NUNN. Is some sort of regulation or commission needed in southern ports?

Mr. LEVIN. I think that what we found speaks for itself. While there have been continued problems in the Port of New York despite the existence of the New York Waterfront Commission, it is quite conceivable that things could have been much worse. I am sure some of the limited success that the New York Waterfront Commission has had has been limited because of the availability of resources.

I feel that there should be an oversight commission in the other ports that would have the same authority as the New York Waterfront Commission. Obviously, what has happened is that New York tried to rid itself of the infestation. It is just like living in an apartment building. If an exterminator comes into one apartment, they rid one room of all the pests and bugs. What happens if you are living in the next apartment? You are going to have the pests in your apartment.

That is what happened.

Senator NUNN. That is still what is happening now?

Mr. LEVIN. It appears to be, yes, sir.

Senator NUNN. Does Georgia have any kind of commission? You said Miami does not? Do we have any kind of commission along that line in Georgia?

Mr. LEVIN. I am not sure, Senator. I believe there is a port authority but that is more along the lines of a commercial development interest rather than an authority to oversee.

Senator NUNN. That does not do the overseeing?

Mr. LEVIN. That is correct.

Senator NUNN. Mr. Levin, can the Justice Department keep up with pressure applied and the presence required to make the *UNIRAC* case on a perpetual basis?

Mr. LEVIN. It is impossible, Senator. What has happened is, for instance, the agents and attorneys who were first involved in this investigation and prosecution have gone on into other areas and we have other priorities. It takes an enormous amount of resources to be committed to this matter in order to monitor and police the industry.

As I said, we cannot do that. We really have to motivate the industry itself on management side and on labor's side to clean itself up and keep itself clean.

Senator NUNN. You mentioned that on one occasion Barone approached a shipping company executive and initiated a conversation by telling him how he had a "contract" stopped. What is the significance of this?

Mr. LEVIN. It kind of conveys—it clearly conveyed a message to that executive, A. P. Chester, that a man who has the authority to stop a contract would also have the ability and wherewithal to unstop a contract.

Persons who engage in stopping and starting contracts on individuals' lives obviously have a great deal of authority. I think it also suggested to Mr. Chester from what kind of background Mr. Barone came.

Senator NUNN. So it does have a real effect in terms of fear, intimidation.

Mr. LEVIN. It certainly did on Mr. Chester because it did not take long before he was making payoffs to George Barone.

Senator NUNN. From a situation as you know it in Savannah, Ga., can we assume that an honest businessman or business person who didn't want to participate in a payoff or kickback would be at a distinct disadvantage in doing business in the Port of Savannah?

Mr. LEVIN. We discovered that the problem businessmen had who were having difficulty getting union contracts, particularly in the maintenance and repair area where in order to work, do any kind of meaningful work there, had to be an authorized or approved shop by the ILA, which meant being a union shop. If you couldn't get an ILA contract, you then could not do any of that maritime work, repairing the containers. That was a serious problem for them. This was pretty much controlled by William Boyle who even said they were going to limit the number of ILA contracts given to maintenance and repair companies.

Senator NUNN. After the investigation became well known, did the payoffs and the demands for payoffs stop?

Mr. LEVIN. With regard to payoffs themselves, our information is from the people who were cooperating with us was they stopped making the payoffs, but the demands did not. Shortly after the investigation became public with regard to two of the individuals who were making payoffs, Barone and Boyle still came in to get their regular monthly cash envelope.

[At this point, Senator Chiles withdrew from the hearing room.]  
Mr. LEVIN. They were politely refused because of the notoriety that was attendant to the investigation at that time. But indications are

that not only after the investigation became public, according to information which was made available to me, after the indictment was returned in June 1978, some of the demands still continued.

Senator NUNN. By whom?

Mr. LEVIN. George Barone.

Senator NUNN. How did the union members themselves suffer from this kind of corruption in the waterfront?

Mr. LEVIN. Besides what it does to the industry in terms of its reputation, the union members suffer ultimately from loss of work in many situations simply because what some of the payoffs are for is to cut down on the amount of manpower that a union contract may require for a particular job. So the union members lose some opportunity there. In addition, there is a potential for the creation of new jobs for union members which are not created by these payoffs. Obviously, as the Senators picked up during the course of my statement, if there is an agreement between an ILA official and paying company, as was in the case of Landon Williams, the health and welfare pension funds can suffer. The employee benefit plans can suffer where the agreement is as long as the payoffs continue, there will be no need for the company to make its benefit plan contributions, which are quite substantial.

[At this point, Senator Chiles entered the hearing room.]

Mr. LEVIN. There are problems potentially with what it does just to the whole collective bargaining process where you have an intimate relationship between corrupt union officers and corrupt managers who are supposed to be representing different interests and ultimately have to sit down at a bargaining table together and negotiate what the terms of union members' appointments are going to be.

Senator NUNN. It is obviously during the course of your statement, and Judge Webster's statement, and others who will be appearing later that we have Taft-Hartley violations, we have abuse of workmen's compensation claims, we have a lot of corruption and wrongdoing that relates directly, it seems to me, to the Labor Department's jurisdiction.

No. 1, did the Labor Department participate in this investigation? No. 2, do you see that the Labor Department has addressed this corruption on the waterfront over a period of years?

Mr. LEVIN. Let me, if I may, Senator, take them in reverse order. With regard to the latter question, whether or not the Labor Department has been addressing the problem with respect to the waterfront industry, specifically the ILA, the answer is we found no evidence of that in our investigation. As far as their participation in the investigation is concerned, no, they did not participate in the investigation. However, we do have good relations with the Office of Inspector General who have about five agents, five personnel at this time assigned to the Miami area.

It was just not appropriate to have them working in this investigation at that time, but the overall big question is, Has the Department of Labor addressed the problem? The answer is "No."

Senator NUNN. The answer is "No"?

Mr. LEVIN. The answer is "No."

Senator NUNN. Do you see a role here for the Labor Department in the future?

Mr. LEVIN. They have the authority to monitor this probably better than the FBI can in terms of constant monitoring. The FBI, I think, has to devote its resources to too many other areas and the notoriety of the corruption in the waterfront industry and in the ILA, which is clearly established by the convictions that have come out of all of these prosecutions, should catch the Department of Labor's attention to monitor what is going on in that industry.

Senator NUNN. Of course, we had the same kind of exposure in the 1950's under both Senator Kefauver and Senator McClellan. You are saying in the course of your investigation you didn't observe that there had been any significant monitoring by the Labor Department over the course of many years of the waterfront labor corruption problem.

Mr. LEVIN. That is absolutely correct, Senator. In addition, what is also interesting to note is that the union itself doesn't seem to be concerned about the extent of corruption in its ranks. The union's constitution has a clear discipline provision and that discipline provision gives them the authority to discipline these officers, but they haven't done it.

Senator NUNN. Who bears the ultimate cost of this kind of corruption?

Mr. LEVIN. As Judge Webster said, we all do. The payoffs are costs which are passed on to consumers, which is everyone sitting in this room, for both imported and exported goods. It corrupts a very significant system in our whole commerce. Union members, of course, suffer and we are all paying that cost.

Senator NUNN. Mr. Levin, we want to again express our appreciation to you for your cooperation, your excellent statement; your very meaningful and substantial testimony. You have been a very valuable member of the staff here and I also congratulate the Justice Department on snatching you back which was certainly not with our enthusiasm, but certainly with our blessings because we know how important your work is in the Miami area.

Mr. LEVIN. Senator, I miss it here, but don't regret being back in Miami. It is good to see you.

Senator CHILES. I have been trying to find out what you knew that we didn't know. You left very propitiously.

Mr. LEVIN. Had it been maybe a little bit later, it would have been propitious, but I think it was too early for me to be a soothsayer. [Laughter.]

Senator NUNN. Thank you very much, Mike.

At this point, our next witness is going to testify openly and there is no need to clear the room, but we will take a 5-minute break so that he can be brought in in a secure fashion.

[Brief recess.]

[Members of the subcommittee present at the time of recess. Senators Nunn and Chiles.]

[Member present after the taking of a brief recess: Senator Nunn.]

Senator NUNN. Mr. Teitelbaum, we are pleased to have you here. Before you sit down and get comfortable, if you would raise your right hand, we swear in all the witnesses before this subcommittee.

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. TEITELBAUM. I do.

**TESTIMONY OF JOSEPH TEITELBAUM, ACCOMPANIED BY THOMAS HEARST, ESQ., OF DIXON, DIXON & HEARST, OF MIAMI, FLA., AND HAMILTON FOX, ESQ., WASHINGTON, D.C.**

Senator NUNN. Thank you, sir. If you will have a seat, get comfortable. You have got water there, we will be glad to get you a refill any time you need it. If you will pull that mike up a little bit closer, I think you will not have to be leaning forward the whole time. Get it where it is comfortable.

Mr. Teitelbaum, we appreciate very much your being here. We appreciate your cooperation with the Department of Justice. We appreciate your cooperation with our staff. I want to personally express my own appreciation and that of the members of the subcommittee to you and your family for being willing to testify, coming forward in this important matter. We can assure you that we are going to follow through as much as we possibly can in terms of legislative remedies in this area. We believe that your testimony will be very valuable to us in determining what legislation is needed in this area to correct some of the problems which I am sure you will address.

Mr. TEITELBAUM. Thank you, sir.

Senator NUNN. You have my thanks and we will let you proceed. I understand you have a prepared statement. We will let you proceed on that. You take your time. If you need to take a break at any point, we will be glad to arrange that. So you go right ahead and testify. I understand you are represented here this morning by lawyers.

Mr. TEITELBAUM. Yes, sir. I am represented on my right by Mr. Thomas Hearst of Dixon, Dixon & Hearst of Miami, Fla., and my Washington attorney, Mr. Hamilton Fox on my left.

Senator NUNN. We are delighted to have both of you gentlemen here this morning. If we get to any point where you would like to consult with your lawyers, you have that absolute right before this subcommittee. If we ask you any question, where you would like consultation before answering a question, take your time, go ahead and get your lawyer's advice.

Mr. TEITELBAUM. Thank you, sir.

My name is Joseph Teitelbaum and I reside in Miami, Fla. From the mid-1960's to 1977 I was a management employee and stockholder of Eagle, Inc., a steamship agency with offices at the Port of Miami. As an agency Eagle represented various steamship lines at that port and assumed responsibility for the lines' ships, cargo, and crew. During the same period I also served as the general manager of Pierside Terminal Operators, Inc., a wholly owned stevedore subsidiary of Eagle. As a stevedore company Pierside loaded, discharged, and stored cargo for various steamship lines, some of which were represented by Eagle.

Since the 1960's, our stevedore company had a collective bargaining agreement with the International Longshoremen's Association—

ILA—Local 1416, Miami, Fla. This local supplied the longshoremen who handled cargo and passenger luggage on and off ships and in and out of warehouses. Additionally, the company employed checkers, clerks, and office administrative personnel. Checkers were responsible for accounting for cargo delivered to and from the warehouses and loaded and discharged from ships. Initially, the checkers were non-union personnel.

In 1966, I first met Fred R. Field, Jr., an international officer with the ILA at a labor negotiating session on Miami Beach. Field told me that the ILA was creating local 1922 in Miami to organize and represent the checkers. It was during this time that Field introduced George Barone as the president of this new local. Field then asked for a private meeting to discuss further the organization of the checkers.

I rented a party fishing boat for this meeting with Field who was accompanied by Benny Astorino and William and Francis Murphy. During the trip Astorino told me that I should sign a union contract recognizing the new local as the bargaining agent for the checkers. He told me that if I allowed Field to become my "partner," I would obtain the largest portion of the new business that would be coming to the newly expanded Miami port facilities known as Dodge Island. Astorino, however, told me that I must show my "good faith" with Field by giving him \$3,000. I replied that I would first have to discuss the proposition with my family. Field himself did not participate in this conversation, but he sat nearby in the boat and watched us.

My family members, especially my father, advised me to reject the entire proposal. Having been in the shipping industry for a number of years, we were aware of the hoodlum reputations of these ILA people from New York and did not wish to become involved with them. I told Astorino that we wanted no part of this proposal and that we would not acknowledge the ILA as the labor representative of the checkers. During this period of organization attempts, my company received phone calls from various customer accounts—steamship lines. The common message in these calls was to sign the contract and not create labor problems which would affect the flow of cargo for the lines. These customers also issued a warning that if I did not sign with the ILA, they would consider using another stevedore company.

[At this point, Senator Rudman entered the hearing room.]

Mr. TEITELBAUM. After receiving these customer threats, I was called personally by Field, who asked if I had a change of heart concerning the \$3,000. He told me also that I would have no choice but to sign the contract with local 1922. Within a short period of time my family and I realized that these people were in a position to direct our business to our competitors and for this reason we signed a union contract and recognizing local 1922 as the bargaining agent for the checks. I did not, however, pay the \$3,000.

From the late 1960's until 1972, I spent the bulk of my time traveling in connection with the construction of ships and had only limited contact with the officers of local 1922. In 1972, however, I assumed operational responsibility of the stevedore company known as Pierside and regularly ordered longshoremen from local 1416 and checkers from local 1922. Business during this period had diminished, and the company lost a number of customer accounts.

In an effort to improve the efficiency of the stevedore operation and attract new business I purchased a 90-ton crane to be used to handle seagoing containers. I leased the crane to Pierside which, in turn, subleased it to other stevedore companies when it was idle. Almost immediately, the crane suffered serious sabotage with tires and hydraulic hoses being slashed. It was evident to me who the responsible parties were: George Barone and the other officers of local 1922 who were attempting to strangle our company because we initially rejected their payoff demands.

Shortly after that incident, on or about May 1972, I was visited at home by a Barone emissary who told me that if I wished to stay in business, I had to learn to "maneuver" and make "peace" with George Barone. He then laid down a set of conditions. All container repairs carried out for our family owned ship had to be repaired in Miami by United Container. Also, Barone and his friends wanted a piece of the action, meaning a \$15 per hour kickback, from my crane. To accomplish this, I was told to see George Wagner, manager of another stevedore company, Marine Terminals. Wagner would work out the details of the kickback. At this time Wagner was another front man for Barone.

I related this discussion to a relative, Manny Levy, who assisted me in running the company. We agreed that we could not afford to withstand additional business deterioration or sabotage to the crane. Therefore, Levy saw Wagner, and they made a deal to rent the crane to Marine Terminals at an inflated hourly rate to provide for a kickback of \$15 per rental hour to Wagner. These kickbacks were paid for approximately 2 years until Wagner left his company.

Once this crane kickback deal had been arranged, Bill Boyle, secretary-treasurer, local 1922, told me to start renting the crane to Coordinated Caribbean Transport at an inflated rate and that Jack Sylvia of that company understood the "terms." I saw Sylvia and we agreed to the kickback scheme that Boyle had laid out. It was obvious to me that this kickback money was being funneled back to Barone and his associates in the ILA.

Later during the same year, Boyle told me that I was doing very well with the crane. He told me, however, that a defunct family trucking company, that had been owned by my cousin, owed \$2,000 to local 1922's health and welfare fund and that my company should pay this amount or consider the prospect of union "problems." In other words, Barone could effect a work slowdown, and I would have to hire as many as 32 laborers to accomplish the same as 12 were currently doing. These union officials have the power to actually strangle a business in such a manner. Considering the nominal amount of money involved and the prospect of a significantly more expensive labor problem, I paid this amount in \$200 weekly installments although, in fact, my company had no legal obligation to do so.

In mid-1972, I discussed with Boyle my interest in obtaining the stevedore contract for a passenger boat. The company which owned this vessel had decided to discontinue its own stevedoring operation. Boyle told me that he would talk to the "boys" and let me know. By this time it was common knowledge on the Miami waterfront who the "boys" were—the officers of local 1922 who had been kicked out of

New York by the Waterfront Commission. Why? Because every time anyone on the waterfront wanted to accomplish anything they had to work out some sort of payoff deal with Barone or more commonly, one of his "front" men such as Boyle and James Vanderwyde.

A few days later Boyle told me to submit a bid proposal and that no other stevedore company would bid for the contract. In return for this exclusive privilege, Boyle told me that it would "... cost a couple of big ones and a free trip now and then." Pierside, my company, received the stevedore contract for the passenger vessel, *Mardi Gras*, and I paid \$2,000 cash to Boyle. This was in addition to the \$200 per week I was already paying for labor peace. Thereafter, I also provided cruise ship tickets to Boyle at an average cost of approximately \$500 each. Pierside assumed the cost of these tickets which were issued in names supplied by Boyle. I covered the cost of these tickets by padding by bills, for example, by billing for 16 men instead of 14 laborers who actually worked. You can see, therefore, that the cost of these "favors" is ultimately borne by the consumer.

During the course of providing stevedore services to the *Mardi Gras*, I was approached by an officer of the vessel's owner, who told me that they needed to reduce the number of porters—longshoremen—who serviced the vessel through Pierside in order to maintain an adequate profit margin. My contract with this company had been drawn on the basis of cost plus 15 percent. Thus, the fewer porters used, the greater the savings to the cruise line. Since the ILA contract specified a number of porters based upon the number of ship passengers, I discussed this request with Boyle. Boyle instructed me to present this problem to Cleveland Turner, president, ILA, local 1416, which represented the porters and longshoremen.

Senator NUNN. Just take your time. I know how it strains your voice to talk a long time. So any time you need to get water, go right ahead.

Mr. TETTELBAUM. I called Turner and met him in my office. I explained the cruise line's problems to him and I told Turner, "I like money. You like money. We all like money." After brief negotiations, I agreed to pay Turner \$50 per week in return for being permitted to service the *Mardi Gras* with fewer porters. In actuality, however, I paid Turner every 2 to 5 weeks in check or cash until December 1976, for reductions in the labor force either at shipside or in the warehouse.

During 1973, 1974, and 1975, I provided Turner with cruise ship tickets at his specific request. The cost of these tickets was borne by my company.

In 1972, Boyle came to me and told me that it would be necessary to pay him \$200 each week to be sure of a smooth labor operation.

Boyle also told me that I would receive additional business because the vessel, *Siboney*, would resume service in Miami with Pierside as the stevedore. Boyle instructed me to see Eduardo Garcia, General Manager, Ocean Trailer Transport (OTT), the company which operated the *Siboney*.

We drew up a contract without any competitive bidding, and Pierside performed the stevedoring. Garcia told me that he had to take care of George Barone on his end of the contract. Garcia told me to pad my labor costs and bill OTT for this additional "ghost" labor

and then kick back the money to him so he could give it to Barone. I did as Garcia requested and kicked back \$250 per week of padded billings.

I began to pay Boyle the \$200 shortly after my conversation with him. Payments started in 1972 and continued through January 1977.

Owing to our conflicting travel schedules, I usually was delinquent in making the weekly payoff to Boyle and usually was behind as much as \$1,000 to \$1,800. Payments were made in cash, check, and cruise ship tickets.

Later in 1972, I was summoned to see James "Jay" Vanderwyde in the offices of local 1922 at the Port of Miami. Vanderwyde was the union office manager and one of the "heavy" New Yorkers who formed that local with Barone, Boyle, and Douglas Rago. Vanderwyde told me that I did a good job paying off the welfare fund debt. This is the \$2,000 referred to previously that I had paid to the local 1922 health and welfare fund for my cousin's defunct trucking business.

Vanderwyde gave me a menacing look and told me to continue making the \$200 weekly payments. With a clenched fist and in a threatening manner, he said, "We"—meaning Barone and the other mobsters—"intend to control the port." He went on to say that control was the only thing that counted. The man looked at me with such hatred that I was actually terrified. I simply nodded and left his office.

Boyle continually told me to "get even" and remove the delinquency. He warned me that Vanderwyde, whom he called the "little guy," and Barone would make a lot of trouble for me if they found out that I was late in making the \$200 per week payoff. On several occasions Boyle told me that he saved me from these two ruthless guys by using his own money to meet my payoff requirement. I explained to Boyle that frequently it was difficult to generate cash, and he told me that he would take a check payable to cash with my endorsement on the reverse side. Boyle told me that he would then run the checks through Frank Arevalo or Doc Roth.

I later learned that Arevalo operated an off-port freight consolidation company known as Twin Express. A freight consolidator takes in less-than-trailer load freight from various consignors and consolidates this freight into trailer load containers according to destination and forwards it to carriers for shipping.

Doc Roth was Irwin Roth, a Miami optometrist who did business with the ILA. In gathering evidence for trial the FBI showed me the checks which I had given to Boyle. They had been negotiated through the accounts of these two men.

Shortly before the first voyage of the *Siboney*, Barone came to see me. In body language, and I would like to show you that, Senator, he stood up, rubbed his foot, put his fingers together, as if to tell me, why don't some of it rub off on me. In body language, he told me that this contract would mean another payoff.

Boyle later came to me and said that the "boys" did a nice thing for me and that I should make everyone happy. He told me that the *Siboney* contract would cost \$2,000. I paid him this amount in addition to meeting the fixed payoff obligation of \$200 per week.

In November or December 1973, I met Boyle and told him I was interested in the stevedore contracts for Mamenic or Grancolumbiana Lines, both of which were coming up for bid. He told me that Fred Field was more familiar with these contracts. Field later came to my office and told me that he had influence with Mamenic and its general agent, United States Navigation. Although Boyle told me that Captain Nicolas Murga of Mamenic wanted the stevedore work to remain at Eller & Co. in Miami, Field told me not to worry about Murga and that he could be taken care of.

Over 6 weeks passed without results and I complained to Barone. He told me that I could have the contract but first I would have to stop having the vessel *Morazan's* containers repaired in Honduras. He demanded that repairs be made in Miami by Florida Welding and United Container & Ship Repair. Then he told me the *Morazan* would have to be available to carry cargo for Mamenic on Mamenic's bills of lading. I had to work out a deal with Mamenic whereby I would make them my agent in Nicaragua at a fee of 7½ percent as opposed to the normal fee of 2½ percent.

At Barone's instructions, I went to Nicaragua in March 1974, to personally present my bid proposal. In June 1974, we signed a contract to perform stevedoring for Mamenic. My only obstacle, Captain Murga, who preferred Eller & Co., had somehow been transferred by Mamenic to New Orleans.

I should point out that as a result of switching the *Morazan's* container repairs to Florida Welding, I ended up having to pay a \$113,000 repair bill for work they never actually performed.

After signing this contract, I asked Boyle how much I owed him. He told me it would cost me some cruise tickets for some "important friends of the boys." I don't know who they were. He told me that the tickets could not be issued in the passengers' true names.

At the expense of my company, I provided Boyle with such tickets issued under assumed names.

Senator NUNN. Let me interrupt you one second there. How much do these tickets cost that you refer to? What would one individual cruise ticket cost?

Mr. TEITELBAUM. Anywhere from \$500 to \$600 per ticket. For two people it would be \$1,200.

Senator NUNN. These are pleasure cruises?

Mr. TEITELBAUM. Yes.

Senator NUNN. Caribbean area?

Mr. TEITELBAUM. Caribbean area from the Port of Miami.

Early in 1975 I learned that the Puerto Rican Marine Shipping Association (PRMSA), under the management of Puerto Rican Marine Management, Inc. (PRMMI), would begin a major container service between Miami and San Juan. I told Boyle that I wanted this contract. He told me that he would talk to the "boys," meaning Barone, et al., and let me know. A few days later, Barone asked me if I could handle such a large contract. He then told me that it would be "heavy." From experience, I knew that the payoff for this contract would be larger than those involving past contracts. A day later, Boyle told me that there were three companies in contention and that it would cost me \$5,000 up front to be considered by the "boys." I asked what would

happen if I paid the money and did not get the contract. Boyle replied that I would get the "next big one" at the Port of Miami.

In April 1975, I paid \$5,000 cash in \$100 bills to Boyle and I did not receive the PRMSA contract. I confirmed with Boyle on a later date that the next big contract would belong to me.

During the summer of 1975, I became ill and was confined to the hospital. During this period I fell behind in the \$200 weekly payments. During 1974, I told the FBI that I was making payoffs to ILA officers. By 1975, through my cooperation with the FBI, we were documenting these payoffs. During October and November 1975, I made approximately seven payoffs to Boyle and Turner in amounts of \$100 to \$800 per payment.

For a number of years my family's company has been the agent and stevedore at Miami for Zim-Israeli Navigation's break-bulk or loose cargo service. In October 1975, I learned that Zim intended to begin a container service to Miami. Because of our 17 years' prior service for Zim I assumed that our company would be the first considered to handle the new container service. In speaking with the then vice president of operations, Capt. Reuven Ilan, I learned that other companies were being considered. After speaking to Ilan, I went to see Bill Boyle and told him that the Zim Container Service contracts should belong to me because of the \$5,000 that I paid to the ILA in April 1975.

I submitted a bid proposal to Zim Container Service for agency and stevedoring in Miami. Early in November 1975, I followed up the proposal with a visit to Zim's offices in New York City. Captain Ilan confided in me that he had spoken to George Barone and that Barone wanted Zim to select another company—one which could handle the container service in both Miami and Savannah, Ga. Ilan asked me if I would be interested in handling the container service in Savannah as well as Miami. He told me to think about this possibility and let him know.

In further discussing the forthcoming container service in Miami, Ilan told me that container repairs would be awarded to Barone's people, meaning United Container or Florida Welding and trucking would go to Maritime Cartage. He preferred to use other vendors but had no choice in the matter.

Upon returning to Miami, George Barone and James Vanderwyde came to see me. Barone told me, "Go ahead, take Savannah. We'll tell you what to do." I asked Barone what he wanted me to do with respect to setting up an operation in Savannah. Barone told me that Boyle would guide me.

After this exchange, which occurred shortly after the conversation with Captain Ilan, it was apparent to me that Barone and his people controlled Zim.

I formed a company known as Georgia Container Agencies, Inc., GCA, in order to perform the agency and stevedoring for Zim's container and break-bulk service in Savannah. Previously, I had made arrangements to subcontract the stevedoring to James Stevedores, which was part of the Tilston Roberts Corp. This was accomplished through John Caputo, an old acquaintance and officer of Tilston Roberts.

During November and early December 1975, there were continuing conversations with Zim officials regarding GCA, Georgia Container

Agencies, providing services in Savannah. Although the mechanics of the operation were being formulated, I had not yet received any instructions from Boyle and Barone.

Knowing from prior experience that they would demand substantial payoff for their "influence" over this contract package, I asked Boyle if he had heard anything. He told me that he could not give me a figure on Savannah at that time but stated that I would have to surrender one of my smaller accounts in return for the Savannah contract with Zim.

I told Boyle that I would not rebid the Mamenic Lines contract, which I did not. Boyle specified that he would tell Fred R. Field that this was the contract I would give up.

On December 9, 1975, I met with George Barone, who told me to go to New York and finalize the Zim contract at Savannah. Within a day or two, I went to Zim in New York and signed the Savannah contract. Again, there was no competitive bidding. It had all been prearranged by Barone.

As the Savannah operation became a reality, the FBI and I discussed the fact that the new company presented an opportunity to introduce an undercover agent. Such an agent would be able to corroborate my meetings and payoffs to these ILA officers and eventually be in a position to meet payoff demands in my absence. In January 1976, I successfully introduced an undercover FBI agent then known as Bob Carter into GCA. I explained to Boyle that this man would function as my assistant and handle payoffs and money in my absence.

I still continued making the weekly payoffs at Miami to Boyle and Cleveland Turner. Because I was delinquent to Boyle, I began paying in increments of \$800. At the instruction of the FBI, I began to meet these demands by checks at a men's wear store known as Lanson's on Miami Beach. He told me that the store did not require him to add his endorsement to the check. Boyle told me to make certain that the canceled checks disappeared once they were returned by the bank.

On December 13, 1975, Boyle told me what the payoff would be to assure top quality labor in Savannah. The figure was \$15,000 "front" money; \$12 a box (container); 50 cents per ton on break bulk; and 1 percent of the manifest. I told Boyle that the \$15,000 was a large figure and that I would have to spread that amount over a period of time.

Two days later, I met Barone and confirmed these figures with him. He agreed to my paying the \$15,000 at the rate of \$1,500 per week over 10 weeks commencing in January. Barone then told me that there would be similar payoffs required with respect to future business expansion to other ports.

During January 1976, I went to New York City and at Ponte's Restaurant met Tony Morelli. He was introduced as someone with a trucking business who also held major contracts to perform work for Zim Lines.

Morelli confided that he personally told Captain Ilan of Zim to give the Savannah contract to me after he received instructions from George Barone.

Morelli even recited the payoff terms of \$15,000 front money, 1 percent of the manifest, \$12 per box, and 50 cents per break-bulk ton that Boyle had told me the Savannah deal would cost. Barone and his associates obviously revealed these terms to Morelli who must have had a close relationship with Barone and the mob element.

Also during January 1976, Boyle accompanied me to Savannah. He told me that I would have to pay an additional \$300 plus \$50 per week in Savannah for local ILA officials. Boyle specified, however, that this money also was to be paid directly to him.

Once I was late in making the Savannah payoff, and, mysteriously, no labor showed up in Savannah. I contacted Boyle and paid him. Boyle placed a telephone call, and within hours the labor showed up.

During January and February 1976, I made the first five Savannah front money payoffs of \$1,500 each to Boyle in Miami. The remaining \$7,500 was paid in Savannah by the FBI undercover agent known as Bob Carter.

Senator NUNN. Who was that paid to in Savannah, do you know?

Mr. TEITELBAUM. It was paid to Bill Boyle, as best I can recall.

Senator NUNN. So he was paid off both in Miami and Savannah?

Mr. TEITELBAUM. Yes; he was.

I continued to meet the weekly payoff demands of Barone and Turner. Barone continually admonished me not to even consider a selection of container repair or trucking companies without first getting his approval. He became especially angry when he learned that I was to meet Anthony Scotto in connection with a possible expansion to Brooklyn. Barone told me that Captain Ilan and Zim used the Newark piers which were his territory and that Scotto was not going to entice me to Brooklyn. Barone warned me to quit falling behind on my payoffs because he had two partners that he had to answer to—James Vanderwyde and Doug Rago.

Barone frequently brought various vendors to me and described them as friends of his. He urged me to do business with these people. Barone's message was clear in my mind—I would incur his anger and possible labor consequences if I didn't do his bidding. In one instance, Barone summoned me to an ILA office to meet two insurance representatives, a marine hardware supplier, and a man who sold business and advertising novelties.

Through my years of contact with Barone and his associates, it became apparent that they were involved in all types of illegal dealings. For instance, Vanderwyde once offered me a loan of \$100,000 at a pay-back rate of \$2,000 per week for 3 years. Further, in January 1976, Boyle told me that a bomb scare at Dodge Island was a decoy for the biggest move of "stuff" ever to leave Dodge Island. I did not inquire further on this but I believe the term "stuff" to be an underworld jargon for dope.

Barone literally began to control our company. He dictated whom we should choose to perform trucking and container repairs. He identified specific freight consolidators with whom I was to do business.

By spring, 1976, it was evident to me that Barone and his people had penetrated the top management of Zim. Zim always had been a very slow paying account and I always used this as my reason for delaying certain payoffs to Boyle. Barone often confronted me about

being late with the money. Upon hearing my excuse, Barone angrily told me that Tony Morelli was to make sure that Zim paid me and he would call Morelli.

Another time Boyle told me that Barone would threaten Ilan with labor slowdowns in New Jersey if Zim continued to withhold payment from me.

Once I told Boyle that I simply had no money and he told me that Zim had sent some payments which might arrive that very day. On the same day, after meeting Boyle, Zim called from New York and told me that they had remitted a check for \$20,000.

In April 1976, Zim officials discussed with me their plans for expansion into the Port of Mobile, Ala. I mentioned this to Boyle, who stated that "his people" had plans for me to expand to Houston and Charleston. Soon thereafter, Captain Ilan told me that Zim was considering opening a service on the two ports.

By May or June 1976, it became apparent that Zim would offer me the opportunity to handle their new service in Mobile. I decided to pursue this new venture and structure this venture similar to the Savannah operation. I formed a new company known as Georgia Container Agencies of Alabama. This company handled all agency work and subcontracted out the stevedoring.

The man responsible for operating this venture in Mobile was the second undercover FBI agent known as Dick Aber. During this period the FBI also deployed another, a third undercover agent known as Bill Owens to work under my supervision, in the Miami stevedoring operation.

In June 1976, Boyle initially told me that the payoff package for Mobile was to be \$5,000 "front" money; \$12 per box; 50 cents per ton; and 1 percent of the manifest. He later raised the "front" money figure to \$10,000, stating that Field had underestimated the figure. It was agreed that this amount would be paid over a short period of time. Boyle also told me that additionally I would have to "take care" of Isom Clemon, an ILA official from Mobile.

At Boyle's instructions, I went to Mobile in June and met Clemon. He told me that he was "the man" in Mobile and that there would be no problems with labor. Clemon also told me that he liked his "white envelope." I told him that my man in Mobile would take care of him every 2 weeks to be certain of labor availability.

We discussed no specific payoff amount at that time because Bill Boyle previously told me that he would set the figure. Later, he told me that I would have to pay Clemon certain expense money and \$50 per week plus \$50 per vessel worked. I personally paid \$400 cash to Clemon in the presence of the undercover FBI agent Aber, and Aber made all the other payoffs to Clemon.

The \$10,000 "front" money for Mobile was paid by the FBI undercover agent in three installments between August and October 1976. In one instance it was paid directly to Boyle, and on two other occasions Boyle sent messengers to pick up the cash for delivery to him.

Between July and October 1976, undercover agent Owen made a number of payoffs to Boyle on my behalf in Miami. These payoffs represented the weekly "rent" as Barone, Boyle, and Vanderwyde referred to the payoffs. In one instance, FBI Agent Owens made an

\$800 payoff to Boyle to assure that four trailers of P. Lorillard cigarettes would not be opened for stripping and stuffing at the dock prior to loading for export. This money was provided by Lorillard through its agent at the Port of Miami and covered up by being charged as "extra handling" on the ocean bill of lading.

Senator NUNN. Did the company who furnished this money know that the FBI agent was undercover? Did they do it in cooperation with the FBI or did they do it with the intention to bribe?

Mr. TEITELBAUM. Intention to bribe, sir. They did not know at this time that the FBI agent was an undercover agent.

Senator NUNN. And you know that?

Mr. TEITELBAUM. I know that for a fact.

Senator NUNN. Thank you.

Mr. TEITELBAUM. During July 1976, Boyle told me that Clemon had been unseated as president of his local union in Mobile. Vanderwyde told me not to worry because Clemon still was an international vice-president and the "boss" of the port. From conversations and observations I learned Clemon was controlled by Boyle and Field. Clemon told me and undercover agent Aber that he would not even have spoken to us without the OK from Freddy Field and Boyle. He told me that I would be the cargo man in Mobile just as Sammy Gordon was the banana man who would handle all Del Monte bananas.

While I was forming the Mobile operation to service Zim, Boyle proposed that undercover agent Aber and I form a container repair company in Mobile. Boyle told me that he wanted 40 percent of the stock in this company put in his daughter's name. After preliminary study, however, this venture did not prove feasible, and I did not entertain this project.

In September and October 1976, Captain Ilan discussed with me the possibilities of a Zim service to Jacksonville, Fla., and my ability to establish a stevedoring operation there. I met Landon Williams, the ILA local president from Jacksonville, in Miami in October 1976, to discuss labor arrangements for the proposed operation. We met at the Americana Hotel on Miami Beach on the evening following the ILA meeting. In discussing the nature and volume of cargo to be handled, Williams told me that he wanted a payoff of 10 cents per ton with minimums of \$250 per week and \$1,000 per month.

I agreed to the payoff terms, knowing at that point that I had no intention of expanding into Jacksonville early in the next year. In driving to a nearby restaurant, I told Williams that I would show my "good faith" and laid \$400 cash on the seat. Williams told me to check it again. I told him there was \$400 and he told me that he was "looking for this." He then raised his hand with five fingers extended. I told him that I would pay the additional \$100 when I saw him within a few weeks with the advance payment of \$1,000. Williams told me that this would be fine.

Later in October, I met Williams in Jacksonville and gave him \$1,100 cash.

In December, Barone again told me to consider leaving my relatives' business, joining them. He told me to pursue the possibility of purchasing the stevedoring operation of K. Nielson Co. After learning the owners' price, I spoke to Barone in New York City. He told me that the

price should not exceed \$320,000, of which he would get personally \$50,000. I should point out the fact that he wasn't dropping my company as a payoff scheme. Rather, through me he was attempting to exercise control over virtually all management activity at the port. He wanted to control the destiny of every company.

On January 6, 1977, I made my last payoff to Boyle after repeated pressure from both Barone and Boyle. The amount was \$4,000 cash. In December, Barone refused to take an \$8,700 payoff when we met at the Americana Hotel in New York City. He told me that he was followed everywhere by the FBI when he was in New York and that I should pay him in Miami.

By this time, the FBI had decided to end the undercover operation and remove me from the Port of Miami proper. During this 16-month undercover investigation the three undercover agents and I made payoffs of cash or merchandise totaling nearly \$46,000. From 1972 to 1975, my companies made payoffs totaling approximately \$150,000.

Much has happened to me since this investigation became public knowledge in late January 1977. First, I had to leave my family business, and that business soon became virtually defunct when the ILA learned of my cooperation with the FBI.

In October 1977, the FBI told me that the organized criminal group within the ILA had issued a contract on my life to prevent me from testifying in Federal court. The FBI immediately began to protect me on a 24-hour basis, and within a few weeks the U.S. Marshals Service took over this protection, which was expanded to include my wife, home, and my new place of business.

Even while being protected by the Government, my life and property were threatened by these hoodlums. A crane operator at my terminal was offered \$50,000 to drop a container on me. My cranes were sabotaged during the evening hours, resulting in great expense and loss of business.

In closing, when I first met Ray Maria, he asked me, "How far do you want to go with this, Joe?" I said, "All the way to a Senate committee so maybe we can get some new labor laws so my kids do not have to live under the threat of payoffs like I had to." That was six and a half years ago. Today I have arrived. Thank you for the opportunity of appearing before this subcommittee.

Senator NUNN. Thank you very much. I might add for the record, if you can confirm this, Mr. Teitelbaum, you chose to appear here in open session in accordance with our normal procedure. We did offer a screen if you wanted one. You decided and told us unequivocally you wanted to appear in open session and you were willing and able to do so. So we certainly appreciate your splendid cooperation. It takes a great deal of courage for you and your family to come forward like you already have and like you are this morning.

As I mentioned to you the other day, as we discussed the agreement with the Marshals Service, the Justice Department for your protection, which is rather unique because you are not relocated, that I did not know the details of that agreement and I could not provide protection, nor could our committee provide that, but that I would do everything personally as one U.S. Senator to see that the Justice Department and the Marshals Service completely live up to their agreement with you.

Mr. TEITELBAUM. Thank you, sir.

Senator NUNN. Is that your understanding?

Mr. TEITELBAUM. That is my complete, 100 percent understanding.

Senator NUNN. I assure you that I will carry through on that and do all that I can to see that the executive branch of government conducts its own business with you in protection of you and your family with complete integrity and that they do live up to the agreement they have made with you.

Senator RUDMAN is going to lead off our questioning here. This is our first hearing together, Mr. Vice Chairman. I, again, want to say I appreciate so much your cooperation. I value the tremendous experience you have had in law enforcement. You have been a real leader long before you came to the U.S. Senate. I look forward to working with you on this subcommittee.

Senator RUDMAN. Thank you, Senator Nunn.

Mr. Teitelbaum, let me tell you, as one who has conducted organized crime investigations, that people of your caliber are rare in America, people who are willing to stand up for what they believe in. I join with Senator Nunn in assuring you that as a result of your testimony, we will work to see if there can be reforms in this country so that you and people like you are not victimized from from what has been too long a situation in America where organized crime has a far more insidious influence over legitimate business than most Americans would like to realize. I certainly commend Senator Nunn for commencing these hearings long before I got here.

Senator NUNN. Thank you.

Senator RUDMAN. I just have a few questions I want to start out with.

I, unfortunately, have to leave again. I did want to hear most of your testimony.

On page 2 of your statement, you talk about the pressure you received when you initially resisted the efforts by the ILA to get payoffs and to coerce you. You got these calls from what I assume would have been other legitimate businessmen who in fact, in one way or another, indicated to you that you ought to go along.

Could you tell us a little bit more about that in terms of these legitimate companies? What did they say to you? What were their businesses?

Mr. TEITELBAUM. Yes, sir.

I received various calls, one of them from Marine Terminals and another one from United States Navigation. He told me we could not afford to have ILA problems in Miami because he did not want problems in New York, Baltimore, or Philadelphia; sign a contract and settle my grievances with the ILA or they will have to change stevedores.

Senator RUDMAN. Essentially, people you depend on said to you, "We understand there are things involved here, but go ahead and do them, and let's not rock the boat."

Mr. TEITELBAUM. That is exactly correct, sir.

Senator RUDMAN. Further, on page 2, you refer to the reputation of those you dealt with as being hoodlums in New York and being involved in these activities before coming to Miami. What was the basis of that statement, Mr. Teitelbaum?

Mr. TEITELBAUM. I knew that these people had been thrown off the New York waterfront. My father had told me he had known they were New York hoodlums and did not want to get involved with them. We had a clean operation all our life and he wanted it to stay clean.

Senator RUDMAN. I want to go on to page 3 of your statement. You spoke about the sabotage to your crane, a very expensive piece of equipment. After you started complying with the ILA's request, did you have any further instances of this type?

Mr. TEITELBAUM. No, sir. The damage to my crane was stopped as soon as I made my first payment. This stopped as soon as I started making the payoffs. All the damage stopped and I was doing much more business at the inflated rate.

Senator RUDMAN. Further on page 4, you state that it is obvious the kickback money to the crane deal was going back to Barone. Why did you say that?

Mr. TEITELBAUM. Because of the initial contact that was made. The Barone emissary told me that Barone wanted \$15 per hour and all the container repairs, and Boyle set up the second scheme for the inflated rate of \$50 with CCT.

Senator RUDMAN. There is no question in your own mind as to the linkage and who was bagging for whom in that particular instance?

Mr. TEITELBAUM. No, sir, none whatsoever.

Senator RUDMAN. A number of places in your statement you indicated that through payoffs to union officials you could control the amount of ILA labor you paid for, even though the contract called for a particular amount of labor. Just tell us how that works.

Mr. TEITELBAUM. To give you a specific example, the ILA contract in Miami in 1975 called for 10 porters for the first 300 passengers and one porter for every 50 passengers thereafter.

The *Mardi Gras* carried approximately 1,900 people. I would have needed in excess of 20 porters. I paid off \$200 to Cleveland Turner, the president of the local, and in return, I was allowed to work with 10 less men, 10-hour day, a savings of \$18 per hour. That amounted to a savings of \$1,800.

Senator RUDMAN. Of course, the focus of these investigations and what has been written about most is how this affects business. As a practical matter, the very members of this labor union have been adversely affected by having work denied to them that otherwise would have been, is that true?

Mr. TEITELBAUM. That is correct, sir.

Senator RUDMAN. Thank you, Mr. Teitelbaum.

Senator NUNN. Senator Chiles will proceed at this point.

Senator CHILES. Do the ILA dockworkers have to pay a kickback to enable them to work on the docks?

Mr. TEITELBAUM. Yes, I saw this with my own eyes and on one occasion I know for a fact there was a man who worked for my family 19½ years. When he refused to pay off he lost his job and was kicked out of the union.

Senator CHILES. What did they have to pay based on a percentage?

Mr. TEITELBAUM. I think they were giving him \$5 or \$10 for the day's work.

Senator CHILES. This is in addition to their union dues?

Mr. TEITELBAUM. This was paid to the officials in cash, Senator.

Senator CHILES. On page 6 of your statement, you mention that as your relationships with Barone and Boyle and Vanderwyde and others were established, you became terrified when they told you that "We intend to control the port." What did you mean by that?

Mr. TEITELBAUM. When I met Vanderwyde in the office that day, after I paid off my cousin's \$2,000 debt, he told me, "Don't let it stop, now." I asked him, "Jay, what are you talking about?" He said, "Control, that's what counts, right here, control." I knew exactly what he meant. The payoffs were to continue.

Senator CHILES. Then you actually felt a physical intimidation about that yourself?

Mr. TEITELBAUM. Yes, economical and physical at that point.

Senator CHILES. On that same page of your statement, you refer to a situation where you got a stevedore contract with the vessel *Siboney* in exchange for a payoff and that there was no competitive bidding. What does this mean to you in terms of the companies who actually own the ships?

Mr. TEITELBAUM. A local company, OTT, operated the ship, but Reynolds Aluminum owned the ship and was absorbing the padded ghost labor charges to cover the kickbacks to Barone. In terms of the large companies that operate and either condone this or close their eyes to it and pass on the costs, I can only answer your question with a question—would you let a contract worth approximately a million dollars a year go out without competitive bidding?

Senator CHILES. That was roughly the value of the contract that you are talking about.

Mr. TEITELBAUM. Yes, \$1 million a year.

Senator CHILES. With no competitive bidding?

Mr. TEITELBAUM. None whatsoever.

Senator CHILES. And a series of levels of padding to make the payoffs.

Mr. TEITELBAUM. Yes.

Senator CHILES. You stated that when the ILA initially approached you for payoffs, that you refused. Did any ILA officials put pressure on your family?

Mr. TEITELBAUM. Yes, I believe this was the greatest—I would have to say this was the deterrent that caused me to sign that ILA contract. When these people first came to town and I went home one evening, my wife was upset and I asked her, "What's wrong?" She told me, "Joe, sign the contract." I said, "What? What do you have to do with this?" She said, "Someone called the house and told me, 'Tell your husband to sign the contract. We are here to stay.'" I signed the contract that day.

Senator CHILES. On pages 6 and 7 of your statement, you say you were told that you were to make checks out to cash which were "washed" through Frank Arevalo or Doc Roth. Did anyone explain to you why they wanted you to do this?

Mr. TEITELBAUM. Yes, Bill Boyle did. He told me he did not want his name to appear in connection with any of the payoff money; that these people would wash the checks through on my signature.

Senator CHILES. Did he ever explain to you why they were used to wash the checks?

Mr. TEITELBAUM. Yes; Boyle told me that Frank Arevalo operated Twin Express, a consolidation company and Doc Roth was the union eye doctor.

Senator CHILES. On page 7 of your statement, you say that Boyle told you that you had to shift your container repair services from a company you had been using to two companies that he told you to use, Florida Welding and United Container and Ship Repair. What did that mean to you?

Mr. TEITELBAUM. It meant to me that Barone and his associates controlled these two companies.

Senator CHILES. Was there any difference between what you had to pay, what you had been paying before and what you had to pay when you used these other companies?

Mr. TEITELBAUM. On occasion, yes, the rate was a little higher, but primarily I wound up paying for the repairs which I knew were never effected, such as the case when I returned the containers from the Morazan operation. I had a container leasing bill of \$38,000. I was prepared to pay the \$38,000. In addition to the \$38,000, I wound up with a repair bill of \$113,000.

Senator CHILES. That was \$113,000 for work that was never done, repairs that were never made.

Mr. TEITELBAUM. All I got were bills, Senator. I never saw the repairs effected.

Senator CHILES. How did you have sufficient moneys to take care of that and how did you take care of that?

Mr. TEITELBAUM. I paid off the bill at a rate of \$10,000 a month from income generated from the charter of one of my ships.

Senator CHILES. Was this one of the prearranged things that they told you about, "We are going to put this bill on you and for that you get something," or was this something that just came on?

Mr. TEITELBAUM. This was something that came on in addition to the payoffs.

Senator CHILES. It wasn't anything you negotiated out for a contract you would get?

Mr. TEITELBAUM. There was no negotiation. The bill was presented and it was paid.

Senator CHILES. That sounds like an awfully high bill to get. You were paying around \$200 a week. You were paying \$3,000 when you got a particular contract. I know all those were weekly but then you got a \$113,000 bill. That must have come as a little bit of a shock.

Mr. TEITELBAUM. More than you can imagine. There was no negotiation. I was told to pay the bill and I paid the bill.

Senator CHILES. Do you have any idea where any of this kickback money went? Well, let me ask you more specifically. On page 7 of your statement, you were given an account with Mamenic Lines in exchange for kicking back money to Mamenic Lines. Who told you to make that deal?

Mr. TEITELBAUM. George Barone.

Senator CHILES. Where did that money go?

Mr. TEITELBAUM. It had to go to Freddie Field and his group because Freddie Field told me that they influenced the Mamenic Lines and if the deal was similar to the other deals I have witnessed, the kickback was going to the union officials.

Senator CHILES. On page 8 of your statement, you said that the only thing standing in the way of Mamenic Lines, the kickback deal, was Captain Murga who did not want to go for it but he was transferred. Did you ever learn how that actually happened?

Mr. TEITELBAUM. Sure. Freddie Field told me that they had him removed, they got a transfer, simple as that.

Senator CHILES. That is the kind of control they actually had over the lines themselves?

Mr. TEITELBAUM. Yes, sir.

Senator CHILES. It sounds like from what you are talking about with a number of these companies, they had penetrated your company, so to speak. They had penetrated the companies you were going to go do business with, so they were in effect working both sides of the street.

Mr. TEITELBAUM. They had it all.

Senator CHILES. Had it all.

Mr. TEITELBAUM. They had it all.

Senator CHILES. When you would say you would like this company, I would like to get a contract with them, then you find out they had already penetrated that company in many instances. So they already had a connection there.

Mr. TEITELBAUM. Yes, sir.

Senator CHILES. So you were padding your bills, the company obviously was padding their bills.

Mr. TEITELBAUM. All the way around.

Senator NUNN. Mr. Teitelbaum, on page 9 of your statement, you refer to Barone telling you "go ahead, take Savannah. We'll tell you what to do." In relation to your company getting a contract at the Port of Savannah, that conversation took place, is that correct?

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. Are you suggesting that this Miami labor racketeer controls the businesses on the Port of Savannah, Ga.?

Mr. TEITELBAUM. Senator, I am not only suggesting, both myself and undercover FBI agents were told in no uncertain terms that Barone and his people control Savannah. As I previously stated, Bill Boyle personally took me to Savannah when I introduced undercover agent Carter and introduced us to the local labor leader who told us, "This is my superior and what he wants is what he'll get."

Senator NUNN. Does that mean that legitimate companies in Georgia really did not have a chance in trying to compete for that kind of contract?

Mr. TEITELBAUM. Absolutely. The ILA in New York and Miami controlled which companies were awarded contracts and which ports. The companies that paid off got the contracts. Boyle was Barone's front man and was the international vice president who controlled the Savannah port. You do not compete legitimately to get work in the Port of Savannah. You pay off the right people.

Senator NUNN. Do you believe that situation still exists today?

Mr. TEITELBAUM. I have not been to Savannah since this case uncovered, Senator. I cannot answer that.

Senator NUNN. You are speaking as of what year?

Mr. TEITELBAUM. I am speaking as of 1976 and 1977.

Senator NUNN. On page 11 of your statement, you referred to a complex formula Barone had worked up as a payoff involving \$15,000 front money, \$12 a container, 50 cents per ton and 1 percent of the manifest. What does this mean in dollars and cents in terms of each ship that passes through the Port of Miami?

Mr. TEITELBAUM. The amount of containers I was working, the amount of general cargo I was handling, my payoffs would be anywhere from \$1,000 to \$3,000 for every ship that went through the port.

Senator NUNN. You also mention on page 11 of your statement that you had to make a payoff for the Savannah contract because no labor showed up for work, and then you called Boyle and agreed to pay off on time and the ILA labor appeared within hours. Does this mean basically that Savannah labor, as far as your company was concerned, was controlled directly from Miami?

Mr. TEITELBAUM. Senator, let me answer this way: We ordered three gangs for the work on a ship. That morning 1½ gangs showed up for work. I called Boyle at 10 and complained to him I did not have labor. He said come up with \$1 thousand and you will have labor. At 10:15 I agreed to pay that \$1 thousand. At 10:30 he called Savannah and at 1 p.m. all the labor showed up.

Senator NUNN. Did any of the labor mention anything about having received phone calls or did they show up as if this was normal operation?

Mr. TEITELBAUM. I was not there that day, sir. The undercover agent was there who can answer that question.

Senator NUNN. On page 12 of your statement you said that Barone frequently told you to deal with certain vendors, anything from insurance to business novelties. How can union officers control virtually every facet of a business on the waterfront?

Mr. TEITELBAUM. The leverage they have is such that you better deal with whom they tell you to deal. Whether these vending companies are mob controlled or merely pay tribute like I do it is obvious to me that I had to deal with them because they did Barone and others favors. The amounts of money involved at this time, Senator, are huge. That is to say, had I dealt with their insurance agents, I was paying over \$100,000 in workmen's compensation. I was paying almost \$50,000 in ships insurance, plus general liability, stevedores liability, maybe \$200,000 a year. I do not know what an agent gets who writes these policies, but I would assume 10 percent. That is an additional \$20,000 a year from me and I was a small company in comparison to the others. In novelties, there is a lot of crew ships in Miami. You are talking about giveaways, rulers, stringers. More money involved than you think.

Senator NUNN. Do you think your company was an exception in this pervasive pattern or do you believe it represented more nearly the norm or do you have any knowledge of what other companies did?

Mr. TEITELBAUM. Yes, sir. Other companies paid. A lot of companies paid.

Senator NUNN. So yours was not just the exception?

Mr. TEITELBAUM. No, sir, I was No. 4.

Senator NUNN. No. 4?

Mr. TEITELBAUM. Yes, sir. On one occasion I met with the Barone emissary and I complained to him about the amount of money paid off and did not get anything. He said it is like paying the toll. First you pay the toll before you can go and you are only No. 4. There are three other companies in front of you who pay more. Then there is a big gap and then you are No. 4.

Senator NUNN. He was trying to convince you that you were treated on an equitable basis in the bribery scheme.

Mr. TEITELBAUM. That is right.

Senator CHILES. In that connection, you said one time they told you not to bid, you had to give up a contract?

Mr. TEITELBAUM. Yes, sir.

Senator CHILES. Do you think that was going to one of the others who was in the line No. 5, No. 1 or 2?

Mr. TEITELBAUM. No, 1, sir, 1, 2 or 3. I do not know how he rated but he was in the top three.

Senator CHILES. That contract that you actually gave up then went to someone else and they did not bid it either?

Mr. TEITELBAUM. No, sir.

Senator CHILES. On page 12 of your statement, you say that Barone and his associates were involved in a variety of illegal activities and you mentioned a loan of \$100,000 that was offered to you. Was that a loanshark loan in the terms in which we talk about loansharking?

Mr. TEITELBAUM. In December of that year, sir, I knew that I was going to need approximately \$100,000 to drydock one of my ships. I asked Jay Vanderwyde if I could borrow that \$100,000. He asked me what I had for collateral. I told him the crane. The crane had been paid for by this time. He said he could arrange a loan of \$100,000. My payoffs would have to be \$2,000 a week for 3 years. That amounts to \$312,000 and I did not even know if that covered the principal. If that is not a loansharking operation, then I do not know what is.

Senator CHILES. You did not take that loan?

Mr. TEITELBAUM. No, sir, I told him no, forget about it.

Senator CHILES. On page 12 of your statement, you say that Boyle told you that he had used a bomb scare as a diversion to move narcotics through the Port of Miami. How many boats from Dodge Island Terminal go to South America?

Mr. TEITELBAUM. I would say about 60 percent, sir.

Senator CHILES. If ILA officials wanted to move narcotics through the Dodge Island Terminal in Miami without being detected, could it be possible for them to do it?

Mr. TEITELBAUM. Absolutely. They make trucks disappear, containers disappear, cigarettes disappear. What would a small bag of narcotics be? Nothing.

Senator CHILES. On page 12 of your statement you mention a situation where Barone took control of your company and dictated to you whom you were to deal with. Do you know of this happening with any other companies?

Mr. TEITELBAUM. Yes, sir. A Norwegian line was represented in Miami by Caribbean Agencies. Barone told me, president of—

Senator NUNN. If you could pull that mike up a little bit.

Mr. TEITELBAUM. Barone told me to tell Gustav Hulander, the president of Caribbean Agencies, that he wanted Maritime Cartage to do

the trucking and Florida Welding to do the container repair. Hulander said he could not do it because his Norwegian principals would want competitive bidding. Barone said no problems. He had other companies bid at a higher rate and they wound up with the trucking and Florida Welding wound up with the repairs.

Senator CHILES. It was not any problem to get repairs and arrange rig bidding?

Mr. TEITELBAUM. None whatsoever.

Senator CHILES. Did there ever come a time when you personally tried to get into the trucking business in Miami?

Mr. TEITELBAUM. Yes, sir, my family had ICC permits which were lying dormant at the time. At that moment, approximately at that time we were operating about 100 containers a week which would have meant over 200 coolers for trucks of mine if I could activate them. Barone told me, you are out of the trucking business, it belongs to Maritime Cartage. I did not activate the ICC permits.

Senator CHILES. Did anyone from Maritime Trucking Industry tell you whether or not Barone got paid off for creating this trucking monopoly?

Mr. TEITELBAUM. Yes, sir; Jim Fiori of Maritime Cartage and I had lunch at the Red Coach Grill in Miami. He told me the man wanted \$5 a box. I asked who was the man. He said Barone. I asked him, don't you come under ICC rules and regulations? How can you bill \$5 a box? Easily. Detention or demurrage.

Senator CHILES. What was that?

Mr. TEITELBAUM. Detention or demurrage.

Senator CHILES. Explain how that would work.

Mr. TEITELBAUM. You would be given a fee, say, of \$100 for a container to be delivered to your dock. You would be given 2 hours to unload that container. If you do not unload it in 2 hours you would be assessed so much an hour for waiting time, which is detention or demurrage. Therefore, the container may have been unloaded in 2 hours, but you would be billed for 3 and the \$5 a box is covered.

Senator CHILES. Call it the penalty fee.

Mr. TEITELBAUM. Yes, sir.

Senator CHILES. Did you have to make this same type of payoff for business in the Port of Mobile that you made for business in Savannah?

Mr. TEITELBAUM. Yes, sir, I did. Not only did I make the payoff but the undercover agent made the payoffs as well.

Senator CHILES. You are saying the same Miami characters control the ports in Miami, Alabama, and Georgia?

Mr. TEITELBAUM. That is true. One undercover agent was with me in Savannah when an ILA official said this is my superior. What he wants he gets, and the other ILA official said he would not even talk to me if he did not have the OK from Freddie Fields.

Senator CHILES. On page 14, you mention that the FBI undercover agent working with you paid an insurance payment of \$800 so that four trailers of cigarettes would not be opened on the docks. Explain what you mean by that.

Mr. TEITELBAUM. According to the ILA contract, all containers that reach the Port of Miami have to be unpacked and repacked by ILA labor. Since the rate of theft on the docks is phenomenal, shipping

companies tried to have the containers packed off the ports, but the ILA invented the 50-mile rule requiring any container within 50 miles of the port to be unpacked and repacked by ILA labor.

In this particular case, Gustav Hulander, president of Caribbean Agencies told me he had four trailer loads of cigarettes arriving on the docks and wanted them shipped without being unloaded and reloaded. I told him I would go talk to Bill Boyle. Bill Boyle told me for \$200 a container for a trailer, he would allow them to go through. I related this conversation to Gus Hulander. He said he would check it with the officials of P. Lorillard. The next day he told me to go ahead and I should submit an invoice to him in the amount of \$200 for extra handling and he would incorporate this invoice on the ocean bill of lading as extra handling. When the trailers were shipped, I would submit the bill to him. Instead of having to wait the normal 30-day period for payment, he would immediately cut a check that day. This was the case, the undercover agent documented the containers, the trailers when they arrived on the port. He checked the seals every morning to make sure they were attached. When the trailers were shipped, he personally went to the stevedore who loaded them and documented the trailers going aboard the ship. I submitted the bill as we discussed, as Hulander and I discussed. He paid me immediately. I deposited that check, I wrote out a check for \$800, called it stevedoring expense, cashed it, gave the \$800 to the undercover agent and he in turn paid Bill Boyle the \$800 the following Saturday morning.

Senator CHILES. Explain to me, if you will, the reason that you have to repack or unpack the cigarettes and repack them to start with. Is there a logical reason for that or is there a featherbedding operation?

Mr. TEITELBAUM. In my opinion, it is a featherbedding operation.

Senator CHILES. Once that has happened, though, if you fail to do that, then, again, the dockworkers themselves are the losers there, if that is a part of their contract, part of the rights they negotiated and won, the failure to do that costs them money.

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. What you are describing here, if I can interrupt just a minute is, not only do featherbedding practices cost a lot more money and interfere with productivity on the waterfront, but they are really tailor-made for union leaders to take bribes and payoffs and then to avoid the featherbedding practices when they have been paid by a particular company.

Mr. TEITELBAUM. That is correct, sir. Exactly what it amounts to.

Senator CHILES. It actually did turn out to be considerably more than an \$800 savings that the company actually got by virtue that they did not have to risk thievery and did not have the expense of unpacking and repacking the carts.

Mr. TEITELBAUM. That is right and they did not have the theft that would have occurred had they stripped those containers. I guarantee you, cigarettes would have left that dock. They would have been sold.

Senator CHILES. Did you ever attempt to retain police or control the theft problem at the ports?

Mr. TEITELBAUM. Yes, sir, on one occasion, I employed from the Public Safety Department from Miami, Fla., two uniform patrolmen to be on the docks when I shipped three trailer loads of cigarettes. The

union walked off the dock and refused to work unless the policemen left.

Senator CHILES. You, at your own expense, were able to negotiate to have police come out to the dock to be there?

Mr. TEITELBAUM. Yes, sir.

Senator CHILES. But your union just said they refused to unload it if the police were going to be there?

Mr. TEITELBAUM. They went on strike. They walked off the job. They wouldn't work until the police left. The police left, I unloaded that cargo, placed it in my warehouse, reloaded it in containers, and wound up with a \$25,000 claim and paid that claim.

Senator CHILES. \$25,000 claim? You mean you lost that much?

Mr. TEITELBAUM. Lost merchandise.

Senator CHILES. Who would have to pay that claim? Would that be your responsibility?

Mr. TEITELBAUM. It was, through my insurance company.

Senator CHILES. You tried to insure for that?

Mr. TEITELBAUM. Yes, sir. I did.

Senator CHILES. Those premiums would have to be pretty high?

Mr. TEITELBAUM. Yes, they are.

Senator CHILES. Considerable losses?

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. Mr. Teitelbaum, we have just completed a series of hearings on the witness protection program.

The committee has not gotten all the hearings together yet. We will be writing a report, but I have made myself, over 20 specific recommendations to the Justice Department concerning this witness protection program.

You have been involved in the witness protection program since your testimony. Could you give us your brief evaluation of the program based on your own experience?

Mr. TEITELBAUM. Senator, I am not satisfied. In fact, I was so upset at one point that I was actually considering not testifying before this committee because of the treatment I had received. I heard that you had your hearings and had made some good recommendations and I decided that despite my own personal problems it was more important for me to testify before Congress about the waterfront corruption.

I do not want to see 6½ years of my life wasted. I can go on for hours about the program, but that would distract from the main reason why I am here.

Basically, I could sum up my complaints in two ways: First, the witness protection program cannot and does not have the resources and expertise to handle the Government witness who is not a thief or a lifetime criminal; second, and more important to me and my family, I firmly believe that others in the Federal Government will attest to that, that the program made a commitment to protect my family and me until these people are behind bars and now they want to go back on their commitment.

I think my family and I have sacrificed plenty for the Government and the least they can do is live up to their commitment to my family and I. As I said, this is a very personal experience with me, since it concerns the protection of myself and my family. And I can go on for a long time about this, but I think I can best serve the committee if I

concentrate on waterfront corruption at this time and relate to my problems at a later time.

Senator NUNN. I can assure you this subcommittee is going to do all we can to follow through on the recommendations we made about improving the witness protection program.

One of the things that was so apparent in our hearings last year is that while the program is capable of handling people who have been actively involved in crime for a long time and have no real stake in the community and are willing to be relocated and assume new identities, it does not have a corresponding capability to take legitimate business people who testify and then protect them without causing them to disrupt their whole family life and to start over again in business.

So there are some real deficiencies here and we intend to do all we can to pressure the Justice Department to increase the effectiveness of this program.

Mr. TEITELBAUM. Thank you, Senator.

Senator CHILES. You said that you didn't feel that they have really lived up to their commitment.

Mr. TEITELBAUM. No, sir. They did not.

Senator CHILES. Are you saying that after the conviction and because these people are out pending appeal that you found that you are not getting the same kind of protection? Just tell me what happened and why you make the statement that you felt they are not living up to their agreement.

Mr. TEITELBAUM. I was told by Marshal John Partington in my home in the presence of my wife and children when he came to see me in October when the marshals first entered my life that because of what Joe has done we are going to be with him through the trial all the appeals until these people are incarcerated and for a reasonable time, thereafter.

When I asked him what do you consider a reasonable time, he said 3 to 6 months. The commitment was made in the presence of an FBI agent. That commitment has been broken. That is all I want. I want that commitment kept.

Senator CHILES. You were not getting the protection you—or they were cutting off the protection?

Mr. TEITELBAUM. I have guards maintained by me who work for my company. The Government has placed for me a fund for a limited period of time to pay for these guards. I have accepted the funds that they have given me although the guards in fact actually cost me more than I am getting from the Government. My concern is that these funds are going to expire early next year.

And the defendants in my case are still out on appeal. If these funds expire, these people are still out on the street, I am going to be totally exposed without any protection. I don't believe that is right.

Senator NUNN. Mr. Teitelbaum, who pays the ultimate cost of all of this corruption on the waterfront?

Mr. TEITELBAUM. You do, Senator, you, Senator Chiles, and everyone in this room, every consumer in this country pays those extra costs.

Senator NUNN. Most of it is passed on to the consumer?

Mr. TEITELBAUM. I have to pass it on. I build it into my contract.

Senator NUNN. You mentioned a few minutes ago that even competitive bidding is rigged in many cases. What is the result of all of this rigging of competitive bidding and arranging contracts?

Mr. TEITELBAUM. Free enterprise system on the waterfront does not exist. You only get what you pay for.

Senator NUNN. You are speaking of Miami, from your personal knowledge?

Mr. TEITELBAUM. Yes, sir, Miami, I am speaking of my knowledge of Savannah, I am speaking of my knowledge of Mobile.

Senator NUNN. So you are saying that in areas where you had your experience, Miami, Mobile, Savannah, that based on your experience it would be your observation that the free enterprise system is such that it does not even exist?

Mr. TEITELBAUM. That is correct, sir. It is my opinion.

Senator NUNN. Who told the various companies what to bid when they rigged the bidding?

Mr. TEITELBAUM. The union officials.

Senator NUNN. You mentioned the quality of labor was one thing you were concerned about. What do you mean by the quality of labor?

Mr. TEITELBAUM. Senator, they could supply you with 10 men, they could supply you with 30 men. They could unload 5 tons an hour, and they could unload 20 tons an hour. The dockworkers are labor-related industry. They could make you or break you.

Senator NUNN. You mentioned that you were fourth in line a few minutes ago in terms of payoffs and so forth. Were you the biggest stevedoring company in Miami?

Mr. TEITELBAUM. No, sir. I was not. I was one of the smallest.

Senator NUNN. Where did you rank and how many were there overall?

Mr. TEITELBAUM. Fourth.

Senator NUNN. You were fourth in terms of size?

Mr. TEITELBAUM. Yes.

Senator NUNN. How many were there altogether?

Mr. TEITELBAUM. Seven.

Senator NUNN. That doesn't count, in terms of the overall exposure of businesses, truckers, shippers, container repair companies, freight forwarders vendors, and a host of other companies.

You are talking strictly about stevedoring companies?

Mr. TEITELBAUM. That is correct, sir.

Senator NUNN. Have you ever tried to figure out the possibility of what the total payoff bill is in the Port of Miami for a year?

Mr. TEITELBAUM. No, sir. The figure has to be astronomical.

Senator NUNN. In your opinion—and you and your father between you have covered many years of experience on the waterfront—is there a way to operate on the waterfront today successfully without paying off ILA officials?

Mr. TEITELBAUM. Not without paying off, there isn't, Senator. That is why we are here. Maybe we could get some new labor laws where we don't have to pay off for work under the free enterprise system.

Senator NUNN. That is your motive in testifying?

Mr. TEITELBAUM. One hundred percent.

Senator NUNN. You stated through Barone and Boyle you got the Zim Co. contract in Savannah, Ga. Did your company have a port license for the Port of Savannah?

Mr. TEITELBAUM. No, sir. We did not. I had to work a sort of legal fiction and set up myself as an agent in the company doing business there which was really my company.

Senator NUNN. Did anyone ever offer you the opportunity to get a port license in Savannah?

Mr. TEITELBAUM. Yes, sir. Someone told me that if I were to contact Lou Rossonova in Savannah for the amount of \$10,000 he would be able to get me a port license in Savannah because of his influence over some of the local politicians.

Senator NUNN. Did you follow up on that?

Mr. TEITELBAUM. No, sir. I did not.

Senator NUNN. Why not?

Mr. TEITELBAUM. I discussed it with the FBI and we decided not to pursue it at that time.

Senator NUNN. During the time that there were constant demands for you to make payoffs did you ever ask Barone, Boyle or the others to give you some time to raise money to make the payoffs?

Mr. TEITELBAUM. Yes. On one occasion I got very ill. When I saw Boyle, he told me I owed him \$3,500 for Mobile, \$1,000 for Savannah, and \$1,800 for Miami. I told him, for God's sakes, man give me a break, to try to raise all of this money at one time. You know what he said to me, Senator? We are giving you one.

Senator NUNN. He said we are giving you a break already?

Mr. TEITELBAUM. We are giving you a break.

Senator CHILES. What did you have to do to get a port license for Miami?

Mr. TEITELBAUM. We have been in the stevedoring business since I was a child. We have had that license since 1939.

Senator CHILES. What would someone have to do to get a port license at Miami?

Mr. TEITELBAUM. Fill out an application, bond yourself. I have never had to worry about that problem.

Senator CHILES. There is no requirement that you never be convicted of a crime or anything like that?

Mr. TEITELBAUM. No, sir, none at all.

Senator CHILES. So a racketeer could go down there and in effect take out a port license in the Port of Miami?

Mr. TEITELBAUM. Or anywhere else in Florida.

Senator CHILES. There is no requirement?

Mr. TEITELBAUM. No, sir. That is one of my arguments I have asked for, if New York State has a waterfront commission, Florida has more ports than any other State in the Union, why not have a State of Florida Port Authority to regulate some of this?

Senator CHILES. Do you think that should be done by the State as part of the Bureau of Business Regulations in the State rather than locally in the county areas?

Mr. TEITELBAUM. Yes, sir. I do. Specifically, when the president of the ILA in Jacksonville tells me no problem in getting stevedoring

license, I go to the right people. I believe that we should have a State port authority in Florida. I am one of your constituents. I have been on the seaports of Florida all my life. I have grown up there. I have often felt that if we were to have had a State port authority in 1966 when these people were kicked out of New York, maybe I wouldn't be here testifying before you today.

Senator NUNN. Mr. Teitelbaum, did anyone ever explain to you how the payoffs were split up between the racketeers up north and the ones down south?

Mr. TEITELBAUM. Yes, sir. On one specific occasion regarding the container repairs in Savannah, I was caught in the conflict between the container repair in Savannah, a crewman who I had worked with told me that his group was going to do container repairs in Savannah, Ga.

Barone told me no way, Savannah belongs to us. John Caputo told me we will get a ruling on it. Ultimately he did tell me he got a ruling. I asked him, John, what was that ruling? He said Norfolk-north belonged to the Scotto group, south of Norfolk belonged to the Barone group and each one had to give up something. I asked him what did Barone have to give up? He said his six votes on the executive council to make Scotto the next president of the ILA.

Senator NUNN. When did this conversation take place?

Mr. TEITELBAUM. February 1976.

Senator NUNN. February of 1976?

Mr. TEITELBAUM. I am not sure of the date, Senator. It was in 1976.

Senator NUNN. So what we have, in effect, is the Mason-Dixon line dividing on an organized basis the control of the ports between Miami and New York?

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. That line is including Norfolk-north, or including Norfolk-south?

Mr. TEITELBAUM. Norfolk-north.

Senator NUNN. Everything south of that was controlled by who?

Mr. TEITELBAUM. Barone.

Senator NUNN. Everything north of that was controlled by who?

Mr. TEITELBAUM. The Scotto group.

Senator NUNN. When you say gave up something, what do you mean by both of them had to give up something?

Mr. TEITELBAUM. I don't know. I asked John Caputo what did Barone have to give up? He said Barone had to give up his six votes on the executive council to make Scotto the next president of the ILA.

Senator NUNN. So he was saying Barone gave that up in order to get that territory?

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. Did there come a time when you were having trouble making payoffs and during that time did you ever hear the name Douglas Rago?

Mr. TEITELBAUM. Yes, sir. I did.

Senator NUNN. In what connection?

Mr. TEITELBAUM. Once I was behind on my money, Bill Boyle told me I had to get some money up because it was going to go to

Doug and he was the heavy one. I asked him you mean Doug Rago and he said yes, sir.

Senator NUNN. Did you ever have any conversation with any relative of Doug Rago that had anything to do with what you have just related; that is to say, that Rago was Barone's boss?

Mr. TEITELBAUM. Yes, sir.

Senator NUNN. Tell us about that?

Mr. TEITELBAUM. Doug Rago's nephew, Arty Coffey, was working for me as a checker and he told me that Doug Rago was his uncle and he was Barone's boss.

I saw Bill Boyle afterward and I asked him, I said, "Is Doug Rago really Barone's boss?" He said yes. I heard it from two different sources. The nephew and the business agent.

Senator NUNN. You never actually paid money to Rago directly?

Mr. TEITELBAUM. No. I may have met him once in the office. I may have seen him once. But I have never had any dealings with the man in my life.

Senator NUNN. He is not very visible on the dock?

Mr. TEITELBAUM. I have been on the dock all my life. I am 49. I went to work on the dock when I was 12. I have never seen him.

Senator NUNN. What is his position? Does he have an official position in the union?

Mr. TEITELBAUM. I don't know, sir.

Senator NUNN. Is he a resident of Miami?

Mr. TEITELBAUM. I don't know that either, sir.

Senator NUNN. Did the splitting of turf that we have just talked about between different criminal groups become more evident when you tried to use a certain stevedoring company in Savannah?

Mr. TEITELBAUM. Yes, sir. It did.

Senator NUNN. Why don't you relate that to us?

Mr. TEITELBAUM. This was a state-of-mind affair to me. Bill Boyle told me that the company I wanted to use belonged to another group and Barone wanted me to use one of their stevedores. I told him I wasn't going to do it. The next day I saw Bill Boyle and he told me, Komenski got whacked out and Barone was at the funeral.

Senator NUNN. What do you mean by whacked out?

Mr. TEITELBAUM. He was killed. Barone was at the funeral. I said what did you guys do, kill them, then go to the funeral with big wreaths? He went like this, opened his hand. I said what kind of a message are you giving me, Bill? He said work with our guy.

Senator NUNN. You got the message?

Mr. TEITELBAUM. Loud and clear.

Senator NUNN. What is your opinion of the job that has been done in this UNIRAC investigation by the FBI and by the Justice Department and the strike force?

Mr. TEITELBAUM. Senator, I can not begin to explain to you the dedication and work that these people performed on nights, weekends and holidays, that the agents and prosecutors put into making this whole thing succeed. I think the most important thing the Government did, though, was to take the time and effort to learn the industry by studying it, and enable the agents to go undercover. I firmly be-

lieve that the greatest attribute of this case is when Clarence Kelly allowed his agents to be undercover, where they were able to be on the inside looking in, instead of the outside looking in.

I had the pleasure of working with three of these agents.

Senator NUNN. What are you doing now, Mr. Teitelbaum? Are you still involved in business on the port?

Mr. TEITELBAUM. Not on the seaport. I have a smaller operation now on the Miami River. I employ about 60 people. I have a weekly payroll now of about \$25,000. I don't have any problems with any unions. My business is very sophisticated, very content with myself.

Senator NUNN. Does ILA represent your employees?

Mr. TEITELBAUM. No. They certainly do not.

Senator NUNN. What about the Port of Miami? How much has changed since UNIRAC was completed?

Mr. TEITELBAUM. I don't believe anything has changed. As a matter of fact, the local president, Turner, who was tried and convicted and sentenced was reelected president of the union.

Senator NUNN. He is still there?

Mr. TEITELBAUM. He is still there, still running the port.

Senator NUNN. What does this say to people who testify like you?

Mr. TEITELBAUM. It says to me that something has to be done about this. I have certain recommendations that I would like to point out to you.

Senator NUNN. Tell us what you think ought to be heard by this subcommittee and by the Senate and, indeed, by the Congress and the American people about your recommendations based on your experience.

Mr. TEITELBAUM. I am not a lawyer. I have lived with this situation for many years now. But I firmly believe that, one, when a union official is convicted of a crime, especially a crime dealing with his union position, he should be immediately stripped of that position and banned from working in any union position or any position that allows him to influence the union. The ILA officials who were convicted in Miami still run that union and as I stated this doesn't make sense to me; two, I believe the payoff law, the one that falls under the Taft-Hartley Act, should be a felony, so that management and union people will take this whole thing more seriously; three, I think that the Longshoremen and Harbor Workers Act should be changed so labor racketeers can't create a lot of fraudulent workmen's compensation claims to hurt a company.

Senator NUNN. How would you do that? How would you change that workmen's comp law so that they can't hurt a company?

Mr. TEITELBAUM. Let me answer you this way, Senator: When I was on Dodge Island, the engineers from the various insurance companies tried to hold safety schools, or they would recommend the men wear hardhats and steel-toed shoes, the union says it is not in the contract, we don't have to.

Inevitably, I would have claims. Since I am not working ILA, the engineers from my insurance company have been able to come in to my business, they have set down rules, procedures, made stringent recommendations which we have adhered to and I haven't had the first claim yet. That tells you something.

Senator NUNN. So you are saying the ILA officials in the Port of Miami actually fight against and refuse to cooperate in safety measures to protect the health and safety of their own members?

Mr. TEITELBAUM. That is right. That is my personal opinion. The proof I have just laid out to you. Why is it that today I can operate claim-free because I adhered to the rules and regulations of the insurance companies, when I worked with the ILA officials they refused to honor those recommendations. If it didn't suit them, it didn't count.

Senator NUNN. All right, sir. Go ahead.

Mr. TEITELBAUM. Four, I believe that the Miami Port as well as all ports in Florida have to have some registration system or commission to protect us from that tremendous theft problem.

Theft on the waterfront is rampant. As it stands now, whenever a State kicks out a racketeer they come to Florida because the laws on them are so easy; five, I think a person caught stealing on the docks should not be allowed to work there again.

Right now it is almost as if stealing on the docks is a fringe benefit of the ILA. The companies are forced to employ people who are caught again and again stealing goods off the dock. I know this from personal experience. This is wrong. I believe that someone or some government body has got to change things so that a handful of criminals from New York and Miami cannot control the whole Eastern Seaboard and force everyone to pay off. That is why I am here. I do not believe that six people of the calibre of those that I went up against should have the right to control the union and dictate the lives of policies of thousands of men, management as well as labor. These people have more power than the Congress of the United States.

That is wrong. For this reason, we need new labor laws to protect labor as well as management.

Senator NUNN. Mr. Teitelbaum, you are now operating in a different location without ILA labor. Are you operating a legitimate business now without payoffs?

Mr. TEITELBAUM. Yes, sir. I am. Believe me, Senator, that was very difficult for me to do because I had negotiated a contract for so many years with built-in payoffs that when I went in to a new business, I did not know how to negotiate a legitimate contract without a payoff. It took me 3 days to work out that contract.

Senator NUNN. In other words, you had been involved in so much for so many years as an undercover agent you had a hard time even figuring a legitimate contract?

Mr. TEITELBAUM. That is right. Because I run a legitimate operation today, I have more business from more companies who were always hesitant to deal with me, who today do deal with me, because they know they are dealing with an honest shipping company.

Senator NUNN. What would your advice be for other business people who may be confronted with the same dilemma you were faced with?

Mr. TEITELBAUM. Stand up and fight.

Senator NUNN. Do you think there are many that are paying off now who would like to do otherwise and who would like to come forward?

Mr. TEITELBAUM. Yes, I do. They may be a little frightened, but I believe they will come around. I believe the American people are ready

to stand up for what they think is right. This country wasn't founded on gangsterism. I don't believe any man should have to pay for the right to work or any man should have to pay to negotiate a legitimate contract. My father came to this country as an emigrant and I worked on that dock with him all my life before he passed on 2 years ago. Three weeks ago I had the greatest day of my life. My son grew up and graduated college. He is able to work with me on my dock and walk out onto that dock with me, without having to be subjected to the gangsterism and terrorism that he has to pay for that right to work.

That is why I am here. So that nobody, my son, my future grandson, has to pay for that right.

Senator NUNN. Mr. Teitelbaum, I can't think of a better way to close out your testimony than those words that you have just given. Do you have anything else you would like to say? We would be delighted to hear from you now. If you don't I would just simply again say that I think not only our committee and the subcommittee, but I think the whole Senate and the country are grateful for your courage in coming forward and testifying and we hope and pray that your testimony will find its way into the legislation both in the States and in the Congress that will help correct this problem.

Mr. TEITELBAUM. Thank you, sir. Thank you for your time and your courtesy.

Senator NUNN. Thank you.

At this point, we will take a 30-minute break and reconvene at 2 for our final two witnesses.

[Brief recess.]

[Member of the subcommittee present at time of recess: Senator Nunn.]

[Member present after the taking of a brief recess: Senator Nunn.]

Senator NUNN. Mr. Schenck, would you please take the oath as we require of our subcommittee witnesses. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. SCHENCK. I do.

Senator NUNN. We appreciate you being here today and appreciate you cooperating with our staff in preparing for this hearing and reviewing this investigation of the last year. I know you have a prepared statement. Why don't you lead off with that?

**TESTIMONY OF GEORGE SCHENCK, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE**

Mr. SCHENCK. Senator, I do have a prepared statement. I would like to submit the entire text of the statement for the record and I will, if it meets with your approval, I would like to read portions of that which I think summarize the substance of the statement.

Senator NUNN. That will be fine. Your entire statement will be made a part of the record.

Mr. SCHENCK. If you bear with me, I am suffering from a terrible cold.

Senator NUNN. I have the same problems. You have sympathy from me.

Mr. SCHENCK. My name is George Schenck. I am a special agent of the Federal Bureau of Investigation assigned to the Bureau's New York City Office. From June 1976, to June 1980, I was assigned exclusively to the FBI investigation of organized criminal control of the waterfront industry. This investigative project was code named "UNIRAC," the acronym for union involved racketeering.

The purpose of this statement is to illustrate the method by which the organized criminal element infiltrates and corrupts a legitimate business enterprise in order to serve the financial interests of the criminal element.

To illustrate these methods of corruption used by labor racketeers and mobsters, I would like to isolate one particular aspect of the UNIRAC investigation which serves as an example of the many aspects of industry-wide corruption.

The specific illegal business transaction which I will use as an example of this problem involved Zim American Israeli Shipping Co., New York, N.Y., Ford Export Corp., Newark, N.J. and All Port Services, Inc., Port Newark, N.J. (henceforth all references to these transactions will be called Zim-Ford-All Port).

The principal figures involved in the transaction were: Joseph Teitelbaum; George Barone; Capt. Reuven Ilan, former vice president of operations, Zim; Robert Partos, former director of interline operations for Zim; Chaim Neumann, former vice president of marketing, Zim; Michael Colletti, former general manager, Ford Export Corp.; and Anthony Morelli, exclusive owner of All Port Services, Inc.

As early as 1975 Joseph Teitelbaum advised agents that it was necessary for him to pay substantial kickbacks to the ILA in return for their aid in obtaining the Zim container contracts for his company in Savannah, Ga.

Teitelbaum functioned in an undercover capacity for the FBI for approximately 16 months from 1975-77. In negotiating for the Zim contracts, Teitelbaum was told by Capt. Reuven Ilan, Zim's vice president of operations, that the Savannah contract was controlled by George Barone and that Teitelbaum would need Barone's approval to get the Zim Co. contract to operate in the Port of Savannah, Ga. FBI investigation documented that Barone and William "Bill" Boyle, an ILA international vice president and secretary-treasurer of Local 1922, demanded and received from Teitelbaum \$15,000 "front" money, \$12 per box, 50 cents per ton, and 1 percent of the manifest to be assured of labor peace in Savannah.

The significance of this major kickback scheme involving payoffs to ILA officials to receive contracts to operate in Savannah with Zim Co. became apparent in the middle of January 1976, while Teitelbaum was in New York. Teitelbaum was lunching at a Lower West Side restaurant which is frequented by waterfront industry executives and labor officials, called Ponte's, when he was introduced to Anthony Morelli. This is the same Anthony Morelli who was the exclusive owner of All Port Services, Inc., and who is the key figure of the Zim-Ford-All Port illegal kickback transaction. Morelli told Teitelbaum that he personally told Captain Ilan of Zim to give the Zim contract to Teitelbaum after the OK had been received from George Barone.

Without prompting, Morelli was able to recite the very figures quoted to Teitelbaum by Boyle and Barone in December of 1975 relative to the Zim contracts.

This pointed out the close working relationship and interaction Morelli had, on one hand with labor racketeers George Barone and William Boyle and, on the other hand, with industry representatives such as employees of Zim Co. who were in a position to "accommodate" union demands that Zim award its contracts in Savannah to Teitelbaum's company because Teitelbaum was paying off union officers.

It was also apparent that Barone was able to control the awarding of Zim contracts and that Morelli was a key factor to that control. This became even more apparent on April 2, 1976, when Barone visited Teitelbaum at the Pierside Terminal Operators, Inc. offices in Miami. Barone wanted to pick up the payoff money for the Zim contract and Teitelbaum explained to him that because he—Teitelbaum—had not yet received his money from Zim in New York for work done, he could not make the payment to Barone. Barone's reply: "that fucking Tony Morelli. I'll call him in New York right now."

Having established the relationship between Barone and Morelli, the importance of the Zim-Ford-All Port investigation, which is the essence of this statement, now becomes apparent. If Barone controls Zim through Morelli, what is the basis of Morelli's control? The method of Morelli's control will be gone into in some detail; however, in substance it was derived by a systematic plan of corrupting key Zim and Ford employees with large cash payoffs and other gratuities enabling Morelli to direct business or have contracts and transactions approved. Morelli, in effect, purchased the loyalties of these employees.

In May 1976, in an effort to resolve remaining unanswered questions surrounding the awarding of Zim contracts, the New York FBI conducted an interview of the president of Zim Lines, Avner Manor. Because Manor had only been president since September 1975, he was not totally apprised of those transactions which predated him. However, he did advise that recently he had been informed by Bob Partos, director of interline operations for Zim, that Zim was paying \$60 per container kickback to a firm known as All Port Services, Inc. in order to maintain labor peace with the unions. Manor stated that All Port Services, Inc. was a company allegedly controlled by Tony (Anthony) Morelli and that he had no intention of paying those charges from All Port without a complete explanation from Morelli.

Manor also advised that Chaim Neumann had resigned from Zim approximately 2 weeks prior. Manor was not specific as to the reasons for Neumann's resignation but hinted that he may have been receiving kickbacks from Morelli.

At the end of January 1977, however, the UNIRAC investigation went overt and the New York FBI conducted interviews of Zim Co. employees, Robert Partos, Chaim Neumann, and Capt. Reuvan Ilan. It was at this time that Neumann and Partos made general admissions about being recipients of kickbacks from Morelli as a result of the business transacted between Zim and All Port Services, Inc., in the Zim-Ford-All Port deal.

In mid-1975, prior to the granting of Zim contracts to Teitelbaum by Barone, Anthony Morelli, doing business as All Port Services, Inc.,

Michael Colletti, then manager of Ford Export Corp., Partos, Neumann and Ilan, then employees and officers of Zim, arranged a business transaction wrought with inflated invoices, substantial kickbacks, improper discounts and destruction of billing documentation. The initial transaction had a legitimate purpose. The intention was to ship Ford automobiles stuffed into Zim containers from the East Coast via Zim container vessels to Japan. Zim was to provide the containers and overseas transport. Ford was to provide the automobiles, and All Port Services, Inc., was to perform the task of packing the automobiles into the Zim containers and preparing them for overseas transport.

The choice of stuffers for this deal rested solely with Captain Ilan of Zim Co. and Morelli received that contract.

For this expense, Zim was billed by Anthony Morelli's company, All Port Services, Inc. The initial cost charged by Morelli to Zim was \$297 per container. This inflated rate included payoffs and kickbacks. The approval of this rate by Zim was gained with the aid of Partos, Neumann, and Ilan. When these bills were received from All Port, Captain Ilan was responsible for approving and signing them, and Partos was responsible for doctoring the billings and destroying the backup documents so that it would not reflect the fact that Zim was absorbing these costs.

Partos advised that after the \$297 had been established and the operation was set to begin, Morelli, Partos, and Neumann discussed the fact that they could all make some money for themselves.

Subsequent discussions between Partos and Morelli led to the agreement that there would be a \$20,000 kickback paid by Morelli to be shared equally by Partos, Neumann, and Ilan.

Thus, Zim officials Partos, Neumann, and Ilan hid their own scheme with Morelli of All Port and Colletti of Ford by disguising it as a "payoff for labor peace," a cost that the businesses concerned were ready and willing to pay as a cost of doing business. The men involved in this scheme, intimately familiar with the waterfront and the pervasiveness of payoffs and kickbacks to corrupt union officials, banked on this "accepted" form of corruption to hide their own scheme to generate money for themselves.

Investigation revealed that initially \$100 per container was billed into the \$297 rate to provide kickbacks for Partos, Neumann, and Ilan of Zim and Michael Colletti of Ford. It is estimated that this kickback scheme generated approximately \$100,000 for its participants and inflated shipping costs accordingly.

Partos stated that he personally received kickback cash from Morelli on five or six occasions at various locations. This cash totaled approximately \$20,000. Partos stated that he personally gave Ilan and Neumann large cash shares having received the cash from Morelli.

Neumann confirmed that Partos handled all of the kickback money from Morelli and explained that although he was supposed to receive a one-third share he only received approximately \$2,000.

Ilan was interviewed on several occasions and admitted nothing. As the entire FBI waterfront investigation accelerated, Ilan left the United States and returned to Israel.

Investigation revealed several other aspects of Morelli's relationship with Partos and Neumann which appeared to compromise their

decisionmaking abilities at Zim. In the fall of 1975, a crucial time in the Zim-Ford-All Port negotiations, Morelli lent \$15,000 to Neumann of Zim Co. to permit him to buy a house. Neumann signed a note with Morelli for the loan but did not pay any interest. Neumann made payments of \$300 per month but at the time of this investigation those payments ceased because Neumann could no longer afford them.

Partos of Zim Co. also received two checks from Morelli. Both checks were for \$25,000 each. Morelli described the first check as a payment for services rendered in 1973. Partos, however, could offer no explanation as to the nature of these services. The second check represented profits from Port Container—a company which Partos was given a one-third interest in as a silent partner by Morelli without any capital investment. This actually was the vehicle by which Morelli rewarded Partos for directing business to Morelli's companies. Partos told the FBI that not only could he influence Zim's business but that through his contacts in the shipping industry, he could direct other business to Morelli.

There was further evidence that Morelli had compromised Captain Ilan, on behalf of Barone. With a check drawn on All Port Services, Morelli paid for Ilan, Neumann, and Partos' vacation to the Colonial Inn on Miami Beach in December 1975.

Prior to and during the trial of ILA and management defendants which commenced in Miami in January 1979, it became evident that Morelli functioned as an appendage of George Barone. In pretrial interviews and in trial testimony Partos made two significant revelations.

First, he met Barone at Ponte's Restaurant in December 1975, in the company of Captain Ilan and Tony Morelli. Barone asked Partos and Ilan if they could confirm that Zim would be granting the Savannah contract to Teitelbaum. Partos confirmed this for Barone, who told them that he thought he could get something from Teitelbaum in connection with the stevedoring in Savannah.

Next, Partos stated that in March 1976, he was in Miami and Morelli summoned him to a meeting with Barone at the Holiday Inn across from the Jockey Club. Partos met briefly with Morelli and Barone in the motel lounge. Barone told Partos that Teitelbaum had not yet paid him anything on the Savannah operation, and Barone requested Partos to supply him with Zim's specific tonnage figures at Savannah. Barone here was referring to a portion of the Savannah payoff terms—50 cents per ton and 1 percent of the manifest.

Anthony Morelli, born in New York and presently living in Brooklyn and Miami, had been engaged in the trucking and packing industry in New York and New Jersey since the early sixties. At the time of this investigation, Morelli was a salesman with Amadel-Amarelli, Jersey City, N.J., a trucking, packing, and warehousing operation. He was sole owner of a company called CPT Sales which he operated out of his home and through which he obtained payment from Amadel. He was sole owner of All Port Services, Inc., Port Newark, N.J., the company he incorporated to facilitate the Zim-Ford-All Port transaction and he was a third owner of Port Container Transfer, Inc., an ownership he shared with Bob Partos and an individual named

Anthony Legouri. Port Container was created as a trucking business although having no trucks of its own. Occasionally it facilitated the movement of goods through the leasing of other trucks.

An FBI and IRS review of the books and records from Morelli's companies produced evidence of tax evasion as well as uncovering Morelli's secret scheme to generate the cash for his kickbacks. Morelli generated cash by causing his companies to write checks to various third parties for fictitious goods and services. He then caused these third parties to cash the checks and return the cash to Morelli, less a commission for themselves and for Morelli's accountant and co-schemer, Arnold Friedman. These checks for fictitious goods and services were then entered and reported falsely and fraudulently on the books and records of his companies.

The final effects of this investigation resulted in immunity for Partos and Neumann with the understanding that they would resolve their own tax situations arising for the receipt of kickbacks which were not declared as income. Ilan escaped prosecution or cooperation by leaving the country. The individuals who aided Morelli in his schemes to generate cash with the exception of his accountant were not prosecuted in return for their cooperation. Michael Colletti pleaded guilty to use the mails to defraud and tax evasion. Colletti's sentence was suspended, and he received 5 years unsupervised probation and a \$5,000 fine. Anthony Morelli pleaded guilty to a two count information charging mail fraud and tax evasion. Imposition of sentence on Morelli was suspended, and he was placed on 5 years unsupervised probation with an \$11,000 fine.

Senator NUNN. Let me ask a question there on the Morelli matter. Did the Government oppose that, or the Attorney General's Office or prosecuting attorney oppose the suspension of the sentence on Morelli?

Mr. SCHENCK. No, sir, did not.

Senator NUNN. Did not?

Mr. SCHENCK. No. This, in my opinion, is a microcosm of the shipping industry and a perfect example of the far-reaching effect of waterfront corruption.

The initial corruption or kickback asked for and received by a labor racketeer "ripples" out and spins off into various other forms of corruption and hidden costs.

In this one small example of UNIRAC investigation we have:

(1) A substantial kickback being paid to a union official who promises to get a shipping company business at a certain port.

(2) Fraudulent billings and inflated costs to absorb this kickback.

(3) A scheme prepared by an associate of the labor racketeer which used inflated billings to generate cash to corrupt company officials in decisionmaking positions who would later grant "favors" to labor racketeers.

(4) Costs of this scheme were absorbed by the parent company and passed on.

(5) Companies able and willing to compete using our free enterprise system for a contract with Zim Co., in the port of Savannah were prohibited from doing so because of the pervasive corruption.

(6) A demonstration that shipping companies are perfectly willing to accept union payoffs as a cost of doing business and only the ex-

posure of their own employees scheme generated any reaction. This clearly demonstrates to me the acceptance and pervasiveness of payoff and kickback schemes on the waterfront.

(7) The failure by all those involved to keep accurate records and pay taxes on their incomes as every other citizen is obligated to do.

(8) The tremendous burden of the costs of all of these factors which is passed on directly to the American consumer.

I wish to thank the subcommittee for allowing me to present this "insider's" look at one isolated waterfront transaction. Hopefully, Congress can act to prevent the many disastrous effects the accumulation of these transactions have on our citizens.

Thank you.

Senator NUNN. Thank you, Mr. Schenck. I am puzzled in this whole thing by the fact it appears from your statement that we have bribery, we have corruption, we have awarding of contracts under corrupt conditions, we have legitimate businesses that are not being able to bid. We have, as we heard earlier, the total distortion of the free enterprise system and have tax evasion by virtually everybody involved and yet nobody went to jail for even 1 day.

Mr. SCHENCK. That is correct.

Senator NUNN. Nobody went to jail. How does this occur? Did the Government have interest in this case? Obviously they did in the immunity cases and I understand immunity. What about the ones who did not get immunity, pleaded guilty, and got suspended sentences? Did the Government not have some interest in seeing these people actually serve time?

Mr. SCHENCK. I think the Government did have an interest in seeing some of these people serve time. I guess we have to look at this in the total perspective of the investigation. We had what we would consider to be our priority, I guess, prosecutions, and we had other cases that were kind of asides that we picked up information as we went along in the primary investigation. It just appeared that we were interested in resolving these situations and getting some amount of cooperation, did receive cooperation from some of these individuals, although it may not have been 100 percent cooperation.

Maybe in the interest of time and expense, the U.S. attorney's office determined that this was the best route to take in terms of getting pleas. Then, of course, it certainly has nothing to do with the U.S. attorney's office and the FBI in terms of what sentence the judge will impose. I really couldn't say whether or not the prosecutor was in conflict with the sentences. I just don't think he objected when the sentences were given out.

I don't think he made any statements either way as to whether they were unfair or there should be jail time or not.

Mr. STEINBERG. Do you know from your personal experience that prosecutors are not permitted to comment on a judge's sentence either before or after a sentence is handed down?

Mr. SCHENCK. Are not allowed to comment?

Mr. STEINBERG. That is correct.

Mr. SCHENCK. I don't know if that is true.

Senator NUNN. What does this do to the FBI agents who make a case like this, when they see nobody goes to jail?

Mr. SCHENCK. Well, if we are talking specifically in terms of this investigation, I don't think it had much of an effect at all. Speaking as an agent that worked on the investigation for 4 years, I think the sentences that were imposed in most instances were sentences that we felt were adequate in terms of our own mind. Not in terms of anything else. These other cases, I think we were interested in exposing them as racketeers, as felons, as people involved in tax evasion, in waterfront corruption and in terms of the sentences, I don't really believe that anybody in these individual cases was upset about the results.

Senator NUNN. Well, it just seems to do something to the system of justice, though, when somebody breaks into a grocery store or robs a gas station, something like that, goes to jail and somebody else has a high-level paying job, obviously good salaries, operates in the free enterprise system, abuses that position, corrupts, bribes, assigns fraudulent contracts, deprives the free enterprise system of its normal competitive features, ends up purposely hiding income and engaging in income tax evasion and gets a suspended sentence. If I was in law enforcement and spent 4 years making a case like this and no one went to jail, I would at least be scratching my head.

Mr. SCHENCK. Well, I agree with you to a certain extent, Senator. I guess I will just stick to my job, to investigate and collect the facts and hopefully aid with that investigation, the facts in obtaining convictions.

Senator NUNN. That is about all you can do.

Mr. SCHENCK. That is all I can do.

Senator NUNN. I agree that is all you can do. You told us about a meeting that Barone held with Teitelbaum and Morelli on January 22, 1976, where, in effect, Barone told Teitelbaum that with respect to the Savannah matter, he was to deal with Barone and not Anthony Scotto, is that correct?

Mr. SCHENCK. Yes.

Senator NUNN. Is it accurate to assume certain labor racketeers control certain geographic areas along with the mobsters who back them?

Mr. SCHENCK. I think going along with what Judge Webster said and also Mike Levin, I don't think there is any question that the evidence showed that certain geographical areas were given to certain union officials and that they were designated to handle whatever type of transactions they wanted to in those specific areas.

I think it is evident in this situation that with Barone telling Mr. Teitelbaum not to deal with Anthony Scotto, not to go to the Brooklyn area or New York Port, that he was telling him to stay out of that area and deal only in his area because he couldn't handle anything that went on in the north region of the eastern seaboard.

Senator NUNN. In your statement you mention that in order for Barone to demand a payoff from Teitelbaum for the Zim Lines business in Savannah, that Barone had to have sure control over Zim Lines and used Anthony Morelli to obtain this control. Morelli in return paid off Zim officials to make the scheme work.

Two questions along this line: I suppose this corruption of a steamship company is one of many ways for labor racketeers to force their cooperation. What are the other ways that they commonly utilize?

Mr. SCHENCK. Well, I think as maybe was pointed out earlier in the hearings by the witnesses, the cost of doing business in the port is substantial, to bring a ship in, to work it. Any type of encouragement by a union official to do a slowdown, work slowdown, some type of strike, promoting increased workmen's compensation claims, anything like that, what I guess you could consider economic extortion, those are always ways.

This was just the one specific way in which it was a payoff to insiders within the company to compromise their decisionmaking abilities.

Senator NUNN. The second point is considering the fact that in this instance Barone and Morelli chose to pay company officials to obtain the Zim contract in Savannah, for Teitelbaum so that Barone could receive a bigger payoff from Teitelbaum's company, it seems that what we have here is the original corruption between Barone and Teitelbaum spread to others. To make one payment, they set up other deals, it goes on and on. Is this the way it generally works?

Mr. SCHENCK. This is a classic example of that in that the payment by Teitelbaum to Barone to acquire the similar contract to implement that, No. 1, Barone has got to have control of Zim, and in order to have control of Zim, he must have used one of the tactics that we just discussed, whether it is going to be paying off somebody within Zim, to compromise their decisionmaking abilities or whether it be on economically extort the shipping company itself by work slowdowns, strikes, workmen's compensation claims. It just doesn't stop there. It just doesn't stop with the payoff by the service manager and the union official. It goes further and further and further and in this particular instance it goes to the situation where the Zim employees were corrupted, it goes in the direction that it was necessary to corrupt individuals to generate the cash to make the payments, it just goes on and on in a ripple effect.

Senator NUNN. It has a ripple effect all the way down?

Mr. SCHENCK. That is correct.

Senator NUNN. Senator Rudman?

Senator RUDMAN. One of the disturbing things beyond the payoff's and the income tax evasion is an attempt by organized crime to control geographic areas of the waterfront in this country, to really eliminate competition. I think that is probably one of the most insidious things we see here, in terms of the effect on the consumer. We have Barone, who is a Florida labor racketeer and who is working in Florida, up in Georgia; he is connected with New York organized crime figures; Mr. Morelli involved here working out of New Jersey. It seems to me that what you have here, really, is an economic effect that tends to stifle and eliminate competition and make it difficult for legitimate people who don't have Mr. Teitelbaum's courage to operate.

Will you comment on that?

Mr. SCHENCK. I don't think there is any question about that, Senator. I think as Mr. Teitelbaum stated, there virtually is no free enterprise system in this industry in these areas that we have discussed. You have the choice of either paying off or getting no business, and being pushed off possibly, or maybe just surviving or maybe not surviving at all. It appears that the only competition may be the compe-

tition as to who pays off the most. I don't think that is the type of free enterprise system that we have in mind.

Senator RUDMAN. You have a number of incentives you have described here, two separate areas that these people work in, one, of course, is absolute coercion and the other is the kind of corruption that we have heard in the testimony you and Mr. Teitelbaum have given here today, particularly the incentives given to the Zim line in connection with Ford, the loans, the checks. Really, that isn't so much coercion. That is greed on the part of people within the system.

Mr. SCHENCK. Right; no question about it.

Senator RUDMAN. Do you agree?

Mr. SCHENCK. It compromises these people, kind of cements the association that they have with these outside influences and it makes them very vulnerable to later favors when asked to direct a contract, award a contract to a particular individual.

They have been compromised once and I don't suppose that they are in a position to refuse at that stage, not to continue to follow, possibly, orders or requests.

Senator RUDMAN. How does that really generate the cash that he had to have access to for these transactions, to the extent that you know?

Mr. SCHENCK. As I indicated in the statement, Mr. Morelli had several companies which he used, all of which he was sole owner, with the exception of Port Container. With these various companies, he would write checks to arbitrary service people, service people that he was familiar with in some respects, either directly or indirectly, but not people he was doing legitimate business with. He would write checks or cause to have checks written to these various companies. You would have a deal with the owners of those companies to take those checks, run them through their companies, cash them, marked some way that they are for services, some type of services rendered or materials purchased, which they were not, and return the cash, minus the commission for themselves which they kept for the aid in obtaining the cash and then Mr. Morelli would take that cash and use it to make his payoffs.

Senator RUDMAN. Of course the control scheme, this wasn't costing Morelli any money.

Mr. SCHENCK. No, not at all because first of all, with the Zim-Ford-All Port deal there was \$100, approximately \$100 built into that inflated rate, not all of that money, as the investigation revealed, was going to those individuals from Zim and from Ford. So there appears to be money left over which I assume didn't go to anybody else. Also, he was getting the benefit of the work itself, the ordinary profit margin of the work. So he definitely wasn't taking a loss by making payments.

Senator RUDMAN. The Zim scheme is only one. There must be others, and, of course, involved in all of these, we are talking about organized crime figures who have corrupted through coercion, through incentives, through dealing with greed. You have a number of employers who are hardly innocent in this whole scheme itself.

Mr. SCHENCK. That is very true, Senator. They are not at all without blame in this particular situation because many gladly go after

these types of schemes in order to gain a competitive—you can call it competitive—competitive edge, at least an edge in gaining business.

Senator RUDMAN. Just one last question that I have. How long were you involved in this investigation?

Mr. SCHENCK. Four years.

Senator RUDMAN. How many FBI agents were involved, that you know of?

Mr. SCHENCK. That is hard to say, Senator. I was just restricted to the New York phase of the investigation with some activity in Miami and the various times during the course of the investigation we may have had more men allocated at one time than another. There were sometimes as many as 50 agents.

Senator RUDMAN. How many?

Mr. SCHENCK. Fifty.

Senator RUDMAN. As many as 50 agents and then I assume that you took part as a witness in prosecutions of various kinds or if not you, people who worked in this with you?

Mr. SCHENCK. Yes. That is correct.

Senator RUDMAN. Over what length of time did those prosecutions cover?

Mr. SCHENCK. The two major prosecutions up in New York, one was, I think, 11 weeks and one was 10 weeks, something in that area, approximately. Considerable amount of time in the preparation and testimony.

Senator RUDMAN. You are speaking, I think I probably didn't make this clear a minute ago, but you are speaking not just in terms of what you just described with Morelli, but the broad investigation of the whole New York waterfront corruption?

Mr. SCHENCK. Yes. Exactly. Because in this particular instance, there was no trial. These situations were resolved with plea agreements.

Senator RUDMAN. Do you have any suggestions you want to make to this committee of your own as an agent with your experience? You have certainly had a great deal of experience. Any particular laws that you like or don't like, or would like to see enlarged, particularly in the area of the organized crime laws, the racketeering laws, possibly the antitrust laws?

Mr. SCHENCK. That would be hard for me, Senator, because I was working one particular phase of the overall investigation and I really don't in many instances have a grasp of the impact of certain laws as they relate to the overall investigation. I think that there are definitely some changes. I think Judge Webster indicated that in his statement, and Mike Levin. And I think with the help of the Justice Department possibly there could be some changes that would be significant in remedying some of the situations that we are confronted with.

Senator RUDMAN. Thank you.

Senator CHILES?

Senator CHILES. I have no questions.

Senator NUNN. Do you want to introduce your associates here? We want to make sure we have their names for the record. If either of the gentlemen would like to add any comment, we would like to have them do it.

Mr. SCHENCK. On the far right, agent supervisor Louis Freeh, who is stationed here in Washington, D.C., at headquarters.

Mr. CARO. My name is Dana E. Caro, deputy assistant director in charge of organized crime—white-collar crime investigations at headquarters.

Senator NUNN. I believe we will hear from Mr. Freeh later in the hearing. Is that right?

Mr. FREEH. Yes.

Senator NUNN. Do you have anything you want to say at this point?

Mr. FREEH. No, sir.

Senator NUNN. Do you have any comments?

Mr. CARO. No, Senator.

Senator NUNN. We appreciate very much your being here. We appreciate your cooperation and we appreciate the good work you are doing for the FBI and the Justice Department. Thank you.

Mr. SCHENCK. Thank you, Senator. It was my pleasure.

[The statement of Mr. Schenck follows:]

STATEMENT OF SPECIAL AGENT GEORGE SCHENCK, FEDERAL BUREAU OF INVESTIGATION

My name is George Schenck. I am a Special Agent of the Federal Bureau of Investigation assigned to the Bureau's New York City office. From June, 1976, to June, 1980, I was assigned exclusively to the FBI investigation of organized criminal control of the waterfront industry. This investigative project was code named "UNIRAC," the acronym for union involved racketeering.

The purpose of this statement is to illustrate the method by which the organized criminal element infiltrates and corrupts a legitimate business enterprise in order to serve the financial interests of the criminal element.

To illustrate these methods of corruption used by labor racketeers and mobsters, I would like to isolate one particular aspect of the UNIRAC investigation which serves as an example of the many aspects of industrywide corruption.

The specific illegal business transactions which I will use as an example of this problem involved Zim American Israeli Shipping Co., New York, N.Y., Ford Export Co., Newark, N.J. and All Port Services, Inc., Port Newark, N.J. (henceforth all references to this transaction will be called the Zim-Ford-All-Port).

The principal figures involved in the transaction were:

Joseph Teitelbaum, the general manager of a Miami stevedore company known as Pierside Terminal Operators, who made substantial payoffs to officers of I.L.A. Local 1922 as a condition for receiving the stevedore contract for Zim's container and break-bulk service at the Port of Savannah.

George Barone, the head of I.L.A. Local 1922 in Miami, Fla., who accepted payoffs from Teitelbaum for the Zim contracts in Savannah, Ga., and who has been convicted in the UNIRAC investigation.

Captain Reuven Ilan, former Vice President of Operations, Zim; Robert Partos, former Director of Interline Operations, Zim; Chaim Neumann, former Vice President of Marketing, Zim; Michael Colletti, former General Manager, Ford Export Corp.; and Anthony Morelli, exclusive owner of All Port Services, Inc.

Information developed in the Miami FBI office revealed that as early as 1975 Joseph Teitelbaum, Manager of Pierside Terminal Operators, and eventual key prosecution witness, advised agents that it was necessary for him to pay substantial kickbacks to the I.L.A. in return for their aid in obtaining the Zim container contracts for his company in Savannah, Ga. This information came at the very onset of the investigation and was the FBI's first exposure to Zim Co. relative to this investigation.

Teitelbaum functioned in an undercover capacity for the FBI for approximately 16 months from 1975-77. In negotiating for the Zim contracts, Teitelbaum was told by Captain Reuven Ilan, Zim's Vice President of Operations, that the Savannah contract was controlled by George Barone and that Teitelbaum would need Barone's approval to get the Zim Co. contract to operate in the Port of Savannah, Ga. FBI investigation documented that Barone and William "Bill"

Boyle, an I.L.A. International Vice President and Secretary-Treasurer of Local 1922, demanded and received from Teitelbaum \$15,000 "front" money, \$12 per box, 50 cents per ton, and 1 percent of the manifest to be assured of labor peace in Savannah. (This payoff was in addition to the fixed amount of \$200 per week which Teitelbaum paid to Barone for labor peace in Miami.)

To substantiate his allegation, Teitelbaum informed agents that on December 13, 1975, William Boyle, Secretary-Treasurer of I.L.A. Local 1922, advised him that the numbers for Savannah were "\$15,000 front money, 1 percent of the manifest, and \$12 per box." Boyle advised Teitelbaum that on December 15, 1975, George Barone, President of I.L.A. Local 1922, would discuss with him the money in question. On December 15, 1975, Barone himself confirmed to Teitelbaum the numbers as stated by Boyle for the Zim contract.

The significance of this major kickback scheme involving payoffs to I.L.A. officials to receive contracts to operate in Savannah with Zim Co. became apparent in the middle of January 1976, while Teitelbaum was in New York. Teitelbaum was lunching at a lower west side restaurant which is frequented by waterfront industry executives and labor officials, called Ponte's, when he was introduced to Anthony Morelli. This is the same Anthony Morelli who was the exclusive owner of All Port Services, Inc., and who is the key figure of the Zim-Ford-All Port illegal kickback transaction. Morelli told Teitelbaum that he personally told Captain Ilan of Zim to give the Zim contract to Teitelbaum after the okay had been received from George Barone. Without prompting, Morelli was able to recite the very figures quoted to Teitelbaum by Boyle and Barone in December of 1975 relative to the Zim contracts.

This pointed out the close working relationship and interaction Morelli had, on one hand, with labor racketeers George Barone and William Boyle and, on the other hand, with industry representatives such as employees of Zim Co. who were in a position to "accommodate" union demands that Zim award its contracts in Savannah to Teitelbaum's company because Teitelbaum was paying off union officers.

To further illustrate the relationship between Barone and Morelli, Teitelbaum advised that on January 22, 1976, Barone insisted that Teitelbaum not meet with Anthony Scott regarding the Zim matters. Barone claimed that Captain Ilan and Zim were working in Newark, which was his territory, and further he accused Morelli of "playing both ends." Barone then advised Teitelbaum that it would be necessary for himself, Teitelbaum and Morelli to get together in New York for lunch "to set the ground rules."

Thus, it was made apparent to Joe Teitelbaum and to Government investigators that certain labor racketeers, through mob influence and union control, governed certain geographical "spheres of influence," and that they guarded their turf jealously demanding that company executives pay off or kick back only to racketeers who controlled the port they wanted to work.

It was also apparent that Barone was able to control the awarding of Zim contracts and that Morelli was a key factor to that control. This became even more apparent on April 2, 1976, when Barone visited Teitelbaum at the Pierside Terminal Operators, Inc. (PTO) offices in Miami. Barone wanted to pick up the payoff money for the Zim contract and Teitelbaum explained to him that because he (Teitelbaum) had not yet received his money from Zim in New York for work done, he could not make the payment to Barone. Barone's reply: "that fuckin Tony Morelli. I'll call him in New York right now."

Having established the relationship between Barone and Morelli, the importance of the Zim-Ford-All Port investigation, which is the essence of this statement, now becomes apparent. If Barone controls Zim through Morelli, what is the basis of Morelli's control? The method of Morelli's control will be gone into in some detail; however, in substance it was derived by a systematic plan of corrupting key Zim and Ford employees with large cash payoffs and other gratuities enabling Morelli to direct business or have contracts and transactions approved. Morelli, in effect, purchased the loyalties of these employees.

In pursuing the Morelli-Zim connection, our efforts were aided in late February 1976, during a discussion between undercover Agent Robert Cassidy, posing as a relative and business associate of Joe Teitelbaum, and John Caputo, President of Marketing at Tilston-Roberts, a shipping company with close contacts with Zim Company.

Thus, we learned that Robert Partos, Captain Ilan, and Chaim Neumann were the "contacts" within Zim. At that time, Partos was Zim's Director of Interline Operations and Neumann was the Vice President of Marketing.

It was at this juncture that the FBI and the Department of Justice concluded that there was more than ample predicate for investigation of Zim officials and Morelli.

In May of 1976, in an effort to resolve remaining unanswered questions surrounding the awarding of Zim contracts, the New York FBI conducted an interview of the President of Zim Lines, Avner Manor. Because Manor had only been President since September 1975, he was not totally apprised of those transactions which predated him. However, he did advise that recently he had been informed by Bob Partos, Director of Interline Operations for Zim, that Zim was paying a \$60 per container kickback to a firm known as All Port Services, Inc. in order to maintain labor peace with the unions. Manor stated that All Port Services, Inc. was a company allegedly controlled by Tony (Anthony) Morelli and that he had no intention of paying those charges from All Port without a complete explanation from Morelli.

Manor also advised that Chaim Neumann had resigned from Zim approximately 2 weeks prior. Manor was not specific as to the reasons for Neumann's resignation but hinted that he may have been receiving kickbacks from Morelli.

In 1976, it was deemed inadvisable to pursue further inquiries within Zim to avoid jeopardizing the covert operation in progress in which undercover Agent Cassidy had now become an employee of Zim. Cassidy was initially employed as an assistant manager of Teitelbaum's Savannah operation and later moved directly into the Zim Company to continue our investigation after Zim Company hired him, not knowing he was an undercover FBI agent. At the end of January 1977, however, the UNIRAC investigation went overt and the New York FBI conducted interviews of Zim Company employees, Robert Partos, Chaim Neumann and Captain Reuven Ilan. It was at this time that Neumann and Partos made general admissions about being recipients of kickbacks from Morelli as a result of the business transacted between Zim and All Port Services, Inc., in the Zim-Ford-All Port deal.

The above facts were more than sufficient to create a firm predicate upon which to conduct a complete investigation of Morelli and All Port Services, Inc., and in May of 1977, such an inquiry was initiated.

Extensive investigation subsequently revealed the precise methods by which Morelli compromised the Zim officials in behalf of Barone. In mid-1975, prior to the granting of Zim contracts to Teitelbaum by Barone, Anthony Morelli, doing business as All Port Services, Inc., Michael Colletti, then manager of Ford Export Corp., Partos, Neumann and Ilan, then employees and officers of Zim, arranged a business transaction wrought with inflated invoices, substantial kickbacks, improper discounts and destruction of billing documentation. The initial transaction had a legitimate purpose. The intention was to ship Ford automobiles stuffed into Zim containers from the East Coast via Zim container vessels to Japan. Zim was to provide the containers and overseas transport. Ford was to provide the automobiles, and All Port Services, Inc., was to perform the task of packing the automobiles into the Zim containers and preparing them for overseas shipment.

The initial contacts and preliminary negotiations for this particular transaction were made by the participants at Ponte's Restaurant. It was there, in June, 1975, that Michael Colletti of Ford was first introduced to Chaim Neumann of Zim by Anthony Morelli. It was at this meeting that Colletti learned of Zim's container imbalance problem, which forced Zim to ship empty containers to the Far East. This information led Colletti to speculate to Neumann about a possible plan to ship Ford automobiles to Japan from the East Coast using Zim's empty containers. Colletti believed this plan could solve Zim's imbalance problem and create a substantial savings to Ford in shipping costs as well as reducing travel damage to automobiles when stuffed in containers.

Ford had previously shipped automobiles only from the West Coast to Japan because the ocean freight rate was far less than from the East Coast. However, the inland freight rate was considerably more going to the West Coast than to the East. Colletti needed to obtain an ocean freight reduction for East Coast departure in order to make it economically feasible for Ford to ship cars to Japan. A reduction was finally obtained. However, it was not sufficient, and in August of 1975, when the final details of this operation were discussed, two special considerations were made to Ford to induce agreement. First, Zim gave Ford a \$3 per unit weight measure discount to which they were not entitled

because Ford did not do its own stuffing. This discount allowed Ford an estimated \$100,000 reduction in ocean freight charges.

The Ford Export Corporation was the sole beneficiary of this consideration. As already indicated, the contract to stuff the automobiles into containers went to Morelli. The choice of stuffers for this deal rested solely with Captain Ilan of Zim Company and when Morelli received that contract, he incorporated All Port Services, Inc., specifically for the purpose of performing this stuffing task.

The second consideration to Ford, and most crucial in terms of this investigation, was an agreement by Zim to absorb the cost of stuffing the automobiles into the containers. This was a form of rebating to Ford and clearly against conference regulations. It was this stuffing charge that became the source of the illegal kickbacks and the reason for doctoring of billings and destruction of documentation.

For this expense, Zim was billed by Anthony Morelli's company, All Port Services, Inc. The initial cost charged by Morelli to Zim was \$297 per container. This inflated rate included payoffs and kickbacks. The approval of this rate by Zim was gained with the aid of Partos, Neumann and Ilan. When these bills were received from All Port, Captain Ilan was responsible for approving and signing them, and Partos was responsible for doctoring the billings and destroying the backup documents so that it would not reflect the fact that Zim was absorbing these costs.

Partos explained to Zim Company that the \$297 rate for stuffing the vehicles into containers was established after taking into consideration the movement of containers to and from the stuffing site, movement of automobiles to the stuffing site, the process of stuffing and the possibility of Morelli needing to make a payoff to an I.L.A. official should Morelli not obtain I.L.A. labor to perform the stuffing. As it turned out, Morelli subcontracted Quin Marine Services to perform the stuffing operation using I.L.A. laborers.

Partos advised that after the \$297 had been established and the operation was set to begin, Morelli, Partos and Neumann discussed the fact that they could all make some money for themselves. Subsequent discussions between Partos and Morelli led to the agreement that there would be a \$20,000 kickback paid by Morelli to be shared equally by Partos, Neumann and Ilan. This figure was arrived at originally by agreeing to pay an additional \$20 per container as a kickback based upon a projection of containers to be shipped. Shortly thereafter, Partos informed Neumann and Ilan of the agreement.

Thus, Zim officials Partos, Neumann and Ilan hid their own scheme with Morelli of All Port and Colletti of Ford by disguising it as a "payoff for labor peace," a cost that the businesses concerned were ready and willing to pay as a cost of doing business. The men involved in this scheme, intimately familiar with the waterfront and the pervasiveness of payoffs and kickbacks to corrupt union officials, banked on this "accepted" form of corruption to hide their own scheme to generate money for themselves.

Of course, the beauty to the scheme from the standpoint of the labor racketeers and mobsters is that they were generating yet another illegal incentive from legitimate businesses to corrupt those businesses' own employees so that organized crime could "use" these company officials to grant favors in exchange for even larger kickbacks and payoffs to labor racketeers and mobsters.

In September, 1975, the first shipment of Ford cars began. Zim Headquarters in Haifa, Israel, realized that they lost money on the first ship. Not wishing to lose more, inquiries were made into the various costs. In late October, 1975, due to the inquiries, Morelli reduced the rate he charged Zim to \$195 per container. Inquiries by Zim Headquarters persisted, and in late April, 1976, the rate was reduced again to \$135 per container. Zim officials were told that greater productivity and more efficient techniques were the basis of the cost reductions. By early May, 1976, the operation ceased.

A total of 1,236 containers were stuffed and shipped; 344 containers were shipped at the \$297 rate, 600 at the \$195 rate and 292 at the \$135 rate. Morelli, through All Port, charged Zim a total of \$258,655 for stuffing at an average of \$209 per container.

Investigation revealed that initially \$100 per container was billed into the \$297 rate to provide kickbacks for Partos, Neumann and Ilan of Zim and Michael Colletti of Ford. These kickbacks served the purpose of obtaining and retaining the Ford and Zim business for Morelli. When the billing rate was reduced to \$195 in October, 1975, Morelli reduced the amount of kickbacks to all participants

in a corresponding fashion. In April, 1976, when the rate was reduced once again, to \$135, no further kickbacks were made. It is estimated that this kickback scheme generated approximately \$100,000 for its participants and inflated shipping costs accordingly.

Partos stated that he personally received kickback cash from Morelli on five or six occasions at various locations. This cash totaled approximately \$20,000. Partos stated that he personally gave Ilan and Neumann large cash shares having received the cash from Morelli.

Neumann confirmed that Partos handled all of the kickback money from Morelli and explained that although he was supposed to receive a one-third share he only received approximately \$2,000.

Ilan was interviewed on several occasions and admitted nothing. As the entire FBI waterfront investigation accelerated, Ilan left the United States and returned to Israel.

Michael Colletti, the General Manager of Ford Export, faced with considerable evidence against him, eventually admitted to having received more than \$55,000 in cash as bribes from Morelli based upon an agreement much like the one Morelli had with Partos, Neumann and Ilan. In this agreement, in exchange for the bribes, Colletti insured that Morelli's All-Port Company retained Ford's export container business.

Investigation revealed several other aspects of Morelli's relationship with Partos and Neumann which appeared to compromise their decisionmaking abilities at Zim (decisions which organized crime could later use to generate payoffs and kickbacks to racketeers and mobsters). In the Fall of 1975, a crucial time in the Zim-Ford-All Port negotiations, Morelli lent \$15,000 to Neumann of Zim Company to permit him to buy a house. Neumann signed a note with Morelli for the loan but did not pay any interest. Neumann made payments of \$300 per month but at the time of this investigation those payments ceased because Neumann could no longer afford them.

Partos of Zim Company also received two checks from Morelli. Both checks were for \$25,000 each. One was received in Fall, 1974, drawn on the account of a Morelli enterprise known as Port Container. The other was received in Fall, 1975, drawn on All Port Services. Morelli described the first check as a payment for services rendered in 1973. Partos, however, could offer no explanation as to the nature of these services. The second check represented profits from Port Container—a company which Partos was given a one-third interest as a "silent partner" by Morelli without any capital investment. This actually was the vehicle by which Morelli rewarded Partos for directing business to Morelli's companies. Partos told the FBI that not only could he influence Zim's business but that through his contacts in the shipping industry, he could direct other business to Morelli.

There was further evidence that Morelli had compromised Captain Ilan, on behalf of Barone. With a check drawn on All Port Services, Morelli paid for Ilan, Neumann, and Partos' vacation to the Colonial Inn on Miami Beach in December, 1975.

Prior to and during the trial of ILA and management defendants which commenced in Miami in January, 1979, it became evident that Morelli functioned as an appendage of George Barone. In pretrial interviews and in trial testimony Partos made two significant revelations.

First, he met Barone at Ponte's Restaurant in December, 1975, in the company of Captain Ilan and Tony Morelli. Barone asked Partos and Ilan if they could confirm that Zim would be granting the Savannah contract to Teitelbaum. Partos confirmed this for Barone, who told them that he thought he could get something from Teitelbaum in connection with the stevedoring in Savannah.

Next, Partos stated that in March, 1976, he was in Miami and Morelli summoned him to a meeting with Barone at the Holiday Inn across from the Jockey Club. Partos met briefly with Morelli and Barone in the motel lounge. Barone told Partos that Teitelbaum had not yet paid him anything on the Savannah operation, and Barone requested Partos to supply him with Zim's specific tonnage figures at Savannah. Barone here was referring to a portion of the Savannah payoff terms—50 cents per ton and 1 percent of the manifest.

Anthony Morelli, born in New York and presently living in Brooklyn and Miami, had been engaged in the trucking and packing industry in New York and New Jersey since the early 1960's. At the time of this investigation, Morelli was a salesman with Amadel-Amarelli, Jersey City, N.J.; a trucking, packing and

warehousing operation. He was sole owner of a company called CPT Sales which he operated out of his home and through which he obtained payment from Amadel. He was sole owner of All Port Services, Inc., Port Newark, N.J., the company he incorporated to facilitate the Zim-Ford-All Port transaction and he was a third owner of Port Container Transfer, Inc. an ownership he shared with Bob Partos and an individual named Anthony Legouri. Port Container was created as a trucking business although having no trucks of its own. Occasionally it facilitated the movement of goods through the leasing of other trucks.

An FBI and IRS review of the books and records from Morelli's companies produced evidence of tax evasion as well as uncovering Morelli's secret scheme to generate the cash for his kickbacks. Morelli generated cash by causing his companies to write checks to various third parties for fictitious goods and services. He then caused these third parties to cash the checks and return the cash to Morelli, less a commission for themselves and for Morelli's accountant and coschemer, Arnold Friedman. These checks for fictitious goods and services were then entered and reported falsely and fraudulently on the books and records of his companies.

The final effects of this investigation resulted in immunity for Partos and Neumann with the understanding that they would resolve their own tax situations arising for the receipt of kickbacks which were not declared as income. Ilan escaped prosecution or cooperation by leaving the country. The individuals who aided Morelli in his schemes to generate cash with the exception of his accountant were not prosecuted in return for their cooperation. Michael Colletti pleaded guilty to a two count information charging one count Title 18, U.S.C. § 371 (conspiracy to use the mails to defraud) and one count Title 26, U.S.C. Section 7201 (tax evasion). Colletti's sentence was suspended, and he received 5 years unsupervised probation and a \$5,000 fine. Anthony Morelli pleaded guilty to a two count information charging one count of Title 18, U.S.C., § 1341 (mail fraud) and one count Title 26, U.S.C. (tax evasion). On October 30, 1980, imposition of sentence on Morelli was suspended, and he was placed on 5 years unsupervised probation with an \$11,000 fine.

This, in my opinion, is a microcosm of the shipping industry and a perfect example of the far-reaching effect of waterfront corruption.

The initial corruption or kickback asked for and received by a labor racketeer "ripples" out and spins off into various other forms of corruption and hidden costs.

In this one small example of the UNIRAC investigation we have:

1. A substantial kickback being paid to a union official who promises to get a shipping company business at a certain port.
2. Fraudulent billings and inflated costs to absorb this kickback.
3. A scheme prepared by an associate of the labor racketeer which used inflated billings to generate cash to corrupt company officials in decisionmaking positions who would later grant "favors" to labor racketeers.
4. Costs of this scheme were absorbed by the Parent Company and passed on.
5. Companies able and willing to compete using our free enterprise system for a contract with Zim Company in the Port of Savannah were prohibited from doing so because of the pervasive corruption.
6. A demonstration that shipping companies are perfectly willing to accept union payoffs as a cost of doing business and only the exposure of their own employees scheme generated any reaction. This clearly demonstrates to me the acceptance and pervasiveness of payoff and kickback schemes on the waterfront.
7. The failure by all those involved to keep accurate records and pay taxes on their incomes as every other citizen is obligated to do.
8. The tremendous burden of the costs of all of these factors which is passed on directly to the American Consumer.

I wish to thank the Subcommittee for allowing me to present this "insiders" look at one isolated waterfront transaction. Hopefully, Congress can act to prevent the many disastrous effects the accumulation of these transactions have on our citizens.

Senator NUNN. Our next witness is Mr. Anthony Morelli, past president, All Port Services, Inc., New Jersey.

Mr. Morelli, would you please raise your right hand? Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MORELLI. I do.  
 Senator NUNN. I didn't hear you. Would you state it for the record?  
 Mr. MORELLI. I do.

**TESTIMONY OF ANTHONY MORELLI, PAST PRESIDENT, ALL PORT SERVICES, INC., PORT NEWARK, N.J., ACCOMPANIED BY HAL MYERSON, ATTORNEY, NEW YORK**

Senator NUNN. Mr. Morelli, we have rules before this subcommittee and I will just generally briefly inform you of them. I know your counsel has been in touch with ours. First, you have the right to have a lawyer with you here. Are you represented by an attorney?

Mr. MORELLI. Yes, sir.

Senator NUNN. Could you pull that mike up?

Mr. MORELLI. Yes, sir.

Senator NUNN. Would your attorney want to introduce himself?

Mr. MORELLI. Yes, sir.

Mr. MYERSON. Hal Myerson, 60 45th Street, Manhattan.

Senator NUNN. Mr. Myers?

Mr. MYERSON. Myerson.

Senator NUNN. Mr. Morelli, Mr. Myerson represents you; is that correct?

Mr. MORELLI. Yes, sir.

Senator NUNN. You have the right to consult with your attorney before you answer any question. Do you understand that right?

Mr. MORELLI. Yes, sir.

Senator NUNN. You also have the right not to say anything if you believe that it will incriminate you. Do you understand that right?

Mr. MORELLI. Yes, sir.

Senator NUNN. Mr. Morelli, we have heard testimony that you paid off officials of the Zim American-Israeli Shipping Co. in a number of ways such as sham loans, hidden interest in business, cash payoffs, pay for vacations, and created a complex kickback scheme in connection with inflated invoices to load Ford automobiles aboard Zim ships to continue these payoffs to Zim officials. Is it true that you corrupted and compromised these Zim Co. officials in order to have them award Zim shipping service contracts to various companies and vendors who were chosen by labor racketeers in the International Longshoremen's Association?

Mr. MORELLI. I respectfully decline to answer and assert my privilege under the fifth amendment of the U.S. Constitution.

Mr. MYERSON. Senator, for your edification, I have instructed my client to answer all subsequent questions to the same effect.

Senator NUNN. All right, sir. We understand that and we will not detain him for a long time, but I do have a couple more questions I would like to ask. Of course, he can assert his own rights under the Constitution.

Mr. Morelli, isn't it true that labor racketeers and mobsters have to utilize middlemen such as yourself in order to corrupt shipping company officials so that you can steer or direct shipping company businesses to those firms willing to make payoffs and kickbacks to labor racketeers and mobsters?

Mr. MORELLI. I respectfully decline to answer and assert my privilege under the fifth amendment of the U.S. Constitution.

Senator NUNN. Mr. Morelli, isn't it a fact that you used Zim Co. officials to award a contract to Joe Teitelbaum's company in the Port of Savannah under the orders of the labor racketeer George Barone?

Mr. MORELLI. I respectfully decline to answer and assert my privilege under the fifth amendment of the U.S. Constitution.

Senator NUNN. Mr. Morelli, just a couple more questions.

How much money did George Barone receive as a result of the payoff scheme?

Mr. MORELLI. I respectfully decline to answer and assert my privilege under the fifth amendment of the U.S. Constitution.

Senator NUNN. Isn't it a fact that what you were doing was creating a monopoly for companies handpicked by labor racketeers?

Mr. MORELLI. I respectfully decline to answer and assert my privilege under the fifth amendment of the U.S. Constitution.

Senator NUNN. Mr. Morelli, this subcommittee wanted to get your complete and full testimony. We felt it would be helpful in arriving at legislative solutions for many of the problems we have heard about on the waterfront.

We understand your right to counsel. We understand your counsel's advice to you. We understand that certainly you have the right to assert your privilege under the Constitution. Rather than continuing to ask you questions, when we have been informed that you will continue to assert your constitutional privileges, we just thank you for appearing here today and we will have no further questions at this time, unless one of my colleagues, Senator Rudman, would like to ask a question.

We have no further questions.

Mr. MYERSON. Thank you Senator.

Senator NUNN. Thank you.

Tomorrow's hearings, we will start with a protected witness. Then we will hear from Mr. Neal Harrington, chief executive officer, Harrington & Co., Inc.

We will have a staff statement from Glenn Fry, one of our investigators. Then we will call Dr. Irwin Roth, of Miami, Fla. Then we will have Mr. Frank Arevalo, Twin Terminals Services, Inc., in Miami, and then we will hear from Mr. George Havens, chief investigator, State attorneys office of the 11th judicial circuit of the State of Florida.

We will begin the hearings at 10 tomorrow morning and at that time we will be in room 3302 in the Dirksen Building.

At this point, the hearings are adjourned.

[Members present at time of adjournment, Senators Rudman and Nunn.]

[Whereupon, at 2:50 p.m., the subcommittee was recessed to reconvene at 10 a.m., Wednesday, February 18, 1981.]

**WATERFRONT CORRUPTION**

WEDNESDAY, FEBRUARY 18, 1981

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, D.C.*

The subcommittee met at 10:10 a.m., pursuant to recess, in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Sam Nunn presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire; Senator Sam Nunn, Democrat, Georgia; and Senator Lawton Chiles, Democrat, Florida.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. P. Goodwin, Jr., staff director to the minority; Eleanor Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key, Raymond Worsham, Raymond Maria, and Glenn Fry, investigators to the minority; Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Member present at the time of convening: Senator Nunn.]  
[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
*Washington, D.C.*

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH, JR.,  
*Chairman.*

SAM NUNN,  
*Ranking Minority Member.*

Senator NUNN. Mr. Harrington, glad to have you this morning. We swear in all of our witnesses before this subcommittee. So before we start the testimony, would you please stand and let me give you the oath?

Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HARRINGTON. I do.

**CONTINUED**

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Senator NUNN. Mr. Harrington is chief executive officer of Harrington & Co., Inc., in Miami, Fla.

Mr. Harrington, we appreciate your being here this morning. We appreciate your cooperation with the staff in preparing for this hearing, and we appreciate your cooperation with the committee in being here this morning. I believe you have an opening statement.

Mr. HARRINGTON. Yes, I do, Senator.

Senator NUNN. Why don't you proceed with that? Is this your attorney representing you this morning?

Mr. HARRINGTON. Yes, Mr. Louis Stinson, Jr.

Senator NUNN. Mr. Stinson, would you give us your firm name?

Mr. STINSON. Helliwell, Melrose & DeWolf, Miami, Fla.

Senator NUNN. Mr. Harrington, you have the right, when we begin questioning, at any time during your testimony, to consult with your attorney under the rules of the subcommittee. If you want to consult with your attorney before you answer any question, you are certainly entitled to do so. I urge you to take your time. If you need some water, go ahead and have some. Take time and present your testimony as you think it should be told before this subcommittee. Then we will have questions for you.

**TESTIMONY OF NEAL L. HARRINGTON, CHIEF EXECUTIVE OFFICER, HARRINGTON & CO., INC., MIAMI, FLA., ACCOMPANIED BY LOUIS STINSON, JR., ATTORNEY, HELLIWELL, MELROSE & DeWOLF, MIAMI, FLA.**

Mr. HARRINGTON. My name is Neal L. Harrington. I am 51 years old and the chief executive officer and majority stockholder of Harrington & Co., Inc., a steamship agency and contract stevedore company with headquarters in Miami, Fla. The company also does business in New Orleans, La.; Fort Lauderdale and Jacksonville, Fla.; Savannah, Ga.; Charleston, S.C.; Wilmington, N.C.; Houston, Tex.; and Tampa, Fla.

In June 1978, I was indicted by a Federal grand jury in Miami, Fla., and charged with making illegal cash payments to officers of the International Longshoremen's Association, the ILA.

This indictment also charged 21 other individuals, 9 of whom were officers in the ILA. After sitting through a trial from January through July 1979, I was severed from the other union and management defendants and was to be tried separately. In June 1980, I entered a guilty plea to four misdemeanor counts of making prohibited payments to officers of the ILA and on July 29, 1980, I was sentenced to 2 years probation and fined \$25,000. I want to make it abundantly clear to this subcommittee that shortly after I became aware of the seriousness of the Government's efforts and potential of criminal conduct, I voluntarily provided the Government with records it may not have otherwise had access to, even though these records would ultimately show my own involvement. Moreover, as you know, I have taken every opportunity to cooperate with the Government and with the U.S. Senate to assist in altering the pervasive corruption on the waterfront.

My severance from the other defendants eventually was granted because I intended to take the stand in my own behalf and admit that I

made payoffs to ILA officials, not as part of a criminal conspiracy but because my company was the victim of economic extortion by certain ILA officers. In testifying before this subcommittee I will describe the circumstances under which such extortion occurred in an effort to provide some insight into the basic problem which affects the long-term health of our shipping industry. The problem, quite simply, is the erosion of that healthy, competitive relationship that existed between management and labor. The relationship has degenerated into one in which management is completely vulnerable to the predatory tactics of a corrupt clique of union officials.

Let me now acquaint you with the facts:

In 1965, I formed Harrington & Co., Inc., in Miami, Fla. In addition to myself, there were two full-time employees who initially worked without compensation in joining me in this venture. As a steamship agency and stevedore service the company started with one customer, a cruise ship account. The company signed a collective bargaining agreement with ILA Local 1416, Miami, Fla., which provided the longshoremen and porters for the stevedore service on that passenger vessel. Labor/management negotiations in New York established the longshoremen's wage and fringe benefits while spokesmen for the largest Miami stevedore companies negotiated local work rules and labor gang structure for the south Florida ports. During this period the working relationship with the ILA in Miami was a positive one with no hint or suggestion of extortion or payoffs between my company and officers of local 1416.

During 1965, checkers in Miami were company employees and were not represented by the ILA. Checkers generally perform their duties at the warehouse or shipside. A warehouse checker receives cargo for export and import and prepares appropriate receipts. A shipside checker is responsible for tallying cargo on and off a ship according to the manifest.

In 1966, Doug Rago, Dave Kenney, George Barone, Bill Boyle, and James Vanderwyde came to Miami from the New York area where they were affiliated with the ILA and organized the checkers into Miami Local 1922. Rago negotiated the contract with the Miami stevedore companies. Owing to its small size at that time, Harrington & Co., Inc., played a passive role in these negotiations and merely followed the direction of the larger, dominant companies.

Once the collective bargaining agreement was signed, Harrington's company checkers became members of the ILA.

Checkers from local 1922 and longshoremen from local 1416 generally were assigned to the various stevedore companies at a morning formation known as the shapeup. Assignments were made by union officials based upon manpower requests by stevedore companies.

In 1967-68, Bill Boyle represented himself as a business agent for the checkers local 1922 and was assigned by the local as an additional checker on the Harrington payroll approximately 2 days each week.

Boyle performed no work and was not present. He stated that he had placed himself on the payroll because local 1922 could not afford to pay him a salary. I also learned that Boyle engaged in the same practice with other stevedore companies.

In approximately 1968, I spent approximately a third of my time on the dock and warehouse area. During one discussion of a work rule

problem with Boyle, he told me that I would have to pay him some money. He stated that the money was not for him personally but for the "boys." I knew that Boyle was referring to the local 1922 officials, George Barone, James Vanderwyde, and Doug Rago.

I told Boyle I would pay nothing and would rather shut down than submit to such extortion. I told him I had nothing to lose and then evicted him from my premises. Although Harrington & Co., Inc., had begun to increase its sales and services, the company still was in its infancy, and was not generating sufficient cash or profits to be able to withstand additional expenses such as payoffs.

By 1970, local 1922 no longer assigned Boyle as a checker on the Harrington payroll. George Wagner, the superintendent at a Miami stevedore company known as Marine Terminals, told me, however, that he was carrying Boyle on his payroll as a no-show checker.

During the period 1969 to 1972, Harrington & Co., Inc., began to profit from increased maritime traffic at the new Port of Miami. Operations were expanded to Port Everglades and Jacksonville, Fla. The company, through the hard work and energy of its employees, became one of the more dominant agency and stevedoring services in the South Atlantic. During this period ILA local 1922 assigned 8 to 10 checkers to Harrington & Co., Inc., on a daily basis. Many of those assigned as checkers were incapable of performing the job at hand. As a direct result of such incompetency, cargo frequently was misdirected or not loaded according to the ship's manifest, thereby adding materially to the company's operating cost. I frequently complained to Bill Boyle about the incompetency of such checkers.

Boyle, Barone, and Vanderwyde used their local union positions to give winter employment to many of their friends and associates from the New York area. It was this group of individuals, not the regularly assigned resident checkers, who proved incompetent and hampered production. Boyle on more than one occasion told me that these men were cronies of important New York people and local 1922 had to give them work during their winter vacations.

Sometime in mid-1972 Boyle asked me to start giving him a payoff of \$1,000 per month. He warned me that at that time I had a lot to lose and could not just throw away a profitable company. Boyle threatened me with labor problems and stated: "If you think the quality of labor is had now, imagine what it could be like." He told me that the money would go to the boys and that it was his job to take care of them. I did not submit immediately to these payoff demands and threats, but told Boyle that I would think it over.

For approximately 1 week I agonized over what I should do. There were two basic alternatives: to pay or refuse to pay. If I chose not to pay, I could go to the authorities and still face going out of business. In this regard there were some significant events which led me to conclude that law enforcement authorities had little capability in coping with even simple criminal acts on the waterfront.

In 1968, I was asked for a \$5,000 payoff to insure favorable consideration of my stevedoring license application by the port commission. Although I refused to do so, I nevertheless received a license from the commission. I reported that incident to law enforcement authorities. To my knowledge, no one was prosecuted in connection with that incident.

A second experience occurred during the ILA strike of 1968. The company retained off-duty policemen to provide security at our warehouse, and these officers apprehended six longshoremen stealing cargo. The State's attorney dropped charges against five men and permitted one man to plead guilty to a minor charge. That man was not incarcerated and returned to the docks after the strike.

In another instance, two longshoremen assigned to Harrington & Co., Inc., were apprehended on two separate occasions for stealing cargo. I testified against them in court. The case was thrown out by the judge on some legal technicality, and the ILA assigned the men to my payroll once again.

Prior to this second payoff solicitation by Boyle, Federal authorities had told me that the frequent theft cases on the docks were given a very low investigative priority by the Federal Government. With an increase in losses, company insurance rates began to rise. I was compelled to increase the deductible provision of the policy in order to be competitive in bidding on cost plus stevedore contracts.

Believing that the authorities could not combat such relatively unsophisticated crimes, I concluded that they certainly were not equipped to assist me against such infamous people as Barone, Boyle, Rago, and Vanderwyde.

It was common knowledge in Miami that they were characters from the New York docks, and that some even had been expelled from New York by the Waterfront Commission.

Based upon these experiences and the information available to me, I decided not to risk losing my company. Within a few days after I told Boyle that I needed time to think, he came to me again. He again asked me for a payoff of \$1,000 per month but after a lengthy argument I convinced him that the company could not afford more than \$400 per month. Boyle agreed on this amount and specified cash saying, "You know why." Boyle then told me that this money was being shared with Cleveland Turner, the president of Longshoreman's Local 1416 in Miami.

Harrington & Co., Inc., began making monthly cash payoffs to Boyle. The first payoff began in September 1972. Payoffs initially were made by me personally, and later were physically handled by my secretary who gave Boyle the cash in a white envelope.

As business increased and the prosperity of the company became visible, Boyle demanded larger payoffs. Thus by yearend 1976, the monthly amount had risen to \$1,380. Each time Boyle approached me for more money I attempted to reduce his demands to the lowest possible figure. Each time Boyle warned me and told me that the boys were greedy and wanted more. He told me not to rock the boat. His threats were virtually the same and less than subtle. He told me about all the worthless people who were coming down from New York as somebody's "contact" and had to be put to work as checkers.

[At this point, Senators Rudman and Chiles entered the hearing room.]

Mr. HARRINGTON. I already had seen the disastrous effects of such incompetent checkers and understood Boyle's threat. I increased the payoff amounts merely as a form of insurance to avoid a financial catastrophe. I paid without expecting anything in return. I merely hoped that the work force did not become even worse.

Approximately 2 years after I started the payoffs to Boyle, I became involved in a work rules argument with Cleveland Turner. I told Turner that he should not press his point in light of the amount of money that I was paying him through Boyle. Turner replied that he received no money from Boyle and his friends and that if I expected to "do any good" with him, I had to pay him personally.

Thus, in 1974, the company started making a \$200 monthly payoff to Turner in order to preserve management prerogatives in the supervision of longshoremen labor.

After starting the payoffs to Turner, I went to Boyle and told him that his payoff should be reduced by 50 percent because I was paying Turner directly. Boyle laughed and told me that this was not the way it should be done and to continue the full amount in order not to anger the boys.

From 1974 through 1976, the monthly payoff to Turner was increased twice until the figure reached \$800 per month. Each increase was in response to a demand by Turner with the threat of labor interference being the compelling factor in my complying with this demand.

Company records reflect that from September 1972 through January 1977, Boyle received payoffs of nearly \$57,000 while Turner took approximately \$19,000 during the period 1974 to 1976.

In addition to George Wagner, Boyle also made remarks which led me to believe that the other stevedore companies were making payoffs. This also was a factor in acquiescing to the payoffs because I did not wish to risk losing business to my competitors who might enjoy good labor production while Harrington & Co., grappled with poor production. On two occasions in 1975, Boyle asked me for two loans in the amounts of \$15,000 and \$6,000. In each instance, he told me that certain people had not made their payments to him and that he had to produce this money for the "boys." Both times the company lent the money to Boyle after he signed notes. He repaid the full amounts within the same year.

To reiterate, I decided to make these payoffs because I believed that the company had no viable alternative in a labor intensive business such as stevedoring.

Our company was inordinately dependent on ILA labor, and it was this factor which compelled me to submit to the extortion by these ILA officers. I had long since concluded that they were arrogant persons who considered themselves above the law. This characterization is supported by their behavior after the FBI undercover investigation was publicized in late January 1977.

Notwithstanding this publicity and issuance of hundreds of subpoenas, Boyle came to my office in early February and asked for that month's payoff. I told him that he must be "nuts" and that there would be no more money. He merely laughed and left.

These are my experiences with corruption in my industry—an industry in which stevedore management cannot meet the ILA as an equal. Management in the stevedoring industry is not a unified, single-minded bargaining agent. To the contrary, the economic reality of a fiercely competitive industry such as stevedoring necessarily results in division and competition amongst management even in the context of negotiations by the ILA.

By contrast, the ILA has sole representation of all major U.S. ports. In addition, the laws confer special financial benefits on the ILA and all other labor unions. Included in those benefits are freedom from Federal income tax, "automatic" financing through dues checkoff, the requirement that management in effect "recruit" their membership through the union shop, and freedom from the restrictions imposed on the industry by the antitrust laws. Those advantages, coupled with a virtual monopoly on waterfront labor, has created a situation whereby the ILA is the undisputed king of the docks. The ILA locals at different ports can and do act in concert to further the objectives of the entire organization.

The power of the ILA on the docks becomes not only formidable but in fact devastating to management when that power is used corruptly, as testified to before this subcommittee. Moreover, the unequal status of management and the ILA surfaces even in the consequences of the entire waterfront investigation. Once I was indicted, I was "suspended" by my profession. I was required to resign a seat on the board of directors of a bank; potential customers refused to do business with the company; and commercial loans became difficult to obtain. All of this occurred prior to any plea or finding of guilty.

As a result of my guilty plea, I have found myself burdened with consequences far greater than the term of probation and fine imposed by the judge. In spite of my plea agreement and cooperation with the Government, I have now been advised that the U.S. Department of the Army, due to my conviction, has decided to formally debar Harrington & Co., Inc., from receipt of any Government contracts issued by the Department of Defense. Harrington & Co., Inc., is faced with that decision despite any failure by the company to fully and adequately meet all past contractual obligations to the Government. Moreover, the threat of debarment poses a serious threat to the economic well-being of our company. Our company has no alternative but to expend valuable time, money, and other resources in contesting that decision through a multitude of bureaucratic channels. Of course, we do so with no guarantee that we will be able to successfully reverse that decision.

Contrast my position to that of the union defendants. These men who generated fear of labor problems and wielded such awesome power over the industry continue to hold their positions and collect salaries even after convictions. I find myself and other management representatives confronted across the bargaining table by ILA officers who stand convicted of labor racketeering. The law allows them to openly hold their union status while contesting the jury's verdict on appeal. Their positions are so unique, in my opinion, that a conviction for extortion should have brought an immediate suspension from union activity. Their power and influence on the waterfront remains in force today despite those convictions.

I have read, reviewed, and initialed each page of this statement, and I swear to the best of my knowledge and belief that it is true and correct. Signed, Neal L. Harrington.

Senator NUNN. Thank you very much, Mr. Harrington. I have written a letter to the Secretary of the Army informing him of your total cooperation with this subcommittee. I do not control, nor should the

Senate control decisions by the Army in this respect, but I do want you to know that I have let the Secretary of the Army know of the circumstances under which you have testified and your cooperation with the subcommittee and also of your cooperation with the Government, which our staff has informed me of. So at least that will be in evidence on your behalf.

Mr. HARRINGTON. On behalf of my company and myself, Senator, we appreciate it.

Senator NUNN. Mr. Harrington, you testified that a group of individuals, specifically Doug Rago, Dave Kenny, George Barone, Bill Boyle, and James Vanderwyde, came to the Miami area from New York in 1966 whereupon they organized the checkers into the ILA. Do you know what role, if any, these individuals played in the ILA in New York and what prompted them to leave New York and relocate in south Florida?

Mr. HARRINGTON. It is my understanding that these individuals were members of the ILA in New York and had many friends in the hierarchy of it.

It also is my understanding that they were sent down in order to form a checkers union, for reasons such as they had been expelled by the Waterfront Commission in New York, and could no longer pursue their profession there.

Senator NUNN. You mentioned also that they were favored with employment because they were cronies of important New York men. What did you understand the words "important New York men" to mean?

Mr. HARRINGTON. Well, it was never said openly, but indicated by Boyle that their friends in the hierarchy were members of the "Mob"—organized crime families in New York.

Senator NUNN. Why did you come to that conclusion? Was that just common knowledge or was that something somebody explicitly said? How did you come to the conclusion that when they talked about important men, they were talking about organized criminal elements of New York?

Mr. HARRINGTON. It was through the inference of Mr. Boyle. That was the only conclusion you could draw. Not only myself, but all of us in the shipping industry in Miami.

Senator NUNN. You made reference to the problems covering your company's insurance cost due to the frequency of thefts on the dock. Did the ILA leadership ever take any action, to your knowledge, to try to curb or solve the rising theft problems on the docks?

Mr. HARRINGTON. No, sir, not to my knowledge whatsoever. In fact, the ironical part of it is any time any of their members are convicted, they are automatically right back in the same jobs in the same places, and, of course, naturally the insurance costs go up as these claims have to be paid and consequently the cost of this is borne by the consumer, in the end result.

Senator NUNN. So when people are convicted of theft, actually convicted, they are reassigned in many cases directly back to the company they stole from?

Mr. HARRINGTON. The majority of the time they are put right back where they were.

Senator NUNN. What about the payoffs and kickbacks, and so forth, that are paid? Who ultimately bears the cost of that?

Mr. HARRINGTON. One minute, Senator.

In reply to that, Senator, the ultimate cost of payoffs have to be borne by the consumer. In a port like Miami, these payoffs were, in my opinion, made by just about every stevedoring company there. So consequently, the competitive edge was such that there wasn't any, and the consumer ended up paying the whole cost of it in the end, except in our cases, I paid it with after-tax dollars out of my own pocket.

Senator NUNN. What is it that is different about the stevedoring industry, or is there anything unique or different about it, that basically causes it to be so susceptible to this kind of labor practice?

Mr. HARRINGTON. Well, the stevedoring industry is a peculiar creature in the marketplace, which results in extreme vulnerability of management to extortion of labor officials because we are highly intensified with labor, whereas in other businesses, they are highly intensified in capital requirements, machinery, et cetera, and consequently with the least movement of productivity or anything else, we lose a competitive edge with our competitors, which will end up and result in the consumer paying an increased price due to this activity. Consequently, in order not to lose this edge, we are so vulnerable to extortion.

Senator NUNN. You mentioned poor production and poor quality labor, and so forth. Can you give us any examples of poor production or incompetence?

Mr. HARRINGTON. Well, as I stated before in this matter, when people were convicted, and are known thieves, they would be returned right back to the same job. In other instances, as you know, the machinery that is used, forklifts, other highly technical mechanical pieces such as used in lifting containers, which cost over \$250,000, and I can think of an instance where they sent a longshoreman to handle this equipment and he had no idea of what he was doing whatsoever. In other words, he was not technically trained at all but I had no recourse but to take him and use him on that highly sophisticated and expensive piece of equipment.

Senator NUNN. At this point I am going to rotate so we will all be participating in questioning.

Senator Rudman, why don't you go ahead and proceed and then Senator Chiles.

Senator RUDMAN. Mr. Harrington, if you had failed to cooperate at the very outset of these extortion demands, what would have been the ultimate cost to you?

Mr. HARRINGTON. Senator, as you know, in this day and time, I guess energy is our foremost word. Today the cost of a vessel, which is really what we do, a service to a principle, if we had low productivity or bad labor, it can cost as much as \$35,000 a day for that shipowner, which is the big whip unions have over us.

Senator RUDMAN. What you are saying is by your failure to cooperate with these demands for extortion, the labor might not be there to perform their function?

Mr. HARRINGTON. That is correct, or even if it was there and there was a slowdown, and the ship had to work extra hours, you can see

what it would cost not only to ourselves, but the owner, which in turn passes it right back to the consumer.

Senator RUDMAN. We have been talking about these union officials who are involved in extortion, forcing you and others to buy labor peace. But we really haven't talked about the people who do the work, the longshoremen themselves. Describe their pay, benefits, and generally how they compare with other workers in this society.

Mr. HARRINGTON. I think many people have the misconception, I guess from movies or wherever, that these are very low-paid people. Today a longshoreman is one of the very highly paid people in all of our industrial or manufacturing society today—an example: A water-boy that takes nothing but water for the men to drink earns approximately \$14 an hour. By the way, you have some of your staff members who would like to have that job.

Senator RUDMAN. Maybe even some Senators.

Mr. HARRINGTON, there has been evidence in another area that has been developed here that I want to discuss for a moment. That is in the area of fraudulent claims in the medical area, workmen's compensation area. How prevalent are these claims? Is it still a problem? Our staff and the FBI investigations indicated that fraudulent claims was another area where substantial additional costs were accrued. Can you tell us about them in the past and can you tell us what the present status might be?

Mr. HARRINGTON. Well, under the bargaining agreement we have, the union is allowed to choose the doctors, lawyers, et cetera, for the trust funds. Under the Longshoremen Harbor Workers Act, which is the compensation that covers the workers, it seems to me that all of the fraudulent cases are such that no matter what happens, when the matter goes before a court of law, automatically in over 90 percent of the cases, whether the man was or was not injured he is awarded benefits. This goes back again to the lawyers and the doctors that are picked by the union officials to represent these men. And consequently, as you know, the Longshoremen Act—again, there are staff members who would like to be hurt under this—pays benefits over \$400 a week under workmen's compensation.

Senator RUDMAN. Aside from the status of the claims in terms of how much they pay, I guess what I would like to know is, has the situation changed at all? Have we changed it at all or are we still involved in a number of claims which are, in fact, either fraudulent or borderline and thus adding substantial costs to the costs of loading cargo in these ports?

Mr. HARRINGTON. It is the same if not worse.

Senator RUDMAN. We have heard some testimony here about the so-called 50-mile rule about stripping and stuffing containers, companies that violate contracts. I am going to ask the staff to give you a brief summary of some of the problems that they have uncovered with a company called Twin Express and maybe with your knowledge you might be able to shed some light on these particular facts. Which of the staff members has the information?

Mr. STEINBERG. Early this morning we provided Mr. Harrington with the information concerning Twin Express and I believe he has the information necessary to answer the question.

Senator RUDMAN. Have you read that information, Mr. Harrington?

Mr. HARRINGTON. Yes.

Senator RUDMAN. Could you respond to that, as to what that rule is doing, whether or not this activity is possible?

Mr. HARRINGTON. Given what I know through our years of experience on the waterfront, knowing the manpower, equipment, and warehouse space it takes, I will say it is virtually impossible for this to be done.

Senator RUDMAN. Tell us about the marketing situation and the labor contracts that exist using so-called freight consolidators that evidently do very little and can cost a great deal. What leads to this part of the bargaining agreement?

Mr. HARRINGTON. Yes; the 50-mile rule is written into all of the labor contracts up and down the coast. It forces shippers to send their materials either to the waterfront or to these consolidators, to use ILA labor when in fact he probably knows in many instances how to stuff that container to the specification of the merchandise, to keep it from being damaged, et cetera. And, you know, I guess the only way I know how to put it, the 50-mile rule is nothing but a sham.

Senator RUDMAN. And in the final analysis it probably also costs some legitimate ILA members, rank and file members, it probably costs them some work.

Mr. HARRINGTON. Absolutely. It is cheating the men who are good ILA members out of a lot of work.

Senator RUDMAN. Is there any conceivable benefit in this rule which you have now described as a sham, is there any legitimate benefit at all to the consumers of this country who depend on cargo services?

Mr. HARRINGTON. None that I can see.

Senator RUDMAN. I think we will turn it back to you, Mr. Chairman.

Senator NUNN. Senator Chiles.

Senator CHILES. Mr. Harrington, besides the payoffs and the pervasive corruption that you talked about here, is the thievery on the docks still the biggest problem?

Mr. HARRINGTON. Senator Chiles, without doubt it is the biggest problem.

Senator CHILES. Is that one of the reasons that people have gone to containerized or attempted to go to containerized cartons?

Mr. HARRINGTON. It is one of the main reasons. Yes.

Senator CHILES. If those containerized cartons are opened or required to be opened or repacked, that really does away with any benefits that come with a containerized carton. Is that correct?

Mr. HARRINGTON. That is correct, Senator.

Senator CHILES. From your experience in the shipping industry and the trials that you have participated in, tell me what your concern is as to whether organized crime either does or will dominate the waterfront.

Mr. HARRINGTON. From my experience over the last 4 years and during the trials, it is my opinion that organized crime will use its influence to infiltrate the labor union of the ILA and consequently dominate the entire shipping industry. This is clear from my statement and the situation as it stands right now.

Senator CHILES. How do these kickbacks and payoffs, how do you see them adversely affecting the free enterprise system?

Mr. HARRINGTON. It is over and above that, with a labor-intensified industry, it goes right on down to the kickbacks, using certain vendors, using certain companies for this, that or the other which are all controlled by union officials.

Senator CHILES. You do not get the benefit of really having a competitive spirit?

Mr. HARRINGTON. There is no competitive spirit, there is no competition left at all in order to make the costs lower, which results in these costs again being borne ultimately by the consumer.

Senator CHILES. You testified, I think in your statement, that even though you were suspended from a directorship that you had on a bank and the Army has notified you that it was not going to allow you to ship military cargo, you were required to sit down and negotiate with these same people that you had testified against and had seen convicted of extortion. Is that right?

Mr. HARRINGTON. That is correct, Senator.

Senator CHILES. What did that do to the negotiating process when you had actually been a witness against them?

Mr. HARRINGTON. It made me feel like it was one sided, which I am sure it was.

Senator CHILES. It was not exactly a sort of a free bargaining process?

Mr. HARRINGTON. That is true.

Senator CHILES. What has been the role of the Department of Labor from the start of your experience on the docks, and if you will give me that in two phases? What do you see the U.S. Department of Labor doing up until the time of the trial and then after the trial and the convictions?

Mr. HARRINGTON. Senator Chiles, I think it is sort of like what someone said during the recent election about what they thought about the Energy Department as I think about the Labor Department. It should be abolished.

Senator CHILES. I take it from that that you did not see much of them before the trial?

Mr. HARRINGTON. No, sir. I do not see much of them now.

Senator CHILES. You have not seen anything of them after the trial?

Mr. HARRINGTON. No, sir. In fact I think it is very pro-labor. It is a protected arm of labor.

Senator CHILES. An arm of labor is one charge in which somebody could be helpful. What about the situation where people are convicted and are still holding office, positions of trust for the union members themselves, positions where they are having to negotiate with people, in other words holding the role of the officer of the ILA?

Mr. HARRINGTON. I believe about that like I believe about myself, in that I was basically suspended from my profession and if all things be equal I think everyone should be suspended equally.

Senator CHILES. You have traveled around and visited ports all over the world, I assume, in your business. Based on your observations in conversations you have had with people in similar businesses, what is the situation in ports that you see in other countries? Do they have the same kind of problem?

Mr. HARRINGTON. No, sir. They do not. As you know, the technology of shipping has changed drastically in the last 10 years from a break bulk which is hand cargo to containerization. It has taken a lot of technology, effort, machinery, and so forth, to make this go. The labor force has not decreased in this use of technology which it should have in order to reduce costs and keep up with times. If anything, it has increased labor, featherbedding, et cetera. What has happened in other countries that I have seen, especially in Europe, they have the same technology, they had the basic same problems of changing over but they were able to diversify in labor.

In other words, use only what was necessary, not put people out of work. They just redefined their work, put them in other areas that absorbed this labor force which consequently made the costs be reduced which was a reduction again to the consumer.

What we have done in this country was not only to infuse the capital for this technology but we have kept the same labor force, if not more, which is all it has done—it has made this technology more expensive again to the shipping lines which in turn goes to the consumer.

Senator NUNN. If the Senator would yield just for a brief question on that, I think it is abundantly clear that the consumer pays the cost for this corruption in this country, but what about the costs of exports? What about the competitive position of American industry trying to export and compete with other companies around the world? Is this bribery and corruption and lack of productivity and featherbedding also affecting our exports and our capability of competing?

Mr. HARRINGTON. Senator Nunn, I would have to say yes, because eventually as you know all freight rates for exports are controlled by the FMC in this country. Consequently when the price goes up, my cost goes up to the shipping line or any other agency or stevedoring company goes up in their price. They have to get an increase in freight rates. This is the only way that they can absorb it. So consequently, yes, it puts us at a disadvantage to that degree of exports with other countries in the world.

Senator CHILES. What kind of advice could you give us as to what we should do to try to assist in changing the pervasive corruption that has been going on?

Mr. HARRINGTON. If I may, Senator, I feel very strongly on this and I would like to read my thoughts rather than try to pull them out of my head—

Senator CHILES. Go right ahead.

Mr. HARRINGTON. First, change the laws so that union officials who are convicted can be immediately removed from their positions. Second, change the Longshoremen Harbor Workers Act so that the industry will be protected from fraudulent compensation claims. Third, I firmly believe that at one point in our history labor unions were needed to correct such things as sweatshops, poor wages and working conditions. However, I am now firmly convinced that the balance has swung too much in favor of the labor unions, not only the cost to management, but also the ultimate cost to the consumer in terms of price, productivity, and quality. I would like to see Congress balance these laws which give the unions such advantages in such a way that

management and the consumer are protected just as much as the labor union or its members are protected.

In this respect even though Florida is a right-to-work State you cannot work on the waterfront in Miami nor can you contract on a job on the waterfront that is not a union job. I believe the Federal Government should consider a law similar to the State's sunset laws, which legislation expires at the end of a specified period and Congress must reconsider legislation every so often under the changing economic and social circumstances. I believe if this were the case, many of our present labor laws which once served a valid purpose would be altered to reflect the present state of our economy and society.

Senator NUNN. Senator Rudman, I think, has one more question.

Senator RUDMAN. Mr. Harrington, what has happened to your business since all of these events and your problems with the law, what is your business doing now?

Mr. HARRINGTON. Senator, it has been within the last 6 or 8 months that just basically the notoriety died down, and we were able to get back to work. I can honestly tell you that during 1979 the company actually lost \$700,000.

Senator RUDMAN. What was the volume of the company in its greatest year before that?

Mr. HARRINGTON. \$22 million.

Senator RUDMAN. \$22 million company. I assume that you are still involved with a collective bargaining contract?

Mr. HARRINGTON. I personally, on the last one, was not. My partner handled that.

Senator RUDMAN. But your company.

Mr. HARRINGTON. Yes, oh, yes.

Senator RUDMAN. So you are dealing again with the ILA?

Mr. HARRINGTON. Every day.

Senator RUDMAN. Has there been some change in attitude since these FBI investigations, since the prosecutions and since all the publicity surrounding the extortion attempts up and down the east and gulf coast?

Mr. HARRINGTON. Yes; there has been a change. It is for the worse.

Senator NUNN. For the worse?

Senator RUDMAN. My question to you this morning, Mr. Harrington, is, Are you currently in any way being subjected to either direct, indirect, implied, or any other kind of coercion or intimidation regarding labor peace in your company?

Mr. HARRINGTON. It is my opinion not only ourselves, but all companies, yes, to this degree: The amount of labor disputes we have are almost daily now which means a slowdown. This is indirect. My personal feeling, I personally, do not know of direct payoffs of pure money, but as late as yesterday afternoon when I left Miami, we had another labor dispute with all of management, all of labor involved. There is an influx of union jobs being created that were never there before.

Senator RUDMAN. You are aware of the fact that the ILA has the sole authority within the framework of labor unions to organize people for doing this kind of work. Is that correct?

Mr. HARRINGTON. That is correct.

Senator RUDMAN. Thus they have no competition.

Mr. HARRINGTON. That is absolutely correct.

Senator RUDMAN. How would you feel about antitrust laws that would apply to a union so they could not have the monopolistic practices they have on the waterfront and other areas as well?

Mr. HARRINGTON. If they would deal in the right way, I would be totally for it.

Senator RUDMAN. Thank you.

Senator NUNN. You say the problems have actually gotten worse since the UNIRAC prosecutions and since you testified. Do you believe that the problems on the waterfront today are worse than they were before these prosecutions were brought?

Mr. HARRINGTON. To the degree of productivity, et cetera, which eventually is going to end up in higher costs.

Senator NUNN. Do you believe this is retaliation against your individual company or is it being applied across the board to other companies also?

Mr. HARRINGTON. Senator, I was talking about the industry that, as I know it, let us say in South Florida. I was not specifically speaking of my company. They do not do it just against one.

Senator NUNN. So you are not saying you are being singled out and retaliated against. You are just saying it is bad all over. Are you speaking mainly of productivity?

Mr. HARRINGTON. Yes.

Senator NUNN. What about bribery, corruption, that kind of direct payoff that we have heard so much testimony about? Did you think that situation has gotten worse or gotten better?

Mr. HARRINGTON. More sophisticated.

Senator NUNN. More sophisticated? You mean it is still there?

Mr. HARRINGTON. That is my personal belief.

Senator NUNN. Mr. Harrington, again, let me thank you for appearing. I know you have been through quite an ordeal. Again, you have been very cooperative with our subcommittee. We think your testimony will be valuable. No one can tell what the U.S. Senate and House of Representatives may do but I can assure you that myself, and I believe other members of this subcommittee, will be giving them an opportunity to vote on some corrective legislation in the future months. I think your testimony has made a direct contribution to that.

So good luck to you and I hope you are successful in getting your company back on good financial standings and certainly we all applaud you for being willing to testify.

Mr. HARRINGTON. Thank you, Senator.

Senator NUNN. We appreciate your attorney being here this morning also.

At this point, our next witness is a protected witness. George Wagner has made a request that no sound recordings be made of his voice while testifying. Mr. Wagner is a Government-protected witness who has been relocated under a new identity by the Federal witness security program. He is appearing here today of his own volition. He is being guarded by the U.S. Marshals Service because of threats that have been made on his life previously. At the marshals' request—and in keeping with our usual practice when receiving testimony from pro-

tected witnesses—Mr. Wagner will be seated behind an opaque screen which will prevent him from being seen by the audience. Television and other photography will be permitted from the audience side of the screen.

Mr. Wagner has requested that no sound recordings be made during his testimony because his distinctive voice, if heard by the residents of his new locale, could reveal his new identity and location. Under the circumstances, this request seems quite reasonable to me. Unless there is objection, I will order that all sound recording devices be turned off during Mr. Wagner's testimony.

I respectfully request that the members of the media here today abide by this order. I am sure that none of us would want to compromise Mr. Wagner's safety, nor would any of us want to be responsible for his having to be moved to still another location.

I also request that the media refrain from using any file photos of Mr. Wagner in connection with their coverage of these hearings.

We have had an experience where we did have a witness appear and although he was not photographed during these hearings, old file photographs were run of him and of course for the small amount of media value in that, it has enormous cost potential to the witness who is being relocated. And if all of us work together in trying to bring these facts to the public without jeopardizing these protected witnesses, I certainly believe that the public will be well served.

So I make these requests specifically to the news media and I ask your indulgence and your patience.

Should a photograph appear in Mr. Wagner's place of new residence, even if it comes from the file, it would certainly cause him to be in jeopardy and also certainly would cause his relocation.

So I would ask the staff to make sure that the recording devices are turned off. You will be permitted to shoot from the back with your cameras. You certainly will be permitted to take notes of anything that is said, but there will be no recording. At this point, we will ask that the room be cleared for approximately 10 minutes until the protected witness can be brought in and of course the cameras can be relocated now before the protected witness is brought in.

[Brief recess.]

[Members of the subcommittee present at the time of recess: Senators Nunn and Rudman.]

[Members present after the taking of a brief recess: Senators Nunn and Rudman.]

Senator NUNN. I will ask the hearing to come to order now. I don't know whether the cameras have had a chance—you have been very cooperative. We appreciate that. I ask everybody over there be on your word of honor that all recording devices are off.

The cameras can be turned to the front now, if you would like, and before we begin, I will give you time to do that if you would like to do it and then we will begin.

Mr. Wagner, I will ask you to remain seated while you take the oath. We swear in all the witnesses before this subcommittee. So if you will remain seated and hold up your hand. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WAGNER. So help me God.

### TESTIMONY OF GEORGE WAGNER, PROTECTED WITNESS

Senator NUNN. I want to express my appreciation personally, and I think I speak for all the members of this subcommittee, for you being willing to come before us today. I know you have a prepared statement. As I have mentioned to you privately a minute ago, take your time on your statement. If you want to get some water, we will keep the glass filled. If you need to take a break, we will clear the room again.

So if you have to take a break during the course of your testimony, you let us know, but you proceed with your statement as you see fit and then we will have questions for you.

If you would, try to talk into that microphone. The closer you get to it, the less you have to use your own voice in terms of volume. If you would do that we would appreciate it.

Mr. WAGNER. My name is George Wagner. I am 57 years old and currently am a relocated Federal witness as a result of my testimony for the U.S. Department of Justice in the 1979 racketeering trial of International Longshoremen's Association officials in Miami, Fla. Except for time spent in prison, I spent most of my life in the New York City area prior to moving to south Florida in 1964.

After leaving the U.S. Merchant Marine subsequent to World War II, I worked part-time on the piers in Brooklyn as both a checker and longshoreman. For the most part, however, I engaged in criminal activity. For a number of years I worked as a bookmaker for which I received a salary and a percentage of the action.

For a major portion of the 1950's I traveled throughout the country promoting a major stock fraud scheme which was organized and controlled by Carmine Lombardozi. In this scheme, Lombardozi purchased stock of an almost worthless Canadian company at pennies per share. He then funded the money necessary to publish a "pumped-up" prospectus and establish "boilerroom" offices in various U.S. cities to sell the stock at \$4 or \$5 per share. I personally supervised the setting up of these boilerrooms.

In 1959, I was convicted of selling fraudulent securities in Federal Court in Concord, N.H., and sentenced to 5 years probation. In 1960, in Federal Court, Brooklyn, N.Y., I pleaded guilty at the instruction of a mob attorney to the sale of fraudulent securities and served the entire sentence of 1 year and 1 day. In 1962, I was found guilty of grand larceny in the State of New Jersey and was confined to the State penitentiary in Trenton for 2 years.

Throughout my career of selling fraudulent securities, I regularly associated with members of the "mob" or Mafia. I traveled in what was called a "hoodlum fraternity," drinking and eating in places frequented by the mob. I learned about individuals' affiliations with the various mob "families" as well as their criminal specialties—which is counterfeiting, stolen securities, narcotics, guns, burglaries, and union shakedowns.

I learned much about George Barone, Doug Rago, and Jay Vanderwyde. Initially, these men were engaged in burglaries and bank robberies. They then were put into union jobs with the ship cleaners local union and then the International Longshoremen's Association in New

York. Each local union was run by the mob and employed people such as Vanderwyde for "heavy" work. Vanderwyde was known as a "shooter" and reputedly shot and killed two people who incurred the displeasure of mob bosses.

In asking questions about these men, I was told explicitly that Doug Rago was a "made" member of the Genovese family and that Barone was considered to be "respected" but not a "made" member of this family. After moving to Miami, I personally observed that Barone and other ILA officers clearly treated Rago as their superior.

This behavior and their statements confirmed Rago's status as a "made" guy. In order to discuss my experiences in a chronological manner, I will describe such behavior in specific detail later in this statement.

Upon my release from prison in New Jersey in 1964, I moved to Miami, Fla. I started work with Eller & Co. as a checker on the Miami docks.

Am I reading too fast, sir?

Senator NUNN. No, sir, you go at your own pace. You are doing fine.

Mr. WAGNER. I started work with Eller & Co. as a checker on the Miami docks. At that time, the checkers were not represented by a union. Longshoremen, however, were members of the ILA Local Union 1416 headed by Cleveland Turner.

I decided to try to organize the checkers into a union. I explained this to Cleve Turner and asked him for pledge cards. It was my intention to have the checkers join local 1416. I returned the signed cards to Turner, who handed them back to me and told me without any explanation that he could not accept them.

Next, my boss, Arthur Erb, called me in for a "father to son" talk. He said that he was surprised that I would attempt to organize checkers into a union without higher authority. He said that because of my background I should have known better and that there would be New York people involved in such union organization.

Erb concluded by stating that a checkers union would soon come. It was only a question of time. From Erb's statements, it was apparent to me that the mob, which controlled the ILA in New York, would also begin to expand to Florida.

During summer 1966, Dave Kenny and Bill Boyle came to Miami from New York. Kenny had an ILA charter from the ILA international office authorizing him to organize a checkers local in Miami. Boyle registered as a business agent for the new local.

Boyle was the only one of his group able to get a State license as a union organizer because Rago, Barone, and Vanderwyde had criminal records. I worked with both of these men in getting the stevedore companies to sign union contracts with the new checkers local 1922. Barone was installed as president; Rago as vice president; Kenney as the secretary-treasurer; and Vanderwyde as office manager.

I became the acting port shop steward for Checkers Local 1922. I personally handled the "shape" or daily assignment of checkers to the various stevedore companies. I was not paid for this union activity but instead worked as a checker for the stevedore companies.

In approximately 1967, I became a full-time employee of a new stevedoring company known as Marine Terminals, Inc. For a few months, I was assistant to the general manager and then was promoted to general manager. Although a full-time management employee, I remained a member of local 1922 and continued to run the daily "shape" for the local.

Barone told me to take this job but still remain with the union. He told me that he had discussed this position with Al Chester and Jack Sklaire of Chester, Blackburn & Roder, the shipping company which owned Marine Terminals.

Boyle, Barone, and Vanderwyde all told me to help the union and to be on the lookout to make a dollar wherever we could. As the general manager of Marine Terminals, I added Bill Boyle's name to the payroll as a "ghost" checker. Thus, he received checker's pay without performing work for the company. Company management was aware of this practice because they told me to do whatever I had to do to make the stevedore and warehouse operation work profitably. Al Chester, president of the company, told me that "Mr. Sklaire takes care of George Barone." I told Chester that I would handle Cleveland Turner, Jay Vanderwyde, Bill Boyle. Chester told me I had his blessing.

Barone frequently reminded me to look for ways to make money for him and his ILA associates. He told me to deal with Boyle and fill him in on everything that the company was doing.

I kept Boyle on the payroll as a "ghost" for approximately 1 year. Sometime during 1968, I also started giving Boyle a monthly sum of cash. I acquired this money through kickbacks which I demanded from the various vendors and suppliers to Marine Terminals.

Sometimes I let the vendors "pad" the bills to Marine Terminals in order to generate cash for these kickbacks. Boyle told me at this time that he wasn't getting anything from Barone and Vanderwyde. He told me that these men had "their own angles going," and they had money coming into a "pot" but they did not share this money with Boyle.

By the end of 1968, I was generating enough kickbacks to give Boyle \$800 cash each month. I told Boyle, however, not to mention this money to Barone, Vanderwyde, or Rago.

In 1970 or 1971, Boyle told me that he would start to contribute his money to the "pot" because they were going to let him share in the "pot." Boyle told me to raise my monthly payment to him to \$1,000, and I agreed. I told him that he would be foolish to contribute to the "pot," but Boyle stated that he wanted to "be looked on as a better wage earner for the pot."

These \$1,000 payments were made each month through July 1975. If Boyle didn't pick them up, Vanderwyde would call me at home and tell me to bring the money to him. Frequently, Barone came to me when I was late with the payment and asked if I took "care of it this month." Many times I avoided these people because I spent the cash at the track and had to "juggle" and borrow to raise the \$1,000.

Soon after Boyle started contributing to the "pot," he confided in me that they gave him back only \$200 a month. Consequently, I gave Boyle other cash in addition to the established \$1,000 per month. I estimate these additional incomes as follows:

In 1972: \$5,000 to \$8,000; in 1973: \$5,000 to \$8,000; in 1974: \$4,000 to \$6,000. It was my understanding that Boyle kept this additional money and did not contribute it to the "pot."

Between 1968 and November 1974, I took care of Cleveland Turner, president of ILA Local 1416, in order to acquire "flexibility" with manpower in the Marine Terminals' warehouse. Many times Boyle came to me and told me to take care of Turner, describing him as his pal and partner.

In addition to miscellaneous gifts, I gave Turner from \$5,000 to \$7,000 cash each year between 1968 and 1972. He came to the Marine Terminals' dock approximately two or three times each month for these payoffs, which ranged in amounts of \$100 to \$300 each.

In 1972, I told Turner that I had problems generating so much cash. Turner agreed to take checks. He supplied me with a couple of individuals' names and social security numbers, and I carried them as "ghost" employees on Marine Terminals' payroll. Each week from early 1972 to mid-1974, I held the "ghost" checks and gave them to Turner when he stopped by.

Sometime in 1971, Barone told me to rent the large crane from Pierside Terminals. At my instructions, Marine Terminals rented this crane on an hourly basis and Pierside gave me a kickback of approximately \$15 per rental hour.

In mid-1972, I suggested to Julio Navarro, who operated a company known as Iron Forge, that he introduce me to people who would be interested in starting a container repair business. One or two weeks later, Navarro introduced me to Oscar Morales and Ray Kopituk. They said they wanted to get an ILA contract to perform container and trailer repairs on Dodge Island—the Port of Miami.

I met Barone, Boyle, and Vanderwyde at the local 1922 office and told them that these men wanted to pay \$10,000 up front and \$1,000 a month for an ILA contract. Barone gave his blessing and told me to make the deal.

I then went to Morales and Kopituk and told them that it would cost \$15,000 and \$1,000 per month. Both men agreed and said they were anxious to get started. Their company, known as Florida Welding Services Corp., would perform work for my company, Marine Terminals.

Since I approved repair invoices, I told Kopituk and Morales that I would allow them to "pad" their bills and submit phony bills to Marine Terminals as a means of generating part of the monthly payoff cash. Kopituk and Morales readily agreed to this scheme. We thus created a situation in which Marine Terminals subsidized part of Florida Welding's monthly payoffs.

Within 3 or 4 weeks of our first meeting, Navarro, Morales, Kopituk and I met at a local motel restaurant in Miami. After some preliminary discussion about the ILA directing repair business to Florida Welding, Kopituk gave me \$15,000 cash in the parking lot. Kopituk and Morales left, and then I gave \$2,500 to Navarro as his "finders" commission.

The following day, I met George Barone in the men's room of the building in which the local 1922 office was located. I handed him \$10,000 cash and told him that the deal with Florida Welding was set at

\$1,000 per month. I did not tell Barone, however, that I had collected an additional \$5,000 in front money for the ILA contract and influence. After giving Barone the \$10,000, I kept the remaining \$2,500 for myself. That afternoon Barone told me he would send Boyle to Florida Welding with union pledge cards and later give them the ILA contract.

After Florida Welding signed the ILA contract for their mechanics and repair people, I started directing Marine Terminals' major repair jobs to Florida Welding. I permitted them to "pad" their invoices to Marine Terminals. Sometimes I gave them information about repair work performed by my own men and permitted Kopituk and Morales to bill it as Florida Welding work.

I permitted this to go on for 8 or 9 months until I felt they had generated enough cash and obtained enough business to begin making the \$1,000 per month payoff. From that point I collected \$1,000 each month from Florida Welding. I gave this money to Boyle, Vanderwyde, and Barone. It all depended on who came to me asking for the money.

During the summer of 1973, Morales told me about a friend, Acosta, who owned a trucking company known as Jasca Transfer. Acosta's company was not too profitable, and he wanted to do trucking work from Dodge Island.

I discussed this with Bill Boyle, who arranged a meeting for me with Barone and Vanderwyde at the union office. I told them that the owner of Jasca was a friend of the people at Florida Welding and was willing to pay \$10,000 for an ILA contract. Barone agreed with the figure and told me to arrange everything and keep him informed.

I went to Oscar Morales and told him to bring his friend to see me at the dock. I told Morales that the contract would cost Acosta \$15,000 but that Barone and his people would get only \$10,000. I told Morales that he and I would split the remaining \$5,000 but not to mention it to Barone.

Morales brought Acosta to see me at the Marine Terminals warehouse. I told Acosta about the \$15,000 front money and the standard \$1,000 monthly payoff. As with Florida Welding, I explained that I would be in a position to direct trucking work to Acosta and help him generate cash for these payoffs.

Within 2 or 3 months, Morales and Acosta came to my warehouse and told me they had the money. After Acosta gave me the \$15,000 cash, I told him that Boyle would come over to his shop within a week to organize his drivers and give him the union contract.

I told Acosta to begin sending his trucks to Marine Terminals where I would give them containers to haul. The next day I gave \$10,000 cash to Boyle, who told me that he would give it to Barone. I never told Boyle that I kept the remaining \$5,000, of which \$2,500 went to Morales.

Later that day, Boyle came back to Marine Terminals and gave me \$2,000. He told me that he also had been given \$2,000 of the \$10,000 payoff from Jasca Transfer. After this payoff, I directed our company dispatcher to give work to Jasca.

We used Jasca heavily for about 6 to 9 months. Then in 1973, Barone brought Harvey Sykes to my warehouse and introduced him

as the new owner of Maritime Cartage. Barone told me to give the Marine Terminals trucking to Sykes' company. When I questioned Barone about our obligation to give work to Jasca in view of their payoff, Barone told me to cut them out.

I followed his instructions and gradually discontinued using Jasca in favor of Marine Cartage. When I questioned Boyle about what I considered to be a raw deal for Jasca, Boyle told me that Sykes was Barone's man and that Barone handled that account personally.

Sometime in 1972 or 1973, the principals of Chester, Blackburn & Roder (C. B. & R.) formed an off-port freight consolidation operation known as Caribbean Freightways. The company operated at the Caribbean Freightways warehouse located adjacent to the Miami Airport and was in existence for almost 2 years.

This company received smaller shipments and consolidated them into seagoing containers or trailers, which eventually were loaded aboard ships at the Marine Terminals docks.

Caribbean Freightways was a nonunion company and had no ILA employees. The C.B. & R. people and I personally went to George Barone for the authorization to set up this company without ILA people.

Without Barone's knowledge, I personally transferred two Marine Terminals warehouse employees to Caribbean Freightways and removed them from membership in the ILA. Other nonunion ILA people were hired to load the containers, and through the use of such a nonunion labor force the new company earned a substantially greater profit. For my role in setting up this nonunion operation, I received 10 percent of the stock in the company. Once the company was liquidated, I received \$5,000.

Jack Sklaire, the chief financial officer of C.B. & R., instructed me to keep a monthly record of all containers "stuffed" at this airport warehouse. Sklaire told me that he had to pay Barone for each such container, and he asked me not to give Barone a true count of our loading.

I did not make any of the payoffs in connection with Caribbean Freightways nor did I learn the amount paid for each container. Boyle and I occasionally discussed the airport operation, and Boyle complained that he did not share in the payoff arrangement.

During this period, James Vanderwyde asked me on a number of occasions how much Caribbean Freightways was paying. I told him that I wasn't aware of any money coming from that operation. At the outset of this payoff scheme, Barone and Boyle instructed me to lie if Vanderwyde asked about payoffs from this company. Vanderwyde complained bitterly that his "draw from the pot" stayed at \$700 to \$800 per month despite the number of new companies that had begun work in the port area.

I recall when Barone first instructed me not to tell Vanderwyde about the Caribbean Freightways payoffs. It was apparent to me by this action that Vanderwyde no longer was an influential member of the mob group and that the others were taking care of this man only in recognition of past services.

They did not consider him to be a full partner. Barone specifically told me that he was able to hold out on Vanderwyde but never on

Doug Rago. This statement by Barone confirmed Rago's status as a "made" mob member and the ranking figure among the local 1922 officers. In another discussion about the airport operation, Barone told me that as long as he told Rago about the payoff arrangements, he didn't have to tell Boyle or Vanderwyde.

I left Marine Terminals in November 1974. The company owners obtained Barone's approval to dismiss me with a substantial severance. By this time, Marine Terminals and the parent company, C.B. & R., had become profitable, and they appointed a new president of Marine Terminals. It was apparent that they didn't see the need for my type of management any more.

Barone, meanwhile, continued to resent my independence. He realized that I was withholding payoff money from him and wished to have his more trusted associate, Bill Boyle, handle the payoffs. I believe that the owners of C.B. & R. sat down with Barone, and they all concluded that I was expendable. Barone also resented the fact that I would not identify for him these vendors who gave me kickbacks. By this time, Barone dictated the amount of work the ILA companies would receive and he also wanted to control vendors to ILA companies.

I remained in Miami until mid-1975. Boyle then assumed collection responsibility for the Florida Welding payoffs. In 1975, I left Miami with a promise from Barone and his friends that I would get an ILA job in a northern port. Despite this promise and all the money I generated for them, they gave me no help or money. It was this betrayal that first prompted me to testify for the Government.

Earlier in my testimony, I stated that my criminal associates in the New York area told me that Doug Rago was a "made" member of the Genovese family. My experiences with local 1922 in Miami supported this characterization. It was apparent that Rago was the ranking figure among the Barone group and that the respect which he was accorded readily demonstrated his status and authority as a "made" guy.

Senator NUNN. Would you explain at that point—I don't want to interrupt you—what you mean by "made" member of the Genovese family?

Mr. WAGNER. Well, Senator, the Mafia is built something on the same background as the Army. They have their soldiers and they have their lieutenants and they have their captains and then they have the boss and boss over them. He became a lieutenant, from a soldier to a lieutenant, and that is called and still is called him being made. Then it takes on a different status. It takes on the status where he is allowed to generate his own money and whatever any which way he can. As long as he answers to his superior and he can set up his own deals and have his own soldiers around.

Senator NUNN. Thank you.

Mr. WAGNER. Barone constantly referred to Rago as his superior even though Rago rarely appeared in the port area or at the local office. Barone confided in me that I was allowed to keep some of the vendor kickback money only because Rago said that it could be overlooked. When discussing the status of delinquent company payoffs, Barone cautioned me to collect more quickly because he had to answer to Rago and others for what occurred at the Port of Miami.

All three—Barone, Boyle, and Vanderwyde—described Rago as their boss. Frequently, Barone would argue with Vanderwyde about

Vanderwyde's attempts to become more visible on the docks. In my presence, Barone resolved these arguments by telling Vanderwyde that they would go to Rago, who would make the decision.

Barone later told me that Rago instructed Vanderwyde to stay away from the companies and not get into everyone's hair. Vanderwyde personally told me that Rago ordered him to stay away and merely collect his money. This one is just another of many instances which demonstrated that Rago was the superior figure because of his mob position.

Late in 1964, before my departure from Marine Terminals—

Senator NUNN. That is 1974, according to your written statement, is it 1974 or 1964?

Mr. WAGNER. 1974, did I say 1964?

Senator NUNN. 1974.

Mr. WAGNER. Yes, sir. Before my departure from Marine Terminals, Boyle again told me that Rago had his button with the Genovese group.

Senator NUNN. What do you mean by that, if I could interrupt you again, "had his button?"

Mr. WAGNER. It is the same as I explained being made. They call it a button man. Your status changes, you become like a lieutenant, like in the Army, from a private to lieutenant. You have some voice, authority, you can tell people what to do. They call it a button man.

Senator NUNN. Is button man the same thing as made man?

Mr. WAGNER. Yes, same thing.

From time to time, people from Brooklyn and New York came to visit at the port. When I asked about some of them, Boyle described them as being "heavy" and being in "Doug's category."

During my association with local 1922, Vanderwyde created a scene at an ILA meeting in the DiLido Hotel on Miami Beach. He brought a gun into the lobby and threatened someone. Boyle told me that this episode was a great embarrassment to Rago, who reported to Fat Tony Salerno. Boyle told me, "Dougie got called down by Salerno," and was criticized for his failure to control Vanderwyde. According to Boyle, the mob just didn't want to draw attention to their activities and presence in Florida.

Boyle mentioned Salerno's name on many occasions. When discussing the payoff "pot," he told me that the "bigger chunk" went to Rago and that he delivered part of this money to Salerno.

On at least four occasions, I drove Boyle to the Miami airport to meet James Cashin, an ILA officer from New York. During the first trip, Boyle told me that Cashin brought the skim money from Las Vegas. Boyle stated that all of the New York mob families received skim from Las Vegas in return for staying out of Las Vegas or at least limiting their activities in that city.

Cashin gave Boyle a small carry-on type of case during each trip. After dropping Cashin at the DiLido Hotel, Boyle and I went back to the local 1922 office. I saw Boyle take money from the case and stack \$100 bills on his desk. I recall on two occasions that he counted \$40,000 and \$25,000. Each time he told me that he had to count the money before he took it to Dougie for distribution. The fact that Rago received this money and was responsible for dividing it was another indication of his mob stature.

During the ILA strike of 1971, I sent checkers to work at smaller ports such as Key West, Fort Pierce, and Laudania while the ports of Miami and Everglades—Fort Lauderdale vicinity—remained closed and manned by ILA pickets. Barone worked out some type of arrangement with the major stevedore companies which paid off and allowed them to circumvent the strike in this manner.

I was convinced about what might happen if some of the people from the ILA international office came to south Florida and learned that local 1922 was assigning people to work during the strike. I expressed this concern to Barone. He told me if any international people came down and questioned this, I should say nothing but tell them to see "Dougie."

During the years in which I arranged and handled payoffs for these ILA people, I personally observed that although Rago was the vice president of the local, he did not appear to perform any work for the local. I went to the local office a number of times each work day and estimate that Rago appeared in the office about once every 6 months.

General meetings of the local were held every 2 months. I attended all these meetings but saw Rago in attendance only once. Boyle told me that because of Rago's mob position, Rago was "given" his union office and didn't have to work. Boyle told me that Rago spent the bulk of his time at the track where it was not uncommon for him to bet \$10,000 in 1 day.

Sometime during my employment at Marine Terminals, possibly about 1971, Boyle came to my warehouse accompanied by a man whom he introduced as Doc Roth. Boyle told me to take advantage of the ILA vision care benefit and get eyeglasses from Roth.

In a later meeting at which Roth was not present, Boyle told me that Doc Roth would take care of me and that I could go as many times for as many pairs of glasses as I wanted. Boyle told me that "they" had a deal in which Roth would kick back to them on each pair of glasses which were paid for by the ILA Health and Welfare Fund. I recall Boyle mentioning \$5 or \$10 per pair of glasses and explaining that although it didn't sound like much, every little bit helped the "pot."

I later visited Roth's office with a friend and had this person fitted for two pairs of glasses. I asked Roth how he intended to handle this after telling him that I didn't intend to pay for anything.

Roth told me that he would see Lester Fredel, administrator of Local 1922, ILA Mechanics and Drivers Health and Welfare Fund, who would provide the name of a longshoreman and that the fund would be billed against that name.

While I played the role of a "bagman" for Barone and Boyle, I met Boyle almost every workday. Boyle took me to Lanson's Men's Wear store on Miami Beach and introduced me to a salesman named Jay. I recall Boyle telling me that Jay was a relative of the owner. Boyle told me to open a credit account, and Jay said I could purchase anything I wanted.

In Jay's presence, Boyle asked me what name I wanted to use on the account. He explained that "they" all had accounts under assumed names because no one could find out how much money they spent.

Boyle said that there would be no way to trace our transactions at Lanson's.

Boyle told me that he had an account under the name of Benson and that I should become "Weinstein" or something like that. We agreed upon "Weinstein" and Jay opened up an account in that name.

Thereafter, I regularly charged clothing and accessories against this account at Lanson's. I never paid the entire amount owing. In one instance, I jokingly asked "Jay" if these expensive clothes were of good quality? He told me that the quality was so good that Meyer Lansky and all the famous people bought at his store. During my visits at Lanson's I observed that the store was a regular meeting place for Fred Field, Boyle, Barone, and Vanderwyde as well as well-known bookmakers and hustlers in Miami.

Senator NUNN. Thank you very much, Mr. Wagner. We have some questions we would like to ask you now. We will be rotating it back and forth between the other Senators here. You mentioned in your statement that in earlier years you worked in a stock fraud scheme with Carmine Lombardozi. Who is Lombardozi?

Mr. WAGNER. Carmine Lombardozi is a boss in the Mafia.

Senator NUNN. Which family?

Mr. WAGNER. I know the guy and it's in Brooklyn, Gambino. I don't remember his name. He was associated with them. He was a boss and he had the respect of the other people.

Senator NUNN. When you lived in New York, did you ever work on the waterfront?

Mr. WAGNER. Yes. Right after the war, Senator, I went to work down in Brooklyn on the piers. I went down there through the Irish element. At that time, it was known as the Irish and Italian Mafia. They were struggling back and forth for control. I was put in there by the Irish element. I worked as a checker; I worked as a stevedore; I worked as a cooper. New York liftdriver, any kind of work they had available for me at that time.

Senator NUNN. What was the cause of the dispute between the so-called Irish Mafia and the Italian Mafia?

Mr. WAGNER. Well, there was always a dispute for control. See, the control on the docks is the hiring and these are your followers. People who will be loyal to you and stay with you if they can earn a living. So the Irish were in at one period and the Italian element was in in another period. It was kicked back and forth. Eventually the Irish, to give you an honest answer, just drank themselves out of the position they were in.

Senator NUNN. Drank themselves?

Mr. WAGNER. Yes.

Senator NUNN. You mean they lost the loyalty of their workers?

Mr. WAGNER. They were heavy drinkers. We would go down there and have a pint in our pocket, stuff like that. You couldn't conduct business. They didn't know what was going on and they eventually lost out.

Senator NUNN. What year was it that the so-called Irish Mafia lost out?

Mr. WAGNER. I don't remember. It was after the war, Senator. It was in the year, say, 1948, 1949, around there, I guess. They started to slide

down. They still have a controlling factor, you know. They have up in the Boston area, they are pretty powerful yet. I am referring to the Brooklyn end of it.

Senator NUNN. Brooklyn end. You stated that you worked in the boilerroom for Lombardozi. How did that operate?

Mr. WAGNER. Well, I was approached, I was always a kind of a hanger-on around the mob element, so to speak. I was approached by one of them and asked if I wanted to go into this business because in them years I made a nice appearance and that I didn't look the part, they did. I could go into the banks, et cetera, et cetera. I was then introduced—well, I knew them anyway from around. I talked to Carmine and Arthur Tordarello and a couple of other people and they said that Philip Newman was into them for quite a bit of money. And he had an over-the-counter securities firm on Madison Avenue, was I interested in fronting it as a boilerroom operation.

That is how I got into it. I went into that and fronted that operation.

Senator NUNN. How did that work?

Mr. WAGNER. Well, how it worked was that we had a young guy with us who was called the young wizard of Wall Street. He was a stock manipulator. He could take worthless securities, of which we purchased mostly Canadian securities, at a penny a share, and he was able to manipulate the stock market and run this up to \$4 and \$5 a share.

We used 20 to 30, to 40 telephone centers. We sent out cards, brochures, what have you, got people interested and then called them direct and sold them securities.

Senator NUNN. Approximately what time frame was this? Is this in the fifties? Was this in the late forties?

Mr. WAGNER. The fifties, yes, sir.

Senator NUNN. How long were you in New York?

Mr. WAGNER. In the stock business?

Senator NUNN. Just in general, how long?

Mr. WAGNER. I was there until I had to go to jail. After I came out of prison, I went to Florida. But other than that, all my life I was in New York.

Senator NUNN. You went to jail in what year?

Mr. WAGNER. Well, the first time I went was 1960.

Senator NUNN. Did the so-called stock wizard get indicted or convicted of anything, too?

Mr. WAGNER. Well, like anything else, the greed and the operation got bigger and bigger, there were slip-ups here and there. The Securities and Exchange Commission come in on us, New York State come in on us. We moved to New Jersey and the first thing you know they had enough to where they closed us up.

We were all indicted for stock fraud, transportation of stolen securities, and the whole schmeer throughout several States. The Securities and Exchange Commission didn't know how this stock scheme worked. Nobody else did either, but this one guy. Now we were all supposed to go to jail in Concord, N.H. We had time to serve 12 years.

The Securities and Exchange Commission in my presence, a guy by the name of Yagerman out of Washington, I don't know if he is still with the Government, made the deal everybody walks if he lays

the picture out on this securities swindle and he did so and everybody did walk.

And then the Securities and Exchange Commission revised their laws, however they done it, as to where they plugged up this loophole.

Senator NUNN. They couldn't figure out how it worked so they made a deal that everybody walks. You mean got off free?

Mr. WAGNER. Yes, sir.

Senator NUNN. And he explained the deal to them.

Mr. WAGNER. He was given a long-term probation and wasn't allowed in that area of stocks and bonds.

Senator NUNN. During this time frame when you were in New York and running with Lombardozzi and his associates, did you ever meet Fat Tony Salerno?

Mr. WAGNER. Yes.

Senator NUNN. Did you meet Mike Clemente?

Mr. WAGNER. Yes.

Senator NUNN. Did you meet Doug Rago?

Mr. WAGNER. Yes.

Senator NUNN. Did you meet George Barone?

Mr. WAGNER. Yes.

Senator NUNN. And did you meet Jay Vanderwyde?

Mr. WAGNER. Yes.

Senator NUNN. How did you meet these people generally speaking?

Mr. WAGNER. Well, most of them, I don't know if it is characteristic today, but at that time they would frequent a certain run of restaurants and bars in which the mob had some kind of connection in and this was a general trend amongst whoever was on the outside of them, people like me would go there to meet them and stay in with them, et cetera, et cetera. This is how I met all these people, in restaurants, in bars, at social functions of one sort or another, race tracks, crap games. This is how my social, this is how I met them, this is how I got to know them, this is how I got to know others.

Senator NUNN. You mentioned in your statement that Vanderwyde was known as a shooter. What do you mean by that?

Mr. WAGNER. Originally I heard this in New York from mob people. Later I worked for Vanderwyde in Miami. He liked to talk about him being an enforcer, so to speak, for the mob, and that he done heavy work for them. Of course, just the way he said it, I assumed he did what a shooter should have done.

Many times Bill Boyle, who was a very close associate of mine, a business associate, had told me of Vanderwyde that he was the muscle that they used and he was a shooter and that he knew of a couple of people that he knocked out.

Senator NUNN. Knocked out—

Mr. WAGNER. Knocked down, which meant killed, he killed. Whether he did or not, I don't know, but this is the information and it continuously came up as to who this guy was. Later on, it comes out, some experiences I had with him myself so I know it to be true.

Senator NUNN. You spoke of Doug Rago as being a made member. You have alluded to this several times. Could you sort of sum it up as to how you know that he is a made member?

Mr. WAGNER. I am not even sure at this time if he was made or not but I know he was up high enough to be respected and was going to be made with my association with him in New York. Anyway, I was with Lombardozzi's people. He was pointed out to me...I got to meet him. I was told at that time that he was Fat Tony's man.

After I got work and went down to Miami, it was referred to Dougie many, many times that he has made and he had his button and stuff like that. It was mentioned by Barone, it was mentioned by Boyle and Vanderwyde.

Senator NUNN. You became sure of it when you went to Miami rather than in New York?

Mr. WAGNER. I knew in New York but it was like if you walk into a bar and you are in position like I am and you say, "Who is that guy?" "He's Doug Rago, he has got a button," or he is going to get a button or he is with Fat Tony, whatever—what his status is. This is the kind of thing that is talked about pretty much regular conversations, about who is who in the mob status, stuff like that. Kind of always wanting to outdo one another, he knows so and so. That is how these things use to come about.

Senator NUNN. Any other specific things you recall that would indicate that Rago was a made member? Anything that occurred in Miami?

Mr. WAGNER. Other than the status he held as far as what I could see, he would come down and any time I was in his presence which was not that often but it was occasionally social and what not, he would be the one to direct the order to Barone. He would be the one that would say Barone, would you take care of this, do not do it that way, do it this way. He was always directing the operation and how it come up from time to time is that we had some problems a couple or three times with the Teamsters as to where they would come in and haul out containers. Of course we wanted that for our own ILA truckers. Several times it came up and this kind of words back and forth and Barone, I had complained to him on several occasions, he said I will get Doug to talk to the people in New York, we will straighten it out and it was straightened out. This more and more confirmed my own opinion that he was a power to be reckoned with as far as New York went, he was the guy that under Salerno controlled Miami, the dock area that is.

Senator NUNN. You felt that Salerno controlled Miami through Rago?

Mr. WAGNER. Yes. Everything, I mean everything, had to have Doug Rago's blessing or it did not happen. Barone could make decisions as far as contracts was concerned and if they were not too complex, but if they were complex, involved bending or any kind of waves, he would have to go to Dougie, to get an OK. This he told me many times.

Senator NUNN. You mentioned that Rago had the reputation in New York as being Fat Tony's man. Did anything ever specifically happen in Miami, any specific incident that confirmed that to you or made you feel again that he was Salerno's man?

Mr. WAGNER. Yes; we had an incident, it was at a convention in the DiLido Hotel in Miami Beach. Vanderwyde got half drunk and got in some kind of an argument. He left and he come back and he was, seen him carrying his little brown sack, knew he had a gun in it. This is the way he went, he went with a little paper sack, that is how he carried

his gun out like he was carrying candy. He come back drunk and was in an argument there with several people and threatened to shoot the place up and what have you. They quieted him down but this caused a great embarrassment to Dougie as Boyle related to me, he said Dougie was extremely embarrassed, he was told by Tony that he could not control his own people and that Tony wanted to see Vanderwyde himself, that, he, Vanderwyde, was in trouble. So he went over to see Salerno and apologize for what had happened.

Senator NUNN. Who is "he"?

Mr. WAGNER. Vanderwyde, went to see, of course he has had to see Dougie, Dougie sent him to Salerno, he apologized and made all the necessary amends, so to speak. And he was sent back and told to stay in line and was chastized for what he had done, as causing this embarrassment to other people, especially an incident like that could erupt into a lot of bad publicity for the New York people that were at this meeting, at this convention, the Florida people and everybody concerned.

Senator NUNN. Did you ever hear Rago say anything to the effect that he would have to talk to Tony or check things out with Tony or did you hear that secondhand through Boyle?

Mr. WAGNER. I have heard a lot of this secondhand through Boyle, but I was around on different occasions and different meetings when the name did come up. I heard Doug say, well, I will see Tony and to be honest, I do not even know what it was in reference to, but I heard him say I will see Tony about it or something to that effect.

Senator NUNN. You personally heard that?

Mr. WAGNER. Yes; I heard that. Like I explained to the attorneys, there were so many of these things happened that I do not remember the specific incident as to why he said I will see Tony, but I do know of occasions that if you needed an OK for something that was big or heavy or involved, maybe it would involve people in New York or people in another port that Barone would say I will see Dougie and Dougie will get an OK from Tony. It had to go through them people.

Senator NUNN. Senator Rudman?

Senator RUDMAN. Mr. Wagner, Mr. Rago was vice president of the ILA local that you are talking about and you testified that Barone was the president, and yet in terms of relationships it was the other way around. Why was it set up that way?

Mr. WAGNER. It was simple, Senator. He was, as I explained, a guy to be respected. He was up in the high echelon. It was not just his, that is not their way of doing business. They take people to front for them, such as Barone, Vanderwyde, myself, Boyle and what not. He had, the president, had to sit down with shipping companies and negotiate a contract to settle a grievance, many different aspects of union business. It is just, he is not put in the position and being a button made as to do that kind of thing. He is not supposed to.

Senator RUDMAN. What you are saying is he would always have someone operating out front?

Mr. WAGNER. Yes.

Senator RUDMAN. From 1968 to 1974 you had a rather interesting role down there. You were both union and management. Tell us a little bit more about that. How did you keep that position and tell us a little bit about what you did?

Mr. WAGNER. I knew and was very familiar by this time with the companies that operated in Miami, with the people that worked in Miami, all phases of it, from checkers to longshoremen to everything else. And before they come down, Barone, Boyle, and Rago and the rest of them, as I explained before, I was around trying to organize the checkers. So I knew everybody, management and what not. They needed me or somebody like me, there was nobody else down there like me at the time, to be in that position to help. I had put a lot of people to work, hundreds of people to work on the Miami waterfront. So to speak, they owed me, these people. I was able to use the leverage with them too, if we had a problem on signing somebody else up as a union member they would talk to them. There was a big Cuban element down there. At the time, I would use these various Cubans to talk to other Cubans to sign pledge cards and stuff like that.

Second, third, the most important, I was able to generate money, all kinds of money. This money went to Rago, Barone, Boyle, Vanderwyde, and of course myself. I played all the angles for them, Senator. I did not miss nothing. Anything that came along that I could generate money from, or kickback or vendor, or anything else, I would do it. I was a moneymaker for them and in that respect I could do what I wanted to do. They gave me a license to do what I wanted to do, to be a manager, to be a shop steward, to be a checker, to do anything I wanted as long as I was producing.

Senator RUDMAN. When you talk about this pot of money, you have given us some figures in your testimony, we only scratched the surface in these hearings, but from what you know about it, how substantial was this pot of money? How much money are we talking about over a period of years that you know of personally, from all of the sources?

Mr. WAGNER. Senator, it would be hard to put a figure on it because everybody was stealing from everybody else. Boyle was holding out on Barone, I was holding out on Boyle, Barone was holding out on Vanderwyde, so nobody really got two figures.

Senator RUDMAN. I take it you did not have an accountant.

Mr. WAGNER. Right. There was testimony here yesterday, it was in the newspaper, this man testified there was \$200,000. Believe me, that was a drop in the bucket. That might have been just from his outfit. I do not know what he was talking about. Because there was money coming from all angles, everybody wanted to get in favor with the union for many, many reasons.

Senator RUDMAN. Tell us again precisely who shared in this pot and what their relationship was as a member or an international officer?

Mr. WAGNER. As far as the pot was concerned there was Rago, Barone, Vanderwyde, and Boyle that I know of almost what they got. Doug Rago was responsible for getting Tony's share to him. How it was cut up, the pie, I do not know. But it was definitely cut up. On other occasions, Barone has questioned me many times not to let Vanderwyde know about different companies that come into the port, the different deals that was being made and he has mentioned to me that Vanderwyde was getting the short end and that Rago

and Tony never got a short count from him. He just would not do it, but he said he could not care less about Vanderwyde.

Senator RUDMAN. But Boyle shared in this pot?

Mr. WAGNER. Boyle shared in the pot very small percentage. Boyle himself done good down there. He done handy. But he done it by stealing from them, not by what they gave him. They have him legit stuff such as making him the business manager, getting him trips and things of that nature. They let him take all kinds of gratuities from me and they let him, they made him an international vice president. That was his biggest payoff.

But as far as the biggest share of this money went to Barone, Rago, and whoever took care of Rago which I am almost certain, I am certain it was—

Senator RUDMAN. I will yield to Senator Nunn for a question.

Senator NUNN. Was Boyle given an international position in the ILA because he contributed to the pot?

Mr. WAGNER. He was rewarded, yes.

Senator NUNN. How did that happen?

Mr. WAGNER. Freddie Field was involved in this and he was active down there. He had always been pushing Boyle because they socialized together. Every second word out of Freddie's mouth, is when are we going to do something to take care of Boyle? Barone had said and made a statement that he would eventually end up as an international vice president, and how that would take place, Barone would talk to Gleason and that Boyle was promised the next opening as international vice president which paid \$20,000 salary and another \$20,000 expenses, and something along them lines.

So Boyle was happy with that and did not care if he did not get any of the pot, as long as he knew he was going to get that, and he went out and hustled for them and what not. So he was well rewarded.

Senator NUNN. Who told you that he was going to be made an international vice president?

Mr. WAGNER. I was there on occasions. That was spoken about many times. Boyle himself told me a hundred times, he said I got to get that position, that shot at that, he called it, he said that it has been promised to me, he said and don't worry, he said, I will be looking out for you, meaning me, when I get in the position where I can do something. But unfortunately, everything broke and he never really got the job and he never got in the position where he could do anything for anybody.

Senator NUNN. Who did you hear say that they were going to go to Gleason?

Mr. WAGNER. Barone.

Senator NUNN. You heard that personally?

Mr. WAGNER. Yes.

Senator NUNN. Did you know who Gleason was?

Mr. WAGNER. Yes; the president of the ILA.

Senator NUNN. Who did you understand Gleason to be?

Mr. WAGNER. He is the president of the ILA, International Longshoremen's Association, throughout all ports. He is on top of the board.

Senator NUNN. You heard Barone say that he would tell Gleason to do it?

Mr. WAGNER. I heard Barone say to Freddie Field, OK, I will take care of it, I will go to New York and speak to Teddy. He has got it, stop worrying about it, stop bugging me about it. He has got it. They were almost exact word for word what he said, stop bugging me, he has got it.

Senator NUNN. Do you recall approximately what time frame that was in?

Mr. WAGNER. It was not too long before I left that area that the job was promised, but the job, he was always shooting for that job ever since I knew him. But right about before I left is when—

Senator NUNN. That is when the conversation took place.

Mr. WAGNER. Yes; maybe 6 months before I left Miami, maybe a year or something. I do not remember. But it was in that—

Senator NUNN. What year was that?

Mr. WAGNER. That was in 1975, but I left the dock area in 1974, so this took place somewhere in 1973 or 1974, November of 1974 because in November 1974 I was out of that position.

Senator NUNN. Thank you. Thank you, Senator Rudman.

Senator RUDMAN. Just a clarification. You said you rented a crane back in 1971 in your testimony. Was that Joey Teitelbaum's crane?

Mr. WAGNER. Yes. That belonged to his family. The reason I mentioned it belonged to his family was because all his family dealt with me as far as their equipment and crane rentals and stuff like that. So it was never really, I was never under the impression it was Joey's crane, it was the family's.

Senator RUDMAN. It was the one he spoke of in his testimony, the same crane?

Mr. WAGNER. That is right. It was the same crane.

Senator RUDMAN. You also stated that you paid off Cleveland Turner who is the president of local 1416 and you wanted some flexibility with manpower. Give us a better explanation of that, if you will.

Mr. WAGNER. I will have to bring you kind of just back a minute. On a gang structure, when you have a ship to unload, you call the union, and you order one gang or two gangs or three gangs, they are 18-man gangs. According to the vessel, and according to just the special privilege in the Miami area, you have got a lot of small vessels. So they make kind of exemptions. They let sometimes 14-man gangs, 12-man gangs, work shifts. Most all the time the flexibility I got, I would use short gangs. For example, we had small vessels, we contracted to unload, they would come in maybe one piece of machinery, maybe a great big generator, that I had big heavy equipment on the dock that I could use with my own men and unload this ship. Believe me, I was not supposed to. I was supposed to call the union and order a gang which would consist of 12, 14 men, and I would have to pay them the minimum of 4 hours. The flexibility I got from Cleve was that I take three or four of my own men, go out with my own equipment, in half hour, unload the piece of equipment that was on the ship, and it was finished and done. I paid nobody. This was the flexibility I had with him which was very lucrative for my company.

Senator RUDMAN. Of course it had a very direct effect on the dues-paying members of the ILA?

Mr. WAGNER. Yes; very much so.

Senator RUDMAN. Tell us about that effect.

Mr. WAGNER. Because they did not get work. For example, they may have had only three gangs working, say, on a Saturday morning and in comes this vessel that I had.

Senator RUDMAN. I am going to yield now to Senator Chiles.

Senator NUNN. Go ahead and finish.

Mr. WAGNER. What should have happened is I should have called the union, and with the 14 men would come 1 waterboy, 2 forklift drivers, 1 checker, and what else, as to where your payroll for 4 hours was a considerable amount of money. Then the longshoremen did not get the opportunity to make that money or those hours because Turner gave me the flexibility to unload it myself with a couple or three of my own men. So we deprive the men of the day's pay. The ones hurt by it was the working man, the longshoremen themselves, he did not get the lucrative hour, the lucrative job such as this because that gang could unload that vessel the same time as we did in a half hour. We would have to, according to the contract, pay 4 hours. So in a half hour they would be going home and get 4 hours' pay for it. Instead, the money was given to Turner.

Senator NUNN. Senator Chiles.

Senator CHILES. Did the union people actually keep the number of gangs low so that that would generate more payoffs?

Mr. WAGNER. Turner had room, he maintained 12 to 14 gangs. He had room to make another 12 gangs, but by doing so he had nothing going in respect that I would not have to look for favors from him because there would be available people to unload the vessels. Five or six vessels, eight vessels, would come in at one time. Each one wanted two gangs or three gangs to work it. He did not have the gangs to do it. So this is where he held the whip over the companies.

Senator CHILES. You would get special favors?

Mr. WAGNER. I would get myself because of my flexibility with Cleve whatever gangs I wanted and as many gangs as I wanted regardless of how short they were in the port. Then another thing that was important to my company, was pilferage. There are gangs and like everybody else there is good ones and there is bad ones, there is one that steals, there is one that stays drunk, there is one, there is no productivity from them, there is different characteristics amongst these gangs and if you get a gang that you do not want any pilferage, you want the work done, you want to push, you ask for certain gangs. There are foremen. They are called headers. You ask for a certain header. That means so and so, send me this one, that one, because you know you can talk and he is not going to let them go in and rob the place blind, he is not going to let them get drunk, he is not going to let them wander off on you. So the flexibility was important for the company.

Senator CHILES. You talked about Barone telling you to use certain container repair companies.

Mr. WAGNER. Yes.

Senator CHILES. Why did he tell you that? How did that work?

Mr. WAGNER. Because he had interest in these companies, he did, I did, we all did. Florida Welding was a company that paid kickbacks, United Container kickbacks. Prior to United Container there was another company in there and he was on the same basis. Then he came up lame, came up short, no cash, Barone came down, said shut him

off. He went broke and then Joey Cotrone, United Container, bought out this company. I was directed by Barone who to give the work to. So that was my position as far as the Container. The reason we gave it to these people was because we had them under contract in the ILA and decided they kicked back, which I made earlier the statement that Florida Welding was paying \$1,000 a month.

Senator CHILES. You did the same thing with the trucking company?

Mr. WAGNER. Yes.

Senator CHILES. You mentioned that the Caribbean situation, the Freightway situation, the company owned by the office of Chester, Blackburn & Roder, paid to operate nonunion. Did Barone ever say anything about whether or not his partners were taken care of in that operation?

Mr. WAGNER. Barone after this thing was set up got me on the side and told me not to mention nothing to Vanderwyde about any of the operation of the Caribbean Freightways. I said how about anybody else as far as Rago, he said that is OK, OK, he said Rago, he used to call him Doug, he said Doug, he said, I would never, I have always given a straight count. He said at one time, he said, you know, he said, in passing remark, he said I done what you might be doing, he said, had my hand in the cookie jar when I was not supposed to, and he said Doug had given me a break, so I would never have to short-change him. But as far as Vanderwyde was concerned, he said, forget about him.

Senator CHILES. Do you think he actually never did shortchange you?

Mr. WAGNER. He never shortchanged? I do not believe he did, Senator, but he screwed everybody else that was in contact with him, everybody. He was a very greedy, vicious character. What set this thing up, confirmed in my mind that Vanderwyde was becoming useless to them is to the fact that he was being cut out gradually out of this stuff. Although they used him for muscle, they were using them less in that area too because his drinking became a problem, he could not be trusted and second, he was not even, if he was not drinking, he is by no means a genius, this guy, nothing. He has really, you know, not too much at all.

Senator CHILES. So he was at the bottom end of the totem pole?

Mr. WAGNER. He got to the bottom end. When I came down originally in Miami, he was up on the top; whatever happened over the years, I think a lot of it is attributed to his drinking. He would go out for his drinks, you know. He just lost control and he would come up missing and stuff like that. So gradually, I think that is what shot him up.

Senator CHILES. Did you have any experience with him that confirmed about what you heard about his strong-arm tactics?

Mr. WAGNER. Yes; I too was a drunk. I had some deals going for them and Jay was sent after me to straighten me out. He told me in no uncertain terms, to be sober, get into shape the next morning or goodbye.

Senator CHILES. Or goodbye?

Mr. WAGNER. Or goodbye, that he would shoot me. He did not say he would shoot me, he just said goodbye, which meant the same thing and in the language of them people.

Senator CHILES. Did that have a little sobering effect?

Mr. WAGNER. I would say so, Senator, yes. Pretty much so. I was sober. I was there the next morning. Of course I am still here now. So you know I showed up.

Senator CHILES. Did you ever have occasion to see him use any tactics?

Mr. WAGNER. OK. Another incident, so to speak, his wife called me up one night. She said because prior to that, on several occasions I had already taken this guy to drying-out places, in Miami, Lauderdale, and stuff, dried him out from his drunks. One night his wife called me and she said he is just completely out of hand. He is tearing the place up, he is threatening to kill people, me and everybody else, can you come over? So I went over. I walked in, I opened the door, as I walked in, he was sitting there with a gun in his hand and a highball glass in the other, both pointing at me and here he is squeezing away. It was at one time of my life a pretty trying experience. I was scared, frightened. Because I know him as a cuckoo. This is what he is, just as well shoot you. But he broke the glass and he cut all his hand and the blood just run on down, he looked at it and he leaned over, he dropped the gun, laid back and went to sleep and I was his babysitter for the rest of the night. The next day I got him into a Hollywood hospital under the guise of esophagus trouble. The doctor knew that it was a drying-out process, but he admitted the problems with the esophagus, and we kept him there for about a week or so and he was all right again, he was back to his old self.

Senator CHILES. Any other occasions where you saw him sort of use strong-arm tactics?

Mr. WAGNER. I do not know if I did or not. I was not in exactly the company of it, but naturally you hear many, many stories. One thing that goes back, is back a little further in the questioning you people asked me was when he had a container company that we gave him the short end of the deal, took a lot of money from him and did not give him the work. It was a Cuban fellow that headed this company. He come down and of course he was blaming me for not getting the work and I explained to him that it was out of my control, I just could not get it. But the bottom line was we did give him a shafting. He was very emotionally upset over it, come down, on one occasion with a couple of—

Senator CHILES. This is the guy that made you \$10 or \$15 thousand?

Mr. WAGNER. No; he did not pay that much. He paid in the pot, but all together the time he was there, probably as much, I guess or more. But he was on the emotional, twisted out of shape guys, and he come down one time with two junkies, dope addicts, and pointed me out to them. He said he was—he said they are going to shoot you unless I gave him the work. Well, I was not in the position to give him the work to start with. I went to Barone, I said to him, what do we do with this situation? He sent Jay down to the dock area, he had two or three guns that he planted around. Plus we had another two that I had in the office. He said if I am not here, have them protect themselves. Jay was supposed to straighten these guys out. He hung around for a day or two and then went on a drunk. In the interim, Barone went to see the Cuban people that were over this, these guys in

their own kind, and straightened it out and called off the wolfhounds so to speak.

Senator CHILES. Why did you lose your job with the C.B. & R. and the union in 1974?

Mr. WAGNER. The time that I lost out, Marine Terminals, which was owned by Chester, Blackburn & Roder, became a very lucrative, profitmaking company. They were way up there. Seven years prior to that they were on the verge of bankruptcy. So I had to use a lot of unethical tactics to keep the place going, such as stealing pallets. The last guy that testified right here before me, I stole maybe 5,000 of his pallets. They cost \$8 a piece.

Senator CHILES. Harrington's pallets?

Mr. WAGNER. Yes; Neal Harrington, my friend. But this was a way down there. Marine Terminals, because we had no money to buy pallets. So we would go out at night, I would take my longshoremen, we would take the forklift, forklift the load back. I would say 5,000 pallets from Harrington, that is maybe 7, 8 years' time. We stole them from Eller & Co. and everybody else because we could not afford to buy pallets. We could not afford to rent equipment to unload vessels. As my position in the union and I had these people in key jobs I was able to make them give me their company's equipment and not bill me for it. So we were able to use 15 or 20 pieces of equipment when we only owned 3 every day. That went on and as we built up and the company got as I said very lucrative and they wanted to clean up the act so to speak. They did not want any of this, they were in the position to buy pallets then. They wanted to buy it. They were in the position to rent and buy equipment. So we rented and bought equipment. As far as their act was concerned, it was still doing business with Vanderwyde and Barone and Boyle and me and anybody they could get hold of, Rago.

[At this point, Senator Rudman withdrew from the hearing room.]

Mr. WAGNER. As far as the other part, they wanted to dress it out. So they hired a president, they hired the man as the president of the company. I became expendable. They did not need me no more because of the character that I was. They were afraid to fire me. So they offered me a severance deal if I would resign. I refused it. This was prior to getting into Barone going to see them. They also—beside the company problems I had of looking to get rid of me, I had problems within the union. I became a half-assed, excuse the expression, power so to speak in the port of Miami. I had many, many people that owed me favors. I took them, gave them jobs, exdrunks, exconvicts, what have you, put them to work, they had good paying jobs. They were looking to do me a favor. Barone and Rago knew this. They knew that I had a certain control down there. Their ego could not stand it. The Cuban element called me the godfather, not in a respect as the mafia godfather, but as somebody they could come and talk to and get a favor from and get help from and not feel that they were getting the short end of the stick because they were the Cuban element down there.

So I had much going for me as far as people that I controlled. Rago and Barone did not appreciate this at all. They did not know secondly of the vendors I had. I would not tell them the different

kickbacks I was getting, how I generated money. So it was kind of a running thing for several months until finally they got me I guess up to here with the fact that it come up. Somebody, Barone, would go after somebody for doing something, and they would say, "We already cleared it with Wagner." That kind of done it, it hit into his ego. He ran up to CBI and he sat down and he said, "He goes," meaning me. Now, Chester and Sklaire called me up, talked to me, and I had \$20,000 loan with the company that I had just gotten a couple of months ago, a personal loan from the company. It was going to be taken out of my pay. That was wiped clean. Plus \$30,000 to be paid out, \$300 or \$350 a week until it was paid if I would resign, and I still balked at the setup. I said, "No." I then met with Barone and Vanderwyde and Barone said, "We got no choice, Dougie said you got to go." He said—and this, that, and the other thing—he come up with some phony reason. The FBI was investigating me, and I became, I was bringing heat to the port, a lot of you know, phony excuses, but I was expendable. It was time to go. That was it.

I then went to Baltimore after several months of various things in Miami. I went to Baltimore, I tried to, I did set up and I had a good job lined up, and I was going to get it and they called up Barone to clear it through him and he killed the deal because I had not gone through him and the fact that I had not taken, he wanted me to work at the airport, I did not want to and different things like that. So he put the caboche on me. So that was it. I was just chased so to speak and out in the cold.

Senator CHILES. Why were the management companies so vulnerable to Barone and parties?

Mr. WAGNER. My company, my parent company, Chester, Blackburn & Roder, owned Marine Terminals which I ran, which is a stevedoring company. Shipping companies usually do not have their own stevedoring companies. Several do, a lot do, but many do not. We also had a stevedoring operation in St. Croix and St. Thomas. Why were they in a position to be able to walk into these people and shake them down? It was the fact they could give them help in other ports. Example: The boss, Chester, was complaining to me about the trouble he was having in New York. He was getting big gangs. The pilferage was heavy, the tonnage was low. He was losing money. He said, well, let us talk to Barone. We talked to Barone, Barone talked to Dougie, Dougie made a connection. We took him out of Brooklyn and had a New York stevedore company start working their ships because otherwise they would have been broke in New York. This was why they were able to walk into these people and sit down because they are able to do these things.

To strike, which I mentioned, is an example. My company could not afford 38-day strikes. We would have been out of business. We had to work. They gave us the green light to work. Harrington & Co. would have been out of business. Several other smaller companies would have been out of business if they were not able to do some kind of work during this strike period. They were the people that could let you do it, so they were the people that companies looked to deal with. They did not have to go to companies, companies use to come running to them mostly to look to, to get things done.

Senator CHILES. So it was not as much they were out shaking down the companies, the companies were actually looking for them?

Mr. WAGNER. Well, they were out shaking them down for the ones that did not come. Many did not come knocking at the door with money in their hand, too. Everybody was looking to get extra work, extra ships to work on, load, repair work, trucking, whatever. So everybody was banging at your door.

Senator CHILES. Why was skim money that you mentioned in your testimony, why was that sent from Las Vegas, why would that come to Miami?

Mr. WAGNER. OK. When the New York Crime Commission had been on top of Barone and Doug Rago, they had to get out of New York. They had a couple of locals up there that they controlled. So when they had to get out of there, they left Jimmy Cashin and Tommy Buzzanca in charge of these locals to watch out for their interests. They directed it from Miami. From these locals, there was money generated. Some of them involve repair money, kickbacks, container repairs, up there they had them, the ship-cleaning end of it, longshoremen, whatever. They went into these locals. The money, from what I was made to understand from Las Vegas, was dropped to Jimmy Cashin since he had to bring this other money down to Miami. So he brought it all in one shot. It was then brought to Miami and Boyle, of course, it was given to Boyle so there was no direct link to Dougie Rago. Boyle then would deliver it to Doug Rago. He would then—excuse me.

Senator CHILES. Well, then, because Rago was a made member or lieutenant, he was entitled to proceeds of the skim by virtue of that?

Mr. WAGNER. I do not know too much about the made member, but he was entitled to something. And the fact he was in Miami. That is why it was sent down to him and the fact Tony Salerno was then in Miami Beach and overseeing Dougie. So the money had to go to them. They got a piece of whatever came out of Las Vegas plus whatever came out of the unions. I have been there on two occasions. There was a \$25,000 countdown at one time and a \$40,000 another time. Boyle was the type of man who loved to stack up money, count it, play the part of being a trusted servant. He had said how he had to be responsible for the count to deliver it to Rago. On occasions he mentioned that Rago gave part of it to Salerno. What percentage of it or how it was divided up, I do not know. It certainly was spread around.

Senator CHILES. You mentioned Doc Roth who had provided vision care for the ILA members. Did he have to pay something for that privilege?

Mr. WAGNER. Boyle somewhere on his travels met up with Doc Roth. I do not know where. But he told me that he contributed \$5 to \$10, I do not know if it was \$5 or \$10, for each pair of glasses that came out of his shop to Boyle who in return contributed this money to the pot. I was to steer, whether they needed them or not, ILA people, or any people, to Roth to buy eyeglasses. Many times I saw Roth and Boyle together. They hung out together. They would come down during working hours to say hello and introduce me to Roth. He would socialize with him. Not to get off your track, Senator, but this is a pair of Doc Roth's glasses, 9 years ago, I still got them. I went in there

at any time of the day and just said fit me with a pair of glasses, sunglasses, whatever I wanted and just got them. For all of them pairs of glasses that was sold by him, he kicked back \$5 or \$10 to Boyle.

Now he was reimbursed for these eyeglasses, it was charged to the welfare fund. Now I went into Roth on different occasions, one time I brought a friend in there, I got two pair of glasses and they got two pair of glasses. I said, hey, I am not paying 2 cents to you for these—he said do not worry about them. I said how are you going to get this without using my name? He said I went in and used your name, I got a hold of Lester Fidel, he will give me the name of a longshoreman or checkers who are in the fund and do not use this privilege of getting eyeglasses. He said many of them did not even know they were entitled to them.

Senator NUNN. We have been told that Twin Express, owned by Frank Arevalo, became a major freight consolidator with Barone's power. Is that correct?

[At this point, Senator Chiles withdrew from the hearing room.]

Mr. WAGNER. Yes, sir. Twin Express operated off port. It was a freight consolidator; it operated out of an airport warehouse. They operated a long time without ILA labor. Then they made some sort of deal with Barone as to where they had to put in ILA labor. So Barone gave them what you call a sweetheart contract. In other words, the contract read that you had to have four men and a checker to strip a container, unload it and load it back, but he would do it with one or two men and had check and load at the same time, similar to the operation we had at Caribbean Freightways.

Many of the containers which would come in were supposedly stuffed, stripped, and stuffed again, loaded again, would just have their seal changed to show that it was done and work was not done. Now the shippers originally—shippers—they could not care less because it saved them the pilferage and the mixed freight, just general mixups. They were just as happy with that deal. They were just glad to pay for the loading and unloading of the container whether it was done or not.

What we use to do is change the seal, as I said, and make up a paper showing that the labor was used and paid for. This is what Twin Express done.

Senator NUNN. You know that for a fact?

Mr. WAGNER. Yes; I was there several times, Senator.

Senator NUNN. You saw it being done?

Mr. WAGNER. Yes; I spoke with Barone about it and I was told to ease off when I first started to complain about it. He said he had an interest in Twin Express. An interest could mean anything. It could mean interest in the stocks, or it could mean a payoff; it could mean anything. But it did mean for me to ease off, they had Barone's blessing.

Senator NUNN. In other words, not require Twin Express to be subjected to the same rules everybody else was?

Mr. WAGNER. Right. I was a port shop steward. I would take a couple of hours—a couple, 3 days—I would run around the airport to see what was happening with these companies as they started to spring up. What I was looking for were the same deals Twin Express had to bring people in on a sweetheart contract and this is how I was familiar with that operation.

Senator NUNN. Did you observe the stripping and stuffing going on at Twin Express?

Mr. WAGNER. Yes.

Senator NUNN. Twin Terminals?

Mr. WAGNER. They done the same thing as I done, sir. They just changed seals, done some paperwork. Occasionally if it was something that maybe there was people around, and maybe the shippers themselves had been down, but you would see them occasionally stripping and unloading. But most of the time it was impossible for the amount of labor they had there working to strip and restuff these containers.

Senator NUNN. So what it amounted to, they had a sweetheart contract with the union, they were protected from the normal labor rules and they were able to basically charge for a service they did not render except on an exceptional occasion?

Mr. WAGNER. That is right.

Senator NUNN. Who pays the cost of that kind of fraud?

Mr. WAGNER. The bottom line, the consumer.

Senator NUNN. Does the free enterprise system operate on the waterfront?

Mr. WAGNER. No, sir; no way. You cannot do business on the waterfront—the waterfront now controlled by the ILA. There is no way you can go in as a legitimate businessman and do business without paying someone or lending favors of some sort of them. Now everybody does not get paid in cash either. There is deals that I made. I supported Boyle and his family in groceries—not supported them, but gave them and took care of them in groceries and meat for years. I just went to Miami Ship Channelers, like that, Boyle would give me a list of what he wanted. Turner would give me a list of what he wanted. When his daughter got married, I was the caterer. I did not pay for it, the consumer paid for it because—it added up to one expense after the other. The company just rebilled it and the bottom line was the consumer. You cannot even work on the docks unless you get an OK from somebody, to check you out, to see who you are.

Senator NUNN. Were you first checked out when you went to work for Rago and Barone?

Mr. WAGNER. Yes, I was checked out thoroughly. The reason I know I was is because when I came down there, when I—I was down there before Barone—I got to meet Barone. He said, "Who were you with up in New York?" I said, "Carmine." He said, "You mean Lombardozzi?" I said "Yes." He said, "He was boss there." I said "Yes." He said, "Then you were with good people." Sometime later, Boyle had come to me maybe weeks later and said, "They had really checked me out thoroughly and said you were with these people, you went to jail and you left a bunch of them, 23 of them, on the street." Meaning I did not implicate them in what I was involved in, although they were part of it. "The reason," he said, "they were so thorough with you is that they are going to put you in the position," he said, "to generate some money down here." He said, "They will probably put you in a key position. They want to know who you are, what is your background." Now they knew me from the fringes of this society that they have, but they did not know me as what part I played with Lombardozzi or any of the rest of them. They knew I was around because I did

not have to be introduced to Barone. When he saw me I shook hands with him. I knew him, he knew me. I did not know that much about him, he did not know that much about me. That is the way it went.

Senator NUNN. So being connected with organized crime elements in New York was really a high recommendation for your work in Miami? Was it looked on as good credentials?

Mr. WAGNER. That was the recommendation. That was it. Once you are in that society and you go to another place, they will just check you out. Like, if they can use you, like I went to Baltimore and they knew of me and everything else and they were going to put me in a good position up there, good job, and they checked with Barone and he killed it. That is how it is, everybody is checked out, no matter who they are.

Senator NUNN. Did you ever hear anyone mention Carlos Marcellos during your contacts in Miami?

Mr. WAGNER. Yes; Rago, Barone, and Boyle; Vanderwyde, the rest of them, they all had good mob connections up and down the east coast. There was no port untouched by them. There was an incident come up involving New Orleans and the New Orleans area, Baton Rouge and one other which I do not remember, really, Senator, exactly what it was, but I do remember the conversation and Barone said, "Let us not have any waves down there, that is Marcellos' and we do not want no waves." He said, "We will not have any problems in the future. just forget it." I think it was setting up a container repair company, but I am not certain of that. There were so many things happening.

Senator NUNN. So, they did not want to fool around in New Orleans.

Mr. WAGNER. No; not without—if they ever decided to, they would have to go down and get his OK.

Senator NUNN. Why did you end up cooperating with the Government?

Mr. WAGNER. Why did I cooperate with the Government? I will tell you, Senator, after I got chased, so to speak, and I was chased, not physically chased, nothing like that, but I was cut off in Miami from earning a living, getting any work whatsoever on the docks. And as I said, I went to Baltimore and they killed that deal for me. I then got a subpoena for the Grand Jury in Miami. I was living in Baltimore. I got ahold of Boyle. I got ahold of Sklaire. I went to see Sklaire, I went to see Boyle. I said hey, I got a subpoena, I am going before the Grand Jury, do you have a lawyer I can talk to, use one of your lawyers, what have you. He said, no, it is not that serious, he said. Doug and George, George Barone, they felt that you made enough money down here you should be able to take care of your own way. Rightfully so, I made a lot of money, but I did not have any money. I said how about some work so I can pay a lawyer. They would not give me that either at that time. I then went and I borrowed \$10,000. I got a lawyer that charged more than I ever paid a lawyer or you earn. He got \$2,000 a minute to represent me. Neil Sonnet in Miami, Fla. I went to him and he said you put up \$10,000 up front and I will talk about your case. He said I will take \$35,000 down and let you know what the bottom line is if you want me to go through with it. He had not seen any jury papers, he had not seen any dispositions, he had not seen nothing. I

then went again and I contacted. I contacted Boyle again, I asked for some kind of help. I said I have to come up with some kind of money, I can work, earn, make money for you guys. I was kind of in a desperate position.

I then talked to Neil Sonnet. At that time, I was told by the Government they would give me immunity if I would testify. In the back of my head I had an idea here I am in the middle of the ocean swimming, I am sunk, I cannot get help from any place, I might as well go with them. Although I am wrong in their eyes, they are wrong in my eyes. Two wrongs, as they say, do not make a right. I was going according to them going the way I did. In my way of thinking they were definitely wrong by leaving me out in the middle of the ocean swimming by myself. I went to Sonnet. I told him the Government is going to give me immunity. He said take it. He took me down before a Federal grand jury and in 4 minutes I was granted immunity. I asked Sonnet what are we going to do with this \$10,000. I had to borrow that money. What are we going to do? You had me for 5 minutes, \$2,000 a minute, it is a little too much money even though it was borrowed money. He said, well, his parting words to me was "Sue me." Of course I never sued him. There is nothing you can do about it.

So the legitimate high priced bigshot lawyers, they ain't no different, in my opinion, than Barone, Rago, or anybody else. This is how the bottom line is as to how I got treated. I felt that myself, the best position for me to put myself in was to take immunity, testify, lay it all out on the table and whatever happened, happened. I will take my chances so that was the bottom line.

Senator NUNN. After you cooperated, did you ever hear from Rago, Boyle, or Barone again?

Mr. WAGNER. Yes. I had a phone call. I was back in Baltimore. In the interim I had spoken to Boyle a half a dozen more times after that. Then finally when I got immunity I was not in touch with him any more but he called me. He said the investigation is getting pretty heavy. He said maybe if you come back, something along—some words—they may be able to give me some help such as letting me work again to earn some money. I said it is too late, I have already testified before the grand jury. I do not know if he had a coronary at that time or what. He hung up. That was the last contact I had with him other than the court room.

Senator NUNN. Did you attend union meetings when you were in Miami?

Mr. WAGNER. I was responsible, Senator, for getting all the members to these meetings. We would send a card out when we had a meeting on a certain day. It was my responsibility to round them up to make sure we had other people there.

Senator NUNN. Did you tell them how to vote?

Mr. WAGNER. Yes.

Senator NUNN. Did they go along with you?

Mr. WAGNER. Yes; they went along with me on any request I made of the checkers, the chief clerks or anybody else we had, the mechanics affiliated with us because the bottom line was if they did not, they did not go to work.

Senator NUNN. Did Douglas Rago attend any of these meetings while you were there?

Mr. WAGNER. I had seen him maybe at one or two meetings, Senator, in the years that I was there. I do not even know why at that time. I think it was because they were reelecting him or something, but he was rarely there.

Senator NUNN. Why did he not attend the meetings as the vice president?

Mr. WAGNER. Would you repeat that, sir?

Senator NUNN. Why did he not attend the meetings when he was the vice president of the union?

Mr. WAGNER. Because as I stated before, in his position, once he is made in that position, he is not a working man no more, he is not nothing. The vice presidency, because you can draw money, salary out of the local and stuff like that, but he is just not expected to go to the front on any of them things so he just did not. It was as simple as that. He just did not go and he could care less. I ran into him at the race tracks many times and he did not even mention how is it going in the local. He could not care less.

Senator NUNN. Did you know Art Coffee?

Mr. WAGNER. Yes.

Senator NUNN. Who was he?

Mr. WAGNER. He was Doug's nephew. He was brought to me down on the dock and I was told to take him under my wing, teach him all there was to know about checking, all the angles, the ins and outs, but most of all to give him lucrative jobs. When I say lucrative jobs, such as jobs that is going to run into overtime, work on a Saturday or Sunday for overtime, stuff like that, or jobs that maybe work 2 hours and paid 8 hours for. Take him under my wing and groom him for the future. That he would be put in a position in the local. Simple as that, he would be put into a position in local 1922.

Senator NUNN. Did anyone ever explain to you how the mob got so deeply involved in the ILA?

Mr. WAGNER. Well, I heard that story, Senator, 150 times. It became a joke. But the truth and the bottom line is, Captain Bradley, who is president of the ILA—

Senator NUNN. When was that?

Mr. WAGNER. You have to go back quite a few years. I do not really remember the year.

Senator NUNN. Captain Bradley was head of—

Mr. WAGNER. Early 1950's maybe. I was not part of them at that time when this change became. But the story was mentioned and told so often, so many times, I heard it, like I said, 150 times. Anyway, Bradley was not going along with the whims and whines of the mob on the New York waterfront or anyplace else. He was told to step down, that he would be replaced by Gleason. At the time, there was two people sent to him and told him in plain English that he was out, that he did not go along with the right people and he was going to be out or he was going to be blown away. It was as simple as that. While this was taking place, Bradley was sitting, praying to rosary beads. That is the story I heard 150 times.

Senator NUNN. While that is taking place—

Mr. WAGNER. They would threaten to kill him if he did not step down. I understand in the beginning he balked a little when he was asked to step down. If he did not step down he would be killed. He sat and said the rosary beads and agreed on grooming Gleason for the job.

Senator NUNN. That would be Teddy Gleason?

Mr. WAGNER. Yes, sir.

Senator NUNN. And you heard that repeated many times. By who?

Mr. WAGNER. That story was told to me by Dave Kenny, Bill Boyle, Barone, Vanderwyde, 50 times told me the story over and over again. He would get drunk and tell me about the same—he was repetitious. I hear one story 10 times from him and once or twice that Barone and Boyle. Always the same story. This particular thing was like a laugh. They were able to identify with it as some sort of a laugh—ha, ha, remember when Bradley had the rosary beads, something to that effect.

Senator NUNN. They thought that was very funny, that he was praying when they threatened to kill him. Were they telling the story over and over to emphasize the fact that the mob controls ILA?

Mr. WAGNER. I think it was for a psychological effect, yes. The story was told to shipping people. I think that they wanted it known and I think people would be inclined to kind of stay in line a little more if they knew these people were capable of doing these things. So I think it was told for a purpose in my own opinion.

Senator NUNN. You never met Gleason yourself, did you?

Mr. WAGNER. Yes; I met him. At conventions, at the DiLido Hotel. Couple, three times I met him. Never had any dealings with him direct.

Senator NUNN. You do not have any direct evidence of his involvement in mob activities except what you heard?

Mr. WAGNER. Except coming from Barone when they decided that they would reward Boyle with an international vice presidency in front of Freddie Field and everybody else, he said I will tell Teddy that he has got the next shot at it. Many times something would come up and Barone said, well, I will see Teddy about it and straighten it out, something to that effect. Always the indication that they owned Gleason. They always gave you that indication. If you were at a convention, like at the DiLido, that was all the indication, if you were talking business of some sort and somebody said, well, I will tell Teddy that is the way I want it.

Senator NUNN. They behaved and talked as if they owned Gleason?

Mr. WAGNER. Yes; very much so.

Senator NUNN. Is that what is commonly believed on the waterfront by both union members and businesses?

Mr. WAGNER. Yes; I would say so, Senator, yes, that everybody has that kind of understanding that he is not his own boss and that it is all a front and a show and he goes along with what they say. I do not know. I do know he takes orders. I am not just assuming it because there were too many coincidences that happened around me that indicates that, that they are just not coincidence.

Senator NUNN. So it is circumstantial evidence but you have had so much of it that it has become a reality?

Mr. WAGNER. Yes; it was just too much not to be true. There were statements made. Like for instance, an example, during the strike. You do not think for one minute that Gleason did not know that we were operating out of ports in Florida. He was well aware of that.

Senator NUNN. When the strike was going on?

Mr. WAGNER. Yes. He made speeches and stuff, every ILA member is down, we are on strike, not an ounce of cargo will move and when I mentioned to Barone about that, forget about it, he said, send your men down there, do not worry about it, I will handle them. That was very common. That was said many times. That was a common statement.

Senator NUNN. Mr. Wagner, thank you very much for your testimony. We appreciate it. We think you have made a contribution to this subcommittee, a unique contribution. We hope that we will be able to take some steps to strengthen the laws in this respect. Do you have any specific suggestions about things that could be done from a law enforcement point of view to try to curb the corruption that you have been part of and witnessed?

Mr. WAGNER. I have many, Senator. The people that are involved in organized crime are just a little bigger, in my own opinion than you people can handle it. You have to go in there with strict Federal laws and watchdogs and they would have to monitor everything that happened down there because it is so organized that it is pretty hard to penetrate in. And I think that this last investigation did not even touch the surface. There is much, much more going on than you guys with the 100-some indictments. There should have been 900 indictments, not 120. There is no way you can look from the outside and control that, no way. There has to be strict Federal laws and it has got to be watchdog committees to find out what these people are doing. A guy comes to work on the waterfront with holes in his shoes and shiny pants and 6 months later he is driving a Cadillac and owns a condominium and nobody asks him why. This is the only thing why I say watchdogs. It has to be monitored. This is too big. As far as the Mafia is concerned, in my own opinion, it is bigger and stronger than the FBI. They have more outlets, more connections, more things happening, more money.

Senator NUNN. So the mob is actually in your opinion stronger than the FBI?

Mr. WAGNER. Yes; yes I make that statement. In my opinion they are stronger, politically, any way you want to look at it. I do not say this facetiously. I say this in earnest. They are that big. You know what is going on all over the country today, with narcotics, with out and out frauds on the waterfront, everything else. You know you are not playing with kindergarten students. You are playing with an organization that is organized, not that the FBI is disorganized, but they are organized.

Senator NUNN. I think you make a convincing case that it is a big job. We appreciate very much you being here. I will ask the marshals to clear the room before our witness leaves. Of course, we appreciate all cameras being turned away from the front of the room before you leave. I want to thank the news media for your cooperation in unusual, but important circumstances.

We will reconvene at approximately 2. We will take a break and come back at 2. Then we will have other witnesses today.

[Brief recess.]

[Member of the subcommittee present at the time of recess: Senator Nunn.]

[Member present after the taking of a brief recess: Senator Chiles.]

Senator CHILES [presiding]. Glenn Fry, staff investigator, will be our opening witness. Would you stand and be sworn, please? Do you swear the testimony you are about to give before the subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. FRY. Yes.

#### TESTIMONY OF GLENN FRY, INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Senator CHILES. Mr. Fry, we have heard testimony this morning about the relationship of a Miami eye doctor and two ILA officials. Do you have results of a staff investigation concerning this matter?

Mr. FRY. Yes, sir. Our staff received information and we did an investigation into the matters of Dr. Roth and we prepared a statement concerning that.

Dr. Irwin M. Roth, is an optometrist licensed to practice in the State of Florida. His office is located at 126 NE Second Ave, Miami, Fla. During its investigation the subcommittee learned that Dr. Roth, during the years 1973 through 1979, received a substantial amount, in fact about 50 percent, of business from the ILA welfare and pension fund vision care program. Witnesses and informants state that Dr. Roth was making cash payoffs to William Boyle and George Barone, ILA officials, for the referral of ILA patients to his practice.

Roth's association with ILA official William Boyle dates back to the early 1970's. The Justice Department's recent investigation of the waterfront industry and several ILA officials disclosed that in 1974 Dr. Irwin Roth assisted in the negotiation of three illegal payoff checks to William Boyle from Joseph Teitelbaum.

Teitelbaum informed investigators that Boyle advised him to make the payoff checks payable to cash and to endorse them. He said Boyle advised him that he would "wash" the checks through Dr. Roth. Three checks from Teitelbaum payable to cash totaling \$1,465, endorsed by Dr. Roth and negotiated through his bank account were used as evidence in the trial and conviction of George Barone showing that Dr. Roth laundered payoff money through his clinic.

George Wagner, former employee of Marine Terminals stated that William Boyle introduced him to Dr. Roth and advised him to take advantage of the ILA Vision Care Benefit and get eyeglasses from Roth. Wagner added that Boyle suggested that Roth would take care of him and that he could obtain as many pairs of glasses as he wanted.

Boyle explained to Wagner that he had a deal in which Roth would kickback to them on each pair of glasses which were paid for by the ILA Health and Welfare Fund. Boyle mentioned to Wagner that Dr. Roth kicked back \$5 to \$10 per pair of glasses to be put in the payoff pot shared by Rago, Barone, and Boyle.

In addition, Boyle has stated that Dr. Roth provides him with additional funds for "steering" longshoremen to Dr. Roth's clinic. Wagner stated that he personally visited Roth's office and was fitted for two pairs of glasses for himself and a friend. He said that he advised Roth that he had no intention of paying for the glasses. Roth explained to him that he would be provided a name of a longshoreman and that Wagner and his friend's bill would be paid by the ILA Health and Welfare Fund by obtaining payments from the fund using the name of an ILA member picked out at random.

The subcommittee examined records of the health and welfare fund of ILA Local 1922. These records reflect that during the years 1973 through 1979 Dr. Roth received approximately 50 percent of the fund's disbursements for eye care. During these years Roth received \$157,420 of a possible \$323,006 paid out by the fund for eye care.

In light of the above facts, it was learned that during recent meetings of the board of trustees of the health and welfare fund, a proposal was made to appoint an exclusive physician to treat patients of the ILA fund. It was also proposed that this physician will receive a monthly retainer in addition to whatever fees he charges the health and welfare fund. This appears to be an attempt to create a situation similar to the situation with Dr. Roth's relationship with the union.

The Permanent Subcommittee on Investigations staff has attempted to interview Dr. Roth, but he has refused to respond to our inquiries.

I might add that I have got copies of the three checks that were laundered by Dr. Roth that I would like to submit for the record.

Senator CHILES. All right. Let's have them marked exhibit 1.

[The documents referred to were marked "Exhibit No. 1" for reference and may be found in the files of the subcommittee.]

Senator CHILES. Fine. We have no questions.

We will now call Dr. Roth as the next witness before the subcommittee.

Doctor, I would like to swear you in. Do you swear the testimony you are about to give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. ROTH. Yes, I do.

**TESTIMONY OF DR. IRWIN ROTH, MIAMI, FLA., ACCOMPANIED  
BY BENJAMIN FISHBURNE, COUNSEL**

Senator CHILES. In the interest of making you aware of your obligations under the law to testify fully and truthfully at this hearing, we want to point out the following matter to you: First, the subcommittee has full legal authority to compel your testimony. Senate subcommittees are authorized by Standing Rules of the Senate, rule 26 to require by subpoena the testimony of a witness. In addition, Senate Resolution 361 expressly authorizes the Committee on Governmental Affairs and its duly authorized subcommittees, one of which is this subcommittee, to require by subpoena the testimony of witnesses. We are providing you with copies of rule 26, Senate Resolution 361, and the subcommittee rules, and, of course, you have previously been served with a subpoena.

We want you to be aware of the penalties for either refusing to testify or testifying falsely. Under 2 U.S.C. 192 for refusing to answer

any questions pertinent under inquiry, you can be prosecuted for Contempt of Congress and punished by up to 1 year in prison and under 18 U.S.C. paragraph 1621 and other statutes for testifying falsely on material matters, you can be prosecuted for perjury or making false statements and punished up to 5 years in prison.

We are furnishing copies of these statutes. You may be represented by counsel, and I notice, assume you are represented by counsel today. Counsel, would you introduce yourself?

Mr. FISHBURNE. Yes; I am Benjamin Fishburne of the law firm of Surrey & Morse in Washington, and I am representing Dr. Roth in this appearance.

Senator CHILES. We also want you to know, Doctor, that you have the privilege under the fifth amendment of the Constitution not to incriminate yourself in any criminal matter by virtue of your testimony before the committee. You understand that right?

Dr. ROTH. Yes.

Senator CHILES. You availed yourself of the right to counsel and having said that, I would like to ask you if you have paid kickbacks or given anything of monetary value to ILA officials for their referral of patients covered by ILA Health and Welfare Fund Vision Care plans?

Dr. ROTH. On the advice of counsel, I respectfully decline to answer on the basis of my fifth amendment right against self-incrimination.

Senator CHILES. Doctor, would you tell us what amount of businesses if any you received from ILA's Vision Care plan during each of the last 5 years?

Dr. ROTH. On the advice of counsel I respectfully decline to answer on the basis of my fifth amendment right against self-incrimination.

Senator CHILES. Would you tell us if you have ever provided services for patients and then deliberately billed such services against the vision care plan using the name of an ILA member who was covered by the plan, but also in fact was not a recipient of your services?

Dr. ROTH. On advice of counsel, I respectfully decline to answer on the basis of my fifth amendment right against self-incrimination.

Senator CHILES. Have you ever cashed, laundered or assisted in the negotiation of payoff checks made payable to cash for William Boyle or other ILA officials?

Dr. ROTH. On advice of counsel, I respectfully decline to answer on the basis of my fifth amendment right against self-incrimination.

Senator CHILES. Doctor, I assume from your posture that counsel has advised you and you do intend to assert your fifth amendment rights on all questions of the subcommittee. Might I ask you? We don't want to continue this—

Mr. FISHBURNE. Senator, if I may, that is correct. We have so advised the staff in advance of this and not wishing to take your time, if you don't wish to take ours, I will state for the record that that is what we are going to have to do.

Senator CHILES. The subcommittee recognizes anyone's right to assert his fifth amendment right privileges and we don't intend to keep you up here for a long period of time and ask you a number of questions. So, if this is your assertion, you do intend to do this, we will excuse you at this time.

Mr. FISHBURNE. Thank you.

Senator CHILES. We will now hear from Glenn Fry again for—we have heard testimony about the kickback scheme between Twin Express and George Barone. Do you have a staff statement which reflects the Permanent Subcommittee on Investigation's investigation of this particular matter?

Mr. FRY. Yes, sir.

Senator CHILES. Would you give that to us, please, sir?

Mr. FRY. Prior to the 1960's, most seagoing cargo was loaded loosely by stevedores into the holds of vessels via the use of cranes and nets. This was called "break bulk cargo," which is the term still applied today to noncontainerized cargo. With the development of modern ships came the concept of "containerization."

Valuable cargo would be packed into 20- or 40-foot containers, sealed and loaded directly onto the vessels. This was not only a more efficient method of loading the ships, but it also curtailed instances of theft, loss, and damage. Most cargo today is loaded in this manner.

The ILA labor contract directs that the loading of all containers performed within a 50-mile radius of the Port of Miami must be accomplished by ILA union labor before such containers are allowed aboard a vessel at the Port of Miami, unless such loading is performed by the full-time employees of the consignor.

This is referred to as the "50-mile rule." Containers that arrive at the Port of Miami from within the 50-mile limit which have not been packed by union labor are unloaded and reloaded at the pier before being placed onto a vessel. This process is called "stripping and stuffing."

[At this point, Senator Nunn entered the hearing room.]

[At this point, Senator Chiles withdrew from the hearing room.]

Mr. FRY. Companies within 50 miles of the port which load containers using their own non-ILA labor are opposed to the practice of having their cargo unpacked and repacked at the port. Such a practice enhances pilferage and the potential for damaged cargo, both of which result in consumer property claims, thus creating the additional financial burden of increased insurance premiums. These companies' financial plight is compounded by the additional expense of having to pay the stevedore companies for the redundant and seemingly unnecessary operation of unpacking and repacking containers that are already adequately packed.

Such additional costs of doing business are extremely inflationary in that the consumers, you and I, ultimately bear the brunt of these companies' increased costs of doing business.

Since the early 1970's, Twin Terminals Service, Inc., has operated in Miami, Fla., as an off-port loading company. Twin is located in an industrial park area near the Miami International Airport, which is within 50 miles of the Port of Miami. Twin employs ILA union labor similar to the stevedore companies that are physically located at the Port of Miami. Twin's president and owner is Frank Arevalo.

Twin formerly operated as a consolidator of cargo; however, since the early 1970's its operation consists of unloading, warehousing and reloading trailers and containers. A large volume of Twin's business involved the containerizing and warehousing of cargo for Coordinated Caribbean Transport, Inc.

However, since Twin employs ILA labor, it has substantially increased its volume of business by loading containers of other non-ILA freight forwarders and shipping businesses in order that they may be in compliance with the "50-mile rule."

More than 40 non-ILA freight forwarders in the Miami area utilize Twin's containerization services. They used Twin terminals because they had no alternative except to have containers unloaded and reloaded at the port which was more expensive and created a greater potential for pilferage and damages.

Prior to October 1980, Mr. Arevalo was permitted by the ILA to dispatch less than full crews, usually two Twin employees, to non-ILA companies to load containers. Once loaded, the containers were sealed, using Twin's seal, and transported to the port. The Twin seal alerted ILA personnel at the port that the containers had been loaded by ILA labor and could therefore be loaded aboard a vessel. Arevalo would charge a set rate to load a container and was able to maximize his profits by dispatching only two employees rather than a full crew.

This subcommittee has received information from non-ILA company representatives who utilized Twin's containerization service that the Twin employees dispatched to their facility, in actuality, performed little or no physical loading but merely attached Twin's seal to the container. They indicated that their own company's non-ILA labor did all or most of the loading.

By operating in this matter Twin violated the ILA contract by using less than full crews and by using non-ILA labor to load or even assist in the loading. It was learned that the ILA contract specifies that ILA labor must also receive and unload cargo at nonunion facilities if it is eventually to be containerized. Twin did not perform any receiving or unloading of cargo for non-ILA companies.

Twin, by receiving permission to circumvent ILA regulations, was able to monopolize the off-port loading business. One company executive who employs ILA labor stated that he could not compete with Twin's rates in that he must use full crews to receive the cargo and to load the containers.

Witnesses have stated that in the manner described above, Twin Terminals charged a large amount for using ILA labor to load containers at the port and since Arevalo used only two ILA laborers—who did little or no work—Twin Terminals received a windfall profit for this service.

[At this point, Senator Rudman entered the hearing room.]

Mr. FRY. In October 1980, the ILA prohibited companies from dispatching employees to non-ILA facilities. Twin Terminals customers were required to forward already adequately loaded containers to Twin's warehouse where they would supposedly be stripped and stuffed by ILA labor.

That is, once a shipping company fully and carefully loaded a container, the ILA required that company to send that fully loaded container to Twin Terminals for the alleged purpose of being entirely unloaded and reloaded by ILA labor supposedly employed by Frank Arevalo. This operation was more costly to the non-ILA businesses in that the fee Twin Terminals charged to unload and reload an already-loaded container was a substantial and unnecessary cost to them.

Several non-ILA consolidators and forwarders have advised that Arevalo's volume of business is such that he could not be stripping and stuffing all, if any, containers other than those of CCT. They have stated that he is merely attaching Twin's seal to the containers and forwarding them to the port rather than stripping and stuffing them with ILA labor as he is supposed to.

A confidential source and former employee of Arevalo advised that Arevalo makes payoffs to ILA officials for the privilege of merely applying the Twin seal. During this investigation it was learned that Arevalo formally maintained an account in the Twin books entitled "Payments to Union Executives."

It should be noted that since Arevalo employs ILA members, any payment to a union officer is strictly illegal under the Taft-Hartley Act.

It should also be noted that evidence disclosed in George Barone's trial establishes that Arevalo assisted in the laundering of payoff checks from Joe Teitelbaum to William Boyle. This source also stated that Arevalo was allowed to pad his ILA payroll with fictitious ghost employees to cover the payoffs.

This subcommittee examined Twin's 1979 and 1980 payroll records. It discovered that during certain quarters Twin's payroll records reflect approximately 40 percent more hours worked than was reported on its quarterly reports to the ILA welfare and pension fund.

It should be noted that failure to report accurate information on such reports is a felony violation of 18 U.S.C. 1027. In effect, Arevalo's records show that he is using more ILA workers but not reporting it to the trust funds which would require him to contribute to those funds according to a collective bargaining agreement for each hour worked. This is further evidence that Arevalo is merely padding his payroll with ghost employees to cover payoffs to union officials. Otherwise, he would have to contribute a certain amount of money into the trust funds to cover benefits for the workers he claims.

George Wagner, a witness before the subcommittee has stated that George Barone advised him that he allows Arevalo to operate using only a few ILA laborers and that Twin does not have to strip and stuff containers but merely seals them and bills his customers for stripping and stuffing. Wagner stated that he has witnessed Twin's operation on several occasions and insists that Twin could not possibly strip and stuff containers with the number of ILA laborers who work at his warehouse. Wagner has stated that he performed this same scheme for Barone in the past on the ports and that Barone offered him the opportunity to continue doing this for Frank Arevalo.

Members of this subcommittee's staff have examined Twin's invoices for a 15-month period beginning October 1979 through December 1980. During an interview prior to the examination of Twin's invoices, Mr. Arevalo indicated that Twin loaded only approximately 300 containers per month. The invoices, however, reflected that Twin was billing its customers for loading well in excess of 650 containers per month. Verification checks with a random selection of Twin's customers corroborated this finding.

Mr. Arevalo advised this subcommittee's investigators that he normally employs about 20 ILA laborers, plus a "header" who supervises

them. His warehouse contains about 38,700 square feet of storage space. Our staff has interviewed numerous experts in the Miami waterfront business who have emphatically stated that it would be virtually impossible for a firm with only 40,000 square feet of warehouse space and such a limited number of employees to load as many containers per month as Arevalo bills his customers for.

One particular individual, a vice president of a Miami shipping business, stated that his operation is similar to Twin's with respect to available space, number of employees, and operations. He commented that he believed it impossible to handle such a large volume of containers unless he were not actually stripping and stuffing. He added that an operation such as Arevalo's actually is depriving the union of available work.

Our evidence indicates that Twin Terminals Service, Inc., is not adhering to the ILA union contract regarding containerization. It is obvious that Twin operates loosely within the regulations. In light of the foregoing, it appears evident that the 50-mile rule is to the exclusive benefit in Miami of Frank Arevalo and George Barone, William Boyle, and other select ILA officials.

Senator NUNN [presiding]. Mr. Fry, we appreciate your testimony today and we also appreciate your dedicated staff work for this subcommittee. I am sure we will be hearing from you again before these hearings are concluded. So we thank you for your testimony. If Senator Rudman has any questions, I will defer to him.

Senator RUDMAN. No questions, Mr. Chairman.

Senator NUNN. Thank you. Our next witness is Mr. Frank Arevalo, who is owner of Twin Terminal Services, Inc., in Miami, Fla. Mr. Arevalo, please come forward, if you will hold up your right hand before you have a seat, I will swear you in as we do all the witnesses before this subcommittee. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Did you state "I do?" I didn't hear that.

Mr. AREVALO. I do, sir.

Senator NUNN. Mr. Arevalo, in the interest of making you aware of your obligation under the law to testify fully and truthfully at this hearing, I want to advise you of several of your legal rights before the subcommittee.

First, the subcommittee has full authority to compel your testimony. The Senate subcommittees are authorized by the standing rule of the Senate Rule 26 to require by subpoena the testimony of a witness. In addition, Senate Resolution 361 expressly authorizes the Committee on Governmental Affairs and duly authorized subcommittees, one of which is this subcommittee, to require by subpoena the testimony of witnesses.

We are providing you copies of rule 26 and Senate Resolution 361 of the subcommittee's rules and you have been previously served with a subpoena. You should be aware of the penalties for either refusing to testify or testifying falsely under 2 U.S.C. 192. For refusing to answer any question pertinent to the question under inquiry, you can be prosecuted for contempt of Congress and punished by up to 1 year in prison.

You have the right under this subcommittee's rules to be represented by legal counsel. You have a right to consult with your legal counsel before answering any questions. Are you, in fact, represented by legal counsel today?

Mr. AREVALO. Yes, sir.

Senator NUNN. Could you introduce your counsel for us, or counsel can introduce himself.

Mr. ENGEL. My name is Max Engel. I am from Miami, Fla., and I represent Mr. Arevalo.

Senator NUNN. In addition, Mr. Arevalo, you do have the privilege under the fifth amendment of the Constitution not to incriminate yourself in any criminal matter by virtue of your testimony before this subcommittee. Do you understand your rights and obligations as a witness?

Mr. AREVALO. Yes.

Senator NUNN. Mr. Arevalo, if you would pull that mike up a little bit so we can hear you.

Could you give your address, full name, and address?

**TESTIMONY OF FRANK AREVALO, TWIN TERMINALS SERVICES, INC., MIAMI, FLA., ACCOMPANIED BY MAX ENGEL, ATTORNEY, MIAMI, FLA.**

Mr. AREVALO. My name is Frank Arevalo. I live at 800 Northwest 29th Avenue, Miami, Fla.

Senator NUNN. Do you own Twin Terminals?

Mr. AREVALO. Yes, sir.

Senator NUNN. Could you give us that address?

Mr. AREVALO. It is 2551 NW. 22d Avenue, Miami.

Senator NUNN. How many people do you employ, Mr. Arevalo?

Mr. AREVALO. All together, 30, 35 people, office and what else.

Senator NUNN. How long have you operated Twin Terminals?

Mr. AREVALO. Over 10 years.

Senator NUNN. Over 10 years. Do you have any partners in this business?

Mr. AREVALO. No, sir.

Senator NUNN. About 10 years?

Mr. AREVALO. Yes.

Senator NUNN. Do you have partners in this business?

Mr. AREVALO. No.

Senator NUNN. Is it incorporated?

Mr. AREVALO. Yes.

Senator NUNN. Do you have partners in this business?

Mr. AREVALO. Yes.

Senator NUNN. You are 100-percent owner of the stock?

Mr. AREVALO. My son owns 10 percent.

Senator NUNN. Your son owns 10 percent.

What's his name?

Mr. AREVALO. John.

Senator NUNN. John Arevalo?

Mr. AREVALO. Yes.

Senator NUNN. Is he an officer of the company?

Mr. AREVALO. He's secretary.

Senator NUNN. Does he work in the company?

Mr. AREVALO. Yes, sir.

Senator NUNN. Do you have any other family members who work in the company?

Mr. AREVALO. I have my other son, two more sons.

Senator NUNN. Two more sons. What are their names?

Mr. AREVALO. Frank, Jr., and Ricardo.

Senator NUNN. And Ricardo? Mr. Arevalo, you say you have been in this business about 10 years?

Mr. AREVALO. Yes.

Senator NUNN. What did you do before that?

Mr. AREVALO. Same thing, freight forwarder.

Senator NUNN. Freight forwarder? What was the name of your company before you formed Twin Terminals?

Mr. AREVALO. Arevalo Freight Forwarders.

Senator NUNN. That was the same kind of business?

Mr. AREVALO. Similar.

Senator NUNN. Did you stay in the same location, did you just change the name of your corporation or did you actually change your method of operation?

Mr. AREVALO. I used to be downtown Miami and I went to the airport and I changed the name of the company.

Senator NUNN. Mr. Arevalo, have you ever had any business dealings with George Barone?

Mr. AREVALO. Just contract.

Senator NUNN. Contracts? What type of contracts?

Mr. AREVALO. Union contracts.

Senator NUNN. What is his capacity? In what capacity do you deal with him?

Mr. AREVALO. He's the head of the union.

Senator NUNN. Head of the union in Miami. He furnishes labor to you under contract?

Mr. AREVALO. Yes.

Senator NUNN. Have you ever had any dealings with William Boyle?

Mr. AREVALO. Same as Mr. Barone's—you know, dealing with the labor.

Senator NUNN. Dealing with labor? Is he also an officer in the union?

Mr. AREVALO. I think he is, yes.

Senator NUNN. Have you ever had any business dealings with Mr. George Wagner?

Mr. AREVALO. Pardon?

Senator NUNN. Excuse me, Mr. George Wagner.

Mr. AREVALO. I never knew Mr. Wagner.

Senator NUNN. You don't ever recall having seen him?

Mr. AREVALO. Don't recall.

Senator NUNN. Did you hear his testimony this morning?

Mr. AREVALO. Yes.

Senator NUNN. But you still don't recall having met him?

Mr. AREVALO. I heard of him but I never met him.

Senator NUNN. Mr. Arevalo, did you incorporate fictitious employees into your payroll records?

Mr. AREVALO. On advise of my lawyer, I refuse to answer that question on the grounds I might incriminate me.

Senator NUNN. You are asserting your rights under the Constitution?

Mr. AREVALO. That's it.

Senator NUNN. Mr. Arevalo, why is there such a discrepancy in the hours worked with regard to your payroll records and the reports you submit to the ILA Welfare and Pension Funds?

Mr. AREVALO. The same thing.

Senator NUNN. Would you go ahead and state it?

Mr. AREVALO. I invoke the fifth amendment.

Senator NUNN. Did you ever maintain an account in Twin Terminals' books and records entitled "Payoffs to Union Executives"?

Mr. AREVALO. I invoke the fifth, also.

Senator NUNN. Did your employees physically strip and stuff containers for your non-ILA customers?

Mr. AREVALO. I invoke the fifth amendment.

Senator NUNN. Did ILA officials permit you to merely sell the Twin seal rather than perform the labor?

Mr. AREVALO. I invoke the fifth amendment.

Senator NUNN. Mr. Arevalo, I don't have many more questions for you. We hoped you would testify fully today because we felt your operation is a key business in the Miami area and certainly key to many of the questions we are trying to untangle in the course of these hearings. I will just ask you a few more questions.

Did you receive special privileges from union officials which permitted you to violate or circumvent the ILA union contract?

Mr. AREVALO. I invoke the fifth amendment.

Senator NUNN. Did you ever launder a check from Joe Teitelbaum that was intended as a payoff for a union official?

Mr. AREVALO. I invoke the fifth amendment.

Senator NUNN. Did you ever make payoffs to union officials in return for any special considerations?

Mr. AREVALO. I invoke the fifth amendment.

Senator RUDMAN. Mr. Arevalo, you say you have been in this particular company for 10 years; is that correct?

Mr. AREVALO. It had a different name but it's the same company.

Senator RUDMAN. But this company, Twin Terminals, has been incorporated for approximately 10 years?

Mr. AREVALO. Right.

Senator RUDMAN. Prior to that the company operated under your name; is that correct?

Mr. AREVALO. Correct.

Senator RUDMAN. Could you tell me the reason for the change?

Mr. AREVALO. When I became a consolidator, I was loading trailers for other freight forwarders. I thought it was unethical to compete with them since I was loading their own trailers. I wasn't going to compete with them as a freight forwarder. So I dropped out of the freight forwarding business.

Senator RUDMAN. And how many employees does your Twin Terminal Services employ on an average at this time?

Mr. AREVALO. Sometimes 20, 30, it all depends on the amount of work.

Senator RUDMAN. What is your annual sales volume in that company, approximately, based on your last Internal Revenue Service findings?

Mr. AREVALO. Over \$1½ million.

Senator RUDMAN. What is your total payroll for that company?

Mr. AREVALO. Pardon?

Senator RUDMAN. What is your total payroll for that company exclusive of any family members in that company?

Mr. AREVALO. Payroll is close to \$1 million.

Senator RUDMAN. Mr. Arevalo, we have many questions we would like to ask you, but you already indicated you are taking the fifth amendment on most of these questions that really get down to the scope of our investigation and some of the allegations against your company that have appeared in our record. So we regret that you are not testifying, but we respect your right to assert your Constitutional privileges. We thank you and your attorney for being here today.

Our final witnesses today are George Havens, chief investigator, State attorney's office of the 11th judicial circuit of the State of Florida.

Mr. Havens has been a real leader in the investigation that has taken place and that we have heard so much about.

Our next witness is Mr. Howard Rasmussen, executive director, Citizen's Crime Commission of Greater Miami, Inc.

I ask both of you to hold up your right hand.

Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HAVENS. Yes, sir, I do.

Mr. RASMUSSEN. I do.

**TESTIMONY OF GEORGE R. HAVENS, CHIEF INVESTIGATOR, STATE'S ATTORNEY'S OFFICE OF THE 11TH JUDICIAL CIRCUIT OF THE STATE OF FLORIDA, MIAMI, DADE COUNTY, FLA., AND HOWARD RASMUSSEN, EXECUTIVE DIRECTOR, CITIZEN'S CRIME COMMISSION OF GREATER MIAMI, INC., MIAMI, FLA.**

Senator NUNN. We will have you sit together.

We will have questions separately.

We appreciate your patience in waiting through a long day and we appreciate both of your interest in these hearings.

Mr. Havens, I also appreciate your courtesy when I was a visitor in your city last week. My staff has told me about your superb assistance throughout the course of this entire investigation. We express our appreciation to you and hope you will convey our similar thanks to your superiors and those others who work with you in your department.

Mr. HAVENS. Thank you, Senator.

Senator NUNN. Mr. Havens, do you want to lead off with your statement, please?

Mr. HAVENS. Yes, sir. Mr. Chairman, members of the Permanent Subcommittee on Investigations, ladies and gentlemen, on behalf of the State's attorney of the 11th judicial circuit of the State of Florida, please let me express my appreciation to the subcommittee for inviting me to appear here today and offering us the opportunity to express our views on organized crime and labor racketeering and their influence in the Miami community.

In my position as chief investigator for Janet Reno, State's attorney for Dade County, Fla., I have had a unique opportunity to explore firsthand these grave problems in the south Florida area. I would like to share my knowledge of that problem with you.

In 1972, the Metropolitan Dade County Department of Public Safety received information indicating that the Dodge Island Seaport, the hub of one of south Florida's largest industries, had been infiltrated by organized crime.

Our information established that virtually every commodity affecting the transportation industry on the Dodge Island Seaport was under the control and domination of a small group of highly sophisticated and organized criminals. We began our investigation by contacting the New York-New Jersey Waterfront Commission.

Following a review of their records and reports, we determined that, beginning in 1946, organized crime's influence on the shipping industry was extensive, primarily in the Northeastern portion of the United States. As a result, numerous commissions and boards of inquiry had made recommendations to control this illegal dominance. We further determined that, following passage of legislation in New York regulating the waterfront of several of the top ILA officials from local 1826 in New York City had been barred from working in the New York area and had relocated into the Miami, Dade County area, where no equivalent regulation of waterfront activities existed.

Those individuals included George Joseph Barone, Douglas Rago, James Cornelius Vanderwyde, and William Boyle, all of whom you have heard testimony about during the course of these hearings.

Numerous attempts by local law enforcement agencies to determine the scope of organized crime's infiltration into the transportation industry as well as efforts to control an increasing theft problem at Miami's Dodge Island Seaport had all proved unsuccessful.

One of the primary problems was that most of the people who worked on the seaport knew each other, rendering the waterfront labor community a very close-knit and tight organization. It was apparent that in order to work on the seaport, one must be a member of one of the two local operating ILA unions.

[At this point Senator Rudman withdrew from the hearing room.]

Mr. HAVENS. In 1972 a specialized unit was formulated within the Dade County Public Safety Department (PSD) to address the problems of organized crime and labor racketeering as it related to the transportation industry, with specific emphasis on the Dodge Island Seaport. The unit was staffed by agents from the U.S. Customs Service, the Florida Department of Law Enforcement (FDLE) and Public Safety Department, with investigative commitments from the FBI and other State, local, and Federal regulatory agencies.

I served as chief administrator for that unit. The initial investigation conducted by our task force determined that the scope of the problem was far more severe than had originally been anticipated. We determined that fear was prevalent and effective on the Dodge Island Seaport.

Most shipping companies and other businesses operating on the port refused to cooperate with local or Federal law enforcement authorities for fear of reprisal, work slowdowns, or damage to property. Free enterprise, as traditionally recognized in the United States simply did not exist in the waterfront or shipping industry.

I might add, we concur with those who have testified before us who have indicated the fact that free enterprise as we understand it simply does not exist.

Senator NUNN. You are saying that is still the case now?

Mr. HAVENS. Yes, I am.

Intelligence sources developed during initial phases of the task force concept determined that ghost payrolls, kickbacks, free cruises, free merchandise, and other forms of payoffs were commonplace on the docks. Companies operating within the shipping industry either paid these kickbacks or simply were forced out of business.

Companies such as container repair facilities, trailer welding facilities, and others were either owned by union officials or by persons very closely associated with top ILA officials. Port thefts, although prohibited by union contracts, were freely tolerated and condoned by the ILA. Moreover, companies either failed to report or grossly underestimated their theft losses for fear of higher insurance rates or for other reprisals.

Numerous surveillances during 1974 and 1975 revealed that Barone, Boyle, Vanderwyde, Rago, and Field, and others frequently met, not only among themselves, but also with top shipping and other officials in the transportation industry.

In 1975, our investigators reported that one of the most significant problems facing the Dodge Island Seaport was the easy access to the high value cargo areas and the lack of licensing or regulatory control over access to areas. Moreover, there was virtually no regulation of individuals actually controlling both businesses and unions operating within the port. The absence of such regulation resulted in individuals with organized criminal backgrounds in New York and elsewhere holding powerful union positions and exerting significant influence on the south Florida waterfront industry.

Based on nationwide airport and seaport visits and contacts with international police organizations involved in airport and seaport security, we gathered extensive information on various regulatory procedures.

We presented numerous seminars to local shipping and business representatives, acquainting them with the problem and proposed recommendations and solutions. It was mutually decided that the most effective way to attack the problem was the adoption of a stern security ordinance, limiting both ingress and egress to high-value cargo areas and requiring background and security checks on persons operating within the port, including union officials.

Since 1973 a shipping company official had brought confidential information to State and Federal authorities about payoffs to ILA officials. Labor racketeering in Metropolitan Dade County was clearly brought to light in 1976 when that same individual, charged with violations of State law, agreed to cooperate with law enforcement agencies.

During the course of that cooperation, he explained exactly how the ILA and organized crime had taken over complete control of the industry. That individual, Joseph Teitelbaum, a man involved in the shipping industry for approximately 20 years, told law enforcement authorities that in 1961 or 1962, he was approached by Fred R. Field, Jr., ILA general organizer, who told him that the ILA was going to take over the Dodge Island Seaport and that those businesses that cooperated with union officials would prosper and those that did not would go out of business.

Teitelbaum related incidences of extensive vandalism suffered by his company as the result of failure to cooperate with union officials in their kickback schemes. He told us of weekly payoffs to top union officials as the price for labor peace.

As told by Teitelbaum, free enterprise did not exist on the south Florida waterfront. Each and every contract for stevedoring work, welding work or ship servicing required approval by ILA officials who customarily demanded weekly payoffs in return for their approval. Acting in an undercover capacity, Teitelbaum made numerous payoffs to top union officials.

During debriefing sessions, he also advised us that the problem of union payoffs was not unique to metropolitan Dade County, but in fact permeated the entire shipping industry. At this point, the local police agencies decided that the problem of labor racketeering, organized crime, and corruption within the entire shipping industry was beyond not only the budget, but also the jurisdictional limitations and investigative capabilities of local or State law enforcement. For those reasons the Organized Crime and Racketeering Section of the U.S. Department of Justice and the FBI were contacted. The Airport, Seaport Security Task Force participated and cooperated with the FBI through the entire 4-year investigation, known as Operation "UNIRAC."

The task force, meanwhile, continued to develop a proposed security ordinance for the Dodge Island Seaport. Our legal representatives and investigators met on numerous occasions with shipping and port officials. They also attempted on numerous occasions to meet with ILA officials and their attorneys in an attempt to draft a viable and effective ordinance that all concerned with the industry could live with. Unfortunately, ILA officials demonstrated little or no willingness to cooperate with us in that effort. In 1978, a security ordinance, which had been in the development stages since early 1976, was presented to the Dade County board of commissioners, a copy of which I have submitted to the committee.

Senator NUNN. It will be made part of the record, without objection. [The information follows:]

## AIRPORT/SEAPORT SECURITY PROJECT

## Legal Consultant's Proposed Ordinance For The Port of Miami.\*

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## AIRPORT/SEAPORT SECURITY PROJECT

## LEGAL CONSULTANT'S PROPOSED SECURITY ORDINANCE FOR PORT OF MIAMI

## Section 1. General

## 1.1 Definitions

Note: Words not specifically defined by Subsection 1.1 herein which relate to maritime and shipping practices, processes and equipment shall be construed according to the general usage in the maritime and shipping industry.

(1) "Area of Cargo Operations" or "ACO" shall mean any area located within the Port of Miami to which the County Manager of Dade County, Florida; or his appointed Director of the Port of Miami, shall determine that limited ingress and egress is required for the protection and security of any cargo or freight located within the Port of Miami.

(2) "Authorize(d)" shall mean acting under or pursuant to a written contract, permit, license, authorization or other evidence of right issued by the Metropolitan Dade County Seaport Department or Port Director.

(3) "Board" shall mean the Board of County Commissioners of Dade County, Florida; as constituted under and pursuant to the Home Rule Charter.

(4) "Cargo" shall mean the load, lading, goods, or merchandise conveyed by any vessel or vehicle, or as stored in any port facility.

(5) "Carrier of Freight by Water" shall mean any person who may be engaged or who may hold himself out as willing to be engaged, whether as a common carrier, as a contract carrier or otherwise, in the carriage of freight or passenger baggage by water or other means between any point in the Port of Miami and a point outside the Port of Miami.

(6) "Checker" shall mean a longshoreman who is employed to engage in direct and immediate checking of freight or of the custodial accounting thereof or in the recording or tabulation of the hours worked at piers or other waterfront terminals by natural persons employed by carriers of freight by water, (land) or stevedores.

(7) "Commercial Activity" shall mean the (shipping, transferring,) exchange, trading, buying, hiring or selling of commodities, goods, services, (freight) or property of any kind, or any (other) revenue-producing activity, on the Port of Miami.

(8) "Container" shall mean any receptacle, box, carton or crate which is specifically designed and constructed so that it may be repeatedly used for the carriage of freight by a carrier of freight by water (or land) or any other carrier of freight.

(9) "County" shall mean the County of Dade in the State of Florida.

(10) "Department" shall mean the Metropolitan Dade County Seaport Department.

\*All words appearing in parenthesis have been added as a result of meetings held between the Airport/Seaport Security Project Legal Consultant and the Dade Attorneys and the Port Director and the Assistant Port Director. All words that have been crossed out have been crossed out as a result of these meetings. These additions and deletions have been indicated on this draft to assist the reader in his interpretation of this draft.

(11) "Director" shall mean that person appointed by the County Manager of Dade County, Florida; carrying the title of Port Director or his duly authorized representatives. This term is synonymous with the term "Seaport Director."

(12) "Freight" shall mean cargo, (including passenger baggage) which has been, or will be, carried by or consigned for carriage by a carrier of freight by water (or land).

(13) "Law Enforcement Officer" shall mean any person vested with a police power of arrest on the Port of Miami under federal, state or county authority.

(14) "Longshoreman" shall mean a natural person other than a hiring agent who is employed for work at a pier or other waterfront terminal;

(a) either by a carrier of freight by water (or land) or by a stevedore, physically to perform labor or services incidental to the movement of [water borne] freight on vessels berthed at piers, on piers, or at waterfront terminal facilities, including but not limited to, cargo and coopers, general maintenance men, mechanical and miscellaneous workers, horse and cattle fitters, grain cellers, and marine carpenters, or;

(b) by any person, physically to move [water-borne] freight to or from a barge, lighter, railroad car, or motor vehicle or transfer to or from a vessel of a carrier of freight by water which is, shall be, or shall have been berthed at the same pier or waterfront terminal or;

(c) by any person, to perform labor or services involving or incidental to, the movement of freight at a waterfront terminal or port terminal facility.

(15) "Marine Terminal" shall mean an area, which includes piers and walks, which is used primarily for the moving, warehousing, distributing or packing of [water-borne] freight, or freight to or from such piers, and which, inclusive of such piers, is under common ownership or control.

(16) "Motor Vehicle" shall mean a device in, upon or by which a person or property may be propelled, moved, or drawn upon land or water, except a device moved by human or animal power, except aircraft or devices moved exclusively upon stationary rails or tracks.

(17) "Officer" shall mean a law enforcement officer.

(18) "Operational Directive" shall mean an order bearing the designation "Operational Directive" and requiring specific operational procedures or prohibiting specific operations or types of operations, onto or from the Port of Miami or establishing designated and restrictive uses of various areas of the Port of Miami. The "Operational Directive" shall be issued by the Director of the Port of Miami, as appointed by the County Manager of Dade County, Florida. The Director of the Dade County Public Safety Department may issue an "Operational Directive" when it shall be necessary to issue such directive in order to preserve the public peace, prevent crime, detect and arrest offenders, protect the rights of persons and property, and to control traffic, in accordance with the laws of this state and the ordinances of this county.

(19) "Operator" shall mean any person who is in actual physical control of any motor vehicle.

(20) "Owner" shall mean a person who holds the legal title of a motor vehicle, or in the event that the motor vehicle is the subject of a conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement, and with the immediate right of possession as to the conditional vendee or lessee, or anyone in possession of such motor vehicle on the Port of Miami, or in the event a mortgagor of a motor vehicle is entitled to the possession, then the conditional vendee, lessee, or mortgagor shall be deemed the owner for the purposes of these rules and regulations.

(21) "Park" shall mean to put or leave or let a motor vehicle stand or stop in any location, whether the operator thereof leaves or remains in such vehicle, when such standing or stopping is not required by traffic controls or conditions beyond the control of the operator.

(22) "Person" shall mean not only a natural person, but also children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, municipal and other governmental entities.

(23) "Port Director" shall be that person appointed by the County Manager of Dade County, Florida, who shall be the administrative head of the Metropolitan Dade County Seaport Department.

(24) "Port of Miami" is synonymous with the term "Seaport Department." "Port of Miami" shall include all of Dodge Island and shall include all of that

area as described in Port of Miami Terminal Tariff No. 10, Rates, Rules and Regulations for the Seaport facilities of Dade County, Florida, as issued by the Dade County Manager under authority of Administrative Order No. 4-4, pursuant to Section 4.02 of the Home Rule Charter; Dade County having jurisdiction over and control of the operations of the Port of Miami.

(25) "Port Terminal Facility" shall mean one or more structures comprising a terminal unit and including, but not limited to, wharves, warehouses, (transit sheds) covered and/or open storage spaces, cold storage plants, grain elevators, boat cargo loading and/or unloading structures, landings and receiving stations used for the transmission, care, and convenience of cargo and/or passengers in the interchange of same between land and water carriers or between two water carriers.

(26) "Port Watchman" shall include any watchman, gateman, roundsman, detective, guard, guardian or protector of property employed by the operator of any pier or by a carrier of freight by water (or land, or by the Seaport Department) to perform services in such capacity on any pier or any portion of the Port of Miami. This term shall not mean any law enforcement officer.

(27) "Restricted Area" shall mean an area of the Port of Miami posted to prohibit or to limit entry or access to specific authorized persons.

(28) "Rules and Regulations" shall mean the [Dade County Security] specific provisions of this Ordinance as (enacted and as the same shall be amended from time to time.) [codified in Chapter —, Code of Metropolitan Dade County.]

(29) "Seaport" shall mean any port owned and operated by Dade County, Florida, as now existing or as the same may hereafter be developed.

(30) "Seaport Department" shall mean the Department of Dade County, Florida, created to operate, manage and develop the Port of Miami and terminal facilities of Dade County, Florida.

(31) "Seaport Director" shall mean the administrative head of the Seaport Department, and any and all of his duly authorized agents or representatives as appointed by the County Manager of Dade County, Florida. This term is synonymous with the term "Port Director."

(32) "Solicit or Solicitation" shall mean to directly or indirectly, actively, or passively, openly or subtly, ask or endeavor to obtain by asking, requesting, imploring, pleading for, importuning, seeking, or trying to obtain.

(33) "State" shall mean the State of Florida.

(34) "Stevedores" shall mean:

(a) a contractor (not including an employee) engaged for compensation pursuant to a contract or arrangement with a carrier of freight by water (or land) in moving [water-borne] freight, carried or consigned for carriage by such carrier, on vessels of such carrier berthed at a pier, on piers at which such vessels are berthed or at other waterfront terminals or port terminal facility; or

(b) contractors engaged for compensation pursuant to a contract or arrangement with the United States, any territory or state thereof, or any department, division, board, or commission of authority of one or more of the foregoing, in moving freight or consigned for carriage, between any point in the Port of Miami and a point outside said port on vessels of such a public agency berthed at piers, on piers at which such vessels are berthed or at other waterfront terminals or port terminal facilities; or

(c) contractors (not including employees) engaged for compensation pursuant to a contract or arrangement with any person to perform labor or services incidental to the movement of [water-borne] freight on vessels berthed at piers, on piers or other waterfront terminals, or port terminal facilities, including, but not limited to, cargo storage, cargo repairing, cooperating, general maintenance, mechanical and miscellaneous work, horse and cattle fitting, grain ceiling, and marine carpentry; or

(d) contractors (not including employees) engaged for compensation pursuant to a contract or arrangement with any other person to perform labor, or services involving, or incidental to the movement of freight into or out of containers (which have been or which will be carried by a carrier of freight by water) on vessels berthed at piers, on piers or at other waterfront terminals or port terminal facility.

(35) "Taxi Cabs," "Taxi" or "Cab" shall mean any motor vehicle that carries persons for a fare, determined by a meter, and that is appropriately licensed as a taxi cab by the proper governmental authority.

(36) "Terminal" or "Terminal Building" or "Terminal Area" shall mean any passenger or cargo terminal facility or Port of Miami facility available to and utilized by the public, including roadways and parking facilities associated therewith.

(37) "Traffic" shall mean pedestrians and vehicles, either singly or together, while using any seaport area.

(38) "Vehicle" shall mean a device in, upon or by which a person or property may be propelled, moved, or drawn upon land or water, including a device moved by human or animal power.

(39) "Vessel" shall be held to mean, except as otherwise provided in individual items, floating craft of every description, and shall include in its meaning the term "owners and agents" thereof.

(40) "Water-borne Freight" shall mean freight carried by, or consigned for carriage by, carriers of freight by water, and shall also mean and include freight described in Paragraphs (8) and (12) of this section, and ships stores, baggage, and mail carried by or consigned for carriage, by carriers of freight by water.

#### 1.2 Applicability of rules and regulations

Any permission granted a person by [the County Manager of Dade County, Florida,] the Board of County Commissioners of Dade County, Florida; (the County Manager of Dade County, Florida;) the Port Director, the Seaport Department, directly or indirectly, expressly or by implication, to enter upon or to use the Port of Miami area or any part thereof (including the area of cargo operations), is conditioned upon compliance with these rules and regulations and the payment of any fees or charges established and payable to the County for the use of the Port of Miami or any facility located thereon, including any such fees or charges established by the Board and payable to a lessee, permittee, or franchise holder of the County for services rendered to such person; and entry upon or into the Port of Miami by any person, shall be deemed to constitute an agreement by such person to comply with said rules and regulations, and to pay any such fees and charges.

#### 1.3 Seaport liability, conditions of use

The County assumes no responsibility or liability for loss, injury or damage to persons or property on the Port of Miami for using Port facilities not caused by negligence of the county or its employees. Furthermore, use of any facilities on the Seaport by any person whosoever constitutes neither a bailment nor a lease.

#### 1.4 Access to seaport

The Board and all of its designated officers, officials, and all law enforcement officers shall have free and full access, ingress and egress to and from all vessels, piers, and other waterfront terminals and port terminal facilities, or any other place on the Port of Miami and the area of cargo operations for purposes of making inspections or enforcing the conditions of this ordinance; and no person shall obstruct or in any way interfere with any such member, officer, employee, agent or official in the making of such inspection, or in the enforcement of the provisions of this ordinance, or in the performance of any other power or duty under this ordinance or under the Code of Metropolitan Dade County.

#### 1.5 Use and enjoyment of seaport premises

(a) No person(s), singly or in association with others, shall by his or their conduct, or by congregating with others, prevent any other person or persons lawfully entitled thereto from the use and enjoyment of the Port of Miami and its facilities, or any part thereof, or prevent any other person or persons lawfully entitled thereto from passage from place to place, or through entrances, exits or passageways on the Port of Miami.

(b) No person shall walk or operate a vehicle upon the Port of Miami, other than on the roads, walks, or right-of-ways provided for such purposes.

#### 1.6 Other laws

All applicable provisions of the laws of the United States, of the State of Florida, and ordinances of Dade County, Florida; now in existence or hereafter enacted, are hereby adopted by reference as part of these rules and regulations.

#### 1.7 Offenses and penalties

Every person who contravenes or violates any provision of this ordinance, or who, having any other person under his command or direction, knowingly or

negligently permits that person to contravene or violate any provisions of this ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the county jail (for a period of) not more than six (6) months, or by both such fine and imprisonment.

#### Section 2—Area of Cargo Operations

##### 2.1 Ingress and egress

(a) After a permanent or temporary license [decal] has been issued pursuant to Section 3 of this ordinance, to a truck or motor vehicle for its ingress into the area of cargo operations, and the vehicle has entered or attempts to enter the area of cargo operations, and/or when the vehicle is attempting to egress from the area of cargo operations; [the County Manager of Dade County, Florida, or] the Board of County Commissioners of Dade County, Florida; (or the County Manager of Dade County, Florida;) or the Port Director; or the Director of the Public Safety Department, Dade County, Florida; or any of their designated and authorized agents, shall have the power to inspect any truck or other vehicle and the contents therein to determine the ownership, origin and destination of such vehicle and its contents.

(b) No person shall enter the area of cargo operations or a restricted area of the Port of Miami except [(1)] persons who enter pursuant to Section 4, or in accordance with the Rules and Regulations of the Seaport Department, or federal, state or local governmental departments or agencies having proper business thereon and bearing proper identification as approved and required herein.

(c) [(2) no] (No) person shall refuse to produce for inspection, at the request of [the County Manager of Dade County, Florida; or] the Board of County Commissioners, Dade County, Florida; (or the County Manager of Dade County, Florida;) or the Port Director of the Port of Miami; or the Director of the Dade County Public Safety Department, or any of their designated agents or representatives, the contents of any article, bag, case, parcel, box or container of any kind in his possession within the area of cargo operations. No person shall refuse to produce at the request of such official, any document in his possession relating to the ownership of such goods within the area of cargo operations. No person shall refuse to produce at the request of such official any personnel identification requested by such official.

##### 2.2 Control of vehicular traffic

(a) The control of all vehicular traffic on the Port of Miami shall be governed by the laws of the State of Florida, the ordinances of the Code of Metropolitan Dade County, Florida; and by the rules and regulations as set forth in any Operational Directives as issued by the Director of the Port of Miami, as appointed by the County Manager of Dade County, Florida; or (as issued) by the Director of the Dade County Public Safety Department.

(b) No person shall enter or operate or cause to be operated any vehicle in the area of cargo operations, unless such entrance or operation is required on the area of cargo operations and is directly related to a cargo activity on the Port of Miami, to the business of the Seaport Department, or to the business activity authorized by the Seaport Department.

(c) No person shall drive a vehicle within the area of cargo operations without a vehicle identification license as prescribed by Section 3 herein.

(d) Insurance against personal injury and property damage shall be maintained in the amounts required by the Director. [of the Port of Miami.]

##### 2.3 Parking

(a) No person shall park any motor vehicle or motorized or other equipment on the area of the Port of Miami in areas other than those designated or authorized by the Port Director, nor in any other manner contrary to any posted regulatory signs, traffic control devices, or pavement markings.

(b) No person shall park a motor vehicle, motorized or other equipment, within the Port of Miami, in such a manner that it interferes with the use of a facility by others or prevents the passage or movement of emergency vehicles or other motor vehicles.

(c) Parking will be provided for personnel employed in the area of cargo operations, but will be restricted to lots designated by the Port Director.

### Section 3—Licenses—Vehicles

#### 3.1 Vehicle identification—General

The Port Director shall authorize all persons owning one or more motor vehicles operated on the Port of Miami to obtain a license for such a vehicle from the [Dade County Public Safety] (Seaport) Department. (The request for the vehicle licenses shall be submitted in duplicate on a form designed by the Dade County Public Safety Department.) No individual shall receive more than two motor vehicle licenses. These licenses shall be in the form of a numbered decal which shall reflect the authorization of that vehicle to enter into certain areas within the Port of Miami and the availability of designated parking facilities for that vehicle. All motor vehicle identification licenses/decal shall remain the property of the Port of Miami, and are not transferable. The permanent vehicle license/decal shall be permanently affixed to the front bumper of each vehicle for which the license is issued. [No motor vehicle license shall be issued to any person (other than a law enforcement officer) by the Dade County Public Safety Department without the written authorization of the Port Director.] Said license shall be renewed annually or for such a period as may be determined by the Port Director.

#### 3.2 Permanent licenses

All motor vehicles regularly operated by their owners, or by other persons for said owners on the Port of Miami in connection with employment by the Port of Miami or by another on said property, must display evidence of a permanent license/decal, as authorized by the Port Director and issued by the [Dade County Public Safety] (Seaport) Department.

#### 3.3 Temporary licenses

A limited and temporary license shall be issued for motor vehicles which require occasional or one-time access to a specific location within the area of cargo operations at the Port of Miami, to make authorized pickups or deliveries. This license shall be issued at the discretion of the Port Director subject to the requirements of this ordinance, and shall be obtained only at the Port of Miami control gates to the area of cargo operations upon clearance by a Port of Miami tenant or by other authorized personnel, and is valid only for the specific area and for the length of time indicated on its face. It shall be returned to a control gate at or prior to the expiration of the allotted time. This license shall be conspicuously displayed at all times on the motor vehicle to which it is issued.

#### 3.4 Construction vehicle license

A temporary, limited in area, license shall be issued by the Port Director for each vehicle used on the Port of Miami for prime contractors and others engaged in construction, or activities for, or approved by, the Port Director. This license shall be conspicuously displayed on the vehicle and is valid until revoked or the activity is completed, at which time it shall be returned to the Seaport Department and is subject to the same qualification restrictions and requirements as an area of cargo operations temporary vehicle license.

#### 3.5 Changes in conditions

Changes in the data originally entered on the application for a permanent or temporary vehicle license/decal must be reported (in duplicate) to the [Dade County Public Safety] (Seaport) Department where the license/decal was originally processed. The following changes must be reported:

- (a) New vehicle license plate number.
- (b) Any change in data on vehicle registration certificate or any change of data on applicant's driver's license.
- (c) Sale or other disposition of the registered vehicle.
- (d) Change of vehicle color or motor and/or title number.
- (e) Loss of or damage to decal or temporary license.
- (f) Change of regularly assigned place of employment.
- (g) Change of applicant's employer.
- (h) Change in home address or owner of registered vehicle.
- (i) Change in insurance company or insurance policy number.

#### 3.6 Identification of commercial vehicles

All commercial vehicles traveling within the Port of Miami shall comply with all provisions of Section 8A-276 of the Metropolitan Code of Dade County.

Florida. Furthermore, before any leased vehicle is authorized admittance into the area of cargo operations, the driver (*upon demand*) shall present a legible copy of the lease agreement authorizing the driver or his employer access to said vehicle.

#### 3.7 Taxicab, for-hire car, bus or public conveyance

(a) No taxicab, for-hire car, or bus shall enter the Port of Miami unless licensed by the Port Director. Requirements for the taxicab, for-hire car or bus license shall be established by the Port Director. The Port Director shall also establish requirements for revocation, suspension or denial of such license.

(b) Any taxicab, for-hire car, bus or other public conveyance permitted on the Port of Miami to deliver or pick up passengers shall leave the terminal immediately after the discharge or pickup of said passengers. Said vehicles are to remain out of restricted areas and the area of cargo operations.

### Section 4—Licenses—Persons

#### 4.1 Persons who may enter area of cargo operations; effective date

(a) On or after the thirtieth (30) day after the effective date of this ordinance, no person unless licensed according to the provisions of this ordinance shall have ingress to the area of cargo operations.

(b) On or after the thirtieth (30) day after the effective date of this ordinance, no person shall employ or engage another person to perform any services upon the Port of Miami who is not so licensed.

#### 4.2 Personal license for ingress

(a) Upon receiving proper authorization from the Port Director, the Director of Public Safety Department, Dade County, Florida, is hereby empowered and directed to process license applications for entrance onto the Port of Miami for a fixed period of duration upon proof before him that the person applying therefor has completed an application in writing and that good cause exists for the issuance thereof pursuant to Section 4.4.

#### 4.3 Application

The application for a license to enter the area of cargo operations on the Port of Miami shall be filed in writing and shall state the prospective licensee's full name, residence, date and place of birth, employment history, social security number and the specific reason for entry onto the area of cargo operations. The application shall also require that the applicant state the normal profession of the applicant and such further facts and evidence as may be required by the Board of County Commissioners through the Director of Public Safety to determine the identity of the licensee or the existence of a criminal record, if any, and the eligibility of the prospective licensee for the license. The application for a license shall be processed by the Dade County Public Safety Department upon the receipt of such application which contains the signature of the Port Director or his designated agents. The Director of the Dade County Public Safety Department shall forward such application to the Seaport Department; the Port Director may sign and issue said license to the prospective licensee when the Port Director shall be satisfied that the prospective licensee possesses the qualifications and requirements prescribed in this ordinance, authorizing the licensee to enter into the area of cargo operations and to conduct such business as he is authorized to conduct.

#### 4.4 Cause

It shall be deemed a good cause for the issuance of such license if the applicant is engaged in an occupation reasonably requiring his entry to the area of cargo operations on a regular basis for a fixed period of duration.

#### 4.5 Denial of license

An application for a license to work on or enter into the area of cargo operations within the Port of Miami shall be denied by the Port Director;

- (a) If the applicant is addicted to the use of narcotics.
- (b) If the applicant is addicted to the use of intoxicating liquors.
- (c) If, within the last five (5) years from the filing of an application, the applicant has pled *nolo contendere* or has been convicted by a court of the United States or any state or territory thereof, without subsequent pardon, of the commission of, or the intent, or conspiracy to commit, any felony or any of the following misdemeanors or offenses:

- (1) Illegally using or carrying or possessing a pistol or other dangerous weapon.
- (2) Making, manufacturing or possession of burglary instruments
- (3) Buying or receiving stolen property.
- (4) Criminal possession of stolen property.
- (5) Unlawful entry of a building.
- (6) Criminal trespass.
- (7) Unlawfully possessing, selling or distributing a dangerous drug.
- (8) Promoting gambling.
- (9) Possessing gambling records or devices.
- (10) Possession of lottery or numbers slips.
- (11) Larceny.

(d) If the applicant refuses to answer any material questions or produce any material evidence in connection with the application.

(e) If the applicant has been convicted of a crime or other cause which would permit a reprimand of such prospective licensee or the suspension or revocation of his license, if such a person were already licensed.

(f) All persons who are employed by; on; or within; the Port of Miami on the effective date of this ordinance shall not be denied a license (for any act committed prior to the effective date of this Ordinance) as established in Section 4.10(c), (e).

#### 4.6 Duration of license

A license granted pursuant to this ordinance shall expire on the expiration date (which shall be at least one (1) year from the date of its issuance) set forth by the Port Director on the card or other means of identification issued by the Port Director as evidence of a license; or upon termination of employment with the employer listed upon the application for the license. Upon expiration thereof, a license may be renewed by the Port Director upon the filing of the same requirements as set forth in this ordinance for an original application. A licensee who is not required to enter the area of cargo operations for seven (7) consecutive days, [notwithstanding] (excluding periods of) illness or vacations, shall return his license to the Port Director.

#### 4.7 Revocation or suspension

The County Manager shall have the power to revoke (the license of any person) or (to) suspend the license of any person for such period (not to exceed thirty (30) days) as [the Board] (he) deems in the public interest for any of the following causes on the part of the licensee:

- (a) Any cause which would permit the Port Director or the Director of Public Safety to deny the original application for a license.
- (b) Failure to pay any assessment or fee payable to the Seaport Department under this ordinance.
- (c) Violation of any of the provisions of this ordinance.
- (d) Inducing or otherwise aiding or abetting any person to violate the terms of this ordinance.
- (e) Paying, giving, causing to be paid or given, or offering to pay or give, to any person any valuable consideration to induce such other person to violate any provision of this ordinance or to induce any public officer, agent or employee to fail to perform his duty hereunder.
- (f) Consorting with known criminals for an unlawful purpose.
- (g) False impersonation of another licensee under this ordinance.
- (h) Receipt or solicitation of anything of value from any person, other than the licensee's wages as paid by his employer, as consideration for the selection or retention for employment of any longshoreman.
- (i) Coercion of any person by threat of discrimination of violence or economic reprisal, to make purchases from or to utilize the services of any other person.
- (j) Fraud, deceit or misrepresentation in securing the license or in the conduct of the license activity.
- (k) Willful commission of, or willful attempt to commit, at or on a waterfront terminal, or Port terminal facility, or adjacent highway, any act of physical injury to any person or willful damage to or misappropriation of any other person's property, unless justified or excused by law.

#### 4.8 Temporary license: Ingress for a particular occasion

Any person who is not licensed by the Port Director pursuant to this ordinance and who desires upon any occasion ingress to the area of cargo operations shall

apply at the entrance to such area for a license for ingress for that particular occasion. In order to secure such temporary license, a prospective licensee must show identification establishing his name and address, and he may be required by the Port Director or his designated agent, to sign a consent to the search of his person upon egress from such area and, if he is driving a motor vehicle, to an inspection of his motor vehicle upon egress from such area. Any person desiring a license to enter the area of cargo operations may be denied such a license by the Port Director or his designated agent in their discretion if they determine that the presence of such person in such area would constitute a danger to the public peace or safety, or that he does not meet the criteria of this ordinance. The application for a license for ingress on a particular occasion will contain destination of the applicant, his reason for entry into the area of cargo operations, and his estimated length of stay. Such license shall be returned by the licensee as he departs the area of cargo operations.

#### 4.9 License: Change in data, loss, (lost) transfer, possession, alteration

(a) Any applicant, prospective licensee, registrant, licensee or petitioner who changes his name or his residence address shall immediately notify the Port Director, in writing, or such change.

(b) Any person, licensed or registered by the Port Director who has been charged with or arrested for any crime or offense under the penal law of any state, the District of Columbia, or the United States, other than a motor vehicle or traffic offense, shall notify the Port Director within 20 days of his knowledge of such charge or of the arrest.

(c) A licensee, registrant, or permittee who has lost his license, registration card or permit, after identifying himself to the satisfaction of the Port Director or his designated agent, shall be issued a temporary license, registration card or permit, valid for a period of not more than 8 days. He shall also submit a sworn application for replacement of his lost license, registration card, or permit and, upon his payment of a replacement charge, the Division of Licensing shall issue him a new license, registration card or permit.

(d) A license or registration card issued by the Port Director shall not be transferable at any time for any purpose.

(e) No person shall retain possession of any license, permit, registration card, badge or other means of identification issued by the Port Director after his license, permit, or registration has expired, been revoked or suspended for a period of more than five days, such person is no longer employed on the Port of Miami.

(f) No person shall forge, counterfeit, alter, erase, obliterate or transfer any card, form, badge, record, means of identification or other instrument issued or maintained by the Commission. No person shall transfer any card, form, badge, record, means of identification, or other instrument or have in his possession any transferred, forged, counterfeited, altered, erased or obliterated card, form, badge, record, means of identification or other instrument whether issued by the Port Director or otherwise, with intent to defraud any person licensed by the Port Director in order to gain employment or priority of employment for himself or another or with intent to defraud the Port Director in any manner.

### Section 5—Licensing—Stevedores

#### 5.1 Stevedores required to be licensed

No person shall act as a stevedore within the Port of Miami without having first obtained a license from the (Board of County Commissioners and a permit from the) Port Director, and no person shall employ a stevedore to perform services as such within the Port of Miami, unless the stevedore is so licensed, (and possesses such permit).

#### 5.2 Persons required to be licensed as stevedores

(a) A stevedore license is required by any person (other than an employee) who is (primarily) engaged under a contract or other arrangement with a carrier of freight by water or a licensed stevedore (including a parent corporation or a subsidiary corporation of such carrier or licensed stevedore):

(1) In the movement of water-borne freight, carried or consigned for carriage, by such carrier on vessels of such carrier berthed at piers, on piers on which such vessels are berthed, or at other waterfront terminals, or to provide clerking and checking services in connection therewith; or

(2) To perform all or any part of cooerage, carpentry, maintenance or other related services incidental to the movement of water-borne freight.

### 5.3 Application for stevedore license

A [license] (permit) to act as a stevedore (on the Port of Miami) will be issued only upon a verified application submitted on a form furnished by the Port Director. The procedure for obtaining a (Port of Miami) stevedore license shall be the same as that outlined in Section 4.3 and 4.4 of this ordinance. Each application for a stevedore [license] (permit) shall be accompanied by a personal character form furnished by the Port Director, completed and verified by the applicant, by each member of a partnership, and, if the applicant is a corporation, by each officer, each director, and each actual person holding, directly or indirectly, five per cent (5%) or more of any class of capital stock. The Port Director may, upon examination, require such additional evidence and information as may be required to establish the character of the real parties in interest.

### 5.4 Issuance and display of license

Upon the approval of an application, the Port Director will issue and deliver a stevedore license which shall indicate thereon the type of stevedoring service authorized to be performed and which shall be permanently displayed at the licensee's principal place of business within the Port of Miami.

### 5.5 Notification of stevedore contract and changes in corporate management, ownership and capitalization

Every licensed stevedore (holding a permit) shall notify the Port Director forthwith, and in detail, of any of the following events:

(a) The making or execution of any term contract or arrangement for stevedoring services with a carrier of freight by water, and of the termination or cancellation of such contract, but such notification shall not be required with respect to oral or written "spot" contracts or arrangements entered into with a carrier of freight by water, or its agent, for a single vessel operation; and

(b) Any change in the officers, directors, and/or stockholders owning five per cent (5%) or more of the capital stock of any class or any change in the capitalization of any corporation.

## Section 6—Review Procedure

### 6.1 Application review

Any person dissatisfied or aggrieved with the decision of the Port Director with reference to the denial of his application for [such] (any permit or) license, may file a written request within ten (10) days after [such] (any) denial, and be entitled to appeal to and to appear before the County Manager of Dade County, Florida; or his designated agents or representatives, pursuant to the procedure established in Section 6.2. In the event the County Manager or his designated agent, upon the original review, determines that the applicant is entitled to such license, then in that event the Port Director shall immediately issue such, all conditions having been complied with. Upon the affirmation or approval of the action taken by the Port Director, such action shall be final.

### 6.2 Suspension and revocation review

(a) The County Manager or his designated agent (i.e. Port Director) shall not revoke, cancel or suspend any (permit,) license or registration (authorized by this ordinance) without giving the party in interest an opportunity to be heard. Proceedings to revoke, cancel or suspend [a] (any such permit,) license or registration may be instituted by the County Manager or his duly authorized agents on their own initiative, or on the complaint of any person, including any public official or agency.

(b) The notice of the hearing shall be in writing and shall state the time and place of and the matters to be considered at the hearing and shall be served at least seven (7) days prior to the date of the hearing upon the party in interest.

(c) The written statement and all other notices, orders and communications from the County Commissioner or his duly designated agent shall be duly served if enclosed in a properly post-paid wrapper addressed to the person(s) to be notified or communicated with at the address last given by him in an application to the Port Director, and deposited as ordinary mail, in a post office, post office box, or mail chute maintained by the United States Government, or if such notice, order or communication addressed to such person is delivered to such address by telegram or by registered or certified mail or by an employee or

agent of the County Manager. A certificate by an employee or agent of the County Manager that such notice, order or communication has in the regular course of business of the County Manager been duly dispatched or delivered, in a manner authorized by this section, shall be presumptive evidence of proper service. For the purpose of calculating the time of notice, service shall be considered effective upon the date of delivery to such address; provided that where service is by ordinary mail, service shall be considered effective the (three) days after the mailing.

(d) Any party in interest who intends to avail himself of the opportunity to be heard, shall personally appear on the date set forth in the notice of hearing or on any [adjourned] (continued) date and shall be prepared to proceed. Any such party may be represented at the hearing by an attorney who is a member in good standing of the Bar of the State of Florida. Any such attorney shall file a written notice of appearance on a form furnished by the County Manager. After an attorney has so appeared, all further notices, orders and other communications from the County Manager may be served upon such attorney and such service shall be deemed to be service on the party in interest. Any party in interest who fails to avail himself of the opportunity to be heard and to attend the hearing in person or to request [an adjourned date] (continuance) through his attorney, shall be deemed to have waived his opportunity to be heard, and the decisions of the County Manager shall be binding upon such person.

(e) Where the County Manager does not conduct the hearing, it shall be conducted by a hearing officer, who shall be an attorney at law in the State of Florida, appointed by and directly responsible to the County Manager. Such hearing officer/examiner shall be assigned by the County Manager in rotation from a list of private attorneys who have practiced not less than five (5) years and who have received the highest rating of national rating service for attorneys, approved from time to time by the Board of County Commissioners. Such attorneys shall not be deemed county officers or employees within the purview of Section 2-10.2, 2-11.1 of the Code of Metropolitan Dade County or otherwise. The hearing officer/examiner shall conduct a hearing after notice upon the charges and shall transmit his findings of facts, conclusions and any recommendations together with a transcript of all evidence taken before him and all exhibits received by him, to the County Manager who may sustain, reverse or modify the ruling of the Port Director. Such hearing shall be conducted insofar as practicable in accordance with the Rules of Civil Procedure governing the procedure in the Circuit Court, except as may be provided in this Code or my rules adopted by the Board of County Commissioners. Any interested party may procure the attendance of witnesses and the production of records at such hearings in a manner provided by Section 2-50 of the Code of Metropolitan Dade County, Florida. The County Manager's decision shall be subject to review only by certiorari in the Circuit Court, in accordance with Florida Appellate Rules. The County Manager shall reach his decision within ten (10) days from the receipt of the hearing examiner's recommendations.

(f) Unless otherwise ordered by the County Manager in the public interest, application and revocation hearings held by the County Manager shall be open to the public. Stenographic records of hearings shall be made and paid for by either party in interest, if such party in interest requests that such records be maintained. A transcript or a portion thereof may be furnished to any person having a legitimate interest therein upon application to the County Manager and payment of the appropriate costs thereof.

(g) Any application for [an adjournment] (a continuance) made on or after the date fixed for a hearing shall be made to the hearing officer and shall set forth in detail the grounds therefor.

(h) The notice of hearing may be amended upon application by the County Manager to the hearing officer at any time prior to the conclusion of the hearing. If such application is granted, the hearing officer may, in his discretion, grant additional time to the party for further preparation.

(i) A party shall be afforded reasonable opportunity to present testimony under oath or other evidence relevant and material to the subject matter of the hearing and to cross-examine any witnesses who testify at such hearing.

(j) If at the time of hearing a witness is outside the State of Florida or is deceased, a party may offer as evidence at the hearing an affidavit or sworn statement of such witness. Such affidavit or sworn statement shall be admissible

into evidence as an exhibit, if the statements therein are otherwise competent, relevant and material. The hearing officer/examiner shall give the exhibit such weight as the hearing officer/examiner, in his discretion, determines that it warrants in the light of all the evidence. Where it has been determined that a witness who is outside the State of Florida will voluntarily answer interrogatories, counsel for the Port of Miami or a party may propound interrogatories to be answered by such witnesses and the other side shall have the opportunity to propound cross-interrogatories as proscribed herein. The interrogatories and cross-interrogatories shall be settled and forwarded by the hearing officer to be answered in writing and subscribed to under the oath of such witness.

(k) Oral argument shall be made only before the hearing officer/examiner and shall be included in the record of the hearing. Such oral argument may, at the discretion of the hearing officer, be curtailed, provided that a party shall be given an opportunity to submit his argument in writing. Briefs as to facts or law shall be received and may be required to be submitted. The hearing officer/examiner may fix the time within which briefs shall be filed. Briefs received subsequent to such time need not be considered.

#### Section 7—Identification

##### 7.1 Identification cards

Individual identification cards issued to the licensees by the Port Director, either for a fixed period of duration, or by the Port Director for a particular occasion, shall as applicable, be worn in a conspicuous place when inside the area of cargo operations. This identification card, if due to conditions of a particular employment, is incapable of being worn in a conspicuous place during a particular period of time, will be immediately available for display to any law enforcement officer or any Port of Miami authorized agent requesting such identification. Failure to produce a properly authenticated identification card for ingress to the Port of Miami shall be cause for immediate removal from the area of cargo operations and shall be grounds for (such) further action (as authorized by this ordinance).

##### 7.2 Persons exempted

This section shall not be applicable to any person who is a member of a ship's crew or personnel of a ship's crew which is operated by any shipper, either passenger or freight, and which is located within the area of cargo operations upon a showing of such identification as may be required by the Port Director. This section is not applicable to law enforcement officials in the course of their normal official [business] (duties).

#### Section 8—Cargo Security

##### 8.1 Pickup order

All drivers applying for a license to enter the Port of Miami to pick up cargo of any kind must have a written pickup order for each truck to be loaded at the Port of Miami. This pickup order should be on an order form or letterhead of the firm owning, or the owning agent of, the cargo and must be signed by an official of the company, or person authorized to sign such orders. The pickup order at a minimum shall describe the cargo, the amount to be loaded, the ship, the bill of lading numbers and marks, if any, on the cargo. Any driver not having this written order will not be permitted entrance to the Port of Miami area of cargo operations.

##### 8.2 Illegal loading

No person shall allow any [loading] (cargo) from the docks or any areas of the Port of Miami to be loaded or carried aboard a vessel unless it is correctly manifested as cargo which is to be properly loaded on that vessel.

##### 8.3 Missing cargo reports

(a) Whenever any shortage or suspected shortage is discovered of any cargo [or freight] as defined in this [section] (ordinance,) an appropriate company representative, or supervisor, in charge of the freight or its movement at the time of discovery shall immediately notify the Dade County Public Safety Department. The reporting official is responsible for giving all pertinent information concerning the cargo [or freight] to the investigating officer and shall render all reasonable assistance to the investigating officer.

(b) The company representative or supervisor in charge of the [freight] (cargo) at the time the shortage is discovered shall, within 24 hours from the time of discovery, complete an original and five copies of the "Preliminary Cargo Security Incident Report" form which is to be provided by the Port [Commissioner] (Director). The original report shall be forwarded to the Dade County Public Safety Department. Copy #1 shall be forwarded to the U.S. Customs Service. Copy #2 shall be forwarded to the Federal Bureau of Investigation. Copy #3 shall be forwarded to the U.S. Coast Guard. Copy #4 shall be forwarded to the Port Director. Copy #5 shall be kept by the company representative or supervisor completing the report.

#### Section 9—Port Watchmen, Private Security Personnel

(a) It is the affirmative responsibility of all port users to furnish their own private port watchmen or security personnel when they have the legal custody or control of cargo or other property within the Port of Miami premises.

(b) All private security personnel employed by users of the Port of Miami must comply with all applicable sections of Chapter 493 of the Florida Statutes.

(c) Any person who intends to utilize private security personnel must give ten-hour notification of the intended use of such personnel to the Dade County Public Safety Department.

(d) It shall be a violation of this ordinance for any person who has knowledge of the utilization of a private security agency, their exact location or place of employment or the tenant within the Port of Miami utilizing such service, to release this information to any person except the authorized representative of the Port of Miami or any law enforcement agency.

#### Section 10—Severability

If any provision of [these rules and regulations] (this ordinance) or the application thereof as to any person or circumstances is held invalid, the remainder of [these rules and regulations] (the provisions) and the application of such provision to other persons or circumstances shall not be affected thereby.

#### Section 11—Fees

The fee schedule for all licenses, permits and identification cards, as required by this ordinance, shall be set and established by an Administrative Order of the Board of County Commissioners.

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Taxi Cab.....	1.1(34); 3.7
Terminal.....	1.1(35)
Terminal Area.....	1.1(35)
Terminal Building.....	1.1(35)
Traffic:	
Control of.....	2.2
Vehicle:	
Area of Cargo Operations.....	2.2(b)
Commercial Vehicle.....	3.6
Construction Vehicle.....	3.4
Control of.....	2.2
Definition.....	1.1(37)
Identification.....	1.1(37)
License Data.....	3.5
License of.....	2.2(c); 3.1
Number of.....	3.1
Permanent License.....	3.2
Search of.....	4.8
Taxi.....	3.7
Temporary License.....	3.3
Watchman.....	9(a)
Water-Borne Freight.....	1.1(39)

Mr. HAVENS. Included in that ordinance were limitations controlling access to high value cargo areas, provisions requiring the licensing of persons in those areas, including union officials, and provisions designed to attack the high rate of recidivism in the port.

Extensive testimony was presented before the Commission indicating the scope of the problem of labor racketeering, the extensive presence of recidivists and other organized crime associates operating on the docks, and the nature and scope of the cargo theft problem.

In response, the ILA, through its local unions, closed down the Dodge Island Seaport and the surrounding ports and bused to the Dade County Commission chambers approximately 1,500 people to voice their opposition to the proposed security ordinance. ILA attorneys and officials told the Commission that the ordinance was unconstitutional and overly restrictive in prohibiting their employees from operating on the port. They claimed that if the ordinance were passed, requiring background checks and licensing provisions, the ILA would call for a national strike and would close down the shipping industry until the ordinance was declared unconstitutional.

When confronted by the emotional pleas and ultimatums of the ILA officials and their attorneys, the Commissioners sent the ordinance back to committee for revision. To date, that ordinance has not been enacted. As an alternative, an extremely limited ordinance covering assigned parking at the port was enacted. That ordinance has had little or no impact on the continuing problem of organized crime.

Senator NUNN. Basically what you are saying is the ILA local officials intimidated with threats of strike, and so forth, the Commissioners who were presenting that proposal to try to do something about the corruption that was taking place?

Mr. HAVENS. That is absolutely correct, sir.

In June of 1978, as the subcommittee is aware, the U.S. Department of Justice Organized Crime Strike Force in Miami obtained an indictment of 22 persons charged with 70 counts of extortion, embezzlement, bribery, and labor racketeering. This indictment named as defendants many of the very persons who appeared in opposition to the proposed security ordinance. Among those, George Barone, Cleveland Turner, and William Boyle. Moreover, they faced exactly the kinds of charges which the ordinance, had it been enacted, would have effectively prevented.

Today the Dodge Island Seaport operates in much the same fashion as it did prior to the UNIRAC indictments. The resources originally pooled to conduct the UNIRAC investigation are now spread across the entire United States. As a result, there is no single unified body looking into the problem of labor racketeering as it relates to the shipping industry.

Law enforcement has traditionally been crisis-oriented in the sense that if a tractor-trailer load is stolen, we react to that theft and attempt to recover the merchandise. In our opinion, the problem of organized crime infiltration in the ILA and control of the shipping industry is so widespread and so prevalent that it is neither a local responsibility nor a State responsibility. The only effective and efficient means to attack the problem and to prevent the continued control and domination of the industry by organized crime is by a Federal regulation and control. I base that opinion on approximately 4 years of investigation into the waterfront industry. And I might add, Senator, I was born and raised in Miami and have been a law enforcement officer there for about 18 years.

Let me give you an example: Let's say that Metropolitan Dade County decides to regulate the shipping industry and that efficient controls, guidelines, procedures, and regulations are implemented, insuring that our port is secure and that gangsters do not control the unions. Nonetheless, a union could easily circumvent those regulations by simply opening up an office 30 miles up the Florida coast in Broward County and controlling the Dodge Island Seaport from a county free of those restrictions. The possibilities can be carried one step further. Assume that the State of Florida imposes regulations on the waterfront industry, controlling ingress and egress and prohibiting involvement by known gangsters and criminal figures in labor unions. In response, the union can merely cross the Florida line into the first town in Georgia, and open up a district office in Georgia controlling Georgia, North and South Carolina, and, in fact, the entire east coast. Operating from an office outside the jurisdiction of State and local officials, the union has again successfully eluded Florida regulation.

I am not suggesting, Mr. Chairman, that State and local officials do not have any role in preventing corruption, thefts, and organized criminal activity within their various communities. However, I do feel that the problem is so unique that the only effective means of attack is on the Federal level. This could be accomplished by the formulation of a Federal waterfront commission or Federal regulatory agency, responsible for proposing guidelines, procedures, and regulations binding on every port within the United States. To the best of my knowledge, no local or State law enforcement agency is currently involved in a major investigation to determine who has taken over the ILA control from Barone, Boyle, Field, or others. In fact, I'm not sure whether any Federal agency is actively involved in even making these determinations or in proceeding against the officials who are taking their place in perpetuating organized crime's domination of the waterfront. If we are to believe anything from our review of the history of the ILA, beginning in 1946, it is that as soon as one rule or regulation is implemented by one State or community, it is very easily circumvented by moving to another area.

Senator NUNN. You have seen no evidence of the Labor Department becoming involved in any kind of oversight of the waterfront in Miami?

Mr. HAVENS. You are speaking of the Labor Department?

Senator NUNN. Labor Department.

Mr. HAVENS. Senator, in the last few years or last few months, there seems to have been a significant switch in one particular area of labor, that's the Inspector General's Office. They do have an office in Miami staffed by very competent, qualified investigative personnel. I don't see even in that office a very significant, concentrated effort to determine primarily who has taken over for these people or the same things that were uncovered in UNIRAC is continuing.

Senator NUNN. How about outside the Inspector General's Office? Other than the Inspector General's Office, was the Department of Labor visibly active in investigating port activity?

Mr. HAVENS. No, sir.

Senator NUNN. Have you seen anybody out of the Inspector General's Office involved on any kind of substantial basis in that kind of an investigation?

Mr. HAVENS. No, sir.

Senator NUNN. Actually the Inspector General's Office was basically not designed to have an Inspector General out involved in enforcing labor laws all over the country. They were supposed to be an office within the Labor Department for complaints of fraud and corruption within the Department of Labor or ineffectiveness and inefficiency. It is supposed to be an oversight rather than operational force. I guess they are moving in areas where they see huge vacuums, perhaps.

Mr. HAVENS. In our opinion, Senator, somebody better be moving in that area because we are completely remiss. I think an entire 4-year investigation by dedicated and competent people is going to be forgotten, written down somewhere so somebody can look at it a few years from now, unless we continue to monitor these activities.

Senator NUNN. I agree with that.

Mr. HAVENS. It is my recommendation that a Federal regulatory agency be established and that that agency be staffed by competent, trained, and qualified personnel. In addition, Mr. Chairman, those few antiquated rules and procedures which do attempt to regulate unions must be addressed and revised. That revision must be on a Federal level if we are to ever eliminate the control and domination of those unions by a few unscrupulous members of organized crime. I am not against unions. In fact, when you review the history of unions throughout the United States, I don't think there can be any doubt about their benefits. What I am against is the control of one union by mobsters and gangsters, leading to the total economic domination of an entire industry. That sort of domination exists when one or two people can stand up before a group of elected officials and successfully intimidate them by threatening to close down the maritime industry in the United States and where, in fact, Mr. Chairman, those few individuals may very well have the power to do so.

Thank you very much.

Senator NUNN. Thank you very much.

I want to again express the appreciation of the subcommittee for not only your appearance here today and your cooperation, in fact, your initiation of this whole investigation.

Mr. Teitelbaum started in your office. Of course, you have been the leader in this from the very beginning. I think it is an example of how State and local, as well as Federal law enforcement officials, can work together.

Mr. HAVENS. I think, Senator, we in law enforcement have been extremely remiss in that area. Traditionally we have each guarded our own particular domain with much care, and I think that in today's society, specifically as we are dealing with organized crime, they don't have budget problems, they don't have jurisdictional problems, and they don't have the limitations we do. And the only effective and efficient means to fight a problem like this is a complete, combined, coordinated effort such as put forth in this UNIRAC investigation.

Senator CHILES. I want to join with you, Mr. Chairman, in expressing that appreciation. I think the example that we have here does

show that it is possible to have that kind of cooperation. It is interesting it was initiated from the local level. Sometimes that is what it takes, I think.

You are willing to give up some of your turf to bring in the Federal authorities. Without that I know we never would have had the kind of successful prosecutions that occurred.

Mr. HAVENS. Yes, sir.

Senator NUNN. Senator Chiles, why don't you lead off with questioning?

Senator CHILES. I was interested in your statement that you felt that it's going to take a Federal Waterfront Commission. You didn't think that you could have a State-enacted waterfront commission that would cover the situation? You have different problems in different areas of the country.

Mr. HAVENS. No, sir, Senator, I don't. I guess I take complete change in what Mr. Teitelbaum was indicating yesterday. I base this on this reason: I serve as the president of the International Association of Airport and Seaport Police. This is comprised of 500 members representing 39 countries around the world. I have had the opportunity to visit a lot of these places and discuss the problems that they have with their police administrators and port officials. They don't have union problems in other countries. I think that if the State of Florida were to implement an agency such as the New York Waterfront Commission, because of the fact that the shipping industry is a multistate, multination industry, that so much pressure could be placed on one of these shipping companies and some of their stevedoring companies.

Let's take, for example, we have regulated Miami, that ship may make a stop in Richmond, Savannah, New Orleans, Houston or anywhere else up the U.S. coast in transporting its commodities back and forth. So much pressure, so much coercion and intimidation can be placed on those officials that although we may make our port secure, God help the next port up the county because they are not in that same position.

Senator CHILES. So it is your feeling that even though you could have perhaps a successful State waterfront commission, there would still be problems because other States would not have them.

Mr. HAVENS. Yes, sir, that is my belief. I think that to control the problem of theft as has been brought up by a number of people testifying prior to me today, we can control the problem of theft and the Dodge Island Seaport. It is estimated that approximately 85 percent of those thefts which, incidentally, are estimated to be somewhere in the neighborhood of \$2 billion a year or \$228,910.58 a day to be controlled. The problem of the control is that we underestimated organized crime. Organized crime was remiss in New York. They let the rules and the procedures of the waterfront commission be implemented.

We were told by Mr. Teitelbaum and others that when it came time to adopt our ordinance, that we would have strong opposition. We didn't realize how strong an opposition until they closed down all of our surrounding ports and bused 1,500 people to our commission chambers in opposition. Now we know the reason why they did it. We wanted to regulate gangsters and union members and prohibit them from working on our ports.

We determined that recidivism on our ports was somewhat high in that about 72 percent of people that we were able to determine, working on our ports, had past conviction records for such crimes as burglary, larceny, theft of interstate shipments, and narcotics-related charges.

In essence, what we were doing was licensing these people, putting them into our high-value-cargo areas and telling them to have a field day.

Senator CHILES. Part of the concern I have is the kind of bureaucracy you might be creating with the Federal Waterfront Commission, especially if you are going to try to do some of the things that your security ordinance was talking about. If you try to get that covered federally, you have to build a tremendous Federal bureaucracy to administer that. We have problems with getting the U.S. Department of Labor to exercise its rules and powers. A State commission is closer to home, so to speak, more visible, as to whether it is successfully carrying out its function.

You perhaps are not building all of that Federal bureaucracy and the problems of trying to get those rules administered. You are going to find every port is going to have a different set of circumstances, going to have different kinds of problems. That is why I worry about trying to set it up totally in a Federal situation.

Senator NUNN. Mr. Havens, I think we have already covered most of the questions we had for you. Let me just ask a couple of them. What ordinance really was enacted? You say the ordinance was to control parking in the area? What did it do and what was the result?

Mr. HAVENS. Senator Nunn, they did enact an ordinance after revision. That ordinance is in effect today it is called Dade County ordinance 28-A.

Primarily what it does is limit and specify parking areas within the port. The only problem with the ordinance is that it is enforced by a group of nonsworn, non law enforcement personnel. They go up to an ILA official or to anyone who does not have legitimate access to the high-value-cargo areas and respectfully request that they move their car and they don't have any power to require that the person do that.

In addition, what the proposed ordinance would have done, it would have allowed us the regulation and licensing of specific people on the port. You have heard testimony that the ILA has within their contract the provision to move people who have been convicted of stealing. The other day when you and Senator Chiles were down there and touring the port, the very people we heard testimony about were negotiating a union contract in the building next to the one we were meeting in.

Thefts are taking place. We had a tractor-trailer load of TV's stolen last week from the Port of Miami. We don't have the foggiest conception who ingressed or egressed in that area at the time.

Senator NUNN. Concerning the surveillance of Barone, Boyle, Vanderwyde, Rago, and Field by members of your office, was it really significant that union officials frequently met with management personnel in the natural course of events.

Mr. HAVENS. At the time we didn't think so. But after Mr. Teitelbaum came forward and began telling us what these meetings were

about, it became obvious that these were not surreptitious meetings which took place at night, out in remote locations. They took place right out in the parking lot. They took place inside the union hall. They took place in the men's room.

Many times it took place right down on the docks. After Mr. Teitelbaum came forward and some other people came forward and said on a specific day, a specific location something took place and some negotiation took place, we were able to substantiate that.

Senator NUNN. In what manner did the ILA fail to cooperate with you in formulating the ordinance? I understand they protested once you proposed it but what did they do to cooperate or not cooperate with you as you were trying to determine what would go into it?

Mr. HAVENS. Originally we got together with the management of all the stevedoring companies, presented seminars to them and the unions in attempt to draft the ordinance. I would say on perhaps 20 occasions, we attempted to meet with union officials and their attorneys to get their input into the security ordinance.

In about 95 percent of those meetings, they either came in late, left early, had not had an opportunity to review the ordinance, or made some other excuse that they wouldn't work with us until such time we got ready to pass it, and some of the people sat down and read it and were determined it was going to regulate them. At that point, they came out in very strong opposition.

Senator NUNN. What has ILA done if anything to eliminate the recidivist problem and the theft problem?

Mr. HAVENS. I think they have allowed George Joseph Barone, James Vanderwyde, Fred Fields, and others to maintain their union positions. To the best of my knowledge, in 4 years of investigating the waterfront, they have never removed an employee who has been caught stealing, and I met as recently as last week with the Stevedoring Association who advised me that unless something is done about the theft rate in Dodge Island, that they are very seriously considering moving to another port.

Senator NUNN. They have never removed a single person for stealing?

Mr. HAVENS. No, sir; not to my knowledge.

Senator NUNN. Mr. Teitelbaum testified that ILA officials had a bomb scare as a subterfuge to divert law enforcement and that one of the reasons for that, probably the primary reason, was to bring narcotics into the Port of Miami. You have been in law enforcement a long time. What is the situation regarding the ability of corrupt ILA officials to facilitate the shipment of drugs in and out of the Port of Miami?

Mr. HAVENS. Senator, several days before the arrival of the ship they had the manifest, they know the name of the ship, they know the cargo, they know the container load, they know the hold it is being held in. I think it would be a reasonable assumption that on a weekly basis they can smuggle tons of narcotics through our port and we would not even have any idea.

Senator NUNN. Senator Rudman, do you have any questions?

Senator RUDMAN. Mr. Havens, as we address the whole question on what to do in the future, which is why we are holding these hear-

ings, in response to Senator Chiles' questions you have discussed the various enforcement means that are possible. It seems to me that the Organized Crime Strike Force is a good vehicle, assuming it had (a) the manpower and (b) the funding. You have worked with the strike force in your area. They are specifically set up to deal with the very kind of thing that you are speaking of here today and that is interstate crime that has its tentacles, if you will, in a number of States and if you stop it in one, without corresponding action in the other, essentially you have no solution at all.

What do you think of a proposal in which legislation will be drafted that would prioritize some of these waterfront scams that are going on in terms of what should be done by organized crime strike forces to give them the funding within the Organized Crime Strike Force, the Justice Department, to in fact have an ongoing investigation in all of these ports where I am sure the problems are extraordinary and probably we have only seen the tip of the iceberg?

Mr. HAVENS. Senator Rudman, I would support that proposal 100 percent. We in local government have a problem, specifically in Miami. I think we are becoming the murder capital of the world, certainly the narcotics importation capital of the world, and as a result of that all of our local resources are pooled at only one thing; that is, violent street crime. We are pouring so much resources into violent street crime that the gangsters and mobsters and the union officials that are controlling our unions are making billions at the expense of the consumer.

Senator RUDMAN. The other situation when you are getting involved in these kind of investigations, and I over the years have conducted a number of them myself, is that you do need interstate cooperation between similar agencies. That is very difficult to get between State agencies. The strike force of course works with the Justice Department. I would say to our chairman, Senator Chiles, that is certainly something that we ought to give some consideration to. We have heard ample testimony to indicate that the problem is going on, that there are no State or local agencies who have the ability to deal with it because of manpower and other problems. I have great faith in the Organized Crime Strike Force. They have done excellent work. I just think they have been underfunded and probably if we want to talk about freeing up competition, free market forces, eliminating labor racketeering, one of the things that the strike force might need to address is funding in that particular area, which I would support.

Senator NUNN. I certainly share those sentiments, Senator Rudman. I think it is a good suggestion.

This subcommittee has a unique responsibility this year. We do not have legislative jurisdiction over any of these matters. They all go through the Judiciary Committee or in some cases, like the Tax Reform Act, the Finance Committee. I have got a package of legislation I introduced last year. I have got another package on violent crime that came out of the hearings we had last year, particularly on the Kansas City situation. That package will be ready in the next couple of weeks. I would like very much to jointly go to the Justice Department on that one to see if we can get the administration to support it.

They have indicated they want to move in that direction. I think we have already laid the foundation on which we could move. I have also got a series of proposed statutes that would involve trying to do something to strengthen narcotics enforcement. We also plan to have some hearings on narcotics, international narcotics, that I hope we can get some things going out of, but all of us are going to have to work as individuals because we do not have the legislative jurisdiction. We are an investigative subcommittee. But I look forward to working with you and, of course, Senator Chiles and I have been working together and Senator Percy and I have been working together. But I really think it is a great thing for this subcommittee that you are on it now because you do have considerable amount of background in this area. I can assure you that there is plenty of work to go around. So we welcome you being here.

Senator Chiles, do you have any other questions?

Senator CHILES. No, Mr. Chairman.

Senator NUNN. We really appreciate your help. We will do all we can to assist you in that area. We know the problem. We do not have instant solutions. We do not have the command of the executive branch at our hands. We can not really call all the shots, but we are fully aware of the dilemma you face in Miami and it is something that we are going to continue to work on as hard as we can.

Mr. HAVENS. Thank you very much.

Senator NUNN. Our next witness, Mr. Rasmussen, Mr. Howard Rasmussen, executive director, Citizens Crime Commission, Greater Miami, Inc. We are delighted to have you here today. We have heard about the work of the commission. We appreciate your coming. We will be delighted to hear your testimony now. I believe I swore you in when I swore Mr. Havens in. Is that right?

Mr. RASMUSSEN. That is correct.

Senator NUNN. Thank you.

Mr. RASMUSSEN. Mr. Chairman, members of the Permanent Subcommittee on Investigations, on behalf of the Citizens Crime Commission of Greater Miami, I appreciate the opportunity to appear here today and discuss with you the concerns of the commission regarding organized crime's influence and control over the waterfront industry in south Florida.

The Miami Crime Commission has been concerned about the problem of organized crime and corruption since its formation in 1948. In fact, community concern about this significant problem in southeast Florida provided the impetus for the creation of a crime commission. Dan Sullivan, the executive director of the Miami Crime Commission, testified extensively before the Kefauver committee in the early 1950's.

The crime commission's general concern about organized crime and corruption was focused on the specific problem of the airport and seaport of Miami and Dade County, Fla., as a result of the investigations conducted by Dade County Public Safety Department's airport/seaport security project partially funded by an LFAA grant. The commission supported a proposed Dade County ordinance in 1978 that would have assisted law enforcement considerably.

The newly revised Citizens Crime Commission of Greater Miami, Inc. continues to have grave concerns about this significant problem.

We support this subcommittee's efforts in holding these hearings for without an informed, educated, and mobilized citizenry all of what can be accomplished will not reach fruition. Public support is essential.

Second, we support legislative efforts at the Federal, State, and local level to insure that adequate legal safeguards exist to reduce if not eliminate the opportunity for such widespread corruption. Such legislation should assist the various law enforcement and prosecutorial agencies in the monitoring, investigation, and prosecution of such cases.

Finally, the Citizens Crime Commission of Greater Miami supports the adequate funding of the respective law enforcement agencies to insure the availability of adequate resources to enforce the provisions of the enacted legislation.

Thank you very much for the opportunity to briefly present this statement to the subcommittee. I would like to add just one addendum, if I may. We were sincerely pleased to learn of the introduction of the amendments to the Tax Reform Act of 1976, particularly since south Florida is having significant problems in the drug area. We are particularly pleased with the proposed modifications in the posse comitatus area allowing limited information for the military to aid the local law enforcement agencies and we are also pleased that the amendments will hopefully get the IRS back into the war on crime. We hope those amendments will be adopted.

Senator NUNN. Thank you very much. I can assure you we are going to fight for them again this year. We have had two votes on it so far. We doubled our vote the first time. There is still a widespread misunderstanding about what we are trying to do in the tax reform area, but I do believe we will get it passed this year, particularly if we can generate support from people involved in interested law enforcement all over the country. It is interesting to note that when I was in Miami last week I saw a copy—Senator Chiles handed it to me—of the news article saying that the IRS has gotten involved in some cash-flow transactions down there.

It is my understanding from the field since we had the hearings last year and even though we have not passed the legislation, that there have already been significant changes within IRS and that they are beginning to eliminate some of the impediments within their own regulations which basically put their criminal investigators out of business, particularly as it pertains to narcotics. So I hope that that cash-flow investigations last week is just the beginning of what I think can be a very significant role in fighting narcotics and fighting organized crime by the Internal Revenue Service with their unique capability.

Senator CHILES. Mr. Chairman, I just want to say that the Citizens Crime Commission of Greater Miami is a viable organization now that shows a strong sense of community support which I think is very interested in doing something about the terrible situation we find ourselves in in south Florida. I recently had an opportunity to participate in an illegal narcotics seminar with the group, and it was very productive. We had a combination of Federal, State, and local people who took part in that seminar. I think the commission is a rallying point for the community to generate the kind of citizen support that is going to be necessary to try to see that action is taken

on narcotics, on street crime, on waterfront crime. I would really feel like maybe today it would be a different situation, Mr. Haven, as to what happened in—the last time in—1978. I think today the situation might well be different. I think that is because of the support that is being generated down there.

I wanted to ask you, Mr. Rasmussen: What specific legislative recommendations you have, or have you all had time to formulate specific recommendations?

Mr. RASMUSSEN. First of all, let me say to you, Senator Chiles, we really appreciated your coming to Miami and facilitating and sponsoring and working with that drug conference. We felt it was most successful. As you are aware the revitalized Citizens Crime Commission has only come into existence within the last several months and this is in fact my first week as a full-time executive director. We have not had an opportunity to review the problems of the past, particularly since 1978 although we did support the ordinance, and consequently we are not prepared to make any specific legislative proposals.

Senator CHILES. After you have had an opportunity to review the hearings, the transcript of the hearings, I am sure the subcommittee would be interested in hearing what the views of the commission would be in regard to how we should proceed with this problem.

Mr. RASMUSSEN. We do feel quite strongly that the proposed ordinance of 1978 should be reintroduced. We have begun to take some action in that regard. It is tremendously inadequate for regulation and monitoring of what is taking place in the port. The proposed ordinance that Mr. Havens and the staff of the seaport airport project worked on would provide the power and the authority for more proper monitoring by law enforcement in southeast Florida, particularly Dade County. So we are intending to do that. We do agree with Ray Havens that, because you are talking about multiple ports, you are talking about union; you are talking about national transportation systems, Federal legislation is essential. But we also think that the State and local ordinances could be created to support the Federal effort.

Senator NUNN. I think—hope you will have a better climate and hope these hearings can contribute something to that climate at the next time you have the ordinance in front of the commission.

Mr. RASMUSSEN. Senator Nunn, I am sure you are aware that we were hoping that you would have been able to conduct these hearings in Miami and I think we communicated that to you. We felt it would be helpful through the publicity to accomplish what we have been talking about, but we do understand the situation and we appreciate your having me here and allowing me to make the statement today.

Senator NUNN. Senator Chiles had my arm pinned all the way to my neck on that one. He not only asserted that, but he did it very vigorously and effectively. We had two or three problems. One, we had to have it where we could get Senators' attention because the legislation we deal with has to be understood and background has to be understood here.

Second, we had several immunity grants, primarily concerning witnesses next week, and those grants have to come under the court here. Otherwise, you have the huge jurisdictional problem. So those things along with some other complications dictated that we have the hear-

ings here but we did want to have them in Miami. We appreciate the eagerness of your group to have it there.

[At this point, Senator Chiles withdrew from the hearing room.]

Senator NUNN. Thank you very much. We appreciate your being here. Tomorrow morning we will begin again at 9:30. We will hear from the special agent, Mr. Louis Freeh, FBI. We will have some tape recordings which have not been, some of which have not been previously released. We also will have a staff statement from Mr. Ray Maria of our staff. We have called and subpoenaed Mr. George Barone, president of ILA local 1922. We have also subpoenaed Mr. Anthony Salerno from New York. We certainly expect them to be here tomorrow, as well as Mr. Douglas Rago, vice president of ILA in Miami, Fla. So we will begin again at 9:30 in the morning.

We will not have hearings on Friday. We will be having hearings 3 days next week.

[Member present at the time of recess: Senator Nunn.]

[Whereupon, at 3:25 p.m., the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, February 19, 1981.]

## WATERFRONT CORRUPTION

THURSDAY, FEBRUARY 19, 1981

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
Washington, D.C.

The subcommittee met at 9:40 a.m., pursuant to recess, in room 4232, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Sam Nunn presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire; Senator Sam Nunn, Democrat, Georgia; and Senator Lawton Chiles, Democrat, Florida.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. F. Goodwin, Jr., staff director to the minority; Eleanore Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key, and Raymond Maria, investigators to the minority; Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Member of the subcommittee present at the convening of the hearing: Senator Nunn.]

Senator NUNN. The subcommittee will come to order.

[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH, JR.,  
Chairman.

SAM NUNN,  
Ranking Minority Member.

Senator NUNN. Mr. Freeh, we are delighted to have you here this morning. I believe you are accompanied by Mr. Caro. Mr. Caro was here the other day, I believe, previously. We are pleased to have both of you here this morning. Both of you will be testifying. Is somebody else with you that is going to be testifying or just the two of you?

Mr. FREEH. No, Senator. But I would like to introduce my associates.

Senator NUNN. Why don't you introduce them? After you introduce everyone, I will give the oath to those who will be testifying. Go ahead and introduce the people.

Mr. FREEH. On my far right is Thomas Martens, who is a supervisor at the FBI Headquarters, who also worked on the UNIRAC case in Miami. On my left is John Losinski, who is an engineering technician.

Senator NUNN. Thank you. Do each of you swear that the testimony you will give before this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. FREEH. I do.

Mr. CARO. I do.

**TESTIMONY OF LOUIS J. FREEH, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY DANA CARO**

Senator NUNN. This morning, because of the technical nature of this—our chief counsel, Marty Steinberg, has been over these tapes in great detail. I have been over them, but not in as much detail—I am going to ask Marty Steinberg to go through the questions that will enable you to explain what it is we are about to hear.

Mr. STEINBERG. Mr. Freeh, how long were you assigned to the FBI's UNIRAC investigation?

Mr. FREEH. I was assigned to the New York project in September 1975, exclusively until May of last year.

Mr. STEINBERG. Mr. Freeh, we understand that you have with you today a chart which the FBI prepared at the request of the subcommittee which details the extent and the results of the UNIRAC investigation. Could you explain for us the significance of that chart and the information on that chart?

Mr. FREEH. Yes, sir.

The chart that we prepared, Mr. Steinberg, lists by chronological order the convictions of officers and officials of the International Longshoremen's Association, listing date of conviction and the substantive offenses. The color-coded names highlight high-ranking officers of the ILA, either international officers, general organizers. I might point out that this represents approximately 40 percent of the total convictions and indictments in the UNIRAC project. If we had prepared a chart listing management convictions it would perhaps be twice as large.

Mr. STEINBERG. So this chart only represents those ILA officials who were convicted in the UNIRAC investigation?

Mr. FREEH. That is correct.

Mr. STEINBERG. They were approximately 40 percent of the total convictions that the FBI achieved?

Mr. FREEH. Yes.

Mr. STEINBERG. Mr. Freeh, we understand that there are some conversations which the FBI recorded in New York involving defendants who reside in the Miami area. Did you bring those tape recordings of those conversations with you?

Mr. FREEH. Yes; I brought the tape recordings as well as the transcripts which reflect what is on those tapes.

Mr. STEINBERG. Are these the same tape recordings and transcripts which were played in Federal Court in New York?

Mr. FREEH. No; they were not. Prior to the trial and prosecution in New York, during pretrial hearings, a lot of the material on the original tapes was deleted. The term we use is redacted. It was done for a number of reasons, either reasons of fairness, relevancy, or redundancy. So the tapes we will be playing this morning will include conversations which were never played in courts.

Senator NUNN. At this point a brief word of explanation. As I said in my opening statement when we started these hearings we will be presenting tape recorded conversations during these hearings. Some of these recordings have never been made public. According to all the information that our subcommittee has received and is able to receive we are of the belief that all of these recordings were lawfully made, some with the consent of one or more of the participants in the conversation and some with the prior approval of a judge as required by State and Federal law. So we will be hearing the first of these recordings during the testimony of our next witness who we have here now. The tapes will be played at different times this week and next week. We have already made available to the representatives of the news media the verbatim transcripts of the conversations to be played. Neither the tapes nor the transcripts have been altered to remove what may be considered as foul or vulgar language. No expletive has been deleted. While many may find the language used in the conversation to be offensive, we believe it is necessary to listen to these conversations as they were actually spoken. Only in this way can we hope to convey the actual atmosphere of the conversations and the true nature of the type of men involved in a systematic, organized corruption of the Nation's waterfront. I do want to tell those in the audience in advance that there is vulgar language here. So everyone will have to make their own decision about that. I see some young people in the room. I want to let the parents know that before we start the tapes.

Mr. STEINBERG. Mr. Freeh, we have heard this week of the splitting of payoffs between the New York and Miami ILA officials. We have heard testimony that Douglas Rago received portions of the payoffs from the New York-New Jersey Port areas and that the New York racketeers shared in the payoffs collected in Miami. Do any of the tape recordings confirm our witnesses' testimony of the sharing of these payoffs? And as I understand it, the tape recordings which you will be referring to initially are of poor audio quality and you will discuss the transcripts of those tape recordings which we have identified as our transcripts No. 1 and 2. Is that correct?

Mr. FREEH. That is correct. I will summarize both transcripts. The audio of the tapes is not very clear due to the circumstances under which they were recorded.

Senator NUNN. Are they clear enough so that what you are saying you are certain of yourself after careful examination of them?

Mr. FREEH. Yes; they are.

Senator NUNN. You are not guessing what is on them. You are telling us what you know is on them but what may be hard to hear in this type of hearing. Is that right?

Mr. FREEH. That is correct. Moreover I might add that the transcripts that I will be summarizing were reviewed by defense counsel in the New York prosecutions and they, while not stipulated, agreed to our interpretation of the conversations.

Mr. STEINBERG. Would you proceed, please.

Mr. FREEH. Referring, Mr. Chairman, to your transcript No. 1, it is a partial transcript of a consensually recorded conversation between a government witness, William Montella, and Thomas Buzzanca, recorded on December 12, 1978, at Ponte's Restaurant in New York City. The conversation of course was recorded by the FBI without the knowledge of Mr. Buzzanca. Without reading directly from the transcript, the conversation reflects Mr. Buzzanca's use of the ILA network of officials to get certain things done in different ports which he feels are necessary. Specifically, he refers to an Anthony Pimpinella, who is an officer of the Local 1814 ILA Brooklyn, N.Y., and Mr. Buzzanca says that when he needs a favor in New York he calls Mr. Pimpinella. Conversely, when he needs a favor in Miami, he calls whom he refers to in the tape as Dougie, who is Douglas Rago; basically telling Montella if he needs a favor in a different port he will call on the corresponding ILA official in that area. That is how the relationship was between Mr. Rago and Mr. Buzzanca.

Referring now to your transcript No. 2, Mr. Chairman, this is an electronically recorded court-authorized conversation which occurred in the ILA office of Thomas Buzzanca in New York City, that was intercepted on April 10, 1978, again without the knowledge obviously of Mr. Buzzanca.

In the first entry under the transcription next to Buzzanca, he is discussing a meeting on the telephone, he hangs up the phone and he makes the following remarks to an individual who is in the office with him by the name of James Cashin. Cashin is also an official of local 1814. Buzzanca says:

Yes all right. Give this to Tino, some money to break that thing up.

CASHIN. Oh.

BUZZANCA. For one, I gotta give Dougie some—fuckin' singles and everything else.

CASHIN. What do you need? (UI)

BUZZANCA. I got it!

CASHIN. Oh, you do?

BUZZANCA. Yeah—leave all the small bills for Tino to take.

CASHIN. (UI)

Mr. STEINBERG. Is it your understanding from these conversations, other tapes and the UNIRAC investigation that the money generated by corrupt union officials as payoffs and kickbacks is shared and split between Douglas Rago and Tino Fiumara?

Mr. FREEH. That is correct.

Mr. STEINBERG. We heard yesterday from Mr. Wagner that James Cashin, the individual he just identified in that conversation, took payoff money and Las Vegas skim money from New York to Miami—to Douglas Rago; and that Douglas Rago was a member of the Genovese family representing Anthony "Fat Tony" Salerno in Miami on the waterfront. Who is Tino Fiumara and what organized crime family is he a member of?

Mr. FREEH. Tino Fiumara is a member of the Genovese organized crime family out of New York City. He operates primarily in the New York-New Jersey area. Mr. Fiumara was sentenced in 1979 for a Federal extortion conviction in Newark, received 20 years, subsequently was sentenced to a longer term in the Federal District Court in New York on the UNIRAC case. We identified him as being active in the Port of Elizabeth, in the Port of Newark, which is the western side of the Hudson River. Also substantial activity in the trucking industry, northeastern New Jersey.

Mr. STEINBERG. From your investigation, how are the parts of New Jersey and New York divided between the different organized crime family influences like Tino Fiumara, Clemente, Scotto, Rago and others?

Mr. FREEH. The investigation as well as the evidence reflected that Brooklyn ports were controlled by Anthony Scotto. The Justice Department has identified Mr. Scotto as a member of the Gambino family. The Manhattan ports, the investigation reflected, were controlled by Mike Clemente, who was also identified as a member of the Genovese family. The Newark ports, the jurisdiction seems to vary, but Fiumara representing the Genovese interests seemed to be dominant in that area.

Mr. STEINBERG. From these tapes, other tapes and the rest of the UNIRAC investigation, is it your opinion that Douglas Rago controls the southern port as far as waterfront corruption is concerned?

Mr. FREEH. Yes, it is.

Mr. STEINBERG. Although we intend to pursue this matter in greater detail next week, it is our understanding that William Montella, currently a protected witness, wanted to obtain business for his company in the Port of Norfolk. We further understand that Mr. Montella had a contact in New York he had to use to convince a Miami labor racketeer to obtain this business in Norfolk. Can you explain briefly this situation and did you bring with you any tape recordings which described that situation? I take it that you are going to refer to our composite transcript No. 3.

Mr. FREEH. That is correct. The tape recording which we have prepared in composite form reflected on your transcript No. 3 is a series of five conversations which reflect this incident.

Briefly, let me give a preamble to it.

[At this point Senator Chiles entered the hearing room.]

Mr. FREEH. Mr. Montella operated a carpentry contracting firm which was headquartered in Brooklyn, N.Y. Subsequently he opened up a business in Norfolk, Va., which was called a container repair refurbishing center. The container is an intermodal form of transportation and it is basically a box, a large 40- or 20-foot box which is placed on the trucks on the ships, to carry cargo. Montella was looking for additional business for his container depot in Norfolk, Va. In order to get that business he talked to Mike Clemente. Mike Clemente, being an organized crime figure, had helped Montella in the past to get business. Basically Montella went to Clemente, whom he was already paying \$1,000 a month for some other business and asked for help in Norfolk. Mr. Clemente said that he would do what he could to help

him. The investigation reflected that Clemente meets with George Barone, the ILA official in Miami, who uses his influence with Vincent Barba, who is an official of the CTI Company, a major container company based in New York, I believe. As a result of the Clemente-Barone-Barba connection, Montella receives additional business in Norfolk for which he later pays Mr. Barone a sum of money.

Mr. STEINBERG. You currently have that tape recording with you and that corresponds to our transcript No. 3. Is that correct?

Mr. FREEH. That is correct.

Mr. STEINBERG. We would request at this time that you play that composite tape and stop at certain sections to explain those conversations. The Senators have earphones at the dais and we have external speakers out in the audience. If you will begin to play that tape.

MONTELLA. I'm doin' pretty good with CTI, though.

CLEMENTE. Yeah?

MONTELLA. Yeah. I went to see Tommy, ya know? And I asked him if I should do anything there. And he said no. He said, wait 'till ya get healthy. He knows that I had it rough down there, ya know?

CLEMENTE. Yeah.

MONTELLA. I was gonna see if he wanted—ya know, with Georgia—if he wanted me to take care of him.

CLEMENTE. But after you just started.

MONTELLA. I just started.

CLEMENTE. So, what are ya rushin'? Tell him, look, as soon as I start to do good, I know what my obligations are. Ya know, don't go crazy, because right away they started, they count their, they start to count the money, ya know?

MONTELLA. Yeah. Well, should I see them or should I see you?

CLEMENTE. When did ya see Tommy?

MONTELLA. Ah, ah, geez about, about the fifteenth of this month.

CLEMENTE. All right. I'll try to reach out for that other fella. I don't know if Georgie's in town. I'll get ahold of him.

MONTELLA. How is he makin' out?

CLEMENTE. I don't know. He got indicted.

Don't ah, don't do nothin' with, with Tommy, and ah, with Georgie Barone. See how much work they give ya. Is he given' ya a lotta work?

MONTELLA. He's given me. It's, it's not a lot. It's good, ya know, it's good.

CLEMENTE. All right.

MONTELLA. I'm startin'.

CLEMENTE. Wait. Wait a while. Tell him until I get to talk to him.

MONTELLA. All right. Ya know.

CLEMENTE. First of all they shouldn't mention the money. This is supposed to be a favor to me so they shouldn't even ask you.

MONTELLA. But they didn't. I mean they—

CLEMENTE. When you told Tommy did he ask for anything?

MONTELLA. No. Nope.

CLEMENTE. All right.

MONTELLA. He said to me, get healthy then we'll talk.

CLEMENTE. All right. In the meantime, we should wait 'til you get something else.

MONTELLA. Yeah.

Mr. STEINBERG. We will stop the tape there, Mr. Freeh. Explain that conversation.

Mr. FREEH. Again, this is Montella asking Mr. Clemente to use his influence with George Barone, who he refers to in the tape as Georgie, to get CTI work in Norfolk, Va. Clemente tells them how much, basically asks him how much work are you getting? Montella responds that he is getting some but he could use more. Clemente promises to get hold of George Barone.

At the end of the excerpt, Montella asked Clemente if he should pay Barone or Clemente. Clemente says, referring to Barone, "They should not mention money. This should be a favor to me." You should note that Clemente does not tell him not to pay any money.

At the end of the conversation, Clemente says, "In the meantime, we should wait until you get something else." What he is telling Montella there is don't pay now, and don't pay Barone, let's wait and see how much work you get, but he does not tell him not to pay.

Mr. STEINBERG. Is he basically telling Mr. Montella that he expects George Barone to do him a favor out of Barone's deference for Clemente's respected position in the Genovese family?

Mr. FREEH. That is the clear inference.

Mr. STEINBERG. Go on to the next tape recording, please.

MONTELLA. Listen, I haven't heard anything from Barone. Georgie Barone. Ya know, with that CTI contract. I haven't heard a thing.

CLEMENTE. Don't look for him.

MONTELLA. No, I'm not lookin' for him.

CLEMENTE. Not now.

MONTELLA. But ah. I don't have to do nothin' yet?

CLEMENTE. Don't get in. If I get in touch with him, How much work they given' you?

MONTELLA. Not a lot. You know.

CLEMENTE. I mean.

MONTELLA. To be honest, I'm not makin' a ton of money on the account.

CLEMENTE. Huh?

MONTELLA. I'm not making a ton of money on the account.

CLEMENTE. I mean ya doin' fair, fair?

MONTELLA. Yeah, I'm doin' fair.

CLEMENTE. (UI), do ya feel that there's ah, you should get more?

MONTELLA. Well, I mean I think he's givin' me a, ya know. What's in Norfolk now, I think I'm gettin' the majority of it right now.

CLEMENTE. And what about here?

MONTELLA. Here, Mike, I'm starvin' to death.

CLEMENTE. No, I mean with CTI. Does he bring ya any Iran? That's another container deal he's got.

MONTELLA. No.

CLEMENTE. Well, what do ya do, fix 'em?

MONTELLA. I fix 'em, repair them, truck 'em. This and that.

Mr. STEINBERG. Please stop the tape at that point and explain the conversation.

Mr. FREEH. Basically this is a status report Mr. Clemente is giving to Mr. Montella advising him that contact has been made with Mr. Barone and asking him what kind of results that Mr. Montella is getting. Montella basically says he is still in need of work. Clemente cautions Mr. Montella not to look for Barone.

Mr. STEINBERG. Go on to the next tape, please. Who is the next tape a conversation between?

Mr. FREEH. The next conversation is between William Montella and George Barone. It takes place in the Downtown Athletic Club in New York City on October 25, 1978.

Would you play the tape, please?

MONTELLA. How ya been, George?

BARONE. I saw, I saw the old guy. I was just talking about you. I said, well, I'll see him next week, ya know. (UI), when we get together? He said where the fuck's the business? (UI). Mike, you know, I, I'll see Sonny. Well, that's okay, next week's fine. I'll, all right. Monday I was with Vinny Barba, CTI

(UI). He said, well, you were doing some. So I said, well, no, it's not enough. I have to have more. Sonny has to have more. Okay, he says, I'll give. I want you to let me know if there's any increase.

MONTELLA. All right.

BARONE. 'Cause if there's not, I wouldn't (UI) 'cause you needed, I mean, I'm trading with him.

MONTELLA. All right.

BARONE. You know, he's gonna. If he says yes, I want him, I expect him to keep his word. I, I was not able to see ICS. I'll see them Tuesday.

MONTELLA. All right.

BARONE. Okay.

MONTELLA. Very good, Georgie, thank you so much.

BARONE. Naw.

MONTELLA. What a coincidence running into you like this (UI).

BARONE. Very, very good. I'm very happy to, you know. If you see the old man, tell him that afternoon I saw him, which I did at 12 o'clock. I was (UI) in Ponte's with Georgie, and so on, then I. . . . Tell him that you saw me after, so if . . .

MONTELLA. All right.

BARONE. He wants us, Bill (PH), himself and I to sit down to discuss what we're discussing. I said, Mike, it's unnecessary. Naw, I want yas to get together. Okay. For you I'll do it, Mike, 'cause it's not necessary.

MONTELLA. All right, George.

BARONE. Okay, Sonny?

MONTELLA. Thank you so much.

BARONE. But let me know what it is, any movement. If there isn't then, see. You know that's then, they're not doing, they're not producing. They're not holding up my end, (UI) by doing for (UI) I'm only asking him to reciprocate. I want to know if they're bullshitting me or not, Sonny.

MONTELLA. All right.

BARONE. I can only tell by you.

MONTELLA. Okay.

BARONE. All right.

MONTELLA. Thank you, George. Really. Excuse me.

BARONE. Well, thank you for a, for performing the work. And what ya wanted to do, see the kids for Christmas, that's all.

MONTELLA. Okay. All right.

BARONE. All right. Okay, ya feel better?

Mr. STEINBERG. Please stop the tape. Will you explain that conversation, Mr. Freeh?

Mr. FREEH. On the first page of this conversation, Barone tells Montella that he saw the old guy. That is a reference to Clemente, telling Montella that he did talk to Mike Clemente and is now acting on Clemente's request.

Barone goes on to say that he met with Vinny Barba on Monday from CTI. Vinny Barba is an executive officer of CTI which is the container leasing corporation.

Mr. STEINBERG. Is that the corporation that could give Montella the business in Norfolk?

Mr. FREEH. Yes; it is. Barone tells Montella that he, Barone, told Barba that Sonny needs more business and asks Montella to report to him if he gets an increase in business and states that he is trading with Barba, meaning that Barba should give work to Montella for some unspecified favor or action which Barone is taking vis-a-vis Vinny Barba.

Later on in the transcript, Barone says, referring to Barba, "I expect him to keep his word," meaning giving additional business to Montella. Then Barone says, "I, I was not able to see ICS. I'll see them Tuesday." ICS is another major container leasing company which is, in

fact, a competitor of CTI. On the next page, at the bottom of the page, Barone tells Montella that he wants to know if he does not get any work. He wants to know if CTI is producing, giving the work to Montella. Then he says I am only asking CTI to reciprocate, meaning and inferring that Barone has done something or will do something on behalf of CTI.

Mr. STEINBERG. Mr. Freeh, in the middle of that page, Barone says he is doing it for Mike. What does he mean by that?

Mr. FREEH. He is again referring to his conversation with Clemente and telling Montella that he is only taking this action in Montella's economic interest because Clemente has asked him to do so.

On the last page, Barone thanks Montella for performing the work and then he said, "And what ya wanted to do, see the kids for Christmas, that's all."

What he is saying there is, look, I am not doing this for nothing. Don't give me any money but see the kids for Christmas. The kids, as the evidence showed later, turns out to be Thomas Buzzanca and seeing them means paying them a sum of money, which he later paid.

Mr. STEINBERG. Could we go on to the next tape.

Tape playing.

Montella. Let's have coffee, Tommy, and then we'll get the hell out of here. Buzzanca. Okay.

Montella. Go back to work. Tommy [Sound of paper rustling]. This is a letter of, with a thousand dollars, from me to you, for Christmas.

Mr. STEINBERG. Stop the tape there. What was that rustling sound we heard?

Mr. FREEH. That was the sound of Mr. Montella taking a letter-size envelope out of his pocket filled with \$1,000 in cash, which the FBI had provided to him. He then puts the letter under the table. This is at Ponte's Restaurant, New York City, and gives the envelope containing \$1,000 to Mr. Buzzanca.

Mr. STEINBERG. Who was that money destined for?

Mr. FREEH. Half of it went to George Barone.

Mr. STEINBERG. Could we play the rest of the tape.

Senator NUNN. How do you know that? How do you know half went to George Barone?

Mr. FREEH. By a later confirmation by Mr. Barone which we will play in a few minutes.

Tape resumes playing:

BUZZANCA. Let me tell you something. Let me tell you something.

MONTELLA. Don't tell me nothing.

BUZZANCA. I want to tell you something. (UI) The only way that Georgie Barone will take money is from me. I'm gonna give him half of this. I want you to know. I don't want anybody else in the world.

MONTELLA. That's up to you, because nobody know's about that.

BUZZANCA. And I (UI) much money. And I'll give George half of it. (UI) OK? You don't mind.

MONTELLA. I was gonna see George on my own.

BUZZANCA. I'm going to give him half. Okay?

MONTELLA. I was gonna see him on my own.

BUZZANCA. Do me a favor. Let it stay. Save a few bucks, please.

MONTELLA. All right.

BUZZANCA. Sonny, I don't want him to, you know?

MONTELLA. Tommy, ya been. You never took a nickel from me. And I know every time you took the dollar, it went to Tino. Ya know.

BUZZANCA. That's right. I never took.  
 MONTELLA. I know that. Ya never took a dollar, in your life.  
 BUZZANCA. Well, I wanted you to know (UI) don't do anything.  
 MONTELLA. This is for Christmas. You're gonna give half to Georgie Barone.  
 BUZZANCA. That's—forget about it.  
 MONTELLA. Fine. Okay. But I wanna tell ya something.  
 BUZZANCA. (UI) do anything for George.  
 MONTELLA. You're okay.

Mr. STEINBERG. Would you explain the rest of that conversation, please?

Mr. FREEH. On the first page of the conversation, after Montella gives the envelope to Buzzanca, Buzzanca says in almost a whisper "The only way that Georgie Barone will take money is from me. I'm gonna give him half of this." Montella says he was going to see Barone on his own. Buzzanca says, "No, I'll see him, I'll give him half of this."

On the next page, Montella says to Buzzanca, "You never took a nickel from me. And I know every time you took the dollar, it went to Tino." That is a reference to the \$2,000 per month payment which Montella has been making to Thomas Buzzanca at this time for a particular contract in New Jersey called the Concordia Line. The system set up was the \$2,000 to be paid on a monthly basis by Montella. Buzzanca would pick it up and later give it to Fiumara. Again, Montella emphasizes Buzzanca is going to give half of this amount to George Barone.

Mr. STEINBERG. Please play the next conversation and tell us who this is between.

Mr. FREEH. This conversation is between Mr. Montella and George Barone. It takes place in this New York Hilton Hotel, December 21, 1978.

MONTELLA. Hello, George.  
 BARONE. Sonny. Oh my God.  
 MONTELLA. How ya doing sweetheart?  
 BARONE. Happy holidays.  
 MONTELLA. Same to you.  
 BARONE. And a, that was very nice of you.  
 MONTELLA. Na, that's quite all right. That's quite all right.  
 BARONE. (UI) Okay.  
 MONTELLA. Merry Christmas to you.  
 BARONE. (UI) talk to you later. I gotta get a drink.  
 MONTELLA. All right.  
 BARONE. Thank you.

Mr. STEINBERG. Would you please explain that conversation.

Mr. FREEH. It is a brief 10-second conversation. Barone simply says to him "That was very nice of you." What he is doing there is acknowledging the \$500 that was paid to Barone by Montella through Buzzanca. The acknowledgment is that simple and that insulated.

Mr. STEINBERG. Do these taped conversations, other tapes, and the results of the UNIRAC investigation confirm the connection between the New York mob and the Miami labor racketeers and the mob's ability to direct business all along the eastern seaboard?

Mr. FREEH. It shows, as the Director pointed out, a complex conspiracy existing in both seaports, Miami and New York, with some of the same coconspirators using the network of organized crime to corrupt ILA officials, to distribute illegal payoffs.

Mr. STEINBERG. From the tapes, it is apparent that there are no overt threats to Mr. Montella and that Mr. Montella can only approach George Barone in a circuitous fashion through Michael Clemente to get business down South. What is the significance of that?

Mr. FREEH. I think the significance is twofold. First, this transaction is a very simple but very ordinary form of waterfront corruption. You do not have extortion, you do not have threats, you do not have violence. What you have is a businessman who is as corrupt as the ILA official who he pays looking for additional business, looking for an advantage against his competitors and using his organized crime connection, in this case Mike Clemente, to have that union official contact another businessman to extend an economic advantage to, in this case, Mr. Montella. So it is a typical but nonextortionate type of waterfront corruption.

Second, Mr. Montella must work through Mr. Clemente because Mr. Clemente is his sponsor, so to speak, and when he needs a favor, especially with an ILA official in another port, he must go through Mr. Clemente.

Mr. STEINBERG. He cannot approach George Barone himself?

Mr. FREEH. That is correct.

Mr. STEINBERG. We have heard that these labor racketeers exert considerable influence over companies in the shipping industry to the extent that some of these companies make decisions contrary to their own economic interests. Is this true and can you give us an example of this relative to Mr. Montella and his company in the Norfolk area.

Mr. FREEH. Well, an example of this in this particular transaction would be the following: In Norfolk, Va., Mr. Montella opened up an ILA organized shop. His competitors down there before he received the CTI business were nonunion, therefore affording CTI the benefit of a cheaper labor rate.

After the Clemente-Barone-Barba contact was realized, Mr. Montella got business into his ILA shop from nonunion companies, therefore affecting CTI, giving them basically an economic disadvantage now. They are paying a higher labor rate.

Mr. STEINBERG. And that was a decision made by the labor racketeers who forced the company into that position.

Mr. FREEH. Forced perhaps, but Barba here is reciprocating with Mr. Barone in some unknown fashion. So we do not know what the motives are of CTI in this particular case.

Mr. STEINBERG. We have heard witness testimony regarding the organized crime relationship between Anthony "Fat Tony" Salerno, Thomas Buzzanca, and Douglas Rago. You are also aware of confidential informants who have confirmed this relationship. Did the current FBI investigation confirm this relationship?

Mr. FREEH. Yes; I did. Referring back, Mr. Chairman, to transcripts 1 and 2, you have a clear relationship established between Mr. Buzzanca and Mr. Rago. In other court authorized as well as essentially recorded conversations, one, for example, on September 12, 1978 between Mike Clemente and William Montella, Mr. Clemente describes Mr. Buzzanca as being "with Fat Tony," which is the alias of Anthony Salerno. On another occasion, on December 12, 1978, portions of a conversation which we have just played, Mr. Buzzanca

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identified Salerno as his contact in terms of receiving sensitive information. So the taped evidence reflects the contact, the nexus between Mr. Buzzanca and Mr. Salerno.

Moreover, reviewing some hotel records, both in New York City and in Miami, we see that on one occasion Mr. Rago's expenses were charged to Mr. Salerno. Additionally, there were physical surveillances in New York City which showed a contact, showed a relationship between Mr. Buzzanca and Mr. Salerno. Overall the evidence discloses a relationship among these three individuals.

Mr. STEINBERG. Mr. George Wagner yesterday testified before this subcommittee that two organized crime family members confronted former ILA international president Captain Bradley and ordered him to step aside in favor of Thomas Teddy Gleason who was to be the mob candidate as president of the international. Are there any tape recordings to corroborate Mr. Wagner's testimony concerning the New York mob's intimidation of Mr. Bradley and inserting Mr. Gleason and Fred Field as their men in the international as reflected in our transcript No. 4?

Mr. FREEH. Yes; reflected in your transcript No. 4, I will summarize. It is a conversation which occurred between Mike Clemente and William Montella on June 15, 1978, at Brooklyn, N. Y.

If I may, Mr. Chairman, I will summarize a portion of that transcript. This is Clemente:

CLEMENTE. Ya see. Years ago, when Captain Bradley was attacked up there. Friends of mine came from Harlem. Mike, go with Teddy Gleason. Better than the other guy. The other guy's in the Grand Jury, he's talking. Yeah, the guy was going into the thing. Never said nothin'. You think I told Captain Bradley, put this guy, make him another (UI) make him another, two men's better than one. (UI) this guy promised me everything in creation. Freddy Fields we made him general organizer. Now we are working on the banana council. Why do you suppose so much? Where's the money? He got it. That'll come out in the paper.

MONTELLA. Gleason got the money?

CLEMENTE. Him and Gleason. Who else could have gotten it?

Mr. STEINBERG. Now, in terms of this conversation, Mr. Clemente—how old is Mr. Clemente, and how long has he been associated with the mob in New York?

Mr. FREEH. Mr. Clemente is 73 years old. He has been, we believe, a member of organized crime for at least the past 30 years.

Mr. STEINBERG. Was he also associated with the ILA at one time in the fifties?

Mr. FREEH. Prior to a State conviction in the fifties, he was president of local 856, which is an ILA local in New York. After Clemente was convicted and disbarred, Freddy Fields was elected to the presidency of that same local.

Mr. STEINBERG. Now Mr. Clemente says, when Captain Bradley was attacked up there, friends of mine came from Harlem. Who was he talking about?

Mr. FREEH. He is talking about his organized crime associates. The reference to Harlem is a reference to—it shows that Mr. Clemente is dated, a large section of what is Harlem now was predominately Italian and he is talking about two associates who are members of organized crime going down and talking to Bradley.

[At this point, Senator Rudman entered the hearing room.]

Mr. STEINBERG. At that point in time that he is talking about years ago and the friends of mine in Harlem, did Anthony "Fat Tony" Salerno control a certain portion of Harlem at that time?

Mr. FREEH. That is correct.

Mr. STEINBERG. When he says, "Mike, go with Teddy Gleason," what is he referring to?

Mr. FREEH. What he is saying there is that his friends, friends of mine, meaning organized crime people, told him to go with Teddy Gleason. In other words, replace Captain Bradley with Teddy Gleason.

Mr. STEINBERG. And what are they saying about Mr. Fields?

Mr. FREEH. Clemente makes a statement about him. He says we made him general organizer. "We" being a reference to his organized crime associates. General organizer is the third ranking office in the International Longshoremen's Association.

Mr. STEINBERG. This is a portion of a tape recording which you will play next week during our hearings, is that correct?

Mr. FREEH. That is correct.

[At this point, Senator Chiles withdrew from the hearing room.]

Senator NUNN. Let me ask you a couple of questions here. In this transcript where it says, "The other guy's in the grand jury, he's talkin'. Yeah, the guy was going into the thing. Never said nothin'." What does he mean by those sentences?

Mr. FREEH. My understanding of that, Senator, is that at this point in time, Clemente and his associates believed that Captain Bradley was somehow cooperating with a government agency, Federal or State. It is not specified.

In other words, was giving information in the grand jury in cooperation with the Government.

Senator NUNN. What does he mean by "You think I told Captain Bradley, put this guy, make him another (UI) make him another, two men's better than one." What does he mean by that?

Mr. FREEH. My understanding of that is that they would put in Gleason as president and then they would put in Field as a general organizer, therefore controlling the—

Senator NUNN. Two people?

Mr. FREEH. Exactly, the first and third highest positions in the ILA.

Senator NUNN. What does he mean by this blank, I won't read the word, promised me everything in creation?

Mr. FREEH. I understand that to be a reference to Mr. Gleason.

Senator NUNN. You understand that to mean before Gleason was put in he promised him everything, that is what you understand it to mean?

Mr. FREEH. That's correct.

Senator NUNN. Down at the bottom of that page of the transcript it says, "Why do you suppose so much? Where's the money? He got it, that will come out in the paper." What do you think that means?

Mr. FREEH. Mr. Clemente is again commenting indirectly here on the FBI investigation which he and Montella talk about regularly. I think what he is saying is that either Gleason or Field, and it is not clear who he is referring to, received some amount of money which will now be disclosed through the investigation.

Senator NUNN. Do you know of any investigation that ever disclosed that?

Mr. FREEH. With Mr. Field, yes, he was convicted of receiving unlawful labor payments.

Senator NUNN. Back in those years?

Mr. FREEH. No; this is a recent 1978 conviction.

Senator NUNN. So this is what they are talking about, a recent thing, they are getting into recent history here at the bottom of the page?

Mr. FREEH. It is hard to speculate, Senator.

Senator NUNN. What do they mean at the top of the next page when Montella says, "Gleason got the money," and Clemente answers, "Him and Gleason." Who else could have gotten it? What does that mean?

Mr. FREEH. The reference by Clemente here is clearly to Field again saying that Field, and now Gleason got some money and that this will be disclosed in the newspapers.

Senator NUNN. Was it disclosed?

Mr. FREEH. In Mr. Field's case it was, yes.

Senator NUNN. But not in the other case?

Mr. FREEH. No.

Senator NUNN. And then to continue that Montella says, "I don't, I don't understand what the hell they're so hot on Anthony for." Clemente responds, "I guess the reason for that is the (UI) FBI. Cause they're really hot against him." What does he mean by that?

Mr. FREEH. I think the reference there shows a little sophistication on Clemente's part. In a previous conversation he refers to the setup of the task force and the strike force and says that the new mode of investigation is now that they target, as the judge said on Tuesday, industries, corrupt unions versus individual defendants. Therefore, making it harder to avoid prosecution.

Senator NUNN. What is "UI" in parentheses mean?

Mr. FREEH. That is unintelligible, meaning that the transcriber was not able to decipher the word.

Senator NUNN. And then the last part of that Montella says, "Carrey?" Question mark. Clemente answers, "(UI) uh, Anthony. (Pause). They sent me a 'blank.' It's with ah, Florida paper had a copy (UI). How he's the target, the main target." What does that mean?

Mr. FREEH. Montella is asking Clemente who the FBI is after. Clemente says clearly it is Anthony. I understand it to be Anthony Scotto and that Scotto is, in fact, the main target of the investigation.

Senator NUNN. Then he goes ahead and says, Clemente goes ahead and says: "I don't know what business they did, who they were shaking down, what extortion and everything. They're gonna get hit with extortion. They're gonna get hit with income tax."

Montella replies, "I don't think they can prove it, you know." Who is he referring to as they?

Mr. FREEH. Clemente is referring to the eventual convicted defendants in Miami. It should be noted that he accurately predicted the indictment.

Senator NUNN. And this was before the indictment?

Mr. FREEH. Yes; I believe it was.

Mr. STEINBERG. Was Clemente himself convicted in the New York section of the UNIRAC case?

Mr. FREEH. Yes; he was.

Mr. STEINBERG. Is there another conversation which refers to Mr. Gleason continuing need to retain the Italian support he has fostered as reflected in our transcript No. 5?

Mr. FREEH. Yes; reflected in your transcript No. 5, Mr. Chairman, it is again part of that confidentiality recorded conversation between Montella and Buzzanca on December 12, 1978, at Ponte's Restaurant. You have a conversation between Buzzanca and Montella which makes the point that Mr. Steinberg has just noted. I will summarize a portion of that transcript, if I may. Toward the bottom of the first page:

MONTELLA. Although Teddy, between you and me, Teddy is still Irish. You understand? He joined forces because he got no choice.

BUZZANCA. But—

MONTELLA. Remember that too Tommy—

BUZZANCA. When he sees the handwriting on the wall (UI) (Both talk at once)

MONTELLA. Yeah, but, but remember that too he joined forces 'cause he got no choice.

BUZZANCA. Teddy is number one first, he—he likes money. Second of all, he wants to be around and third of all he's Irish. If he could be Irish first and have the other two fine, but if he can't, he's Irish third. I just had a meeting with him this morning over some Irish guys who've lot (UI), don't I know all the Irish. He says don't I go to Ireland every month, I told him whether its Northern Irish, Southern Irish, ya can't talk to these guys, they don't understand (UI).

Mr. STEINBERG. Again, Mr. Buzzanca, who was also convicted, was an officer in the ILA, is that correct?

Mr. FREEH. That is correct.

Senator NUNN. Do you have any other explanation, Mr. Freeh, that you think we need to have, concerning any of these transcripts or do you think we have now covered that part of it?

Mr. FREEH. I think we have covered, Senator, in terms of a transaction which is an example and, if you will, a microcosm of the labor racketeering context.

Senator NUNN. Thank you very much for your assistance.

Mr. FREEH. Thank you.

Senator NUNN. Mr. Caro, you are Deputy Assistant Director of the Federal Bureau of Investigations?

Mr. CARO. Yes, sir.

Senator NUNN. You are here in Washington?

Mr. CARO. Yes, sir.

Senator NUNN. What role do you play in this overall UNIRAC investigation?

Mr. CARO. At the time the UNIRAC investigation was being conducted I was assigned, I was not assigned to headquarters. I had a field responsibility at that time.

Senator NUNN. Where was your field responsibility?

Mr. CARO. Tampa, Fla.

Senator NUNN. You were involved in the UNIRAC?

Mr. CARO. Yes. I was.

Senator NUNN. We have noted from previous witnesses that many of the defendants in the UNIRAC investigation were charged with income tax violations as well as Taft-Hartley Act violations, extor-

tion, embezzlement, and obstruction of justice. Did the Internal Revenue Service play a significant role in the investigation?

Mr. CARO. They did, Senator.

Senator NUNN. What did they do?

Mr. CARO. They were able to provide significant information to us only after a concurrent Federal grand jury was convened in New York and Miami. Prior to the grand jury being convened the restrictions placed on IRS by the Tax Reform Act of 1976 precluded the IRS from providing to the FBI pertinent data that was necessary to conduct the investigation, from a tax standpoint.

Senator NUNN. What kind of data were you seeking that they could not provide because of the Tax Reform Act until the grand jury was convened?

Mr. CARO. I think Mr. Freeh has more firsthand knowledge on that.

Senator NUNN. Could you tell us generally what it was you received?

Mr. FREEH. Basically we were seeking to trace the disbursements after the receipt of the unlawful payments which other evidence had showed going to various ILA officials and respective defendants. We were looking for cash, sometimes net assets, analyses of their incomes.

Senator NUNN. How long did it take you to get the grand jury convened so you could basically comply with the Tax Reform Act and still get the information?

Mr. FREEH. In New York it would be several months at a time. The investigation was ongoing over 5 years. We therefore ran through several grand juries. Each time a new IRS grand jury was impaneled or before there was several months' delay in getting information which was at the time vital to our investigation.

Senator NUNN. Mr. Caro, did the Department of Labor assist in the UNIRAC investigation?

Mr. CARO. No. They did not, sir.

Senator NUNN. Why not?

Mr. CARO. During the covert phase of the undercover operation, during the time we had undercover agents, it was not deemed appropriate, not just for the Department of Labor, but anytime we have special agents working in an undercover capacity, we retain the integrity of the investigation by keeping it within the FBI and the strike force or the U.S. attorney's office.

Senator NUNN. Does that mean that the Labor Department was not fully trusted by the FBI?

Mr. CARO. No, sir. It is no reflection on the Department of Labor at all, Senator. Anytime we have a special agent of the FBI working in an undercover capacity where his life is in danger or jeopardy, we retain knowledge of that to a minimum. We would discuss it with the strike force attorney and officials at FBI Headquarters, but that is the limit of our exposure of the agent.

Senator NUNN. So it wasn't a case where you asked the Labor Department to help you or they refused and dragged their feet. You never asked them to help you?

Mr. CARO. That is correct.

Senator NUNN. Did you see any evidence that the Labor Department had been doing any monitoring before the FBI got involved in this

investigation as a matter of normal procedure? Did the Labor Department do any monitoring or close supervision of the waterfront?

Mr. CARO. I will refer that to Mr. Freeh.

Mr. FREEH. In the Port of New York, Senator; no. As you know, we have up there the Bi-State Waterfront Commission which is authorized by Congress. They have the primary jurisdiction, responsibility for regulating the waterfront. So at least in the Port of New York there was not any ongoing investigation by the Department of Labor. In terms of Miami, I would refer that to Mr. Martens because I am not aware of the situation down there.

Senator NUNN. We did have testimony on that yesterday from other agents. If anybody wants to add anything, you can.

Mr. CARO. No.

Senator NUNN. We already have had response from probably the best qualified witnesses on that.

Mr. Freeh, do you have a copy of that chart that can be reduced down to a record?

Mr. FREEH. Yes, Senator. I have one with me. I will provide the committee with additional ones which reflect the color which this one does not.

[The chart referred to was marked "Exhibit No. 2" for reference and follows:]

#### EXHIBIT No. 2

##### ILA CONVICTIONS

Defendant: ILA position(s)	Date	Conviction
Alexander, Joseph N.: Secretary-treasurer, Local 1422-A, Charleston, S.C.	11/7/77	Embezzlement of union funds.
Clemon, Isom: International vice president; Local 1410, Mobile, Ala.	12/30/77	Do.
Dalton, Edward F.: International vice president, Local 1066, Boston, Mass.	1/6/78	Embezzlement of employee benefit plan funds.
Sigler, Helen B.: Manager and assistant treasurer, Longshoremen's Federal Credit Union, Mobile, Ala.	1/13/78	Falsification of credit union records.
Rivera, Guillermo Ortiz: Vice president, Local 1575, San Juan, P.R.	4/26/78	Demanding and accepting prohibited payments; embezzlement of union funds; embezzlement of employee benefit plan funds.
Thompson, Randy W.: Treasurer, Local 1330 Federal Credit Union; secretary-treasurer, Local 1330, Houston, Tex.	5/11/78	Falsification of credit union records.
Johnson, Romia: Bookkeeper, ILA welfare and pension administration, Jacksonville, Fla.	5/18/78	Embezzlement of employee benefit plan funds.
King, Frank L.: Executive board, South Atlantic and Gulf Coast District; president, Local 854, New Orleans, La.	10/4/78	Failure to maintain proper union records.
Debose, Theodore: Longshoreman, Local 1426, Wilmington, N.C.	11/27/78	Perjury.
Formey, Albert W.: Longshoreman, Local 1426, Wilmington, N.C.	11/27/78	Do.
Lee, James Albert: Retired union marshal, Local 1426, Wilmington, N.C.	11/27/78	Racketeering.
Moore, Bernest E.: Longshoreman, Local 1426, Wilmington, N.C.	12/27/78	Perjury.
Dixon, George W.: International vice president, executive board, South Atlantic and Gulf Coast District; president, Local 1410, Mobile, Ala.	1/26/79	Embezzlement of union funds.
Bateman, Robert Lee: President, Local 1422-A, Charleston, S.C.	1/30/79	Conspiracy to commit racketeering.
Barone, George: International 2d vice president; organizer, Atlantic Coast District; president, Local 1922, Miami, Fla.; business manager, Local 1874-1, New York City.	9/1/79	Racketeering; extortion; demanding and accepting prohibited payments; Federal income tax fraud.
Boyle, William: International vice president; executive board, South Atlantic and Gulf Coast District; secretary-treasurer, Local 1922, Miami, Fla.	9/1/79	Racketeering; extortion; receiving kickbacks as administrator of an employee benefit plan; demanding and accepting prohibited payments; Federal income tax fraud.
Field, Fred R. Jr.: Former international general organizer.	9/1/79	Racketeering; extortion; demanding and accepting prohibited payments.
Turner, Cleveland: Executive board; South Atlantic and Gulf Coast District; president, Local 1416, Miami, Fla.	9/1/79	Racketeering; demanding and accepting prohibited payments.
Vanderwyde, James: Coordinator, Atlantic Coast District; office manager, Local 1922, Miami, Fla.	9/1/79	Racketeering; extortion; demanding and accepting prohibited payments.

## EXHIBIT No. 2—Continued

## ILA CONVICTIONS

Defendant: ILA position(s)	Date	Conviction
Williams, Landon L.: International vice president; executive board; South Atlantic and Gulf Coast District; president, Local 1408, Jacksonville, Fla.	9/1/79	Racketeering; demanding and accepting prohibited payments.
Durnin, August W.: President, Local 1833, Port Allen, La.	11/14/79	Embezzlement of union funds.
Anastasio, Anthony: International vice president, Atlantic Coast District; executive vice president; Local 1814, Brooklyn, N.Y.	11/15/79	Racketeering; demanding and accepting prohibited payments; Federal income tax fraud.
Scotto, Anthony: International general organizer; international legislative director; president, Local 1814, Brooklyn, N.Y.	11/15/79	Do.
Leonard, Rutherford: Former president, Local 1426, Wilmington, N.C.	11/19/79	Embezzlement of union funds; embezzlement of employee benefit plan funds.
Sutton, Willie L.: Business agent, Local 1426, Wilmington, N.C.	11/19/79	Embezzlement of union funds.
Seaton, Grover: President, Local 1766, Wilmington, N.C.	11/19/79	Embezzlement of union funds; indictment dismissed upon surrender of union office and monetary restitution.
Green, Floyd: Financial secretary, Local 1838, Southport, N.C.	11/20/79	Failure to maintain proper union records.
Buzzanca, Thomas: International organizer; president, Locals 1804 and 1804-1, New York City.	5/2/80	Racketeering; extortion; demanding and accepting prohibited payments.
Clemente, Michael: Former president, Local 856, New York City.	5/2/80	Racketeering; extortion; demanding and accepting prohibited payments; Federal income tax fraud.
Colucci, Vincent: International vice president; vice president, Atlantic Coast District; president Local 1235, Newark, N.J.; secretary, treasurer, Local 1478-2, Newark, N.J.	5/2/80	Racketeering; extortion; demanding and accepting prohibited payments.
Gardner, Carol: International assistant general organizer; vice president, Atlantic Coast District; president, Local 1233, Newark, N.J.	5/23/79 5/2/80	Accepting prohibited loans from employer. Racketeering; extortion; demanding and accepting prohibited payments; Federal income tax fraud.
Powell, Eddie: Former president, Local 1759, Tampa, Fla.	9/3/80	Embezzlement of union funds.

Senator NUNN. Do you have anything else at this time, Mr. Freeh, that you would like to bring out that we haven't with the questions that we have asked?

Mr. FREEH. No, Senator, I do not.

Senator NUNN. Mr. Caro?

Mr. CARO. No, Senator.

Senator NUNN. We want to thank all of you for your assistance. I know it took an awful lot of time to get these tapes, transcripts, all the mechanics of getting it cleared through all of the channels that you have to get it cleared through. I want to thank you for your splendid cooperation with the committee, Mr. Freeh, and also Mr. Caro, and we hope that you will also convey our thanks to your bureau.

Mr. FREEH. Thank you, Senator.

Mr. CARO. Thank you, Senator.

Senator NUNN. Thank you.

Our next witness is one of our investigators, Mr. Raymond Maria. Mr. Maria has been of invaluable assistance to this subcommittee as a staff member. He has also participated with the FBI. He is a member of the FBI, has been assigned to our staff and on our payroll for the last year and a half. But he did play a significant role in the overall UNIRAC investigation before coming with this committee.

Mr. Maria, I don't think you have been sworn, have you?

Mr. MARIA. No; I have not.

Senator NUNN. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MARIA. I do.

## TESTIMONY OF RAYMOND MARIA, INVESTIGATOR, PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Senator NUNN. Mr. Maria, can you summarize before we call our next witness, Mr. George Barone, the subcommittee's staff investigation and the criminal background of George Barone?

Mr. MARIA. Yes, I can.

George Barone, born December 16, 1923, was arrested by the New York Police Department in February 1954 for felonious assault on a waterfront worker, for which he pleaded guilty to disorderly conduct in May 1954. In September 1966, Barone and Douglas Rago were arrested by the Montreal, Canada, police as part of the raid and arrest of those running a business known as United Industrial Development Corp. Barone and Rago then were expelled from Canada. In September 1979, Barone, along with five other south Florida and international ILA officials, was convicted in Federal court in Miami, Fla., for employing racketeering tactics to corruptly control various seaports of the United States; extortion, demanding and accepting payoffs from management, and tax fraud. He presently holds his union offices while free on bond pending the appeal of this conviction.

In 1955, Barone became the president of ILA Local 1826 in New York City. At that time, four of the five officers of Local 1826 had significant records of criminal convictions. During the same period, Barone also was the head of New York ILA Local 205, which represented waterfront workers who packed waterborne freight for export. A close alliance existed between locals 1826 and 205 with the locals sharing the same office and telephones. Similar to local 1826, the leadership of local 205 consisted of an incredible succession of criminals.

During the late fifties, Barone also was an organizer for the ILA international and an aide to the international president, William V. Bradley. It was during this time that Barone, Douglas Rago, and Jame Vanderwyde refused to answer numerous questions during public hearings before the waterfront commission of New York Harbor under the privilege against possible self-incrimination.

In 1958, William Bradley, the ILA international president, gave Barone the responsibility of handling the details of a contract by which Public Relations Associates, Inc. would publish the Longshore News for the ILA. As a direct result of Barone's extortion tactics, this company employed two notorious waterfront hoodlums, John "Baseball Bat" Scanlon and Daniel St. John. Each of these hoodlums received \$125 weekly although performing little or no work whatsoever for Public Relations Associates. Scanlon remained on the payroll until his murder in October 1958.

In January 1959, Barone, in the company of exconvict and organized crime associate, Edmund Flynn, and Frank "Machine Gun" Campbell, tried to use strong-arm methods to persuade the regional head of the ILA from Boston to surrender his candidacy for International and Atlantic Coast District positions in favor of a candidate supported by Barone and his criminal associates. Fortunately, the waterfront commission thwarted this effort.

Early in 1958, Barone accompanied Douglas Rago, Teddy Gleason, and Fred R. Field, Jr., to a meeting with top Teamster officials in

Miami Beach. All registered at the Sea Gull Hotel. Registration records reflected that Anthony "Fat Tony" Salerno, underboss of the Genovese family, met with Barone and these ILA officials at Miami Beach.

Barone began to travel to the Miami area in approximately 1961, when he organized a company, Associated Convention and Exposition Services, which ostensibly was formed to set up the decorations and displays for the 1961 Teamsters convention. This company was affiliated with Miami Beach Electrical Exhibition Services. The president of this company admitted that in 1964, he carried Barone on his payroll at a \$30,000 salary.

Mr. NUNN. Does that mean that Barone was not working for that money?

Mr. MARIA. It should be pointed out that at the same time he was an official of the ILA, ostensibly holding down two jobs at the same time in two completely different spheres.

In 1966, Barone was installed as the president of the newly created ILA Local 1922 in Miami, Fla., which was organized to represent the checkers and later expanded to include waterfront clerks, timekeepers, mechanics, and truck drivers. Douglas Rago became the vice president; William Boyle, the secretary-treasurer; and James Vanderwyde, the office manager.

By 1967, Barone began to demand and accept payoffs from Miami waterfront companies which employed ILA members. George Wagner testified that at Barone's instructions, he personally arranged the payoff terms with a number of companies and then personally collected the "front" money and subsequent monthly payoffs, which he gave to Barone, Boyle, or Vanderwyde.

Mr. Wagner's testimony and records our staff has secured reveal that Barone and his criminal associates conspired to accept kickbacks from a Miami optometrist who received the major portion of the business from the south Florida ILA's vision care plan.

Informant disclosures and testimony by Mr. Wagner and Joseph Teitelbaum indicate that, although the ranking official in local 1922, Barone was subordinate to and took orders from Douglas Rago, a more senior member within the structure of the Genovese family of La Cosa Nostra. Through Mr. Wagner, we learned that the payoff funds went into a "pot" or a pool and that Barone shared in this "pot".

In 1975-76, Barone and his organized criminal associates extended their tentacles to include control over the ports of Savannah, Ga., and Jacksonville, Fla. They boasted, moreover, that they controlled virtually every port along the Atlantic and Gulf Coasts and would determine who would do business and where. Barone's control over companies employing ILA labor became all-pervasive. Under the threat of "labor peace", he usurped traditional management prerogatives by dictating which companies should be used for the purchase of insurance, stationery, and hardware.

Through FBI undercover agents, tape recordings, and the testimony of Joseph Teitelbaum, this subcommittee has learned that Barone used a mob "middleman" to penetrate a legitimate business,

Zim Israeli Navigation of New York City, and induce that company to award business to a company which made payoffs to Barone.

We have heard similar testimony concerning Barone's influence over another major company, CTI, and his ability to have that company use the repair services of Quin Marine of Norfolk to the economic detriment of CTI. Why? Because Barone was requested to do so by an elder, more respected Genovese family member, Michael Clemente, and because he knew payoffs would result. Tape recordings and surveillances by the FBI disclose frequent meetings between Barone and Clemente.

In speaking to an FBI undercover agent in September 1976, Barone revealed that organized crime families had established spheres of influence or territories with respect to controlling work on the waterfront. It was disclosed to an undercover agent, moreover, that although residing in Florida, Barone controls local 1804-1, New York City, through its president, Thomas Buzzanca. There have been tape recordings and testimony that Buzzanca "belongs" to "Fat Tony" Salerno.

In Miami, Barone has employed the 50-mile rule on containerization to exercise virtual control over all off-port loading, warehousing, and consolidation activity. Investigation, testimony, and records indicate that Frank Arevalo, owner of Twin Terminal Service, makes payoffs to Barone and his associates in order to circumvent ILA contract requirements concerning labor force size and thereby generate windfall revenues.

The most recent reports filed with the U.S. Secretary of Labor disclose that Barone holds the following paid positions with the ILA:

International second vice president, New York City.

Organizer, Atlantic coast district, New York City.

President, local 1922, Miami, Fla.

Business manager, local 1804-1, New York City.

Barone is paid a total of \$117,000 a year for these positions even though he resides in Florida and many of the positions relate to New York ILA activities. Additionally, Barone serves as a trustee on some of the south Florida ILA-employers benefit plans.

Senator NUNN. Thank you, Mr. Maria. We want to again express appreciation from the Senators on the subcommittee to you and the staff for the excellent job you have done. I am sure we will be hearing from you again next week.

Our next witness is Mr. George Barone.

Mr. Barone, if you will hold up your right hand before you have a seat, we swear in all of the witnesses before our subcommittee. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BARONE. I do.

**TESTIMONY OF GEORGE BARONE, PRESIDENT, ILA LOCAL 1922, ACCOMPANIED BY DAVID ROSEN, ATTORNEY, MIAMI, FLA.**

Senator NUNN. Mr. Barone, in the interest of making you aware of your obligation under the law to testify fully and truthfully at this hearing, we are pointing out the following to you.

First, the subcommittee has full legal authority to compel your testimony. Senate subcommittees are authorized by the Standing Rules of the Senate, 26 (1), to require by subpoena the testimony of witnesses. In addition, Senate Resolution 361 expressly authorizes the Committee on Governmental Affairs and its duly authorized subcommittee, one of which is this subcommittee, to require by subpoena the testimony of witnesses. We are providing you with a copy of rule 26, Senate Resolution 361, the subcommittee rule, and, of course, you previously have been served with a subpoena. You should be fully aware of the penalties for either refusing to testify or testifying falsely. Under 2 U.S.C. 192 for refusing to answer any question pertinent to the question under inquiry, you can be prosecuted for contempt of Congress and punished by up to 1 year in prison. Under 18 U.S.C. 1621 and other statutes for testifying falsely on material matters you can be prosecuted for perjury or for making false statements and punished by up to 5 years in prison.

Mr. Barone, you have the right to be represented by legal counsel at this hearing. Do you have legal counsel representing you?

Mr. BARONE. I have legal counsel with me, sir.

Senator NUNN. If you could pull that mike up as close as you can. Would you want to introduce your counsel, or counsel can introduce himself if he prefers.

Mr. ROSEN. Senator, my name is David Rosen, Miami, Fla.

Senator NUNN. You represent Mr. Barone?

Mr. ROSEN. I do.

Senator NUNN. In addition, Mr. Barone, you have the right to consult with counsel before answering any question. If you want to take time to consult with counsel, you have that right under our rules and in addition you have the privilege under the fifth amendment of the Constitution not to incriminate yourself in any criminal matter by virtue of your testimony before this subcommittee. Do you understand, Mr. Barone, your rights and your obligations as a witness before this subcommittee?

Mr. BARONE. Yes, sir.

Senator NUNN. Could you state your name for the record, please?

Mr. BARONE. George Barone.

Senator NUNN. Could you give us your address, Mr. Barone?

Mr. BARONE. Miami, Fla., sir.

Senator NUNN. What is your address?

Mr. BARONE. 3323 Northeast 171st Street, North Miami.

Senator NUNN. Is that your business address or your home?

Mr. BARONE. That is my home address.

Senator NUNN. Do you have a business address?

Mr. BARONE. I do.

Senator NUNN. Could you give us that?

Mr. BARONE. 1001 North America Way, Miami.

Senator NUNN. Are you a union official in the ILA?

Mr. BARONE. Excuse me, sir?

Senator NUNN. You have the right to consult with counsel.

Mr. BARONE. Senator Nunn, in answer to your question—

Senator NUNN. Let me repeat my question so I am sure you understand it. Are you a union official in the ILA?

Mr. BARONE. Senator Nunn, in answer to your question, I must refuse to answer your question on the grounds that it may tend to incriminate me.

Senator NUNN. Mr. Barone, we have heard testimony just before you appeared that you hold the following offices: international vice president, and that you are paid \$32,545 for that position; organizer, Atlantic coast district, paid \$15,454; president, local 1922, Miami, Fla., paid \$39,100; business manager, local 1804-1, New York City, paid \$30,004; total of \$117,104. Is this correct?

Mr. BARONE. Senator Nunn, I must also refuse to answer that question on the grounds as previously stated.

Senator NUNN. Could you state the grounds?

Mr. BARONE. I beg your pardon, sir?

Senator NUNN. Could you state the grounds?

Mr. BARONE. On the grounds that it may tend to incriminate me, sir.

Senator NUNN. Some of these positions span the length of the United States from Miami to New York City, total remuneration approximately \$117,000 a year. How can you possibly perform duties for each of these ILA entities in such different geographical areas?

Mr. BARONE. I am sorry, sir. I must refuse to answer that question on the grounds that it may tend to incriminate me.

Senator NUNN. Mr. Barone, we have heard testimony that Douglas Rago is ranking member of the Genovese family, run presently by "Funzie" Tieri, and works directly under Anthony "Fat Tony" Salerno. We have also heard testimony that you worked for and report to Douglas Rago. Is this accurate?

Mr. BARONE. I must refuse to answer that question, Senator Nunn, on the grounds that it may tend to incriminate me.

Senator NUNN. We have been told that your mob boss, Douglas Rago, received Las Vegas skim money flown from New York to Miami by ILA officials James Cashin. We also heard that Cashin is the secretary-treasurer of local 1804-1 in New York City where you are business manager.

Is this skim operation in effect, and if so, how much do you and Rago get out of it?

Mr. BARONE. I must refuse to answer that question on the grounds that it may tend to incriminate me.

Senator NUNN. Mr. Barone, are you a close friend and business associate of Michael Clemente?

Mr. BARONE. I must refuse to answer that question, Senator Nunn, on the grounds that it may tend to incriminate me.

Senator NUNN. Mr. Barone, we have heard a tape made on September 19, 1978, of a conversation between Michael Clemente and William Montella where Clemente tells Montella that he would give him work on the Norfolk Port and that you, George Barone, will make these arrangements. Did you make these arrangements for Mr. Clemente?

Mr. BARONE. I must refuse to answer that on the grounds it may tend to incriminate me, Senator Nunn.

Senator NUNN. Mr. Barone, is it a fact that you made these accommodations for Clemente out of respect for his high-ranking position in the Genovese family?

Mr. BARONE. I must refuse to answer that question on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, are you a member of the Genovese family?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, we also heard tapes dated October 25, 1978, to December 21, 1978, that in addition to Montella paying off Clemente and other New York mobsters, you confirmed that you yourself were getting a payoff from Montella through Thomas Buzzanca, the president of the ILA Local 1804-1 in New York City of which you are a business manager. Is that correct?

Mr. BARONE. I must refuse to answer that question on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, I have many more questions. I don't think we are getting very far, obviously. Just a few more that I will ask you and then will defer to Senator Rudman.

We have heard testimony that the mob used Mr. Cashin, an officer of ILA Local 1804-1, to distribute Las Vegas skim money and that for the Montella payoff the mob used Mr. Buzzanca, another officer of 1804-1 in New York City. Is it a fact that you control that union and officers like Cashin and Buzzanca for your boss Doug Rago and for other high-ranking members of the Genovese crime family?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, are you a "made" member of the Genovese organized crime family?

Mr. BARONE. I must refuse to answer that question on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, I just have a couple more questions for you. There has been testimony that you and Anthony Scotto, an ILA international official and president of a Brooklyn local, have met to divide up the pie in terms of which you would control certain geographical areas. We have heard testimony that Mr. Scotto is a high-ranking member of the Gambino family and you represented a high-ranking member of the Genovese family. Can you tell us how these two mob families divided spheres of influence and decided which port would become the domain of which family?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, do you know Douglas Rago?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Do you know William Boyle?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Do you know Anthony Scotto?

Mr. BARONE. I must refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator NUNN. Mr. Barone, we had hoped to ask you many questions, obviously. We had many matters that we felt that you would be

able to give us significant information on. At this point I would defer to Senator Rudman for any questions he may have.

Senator RUDMAN. Thank you, Senator.

Mr. Barone, when did you arrive here in Washington for this testimony?

Mr. BARONE. I am sorry? Would you repeat that?

Senator RUDMAN. When did you arrive here in Washington for this testimony?

Mr. BARONE. Last evening, sir.

Senator RUDMAN. You stayed at a hotel here in Washington?

Mr. BARONE. I did, sir.

Senator RUDMAN. Did your counsel accompany you here to Washington from Miami?

Mr. BARONE. No, sir. He met me here.

Senator RUDMAN. Did you drive or fly to Miami?

Mr. BARONE. I flew here, sir.

Senator RUDMAN. From Miami. And you will be returning by air?

Mr. BARONE. Yes, sir. I will be returning by air.

Senator RUDMAN. Today?

Mr. BARONE. Yes, sir.

Senator RUDMAN. Who paid for these trips, Mr. Barone?

Mr. BARONE. Sir, I refuse to answer that question on the grounds it may tend to incriminate me.

Senator RUDMAN. Who is paying for your counsel's appearance here today, Mr. Barone?

Mr. BARONE. I assume I am, sir.

Senator RUDMAN. Would you tell me the source of your income that you will use to pay your counsel for his appearance today?

Mr. BARONE. I refuse to answer that, sir, on the grounds it may tend to incriminate me.

Senator RUDMAN. Do you own credit cards or hold credits cards in your name, Mr. Barone?

Mr. BARONE. I refuse to answer that, sir, on the grounds it may tend to incriminate me.

Senator RUDMAN. I want to advise you and your counsel that this line of questioning directs itself at your fiduciary relationship with the union which we have evidence that you now hold office in and I want to call to you and your counsel's attention the serious question in my mind as to whether or not you have that privilege relating to your fiduciary relationship with your union, so let me restate my question.

Who is paying for your trip here to Washington to testify?

Mr. BARONE. I must refuse to answer that, sir, on the grounds it may tend to incriminate me.

Senator RUDMAN. Are you married?

Mr. BARONE. Beg your pardon?

Senator RUDMAN. Are you married?

Mr. BARONE. Yes, I am.

Senator RUDMAN. Is your wife employed?

Mr. BARONE. Beg your pardon?

Senator RUDMAN. Is your wife employed?

Mr. BARONE. No, sir.

Senator RUDMAN. Do you have any other source of income, Mr. Barone, other than the money you received from your union positions?

Mr. BARONE. I refuse to answer that question on the grounds it may tend to incriminate me.

Senator RUDMAN. Mr. Barone, is it true that you still hold a fiduciary relationship in several of these union organizations of which you are either an officer or a trustee?

Mr. BARONE. I have to refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator RUDMAN. Mr. Barone, are you familiar with the various reports and forms that you filed with the U.S. Department of Labor relating to your positions as fiduciary with this union?

Mr. BARONE. I have to refuse to answer that question, sir, on the grounds it may tend to incriminate me.

Senator RUDMAN. Let me say to you and your counsel, I intend to look into your invoking this privilege in terms of your fiduciary relationship with the ILA.

I have no other questions, Senator Nunn.

Senator NUNN. Thank you very much.

Mr. Barone, we hoped to go into a lot of these questions with you.

As you already know, I am sure, from hearings, we are profoundly concerned that someone could be convicted of criminal activities and still hold fiduciary positions of trust in very important labor unions as, according to all the testimony, you do.

Senator Rudman's questions will be explored. We had hoped to ask you many questions. We hoped to get your cooperation before the subcommittee, but we respect your constitutional rights and assertion of those rights.

So at this stage, we will not need you further and we would dismiss you as a witness before the subcommittee at this time.

Mr. ROSEN. Thank you, Senator.

Senator NUNN. Our next witness again will be Mr. Raymond Maria, who has already been sworn before the subcommittee.

Mr. Maria, would you come forward?

Mr. Maria, have you had occasion to confirm the testimony we heard yesterday from Mr. Wagner identifying Douglas Rago as a member of the Genovese family of La Cosa Nostra?

Mr. MARIA. Yes, I have.

Senator NUNN. Could you relate that to us?

Mr. MARIA. Yes, I will, Senator. Reliable confidential informants have advised Federal law enforcement agencies that Mr. Rago has been a member of the Genovese organized crime family since the 1950's. They have stated that within the family hierarchy Mr. Rago is subordinate to family underboss, Anthony "Fat Tony" Salerno, but substantially superior to George Barone.

These sources confirm that Rago frequently meets Salerno to receive a portion of the shakedown money generated by the Genovese family in the New York/New Jersey area. The sources also state that in Miami, Rago frequently met Albert "Chink" Facciano, the Genovese family member who supervised Salerno's loansharking operations in south Florida.

In response to your question regarding Mr. Rago's background, Douglas Rago, born September 2, 1922, at Bronx, N.Y., has an extensive record of arrests beginning with attempted holdup charges in 1941, to the most current, a deportation arrest by Montreal, Canada police in 1966. His convictions include attempted robbery; assault and robbery; possession of concealed weapons; attempt to kill a police officer; and perjury. For these convictions, he was confined at the New Jersey State Penitentiary, Rahway, N.J.; Riker's Island, N.Y.; and Sing Sing. I submit now for the record a copy of Rago's FBI identification record, FBI No. 2 333 237.

Senator NUNN. That will be made a part of the record, without objection.

[The document referred to was marked "Exhibit No. 3" for reference and follows:]

**EXHIBIT 3**

**U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, IDENTIFICATION DIVISION**

Contributor of fingerprints	Name and number	Arrested or received	Charge	Disposition
Police Department, Millburn, N.J.	Douglas Rago, 489	May 18, 1941	Attempted holdup	October 29, 1941, 5-6 yr SPr.
Essex County Bureau of Identification, Newark, N.J.	Douglas Rago, A-50520	do	Attempted holdup, atroc. A & B, concealed weapons, attempted to kill police officers.	
State Police, Trenton, N.J.	Douglas Rago, 22336	November 7, 1941	CCW—conspiracy to rob, at Millburn on May 18, 1941.	5-6 yr.
State Ref. Rahway, N.J.	Douglas Rago, 17625	February 19, 1942, in transit from State Police, Trenton, N.J.	do	5-6 yr. January 20, 1945 par on war.
Police Department New York, N.Y.	Douglas Rago, B-229950	January 20, 1945	Assault and robbery	April 16, 1945 2 to 4 yr Sing Sing SS probation 2 yr.
DCGO, 3d Naval District, New York, N.Y.	Douglas Daniel Rago, 031-1769110-G	April 30, 1945	do	1 yr.
Police Department, New York, N.Y.	Douglas Rago, B-229930	May 16, 1952	Bench warrant (perjury)	
Probation Department, Court of General Sessions, New York, N.Y.	Douglas Rago	do	Perjury, 2d degree	
Penitentiary, Riker's Island, New York, N.Y.	Douglas Rago, 88391	July 1, 1953	do	
USM, Brooklyn, N.Y.	Daniel Douglas Rago, 16017	October 14, 1958	Universal Military and Selective Service Act.	Complaint dismissed.
Police Department, Montreal, Quebec, Canada.	Douglas Rago, 100617	September 12, 1966	Detained re fraud	Remanded to U.S. Immigration.

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Mr. MARIA. In 1955, shortly after their release from prison, Rago and his hoodlum associate, James Vanderwyde, obtained an ILA charter and organized local 1826 of New York to represent the Chenangoes, a class of waterfront workers who loaded and unloaded railroad cars and barges and at that time were not required to be registered with the New York-New Jersey Waterfront Commission.

Consequently, the Commission's prohibition against felons being union officers or agents was not applicable to local 1826. George Barone became the president of local 1826, and Rago became the secretary-treasurer of this local. In appearances before the Waterfront Commission at public hearings, Rago, Barone, and Vanderwyde refused to answer numerous questions concerning their activities and criminal associates on the ground that their testimony might tend to incriminate them.

In early 1958, Rago, Teddy Gleason, Fred R. Field, Jr., and George Barone met top Teamster officials, includes James Hoffa, in Miami Beach to discuss the organization of waterfront workers from Norfolk, Va., to Key West, Fla. Rago, Gleason, Field, and Barone all stayed at the Sea Gull Hotel. Rago's hotel ledger sheet contained this notation, "OK all checks and credit for Barone, Phil Siolino, and Tony Salerno." Salerno is the under boss of the Genovese family and maintains residences in Harlem, N.Y., and Miami Beach, Fla.

During preparation for the New York World's Fair in 1964, Rago was an influential figure in local 829 which represented employees engaged in the fair installation. The FBI has advised that ILA Local 1826 and Exhibition Employees Local 829 have enjoyed a long and close relationship and that local 829 historically has been controlled by organized crime figures.

By 1966, Rago and his associates, George Barone and James Vanderwyde, came to Miami to organize Checkers Local 1922, Miami, Fla., for the ILA. They came to Miami because the Waterfront Commission of New York Harbor would not permit them to work as longshoremen or hold union office. It was during September 1966 that Rago and Barone were arrested by the Montreal, Canada, police as part of a simultaneous raid and arrest of those running a business known as United Industrial Development Corporation.

As I mentioned earlier, Barone and Rago then were deported from Canada.

Subcommittee witnesses George Wagner and Joseph Teitelbaum have testified that Barone, William Boyle, James Vanderwyde, and other Miami ILA officials described Rago as the top-ranking or superior figure. He was described in this manner even though he was listed only as the vice president of local 1922 in Miami.

Wagner's testimony virtually demonstrates Rago's stature within the Genovese family—that Rago was conspicuous by his absence from day-to-day affairs of intimidation and payoff demands. Such an "invisible" role by Rago is consistent with his high mob rank, which entitled him to be insulated.

Mr. Wagner has testified that Rago's close criminal associates, George Barone and William Boyle, told him that Rago was a "made" member of the Genovese family who answered to Anthony "Fat Tony" Salerno.

Those Miami ILA officials told Wagner, moreover, that Rago settled all internal family disputes in Miami and received a larger portion of the payoff "pot," which he shared with Salerno. Wagner also learned from Boyle that Rago received a portion of the Genovese family's Las Vegas "skim" money which was transported to Miami by James Cashin, the secretary-treasurer of ILA Local 1804-1, New York City.

On April 20, 1978, the FBI recorded a conversation between Thomas Buzzanca and James Cashin, officers of local 1804-1, in which they discussed the division of payoff money generated in the New York-New Jersey area between Rago and the infamous Tino Fiumara of the Genovese family.

Rago has been the vice president of local 1922 in Miami since 1966 and since 1975, while residing in Miami, Rago and James Vanderwyde have been paid "organizers" and "coordinators" of ILA's Atlantic Coast district office located in New York City.

Senator NUNN. Mr. Maria, thank you again for your testimony here.

Our next witness will be Mr. Douglas Rago. Mr. Rago, if you will come forward. Mr. Rago, if you would hold up your right hand. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. RAGO. I do.

**TESTIMONY OF DOUGLAS RAGO, VICE PRESIDENT, ILA LOCAL 1922, MIAMI, FLA.; ACCOMPANIED BY JAMES J. HOGAN, ATTORNEY**

Senator NUNN. Could you state your name for the record?

Mr. RAGO. Douglas Rago.

Senator NUNN. Mr. Rago, in the interest of making you aware of your obligation under the law to testify fully and truthfully at this hearing, we are pointing out the following items to you relating to your rights and obligations as a witness.

First, the subcommittee has full legal authority to compel your testimony. Senate subcommittees are authorized by a Standing Rule of the Senate, 26(1), to require by subpoena the testimony of witnesses. In addition, Senate Resolution 361 expressly authorizes the Committee on Governmental Affairs and its duly authorized subcommittees, one of which is this subcommittee, to require by subpoena the testimony of witnesses.

We are providing you with a copy of Rule 26, Senate Resolution 361, the subcommittee rules, and, of course, you have been previously served with a subpoena. You should be aware of the penalties for either refusing to testify or testifying falsely.

Under 2 U.S.C. 192 for refusing to answer any question pertinent to the question under inquiry, you can be prosecuted for contempt of Congress and punished by up to 1 year in prison. Under 18 U.S.C. 1621 and other statutes for testifying falsely on material matters you can be prosecuted for perjury or for making false statements and punished up to 5 years in prison.

You have the right, Mr. Rago, under this subcommittee's rules to be represented by counsel. Are you represented by counsel this morning?

Mr. RAGO. Yes, sir.

Senator NUNN. Could you give the name of your counsel or counsel can introduce himself.

Mr. HOGAN. James J. Hogan, Miami, Fla.

Senator NUNN. Mr. Hogan, you represent Mr. Rago this morning?

Mr. HOGAN. I do.

Senator NUNN. You have the right, Mr. Rago, under subcommittee rules to consult with counsel before you answer any question. After we pose the question if you need to consult with counsel, you have that right. You also have the privilege under the fifth amendment of the Constitution not to incriminate yourself in any criminal matter by testimony to this subcommittee.

Mr. Rago, do you understand your right and obligations as a witness before this subcommittee?

Mr. RAGO. Yes, sir.

Senator NUNN. Mr. Rago, could you give us your address?

Mr. RAGO. On the advice of counsel, I refuse to answer on the ground that the answer may tend to incriminate me.

Senator NUNN. Where you live might tend to incriminate you?

Mr. HOGAN. He has answered, Senator.

Senator NUNN. Mr. Rago, could you tell us whether you are a union official in the ILA?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, could you give us your business address?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Could you give us your age, Mr. Rago?

Mr. RAGO. Fifty-eight.

Senator NUNN. Fifty-eight? Mr. Rago, have you ever lived in New York City?

Mr. RAGO. Yes.

Senator NUNN. And how long did you live there?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, when did you move to Miami?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, do you have a family?

Mr. RAGO. Yes, I do.

Senator NUNN. And do they live with you?

Mr. RAGO. No.

Senator NUNN. You have children?

Mr. RAGO. One.

Senator NUNN. Is your child grown?

Mr. RAGO. Yes.

Senator NUNN. Where does your child live?

Mr. RAGO. New York City.

Senator NUNN. I have a good many questions. At this point, I will defer to Senator Rudman and come back to my questions.

Senator RUDMAN. Mr. Rago, when did you arrive here in Washington?

Mr. RAGO. We arrived last night at 7.

Senator RUDMAN. Did you come up by airline?

Mr. RAGO. Yes.

Senator RUDMAN. Did counsel accompany you?

Mr. RAGO. Yes.

Senator RUDMAN. Who paid for your trip?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. Who is paying for your hotel room?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. Who is paying your counsel fees?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. Is the gentleman with you today—is it Hogan, sir, H-o-g-a-n?

Mr. HOGAN. That is correct, sir.

Senator RUDMAN. Is Mr. Hogan your regular counsel?

Mr. RAGO. Yes, sir.

Senator RUDMAN. Have you paid him in the past?

Mr. HOGAN. You mean regular counsel do I represent him in a continuing capacity?

Senator RUDMAN. That is correct.

Mr. HOGAN. He didn't understand. I represented him in a grand jury appearance—

Senator NUNN. Let the witness testify—

Senator RUDMAN. Let me restate the question, Mr. Rago.

How many times has this gentleman represented you as your lawyer?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. On those occasions that he did represent you, have you ever paid him out of your own pocket at any time?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. Do you have credit cards, Mr. Rago?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. Mr. Rago, do you have any source of income other than the income you receive from the ILA?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. And, Mr. Rago, do you, in fact, deal in a fiduciary capacity with union funds?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator RUDMAN. I just want to advise you, Mr. Rago, that as far as I am concerned, your refusing to testify about your fiduciary relationship to your union concerning moneys your union pays to you for travel, for testifying here, and for counsel fees may, in my view, create some problems for you in terms of the capacities you hold and I intend to refer that to the appropriate authorities. I have no other questions.

Senator NUNN. I would join in that, Senator Rudman. I think I would instruct the subcommittee staff to look into that matter and to refer it to the appropriate authorities. We are profoundly concerned about officials who have past felony records holding high positions in fiduciary relationships with the rank and file union members of ILA.

Mr. Rago, in April 20, 1978, in a conversation tape recorded, Thomas Buzzanca, president of ILA Local 1804-1, New York City, and James Cashin, secretary-treasurer of the same local, discussed splitting the proceeds of payoffs between you and Tino Fiumara. George Wagner has testified that Buzzanca and Cashin ran 1804 in New York as caretakers and Barone was forced to leave New York and that they sent a portion of each payoff to you in Miami.

Is it true that you and Tino Fiumara as high-ranking Genovese family members received a portion of the payoff generated by people such as Barone in Miami and Buzzanca in New York and New Jersey?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, are you a member of the Genovese organized crime family?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, we have heard witnesses testify, as confirmed by two high-echelon FBI informants, that you are a longstanding member of the Genovese organized crime family and that you work for underboss Anthony "Fat Tony" Salerno and supervise George Barone and other Miami racketeers who run the ILA shakedown operations in south Florida. Do you know Anthony "Fat Tony" Salerno?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that it might tend to incriminate me.

Senator NUNN. Do you know and do you supervise Mr. George Barone?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. We have heard testimony that James Cashin flew to Miami on many occasions with your portion of the mob's Las Vegas skim money as well as your portion of the New York ILA payoff money. Have you received portions of organized crime's Las Vegas skim money?

Mr. HOGAN. Senator, I am sorry, I couldn't hear the name in the beginning, James?

Senator NUNN. James Cashin.

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Have you ever received money from Las Vegas from anyone that came from Las Vegas?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, on February 23, 1958, and March 2, 1958, did you stay at room 419 of the Sea Gull Motel on Miami Beach?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, was Teddy Gleason staying at the same motel during that same period of time?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Do you know Teddy Gleason?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, on that occasion during February 23 and March 2 time frame, 1958, did you indicate on your hotel ledger that the hotel was to OK all checks and credit for Barone, Phil Sioino, and Tony Salerno?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. What was Tony Salerno, who has been identified as a Genovese family underboss, doing at the Teamsters ILA meeting in Miami during that time?

Mr. HOGAN. You are talking about 1958, Senator?

Senator NUNN. That is right.

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Just a few more questions, Mr. Rago. We have many, many questions we would like to ask you. I am going to cut it short. We obviously aren't getting answers.

We have been told that because Captain Bradley wasn't playing along with the mob too well he received a visit from two Genovese members who told him to step aside for Gleason or he would be killed.

Did you assist Fat Tony Salerno in making Gleason president of the ILA in 1953?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, did you, Fat Tony Salerno, and George Barone meet with Vincent Jimmy "Blue Eyes" Alo in Miami in 1958, to make plans to extend the mob's control of the ILA, including the plans to extend the mob's influence in the ILA as far south as Miami?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate.

Senator NUNN. Is it true Fat Tony Salerno used his mob influence to get you a position in the ILA?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, what percentage of the payoffs and kickbacks from the south Florida ports that were generated by your subordinates such as George Barone, William Boyle, George Wagner, Jay Vanderwyde, and others, did you personally keep?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, did you pass back a percentage of the money you took in to Fat Tony Salerno in New York?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, did you meet frequently with Albert, known as "Chink," Facciano in south Florida?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Did Albert Facciano help you control loansharking activities in south Florida for Fat Tony Salerno?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Mr. Rago, on February 10, 1981, did you go to Roney Plaza in Miami Beach and pick up a large envelope and then come back out of the Roney Plaza and surreptitiously put the envelope in the trunk of your car?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Who did you meet at the Roney Plaza and what was in the envelope?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. On February 11, did you have a meeting with convicted labor racketeer George Barone?

Mr. RAGO. On the advice of counsel, I refuse to answer on the grounds that the answer might tend to incriminate me.

Senator NUNN. Senator Rudman?

Senator RUDMAN. Mr. Rago, what time did you arrive in this hearing room this morning?

Mr. RAGO. It was about 9, a little before 9.

Senator RUDMAN. A little before 9 this morning.

Mr. RAGO. Yes.

Senator RUDMAN. You saw Mr. Barone when you were here?

Mr. RAGO. Yes, sir.

Senator RUDMAN. Thank you. I think we have established, Senator, that he knows Mr. Barone.

Senator NUNN. I think so.

Mr. Rago, we appreciate you being here. We are very disappointed that you chose to exercise your rights because we had wanted to go into a great number of questions. We feel there are significant problems on the waterfront. We feel you could have given us a great deal of information because of your background and experience in that area. We respect your rights as a witness and we respect you exercising those constitutional rights. We have no further questions at this time.

Mr. HOGAN. Senator, is he excused from the subpoena?

Senator NUNN. Yes.

Our next witness is Mr. Raymond Maria, again, who will give us some background before we call the following witness. Mr. Maria, you are still under oath.

Mr. MARIA. Yes.

Mr. FORTUIN. I am attorney for Anthony Salerno. To the extent that this testimony relates to him—

Senator NUNN. We will hear from you—

Mr. FORTUIN. I believe it violates the rules of the Senate—

Senator NUNN. We will hear from you when we call Mr. Salerno. You will be given an opportunity to make whatever statement you wish. This witness is a staff member. He has the right to testify and I will not hear from counsel at this point in time. I will ask that the witness be permitted to testify and if there is any message that counsel would like to give from Mr. Salerno, you will be allowed to do so immediately after this witness testifies. I intend to enforce that. There

is no way that we are going to have witnesses out of order and I will ask that the marshals in the room enforce the order of the Chair.

Mr. Maria?

Mr. MARIA. Senator, with respect to subcommittee staff investigation and criminal background of Anthony Salerno, our investigation reveals as follows. In September and October 1963, Anthony Salerno, born August 8, 1913, more commonly known as "Fat Tony," FBI #4317958, was identified as a member of the Genovese family of La Cosa Nostra, during public hearings held by the U.S. Senate Permanent Subcommittee on Investigations. Confidential, reliable informants of Federal law enforcement agencies have stated that Salerno is an underboss in the Genovese family of La Cosa Nostra and reports directly to that family's head, Frank "Funzi" Tieri. These sources also state that Salerno is superior to family member, Douglas Rago, and that the two men meet frequently in Miami and New York to divide the cash from the Genovese family's shakedown operations in New York, New Jersey, and Miami.

Investigation by Federal, State, and local law enforcement agencies reveals that, in addition to waterfront racketeering, Salerno oversees the Genovese family's gambling and loan-sharking activities in New York and south Florida through underlings such as Albert "Chink" Facciano, who was recently convicted of racketeering and extortion in Federal court in south Florida.

In 1958, registration records of the Sea Gull Hotel on Miami Beach reflected that Douglas Rago authorized the hotel to "OK all checks and credit for (George) Barone, Phil Siolino, and Tony Salerno." ILA officials Barone, Rago, Fred R. Field, Jr., and "Teddy" Gleason were at Miami Beach at that time to meet Teamster officials to discuss the organization of waterfront workers from Norfolk, Va., to Key West, Fla.

In an FBI tape recorded conversation on September 12, 1978, senior Genovese family member, Michael Clemente, described Thomas Buzzanca, president, ILA Locals 1804 and 1804-1, New York, as the "maid" to Salerno as well as belonging to George Earone.

In another conversation, which was recorded by the FBI on December 12, 1978, Thomas Buzzanca discussed how he learned about a confidential court document concerning authorization to wiretap the offices of Quin Marine in New York. Buzzanca referred to this document as the "paper" and stated that "Fat Tony" gave it to him.

George Wagner has testified, moreover, that George Barone and William Boyle, ILA officers from local 1922 in Miami, frequently mentioned that all important decisions concerning payoff activity had to be approved first by Doug Rago and then by "Fat Tony."

Senator NUNN. Our next witness is Mr. Anthony Salerno. Is Mr. Salerno here?

Will you come forward.

Mr. FORTUIN. Mr. Chairman, my name is Thomas Fortuin, attorney for Mr. Salerno.

Senator NUNN. If you will have a seat.

Mr. FORTUIN. I think we—

Senator NUNN. Would you spell your last name. Then I have a statement I would like to read.

Mr. FORTUIN. My name is Thomas M. F-o-r-t-u-i-n.

Senator NUNN. I want to give a brief background here. As I understand it, Mr. Salerno is not in the room.

Mr. FORTUIN. He is not present. That is correct.

Senator NUNN. For the record, this subcommittee has issued a subpoena for the appearance today of Anthony Salerno. As I understand from counsel's conversation with staff, he is not appearing today based on health reasons. On January 1, 1981, according to the information we have, Mr. Salerno admitted himself into the hospital to be treated for "hypertension." On January 14, 1981, Mr. Salerno accepted the service of a subcommittee subpoena through his former attorney, Mr. Roy Cohen. By letter dated January 15, 1981, Mr. Cohen advised us that Mr. Salerno was suffering from a case of "hypertension." No reference at all was made to this subcommittee that Mr. Salerno may have suffered a stroke or that he had been either partially or completely paralyzed.

On February 3, 1981, Mr. Cohen telephoned the chief minority counsel and advised the subcommittee for the first time that Mr. Salerno suffered a stroke.

Mr. Cohen informed the chief minority counsel that Mr. Salerno was completely paralyzed. Chief Minority Counsel Steinberg advised Mr. Cohen that to excuse Mr. Salerno for health reasons the subcommittee would require the following. No. 1, we would require detailed reports from each of the three physicians Mr. Cohen claimed had treated Mr. Salerno; No. 2, we would require complete access to all of Mr. Salerno's medical records; No. 3, we would require complete access to Mr. Salerno's physicians; No. 4, if necessary the subcommittee would be given the opportunity to have an independent physician examine Mr. Salerno.

Mr. Cohen agreed to all of these conditions according to all the information I have from the staff. However none of these conditions have been met and the appropriate information has not been provided to the subcommittee.

Since that date there have been a number of exchanges, phone calls and correspondence with Mr. Salerno's attorneys. However, the subcommittee still has not received the information originally requested and promised. We understand that Mr. Fortuin was recently retained by Mr. Salerno to represent him in this matter and has requested that the subcommittee grant him a short period of time to provide us with the information we originally were promised.

Mr. Fortuin, I am sure you can see that we do appreciate the offers you made 2 days ago to substantiate Mr. Salerno's condition. I am also sure, however, that as an experienced attorney you can also see this is not a matter which the subcommittee can look into and examine in a short space of 48 hours during an on-going Senate hearing. We regret that Mr. Cohen did not arrange for access to the facts which we requested long ago but with your assistance we are hopeful that this particular problem will now be resolved. If you will insure that the hospitals and appropriate physicians all have effective written authorizations to release Mr. Salerno's health history to our staff within 1 week, and that the physicians submit detailed affidavits concerning his condition and why he cannot appear also within 1 week from

today, I think this issue can be resolved. Those affidavits should be sworn before a notary public and will be received under the penalties for false testimony before the subcommittee.

The subcommittee also expects that Mr. Salerno will be reasonably available for examination by physicians chosen by this subcommittee should the subcommittee deem it necessary. In the meantime while we await the results of the staff's review of the facts the record of this hearing will remain open. When the staff has reported its conclusions we will then be able to decide whether to discuss Mr. Salerno or to hear firsthand testimony regarding his conditions.

Mr. Fortuin, do you care to testify before this subcommittee or do you want to make a statement as counsel?

Mr. FORTUIN. I would like to make a statement, Mr. Chairman. We have done everything we can to supply—

Senator NUNN. I think we ought to swear you in. I think it would be in the nature of testimony. Do you swear the testimony you will give will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. FORTUIN. I do.

**TESTIMONY OF THOMAS M. FORTUIN, ATTORNEY FOR ANTHONY SALENO**

Senator NUNN. We will hear from you. Thank you.

Mr. FORTUIN. We have attempted to supply the subcommittee with every evidence that they might require or desire to establish that Mr. Salerno is physically unfit to appear here today. As I understand it from the doctor's report, which we submitted to the committee by my letter of yesterday and which was submitted to the staff by Mr. Cohen's letter of February 10: We submitted a letter from Dr. Albert Goodgold, who is a clinical professor of neurology in New York University Medical Center.

Dr. Goodgold's letter states that Mr. Salerno is not capable of testifying. When the question was raised by the staff as to whether or not this was bona fide, I myself called Dr. Goodgold. It took me about 2 minutes. I asked him if he would be good enough to speak with the committee counsel, Mr. Steinberg. Dr. Goodgold told me—this would be Tuesday of this week—"Mr. Fortuin, I know this man inside and out and he cannot testify." I said would you be good enough to tell that to Mr. Steinberg, the committee minority counsel, because I felt that Mr. Steinberg would, as I would have when I was in a similar position, would have desired to talk to the man who examined Mr. Salerno. I immediately notified Mr. Steinberg of that, I have asked him over the last 2 days if he would indulge us the courtesy of making a simple phone call to talk to the doctor who treated him and find out, is this a bona fide thing or is it not. My understanding is that to this date no such phone call has been made.

Senator NUNN. I understand he has three doctors.

Mr. FORTUIN. There were other doctors that were treating him for preexisting conditions. He apparently had a condition of hypertension—which can casually lead to a stroke—in which he was treated by Dr. Laragh. We did contact Dr. Laragh on Washington's Birthday,

the holiday Monday, and asked him if he would give the committee an opinion as to the extent of the stroke. Dr. Laragh indicated he is not a neurologist. Mr. Salerno did not communicate with him with respect to his stroke. Therefore, he could not testify or state with respect to its severity, and I communicated that to Mr. Steinberg by my letter of yesterday morning.

In addition, when Mr. Steinberg indicated he would like to review some records—I think we learned this Monday—I called lawyers in New York. We asked Mr. Salerno to issue a telegram to the New York University Medical Center where he was treated authorizing them to release to the subcommittee any records that they may have with respect to his condition. Those records have been available since yesterday morning. If the committee wants to send an investigator to New York University Hospital to get them, they may. I did not obtain them because I thought the committee would prefer to obtain them from the source where they could be authenticated but they have been available. The telegram notice, if that notice is insufficient for the hospital's purpose, we will obtain one that is sufficient.

I did not agree with the recitation that we have been anything less than completely forthcoming in supplying the committee with anything that it wants. We have indicated from the outset that if the committee would like to appoint a doctor to examine Mr. Salerno we will make him available. If you will tell me who the doctor is, we will make arrangements immediately for that examination to proceed.

Senator NUNN. Thank you very much. I will ask counsel to respond to you on these details. I would say that as the experienced attorney that I know you are, you do understand the concern the subcommittee has when the hospitalization was required 1 day before the subpoena was served.

Mr. FORTUIN. I have been in similar situations myself, Senator, where witnesses have made claims which were completely frivolous. When I worked on the House side, former Congressman Otto Passman claimed he could not testify as a witness before the committee and we were required to get our own doctor to examine him. I am aware of the problem. I appreciate your concern. I hope we can do everything we can—

Senator NUNN. I think we can try to work together on this and get satisfactory proof here. I will ask Mr. Steinberg to respond to you so that we can get a clarification on the record. If there are differences between counsel and our own chief minority counsel, we would like to know what they are.

Mr. STEINBERG. Just so the record is clear, Mr. Fortuin, approximately a month ago Mr. Cohen promised us that the subcommittee would receive detailed reports from each of Mr. Salerno's three physicians. We have not received any detailed reports from any physician serving Mr. Salerno. He also promised us that we would have complete access to all medical and hospital records. We have not received any access to hospital or medical records.

Mr. FORTUIN. Excuse me. You did receive—

Mr. STEINBERG. If you do not mind, I will finish my statement first.

Mr. FORTUIN. OK.

Mr. STEINBERG. He also promised us we would obtain complete access to the three physicians who were treating Mr. Salerno at that time. After the receipt of all of that information, if we found it necessary the subcommittee would make plans to have Mr. Salerno inspected by an independent physician. Since we did not receive any of that information, and only within the last week or so did we receive basically a one-paragraph letter from a doctor which basically said Mr. Salerno was recovering at home and he is too sick to come to the hearing, that, in my opinion, was not sufficient for us to excuse him from the subpoena and we requested the information which we were originally promised.

Senator NUNN. Let me ask Mr. Steinberg, would you just start with item 1 that we need at this time, that we have not received and let counsel respond to each item? I think that way we can iron out the differences in interpretation and make it clear to counsel what we need and what we feel we do not have.

Mr. STEINBERG. Detailed reports from each of the three physicians—

Mr. FORTUIN. I have indicated—

Senator NUNN. Let us let him give item 1, then we will let counsel comment.

Mr. STEINBERG. Detailed reports from each of the three physicians, who had treated Mr. Salerno.

Mr. FORTUIN. Are you interested in the report from Dr. Laragh who treated a preexisting hypertension condition, that may be causally related, but he is not knowledgeable as to the man's current condition?

Mr. STEINBERG. The detailed report from all three of the physicians who treated Mr. Salerno who Mr. Cohen told us we would receive approximately a month ago and we have not received.

Mr. FORTUIN. I understand some of these will not relate to his current condition.

Mr. STEINBERG. Complete access to all of Mr. Salerno's medical records, including his hospital records?

Mr. FORTUIN. What in that regard do you need that I have not supplied you with? Do you want me to supply you with the records or would you like to get the records yourself?

Mr. STEINBERG. We were promised that we would be supplied the hospital records confirming Mr. Salerno's condition.

Mr. FORTUIN. I would have thought you would have preferred to get them directly from the hospital.

Mr. STEINBERG. Apparently Mr. Salerno's attorney never made the appropriate release with the hospital so that we could obtain the record from the hospitals.

Senator NUNN. You are saying you have done that?

Mr. FORTUIN. We done that. We had a telegram sent. I believe that is satisfactory to the hospital. If it is not we will get the release.

Senator NUNN. You feel we have the authority to get those records?

Mr. FORTUIN. You absolutely do. If you do not I will make sure you get it.

Mr. STEINBERG. Will you provide us with the information of the specific person in the hospitals he was treated by so that we can go to that person to obtain access to those records?

Mr. FORTUIN. Certainly.

Mr. STEINBERG. Complete access to each of Mr. Salerno's three physicians so that we may talk to them over the phone or in person about his physical condition?

Mr. FORTUIN. Yes. I have attempted to secure that with respect to Dr. Goodgold and to the extent there are other physicians certainly we will attempt to arrange that.

Mr. STEINBERG. If necessary after we have examined this information the opportunity to have Mr. Salerno examined by an independent physician?

Mr. FORTUIN. We have indicated our willingness from the outset to do that.

Senator NUNN. It seems to me then—counsel can correct me on this, our counsel can—that we either have it in the works or counsel has agreed to supply us all the information that you have outlined.

Mr. STEINBERG. That is correct.

Senator NUNN. We would like to get this material before our final day of these hearings. We have other hearings later, but the final day of the scheduled hearings will be next—we will start next Wednesday. We would like to have all this information, if you can, 1 week from today.

And we also want to point out for the record here that—when were you retained?

Mr. FORTUIN. Monday evening.

Senator NUNN. This Monday of this week?

Mr. FORTUIN. That is correct.

Senator NUNN. Today is Thursday. We understand the position you have been put in, right at the end, right before Mr. Salerno was supposed to appear. I suppose he changed attorneys and you have been put in the position where you are I am sure, under a real time stress here. We are not casting any personal blame on you as counsel. I understand, I have been in that position myself as an attorney. I sympathize with that position. But the difficulty we are in is we have dealt with another counsel and been promised all of this information. Then the attorneys are switched. I hope you also understand our position.

Mr. FORTUIN. I do. I did speak to Mr. Cohen and he was under the belief he had supplied what the committee wanted. I know the letter from Mr. Steinberg requesting more information went out last Friday. Mr. Cohen was out of the country. He indicated to me he thought he supplied everything required and asked me to remedy any defects there might have been in that production, but Mr. Cohen was particularly eager for this committee—to which he was at one time chief counsel—to know that he had cooperated in every way he could. There had been admissions we were doing everything we can.

Senator NUNN. Mr. Steinberg informed me we did not get anything from Mr. Cohen.

Mr. FORTUIN. The letter Mr. Cohen sent you on February 10, the report from Dr. Goodgold, who is a neurologist who treated him at the university—that is correct. It is a brief letter. But we felt if you wanted more, you could speak to Dr. Goodgold.

Senator NUNN. Senator Rudman, do you have any questions?

Senator RUDMAN. You say you were just retained on Monday?

Mr. FORTUIN. That is correct.

Senator RUDMAN. Who retained you?

Mr. FORTUIN. Attorneys that represent Mr. Salerno in New York; that would be Mr. Rosen who asked me to handle it. Mr. Rosen had been present I think, during Mr. Salerno's trial in New York. They had represented him over a series of years.

Senator RUDMAN. Was he associated with Mr. Cohen?

Mr. FORTUIN. Yes, he is. He is a partner.

Senator RUDMAN. Essentially, what happened here is Mr. Cohen's law firm has represented this gentleman over the years and on Monday of this week they decided they wanted you to represent them. Do I have the facts correct?

Mr. FORTUIN. I should say it is not uncommon for Mr. Cohen to ask me to represent clients of his in matters located in Washington. But that is correct. And I asked him to represent clients of mine located in New York. We exchange.

Senator RUDMAN. Do you normally try to do it in a more timely fashion, Mr. Fortuin, when you have important administrative hearings coming up before committees?

Mr. FORTUIN. We try.

Senator RUDMAN. Of course you know, Mr. Fortuin, that although I am sure you know that I am not accusing you or Mr. Cohen of this, but it is a pretty well-known tactic in administrative hearings and criminal trials to switch counsels just before hearings to further delay the proceedings. Would you think that might have happened here on either side?

Mr. FORTUIN. Absolutely not. No. I should say I have prosecuted organized crime cases for probably 4½ years in the southern district of New York and I would not be involved if I thought this were a tactic in any way to delay or interfere with the committee's processes. I was also counsel to the House Committee on Standards of Official Conduct under Leon Jaworski and I have the highest regard for what you are trying to accomplish. If I felt there were any effort to obstruct it I would not appear here today.

Senator RUDMAN. I appreciate your conclusion.

Mr. FORTUIN. I would say so I may complete the record, let the chairman know I was not merely being obstreperous, I did have an objection that I believed to be a good-faith objection to the testimony of Mr. Maria as it related to Mr. Salerno.

Senator NUNN. We would be glad to hear your objection.

Mr. FORTUIN. My objection is his testimony violated rule XXVI 5. (b) of the rules of the Senate which provides that testimony should not be taken in public session but should be taken in executive session where it "will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional reputation"—I am sorry, "the professional standing of an individual or otherwise to expose an individual to public contempt." I felt Mr. Maria's testimony did that. I felt that pursuant to the Senate rules the committee should have heard that testimony in executive session and I rose—and I did not mean to interrupt the proceedings or to be out of order—I rose to interpose that objection and I do so now.

Senator NUNN. We certainly think you have the right. We do not think you had the right to make that objection when another witness was being called.

Mr. FORTUIN. The cat was out of the bag. That is why I felt I should make the objection.

Senator NUNN. You will agree that is a discretionary matter of the Senate rules of the subcommittee?

Mr. FORTUIN. I do not believe so, no. I believe the Senate must take the testimony initially in executive session. If it is determined that the testimony is of sufficient probative value and merit—I do not believe Mr. Maria's testimony was, based on hearsay and not on any direct testimony—then it may, after a vote of the committee, be taken in a hearing in open session. That was the practice that Mr. Jaworski and I and our committee followed during the Korean hearings. I think that is the appropriate procedure.

Senator NUNN. Of course we respect your background and experience, but all of my information indicates that that is a discretionary rule and frankly, with noncooperating witnesses which we have here, we have a stream of witnesses taking the fifth amendment. Are you suggesting that we bring them all into executive session and have the fifth amendment taken by them in executive session so that they would not appear in a public hearing?

Mr. FORTUIN. I think that is frankly the purpose of the rule. I do not see, certainly it does expose a witness to public scorn to take the fifth amendment in public and I think he has a constitutional right to do so. I do not think making him do it in front of TV cameras serves any legitimate purpose.

Senator NUNN. I respect that opinion. I disagree with it. This subcommittee has never operated in that fashion from our history, going back to when Mr. Cohen was counsel to the subcommittee. I would like to get Mr. Cohen's opinion on that and see if he would agree with you. [Laughter.]

Mr. FORTUIN. I am not representing him here.

Senator NUNN. You are not affiliated with him in this case?

Mr. FORTUIN. He referred it to me, but I am not professionally affiliated with Mr. Cohen.

Senator NUNN. We would like, if you could arrange that, to let Mr. Cohen give us his opinion on your statement. If he agrees with you, then we will take another look at it. We have all sorts of records. There is no need to go into that, we have a whole history of that. Of course our record is very clear on that point. We do appreciate your being here and I am sorry I had to interrupt you, but I felt if we set the precedent of someone interposing before a witness testified, if they were interrupted, we would have a very bad precedent here. I think we have to continue to operate in our normal fashion. We appreciate your being here.

Mr. FORTUIN. I thank you for your courtesy.

Senator RUDMAN. I just want to say, Senator Nunn, that I want to renew our discussion earlier. It seems to me that under existing labor law there has to be a very careful examination of the transcript this morning, in terms of witnesses Rago, and Barone, absolutely refusing to testify as to what essentially is their fiduciary relationship with funds provided by the rank and file of the ILA. My understanding of some sections of the current labor law is that there well might be administrative action taken by the U.S. Department of Labor to remove

them from their union capacities and if we can do that, we certainly ought to try. I am going to ask the staff to research that. I should do it also. Hopefully we will make some progress in an administrative fashion.

Senator NUNN. I think you have made an excellent point, Senator. I think that is something we will want to consider. I will ask my staff to work with yours. We will make the determination and then hopefully refer it to the appropriate executive branch agency. So I appreciate that and concur in your view on it.

At this point I will announce that the hearings for next Wednesday, February 25, will be in room 3302, Dirksen Building, 9:30 a.m. Our panel will be first. Mr. Robert Fiske, former U.S. attorney, southern district of New York, Mr. Alan Levine, former assistant U.S. attorney, southern district of New York, and Jack Barrett, special agent, Federal Bureau of Investigation. Then we will have a panel of Mr. Michael Devorkin, former assistant U.S. attorney, southern district of New York, and we will have Mr. Louis Freeh, who was appearing here this morning. We will have at that time some more tapes as we had this morning concerning the situation on the waterfront in New York.

So at this point the hearing will recess until next Wednesday, February 25. Senator Chiles, do you have anything?

[Whereupon, at 11:50 a.m., the subcommittee was recessed, to reconvene on Wednesday, February 25, 1981, at 9:30 a.m.]

[Members of the subcommittee present at the time of recess: Senators Nunn, Chiles, and Rudman.]

## WATERFRONT CORRUPTION

WEDNESDAY, FEBRUARY 25, 1981

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
Washington, D.C.

The subcommittee met at 9:36 a.m., pursuant to recess, in room 3302, Dirksen Senate Office Building, under authority of S. Res. 361, dated March 5, 1980, Hon. Sam Nunn presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire; and Senator Sam Nunn, Democrat, Georgia.

Also present: Senator Orrin G. Hatch, Republican, Utah; and Senator Don Nickles, Republican, Oklahoma.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. P. Goodwin, Jr., staff director to the minority; Eleanore Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key, Raymond Maria, and Glenn Fry, investigators to the minority, Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Members present at the convening of the hearing: Senators Nunn and Rudman.]

Senator NUNN. The subcommittee will come to order. Before we begin this morning, of course, those who followed these hearings through the first week recognize one of our real frustrations has been with the absence of any kind of strong control of people who have been convicted of felonies, but remain in positions of fiduciary trust, and in that respect, we are very concerned about the U.S. Department of Labor and what they do and don't do and what their authority is and what it is not.

I received a letter dated February 21 from the new Secretary of Labor, Secretary Donovan. I would like to read that into the record at this point in time because I think it is certainly one of the areas we are most interested in in the overall course of these hearings.

It is dated February 21.

DEAR SENATOR NUNN: I have been following with much interest the current hearings before the Senate Permanent Investigations Subcommittee relating to the activities and convictions of certain officials of the International Longshoremen's Association, and the questions you have raised as to their continuation in office after conviction.

Your concern as to why union officials who have been convicted or serious crimes relating to the conduct of union business are able to retain their official positions and fiduciary responsibilities for union and related pension and welfare funds is deeply shared by me.

As you know, I have been on board only a short time and have many areas with which I must familiarize myself. Nevertheless, I have directed that a searching internal inquiry be made as to what action the Labor Department can and should take in such cases; what, if anything, has been done in the past; and why more has not been done.

The Labor Department has an obligation to the rank and file union members and to the general public to take an active part in keeping unions free of undesirable influences. I pledge to you that under my administration the Department will cooperate fully with congressional committees and other executive agencies to perform this important task.

In addition, on Wednesday, March 4, I have scheduled a meeting with the Attorney General to discuss matters relating to the litigation pending with reference to the Central States Pension Fund. I intend to add to the agenda this problem as to how to deal with convicted union officials in the period following conviction but before final action in the appeal process. Sincerely, Secretary of Labor.

I view that, Senator Rudman, as a very positive development. I think one of our prime objects in these legislative oversight hearings is to stimulate a real soul searching on the part of the executive branch about what can be done and what should be done in these areas and particularly out of this searching reexamination by the Department of Labor, in consultation with the Attorney General, I would hope that any legislative changes they believe should be made will be brought to our attention.

We will have our own recommendation when this hearing closes. I think it is a very positive development, and I appreciate the very positive attitude of the Secretary of Labor.

Senator RUDMAN. Senator Nunn, I just want to say I think under your leadership we are going to make sure the laws we do have on the books are enforced. I think that is the primary purpose of our communication to the Secretary and eventually to the Attorney General.

We want to make sure the laws on the books are enforced to their maximum, we made that clear in our line of questioning last week. Should further legislation be required to achieve these objectives, I suspect we will come up with a recommendation.

Senator NUNN. Before we begin this morning, I have one other comment I want to briefly make about the objection raised last Thursday by Mr. Thomas Fortuin, the counsel to Anthony Salerno. Mr. Fortuin objected to the testimony of staff investigator Raymond Maria on the grounds that under rule 26(5)(b)(3) of the Standing Rules of the Senate, Mr. Maria's testimony should have been taken in executive session because it tended "to charge an individual with crime or misconduct, to disgrace or injure the professional standing of the individual, or otherwise expose the individual to public contempt."

Obviously, Mr. Fortuin had his client in mind when he made this objection. I should point out rule 25(b) was adopted by the Senate for the express purpose of keeping the committee meeting open, not closed.

The prime sponsor of this rule was Senator Lawton Chiles, a member of this subcommittee. The rule requires that a Senate committee meeting be open to the public unless a motion is made and seconded by members of the committee to close a meeting.

There are only six grounds upon which a meeting can be closed, one of these, as Mr. Fortuin correctly cited, is when the matters to be discussed or testimony to be taken will tend to charge an individual with

crime or misconduct and disgrace or injure the professional standing of an individual or otherwise expose an individual to public contempt or will represent a clear, unwarranted invasion of privacy.

Mr. Fortuin asserted that the rule requires us to take such testimony in closed session. This is not a proper interpretation of the language of the rule, its purpose, or its history. The rule requires us to meet in open session but gives us discretion to close the hearing on the grounds cited by Mr. Fortuin.

Such a decision would require a majority vote of the subcommittee. No motion was made to close the meeting for the purpose of taking the testimony of Mr. Maria or Mr. Salerno. In the absence of such a motion and a proper second, we are obliged under rule 26(5)(b) to conduct an open hearing. I just want to make that clear for the record because we do our best to adhere to our own rules. I think we clearly did in this case.

We have this morning Mr. Robert Fiske, former U.S. attorney, southern district of New York; Mr. Alan Levine, former assistant U.S. attorney, southern district of New York; Mr. Jack Barrett, special agent, Federal Bureau of Investigation, New York; and I think you probably have one other person at the table, if my arithmetic is correct.

If you gentlemen could introduce the other associate, we would be delighted to have him.

Mr. McWEENEY. My name is Sean McWeeney, section chief in charge of organized crime for the FBI.

Senator NUNN. We have had you before. We appreciate you being here this morning and your cooperation. All of you who are going to testify, we appreciate your standing and raising your right hand. We swear all the witnesses before the subcommittee.

Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FISKE. I do.

Mr. LEVINE. I do.

Mr. BARRETT. I do.

Senator NUNN. Why don't you proceed with your statement and then we will have some questions?

**TESTIMONY OF ROBERT FISKE, FORMER U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK, NEW YORK, N.Y.; ALAN LEVINE, FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK, NEW YORK, N.Y.; JACK BARRETT, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION, NEW YORK, N.Y.; ACCOMPANIED BY SEAN McWEENEY, SECTION CHIEF IN CHARGE OF ORGANIZED CRIME, FBI**

Mr. FISKE. Good morning, Senators. My name is Robert B. Fiske, Jr. I would like to start by saying I am very pleased to be here this morning in response to your invitation and to have an opportunity to discuss with you matters which are of mutual interest.

[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH Jr.,  
Chairman.

SAM NUNN,  
Ranking minority member.

Senator NUNN. Mr. Fiske, if you could pull that up, sometimes if you get it on the side, as close to you as possible, we can hear you.

Mr. FISKE. From March 1976 through March 1980, I was the U.S. attorney for the southern district of New York. I am appearing here today in response to your request that I describe for you the investigation into corruption on the waterfront conducted by my office.

I am very pleased to do that since I consider the waterfront investigation to be one of the most productive and successful investigations conducted during my 4-year term as U.S. attorney.

Sitting with me this morning are Alan Levine, formerly an assistant U.S. attorney in my office, and John L. Barrett, Jr., a special agent with the Federal Bureau of Investigation.

Mr. Levine assisted me as cocounsel during the trial of *United States v. Anthony Scotto*, which I will describe in more detail later.

Mr. Barrett served as case agent during both the investigation and trial of the *Scotto* case. Both of these gentlemen are thoroughly familiar with the scope of the waterfront investigation.

One of the principal features of the investigation—and one that was to a major extent responsible for its success—was the continuing high level of cooperation between the Federal Bureau of Investigation and our office at all phases of the investigation from the start of the first interview to the conclusion of the last trial.

I think in that regard it is appropriate that I sit here with Mr. Barrett as well as Mr. Levine. I think our appearance here today symbolizes the cooperative effort that was evidenced by our office with the FBI through this whole investigation.

The investigation and the indictments and convictions resulting from it disclosed a pervasive pattern of corruption and payoffs in both labor and management in the waterfront industry. On the labor side the investigation disclosed payoffs to labor leaders to facilitate the performance of work called for by collective bargaining agreements like the loading and unloading of vessels, payoffs to reduce workmen's compensation claims, and payoffs to obtain the respective labor union leader's assistance in obtaining or maintaining business.

On the management side, along with management's payoffs of labor leaders, the investigation disclosed a pervasive pattern of kickbacks

among middle management throughout the industry in exchange for business. In addition, the investigation disclosed that recognized members and associates of organized crime have played a significant role in controlling and influencing business activities on the waterfront.

At this point in time, the waterfront investigation conducted by the southern district of New York has had a very impressive track record. More than 20 separate companies or their respective executives were convicted of crimes relating to payoff or commercial fraud schemes.

More than 10 elected officials of the International Longshoremen's Association were convicted after trial of racketeering offenses relating to payoff schemes. Included among those ILA officials are the presidents from five separate ILA locals in the New York metropolitan area. Moreover, the investigation in New York has also led to successful investigations in the ports of Norfolk and Philadelphia, as well as contributed evidence to successful prosecutions in the Southern ports, about which you heard testimony last week.

Before turning to the specifics of a few of these cases, I want to touch briefly on two historical facts which apply to the entire investigation. First, I cannot overemphasize the pervasive nature of the corruption and payoff schemes discovered in the investigation. Not only have nearly all ILA locals, through their leaders, been involved in these schemes, but companies from all aspects of the waterfront industry in one way or another have participated in these plots.

Moreover, the evidence disclosed that payoffs are not a new phenomenon to the waterfront industry. One witness testified at the Scotto trial that payoffs on the waterfront was a "way of life" and many businessmen testified in court, and told us in interviews, that the payoff scheme of which they were a part was simply a pattern of business which they continued for many, many years, having inherited it from their predecessor.

Second, the investigation and the trials have disclosed that business on the waterfront is controlled by organized crime. Tape-recorded conversations obtained from electronic surveillance confirmed that organized crime controls the selection of important ILA officials and the disposition of waterfront business in ports in the New York area.

The evidence also disclosed that there is an interrelationship between that control in the Northern and Southern ports of the United States. I know you will hear later from another former assistant U.S. attorney from my office, Michael Devorkin, who will describe for you in much more detail the relationship of organized crime to the division of business in the waterfront in the Northern port. I would like to turn briefly to a description of another subject which you have requested that I cover, which is the prosecution of Anthony M. Scotto and Anthony Anastasia, which I conducted together with Mr. Levine and in which Agent Barrett testified as a witness.

On November 15, 1979, a jury sitting in the U.S. District Court for the southern district of New York returned guilty verdicts against Scotto and Anastasia on 43 counts, including a conviction for participating in a pattern of racketeering activity against Scotto, conspiring to participate in a pattern of racketeering activity against

Scotto and Anastasia and numerous violations of the Taft-Hartley Act against both defendants for receiving illegal labor payoffs.

On January 22, 1980, the Honorable Charles E. Stewart, the U.S. district judge who presided at the trial, sentenced Scotto to a total of 5 years' imprisonment, and a \$75,000 committed fine, to be followed by 5 years' probation. The following day he sentenced Anastasia to a total of 2 years' imprisonment and a \$5,000 committed fine, to be followed by 5 years' probation.

Appeals were taken in the Second Circuit Court of Appeals which were argued in May 1980.

In September 1980, those convictions were affirmed by a unanimous panel which heard those arguments. Subsequently, a petition for rehearing on that was filed asking that a rehearing be held by the entire panel of the second circuit, now consisting of 10 judges, and that petition for rehearing is still pending.

[Note: It was denied on March 6, 1981.]

Mr. FISKE. During the period 1975 through 1979, Scotto was president of ILA Local 1814 in Brooklyn and vice president for legislative affairs for the ILA nationally. From 1975 through 1978, Anastasia was secretary-treasurer of a companion Brooklyn ILA local.

In April 1979, he became executive vice president of local 1814. In addition, he was employed as an organizer of the ILA nationally. Local 1814 is the largest ILA local in the country.

The evidence at trial demonstrated that throughout the period 1975 through 1979 Scotto and Anastasia corruptly used these positions as high-ranking ILA officials both in Brooklyn and on a national level to demand illegal labor payoffs exceeding \$300,000 from at least six separate waterfront businesses employing ILA labor in the New York area. Through the testimony of three separate witnesses, each of whom were employers of ILA labor and through taperecorded conversations of Scotto and Anastasia obtained pursuant to court-authorized electronic surveillances, as well as other evidence, the Government proved the receipt by the defendants of a total of more than 40 separate cash payments—some as high as \$15,000—paid on a quarterly basis, as kickbacks or commissions on business, or as "extra" Christmas bonuses.

Briefly summarized, the proof established that Walter D. O'Hearn, the chief executive of John W. McGrath Corp., a Brooklyn stevedore company, paid Scotto \$65,000 per year in cash payable \$15,000 each quarter and \$5,000 at Christmas—to obtain Scotto's assistance as an ILA official in reducing fraudulent and exaggerated workmen's compensation claims filed by members of Scotto's ILA local.

The proof also established at trial that William "Sonny" Montella, the general manager of Quin Marine Services, Inc., of Brooklyn, paid Scotto \$25,000 per year—\$5,000 per quarter and \$5,000 each Christmas for 3 years for the purpose of obtaining Scotto's assistance in obtaining new business and keeping the business he had from shipping and stevedoring companies with which Scotto dealt as a labor leader and generally for what he described as "peace."

Pursuant to an ongoing arrangement in which Scotto was also involved, Nicholas Seregos, of Jackson Engineering Co., Inc., an ILA-affiliated marine engineering company, paid Anastasia a 10-percent

"commission" for business he received with Scotto and Anastasia's assistance from two shipping lines which employed ILA labor.

In addition, three other waterfront employers of ILA labor—Marine Repair Services, Joseph Vinal Ship Maintenance Co., and C. C. Lumber Co.—made payments of \$5,000 or \$3,000. None of these cash payments, which, as I indicated earlier, total over \$300,000, was reported by Scotto or by Anastasia, on their personal income tax returns.

Senator NUNN. Let me ask you a question here, if I could. This obviously raises a question whether the Internal Revenue Service has been coordinated with and whether they are bringing any kind of tax evasion charges. Do you know the answer to that?

Mr. FISKE. Yes, Senator Nunn.

We were fortunate in this case, notwithstanding the provisions of the Tax Reform Act, which, during my 4 years as U.S. attorney played a major obstacle to coordinated law enforcement, to obtain the assistance of the Internal Revenue Service in a joint grand jury investigation with the FBI. The IRS did assist in that investigation and as a result of their assistance, we did include the indictment tax evasion charges against both Scotto and Anastasia based on the receipt of the illegal payoffs and both Scotto and Anastasia were convicted on charges of both tax evasion and filing a false tax return.

Senator NUNN. What were their sentences on those charges?

Mr. FISKE. I believe they were 5 years in the case of Scotto, 2 years in the case of Anastasia to run concurrently with the 5 years sentences that they each received on the racketeering counts.

Senator NUNN. Concurrently?

Mr. FISKE. Yes, sir.

Senator NUNN. That means they really didn't get anything extra?

Mr. FISKE. That's correct.

Senator NUNN. Which judge was that?

Mr. FISKE. Judge Stewart.

Senator NUNN. Both cases were tried in front of Judge Stewart?

Mr. FISKE. Yes. The case against Scotto and Anastasia, was one trial, against both defendants, on an indictment which charged each of the defendants with a racketeering conspiracy charge; Scotto with racketeering, both of them with a number of violations of the Taft-Hartley law for receiving illegal payments and both of them with tax evasion and filing a false tax return in connection with, or arising out of the illegal payments.

There was one indictment covering this entire course of conduct which included racketeering, Taft-Hartley, and tax evasion charges.

Senator NUNN. It seems to me anybody just convicted on normal tax evasion charges, which is shown with intent, would expect to receive a sentence about like these. I have known people who have never done anything in the world except evade taxes, which I don't excuse, but not involved in bribery, not involved in payoffs, not involved in any of this kind of thing, that received sentences this long. What is your view of the appropriateness of these sentences?

Mr. FISKE. I think the practice has occurred before of judges giving concurrent sentences for tax evasion when that is included in an indictment with charges involving violations of title 18 arising out of payments. In other words, where you have two sets of charges,

one for the underlying offense, and one for tax evasion, and the defendant receives a concurrent sentence, that is not unusual in and of itself. That has happened often before. Sometimes there are consecutive sentences, but I couldn't say it is unusual to have concurrent sentences.

In terms of the sentence itself, I think when you compare the sentence in this case to the sentences that you have heard about in the cases in Miami and in cases you will hear about from Mr. Devorkin, you will see that these sentences were considerably lower than sentences in the other case.

Senator NUNN. How long did it take the FBI to make this case?

Mr. FISKE. Mr. Barrett can give you the answer to that in specifics, but I think from the time the investigation started to the time that the conviction came in, it was at least 2½ years.

Senator NUNN. Senator Rudman?

Senator RUDMAN. Just curious, what was the recommendation of your office to the court for sentencing in these cases?

Mr. FISKE. Senator, our office has had a practice for many years which we think is the correct practice, not to make a specific sentence recommendation. We did submit a sentencing memorandum which described in some depth not only the circumstances of the trial, the facts that came out of the trial, but other factors which we felt the judge should take into account in assessing the sentence.

We told him in our words, that we believed the sentence that he should impose would be one which would not only reflect the conduct that was involved, it should also reflect what we believe the perjury that was committed by Scotto when he testified as a witness on his own behalf, and also it should be a sentence which would give a message to the waterfront that this kind of conduct was not going to be condoned.

Senator RUDMAN. Understanding the efforts of our profession to refrain from comment generally on these things, would you have felt that the sentence was appropriate or would you have liked the sentence to be more appropriate?

Mr. FISKE. Let's put it this way: We called to Judge Stewart's attention the considerably longer sentences which were imposed on the defendants who were convicted in Miami and we would not have considered it in any way unreasonable if the judge had imposed a comparable sentence.

Senator RUDMAN. I think you have answered my question. Thank you very much.

Senator NUNN. When the law enforcement community spends this much time making cases and when it is known that people not only committed felonies but also abused positions of fiduciary trust and when you have the kind of evidence you had, when you also have testimony that people are members of organized criminal families, which we have had in these cases, at least one of them, and then you have the kind of sentence that is handed out that probably would be handed out to the average person who just evaded taxes about the same length of time, what is the effect of this on the law enforcement community? It seems to me that this would have a demoralizing effect on those who worked so long and hard on the cases.

Would any of you want to comment on that?

Mr. FISKE. I would make one comment, Senator Nunn, just a broad comment. I think what you have said about taking into account in the sentence the seriousness of the conduct and the necessity of imposing a sentence which would be a sufficient deterrent to future conduct is extremely important. I am not sure, in all fairness, that I could support a notion that one factor in sentencing should be the length of time that the Government agency has spent investigating the case. I am not sure that that really is an appropriate factor.

Senator NUNN. It probably should not be a factor by the judge, but it certainly has an effect on those who have been investigating.

Mr. FISKE. I think Agent Barrett would probably tell you he may disagree with that in terms of his own emotional reaction to the sentence. As a former prosecutor, I would have to say I don't think I could stand up in court and argue that.

Senator NUNN. What is your general attitude toward the sentences, then? Could I ask you that?

Mr. FISKE. You are asking me?

Senator NUNN. Yes; your personal view, not speaking for the Department of Justice, just your personal view whether you think these sentences really were within the spirit of the overall justice system that we try to administer.

Mr. FISKE. I think the fairest way to answer that would be to tell you that Mr. Levine and I had a discussion about the sentence before it was imposed, and we sort of created for ourselves a spectrum of reasonableness, with a low end and a high end. We concluded afterward that this sentence was the low end of the spectrum.

Senator NUNN. What was the maximum sentence that could have been imposed here?

Mr. FISKE. I think if you added up all of the maximums for each count, I think you would come up with a number that would be something around 95 years, if consecutive sentences had been imposed. I think the maximum sentence on the racketeering count was 20 years, the maximum sentence on the racketeering conspiracy count was 20 years.

Senator NUNN. This was almost the minimum sentence that could have been imposed?

Mr. FISKE. I guess theoretically the minimum is what the defendant's lawyer asked for: A suspended sentence, no sentence at all. Theoretically that was true.

Senator NUNN. Do you want to comment on this, Mr. Barrett? I know it is a subject that is sensitive. We would not ask you to speak for anyone other than yourself, if you want to comment.

Mr. BARRETT. I think I would like to defer on that, if I could, if Mr. McWeeney would like to say something.

Senator NUNN. We are not speaking for the Justice Department now, but personal views. We know what the Justice Department would say.

Mr. McWEENEY. Our position is going to be entirely consistent, I can assure you, with what Mr. Fiske said concerning the sentences.

Senator NUNN. Wouldn't you say, Mr. Fiske, that these people with parole, let's say a 5-year sentence with parole, they would be out within about 18 months, would they not?

Mr. FISKE. I can't speak to that precisely, Senator Nunn, because as you probably know, there are specific guidelines within the parole commission. I am not right now sufficiently familiar with what those are to be able to answer that. But they are certainly going to be eligible for parole in less than 5 years.

Senator NUNN. I certainly think every individual judge in this country has the discretion to make their own judgments and I know there are many factors in any judicial trial and there may be factors here we don't know about. So I recognize that. But I do believe the public and the Congress have a right to look at sentences that have been made and we have a right to set them forth to the public.

I think there is such a disparity here between the seriousness of the offenses that were committed and found guilty and the sentences that were meted out that it raises legitimate questions that have to be raised in the public forum. I think the general public has a right to ask questions themselves about what our judicial system really does in terms of deterring crime with this kind of record and these kinds of transgressions and what I consider to be inordinately light sentences.

Go ahead and proceed.

Mr. FISKE. Yes, sir.

I would just like to comment in closing on the impact of these cases and our investigation.

We believe that quite aside from the vast dimensions of the criminality disclosed by the nationwide waterfront investigation the crimes committed by both labor leaders and management have had a destructive effect on the ILA, on the waterfront industry as a whole, and on the public. First, the convictions of Scotto and Anastasia, two very prominent national ILA figures, along with those of other, numerous other ILA officials, have brought the entire union into public disrepute. In fact, by the conclusion of this investigation, many of the major ILA locals along the east coast will have had an official convicted for some form of corruption or for taking payoffs.

Equally significant and perhaps even more significant is the fact that the ILA obviously has no intention of cleaning its own house. I think the statistics show that in the course of this entire FBI-coordinated investigation along the east coast, a total of 34 officials of the ILA have been convicted, of whom 14 held some position with the international and there is no evidence anywhere that the ILA itself has taken any significant action to clean its own house with respect to any of these convictions. On the contrary, the record shows a consistent pattern of callous contempt for the law by the management of the ILA.

Senator NUNN. Consistent pattern of callous contempt for law is what you are saying?

Mr. FISKE. Yes, sir. I think I can give you one very specific example which will illustrate that point.

In September 1977, Fred R. Field, Jr., who then held the position of general organizer of the ILA, the No. 3 position in the union, was convicted of racketeering charges in the southern district of New York for extorting payments from United Brands in order to have their boats unloaded during strikes. He was allowed to keep that position by the union, the No. 3 position in the union, through all appeals.

When his final appeal was denied and the position vacated, which by then was the summer of 1979, the union at an annual convention elected as his successor Anthony Scotto, then under indictment and only 1 month away from going to trial on the racketeering charges for which he was subsequently convicted.

In other words, having just been forced to remove from the No. 3 position a man who had been convicted of racketeering they put in his place a man who then was under indictment for racketeering for which he was subsequently convicted.

Senator NUNN. Would it be too strong to say this is just the equivalent of the ILA leadership thumbing their nose at the whole justice system and almost making a mockery of any concept of fiduciary trust?

Mr. FISKE. That is a pretty good way to put it. I would not disagree with that, sir. I think it is further illustrated by another action that was taken at that same convention. Not only did they replace Field with Scotto, but at the same convention the ILA created a new position called assistant general organizer which had not existed before and they elected to that position a man by the name of Carroll Gardner about whom you will hear more about from Mr. Devorkin. At the time Mr. Gardner was elected to the position of assistant general organizer, he not only was under indictment for racketeering—he had already been convicted in the southern district of New York 3 months before, for violations of the Taft-Hartley law and was awaiting sentence.

Senator NUNN. It is almost as if a criminal record is a merit badge and commends one to high office in the ILA.

Mr. FISKE. You could say in an unofficial way it is part of the job description. [Laughter.]

Senator NUNN. Part of the job description.

Mr. FISKE. I think the record of what was done in the summer of 1979 at that ILA convention is pretty good evidence of that.

By that I do not necessarily mean a criminal record because, of course, at that point Scotto had not been convicted yet but he was under indictment and had been under indictment for 6 months on these charges and Gardner was not only under indictment but in fact had been convicted.

The final point I would make is that the damage that has been caused by this pattern of corruption on the waterfront industry itself, the proof disclosed at the Scotto trial, as well as in the course of other trials, makes plain that for a number of years the free enterprise system simply has not functioned on the east coast of the United States. Businesses that are favored by ILA leaders and members of organized crime flourish and businesses that are not favored suffer. Moreover, there is no way of calculating the number of companies or individuals that have not entered businesses in the waterfront industry because of the notion that in order to make it on the waterfront one must pay off.

In conclusion, this 5-year nationwide waterfront investigation disclosed an entire industry corrupted by organized crime and payoff schemes. Because of the vast success of this investigation the most prominent criminals on the waterfront have lost their positions within

the union or their companies. Alone, however, those convictions will not make the waterfront an outpost of the free enterprise system checked by a law abiding union. We commend the Senate subcommittee's inquiry and encourage continued Federal and State action aimed at correcting these problems.

Senator NUNN. Did your investigation uncover any evidence of Mr. Scotto's role as a political leader and as a member of organized crime?

Mr. FISKE. During the trial itself there was no proof offered with respect to Scotto's organized crime connections. However, during the trial there was considerable colloquy on the public record with respect to certain proof that was available but that, because of evidentiary considerations that came up during the time was not offered in evidence. In addition we submitted a sentencing memorandum at the time of Scotto's sentence which did list for the public record evidence that had been developed which could connect Scotto with organized crime and I can describe to the committee briefly what was disclosed in that sentencing memorandum from that public record.

Senator NUNN. If you would.

Mr. FISKE. In 1969 the Justice Department testified before this same Senate committee and identified Anthony Scotto as a member of the Gambino organized crime family. That fact was included in our sentencing memorandum. In addition, there was referred to in the sentencing memorandum a tape recording which was made of a conversation between William "Sonny" Montella, one of the principal Government witnesses and Mike Clemente, a well-known figure on the docks about whom Mr. Devorkin will have more to say later. And the substance of that tape recording which is described in this statement clearly suggested that from what Clemente said to Montella, not only was Scotto a member of organized crime but that Clemente himself had been instrumental in securing for Scotto that position.

Third, also quoting from the Government sentencing memorandum, there was considerable colloquy during the trial about whether or not proof would be offered to the jury about what David Rosen, one of the officers in the McGrath Corp., had told to Alan Levine, Agent Barrett, and Assistant U.S. Attorney Alan Kaufmann during the course of an interview session in our office. The defense requested that we disclose to the court what Rosen had said on the theory that they might want to introduce some of that as proof at the trial. On the public record, Mr. Levine did describe what Rosen had told him. This, I believe, was further evidence that is relevant to your question.

Senator NUNN. Judge Stewart had all of this evidence before him before the sentence?

Mr. FISKE. This is part of the sentencing memorandum, yes.

Senator NUNN. It was not any secret, you had well documented the organized crime connections?

Mr. FISKE. I can tell you exactly what it was that Rosen had said which I think is important. You will hear more about this whole scheme in detail from, I believe, Mr. O'Hearn, who is going to testify tomorrow, but the reason he made his payoffs to Scotto was because he was told that that was necessary in order to reduce the level of fraudulent claims that were being made against his company under the workmen's compensation laws by allegedly injured longshoremen

and these claims had reached the point where they threatened to drive the company out of business in New York. He had gone to Scotto on several occasions and sought help. Scotto had turned a deaf ear. At that point David Rosen, who was not involved in the waterfront end of the business, but was running a company called Metropolitan News, came to them and said he would like to check into this problem. They said fine.

Rosen came back, this is according to what he told Mr. Levine and Agent Barrett, came back and reported that he had met with some organized crime figures in Philadelphia, including Russell Bufalino, had checked out this problem, had learned that this racket on the docks—that is, this racket of submitting fraudulent and excessive claims—was controlled by organized crime. This is what Rosen said he had been told by Bufalino and others and that in New York Anthony Scotto was the man who was responsible for the racket.

Rosen said let me go deal with Scotto and Rosen did go talk to Scotto and it was after that that an arrangement was made by Rosen with Scotto to start these payments to reduce the claims which later on O'Hearn took over because he was told by Rosen he had no choice but to continue making the payments.

That all is a matter of public record as a result of what we disclosed to Scotto's lawyers during the trial and we cited that to Judge Stewart as further evidence that would support Scotto's connections with organized crime.

Senator NUNN. Senator Rudman, I think you have a question at this point.

Senator RUDMAN. I do. Looking into some of your background material and your statement, the Scotto trial, am I correct in understanding that the Governor of the State of New York, two former mayors, president of the AFL-CIO in the State, and other public figures testified as character witnesses in his support?

Mr. FISKE. That is correct. Governor Carey testified, former Mayor Lindsey testified, former Mayor Wagner testified, and Lane Kirkland, now president of AFL-CIO testified. He was a week away from being president at the time he testified at the trial.

Senator RUDMAN. What was the substance of their testimony as to this gentleman's character?

Mr. FISKE. I would say it is a fair description of it, that they described his character in glowing terms, both in terms of their opinion of his honesty and his integrity, and with respect to the specific acts that he had conducted which they felt were extremely beneficial to the labor movement and with respect to the public interest in general. In other words, it was general reputation testimony at the very highest level, supported by their recitation of a series of very specific things which Scotto had done which they felt made him a very effective labor leader.

Senator RUDMAN. Did their testimony indicate a longstanding personal association with Scotto and that they had known him for a long time?

Mr. FISKE. Yes.

Senator RUDMAN. And that they had dealt with him?

Mr. FISKE. In each case yes. Their testimony in each case was based on their personal experiences with Scotto in the labor movement.

Senator RUDMAN. Is it also a fact that the Governor of New York appointed Mr. Scotto's personal attorney to a company position on the Waterfront Commission but later had to withdraw him due to political tumult?

Mr. FISKE. Yes. He appointed the man to the waterfront commission who had represented Mr. Scotto. Yes, that is correct and that appointment was subsequently withdrawn.

Senator RUDMAN. I expect it would be fair to conclude, Mr. Fiske, that when you have a trial that is as notorious as this one was, yet you produce these kinds of political witnesses, then I guess it would be only stating the obvious to say that at least in New York the ILA has substantial political power and clout?

Mr. FISKE. There is no question about that. I think Mr. Scotto himself testified that he had raised a million dollars for Governor Carey's election to Governor in 1974, not only from the union but also from a number of companies within the shipping industry that made contributions to the Governor's campaign at Mr. Scotto's urging. Indeed the whole theme of his defense was that he had decided very early on that the best way to promote the development of the Port of New York and the union movement in general was to develop a close alliance between his union and he in particular and leading political figures and use the fundraising process to cement that relationship.

Senator RUDMAN. I suppose that Scotto is still out on bail pending appeal?

Mr. FISKE. That is correct.

Senator RUDMAN. What is the timing of the latest appeal before the full circuit?

Mr. FISKE. The procedure is the conviction was affirmed by a three-judge panel in September and I believe at the end of that month a petition was filed which in substance asks that there be a rehearing and that the entire panel of 10 judges consider the case and reverse the decision of the three.

Senator RUDMAN. To your knowledge is he still holding his position?

Mr. FISKE. Within the union?

Senator RUDMAN. Yes.

Mr. FISKE. The Waterfront Commission in New York started proceeding right after the conviction at trial to have him removed from his position as president of the local 1814. They lost that action in the State court pending the appeal. When his conviction was affirmed by the second circuit in September, then the New York courts granted their motion to have Scotto removed from his union position and that was affirmed all the way up through the New York Court of Appeals. So my understanding is, and I believe the people from the waterfront commission can confirm it later, that he does not hold his union position at this time.

Senator RUDMAN. That is at least some progress.

Mr. FISKE. That I would emphasize is a result of action taken by the waterfront commission, not the union.

Senator RUDMAN. I understand.

Senator NUNN. What about his international position in the ILA? Does he still hold that?

Mr. FISKE. That is somewhat unclear to me. I would prefer to let the people from the waterfront commission answer that question. I believe they believe he does not hold the international position either, but I do not have personal knowledge.

Senator NUNN. Did the Labor Department, Federal Labor Department, ever enter into any action to remove him from his office?

Mr. FISKE. No. I do not believe there is any procedure under the existing Federal law that would authorize it.

Senator NUNN. That is a matter of some vagueness. I think there are different opinions on that point. But they did not to your knowledge?

Mr. FISKE. No.

Senator NUNN. We heard about all the political character witnesses that appeared for Mr. Scotto. What gave Mr. Scotto, in your opinion, the power to generate this kind of political influence?

Mr. FISKE. His own testimony at the trial was that he had made a determination fairly early on in his career as a top official of the union in New York that it was important to the development of the Port of New York that he develop a close relationship with political figures, that he raise money to try to support the political figures that he felt were sympathetic to the union position and to the general port position and that he develop that kind of an alliance, that kind of a relationship with a number of political figures over the years, including many of the ones that came to testify at the trial.

I think it is fair to say that their appearing at the trial as some of them acknowledged was in part because of the relationship that had been developed and what Scotto had done with them before that.

Senator NUNN. Do you want to venture an opinion on whether the character witnesses at trial have a definite bearing on the lightness of the sentence or would you rather not comment on that?

Mr. FISKE. Certainly, I do not know what specifically Judge Stewart took into account, but I think it is important in discussing that sentence to make clear so that you have a full record here, that in addition to the sentencing memorandum that the Government put in there was a very extensive sentencing memorandum put in behalf of Scotto which referred not only to the character testimony but also there were many, many people who wrote in very strong letters of support for him, including figures in public life. So there was a very strong defense side of the sentence in terms of what Scotto had done for the public good that probably did not exist in the case of many of these other sentences that we have been describing before.

Senator NUNN. Is that a matter of public record also?

Mr. FISKE. Yes. In other words, there was more to be said for Scotto as an individual I think it is fair to say than there was for these other people who received higher sentences.

Senator RUDMAN. Mr. Fiske, I just have one last question. I find your testimony very interesting and I think somewhat intimidating with respect to what we are facing in the entire structure of this union and the power that it holds. I am also going to ask you a question which

may not have been discussed with you in any way before; it occurs to me that operating in the southern district of New York as U.S. attorney, you are not exactly in Disneyland, and there are some things which you have left unwritten and unspoken in your testimony here today.

[At this point, Senator Hatch entered the hearing room.]

Senator RUDMAN. But I want to ask you this question. In prosecuting a public figure such as the one that we are speaking of here today, who certainly was a public figure with very powerful friends, did you ever come under any pressure, direct, indirect or subtle in any way to let up on your prosecution or in any way to change the direction of your prosecution?

Mr. FISKE. I can answer that question unequivocally. The answer is no. At no time, by no one.

Senator RUDMAN. I think that speaks very well for your reputation, Mr. Fiske.

Senator NUNN. Mr. Fiske, we have a good many questions here I would like to pose to you. You have detailed for us this morning your efforts and those of your colleagues in one portion of what you termed the 5-year nationwide waterfront investigation. I understand that the UNIRAC investigation is synonymous with what you call the 5-year nationwide investigation. Is that correct?

Mr. FISKE. That is correct.

Senator NUNN. I also understand from earlier testimony in these hearings that that investigation was based on an industrywide investigative approach. During the course of your term as U.S. district attorney was the UNIRAC project the first investigative effort in which you or your office participated that specifically targeted a single industry in attacking criminal activity?

Mr. FISKE. Certainly there was no investigation that was as broad as the UNIRAC investigation. There had been other investigations previously into industries such as the garment industry in New York but certainly nothing as broad as the waterfront investigation.

Senator NUNN. Do you consider that an effective approach and would you advise it be used when appropriate in the future?

Mr. FISKE. I think it is effective, it certainly was effective in this case. It is effective when you have reason to believe going into the investigation that in fact you do have an entire industry that is pervaded by corruption to the extent that the ILA is. But I think that is an important determination you have to make up front. Otherwise you will waste an extraordinary amount of investigative effort just to get two or three people. But if you feel you have an industry that is pervaded by corruption as this one was, the only way to get at it is by this kind of approach.

Senator NUNN. Mr. Barrett, I understand you served as an investigative agent during the course of the *Scotto* case and are familiar with the trial itself, all the preparation it took, including the investigative work. As an experienced law enforcement officer, how valuable was the tool of electronic surveillance?

Mr. BARRETT. Senator, I think I can say in the *Scotto* case in particular, in that matter for the entire UNIRAC investigation, its overall success can be directly attributable to both court-authorized electronic surveillance as well as the consensual monitoring conducted

during the course of the investigation. It is not an exaggeration to say that the electronic surveillance was the single most important tool for our office in the conduct of this particular investigation.

Without the utilization of the electronic surveillance and the consensual monitoring I would say at this point that the investigation would be nowhere as successful as it has been to the particular date in time. Moreover, both Walter O'Hearn, who we heard before, and William Montella, their testimony before the Government and eventual cooperation for the Government could be directly attributable to the evidence that was gathered as a result of this court-authorized electronic surveillance. And had the Government not had the capability of having this evidence available certainly their cooperation would not have been obtained. Moreover, my experience in law enforcement has demonstrated to me time and again that in these organized crime-type cases and corruption-type cases that this is the most effective tool that law enforcement has at its disposal.

Senator NUNN. Did Scotto himself use devices in his own office to try to detect electronic surveillance by the Government?

Mr. BARRETT. Yes, sir. Pursuant to our court-authorized surveillance evidence was developed over that particular wiretap that disclosed that Scotto had what he called a husher in his office and he described a husher at trial as a white noise device that would break up sounds in his office and it was a device that was going on continually while he was operating in his office and it was his testimony, his impression, that this particular device would prevent him from being recorded. Fortunately for the Government, it was not the case.

Senator NUNN. He did testify to that?

Mr. BARRETT. Yes. He did, Senator.

Senator NUNN. Mr. Levine, in reference to Scotto's political influence in the New York area, we have heard reference to his actions in influencing the lease of public lands around the waterfront. It has been suggested that in at least one instance Scotto paid a former commissioner of ports and terminals concerning disposition of a real estate development.

Could you please detail the fact of that situation?

Mr. LEVINE. I can, Senator. The facts relate to a piece of land on the Brooklyn waterfront, which was developed into a container facility, a modern container facility with public funds.

That container facility came under the jurisdiction of the department of ports and terminals in the city of New York. Mr. Scotto testified on cross-examination that he had, in fact—he considered himself responsible for the appointment of the last three or four commissioners of the department of ports and terminals.

The last one that he took credit for was a man by the name of Louis Mastrianni. In the waning days of the Beame administration in 1977, the lease that the company had for that container facility on the Brooklyn waterfront was renegotiated favorably to the company by Mr. Mastrianni personally as the commissioner of the department of ports and terminals.

The negotiation was expedited and was submitted to the New York Board of Real Estate in 1977 and a modified lease was favorable to the company and unfavorable to the city was approved.

Two weeks later after Scotto returned from a Christmas vacation, he met with Mr. Mastrianni in his own private office, and I think this point also points up Mr. Barrett's statement about how effective the electronic surveillance is as a law enforcement tool.

The meeting between Mr. Mastrianni and Anthony Scotto in Mr. Scotto's private office was recorded pursuant to the court-authorized electronic surveillance.

During the course of that meeting, which covered many subjects, Mr. Scotto handed Mr. Mastrianni an envelope and said to him, "Here is an envelope, it is from our—" words to this effect—"It is from our friends in Brooklyn. I don't know from what or from where, but they appreciate all the work that was done."

Scotto testified on cross-examination that what was in the envelope were paid tickets to a political dinner. He did not deny being intimately familiar with the conduct of the investigation and the president of the container company, who also testified as a defense witness did not deny that Mr. Scotto was intimately familiar with the investigations and that the least that they had negotiated was very favorable to the company.

Senator NUNN. From the testimony last week, we heard about a so-called pot in which proceeds of illegal labor payoffs were made.

This morning, we have heard similar testimony from Mr. Fiske about a kitty in which Scotto and Anastasia kept illegally obtained funds. Mr. Barrett, I understand that as case agent, you are particularly familiar with the factual evidence uncovered by the Government which led to that conclusion. Could you describe to the subcommittee just what the evidence consisted of?

Mr. BARRETT. Yes. Again, pursuant to our court-authorized surveillance on February 10, 1978, Scotto and Anastasia were having a conversation in Mr. Scotto's private office where they are discussing a trip to Florida and during the course of his conversation there was a reference to a kitty, the fact that the kitty is broke at this particular point in time, and Anastasia described for Scotto the fact that he has \$9,000 back in his Brooklyn office and how are they going to divide these funds for their ILA convention trip down to Florida.

The first instance we had was developed back in 1977, was a result of our first cooperative witness in the investigation, John Morano. In 1977, Mr. Morano told us of the existence of the kitty and what that particular deal involved with was an illegal transaction concerning the signing of a warehouse lease between Prudential Lines, which was Mr. Morales' employer and a gentleman who wanted a particular warehouse and his labor was furnished by local 1814, Mr. Scotto's local.

As a result of that arrangement, there was a \$150,000 payoff made, and Mr. Scotto told Morano that \$20,000 was for Morano, \$20,000 for then Commissioner of Ports and Terminals Edward Favor, \$20,000 for himself and Anastasia, and \$20,000 for the kitty.

Senator NUNN. Thank you. You mentioned a \$100,000 payoff made to Scotto. What was the purpose of that payoff?

Mr. BARRETT. According to Mr. Morano, the purpose of that particular payoff was the ability by Prudential Lines to have as many

men as they wish to have available to work on that chart, in that warehouse facility.

In other words, there is an ILA contract which calls for the utilization of say, for example, 30 men and because of this particular payment, Prudential was able to get a better deal for themselves that they only required 7 men, utilized 7 men.

Senator NUNN. Did the investigation uncover evidence, Mr. Barrett, that labor racketeers split the proceeds of labor payoffs?

Mr. BARRETT. Yes, Senator. Again, pursuant to our court-authorized surveillance, on December 21, 1977, at 11:59 a.m., Mr. Scotto and Anastasia were in Mr. Scotto's private office. Apparently Mr. Scotto had an excessive \$30,000 in cash in his attaché case. Before they went to a luncheon for another ILA official, they sat there and discussed how they were going to divide these moneys up.

There were three different ILA employees, according to Scotto, who had given this money. There was a reference Mr. Levine talked about concerning Commissioner Mastrianni at that point, the fact they received \$15,000. There was a reference to Mastrianni and Mr. Scotto said the reason is over the lease.

Additionally, as I mentioned previously, in 1978, Anastasia describes for Scotto where the \$9,000 came from, he has back in his office, who provided those particular moneys, and the fact that we are going to take \$2,500 apiece down to the ILA convention in Florida.

Senator NUNN. Mr. Levine, the traditional concept of organized crime carries with it the aura of fear by the possible use of threats and physical violence. I understand one witness in this case refused to testify for fear of physical retaliation. Did any other evidence of actual physical violence toward potential witnesses occur during the course of investigation?

Mr. LEVINE. The individual that is referred to in the question is an individual whom I met in a hotel room in New York who expressed that fear to me and another special agent of the FBI. There was in the course of the overall waterfront investigation in New York one other instance of this fear that you described. On the Memorial Day weekend of 1979, after the U.S. attorney's office in the Southern District had filed the Scotto indictment and had followed the Clemente indictment and a number of other waterfront indictments were pending, Mr. Morano, who was a cooperating witness with the Government was shot at and his secretary was wounded as they were leaving their place of business.

The investigation that commenced following that shooting failed to conclusively confirm or deny that this incident was in specific retaliation for Mr. Morano's cooperation in the waterfront investigation.

However, we were advised that confidential informant sources available to the FBI had identified the shooting as an unsuccessful hit attempt which was made as a result of Morano's cooperation with the Government.

Senator NUNN. Mr. Barrett, were you able to uncover any evidence which demonstrates the ties between Anthony Scotto and known members of organized crime?

Mr. BARRETT. Yes, Senator. Before I do that, what I would like to do is be able to play a tape for you of January 13, 1978, pages 10 and 11 of the transcript, which will set the stage for this explanation.

Senator NUNN. Fine. I am going to ask Mr. Steinberg, since he is intimately familiar with this, to go through that with you in questions.

Mr. STEINBERG. That is on pages 10 and 11 of our transcript?

Mr. BARRETT. That is correct.

Mr. STEINBERG. Play the tape, please.

Mr. BARRETT. Senator, this was also a tape that was played at the Scotto trial pursuant to court-authorized surveillance and it was a day which Mr. Montella paid Mr. Scotto his Christmas extra of \$10,000.

MONTELLA. That's accurate, that's not picked up here or there, that's accurate, Anthony, and I said to him, I want the 50. I gotta have it, don't welch on me, 'cause I, in plain English, because, ah, that I gotta give half of it away.

SCOTTO. Let me say to you, the other thing is that, with the Commission, I know who brought the information. I know where they brought it. By the time that other guy called me, which I tell ya, I'm talking to him again, I don't like him making a meeting with me and have other people show up. Now you happen to be a good friend and I didn't mind that.

MONTELLA. I understand that.

SCOTTO. It's not nice, you know, like if, because I don't do it to anyone, but he's getting a little old, you know, I'll deal with that don't worry about that's not a problem.

MONTELLA. That wasn't me, Anthony.

SCOTTO. Of course not, but, by the time he got that, I had it. I had already told him, forget it. This is bullshit. This is someone trying to do the guy in. You know, this is, this is, there's one guy up at that place that in my opinion is being a double double agent. What he's doing is running to a guy saying here's information. Then he goes back to the Commission and says, I'm talking to Sonny, because Sonny's helping me out. I'm telling Sonny this or I'm telling Sonny that, they do this to protect themselves. Because if a guy like him got seen, he'd have to explain why were you with Sonny (on phone) Hello, yeah, yeah, about the garage, yeah, or, yes, yes, yes, yes, yes, yes, yeah, 8220, is it the same with my friends or is it, fine, okay, okay, bye. (Phone hung up) Ah, that's how these guys are, you know, a cop can't go to a guy in that he's gotta worry about being seen, so he's gotta have a cover for himself. I went to him, this guy's giving me information. I told him to stop fucking around. I think he's doing it, but this is the one guy. I think I told ya his name before.

MONTELLA. No. I don't think so. Al Pelez (PII).

Mr. STEINBERG. Would you mind explaining that conversation we just heard?

Mr. BARRETT. When Mr. Scotto was talking about the other guy who he is referring to there is Michael Clemente, and the investigation reveals direct evidence between Scotto and Clemente. Clemente I believe has been described to the subcommittee in some detail last week and will be described further by Mr. Devorkin.

Clemente held a union position in Manhattan in New York and as a result of conviction on Federal tax charges in 1950, has been disbarred from that union position. Despite that fact, Clemente has remained a major force on the Manhattan waterfront through influence on his peers and membership in organized crime.

A little history to the development of this particular information, again as a result of a wiretap in Montella's office, on November 29, 1977, Mr. Montella was at a luncheon at the Hamilton House in Brooklyn.

There he was summoned by a close associate of Michael Clemente to go to a restaurant to meet Mr. Clemente. That afternoon, he proceeded with this gentleman to meet Clemente and received a paper which Clemente described to him was a paper he received from the waterfront commission which indicated to him that Montella's private office was being bugged. Montella returned to his office from that meeting and told on tape the fact that his office was bugged, the fact Clemente told him to meet Mr. Scotto later that evening and the substance of the particular paper, particular individuals Montella had been paying off, the method with which he was paying people off and the fact his office was bugged but they didn't know if it was a wire or whether someone was running a particular recording device.

That evening Montella proceeded to the restaurant in Brooklyn, where he met Mr. Scotto and Clemente. An FBI agent was conducting a physical surveillance in that particular restaurant and there were pictures taken that particular evening when the meeting was finally adjourned.

I believe that is the sum and substance of what Mr. Scotto is referring to here. During the course of that particular tape, you notice a pause when he mentioned to Mr. Montella who that particular person is. What he is doing there is writing down for Mr. Montella the name Al Pelez who Montella repeats on the tape for us to identify who the waterfront agent was.

Mr. STEINBERG. Is Mr. Scotto also saying he himself had access to this secret information?

Mr. BARRETT. Yes, during the course of Mr. Fiske's cross-examination of Scotto, Scotto admitted that in fact he had received that information, even prior to Clemente getting this particular information and testified Al Pelez had given him that information.

Mr. STEINBERG. And that individual, where was he from?

Mr. BARRETT. Mr. Pelez was an agent with the waterfront commission.

Mr. STEINBERG. On this same date this conversation was recorded, was it your testimony that Mr. Montella was making a payment to Mr. Scotto, a payoff?

Mr. BARRETT. That is correct. The payment schedule for Montella was a \$10,000 Christmas extra. Montella was having difficulty raising funds in December and wasn't able to generate his money until January 1978 where he came to Mr. Scotto's office and paid him \$10,000 in cash.

Mr. STEINBERG. Thank you Mr. Barrett.

Senator NUNN. At this point, I am going to interrupt for 1 minute. We are honored to have the chairman of the Labor and Human Resources Committee here this morning, Senator Hatch. I know he is interested in this area. Also I am very conscious of the fact that this committee will have legislative jurisdiction on any legislation we recommend as a result of these hearings. Mr. Hatch, I am sure, is going to do a very diligent job in looking into this area and examining any legislation we have recommended.

I also have talked to Senator Kennedy, the ranking minority member, who has pledged his interest and cooperation in this overall regard.

Senator Hatch, we are delighted to have you. Would you like to make any comments at this point in time?

Senator HATCH. I am delighted to be here and I want to thank you, Senator Nunn, for inviting me to attend and participate in these hearings regarding labor racketeering on the Nation's waterfront. I have reviewed the testimony and evidence presented thus far, and I am impressed by the scope and thoroughness of your subcommittee's investigation and presentation.

The Federal Bureau of Investigation and Department of Justice are to be commended for their roles in exposing and seeking to limit the influence of organized crime over labor union officials and their management counterparts.

While I am encouraged by the attention and public focus these hearings bring to bear on this aspect of organized crime's domination of both industry and labor, I do not believe our responsibility has ended here. Rather, it begins again with these hearings.

As the chairman of the Senate's Committee on Labor and Human Resources, I have found myself asking, "Where was the Department of Labor all these years?"

I have wondered how many of these described criminal activities pursued by the FBI were a result of the Department of Labor requesting action.

How much information did the Department of Labor pass on to the Department of Justice or the FBI, even if they were necessarily unaware of an ongoing undercover investigation?

How many times has the FBI or Justice Department requested information that the Labor Department rightfully should have had or should have been able to develop or aid in these type of investigations?

Even more disturbing, does the possibility exist that investigations have been damaged or possibly thwarted because of Department of Labor action or inaction?

As chairman of the Committee on Labor and Human Resources, I intend to vigorously pursue these and many other questions. We shall conduct oversight investigations into organized crime's influence over certain labor union officials and business people. The role of the Department of Labor will also be scrutinized.

I might add I have also extended the invitation to Senator Nunn, Senator Rudman, and other members of their committee, to attend and participate in our continuing efforts during this Congress. In addition, I will shortly be writing to Attorney General Smith and FBI Director Webster to further encourage them to expand and concentrate efforts and resources on their own criminal investigations, wherever they may lead.

Let me add, Senator Nunn, that we appreciate the fine cooperation of your staff and are looking for their help in coordinating our information and efforts in this Congress.

So I am really very pleased that you have invited us here. Is it possible for me to ask a couple of questions?

Senator NUNN. Surely.

Senator HATCH. I appreciate that opportunity. Have you people in your investigation ever sought Labor Department cooperation?

Mr. FISKE. There really wasn't any reason to, Senator Hatch. The FBI was doing such an effective job of this that we really didn't see any reason to ask for help.

Senator HATCH. So you didn't really go to the Labor Department nor did they voluntarily offer any cooperation to you?

Mr. FISKE. That's correct.

Senator HATCH. After your prosecutions and the effectiveness of them, has the Department of Labor ever come to you seeking assistance in following through on your work and on their work as a Department?

Mr. FISKE. No. When I was U.S. attorney, we did have some investigations that we conducted with the assistance of the Labor Department, but the waterfront was not one of them.

Senator HATCH. I see. I understand one of the witnesses last week, a Mr. Harrington, was asked by this panel when, if ever, he had noticed the presence of the Department of Labor around the Miami waterfront in connection with these practices and he answered he had not. As far as you are concerned, that answer is correct?

Mr. FISKE. That is correct.

Senator HATCH. I might rephrase that question in general terms and ask you gentlemen whether or not you have recommended any actions to the Department of Labor with regard to the union officials thus convicted and/or charged and/or convicted?

Mr. FISKE. My understanding of the law, and I may be wrong, was that there was no Federal law which would have allowed the removal of these defendants from office following their conviction while the case was on appeal.

There is a provision in the New York State law which authorizes that and before you came I described to Senator Nunn and Senator Rudman the action that was taken by the waterfront commission under that New York law to remove Scotto and Anastasia from their union positions once their convictions had been—

Senator NUNN. Let me interject right here; Mr. Steinberg has prosecuted cases before. He was appearing before our committee when we asked this essential question whether there was authority to remove someone once the conviction had taken place, once the appeal had been processed.

Marty Steinberg, minority chief counsel, has a different view on this. It is a vague area. The Labor Department takes the view they can't do anything—which is one of our most important areas. Mr. Steinberg, you might want to interject your opinion on this point.

Mr. STEINBERG. My opinion, shared, I believe, by many prosecutors and some Labor Department officials, is that they do have the authority to, at the very least, consider placing those unions and the trust funds in trusteeship or monitoring disbursements from those unions and trust funds. They also can hold administrative proceedings whereby they bring individuals into those administrative proceedings and ask them questions concerning their fiduciary responsibilities.

If they refuse to answer questions concerning their fiduciary responsibilities, that is, assert the fifth amendment privilege, then by law they can be removed as fiduciaries from their union positions and from their trust fund positions.

Senator HATCH. Marty, do you know of any instances where the Department of Labor has exercised their options?

Mr. STEINBERG. They did on one occasion; in 1976, when two Justice Department attorneys were assigned to the Department of Labor to begin the Central States Pension Fund investigation. On that occasion, these two Department of Justice attorneys who were assigned started holding administrative hearings and calling in the various trustees of the Teamsters Central States Pension Fund. When those Teamsters trustees had asserted the fifth amendment privilege, they were then removed. Those two Department Justice attorneys were later terminated by the Department.

Senator HATCH. Is that the only instance where the law has been—

Mr. STEINBERG. Yes, we had requested the Department of Labor to perform a similar duty in 1975 for a convicted union official of the International Laborers Union, Bernard Rubin, who was convicted of embezzling one-half million dollars.

Senator NUNN. That is the case we got involved in when we first heard from Mr. Steinberg. After conviction pending appeal, there was a large sum of money, over \$100,000 stolen by that official from the union.

Mr. STEINBERG. \$2 million.

Senator NUNN. \$2 million.

Mr. STEINBERG. After his conviction on felonies of taking \$500,000 from the union and trust funds, the Labor Department refused to accept a role as a trustee or monitor and until we could act again to revoke Mr. Rubin's bond from the time Mr. Rubin was convicted until we moved to revoke his bond, he stole an additional \$2 million.

Senator HATCH. In essence what you are saying the Labor Department hasn't done a damn thing to try and resolve these difficulties once the conviction occurs?

Senator NUNN. It seems to me there may be some vagueness in this area, but the Labor Department has always interpreted their authority very, very narrowly and have done, in my view, as little as possible.

Senator HATCH. I think that is a fair statement. One or two other questions.

I have read your statement. You indicate you believe there is little or no free enterprise activity on the waterfront on the east coast.

Mr. FISKE. Certainly the evidence that came out in the trials in New York showed a very major portion of the business that was awarded on the waterfront was controlled by union people who had the ability to direct business in one direction or another, depending on whether people paid them or didn't pay.

Senator HATCH. So, in other words, it's a controlled business, controlled by what appear to be in some cases underworld influences and very little freedom on the waterfront?

Mr. FISKE. That is a fair statement.

Senator HATCH. Is that true even after you had these 10-plus convictions that you have done, the excellent work you have done?

Mr. FISKE. I am not in a position to comment.

Senator HATCH. Do you think it is true today?

Mr. FISKE. I am not in a position to comment on it today, not having been in office for a year.

Senator HATCH. What about you other two, would you say it is a fair statement today, it is just as true today, even though you have had some convictions?

Mr. BARRETT. Senator, to my knowledge, we have no direct evidence of that happening. One instance I can relate, though, is in the summer of 1979, after Mr. Scotto and Anastasia had been indicted in January, Mr. Anastasia had effected two payments, one in May and one in July 1979 at the time both were under indictment. At that particular time, business was as usual.

Senator NUNN. We had in testimony a minute ago the callous disregard of the ILA to all these convictions.

Mr. Fiske, I think it would be helpful to Senator Hatch—

Senator HATCH. I did read that. What happened is they would continue to allow these people to serve until they finally had to go to jail and would replace them with others who were just as bad. It is a continual pattern to keep their people in, to, in essence, reject freedom of the workplace, freedom of the market on the east coast waterfronts.

Mr. FISKE. I think we have a track record where 34 officials of the ILA, including 14 of the international, have been convicted of various crimes in breaching fiduciary duties and not one case has the union itself taken effective action against any.

Senator HATCH. Not one case has the Department of Labor taken any effective action against the union or deals that have been occurring there.

Mr. FISKE. Not that I know of.

Senator HATCH. In other words, what Senator Nunn has indicated here is although the Department of Labor has authority, it construes its authority so narrow that it basically is ineffective in helping to resolve these conflicts and difficulties on the east coast of the United States and only God knows how bad on the west coast of the United States and the gulf coast.

Mr. FISKE. We would like to think the initial responsibility for taking this kind of action is with the union itself. The Department of Labor wouldn't have to do anything if the union would.

Senator HATCH. If the union doesn't, wouldn't you agree the Department of Labor should?

Mr. FISKE. I think the Department of Labor should do everything it possibly can, yes, sir.

Senator HATCH. And you have not seen any evidence the Department of Labor has done anything voluntarily even after these convictions?

You say some 30—

Mr. FISKE. Thirty-four.

Senator HATCH. Thirty-four convictions. Have you seen any evidence that the Department of Labor has done anything?

Mr. FISKE. I have not, no.

Senator HATCH. We are going to recommend the Department of Labor really review its authority and see if it can be construed at least a little more broadly than it has. If it isn't, I suggest, Senator Nunn, you are on the right track as far as presenting legislation to our committee to try and resolve these hearings.

Senator NUNN. Thank you, Senator Hatch.

One observation, we did get a letter from Secretary Donovan.

I believe it is dated the 21st. I read that into the record. I will give you a copy of that.

He said he has read a great deal about these hearings and in effect he is going to be reviewing closely all the Labor Department procedures. I thought that was a very positive development.

Senator HATCH. I might add as chairman of the Labor Committee, we might very well want to bring up the appropriate people from the Department of Labor and hold hearings as to why these type of hearings continue to exist without no real oversight by the Department of Labor, which really has a responsibility to do so under the laws and certainly under Taft-Hartley, et cetera.

I am a little bit alarmed, as I have read these hearings, as I have watched them, and I have seen the excellent work Senators Nunn, Rudman, and others and their staff have done, I am a little bit alarmed this has gone on so many years unchecked. I think you as law enforcement officials have to be alarmed also. You can't do it all by indicting everybody on the waterfront. There has to be some way of giving freedom and free enterprise principles involved on the waterfront outside of just the indictments and convictions.

Senator NUNN. Senator Hatch, I might mention one other thing. We had a series of hearings last September which we worked on for about 2 years. We had cooperation with the General Accounting Office. The nature of the hearings was oversight hearings on the Labor Department's investigation of the Central States pension funds which, as you know, has been ongoing for some time. We will have a series of observations and recommendations probably in the next 4 or 5 weeks on that subject, which I know will be of interest to your committee.

The historical record makes it very evident that the Labor Department does everything possible to get out of any involvement in criminal activity, including even reporting that activity to the Justice Department. There are exceptions. I don't want to say there are not exceptions. That is the general pattern and I must add there are a lot of employees with the Labor Department who are as frustrated with this general attitude as we are.

There are a lot of good people in the Labor Department who would like to move in a more vigorous direction.

Historically that has not been done. They have construed their authority very narrowly so they would involve themselves primarily on only civil matters, not criminal matters.

Senator HATCH. As I understand Mr. Scotto was convicted of some 43 counts, which is not an inconsequential number of counts.

Did he have plenty of top-flight testimony? They were talking about how ethical, moral, and decent he is. As perverse as this case has been, and others like it, we all have to be concerned that a major Cabinet level office in this country is not taking a more aggressive posture with regard to these problems.

Senator NUNN, I presume, and I feel confident, that you and your committee will work with our committee, to the extent that you can, to help us get on top of some of these things and to suggest areas of oversight we ought to exercise.

Senator NUNN. Absolutely.

Senator HATCH. And investigate. If we work together, and even in the future perhaps, have some joint hearings in some of these areas, I think it would be very beneficial for all concerned.

Senator NUNN. You will have our total cooperation.

Senator HATCH. We appreciate it. We are grateful you have invited us to participate in these hearings. I assure you, though I can't sit through all of them, I am reading them and looking at the excellent work you are doing, and we will follow through on the Labor Committee as well.

We commend you gentlemen for the excellent work you have done up there in the State of New York.

Senator NUNN. Thank you, Senator Hatch. Just one other brief comment.

We are delighted to have Senator Nichols today. I am pleased you are interested enough to come. We welcome you. We hope you will be able to participate.

Senator RUDMAN. Mr. Chairman, I want to say to Senator Hatch, it seems to me one of the common threads we have developed here, since these hearings have started, is that albeit, as said, with the amount of work and evidence deduced by the law enforcement officials, the sentences in my view have been extraordinarily light. I can say that, Mr. Fiske. You may not be able to. You still practice up there. I want to say the one thing that is obviously lacking is a good administrative procedure to remove these people from their positions of power within these unions once there is overwhelming evidence that they are engaged in activity which essentially inhibits the free enterprise system, is coercive in nature, and obviously criminal in nature.

We had some interesting witnesses here from Miami who took the fifth, who even took the fifth on questions that related to their fiduciary relationship with their union. Our staff counsel is going to forward that testimony to the Department of Labor to see if they will commence administrative hearings, which was the whole reason for our line of questioning at that time. It seems to me it is going to take strong action by your committee, based on the hearings that are eventually completed here, to insure that we have laws in this country to prevent corrupt behavior in officials who inhibit the free enterprise system by essentially representing not the interests of the union, but only their own selfish interests.

We are going to have to take steps administratively and perhaps legislatively to remove such corrupt officials and immunize unions from that kind of activity.

I know Senator Nunn and I know that under his leadership we are going to work very hard to get the evidence we all need to convince this Congress that this kind of legislation is long overdue.

Senator HATCH. Mr. Chairman, again, I want to commend you and Senator Rudman for the fine work you are doing. It is difficult work. It is always difficult to do, to do investigative oversight in this area. I think it would be interesting to your committee, just this morning we changed the rules in the Labor Committee to give the chairman subpoena powers in these areas. It is something the Labor Committee hasn't done for years. We do intend to pursue these matters as you

have suggested to us, and certainly with your help, so that we can do it well.

I think it is many areas, it isn't just the unions, it is the businesses that should be standing up as well. I might add we even think there is lots of evidence of legal—a combination in a criminal fashion in some of these areas. We may be investigating some of the attorneys in this matter. So we think it is a matter of getting into it in the best possible way we can, protecting the rights of all concerned but at the same time being as tough as we can so that legislation can become—if the Department of Labor feels it doesn't have the power now, then we have to give it the power and demand oversight responsibility that it really needs to do.

Senator NUNN. I appreciate that very positive statement. We pledge our cooperation. There is plenty to do here and we are primarily an investigative subcommittee, but we will have a number of legislative recommendations.

I certainly agree with your observation that this is not uniquely labor leaders. This also involves the business community. We have heard ample evidence of that. In fact, a large percentage of these overall convictions that came out of this *UNIRAC* case were business people. There wouldn't be any bribes or payoffs if businesses would not be cooperating. In some cases, not all, we heard testimony that businesses almost compete among themselves to see who can pay off the most and quickest so that they can get competitive advantages. If it is the free enterprise system, it is the free enterprise at its very worst.

We have several more questions we would like to ask.

Senator Rudman?

Senator RUDMAN. Mr. Barrett, during the course of the investigation, did Mr. Scotto ever in anyway confirm his association with these organized crime figures?

Mr. BARRETT. Yes, Senator, I think at the end of my discussion regarding Mr. Clemente, I mentioned Mr. Scotto did in fact testify in his own defense, he admitted to meeting Mr. Clemente with Mr. Montella that evening. He did describe getting that piece of paper, the document outlining the fact Mr. Scotto's office was bugged and the fact he got this information from a waterfront commission agent named Al Pelez.

Senator RUDMAN. With respect to the payoffs by McGrath to Scotto, was there any evidence produced in the trial indicating other associations in connection with those payments of organized crime figures?

Mr. BARRETT. Senator, Mr. Fiske has described that for the committee in his statement. The only thing I may add is the individuals he was referring to, Mr. Bufalino. Mr. Bufalino has been described in a memorandum in the southern district of New York, with respect to his extortion conviction, as head of his own family in Pennsylvania.

Mr. Fiske has answered that question previously.

Senator RUDMAN. I understand the subcommittee staff has given you a copy of the staff statement on David Rosen. I suspect you had a chance to read that. Just based on your own experience, if you have read the statement, would you characterize it for me?

Mr. BARRETT. Senator, I have had an opportunity to read that statement and I agree in total with what the committee has stated regarding Mr. Rosen.

Senator RUDMAN. Mr. Fiske, I want to just go back to a couple of questions to you and appreciate your attendance here and your long testimony. I suspect you have probably had more intimate association with this case overall than anyone, so we are delighted to have you here.

As you look at the *Scotto* case, the whole panoply of waterfront crime, the flourishing of organized crime in the area, and you look at the ILA, I want to ask you whether you think that all this suggests to anyone that the ILA has been a real haven for criminals; and, second, will you comment on whether or not you think they have taken any steps, minor or substantive, to clean their own house?

Mr. FISKE. Senator, I think I have spoken on that subject previously today, but I will be happy to summarize my position again.

I think that the ILA track record in this situation is a disgrace. They have taken no action whatsoever that I can see to make any effort to clean their own house. On the contrary, they have elected to the highest office people who are not only under indictment for criminal charges, but who have also been convicted. They do that knowingly. People have these charges pending against them or convictions on the record.

Senator RUDMAN. Considering that answer and the others that you have given this morning, I think that you have had a close look at organized crime and how it flourishes in these environments. We are going to have to make some legislative recommendations and you have heard us talk about them here this morning. Senator Hatch's committee is going to have jurisdiction of those. I would like to hear your views.

If you were drafting this legislation for us, having dealt with these lawyers, you tell us, what would you do?

Mr. FISKE. I think one thing that has emerged just from the testimony this morning is that there is at least a gray area with respect to the authority of the Labor Department to take action against union officials who have been convicted of breaches of their fiduciary duty until the last gasp has been exhausted in the appellate process. And to the extent there is an uncertainty in that area I think that would be one very important area where the committee ought to address itself in terms of legislation, to give the Government authority, in the appropriate cases, to take that kind of action to meet it.

The second suggestion I would have which I think emerges clearly from the record of this investigation is that the Labor Department ought to have broader authority to in effect put a union into trusteeship when you have a pattern of misconduct, of corruption, comparable to what exists here. I understand there is authority in the law now for trusteeships in the case where union officials are embezzling money from the union funds. There is not that kind of authority when union officials are taking payoffs in violation of the Taft-Hartley law or in violation of the racketeering statute. I am not suggesting that every time there is one individual in the union who is convicted of payoffs the union should be put into trusteeships. I think you need two things.

One, you need a pattern of corruption of the type that has clearly been demonstrated to exist in the ILA and second, you need a showing or a record that the union itself is not doing anything about it. I think if you have those two things, then legislation that allows the Government to move in and take over is desirable.

Senator RUDMAN. I want to thank you very much for your testimony this morning, Mr. Fiske, and I certainly commend you for what you did as U.S. attorney in the southern district. You did a superb job and I think the people owe you a debt of gratitude.

Mr. FISKE. Thank you very much, Senator Rudman. I appreciate it.

Senator NUNN. Just a few more questions. Mr. Levine, we have heard testimony about Mr. Scotto's past ability to wield substantial power and influence not only among union members and organized crime associates, but also in political circles. Through his official position in labor he marshaled financial resources of the ILA, and those of organized crime.

Federal law limits financial contributions by unions to Federal political candidates and campaigns. Is there an equivalent provision under New York State law which covers union contributions to State and local political campaigns?

Mr. LEVINE. There is not. The New York State election law limits the dollar amount contribution by an individual or a corporation to a particular candidate but does not limit similar contributions by a union. And in fact not only did Mr. Scotto testify on cross-examination that he was responsible for raising at least \$1 million for Governor Carey's gubernatorial campaign in 1974, but the New York State Election Law documents on file in the State of New York shows that the International Longshoremen's Association and affiliated organizations contributed in excess of \$50,000 in each of 1974 and 1978 for Governor Carey's campaign.

Senator NUNN. You mentioned, we have heard this morning about testimony about Mr. Scotto's political influence and so forth. Did you uncover any evidence during the course of this investigation which indicated that Mr. Scotto believed himself to be somewhat immune from criminal prosecution because of this political influence?

Mr. LEVINE. We uncovered that evidence, Senator, and thankfully we also uncovered the fact that he was wrong. In the spring of 1978 the then President Carter made a trip to New York and one of the events on his schedule was a luncheon meeting with approximately six major labor leaders. Anthony Scotto was one of the labor leaders invited to that luncheon. Shortly after that luncheon in a conversation with Mr. Montella, who was then cooperating with the Government, which conversation was recorded, they were discussing the Government's investigation since the grand jury investigation had commenced and subpoenas were out on the street. And Mr. Scotto bragged, if you will, to Mr. Montella at that time, that since he had been invited by the White House to that luncheon that there could not be any Government investigation because in effect the Department of Justice would have in effect tipped off the White House about the investigation and he would not have been invited. The record discloses that the White House did not know of the existence of the investigation. There was no tipping off and the Department of Justice had never told the White House

about the investigation. And Mr. Scotto believed that he had certain contacts but everyone in the Government had acted honorably.

Senator NUNN. Did you have anybody from the White House, anybody at high levels of the Justice Department ever in anyway try to impede your investigation?

Mr. LEVINE. For me?

Senator NUNN. Yes.

Mr. LEVINE. No.

Senator NUNN. Mr. Fiske?

Mr. FISKE. Absolutely not. I just wanted to add that to what Mr. Levine said. The thrust of this tape-recorded conversation was Scotto telling Montella that basically the investigation was going nowhere because if the Government had anything certainly they would not let the President invite him to a lunch of distinguished labor leaders in New York. Somebody would tell the President to stay away from Anthony Scotto, we are about to indict him. Since he had been invited to the lunch that meant that nobody had told the President that, therefore it was not happening, therefore he did not have to worry about the investigation. As Mr. Levine said, he was wrong because no such communication ever emanated to the White House about the course of the investigation at all. But it would be wrong to read that as suggesting that there was any influence on the part of the White House on this investigation. There were absolutely none.

Senator NUNN. There was never any?

Mr. FISKE. There was none.

Mr. LEVINE. I would like to say just to explain my answer a bit further that in the day-in and day-out operations of this investigation of a 2-year period that I found the Department of Justice in Washington very helpful and always willing to do whatever was necessary administratively to accomplish the legitimate objectives of the investigation.

Senator NUNN. We are delighted and pleased to know that. In spite of all the talk about political influence you never saw any political influence which in any way tried to impede this investigation from the Federal level?

Mr. FISKE. Mr. Scotto may have thought he had it, but he did not.

Senator NUNN. Who is Frank Leonardo?

Mr. LEVINE. Mr. Leonardo is now the president of ILA Local 1814. Information would indicate that he is Mr. Scotto's handpicked successor. He has had very little experience on the waterfront prior to his being hired by Mr. Scotto to perform various functions within the ILA Local 1814 and affiliated organizations. But during the time before his election as president of ILA 1814, he was an assistant to Mr. Scotto in a number of different areas and was elected as his successor after Mr. Scotto stepped down; was forced to step down.

Senator NUNN. Mr. Levine, do you have any additional legislative recommendations?

Mr. LEVINE. I would recommend among others that—I know Mr. Steinberg is considering—that the provisions of the Taft-Hartley law be changed from misdemeanor to a felony. I would agree with Mr. Fiske that the trusteeship powers of the Department of Labor be expanded because the breaching of the fiduciary duty on behalf of the

labor union official who takes bribes from an employer and therefore does not effectively represent the interests of the rank and file of the union is in my view an egregious violation of the fiduciary duty as the labor union official who takes money from the labor union's coffers.

[At this point, Senator Hatch withdrew from the hearing room.]

Senator NUNN. Thank you very much. This completes my questioning. You gentlemen have all been a great assistance to us and we thank each of you individually for being here today. Do you have anything else that you would like to say before the subcommittee?

Mr. FISKE. Thank you for giving us the opportunity to participate in your investigation. It is very worthwhile indeed.

Senator NUNN. Mr. Fiske, you are in the private practice of law now. Is that right?

Mr. FISKE. Yes, sir.

Senator NUNN. Where?

Mr. FISKE. In New York City.

Senator NUNN. Good luck to you.

Mr. FISKE. Thank you very much indeed.

Senator NUNN. You have had a lot of experience that will be valuable to a lot of clients, I am sure.

Mr. FISKE. I hope so. [Laughter.]

Senator NUNN. Thank you all for being here.

[Statements of Robert B. Fiske, Jr., and Alan Levine follow:]

STATEMENT OF ROBERT B. FISKE, JR., FORMER U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK AND ALAN LEVINE, FORMER ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK

My name is Robert B. Fiske, Jr. From March, 1976 through March, 1980, I was the United States Attorney for the Southern District of New York. I am appearing here today in response to your request that I describe for you the investigation into corruption on the waterfront conducted by my Office. I am very pleased to do that since I consider the waterfront investigation to be one of the most productive and successful investigations conducted during my four-year term as United States Attorney. Sitting with me this morning are Alan Levine, formerly as Assistant United States Attorney in my Office, and John L. Barrett, Jr., a Special Agent with the Federal Bureau of Investigation. Mr. Levine assisted me as co-counsel during the trial of *United States v. Anthony Scotto*, which I will describe in more detail later. Mr. Barrett served as case agent during both the investigation and trial of the *Scotto* case. Both of these gentlemen are thoroughly familiar with the scope of the waterfront investigation. One of the principle features of the investigation—and one that was to a major extent responsible for its success—was the continuing high level of cooperation between the Federal Bureau of Investigation and our Office at all phases of the investigation from the start of the first interview to the conclusion of the last trial, and in this regard it is highly appropriate that Mr. Levine and Mr. Barrett appear here today with me.

That investigation and the indictments and convictions resulting from it disclosed a pervasive pattern of corruption and payoffs in both labor and management in the waterfront industry. On the labor side the investigation disclosed payoffs to labor leaders to facilitate the performance of work called for by collective bargaining agreements like the loading and unloading of vessels, payoffs to reduce workmen's compensation claims, and payoffs to obtain the respective labor union leader's assistance in obtaining or maintaining business. On the management side, along with management's payoffs of labor leaders, the investigation disclosed a pervasive pattern of kickbacks among middle management throughout the industry in exchange for business. In addition, the investigation disclosed that recognized members and associates of organized crime have played a significant role in controlling and influencing all segments of the waterfront.

At this point in time the waterfront investigation conducted by the Southern District of New York has had a very impressive track record. More than twenty separate companies or their respective executives were convicted of felonies and/or misdemeanors relating to payoff or commercial fraud schemes. More than ten elected officials of the International Longshoremen's Association (ILA) were convicted after trial of racketeering offenses relating to payoff schemes. Included among those ILA officials are the local presidents from five separate ILA Locals in the New York metropolitan area. Moreover, the investigation in New York has also led to successful investigations in the ports of Norfolk and Philadelphia, as well as contributed evidence to successful prosecutions in the Southern ports.

Before turning to the specifics of a few of these cases, I want to touch briefly on two historical facts which apply to the entire investigation. First, I cannot overemphasize the pervasive nature of the corruption and payoff schemes discovered in the investigation. Not only have nearly all ILA Locals, through their leaders, been involved in various schemes, but companies from all aspects of the waterfront industry in one way or another have participated in these schemes. Moreover, the evidence disclosed that payoffs are not a new phenomenon to the waterfront industry. Businessmen testified that the payoff schemes of which they were a part have continued for many, many years and were only inherited by them from their predecessors.

Second, the investigation disclosed that the business on the waterfront is controlled by organized crime. Tape-recorded conversations obtained from electronic surveillance confirmed that organized crime controls the selection of ILA officials and the disposition of waterfront business in the respective ports. The evidence also disclosed that there was an interrelationship between that control in the Northern and Southern ports of the United States. I know that you will be hearing later from another former Assistant United States Attorney from my office, Michael Devorkin, who will describe for you the relationship of organized crime to the waterfront in the Northern port. I would like to turn now briefly to a description of another subject, which you have requested that I cover: the prosecution of Anthony M. Scotto and Anthony Anastasia, which I conducted together with Mr. Levine.

## II

On November 15, 1979, a jury sitting in the United States District Court for the Southern District of New York returned guilty verdicts against Scotto and Anastasia on 43 counts, including a conviction for participating in a pattern of racketeering activity against Scotto, conspiring to participate in a pattern of racketeering activity against Scotto and Anastasia, tax evasion and filing false tax returns against Scotto and Anastasia and numerous violations of the misdemeanor provisions of the Taft-Hartley Act for receiving illegal labor payoffs. On January 22, 1980, the Honorable Charles E. Stewart, the United States District Judge who presided at the trial, sentenced Scotto to a total of five years' imprisonment, and a \$75,000 committed fine, to be followed by five years' probation. On January 23, 1980, Judge Stewart sentenced Anastasia to a total of two years' imprisonment and a \$5,000 committed fine, to be followed by five years' probation. The convictions were affirmed upon appeal.

During the period 1975 through 1979, Scotto was President of ILA Local 1814 in Brooklyn and Vice President for Legislative Affairs for the ILA nationally. From 1975 through April 1978, Anastasia was Secretary-Treasurer of a companion Brooklyn ILA Local. In April, 1979, he became Executive Vice President of Local 1814. In addition, he was employed as an organizer of the ILA nationally. Local 1814 is the largest ILA Local in the country.

The evidence at trial demonstrated that throughout the period 1975 through 1979 Scotto and Anastasia corruptly used these positions as high ranking ILA officials both in Brooklyn and on the national level to demand illegal labor payoffs exceeding \$300,000 from at least six separate waterfront businesses employing ILA labor. Through the testimony of three separate employers of ILA labor and tape recorded conversations of Scotto and Anastasia obtained pursuant to court-authorized electronic surveillances, as well as other evidence, the Government proved the receipt by the defendants of a total of more than 40 separate cash payments—some as high as \$15,000—paid on a quarterly basis, as kickbacks or commissions on business, and as "extra" Christmas bonuses.

Briefly summarized, the proof established that Walter D. O'Hearn, the chief executive of John W. McGrath Corporation, a Brooklyn stevedore company, paid

Scotto \$65,000 per year—payable \$15,000 each quarter and \$5,000 at Christmas—to obtain Scotto's assistance as an ILA official in reducing fraudulent and exaggerated workmen's compensation claims filed by members of Scotto's ILA Local. William "Sonny" Montella, the general manager of Quin Marine Service, Inc. of Brooklyn, paid Scotto \$25,000 per year—\$5,000 per quarter and \$5,000 extra each Christmas—for three years for the purpose of obtaining Scotto's assistance in obtaining new business and keeping the business he had from shipping and stevedoring companies with which Scotto dealt as a labor leader. Pursuant to an on-going arrangement in which Scotto was also involved, Nicholas Seregos of Jackson Engineering Co., Inc., an ILA affiliated marine engineering company, paid Anastasia a ten percent "commission" for business he received with Scotto and Anastasia's assistance from two shipping lines which employed ILA labor. In addition, three other waterfront employers of ILA labor—Marine Repair Services, Joseph Vinal Ship Maintenance Co. and C. C. Lumber Co.—made payments of \$5,000 or \$3,000. None of these cash payments was reported by Scotto or Anastasia on his personal income tax returns.

The trial lasted nine weeks. Scotto testified on his own behalf, as well as produced many public figures as character witnesses. The jury did not acquit Scotto or Anastasia of any count and obviously rejected their defense and character testimony.

## III

There are two other aspects to the Scotto case which will give you insight into Scotto's ability as a labor leader to get paid these large sums of money: first, Scotto's role as a political leader and second, Scotto's role as a member of organized crime.

Evidence was adduced at Scotto's trial which demonstrated that Scotto had significant political power on both the local and national levels. The management of New York City's large waterfront is vested in the Department of Ports and Terminals. Mr. Scotto testified that he had in fact chosen the Commissioner of the Department of Ports and Terminals under an earlier Democratic Administration. With that position of influence in hand, Scotto was able to affect the disposition of public lands in and around the waterfront, including obtaining inside information as to particular lands that would be up for lease, influencing the selection of contractors that would perform services for the government in connection with those public lands, arranging for a particular union that would be given jurisdiction over jobs at some of the businesses operating on those public lands, and in some respects, creating businesses that could front for him in obtaining contracts or leases for those lands. The Government played for the jury a tape-recording of a conversation in Mr. Scotto's private office between Scotto and a former Commissioner of Ports and Terminals in which conversation Scotto learned about a particular real estate development in the Bronx and at the same time delivered an envelope containing a thing of value to the Commissioner for his assistance in another matter.

Scotto's power as a labor leader exceeded these local dimensions. In 1978, Governor Carey appointed Scotto's personal attorney to the New York position on the Waterfront Commission of New York-New Jersey. Included within that commission's power is law enforcement and subpoena authority over the ILA. Faced with strong political opposition, Carey withdrew the appointment. However, Carey's support of Scotto did not diminish. He testified as a character witness for Scotto along with two former New York City Mayors, a New York State Senator and the President of the AFL-CIO.

Scotto's power on the waterfront was also enhanced by his position as a member of organized crime. This committee is obviously aware of a report filed by the Department of Justice with the Senate Subcommittee on Criminal Laws and Procedures in 1969 which labeled Scotto a "Capo" in the Gambino crime family. As recently as 1978, evidence obtained in this nationwide waterfront investigation confirmed that position. In a tape-recorded conversation between Michael Clemente, a former ILA official and convicted racketeer, and William ("Sonny") Montella concerning Scotto's relationship with organized crime, Clemente stated in part:

"... Anthony came to me: hey Mike I hope you don't put me, pass me like my father-in-law. I said Anthony you prove you're a man you're a button. Then they made him a captain. Hey I got a politician that they made a wise guy."

[Transcript of a conversation dated September 12, 1978, at the Shelton Health Club between Michael Clemente and William "Sonny" Montella.]

With this background relationship one can understand the series of payments to Scotto as those typically made to organized crime figures. At least four companies on the Brooklyn waterfront made regular payments or "tribute" payments to Scotto merely because of his power, without seeking any particular assistance. One witness testified that the payments were made solely to maintain the company's existing business. Moreover, evidence demonstrated that payments from another company were more like regular dividend payments to Scotto reflecting an undisclosed interest in the company. Finally, tape-recorded conversations in Scotto's office between Scotto and Anastasia showed that Scotto and Anastasia maintained a "kitty" in which some of the monies which were received were deposited for ostensibly future use.

Another earmark of Scotto's role as a "Capo" in organized crime is the fear of physical retaliation felt by witnesses testifying against him. The Government was confronted with that fear in the course of its investigation. One witness who was ultimately compelled to testify under a grant of immunity refused to cooperate with the government or to prepare for his testimony at trial out of physical fear of Scotto and Anastasia.

## IV

Quite aside from the vast dimensions of the criminality disclosed by the nationwide waterfront investigation the crimes committed by both labor leaders and management have had a destructive effect on the ILA, on the waterfront industry as a whole and on the public. First, the convictions of Scotto and Anastasia, two very prominent national ILA figures, along with those of numerous other ILA officials, has brought the entire union into public disrepute. In fact, by the conclusion of this investigation there will be very few of the large ILA locals around the country which will not have an official convicted for some form of corruption or for taking payoffs. The ILA obviously has no intention of cleaning its own house. In September, 1977, Fred R. Field, Jr., the General Organizer of the ILA was convicted of racketeering charges in the Southern District of New York for extorting payments from United Brands in order to have their boats unloaded during a strike. He was allowed to keep his position—the number 3 position in the international union—through all appeals. When his final appeal was denied, and the position vacated, the union elected as his successor Anthony Scotto—then under indictment and about to go to trial for the racketeering charges for which he was convicted. At the same convention, the ILA created a new position—Assistant General Organizer—and elected to that position a man by the name of Carol Gardner who was a president of an ILA local in New Jersey. At the time Gardner was not only under indictment for racketeering but awaiting sentence on a conviction for Taft-Hartley violations.

The waterfront industry has also been seriously harmed by the crimes uncovered in this investigation. The proof disclosed at the Scotto trial, as well as in the course of other trials, makes plain that for a number of years the free enterprise system simply has not functioned on the East Coast of the United States. Businesses that are favored by ILA leaders and members of organized crime flourish and businesses that are not favored suffer. Moreover, there is no way of calculating the number of companies or individuals that have not entered businesses in the waterfront industry because of the notion that in order to make it on the waterfront one must payoff.

## V

In conclusion, this five year nationwide waterfront investigation disclosed an entire industry corrupted by organized crime and payoff schemes. Because of the vast success of this investigation the most prominent criminals on the waterfront have lost their positions within the union or their companies. Alone, however, those convictions will not make the waterfront an outpost of the free-enterprise system checked by a law abiding union. We commend the Senate Subcommittee's inquiry and encourage continued Federal and State action aimed at correcting these problems.

Senator NUNN. Our next witness is Mr. Michael Devorkin. Is Mr. Devorkin in the room? Mr. Devorkin was formerly an assistant U.S. attorney in the southern district of New York and we also have Mr. Louis Freeh who testified last week, special agent, Federal Bureau of Investigation, Washington, D.C. Mr. Devorkin, are you now in private practice?

Mr. DEVORKIN. Yes; I am.

Senator NUNN. I do not believe you have been sworn in. Mr. Freeh, you have already been sworn. You understand you are still under oath before this subcommittee?

Mr. FREEH. Yes, sir.

Senator NUNN. Mr. Devorkin, do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DEVORKIN. Yes; I do.

**TESTIMONY OF MICHAEL DEVORKIN, FORMERLY ASSISTANT U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK, N.Y., AND LOUIS J. FREEH, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, D.C.**

Senator NUNN. I know you have a very thorough statement here which I have read and I am sure Senator Rudman has had an opportunity to go through it also. I understand you will be summarizing that. We will put your entire statement in the record following your testimony.

Mr. DEVORKIN. Thank you, Senator. You can rest assured I am not going to go through my entire statement this afternoon. I will attempt to highlight the most important parts of it and summarize others.

Senator NUNN. We also have a transcript of portions of the tapes that will be played here during the course of Mr. Devorkin's testimony. Because I think we can handle it more effectively I am going to ask Mr. Steinberg again to handle the questioning on the tapes.

Mr. DEVORKIN. Senator, on May 2, 1980, a jury in the southern district of New York convicted 7 defendants in *United States v. Clemente, et al.*, on 160 counts involving Federal charges of racketeering, racketeering conspiracy, extortion, illegal labor payments, tax evasion, and perjury. All of those defendants with one exception are serving long prison sentences now, unlike some of the other cases that you have heard about this morning. The presiding judge, Judge Sand, had, I think, the good sense and courage to grant the Government's motion to remand those defendants pending appeal. Probably solely for the reason that the ILA does not want to have union officials in official positions while they are in jail, all of those union officials were convicted and each left office immediately upon or shortly after entering prison. These verdicts were reached after a 12-week trial before a sequestered jury, and represented the culmination of more than 3 years of coordinated criminal investigation by the U.S. attorney's office for the southern district of New York, the FBI, and the Internal Revenue Service. This investigation involved the efforts of several assistant U.S. attorneys, scores of FBI agents, substantial and highly significant court-authorized wiretapping and eavesdropping, consensually recorded meetings, and the critical and risky undercover cooperation of several witnesses.

In my former position as an Assistant U.S. Attorney, I served as lead prosecutor in the *Clemente* case and worked for more than 3 years

on the overall investigation of waterfront corruption being conducted by the office of U.S. Attorney for the Southern District of New York. Assistant U.S. Attorney Daniel H. Bookin assisted me at trial. And special agent Freeh who the committee is familiar with, seated next to me, was the case agent during the investigation and during the trial of the *Clemente* case and was one of the principal agents responsible for the success of the overall waterfront investigation. He is now a supervising agent at the headquarters of the FBI in Washington, D.C.

The indictment in the *Clemente* case charged in effect that there was a core group of defendants who were associated with and managed the affairs of an enterprise which controlled waterfront businesses and unions in the Port of New York and elsewhere through a pattern of racketeering activity consisting of extortion and illegal labor payments. The enterprise operated by extorting money from waterfront businesses in exchange for labor peace, the right to do business in the port and the right to do business with other waterfront companies which employed ILA labor. The proof at trial established that the enterprise extorted or demanded more than \$1.5 million from four businessmen who testified at trial. Based on this and other evidence available to the Government, it is fair to conclude that millions of dollars of other payoffs were received by these and other labor officials.

The enterprise in our particular case was led by two individuals, Michael Clemente and Tino Fiumara, both high-ranking organized crime figures in the Genovese organized crime family, currently headed by Frank "Funzi" Tieri, who was in fact recently convicted in the Southern District of New York for operating the Genovese organized crime family through a pattern of racketeering activity.

The enterprise that we had was essentially divided into territories or areas of influence. Those in control of one territory recognized the control and the influence of the other members over their territory and worked together for their mutual benefit and to advance their respective interests in their own territories. The organized crime figures in the particular territory dominated or controlled the ILA officials in that territory, various subordinates of theirs, and businessmen within the territory, and together, working as a group, were able to dominate ILA officials throughout the country. They in turn, of course, reported to higher organized crime officials.

In summary, I would say that the trial of Clemente demonstrated for the first time in open court that the organized crime families continue to control union and business activity throughout the waterfront, and in particular, they dominate and control officers of the ILA. Indeed, it is not an understatement to say that many of the ILA's highest leaders are either organized crime members or work for organized crime figures. I would add that because of this evidence it is fair to say that very little has changed in this industry since the 1950's when the New York Crime Commission held hearings in New York. In fact, I was reading in the committee's staff offices yesterday some statements by George Meany back in the early 1950's when the AFL began its campaign which ultimately resulted in the ILA being thrown out of the AFL. If you read Mr. Meany's statements back in the 1950's you do not have to change more than a comma or a word or two; in

some cases you do not even have to change the names that he is talking about when he began to urge that the ILA be thrown out of the AFL for its total and complete corruption and for its total domination by organized crime officials. Some of the same officials that he was using as justification for doing that back in 1953-54 are the officials who are in power today. In fact Teddy Gleason, ILA President, is one of the officials that Mr. Meany cites an example of that.

I would also add that I do not think my observations are entirely personal ones. Besides the fact I believe they are clearly based upon the evidence in the case, on the verdict in the *Clemente* case, Mr. Tendy, who was then U.S. attorney in our district, issued a statement to this effect. When Judge Sand held some post trial hearings in the case and denied the defendants' motions for bail, he stated that the evidence at trial had shown that there was an unholy alliance between organized crime and the ILA.

What I would like to do as briefly as possible today is give you a short overview of organized crime on the waterfront based upon the proof in the *Clemente* case and other proof available to us; detail some, very briefly, some of the facts in the *Clemente* case; and in addition, play some tapes with respect to that proof and comment upon some of the recommendations that I would urge upon the committee for consideration of future legislation.

Senator NUNN. Good. We have read all of your testimony. I find it very interesting and very professionally and thoroughly done.

Mr. DEVORKIN. I do want to state at the beginning, that while there was an enterprise that we proved in our case, I think it is important for the committee to recognize that this enterprise was simply part of the much larger organized crime operation in the city of New York and the waterfront area. In effect the waterfront in the Port of New York for organized crime and the ILA's purposes is divided into three parts. There is the New Jersey section, the Manhattan section and then the Brooklyn-Staten Island section. Each of those parts of the waterfront is controlled by a particular organized crime figure, who in one case happens to be a union official, and those people work hand and glove with one another to further each other's interest recognizing their respective interests and their own territories. Although we only proved two segments of the enterprise, New Jersey and Manhattan in the *Clemente* case, the Brooklyn side controlled by Mr. Scotto was as much a part of that enterprise the way it is recognized in the street, the way it is operated by the organized crime figures, as was the Manhattan and New Jersey side.

I would like to tell you a little bit about Mr. Clemente. I know the committee has heard something about him before. I would like to go into a little bit more detail about him. Mr. Clemente is 73 years old and he is the senior member of this enterprise, who exercised far-ranging influence over many, many high officials of the ILA. His specific base of power was Manhattan and because of his power over the ILA he had other power over the waterfront employers of ILA labor. He was not only able to extort money from the employers, but he was able to collect more than \$1.2 million from the Netumar Steamship Line in exchange for exercising his waterfront influence on their behalf.

Mr. Clemente was a member of the Genovese crime family. He reported directly to its current leader, Mr. Tieri. For New York purposes the Genovese crime family, at least over the past few years, has been headed by Frank Tieri, and the Genovese family in effect exercises control over Manhattan and New Jersey through subordinate officials like Mr. Clemente, with respect to waterfront affairs. The Gambino crime family basically controls the territory of Brooklyn and has traditionally done that since back in the early fifties when the family was headed by Albert Anastasia, who then appointed his brother, Anthony "Tough Tony" Anastasia to run the Brooklyn local. It is that succession historically which has carried through to today.

Mr. Clemente has been involved in the waterfront corruption and mob activities for more than 40 years. In the early 1940's and 1950's he was principal officer in Local 856 in Manhattan, and an associate of Albert Anastasia, Vito Genovese, then head of the family himself and Joe Profaci, another head of an organized crime family in New York City.

Indeed, in hearings in the 1950's there was substantial evidence of Clemente's connections with these individuals. There were telephone calls put into evidence showing that Albert Anastasia had asked Clemente to get a job for his brother, "Tough" Tony, that Albert Anastasia, Joe Profaci, Johnny DiGuardi, Carlo Gambino had all attended the wedding of Clemente's daughter in 1951.

However, in 1953 he was convicted in New York State for extortion and perjury in connection with payoffs he received from waterfront businessmen, including the very same John W. McGrath Co. which Mr. Fiske testified about earlier. At a result of that conviction, he resigned his position in the ILA and served almost 5 years in New York State Prison during which time, according to Mr. Clemente himself, Vito Genovese and Joe Profaci provided his family with money. It is also my understanding that when Clemente got out of jail after serving that time, that the John W. McGrath Co. provided him with a substantial sum of money to in effect make up for the fact that Mr. McGrath had been one of the principal witnesses against him at the State trial.

Thereafter, Clemente never held any official position of any kind with any union or any business holding a license with the Waterfront Commission. Indeed companies that hold such licenses are effectively barred from any contact with Mr. Clemente because they fear they would lose their license for associating with somebody of this character, although that obviously, from the proof in our case, did not stop them from secretly dealing with him.

Fred Field was appointed and in fact was his successor of Local 856. He was a protege of Clemente's and did his bidding thereafter. Through Field and other ILA members and organized crime affiliations Clemente effectively maintained his control over the Manhattan waterfront and various ILA waterfront activities. In doing that he exercised control over numerous ILA leaders on the local and international level, including Teddy Gleason, ILA president, Anthony Scotto, George Barone, Fred Field, and Thomas Buzzanca.

I wanted to point out that I know the committee heard testimony about Mr. Barone and perhaps Mr. Buzzanca last week. I wanted to

add to the facts which the committee already has set forth in more detail in my statement, that based upon reliable source information that the FBI has, it is my understanding that both Barone and Buzzanca are made members of the Genovese crime family, not merely associates or friends of members of the family.

Having described Clemente and his control of Manhattan, I would like to turn for a moment to Fiumara, who controlled New Jersey for the Genovese crime family. He exercised control through his control of other organized crime figures and various ILA officials, including the defendants Gardner, Colucci, and Buzzanca who were all presidents of ILA New Jersey locals. Fiumara is 38 years old. He has never had any official connection with any union. His only employment is allegedly as a part-time salesman for a New Jersey auto body repair shop.

However, he has extremely close ties with Frank Tieri, has had those ties and in effect was assigned by the Genovese crime family to control port activities in the northern New Jersey area. He had an extremely well-deserved reputation for ruthlessness and violence and was widely feared by businessmen and by enterprise members such as ILA presidents Buzzanca, Gardner, and Colucci. Reliable informants have identified him as associated with various other organized crime figures, including the late Pete LaPlaca, who was a capo in the Genovese crime family. I would add that on tape during the investigation, Mr. Clemente confirmed that Mr. Fiumara worked with Mr. LaPlaca. Furthermore, reliable Government informants, including some corroborative tape recordings, I think demonstrate that Fiumara was personally responsible for murdering two brothers of the defendant Vincent Colucci, an ILA local president who was convicted in the *Clemente* case.

I think that the strength of organized crime's control over the waterfront is classically shown by the fact that Colucci continued to work for and was clearly loyal to the man who was responsible for killing his own brothers. Fiumara perhaps more than anybody else involved in this case founded his control on this principle of fear.

Turning to the third section of the waterfront as it is organized in New York, that is the Brooklyn-Staten Island section. As I pointed out before, the Gambino family, which was preceded really by Albert Anastasia who was earlier in control of that family, historically was in control of the waterfront and union in Brooklyn. In 1959, Scotto's uncle, Anthony "Tough" Tony Anastasia, who was the brother of Albert Anastasia, head of that family, was a key figure in the ILA as head of the Brooklyn ILA local. He died. Scotto—in effect Scotto and the Anastasia family—went to Gambino and asked Gambino in effect to appoint Scotto to replace Anastasia; if you will, as a message or as an indication of respect for the Anastasia family, to appoint somebody who was part of the family, Scotto married "Tough" Tony Anastasia's daughter, Marion. Scotto himself went to Gambino and Clemente and asked for Clemente's assistance with the Gambino and the Genovese families which at that time were working very closely together.

Scotto promised his allegiance to Gambino. He was made president of the Brooklyn local and he was also made what is called a button

man, or the lowest level of member of an organized crime family, a soldier if you will, in the Gambino crime family. Later he was made a capo in that family. I would say given his union positions he exercised the same type of extortionate control over business and the assignment of the waterfront work in Brooklyn and Staten Island as did Fiumara in Manhattan and New Jersey, and he exercised that influence on behalf of the mob.

He showed that with respect to Clemente wherever it was necessary to do so, but he continued his principal allegiance of course to the Gambino family. He was a member and he continued to meet secretly with Gambino who at that time was the most important Mafia figure in the city if not the country.

There are reliable sources of information that during this period of time, Scotto would hold secret meetings with Gambino; that he would arrange circuitous automobile trips to various locations to avoid detection; and arrange these meetings so that nobody would see them. As I pointed out in my statement, as he became more politically active and publicly visible he tried as much as possible to avoid any of these direct contacts or be seen in this way. He was largely successful until our investigation and often during the investigation Clemente can be heard complaining on tape recordings about Scotto, who he would characterize as his politician, not being sufficiently accessible to him and not wanting to be seen with him any more. Now that the family had brought him into such position of power, he did not want to be observed any more with those that were responsible for his rise to power and fame.

In fact, in at least one instance, because Scotto had this very close allegiance with Gambino, he was able to deflect requests, fend off requests from other Mafia organized crime families in the city. On at least one occasion the leader of one of those families complained about the fact that he could not do anything about Scotto's activities in his own area, which is not traditional, because Scotto was still so close with Gambino.

Indeed, in our investigation in a tape-recorded conversation on December 12, 1978, Buzzanca referred to that fact and the fact that Scotto was extremely powerful when Gambino was still alive. I think any doubt about Scotto's organized crime involvement should be erased by statements that Clemente made to Mr. Montella, who was then cooperating, on September 12, 1978. I correct that date in my statement, it should be 1978, not 1979. On that occasion Mr. Clemente explained, as I have set forth above, how Scotto came to him for assistance, and how Scotto was first made a soldier in the crime family, or as Clemente says on the tape, made a button, and then made a capo in an organized crime family. I would like at this time to play that particular tape which is identified as transcript 1 for the subcommittee.

Senator NUNN. Go ahead.

Mr. STEINBERG. Will you play the tape reflected on the subcommittee's transcript No. 1?

Mr. FREEH. Yes.

CLEMENTE. Hi, Jack. The guys that sent me the money were Vito and Joe Profaci the old guy. They were sending my wife the money. Otherwise, she wouldn't have nothing. I come home, the other guy's dead. And the other cocksucker,

I come home and he went to the waterfront said that I was going to take over the Brooklyn. That's when his brother got hit. Then I had to promise them not to put the nails to his fuckin' coffin. Stool pigeon rat. That's when Anthony come to see me: Hey Mike, I hope you don't put me, pass me, like my father-in-law. I said Anthony, you prove you're a man, you're a man, you're a button. They made him a wise guy. Then they made him a captain. Hey, I got a politician that they made a wise guy.

MONTELLA. Hey listen, Mike. I got 1,000 here. I got, I'm short.

CLEMENTE. You fuckin' me around again.

MONTELLA. No, no. I'll bring you the thousand next week. All right? 'Cause things are tough.

CLEMENTE. Bring it Friday.

MONTELLA. This Friday.

CLEMENTE. I appreciate it. I'll tell you why. I bought, I (UI) I myself, bought four suits and two coats.

Mr. STEINBERG. Mr. Freeh, would you explain the content of that conversation?

Mr. FREEH. The contents, Mr. Steinberg, briefly were explained by Mr. Devorkin in his statement. Clemente here is relating to Montella the circumstances under which Scotto, one, took over control of 1814 and, two, was made a member of an organized crime family.

Clemente refers to Scotto, asking Mr. Clemente's intervention. Scotto saying that his father-in-law, Tough Tony Anastasia, passed him by, meaning he did not make him available as an organized crime figure. He goes on to say they made Scotto a wise guy, then they made him a captain.

Jokingly, he says he has a wise guy now who is a politician, again referring to the political contacts which Mr. Scotto had as related in Mr. Fiske's testimony.

At the bottom of the page, Mr. Montella is making a \$1,000 cash payment to Clemente. He is 1 month late in a previous \$1,000 payment. As I testified last week, that is for a business account called the Netumar Line which Mr. Clemente basically awarded to Montella for Montella's payment of cash to him on a monthly basis.

Montella describes that he is late but he will bring the additional \$1,000 on Friday.

Mr. STEINBERG. Mr. Freeh, Mr. Clemente states when he gets out of jail, the other guy is dead. Who is he referring to?

Mr. FREEH. He is talking there about Albert Anastasia.

Mr. STEINBERG. Then he says the other man, when he came home, the other man went to the waterfront, what is he talking about there?

Mr. FREEH. That is another reference to Anthony Anastasia, who Clemente believes went to the Waterfront Commission and gave information which was basically adverse to Mr. Clemente's position.

Mr. STEINBERG. He says that is when his brother got hit. What is he talking about?

Mr. FREEH. There he is referring to Albert Anastasia who was murdered in New York City at that time.

Mr. STEINBERG. Then they go on to talk about putting Anthony Scotto in as a button man, then a captain in the Gambino family. Is that correct?

Mr. FREEH. That is correct.

Mr. STEINBERG. Thank you.

Mr. DEVORKIN. I would also point out to the committee that on June 15, 1978, Clemente was recorded on tape in a meeting with Mr.

Montella, discussing what would happen in the investigation if somebody were to cooperate, and he again advised Mr. Montella that even Scotto would be murdered within 24 hours by organized crime members, if he ever decided to cooperate with the Government.

I would like to turn very briefly from that overview to talk somewhat about the facts in the *Clemente* case.

The enterprise therein succeeded through a classic scheme of extortion. Its victims were the steamship lines and other waterfront businesses servicing the Port of New York. These companies employed two types of ILA members: One, longshoremen, who loaded and unloaded cargo on ships docked in the port. In the second instance, there are carpenters or lashers that physically secure the cargo once it is on board the ship using wire or other devices or building platforms and so forth. The ILA has the ability to artificially increase the costs to the steamship companies through work stoppages, disputes over procedures, manning requirement, causing low productivity, all of which are well-known and feared by businessmen and the men who work in the waterfront industry.

The union officials and the organized crime people are then able to capitalize on the companies' fear of economic injury and the adverse union activity to extort money, either for labor peace, or for granting business contracts.

I might just explain for a moment there, that in effect, if a union official says to a steamship line that he thinks the ABC Lashing Co. is a very good company, and he thinks it would be really nice if the steamship company tried out the ABC Lashing Co., the union official doesn't have to say any more than that to the steamship man. The steamship man then has in his mind that this ABC Lashing Co. is a favored company of this union official and he has to be thinking, knowing the waterfront, that he is going to keep this union official happy by using the ABC Co., or on the other hand, displease the union official by not using the ABC Co.

The result of displeasing the union official is this potential union activity: Slowdowns, problems that can't be effectively enforced under the contract as a practical matter. The company wants to avoid those kinds of problems, so he tends to go along with the recommendation of the union official. It doesn't have to be anything less subtle than that and it often isn't anything less subtle than that.

It doesn't require the union official threatening explicitly or physically abusing the businessman. All he has to do is put the word in and his friend or his company that he favors will get the work and then he can turn around to that company, and say, "You see, I got this work for you. I can control or take this work away from you and therefore you should pay me." That is basically how all of these instances of buying and selling contracts by the union officials on the waterfront work, at least as we discovered in our investigation.

In the *Clemente* trial, five waterfront businessmen testified about the defendants' extortion racket and their payment of more than \$1½ million directly to or in the presence of every defendant from 1974 through 1978. Three businessmen, Mr. Montella, Dennis Meenan, and Manuel Costello, Jr. testified that they paid more than \$300,000 in cash to avoid economic injury threatened by one of the defendants.

Walter Gainsbury and Charles Mattman, who were officials of the Netumar Steamship Line, testified about paying Mr. Clemente \$1.2 million to obtain certain economic benefits for their company. I would say all of these witnesses were corroborated by numerous electronic recordings of the conversations with defendants, documents, physical surveillance by Government agents, and by the testimony of other witnesses.

Since a substantial number of the payments were received by the defendants from Mr. Montella, I thought I would outline those payments to you.

Mr. Montella was the general manager of Quin Marine Services, a marine carpentry, lashing, and container repair firm with headquarters in Brooklyn, which by the way was owned by the John W. McGrath Corp., where Mr. O'Hern was making payments, and I think you will hear about those.

From 1974 through December 1978 Montella complied with various extortion demands of Clemente and Gerald Swanton, who was Netumar's vice president and associated with Clemente, and paid Clemente \$42,000 in monthly cash payments to obtain and retain for his company the business of Netumar Lines at pier 36 in Manhattan.

From August 1975 through December 1978 Montella also paid approximately \$100,000 in cash in order to obtain and retain the account of the Concordia Line in Newark, N.J. At first, those payments by Montella were made to Colucci and Gardner, two union officials.

Later, after Montella complained about the collection tactics of Colucci and Gardner, Clemente arranged for Montella to make the payments to Buzzanca, who in turn handed the money over to Fiumara. The proof at trial also showed that from 1975 to 1978, the Ecuadorian Line in Newark paid more than \$100,000 to Gardner for labor peace. The Castellós paid Gardner \$1,000 per month during this period in order to retain Ecuadorian's business.

During this same period of time that Montella was paying Clemente and Fiumara, Clemente arranged for Fiumara, Buzzanca, and George Barone from Miami to get additional business for Montella, and Clemente and Fiumara worked together to expand the scope of this illegal enterprise and to insulate the enterprise from detection and prosecution.

During many of Mr. Montella's meetings with Clemente, Clemente told him about his power over and relationships with various high ILA leaders and waterfront businessmen and waterfront operations. He often told Mr. Montella that he was responsible, for example, for getting Fred Field his powerful position in the ILA as the general organizer. Mr. Field was Mr. Scotto's predecessor.

Mr. Clemente advised Mr. Montella how he was grooming Scotto to replace Field. He explained which ILA officials controlled which areas of business. He frequently discussed his own contacts with the ILA, his numerous meetings with high ILA officials and his ability to have ILA officials do things for him, including get work for businessmen that he favored.

At this time, I would like to play for the committee a tape of a meeting between Mr. Clemente and Mr. Montella on June 15, 1978.

Senator NUNN. Let me ask one question first on that first transcript, Mr. Freeh. I am not sure I understand that completely where Clemente is talking about someone sending the wife money and I come home the other guy is dead, and so forth; come home and he went to the waterfront, said I was going to take over the Brooklyn, that is when his brother got hit. Who is he talking about that got hit and what do you interpret him meaning there?

Mr. FREEH. He is talking about Albert Anastasia getting killed. Senator NUNN. Albert Anastasia as in Murder, Inc.?

Mr. FREEH. That is correct. He is the brother of Tough Tony Anastasia, who was No. 1, Scotto's father-in-law, No. 2, the previous president of 1814.

Senator NUNN. How did Anastasia die?

Mr. FREEH. Which one?

Senator NUNN. Albert.

Mr. FREEH. Albert was murdered in a New York City hotel, sitting in a barbershop, Park Sheraton Hotel.

Senator NUNN. How about Tony?

Mr. FREEH. Natural causes.

Senator NUNN. Is Clemente saying by implication here that he knew about those arrangements or can you read that into it?

Mr. FREEH. I don't think he is saying that, Senator. I think this is a suspicion, repeated by Clemente in other conversations, that the Anastasia brothers basically abandoned him when he was sent to prison and made it much more difficult for him to reestablish his niche on the waterfront when he was released from prison.

Mr. DEVORKIN. There is another section on the tape which I think contains something about not providing funds to his family when he went to jail. It wasn't Albert. It was Genovese and Profaci who were doing that for him. He was upset at that.

Mr. FREEH. That is correct.

Senator NUNN. Let's go ahead.

Mr. FREEH. This will be transcript No. 2, June 15, 1978, recording.

CLEMENTE. Billy D. I told him to look for, for Anthony. Make an appointment. I wanna talk to him. [Pause.]

MONTELLA. Tell ya the truth they're, they're all over the goddamned place.

CLEMENTE. All over. They got 80 agents (background voices) —

CLEMENTE. Remember I told ya I had four cars.

MONTELLA. Yeah.

CLEMENTE. That was a week after I met with him. Discussing certain things. We tried to straghten my (UI). They're all stool pigeons rat cocksuckers. Startin' with Mr. Gleason. He's being very cooperative, Gleason. Always very cooperative. He gives everything out. Books or whatever they want. Anything ya want he gives ya. That's what I mean, cooperative.

MONTELLA. Yeah, but when they subpoena your books there ain't no fuckin' thing ya can do about it. They subpoenaed mine, too.

CLEMENTE. Ya see. Years ago, when Captain Bradley was attacked up there. Friends of mine came from Harlem. Mike, go with Teddy Gleason. Better than the other guy. The other guy's in the grand jury, he's talkin'. Yeah, the guy was going into the thing. Never said nothin'. You think I told Captain Bradley, put this guy, make him another (UI) make him another, two men's better than one. (UI). This cocksucker promised me everything in creation. Now, we're working on the Banana Council. Why do you suppose there's so much. Where's the money? He got it. That'll come out in the paper.

MONTELLA. Gleason got the money?

CLEMENTE. Him and Gleason. Who else could have gotten it?

MONTELLA. I don't I don't understand what the hell they're so hot on Anthony for. That I don't understand.

CLEMENTE. I guess the reason for that is the new (UI) FBI. 'Cause they're really hot against him.

MONTELLA. Carey?

CLEMENTE. (UI) with uh, Anthony. (Pause) They sent me a fuckin'. It's with ah, Florida paper had a copy (UI). How he's a target, the main target. They even mentioned organizin' anybody (UI). I don't know what business they did, who they were shaking down, what extortion and everything. They're gonna get hit with extortion. They're gonna get hit with conspiracy. They're gonna get hit with the income tax (UI).

MONTELLA. I don't think that they can prove it though.

CLEMENTE. You, they got, they were doin' business with an agent. Don't you understand? A government agent FBI man. He went to, they, they put him to work with a stevedore. (Background voices)

MONTELLA. Ah, boy.

CLEMENTE. Sonny, the only guy that could hurt, the only guy that could hurt you, is the guy ya do business with. If that guy's all right, what ya got to worry about? (Background voices) Anthony and the wise guys don't talk if they did somethin'. They gonna hang us both? His life won't be worth two cents. In 24 hours he'll be gone. (Pause) (Background voices) If they're watchin' you, ya just do your business. Direct everything. Ya gotta see this guy, go and see him. (UI). Ya gotta see ah, the stevedore ya gotta see the (UI). Do the same thing. But don't go to lunch with him, talk (UI) business. As long as they're in back of you, ya know they got nothin' on ya. When they stop, then you find out. (UI) subpena.

Mr. STEINBERG. Mr. Freeh, on the first page of that transcript, Mr. Clemente mentions Billie D. Who is Billie D.?

Mr. FREEH. Billie D. functioned as Clemente's driver, also used as a messenger from Clemente to Scotto as well as other individuals. Clemente was reluctant to contact Scotto directly. He used Billie D. as a messenger.

Mr. STEINBERG. After talking about the number of FBI agents on the case, then Clemente talks about meeting with someone and discussing the fact that Mr. Gleason was being too cooperative.

Would you explain that?

Mr. FREEH. Mr. Clemente is commenting on both the ILA and Mr. Gleason's response to grand jury subpoenas which were being issued at this time in New York City for books and records of the ILA.

In Mr. Clemente's view of things, not obstructing those subpoenas and turning over the records as required, is equivalent to being a rat or stool pigeon, which is common parlance by organized crime figures for being cooperative with the Government, disfavored in terms of their values.

Mr. STEINBERG. At the top of the next page, Mr. Clemente speaks about the removal of Captain Bradley. Who was he and how does Mr. Clemente claim he was removed?

Mr. FREEH. As I summarized last week, Captain Bradley was Mr. Gleason's predecessor as president of the ILA. According to Clemente in this conversation, friends of Clemente removed Mr. Bradley and allowed Mr. Gleason to replace him as president.

The friends that Clemente refers to are from Harlem, which to my understanding is a reference to organized crime people who came down at some point in time, removed Bradley from office and, therefore, allowed Gleason to succeed him as president.

Mr. STEINBERG. Does he also state what happened with Freddy Field?

Mr. FREEH. In terms of Field, Clemente said, "We made him the general organizer," which is the third-ranking position in the ILA. Clemente goes on to say, "We're working on the Banana Council," where they were trying to get another representative. Mr. Field later, I believe, became a member of the Banana Council.

Mr. STEINBERG. Do you know what money he is referring to when he talks about Mr. Gleason and the money?

Mr. FREEH. No, I do not.

There is a conversation where Clemente is knowledgeable about some amount of money for some unspecified purpose received by Gleason. We have never determined what that was.

Mr. STEINBERG. When they go on later in the conversation to talk about how anxious the FBI is to proceed against Mr. Scotto, they mentioned Carey, do you know who that is?

Mr. FREEH. That is a reference to Gov. Hugh Carey of the State of New York.

Mr. STEINBERG. Is that the same individual who testified as a character witness for Mr. Scotto?

Mr. FREEH. That's correct.

Mr. STEINBERG. On the next page after Mr. Clemente discusses how the FBI had an undercover agent involved and the case might be hard to beat, does he give Mr. Montella any advice on how he should operate from that point?

Mr. FREEH. The last excerpt from Mr. Clemente's conversation is what he deems to be practical advice to Mr. Montella to avoid detection, to avoid surveillance by the FBI and even actual prosecution.

He tells Montella basically that as long as you are doing business with wise guys such as Scotto himself, there is no need to worry because the wise guy is never going to cooperate with the Government, referring specifically to Mr. Scotto.

Clemente says Scotto would never cooperate and if he did, we'd kill him.

Mr. STEINBERG. Thank you.

Senator NUNN. This reference to Carey here, I don't know what the reference is to. It seems to me that name was thrown in, was it, by Clemente or by the Government agent?

Mr. FREEH. Senator, there is an unintelligible portion of the conversation right before Montella mentions Carey's name. From debriefing Montella, we discovered that in answer to Montella's question as to where the investigation focused, Clemente's interpretation of that was again Scotto and he mentioned the Governor's name at the same point. That is Clemente's interpretation of where the investigation was focused.

Senator NUNN. There is no real explanation here as to why he mentioned the Governor, is there?

Mr. FREEH. No, sir.

Senator NUNN. No allegation of wrongdoing here on the part of Governor Carey?

Mr. FREEH. No.

Mr. DEVORKIN. In addition to paying Mr. Clemente for his contract on the Manhattan piers, as I said before, Mr. Montella paid for some contract or contracts in New Jersey. In a very summary fashion,

the way that came about was that Carol Gardner who was a president of a New Jersey stevedoring local of the ILA, was going around literally selling this contract. A meeting was arranged between Mr. Gardner, Mr. Montella, Mr. Colucci, another ILA president, and one Joseph Lacqua. There was conversation that in effect involved Gardner telling Montella that the contract could be bought for \$50,000. That is how much it was going for.

Montella said that was too high a price. Gardner said that is what your competitors would pay for it, mentioned specifically a competitor by the name of Lee & Palmer, another carpentry company.

It was in a series of subsequent meetings that Mr. Montella managed to get Mr. Gardner to bring the price down and the final price that was agreed to was a price of \$10,000 up front plus \$2,000 a month to keep this Concordia Line contract.

In addition, Montella promised to pay Mr. Gardner \$10,000 under the table.

In effect what happened was that Gardner took \$10,000 that none of his conspirators would know about in exchange for getting this contract for Montella. Montella got the contract. Gardner and Colucci started to call him the same time each month for the monthly payment. He didn't know which one to pay. This went on for a few months. He went to meet them, he tried to straighten that out. At the same time they started demanding money from him for another contract which he already had, a company called the Chilean Line.

Mr. Montella had been doing their business in Brooklyn. When he moved to New Jersey, he kept doing for it. Mr. Gardner said, "What about the Chilean Line, you are not paying us for that." Montella said, "That is my contract." Gardner corrected him and said, "That's not your contract, that's my contract, you have to pay for that contract." In effect he told them again that Mr. Montella's competitors, again a company by the name of Lee & Palmer, was willing to pay \$2,000 a month for that contract.

Montella talked it over with an associate. They could only come up with \$500 a month. That didn't match the Lee & Palmer bid for the contract. Gardner told Montella that the contract was no longer his.

Montella said to him, "I don't understand, what am I supposed to do, just quit?" Gardner said, "That's exactly right, just walk away from that contract." That is exactly what Montella did. He had a general meeting with the general director of the Chilean Line and told him he couldn't do his work any longer, and walked away from it completely.

The reason he did that was that he knew Gardner and Colucci would take his contract from the Concordia Line away from him if he crossed them. He would lose his \$20,000 investment and also this Chilean Line. He would be without anything. This got to Mr. Montella. After a while, he went to Mr. Clemente and explained what was happening. Clemente told Mr. Montella that he made a commitment. On the waterfront, when you make a commitment, you have to live up to that commitment. That meant Montella had to keep making these payments. Clemente arranged for Mr. Buzzanca to get involved and stop the multiple requests that were coming from Gardner and Colucci for the same payments. In effect, what happened was that Clemente arranged

a meeting and Buzzanca was brought into it. Buzzanca had a direct tie with Fiumara and there was a meeting between Clemente, Buzzanca, and Montella. Buzzanca clearly respected Clemente's position, power, superior position, and told Clemente he was sorry Montella was having these problems, and that he would take care of it. From now on Montella would just pay Buzzanca. Montella no longer paid Gardner and Colucci. They were out of the picture. Buzzanca took the money and passed it on to Mr. Fiumara to whom he reported.

I think as the tape you just heard illustrates, the defendants in this case were extraordinarily contemptuous of the investigation that was going on and obviously contemptuous of the laws that prohibited them from this kind of conduct in the first place.

The tape, I think, illustrates Clemente's contempt for that process. This was a significant factor throughout the investigation and throughout the trial. One other example of this, an example of Buzzanca's greed and his brazenness, was exemplified by a meeting on May 19, 1978, that he had with Montella. Two days before that, Agent Freeh and Agent Cassidy of the Bureau approached Mr. Montella to seek his cooperation and generally advised Mr. Montella of the extent of evidence the Government had against him and that he had been recorded in his own office speaking about these things.

Mr. Montella had not yet decided to cooperate. He was extremely agitated, nervous, frightened. He wasn't sure if he would cooperate with us or what would happen if he did or didn't cooperate, but he had a meeting scheduled for a monthly payment with Mr. Buzzanca.

In effect, Montella tried to warn Buzzanca at that meeting without explicitly telling him that the Bureau had come to him. He tried to warn him and tried to tell him the investigation was particularly heating up, it was getting very, very close to everybody. In effect, he was predicting to Buzzanca that "We are all going to wind up in jail." But Buzzanca's only response, which I think is typical, was that "I could use the rest, business as usual." With that, Montella gave Buzzanca the \$2,000 cash because he was afraid to stop making the payments until he made up his mind about cooperating.

This was similar to a warning Fiumara had given Montella in 1977 at a similar meeting. Montella complained he was frightened because his books had been subpoenaed and the FBI was intensely investigating his activities and Fiumara just looked at him and said, in effect, "You keep making these payments. That doesn't change anything."

This conduct is typical of these defendants. They all knew there was an intensive investigation of their activities, that they were being followed, the phones were possibly tapped and that colleagues like Barone had already been indicted in Miami.

Much of this is going on while Barone is already under indictment and yet their racketeering activities continued in full force.

As Judge Sand noted at the trial in the *Clemente* case, this fact demonstrated either the defendants' complete contempt for society and law enforcement, or their total inability to withdraw from the conspiracy.

As I said before, there was overwhelming evidence that at all times during this case, Fiumara directed and controlled the activities of Buzzanca, Colucci, Gardner, and other ILA officials. Through the

words of Fiumara and some of his compatriots, you can see the remarkable degree of Fiumara's power and the fear with which people in the ILA and others dealt with him.

I think it is best illustrated by recordings of two conversations Montella had: one with Buzzanca on December 12, 1978, and one with Gardner on December 22, 1978.

What I would like to do at this time, Mr. Freeh is going to play those two tapes. The first is transcript 3 and the meeting with Gardner and the second is transcript 4, the meeting with Buzzanca.

Mr. STEINBERG. Mr. Freeh, would you play those tapes at this time?

Mr. FREEH. Yes. I will play tape No. 3 first.

GARDNER. Remember one thing. When I level with you I don't make no more until I, ya know, check with, I do the thing right. And if everything, I mean I'm talking to you off the record (UI) goes down. I don't have the last decision. I'm look ya square in the eyes and I'm telling you the truth.

MONTELLA. Well Colucci had told me. He says to me that they had offered him a thousand. Then they wanted two thousand for me to take it. You remember that? It was right here.

GARDNER. Yeah. Yeah I remember. We were sittin' right behind that.

MONTELLA. That's right. And ah, ah, I tell ya.

GARDNER. Oooh. Now well, maybe Vinny went under and fucked you around.

MONTELLA. A little bit.

GARDNER. That's probably. Oh I see what you mean when you say double bang. Now I get the picture.

MONTELLA. I mean. Ya know I don't know Palmer pays for his fuckin' account, but between you and me it, ah. If he got what he says he got, fine. Ya mean but it wasn't worth it to me. I didn't make that much fuckin' money over there. I mean it was a small, it was a small account, and when I lost it, I said Jesus Christ I get Concordia, I mean.

GARDNER. Yeah.

MONTELLA. And hell I'm doing the right thing with Concordia and all of a sudden I lose Chilean. That, that, that hurt me. Ya know what I mean? And, and you remember when I met you with Vinny?

GARDNER. Then if anybody went underneath, it wasn't Junior. It had to be Vinny.

MONTELLA. All right.

GARDNER. Cause I see what he did by now about getting double banged. What do you want me to do now, ya know with—

Mr. STEINBERG. Stop the tape there and explain what he is talking about.

Mr. FREEH. This conversation, which incidentally takes place on the lobby floor of the ILA headquarters in New York, Mr. Gardner commences the conversation on page 1 by talking about not having the last decision. This is in terms of Montella's request that Gardner help him get some additional business.

The reference there is clearly to Fiumara.

The rest of page 1 is a rehash and recitation between the arrangement with Montella, Colucci, and Gardner back in 1975 and 1976 when payments were being made, but in Montella's words he was being double banged, meaning Gardner and Colucci were accepting payments every month. That transaction was summarized by Mr. Devorkin.

On the next page, page 2, Mr. Montella talks about how he was doing the "right thing" with Concordia. The "right thing" means he was making payments, making unlawful payments.

Despite that, he says he lost the contract. Gardner says that was probably Colucci's doing, tries to lay the blame off on Colucci. Gardner acknowledges now that incident which had taken place in 1976 and

which was the result of Buzzanca and Fiumara replacing Colucci and Gardner as the collectors of the payments.

Mr. STEINBERG. Would you continue with the rest of the tapes?

MONTELLA. No. That's all right. I, I see "T".

GARDNER. OK.

MONTELLA. Know what I mean, I see "T". Ya don't have to say nothin' to "T" about whether I'm givin' ya now cause I,

GARDNER. OK. Now I know.

MONTELLA. I do the right thing with "T". "T" is OK.

GARDNER. Yeah.

MONTELLA. This is between you and me.

GARDNER. And it won't go no further?

MONTELLA. Don't go no further.

GARDNER. No.

MONTELLA. This, like that. Like I said. I never told him about the twenty grand. I told him it was ten.

GARDNER. Yes.

MONTELLA. I, and I mean I told him that I lost Chilean Line. He didn't know who I was at the time and so forth, and so on. But ah. And I explained to him Colucci said, ya know, it was worth two thousand a month.

And I said Jesus Christ almighty. If you remember I was arguin'. I said I said.

GARDNER. Yes. I remember it, sure.

MONTELLA. I says, Christ, I can't pay it. The fuckin' account ain't worth. I don't make a thousand a month on that fuckin' thing. But, bygones are bygones.

GARDNER. Yeah.

MONTELLA. So look. I think it's cool in here. Hut?

GARDNER. Ha?

MONTELLA. I think it's cool, all right here?

GARDNER. Ok. No problem.

MONTELLA. This here's a lit—this here's a little, a little something for ya.

GARDNER. Um.

MONTELLA. For Christmas to you.

GARDNER. Ok.

MONTELLA. Between me and you, because we gotta work together. You been good to me.

GARDNER. There won't be no problem.

MONTELLA. Alright?

GARDNER. And I guarantee you whatever I can do to help you, I'll do it. Even with the 2. And we not only have the Barber Line comin' in. Ya have a couple a more comin' in.

MONTELLA. Oh yeah?

GARDNER. Let me know when ya wanna sit down, and we'll—I'll sit down. In fact I'll mention it to "T". Hey. He's gonna manage. He's (ui).

MONTELLA. He's beautiful people.

GARDNER. Oh! Yeah.

MONTELLA. He's beautiful people I like. "T" is a very—

GARDNER. I'm serious—(ui).

MONTELLA. He treats me very well.

GARDNER. He's a man, and one thing about him, I love him 'cause he was helpin' me when other people was trying to fuck me around. And he came in. I laid it on the line and he, he opened the door for me.

MONTELLA. He's good people. He really is good people.

GARDNER. Beautiful. Now all I wanna say is whatever, one thing I, I'm levelin' with ya. I'm really loyal to him.

MONTELLA. Ha?

GARDNER. I say I'm very loyal to this guy.

MONTELLA. I want you to be.

GARDNER. All right? Now.

MONTELLA. I want you to be.

GARDNER. I'll say this to ya.

MONTELLA. I want you to be Junior, 'cause I'm gonna tell you somethin' too. So ah I.

GARDNER. Ok.

MONTELLA. Ya understand? But if I choose to do somethin' for Christmas—

GARDNER. I know. It's—

MONTELLA. That, that's a different story.

GARDNER. That's no problem—(ui).

MONTELLA. You understand?

GARDNER. He will not know about this.

MONTELLA. Right. 'Cause I mean, ya know—

GARDNER. I understand. But I can sit down and talk to him like I'm talkin' to you and say, now give it to Sonny. Whatever ya want me to do I'm there.

MONTELLA. Right.

GARDNER. 'Cause it's comin' in—Universal—big, hey'll be in there.

MONTELLA. 'Cause the other guy. Ya know, between you and me, Bert, he's got the whole God damned thing.

GARDNER. I know, I know. We, we have to ah, slow him down a little bit, ya know? Whatever you want done.

MONTELLA. I mean.

GARDNER. I'm there.

MONTELLA. I mean, ya know. I don't know what he does, but he, he must do it in a big way.

GARDNER. Fuck him. You want some of the action?

MONTELLA. Just a little bit.

GARDNER. See him. Then tell him. Hey, listen. Just say, ah "T", should I give something to Junior or whatever? Do what he says and—

MONTELLA. All right.

GARDNER. I'll meet with him and—

MONTELLA. All right.

GARDNER. Sit down. Whatever I have to do. Ok?

MONTELLA. Good enough.

GARDNER. Love ya.

MONTELLA. Take care Junior.

GARDNER. Bye Sonny. Thank you.

MONTELLA. Ciao.

GARDNER. Stay in touch.

Mr. STEINBERG. Mr. Freeh, will you explain that conversation starting in the middle of page 2, and tell us who is "T" and why do they refer to him as "T"?

Mr. FREEH. "T" is a reference to Tino Fiumara. There was a continuing reluctance by all the defendants in this case to mention Mr. Fiumara's name always on the telephone and usually in private conversations such as these.

At the bottom of page 2, Montella is telling Gardner that he sees "T" directly. He tells Gardner that he does not have to tell Fiumara about the \$1,000 which Mr. Montella is about to give Gardner.

On page 3, Montella, again, "I do the right thing with "T." That means he pays "T." Gardner understands that. Montella mentions that the payment he is making now won't go any further.

Mr. Gardner acknowledges that.

In a reference to the \$20,000 payment which Montella made to Gardner back in 1975, he reminds Gardner that he told "T" that it was 10, not 20 grand, meaning that Gardner is retaining the additional \$10,000 without Mr. Fiumara's knowledge here, has never been disclosed by Mr. Montella. Mr. Gardner acknowledges that.

The conversation goes on talking about the Colucci-Gardner deal wherein Concordia Line was gained, but the Chilean Line was lost.

On page 4, the payment of the \$1,000 is made to Mr. Gardner. This is in a public coffeshop. The \$1,000, which is money provided to Mr. Montella by the Government, is paid to Mr. Gardner contained in the envelope.

Mr. STEINBERG. Is that the crackle we heard on the tape?

Mr. FREEH. That's correct.

Mr. STEINBERG. You said this happened in the ILA building itself.

Mr. FREEH. This is the lobby floor of the ILA headquarters in New York.

Mr. STEINBERG. Had there been other payoffs made in the ILA building?

Mr. FREEH. Yes, back in 1975 and 1976, Montella was paying directly to Gardner and Colucci. The payments usually took place in that same location. Montella mentions that the payment is for Christmas between Gardner and himself because they have to work together. Gardner assures him there won't be any problem. Gardner goes on to tell Montella, "I guarantee you whatever I can do to help you, I'll do it," meaning he will help him get work on the New Jersey waterfronts.

Gardner mentions that besides the Barber Line coming in, which is a steamship company Mr. Montella would like to have as an account, Gardner mentions there is a couple more coming in.

Gardner goes on to page 5 to tell Montella, "Let me know when you want to sit down and we'll sit down. In fact, I'll mention it to "T.""

Gardner cautioning Montella here that he is going to report this conversation to Mr. Fiumara for whom Mr. Gardner works. The conversation goes on talking about Mr. Fiumara. Nothing derogatory is said about him by either. In fact, Gardner reminds Mr. Montella that he is very loyal to this guy, meaning Fiumara.

Mr. DEVORKIN. I think it is fair to say here Gardner is not sure exactly what is going on here. He is probably not sure whether this is a test of him or not. He is making a lot of comments about Fiumara. They are all true in his own mind, but I think he is going out of his way to assure Montella in case Montella is going back to Fiumara and describing this, that he is absolutely loyal to Fiumara and there is no attempt to go behind Fiumara's back.

There is some of that going on in the conversation.

Mr. FREEH. Continuing on page 6, Mr. Gardner says he can sit down with Mr. Fiumara at any time and talk to him about getting work for Mr. Montella. He assures Mr. Montella whatever he wants done, meaning Montella, Mr. Gardner will help him.

Gardner mentions that Universal is coming in. That is another account which would be very important economically for Mr. Montella to have.

Mr. Montella talks about Bert, that is a reference to Bert Guido, which is a competitor of Montella, much larger in size, many more accounts in the port of Newark. Montella complains about the competition and Gardner says, "Well, we'll have to slow him down a little bit."

That is a reference to Guido, and I understand that to mean Mr. Gardner saying, we are going to distribute some of that work from Mr. Guido back to you. The remainder of the conversation, Gardner tells Montella to see him, meaning Fiumara. And on the last page, Gardner says, "See him. Just say, ah, "T", should I give something to Junior, or whatever?"

What Gardner is telling him here, "Talk with Fiumara, tell him what you want me to do and ask him if you should give me some money." In other words, "Before you pay me, make sure you clear it

with Mr. Fiumara." Gardner says he will meet personally with Fiumara and the conversation terminates at that point.

Mr. STEINBERG. Can we go on to the next conversation, transcript 4?  
Mr. FREEH. Yes.

This conversation takes place on December 12, 1978, between Montella and Thomas Buzzanca at Ponte's Restaurant in New York City. It is transcript No. 4.

MONTELLA. Tell "T" I wanna see him, make an appointment, I wanna talk with him again, I'm gonna give him—

BUZZANCA. Next Wednesday.

MONTELLA [continuing]. Something for Christmas.

I wanna give him five grand for Christmas. And I'll give him the two grand that he's got to get there, this and that. But uh—

BUZZANCA. You're gonna give him two plus something for Christmas?

MONTELLA. I'm gonna give him the two plus five. I want you to know. You want me to give it to you? I'll give it to you.

BUZZANCA. No, no, no, I want you to give it to him.

MONTELLA. It goes to him anyhow. Right?

BUZZANCA. Yeah. (Pause)

Mr. STEINBERG. Would you stop the tape here and explain what we just heard?

Mr. FREEH. Montella is asking Buzzanca to make an appointment with Fiumara. Montella says he wants to give Fiumara two grand for Christmas. That is the monthly payment for Concordia Line.

He then tells Buzzanca he would like to give some additional money to Mr. Fiumara for Christmas. Two plus five, Montella says, \$7,000. Montella asks Buzzanca, "Do you want it?" Buzzanca quickly tells him, "No, you give that to him."

At that point, Montella asks Buzzanca whether or not the money goes to him, meaning Fiumara, and Buzzanca confirms that it does.

Mr. STEINBERG. Was Buzzanca acting as Fiumara's bagman?

Mr. FREEH. Yes; he was.

Mr. STEINBERG. Is this the way in which Fiumara insulated himself?

Mr. FREEH. Yes.

Mr. STEINBERG. Can we go on to the rest of the tape?

MONTELLA. "T" got himself a pretty good job at thirty-six years old. (Pause.)

BUZZANCA. Tino is all right.

MONTELLA. Huh?

BUZZANCA. A little rash but—

MONTELLA. The only problem with him is that from what I hear he brings a lot of heat.

BUZZANCA. If he does, he's rash. But, he'll change.

MONTELLA. Can I tell you something, Tommy? Smart kid to a smart kid? He'll never change. (Pause) Take it from me.

BUZZANCA. He'll change.

MONTELLA. Tommy, listen to me. And I'm not saying it out of school. He's gotta change. A little too rash.

BUZZANCA. After he'll change. But, you have to appreciate the fact that, if he wasn't what he was to begin with, he wouldn't have been there at thirty-six. All right, so I can understand that. I, first time I—I met Tino I didn't really like him. We were gonna have a big meet, and you know, my friend told me something. He's a young kid and uh—this is five, seven, eight years ago. He's gonna call ya. Listen to him. He's with us. Help him. Advise him. Guide him. He'll do whatever you want. Met him one day in Newark or wherever. (Pause) He didn't say a fuckin' word. (Pause) (ui) We have lunch tomorrow, since then it's been beautiful.

Mr. STEINBERG. Mr. Freeh, would you explain that? First of all, when they started mentioning "T" got himself a pretty good job at 36 years old, they are not referring to legitimate employment, are they?

Mr. FREEH. No; they are not referring to his job as an autoparts salesman at that point.

Mr. STEINBERG. What are they referring to?

Mr. FREEH. His control of the waterfront.

Mr. STEINBERG. Would you go ahead and explain that conversation?

Mr. FREEH. Buzzanca made a comment about Fiumara. Buzzanca's words, "He's a little rash." You can interpret that in a number of ways. We understand it to mean dangerous. On the top of the next page, Montella asking more questions about Mr. Fiumara elicits a long description by Mr. Buzzanca which says, basically, yes, he's rash, but he'll change and he wouldn't be where he is today if he wasn't rash to begin with.

Then Buzzanca goes on to describe the circumstances under which he met Fiumara. It is clear that when Buzzanca met him several years ago, Fiumara had nothing to do with the waterfronts. Buzzanca says, "My friend told me something." The reference there, I believe, is to another organized crime figure. The friend told Buzzanca that Fiumara is young, but he's "with us."

That's an expression meaning he was also an organized crime member. The friend told Buzzanca to help him, advise him, guide him, he'll do whatever you want. Basically, what Buzzanca is saying is that several years ago another organized crime person, unidentified here, told Buzzanca to bring Mr. Fiumara into the waterfront and help him learn the business.

Mr. STEINBERG. Do other tapes reflect that Mr. Buzzanca is responsible to an organized crime figure known as Anthony "Fat Tony" Salerno?

Mr. FREEH. Yes.

Mr. STEINBERG. Could we go on with the rest of the tape?

Mr. DEVORKIN. I think it should be clear that other evidence set forth in the statement shows that Salerno was an underboss in the Genovese crime family.

MONTELLA. He's a nice boy, but he's dangerous. And that's the problem. I'm putting it on the line.

BUZZANCA. Well, that's how he got where he is and now you gotta temper that a little bit.

MONTELLA. Ya don't understand. You're smarter than him a thousand times over.

BUZZANCA. Yeah, but you got to temper that. You gotta uh, you need a balance. (Pause) You need a proper balance. You need—I, I think there's three or four ingredients that make something work. If you have two or three wrong, it won't work.

MONTELLA. What's his good points? Seriously, ya know?

BUZZANCA. Tino's good points is that everybody fears and respects him. That's a good thing. He has blind devotion. I mean if he's with you, if he could go inside with ya, he'll die with ya. (Pause) His bad points are that, exactly what you told me before, he doesn't know too much about this business so he's easily bullshitted by (ui) which he's away from now. He, he's gone away from—uh—going to see Colucci and going to see Junior Gardner. He—he's away from that. He's being slowly tempered to the point where now you got to sit in, you got to be fair. You can't let some fucking imbecile bullshit you because he hangs a few thousand dollars in front of you and says, he (ui). Fuck it, we'll—we'll have a meeting tomorrow. That's what he did (ui).

MONTELLA. The only thing is he's got to stop being as emotional.

BUZZANCA. That could take 20 years.

MONTELLA. Yeah.

BUZZANCA. I mean you can't tell the guy (ui).

MONTELLA. He brings a lot of heat.

BUZZANCA. Oh.

MONTELLA. Tommy I'm saying it the way—Tommy.

BUZZANCA. I know.

MONTELLA. No offense, please.

BUZZANCA. I know that. I tell him that everyday. No offense to me because—

MONTELLA. He brings a lot of heat.

BUZZANCA. I been sitting with this guy (ui) tell him relax, go away. Appointments don't show up.

MONTELLA. See I mean I'm with people.

BUZZANCA. I know. I know.

MONTELLA. They like him.

BUZZANCA. I know what you're talkin' about.

MONTELLA. They like him. They like him. But the talk is that uh.

BUZZANCA. I know that.

MONTELLA. He brings heat.

BUZZANCA. Nobody hates it more than me because (pause) I gotta sit with him four days a week and he's—(both talk at once.)

Mr. STEINBERG. Mr. Freeh, would you summarize that conversation?

Mr. FREEH. Beginning on the bottom of page 2, continuing to page 3, Buzzanca, on Montella's inquiry, is giving a description, a characterization, if you will, of Mr. Fiumara explaining basically why in Buzzanca's opinion he is where he is at 36.

At the top of page 3, Buzzanca mentions—

Mr. STEINBERG. Mr. Freeh, on the bottom of page 2 is Mr. Buzzanca basically telling Montella how he is grooming Mr. Fiumara to become a high echelon member of the mob.

Mr. FREEH. When Buzzanca mentions that "We have got to temper that," I think that is an inference which you can clearly draw, yes.

Again on page 3, Buzzanca is listing, as he says, Mr. Fiumara's good points, which in his scheme of values are the following: Fear and respect, blind devotion. He goes on to say that Mr. Fiumara has bad points in the sense that he doesn't understand the business; that is, the waterfront business, but goes on to say that he is getting away from that, he's beginning to rely less and less upon Colucci and Gardner and the willingness to make a quick buck, as Buzzanca says, is being slowly tempered, again, groomed, if you will, to the point where he will deliberate and make decisions in a more contemplative fashion.

But Buzzanca goes on to say such a tempering process may take 20 years.

Mr. STEINBERG. How much time did Mr. Fiumara get?

Mr. FREEH. In his New York conviction, he got 25 years, Judge Stern in New Jersey gave him 20 prior to that.

Senator NUNN. Who sentenced him?

Mr. FREEH. Judge Leonard Sand of the Southern District of New York.

Senator NUNN. And he is the one who gave him—

Mr. FREEH. Twenty-five years.

Senator NUNN. Twenty-five years.

Mr. FREEH. Going to page 4, Montella complains that Mr. Fiumara brings heat, meaning law enforcement attention. Buzzanca acknowl-

edges that and complains that for him personally it is an inconvenience because he has to sit with Fiumara several times a week.

[At this point Senator Nickles withdrew from the hearing room.]

Mr. FREEH. I will continue with the tape.

Mr. STEINBERG. Fine.

MONTELLA. Is he laying low now or what?

BUZZANCA. To the point where, uh—

MONTELLA. That guy's gonna, uh, that guy from what Mike tells me, that guy is going to testify against him. (Pause.)

BUZZANCA. The guy is going to testify to the fact, that yes, he put someone on the payroll, but the guy performed. Period. It wasn't a shake, it wasn't—ah, extortion. It wasn't anything. The guy hired a guy, he paid him paid taxes, the guy paid taxes and the guy performed a service. Uh, maybe the guy wasn't the greatest guy in the world he could have hired, but he made a mistake. (Pause.)

Mr. STEINBERG. Would you stop the tape? Is he talking about an unrelated criminal matter that Mr. Fiumara is facing at that point?

Mr. FREEH. Yes, he is. He is referring to a pending indictment at this time in the district of New Jersey which charged Mr. Clemente—

Mr. STEINBERG. Mr. Fiumara?

Mr. FREEH. I'm sorry. Mr. Fiumara for extorting a restaurant owner for which Fiumara was convicted by Judge Stern.

Mr. STEINBERG. Was Mr. Buzzanca explaining how they apparently got to the witness?

Mr. FREEH. Yes, Buzzanca is anticipating what the Government witness will testify to in the case.

The Government witness initially was cooperative and then before trial basically ended his cooperation with the Government.

Buzzanca here is anticipating the testimony and he could only do that by having spoken to the witness or someone who had spoken to the witness.

Mr. STEINBERG. If we can continue.

MONTELLA. You want a piece of cheese cake?

BUZZANCA. No. You have it.

MONTELLA. I'm gonna have a piece.

BUZZANCA. No, you have a piece. (ui)

MONTELLA. My fucking diet. My wife will give me a beating tonight.

BUZZANCA. And especially Tino, and I love Tino, and I would do anything in the world (ui) you have to get away from the (ui) meeting (ui). You have to get away from that. Ya have to go to the fourth meeting and say, well, maybe. You just can't after the third meeting say the guy is fucking (ui).

MONTELLA. I don't dislike him. I like him.

BUZZANCA. (ui)

MONTELLA. But the only thing is the fucking kid you know—

BUZZANCA. I love him and I got to, ya know, and I live with him everyday. I absolutely think that this guy tempers himself, he'll be, ten years from now, he'll be awesome. What this kid could develop to be. Absolutely awesome. Believe me. Believe me. (ui)

MONTELLA. What's that mean, Tom, awesome?

BUZZANCA. Everybody will say, Jesus look at this guy. He did this. He did that. And now, you have to listen and appreciate because he'll, he'll be both. He'll have the best of two worlds. Good sense, good judgment plus, which we all live under, fear. Ya need to have that balance. (Pause.) But be fair. And listen to four sides, not one, not two, not—don't have opinion. (ui) because the money, don't mean anything. Fuckin' money, we'll make money. We'll steal it if we have to. But listen to this guy. Don't let somebody come up. (ui)

MONTELLA. Waiter? You don't want no cheese cake?

BUZZANCA. No.

MONTELLA. Lemme have a small piece of cheese cake.

BUZZANCA. Ten years from now you and I will be sitting there sayin' that.

Mr. STEINBERG. Mr. Freeh, will you interpret that portion of the conversation?

Mr. FREEH. Beginning on page 5, Buzzanca tells Montella that he loves Tino, basically that he respects him, that he is loyal to him. He mentions that you have to have more than one meeting to make a decision, referring here, I believe, to waterfront business, waterfront problems and rackets which Mr. Fiumara is controlling.

Buzzanca goes on to say that he has to love Fiumara because he is with him every day. He says that 10 years from now he will be, in Buzzanca's words, awesome.

Mr. Montella probes further and Buzzanca explains that Fiumara is being tempered to the point that he will have the best of two worlds. Buzzanca says that's "good sense, good judgment plus, which we all live under, fear."

That's Mr. Buzzanca's values. That's his scheme of things, saying basically that Fiumara will be awesome in 10 years from now because he will have all these values which are an advantage to controlling the waterfront.

On the top of page 6, Buzzanca says that money doesn't mean anything. "We'll steal it if we have to." What he is saying is that control of the waterfronts, the control of the overall enterprise is much more important than an occasional transaction where they can make some money. That is basically the end of the conversation.

Mr. STEINBERG. Mr. Buzzanca says, "Ten years from now, you and I will be sitting here saying"—how much time did Mr. Buzzanca get?

Mr. FREEH. Ten years.

Senator NUNN. At this point, we are not going to be able to conclude this testimony until we come back. We will take about a 45-minute break. I have a luncheon meeting. I know Senator Rudman does, also.

We will be back here at 1:30.

[Whereupon, at 12:45 p.m., the committee was recessed to reconvene at 1:30 p.m., the same day.]

[After recess.]

[Member of the subcommittee present after the taking of the recess: Senator Nunn.]

Senator NUNN. If we could just take up where we left off, and proceed with your testimony, Mr. Devorkin.

Mr. DEVORKIN. Yes, sir. Thank you, Senator. I just wanted to clarify one matter with respect to the tape that you just heard, Buzzanca discussing his relationship with Fiumara. I think it should be clear that there is no question that Fiumara was the number one person in terms of port activity in the New Jersey parts of the port and Buzzanca was not suggesting that he was more significant or told Fiumara what to do. I think what he was describing there was simply how his organized crime people, probably Salerno, had instructed him a number of years before to lend his advice and assistance to Fiumara whom they had designated as the man who was going to represent organized crime in the port.

I think Fiumara's organized crime activities and control of parts of the port are further corroborated by evidence the Government received

from Ralph Picardo who was a witness who testified on several occasions for the Government, successfully for the Government.

He was told for example by Tony Provenzano and another Teamster official that Fiumara was a made member of the family, that he was in charge of the port, that he was working directly with Tieri. At least one other witness has said that he personally attended meetings on a regular basis which Fiumara attended with Tieri in Brooklyn, to discuss family business.

Picardo was also told by his associates that they as the Teamsters were receiving peace payoffs from steamship lines like the Sea Train and Fiumara was receiving the labor payoffs on behalf of the ILA from the same individuals. In fact he reached an agreement with Fiumara looking toward the future to develop a procedure for further payments by Sea Train for labor peace. Montella, of course, was not the only individual Fiumara dealt with. There was an occasion in 1977 when Robert Delaney, who was a State police officer in New Jersey working undercover as the officer of a trucking company, had an occasion to meet with Fiumara—on a number of occasions in fact. I understand Trooper Delaney is going to testify before the subcommittee perhaps tomorrow. Fiumara in effect promised Delaney that he, Delaney, could have the trucking business of several steamship lines. In less than 2 weeks after this meeting between Fiumara and Delaney, an associate of Fiumara's, by the name of Copolla, who was also convicted in the *Clemente* case, met with Delaney and reconfirmed Fiumara's promises for business for Delaney and described for Delaney the extent of Fiumara's control over various operations of the Port of New York.

I believe Agent Freeh has a tape which is identified as transcript 5 and is prepared to play a tape of that meeting.

Mr. STEINBERG. Mr. Freeh, would you please play the tape on our transcript No. 5?

Mr. FREEH. Yes.

COPOLLA. Now, see that Puerto Rican Line used to be ah, that was all together, right? It used to be all Sea-Land. Then they took the Puerto Rican Line, and segregated that. The Puerto Rican Government, took control of it, and they're running it themselves. Puerto Rican, ah Management Company is the name of it.

KELLY. That's—

COPOLLA. But United is doing his stevedoring and that's Irving Held—this is the master with the bananas. Forget about anybody else's move with the bananas. This guy is the master.

KELLY. I think we're suppose to talk to him, ah, the 16th we got a ship coming in, that's what Moose (UI).

COPOLLA. Okay, but we're doing blowin all the moves, by goin (UI) except for this guy. This guy's business is what started the (UI). It's like 10 percent of the profit, you know. High roller, ya know, (UI) he know he needs X amount of dollars and that's the way he (UI) comes up for sale. And he's doing the stevedoring for the god damned company and the company's up for sale. He's forming a corporation.

KELLY. To buy it?

COPOLLA. To buy it. Plus, he does United, ah, United Terminals.

KELLY. (UI) Miami and I know when I, when we went down there we were talkin' to Johnnie, he says (UI) Irving Held (UI) in Miami.

COPOLLA. Irving Held (UI).

KELLY. That's all we want, all we want a dime a box.

COPOLLA. He's got all the moves, this guy. He knows, ah. That's over the old Grace Line Pier, they've been gettin' like two ships a week there.

KELLY. With containers.

COPOLLA. (UI).

KELLY. Two banana ships a week? That's anywhere from ah, two hundred thousand boxes, ah, 96 thousand boxes to 200 thousand boxes.

COPOLLA. Now he has the moves also, in the, in the East River the East River that's the banana, ah, (UI) I think.

KELLY. He can produce the banana.

COPOLLA. Huh?

KELLY. We should, we should talk to him, if he can produce the bananas.

Mr. STEINBERG. Mr. Freeh, would you explain what we just heard on transcript No. 5?

Mr. FREEH. Michael Copolla, who was a convicted codefendant of Fiumara and Clemente in the Clemente prosecution, is talking about his contacts, his control through Fiumara of the man named Irving Held. Irving Held is a major stevedore in the Port of New York, who also operates in Port Newark. He has major contracts which unload bananas both in New York and New Jersey when they come into the port. Basically on page 2, Copolla and Kelly are discussing a kickback which they are to receive in some unspecified business with Copolla and Held, which Copolla does not really explain at this point. They refer to collecting a dime a box which is a reference to a box of bananas. Copolla and Kelly talk about the volume of the traffic in bananas which would be the basis for their kickback and Kelly recommends that they should talk to Held who is operating in the East River. That is a reference to pier 36 where Clemente is active, where Clemente's former ILA Local 856 was in control.

Kelly had suggested on the bottom of page 2 that they speak to Held about this deal.

Mr. STEINBERG. Can we play the rest of the tape?

Mr. FREEH. Yes.

COPOLLA. He's got all the outs for it (UI).

[Pause.]

COPOLLA. Yeah, ah, this is definitely a good time to get together with him.

KELLY. Well, he's supposed to set it up Mike, but again, he's waitin' for us ya know (UI) ya see.

DELANEY. (UI).

KELLY. No.

COPOLLA. (UI) don't put nothin' together there where ah.

KELLY. He's got the banana, T's got the banana king, right? And ah, he said we gotta get out of there. He made his decision, forget about it.

COPOLLA. We, we've been dealin' with this guy in, ya know, with different things, ya know?

KELLY. When we look for a place.

COPOLLA. And he's happy dealin' with us because ah, these are all our guys that ya know that are workin' and they're ah, they're producin'. Forget about it. He's the, he's the happiest guy in the world. Ah, you know, we bend over backwards for him. "You need this amount of men?" "Okay, well gee, we'll cut back a couple men here and there." You know what this saves them.

KELLY. Uh.

COPOLLA. And makes them shine like ya know with the company.

Mr. STEINBERG. Would you explain that conversation, Mr. Freeh?

Mr. FREEH. On page 3, Mr. Kelly states T's got the banana king. That is the reference to Fiumara's control over Held. Copolla mentions that we have been dealing with Held with different things. At the bottom of the page Copolla remarks that Held is happy dealing with us, meaning Fiumara and Copolla, and says that all "our guys are workin, they are producin." That is a reference to longshoremen. Of

course, Copolla and Fiumara having nothing to do ostensibly with the ILA. Copolla goes on to explain that we, meaning Fiumara and he, bend over backward for Held and ask Held, "you need this amount of men, OK, we will cut back." What he is saying there is that they can through their control over various ILA locals in the port, reduce the labor gangs, the amount of men which Held ordinarily employed, and Copolla says this makes Held "shine with the company." In other words, economically it is very beneficial to Held.

Mr. STEINBERG. Mr. Devorkin?

Mr. DEVORKIN. I want to point out that Mr. Held was convicted along with Mr. Gardner for violations of the Taft-Hartley Act and was sentenced to and served a prison term of approximately 8 months in the last 2 or 3 years. He also recently pled guilty to tax evasion charges in the Southern District of New York relating to the use of the funds or using his company on the waterfront for purpose of personal funds. Based on this conversation and other evidence, as I have set forth in more detail in the statement, he also appears to have a direct relationship of his own with Frank Tieri.

Senator NUNN. Was he convicted of a felony or misdemeanor under Taft-Hartley?

Mr. DEVORKIN. Misdemeanor, four misdemeanors which in essence involved arranging, through frontmen, loans to Gardner that were illegal under the Taft-Hartley Act. Gardner received 1 year in prison and he received 8 months.

I think it is apparent that although Fiumara exercised an iron grip over the New Jersey waterfront and the New Jersey locals of the ILA, through the highly placed ILA officials such as Buzzanca, Colucci, and Gardner, Clemente had even greater power in this enterprise on the waterfront than Fiumara did.

He was not only Fiumara's senior partner in the enterprise but also the undisputed head of the enterprise which extended its illegal reach beyond the confines of New Jersey. I told you about some examples of Clemente intervening to have Fiumara do certain things. I think as an illustration this afternoon I would point to the efforts of Clemente, made on behalf of Montella, to obtain from Fiumara more business for Montella in New Jersey.

On November 21, 1978, Clemente told Montella that he met with Fiumara and Buzzanca, and that Fiumara agreed to exercise his power in New Jersey to get additional business for Quin. Clemente boasted that "Tino gives me some satisfaction." Buzzanca confirmed to Montella the agreement between Fiumara and Clemente the next day when Montella made his monthly payment. A few days later Clemente instructed Montella to keep in touch with Fiumara and he did just that, on December 21, 1978, in Ponte's, when he delivered the \$2,000 to Fiumara for the monthly payment on the Concordia Line and an extra \$2,000 in cash for Christmas, which is part of what you heard on that Buzzanca tape on December 12 where they were talking about bringing something extra for Christmas. At this meeting, after Fiumara confirmed that he had talked with Clemente, he also stated that as a result of that he would give Montella "first shot" to buy some new business in New Jersey. Montella and Fiumara retired to the secrecy of the men's room and Fiumara took his \$4,000 payoff from Montella,

**CONTINUED**

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using Government funds that were supplied to Montella. There is a portion of that meeting which is reflected on transcript No. 6, which I think Mr. Freeh has now for you.

Mr. STEINBERG. Mr. Freeh, would you play the tape on transcript No. 6.

Mr. FREEH. Yes, sir.

MONTELLA. I wanted ah . . . I saw Tommy last week and I . . . I said to him that I, ya know, had the two . . . which I got now. And I wanted to give you somethin . . . a little extra for Christmas, ya know? And I wanted it to be more than what it is even. But . . . it's a couple of grand for you for Christmas and ah, normal, ya know, for the month, for Christmas. But Mike told me to talk to you. He said that ya had something up in Jersey. Weehawken or Edgewater or something along I don't know which. And . . .

FIUMARA. Yes.

MONTELLA. Ya know—

FIUMARA. And I thought ah, all right. It's gonna be a new thing. And it's . . . in the planning stages at this point here but ah . . . Joey knows something about it. We have a couple of other friends that are involved there also. But, I already put on record that you got the first shot, nobody else.

MONTELLA. All right, good. Thank you.

FIUMARA. So, ah . . . I was . . . I . . . I just hope it goes like . . . the complex is there, it's right next to ah . . . one of those Sea Train complex—

MONTELLA. I . . . I

FIUMARA. There's a big piece there.

MONTELLA. I know yeah, I know where it is.

FIUMARA. But ah—

MONTELLA. They used to do the ah, Prudential barges there at one time I think.

FIUMARA. No.

MONTELLA. Or Sea Train used to bring in their barge . . .

FIUMARA. Sea Train brought there ah . . . they had their regular containerization there, they had ah (UI)—

MONTELLA. Yeah, I know the facility, ya got a crane there it's gotta go—

FIUMARA. But that's not the facility, it's a . . . it's a facility by there then there's other properties there there's a store there's a lotta, lotta potential there and it . . . and it . . . and it . . . and it's a good move (UI)

MONTELLA. Very good.

FIUMARA. And I put on record that . . . you have the first shot at the thing . . .

Mr. STEINBERG. Would you explain that conversation, Mr. Freeh?

Mr. FREEH. As just summarized by Mr. Devorkin, this is Mr. Montella on the top of the first page of the transcript 6, giving Fiumara \$4,000 payment; "a couple grand normal," normal means that is the monthly payment he has been making regularly for Concordia Line. Heretofore he has been making that payment to Buzzanca. Now he makes it directly to Fiumara. Montella says Mike, meaning Clemente, mentioned that "something was coming up" in Edgewater. Fiumara goes on to discuss a new waterfront development in Edgewater, N.J., on the western side of the Hudson River. Fiumara is showing by the conversation that he is thoroughly conversant in the waterfront, in the development going on at the port and tells Montella that he has "first shot" of it. Montella basically thanks him for that and the conversation ends with Fiumara again saying that I, Fiumara, put on the record "that you, Montella, have the first shot at the thing."

Mr. STEINBERG. Mr. Freeh, in addition to the \$2,000 for the monthly payoff did he also give him an additional \$2,000 as a Christmas gift?

Mr. FREEH. Yes. The additional "2 grand" as Montella referred to it was offered to Fiumara indirectly in the December 12 conversation which we previously played and this is Montella making good his

promise to Buzzanca at that time that he had an extra Christmas payment for Fiumara.

Mr. STEINBERG. Mr. Fiumara is telling Mr. Montella that putting him on the record means that Mr. Fiumara is in a position to distribute business in the Port of Newark?

Mr. FREEH. That is what he is telling him.

Mr. STEINBERG. We know that Mr. Fiumara lists his vocation as part-time autoparts salesman. How do you suppose he has this relationship directly to waterfront business?

Mr. FREEH. I think as the other instances demonstrated and the conversation we played with Mr. Gardner on December 22, Fiumara is exercising control at least over three ILA locals, through his control of Gardner, Colucci, and Buzzanca and that gives him the ability and the power to distribute waterfront business.

Mr. STEINBERG. Thank you. Mr. Devorkin?

Mr. DEVORKIN. I think finally the most significant explicit example of Clemente's power in the ILA and the waterfront is demonstrated by the incident that you heard Mr. Fiske refer to this morning, or Mr. Barrett, namely this meeting on November 29, 1977, between Mr. Clemente, Mr. Scotto, and Mr. Montella. As you will recall Mr. Clemente received a document. It appears from Mr. Tieri, who apparently had some source with access to or inside the waterfront commission who reported to Mr. Tieri on this piece of paper that the Federal Government had some ongoing electronic surveillance type investigation of Mr. Montella, which revealed to the Federal Government that Mr. Montella was making a variety of payments to Mr. Colucci, Mr. Buzzanca, and so forth. Clemente obviously was alarmed when he received this piece of paper because any threat to Mr. Montella was a threat to Mr. Clemente.

I think you will remember hearing Mr. Clemente tell Mr. Montella the only person you have to fear is the person you deal with directly. If Mr. Montella is in jeopardy and is likely to be prosecuted, that presents a problem for Mr. Clemente as well as anybody else with whom Mr. Montella is dealing. What Clemente did of course was to immediately summon Mr. Montella to a meeting in a restaurant that afternoon, showed him the piece of paper, they talked about it, tried to get an explanation, understanding of what could be happening here, to determine particularly whether there was an informant inside Mr. Montella's office who was disclosing information about Mr. Montella to the Federal authorities and if so to take action against that informant.

Indeed, Mr. Clemente promised Mr. Montella if there was such an informant, particularly discussed the possibility of Mr. Scotto's cousin, swift justice in their terms would be imposed upon such an informant. He ordered Montella to come to a meeting that night but did not tell him what was going to happen or who was going to be there. Of course when Montella showed up at the restaurant that night, Clemente was with Scotto. Clemente had obviously, from what happened on that day with Montella and from the tape that you heard played in Scotto's office with Scotto talking about what had happened, he obviously had summoned Scotto to this meeting. Here you have somebody who has no official or practical, supposed to have any practical existence on the waterfront, no connection with the ILA, who is summoning the, one

of the highest officials in the ILA, one of the most powerful labor and political leaders in the State of New York, to this meeting in a bar in Brooklyn and Scotto does what he is told. He comes to that meeting. There is a discussion. Clemente tries to determine whether there is any problem. Scotto advises Clemente that he too received a similar piece of paper and there is nothing to be alarmed about. Clemente advises, tells Scotto to make sure that Scotto is taking care of Montella and Scotto reassures Clemente that he is in fact doing just that.

A short time later of course Clemente and Scotto left the meeting. I think there is a tape made of a conversation about a year later between Clemente and Montella when Montella was cooperating which illustrates the relationship between Clemente and Scotto and I think we can play that tape for you now which I think is transcript 7.

Mr. STEINBERG. Mr. Freeh, would you play that tape?

Mr. FREEH. Yes; I will.

Mr. STEINBERG. Transcript No. 7.

Mr. FREEH. This conversation takes place on November 21, 1978, between Clemente and Montella.

CLEMENTE. All right. Quiet. I was with yesterday, me and Tommy Buzzanca and Tino.

MONTELLA. And who?

CLEMENTE. And Tino, from Jersey.

MONTELLA. I thought he was in jail.

CLEMENTE. No. Why? Who told you that?

MONTELLA. Wasn't it in the papers?

CLEMENTE. Nah, you're crazy. (Background voices UI) No.

MONTELLA. There was a big thing about it in the papers ah.

CLEMENTE. Right, in the Bergen paper. Matter of fact I told somebody today. They expect a lotta guys to be indicted. Teamster local. They got nothin' on him. Oh.

MONTELLA. Oh. So he, he beat that rap then right?

CLEMENTE. Yeah. I don't know if he beat it. Anyhow, I told him. I says I'm still waiting. Tell my friend Pete LaPlaca that I'm still waitin' for that kid to get some work out there. Tino, I says, ya know he ain't doin nothin'. He says Mike there's somethin' comin'. He said, I don't wanna say it. But he says if it comes in. You got a good chance to do it. And I said all right, I appreciate it whatever ya do.

MONTELLA. Yeah all right.

CLEMENTE. And I told Tommy Buzzanca. He said Mike hold off till next week because Georgie'll be back from Vegas. There's somethin' else I gotta tell ya.

MONTELLA. Yeah, cause we were supposed to have that meeting there. We were supposed to have that meeting, together. Hum.

CLEMENTE. Yeah, but he's after you. It's 2 week I been (UI) look, waitin'.

Mr. STEINBERG. Stop the tape there. Would you explain what we just heard?

Mr. FREEH. I think the conversation clearly shows the enterprise, which was previously described, at work. You will recall this conversation takes place before the Montella-Fiumara payment, the tape of which we have just heard. Montella is asking Clemente for a status report on the additional work which Montella is requesting. Clemente is recounting a meeting which he had recently with Buzzanca, Fiumara, and someone he identifies as Mike, who is Mike Copolla.

At the bottom of the first page of the transcript, Clemente describes what went on at that meeting. Basically he says that he told Tino to tell Pete LaPlaca, who is Tino's superior in New Jersey, that Clemente was still waiting for Montella to get some work out there, meaning in

New Jersey. Tino at that time, according to Clemente, states that there is some business coming up in New Jersey and that Montella will have a good chance to get it. That is the business which is later articulated in the Edgewater conversation between Fiumara and Montella on the previous conversation.

On the top of page 2, Clemente is further defining the scope of the enterprise, saying that next week Georgie, referring to George Barone from Florida, will be back from Vegas and that there is something else which they are going to discuss, inferring that there is more business that they are going to discuss with George Barone. Montella again mentions that he is waiting for the meeting with Fiumara which later takes place.

Mr. STEINBERG. So Clemente is basically saying that these other organized crime members are deferring to him and granting favors to a person who is paying him off?

Mr. FREEH. That is correct.

Mr. STEINBERG. Can we continue with the tape?

MONTELLA. Well governor Carey got in, so.

CLEMENTE. Ya. Look at that fuckin' guy, I (UI) through (UI) Anthony.

MONTELLA. Didn't hear from him or nothin'?

CLEMENTE. Nah. Now, if I was gonna push him for General Organizer? They tell me Mike, don't do it. My own people told me don't do it. This way we'll still have one of our own. He's sick, I'll put you in the fuckin' job. He tears the money and he throws it. He tells ya, Jesus. I know I should go and see my cousin. I'm busy. They're watchin' me, and. We understand. Six months (UI) what the fuck (UI). Nobody ever hears. He says what's the matter. Ya wanna. So we'll meet ya on Saturday, Sunday. Who's gonna watch ya on Saturday, Sunday? Ah, they're too busy to take care of their own.

Mr. STEINBERG. Would you explain that portion of the conversation?

Mr. FREEH. In this portion of the tape Clemente is again complaining, expressing his dissatisfaction with Anthony Scotto, who Clemente said we, basically the organized crime people, have put into office in the ILA and now Scotto was ignoring his people, meaning the organized crime people when they want favors. Clemente refers to himself as being a cousin of Scotto. Clemente goes on to say that his own people told me not to push Scotto for general organizer, referring to Clemente's organized crime people. His reference, when he says this way we will still have one of ours, one of our own, the reference is to Freddie Field, who was controlled by Clemente and was the general organizer until his conviction and disbarment. Clemente goes on and says that if Scotto wanted to meet with us, he could, he could meet Saturday and Sundays, saying that the FBI in this case do not watch on Saturdays and Sundays, therefore Scotto could meet with them without detection.

At the conclusion he says, Scotto is too busy to take care of his own, again complaining that Scotto is ignoring his organized crime supporters who put him into office and Clemente is again expressing his dissatisfaction with that.

Mr. STEINBERG. Mr. Scotto eventually did obtain a general organizer position that Mr. Clemente stated he pushed him for. Is that correct?

Mr. FREEH. Yes. He did.

Mr. STEINBERG. Mr. Clemente is stating that he was warned at the very beginning by his own people, that is the Genovese family, not to put in Scotto, who was from the Gambino family?

Mr. FREEH. That is basically what he is saying, yes.

Mr. DEVORKIN. I think it is very possible for you to keep in mind that Barone was still a candidate for this position of general organizer. Even though he was indicted he was under consideration. There are other tapes where Clemente is talking about the fact that other people want Barone in the job. Barone is also a Genovese. So you can also I believe view this conversation to say the Genovese people do not want Scotto. They are pushing for one of their own, one of their own could either be Field, who is out really at this point, or Barone, who is the other choice for the job. If it goes to Barone, it stays with Genovese; if it goes to Scotto, it is Gambino.

Mr. STEINBERG. Can we continue with the rest of the tape?

MONTELLA. Oh, well he does all right I guess ha?

CLEMENTE. He does alright. He does more than all right. I wish I was doin' as good as him. These guys, they got the best thing goin'. But ya wanna see if I said that I wanna see. Now I just. Billy, last, last week I send over, my grandson. This June, this ah, June whatever, he graduates, lawyer. His last year in law school. I sent him his resume. My grandson's got some resume. He. The last time he told Billy D, tell Mike I'm lookin'. The guy in NLRB, the main guy, is a very dear friend of mine. He's a friend of yours and ya can't get him a fuckin' job in the summertime? They hire guys like that in the summer.

MONTELLA. Yes.

CLEMENTE. So I say. These guys—outa sight, outa mind.

MONTELLA. Yeah. Very true Michael.

CLEMENTE. Hey, I don't need him. He might need me some day. They wanna be a legitimate guy and be a wise guy at the same time. Hmmm?

MONTELLA. He wants to be both, right?

CLEMENTE. Yeah.

MONTELLA. Yeah.

CLEMENTE. Then when I used to see him. Please Mike, ya gotta excuse me. Honest. Takes the book out. He's got ninety-nine. I only want one fuckin' ten minutes with ya to tell ya what I want done. That's all.

MONTELLA. Yeah, he takes the book out and starts writin'.

CLEMENTE. I'm always around.

MONTELLA. What is, what is his act anyhow, Mike? What is his act, really?

CLEMENTE. He wants to be a politician. And he don't wanna give up the union either. But if they had somethin' on him, ya see how fast (UI) somebody there. Once he gets indicted everybody else will get indicted. (UI) if he could indict Scotto he's done (UI).

MONTELLA. Ya can't have both worlds. Unbelievable.

CLEMENTE. That's the way they are. Whata ya gonna do?

MONTELLA. Unbelievable. Um.

CLEMENTE. I told Tommy. I said hey, my man ain't doin' too fuckin' good. Mike, he says. Georgie wants to talk to ya. Oh, what are you doin' I says. At least I got some. Tino give me some satisfaction. Tino come up with two other guys. (UI) kid Mike and another guy.

Mr. STEINBERG. Would you explain that portion of the conversation, Mr. Freeh?

Mr. FREEH. Starting on the bottom of page 2, Clemente makes a reference to Billy D. being his messenger to Scotto when he wants to contact him. Clemente remarks that Scotto was doing pretty good, he's got the best thing doing. He is referring to Mr. Scotto's rackets, rackets which were performed by his high official position in the ILA. On page 3, continuing in the theme of complaining, Clemente remarks to Mr. Montella that Scotto is not doing him favors, not helping him out as requested.

Clemente recounts an incident where according to Clemente this is, his grandson who is apparently graduating from law school had a résumé, was looking for a summer employment.

Clemente says he sent a résumé over to Scotto who, again, according to Clemente has a friend in the NLRB, National Labor Relations Board.

Clemente calls him the main guy, and complains that despite Scotto's promise to him, his grandson wasn't able to get that job for the summer.

Again, the refrain, "these guys out of sight, out of mind," complaining that Scotto disregarded people who put him in power, that is, Michael Clemente. Toward the bottom of page 3, again Clemente complains that when he used to go over and see Scotto, Scotto would complain how busy he was, how little time he had for Clemente.

Clemente says, "All I need with him is 10 minutes to tell you what I want done," meaning what he wants out of the ILA.

Mr. STEINBERG. Mr. Freeh, in the middle of that page where Mr. Clemente says he wants to be a legitimate guy and a wise guy at the same time, what does that mean?

Mr. FREEH. Clemente mentions this many times. Apparently he sees some incongruity between Scotto being a wise guy, being an organized crime guy, button, whatever, and at the same time trying to be a legitimate guy, that is an ILA official, or as Clemente refers to him, a politician.

[At this point, Senator Rudman entered the hearing room.]

Mr. FREEH. On page 4, again Clemente remarks that Scotto wants to be both the legitimate and the illegitimate. Montella said you can't have both worlds. Clemente complains what are you going to do? The bottom of page 4, referring again to his recent meeting with Buzzanca and Tino, Clemente tells Montella that he told Buzzanca Montella needs additional business and also that Georgie Barone wants to talk to Montella. Clemente concludes by saying Tino is the only one that gives him satisfaction, meaning help to get Montella business, which is later corroborated by the tape we heard regarding the Edgewater facility.

Mr. STEINBERG. That reference to George Barone was, as you testified last week, in deference to Michael Clemente, George Barone got Mr. Montella business in the Port of Norfolk.

Mr. FREEH. That is correct, with the CTI containers.

Mr. DEVORKIN. I would like to point out to the committee this piece of paper I have referred to before which provoked this meeting between Scotto and Clemente at Clemente's insistence was apparently a piece of paper and a similar piece of paper was widespread among the ILA or organized crime figures in the city of New York because it appears pretty clear, and Buzzanca confirms this on tape, that he also received a similar piece of paper which he says came from "his guy," which both Buzzanca and Clemente has identified as Tony Salerno, who I have told you before is an underboss of the Genovese crime family and somebody Buzzanca visited on a regular basis at his headquarters.

Buzzanca, like Clemente, discussed the information and possible threats suggested by that piece of paper with Scotto in order to protect himself and other members and colleagues in this criminal enterprise.

In fact, Buzzanca was quite upset with Scotto because Scotto had not in effect, tried to protect Buzzanca by telling him about the piece

of paper, bringing it to his attention earlier. Buzzanca was upset because it was the danger—Buzzanca found out about this information after Scotto knew about it, there was a substantial delay when his associates found out about it, Buzzanca could be doing something illegal in the meantime and be caught because he wasn't warned in time by Scotto.

Buzzanca describes to him how upset he is with that. I would like to play for you the last tape of the day, which is transcript eight which Mr. Freeh has.

Mr. STEINBERG. Mr. Freeh, would you play that tape, please?

MONTELLA. How's, how's Barone making out?

CLEMENTE. I haven't seen him since he got indicted.

MONTELLA. What, is he out on bail.

CLEMENTE. Have you seen him lately?

MONTELLA. I ain't seen none of them anymore. Nobody.

CLEMENTE. (UI).

MONTELLA. The only guy I see is Buzzanca.

CLEMENTE. Well he stays here. That little fuckin' weasel. He lies. He lies like a fuckin' weasel. He looks in your face and lies.

MONTELLA. Yeah, yeah. He's a liar.

CLEMENTE. Now, it's just that Anthony and, has taken, took over the union. Metro and whatever you call it. Jeez that fuckin' guy. Yeah, ain't that the (UI). They never liked him anyway, number one. You know how many guys come to me: "Mike you made a mistake you made this guy an organizer; you gonna be sorry." Mind your own fuckin' business. Took me 60 years to get an Italian up in that fuckin' office. Now you Irish cocksuckers down there are worrying about him. In the meantime we need a favor. Teddy Gleason, where do they go if they go to him. To get to the Governor. He's the only guy Gleason knows how to talk. Georgie Barone, he wanted the job, Freddy Field's job. First of all he can't hear. Number two he can't even hold a conversation. Ah, (UI) you have him. After all. Ya know he's Italian. He belongs with us. That's a lot of fuckin' bullshit. What is Anthony? A Jew? Anthony's in a different family.

Mr. STEINBERG. Will you explain that portion of the conversation, Mr. Freeh?

Mr. FREEH. The conversation begins on the first page with a discussion of Barone, who has recently been indicted. Montella tells Clemente the only one he sees is Thomas Buzzanca. At the bottom of the page, Clemente again with the theme that now Scotto is in office, put there by organized crime, he is not delivering, he is not giving satisfaction. Clemente mentions that guys came to him and told him that you made a mistake when you made Scotto the general organizer, in this case just the organizer, and that Clemente will be sorry for doing that.

Clemente says that it took him 60 years, he says, to get an Italian up to that office. I think what he is saying is to get somebody in there who he can more directly control.

Then he goes on to say that in the meantime if they need a favor, Teddy Gleason is the one to do it, saying that Gleason is the one that can go to the Governor, Clemente then goes on to explain the different people that are competing for general organizer, one being George Barone, who, according to Clemente, is not a prime candidate because he can't hear and he can't hold a conversation.

Clemente goes on to say that Barone may be trying to compete with Scotto for the job saying that Scotto belongs to a different family. Clemente says, inferring that that is true, but despite that Scotto would still be under Clemente's control if he took office.

Mr. STEINBERG. In other words, he is saying that Barone was trying to use this, his belonging to the Genovese family to influence Clemente to get Clemente to give him that job as general organizer instead of Scotto, who belongs to a different organized crime family, the Gambino family.

Mr. FREEH. That is correct.

Mr. STEINBERG. Can we go on with the tapes, please?

MONTELLA. Well, who's Buzzanca with?

CLEMENTE. Well, actually he's with ah, he went uptown to see Fat Tony. He's the guy with Barone. He's nobody but the maid. He, he's been with him for years. Ain't not that he gets any money off him. They make all kind of money. He, when he gets. They got it, he's gonna paint the fence, they send (UI) maybe 50 gallons of paint.

MONTELLA. I always thought Tino was his boss.

CLEMENTE. Tino belongs to Pete LaPlaca, in Jersey. He's hot. I know they (UI). He was on the lam for a while. I don't know if he's back.

Mr. STEINBERG. Can you explain that conversation, please?

Mr. FREEH. The response to Montella's inquiry as to who Buzzanca was with, meaning who are his organized crime associations, Clemente goes on to detail them. First, he says that Buzzanca is with Fat Tony, that he goes uptown to see him. That is a reference to Anthony Salerno in Harlem. Then he says that Salerno is the guy with Barone, establishing another relationship. Referring to Buzzanca, Clemente says, "He's nobody but the maid. They are all making money, what they do to Buzzanca is give him 50 gallons of paint to paint the fence." That is a sign of disrespect by Clemente for Buzzanca saying that in the ranking order, he is subservient to both Barone and Salerno.

In terms of Fiumara, Clemente says that he's with Pete LaPlaca in New Jersey about whom we have heard previous testimony. He says that he thinks that Tino was on the lamb, that is a reference to his New Jersey indictment.

Mr. STEINBERG. Can we continue with the tape?

MONTELLA. Oh, yeah.

CLEMENTE. 'Cause they were after him. The only guys that don't get burned are the niggers.

MONTELLA. Ain't that hot shit. Ain't that hot shit.

CLEMENTE. Leave the niggers alone. They (UI) been alone so this way the niggers will break the fuckin' union. That's what their intentions are. The FBI intentions.

MONTELLA. To make the colored guys break the union. That's hot shit.

CLEMENTE. When they pull a strike in fuckin' Newark, nobody goes down to the pier. The Waterfront Commission? Forget about it. They tell them plain up and down, fuck you. You work the ship. You see if this fuckin' Gleason had any fuckin' balls, he'd pull a one-day strike. For what? Pull them out. Let them stay out. You go work the ship. How long you think it would last. (UI). Stay out on this one. Give (UI). Eventually ya get a good lawyer. A good lawyer's a fight. What did this Waterfront persecution do since 1953? What did they do? They stopped stealing? There's more stealing today than there was before. What did they do? So why do we need them? They're taxing the people's money. You're talking about (UI). Used to be three cents hundred, now look at it. Think of what they get today, these cocksuckers.

MONTELLA. Yeah. It's unbelievable. You're right.

Mr. STEINBERG. Could you explain that portion of the conversation?

Mr. FREEH. Beginning on page 2, Clemente is telling Montella that the purpose of the investigation, that is the FBI investigation, is to break the ILA up. On page 3, on the top of the page, Clemente is say-

ing that what they should do, meaning the ILA and Gleason in particular, to stop the investigation is that they should pull a strike, close down the port for 1 day.

Clemente says if you did that, "how long do you think it would last?" referring to the Government's investigation. Clemente made some comments about the waterfront commission. He says basically that they have not affected stealing that is going on on the pier, expressing some concern about the taxpayers' money.

Basically, Montella acknowledges that.

Mr. STEINBERG. Can we continue with the rest of the tape?

Mr. FREEH. Yes.

CLEMENTE. They don't have the balls. In 1953 I got up in front of the fuckin' committee. First thing I said to Joe Ryan, you, quit your fuckin' job. Your days are over. I'll get out and put somebody there. And let's fight them. This guy Kheel you know the arbitrator for the newspapers (UI) now. Now, you, you cocksucker, let me tell you something. I'll pull a fuckin' strike you won't have enough shit-house paper to wipe your ass when I get done. And I tied up every fuckin' distributor in the city. 'Cause I knew I had the men in back of me. The west side Johnny (UI), Johnny, ah. What's his name was on it (UI).

MONTELLA. Bowers ya mean?

CLEMENTE. (UI) Bowers and I. I said I wanted it. He said we'll tie up the fuckin' the whole deal. Generally we had a little trouble with (UI) Tony Anastasia, the rat cocksucker. Gleason put the finger on him. Fuckin' mistake I made that time. I woulda went through Paul Hall. I wouldn't a went to jail for number one, and number two I woulda had the fuckin' ILA. He said Mike, it cost me a million dollars, and you went to jail. Mike, while I was away, he wanted, he was lookin' to send my wife \$300 a week. Found out the government came to my house (UI). Albert Anastasia said tell him to stick it up his ass. We can't pay (UI) never sent me a fuckin' nickel.

Mr. STEINBERG. Would you explain that portion of the conversation?

Mr. FREEH. Beginning at the bottom of page 3, Clemente says in 1953, I got up in front of the committee. He is referring to the period in time when he was an ILA official and he is talking about the waterfront committee. At that time, another investigation on the waterfront was in progress. Clemente says that he told Joe Ryan, who was Bradley's predecessor as president of the ILA to get out, quit your job, you're finished.

Clemente said he said at that committee meeting, "let's fight them," meaning let's stop the investigation.

Mr. STEINBERG. When he told Mr. Ryan to get out, did he state he would put someone in place of Mr. Ryan?

Mr. FREEH. Yes, he said "I'll put somebody there," which is a reference to Gleason. Sorry, not at this point.

Clemente goes on to say "I'll pull a strike. I'll tie up every distributor in the city. I have the men behind me," meaning the longshoremen under John Bowers, who was an ILA official at that time. This is Clemente's solution to that investigation.

On page 4, Clemente again complains about Tony Anastasia, saying Gleason put the finger on him. He is saying there that Gleason told Clemente that Anastasia was trying to make Clemente's return to the waterfront very difficult. Then he says, I made a mistake. I should have went through Paul Hall. Paul Hall was president of the Seafarer's Union, International Union. The union at the time was competing for the ILA jurisdiction on the waterfront.

Clemente is saying here he should have supported—thrown his control behind Paul Hall. "If I had done that," he said, "No. 1, I wouldn't have went to jail and No. 2, I would have had the ILA," meaning ILA jurisdiction.

Then he says Paul Hall told him that not getting the ILA, meaning the Seafarers, not getting the ILA, that cost Paul \$1 million and, No. 2, Clemente went to jail. Clemente goes on to complain that while he was in jail, no one sent him money, although Anastasia had promised to do so.

Mr. STEINBERG. Mr. Freeh, when Mr. Clemente states that he got into trouble, that is he was either under indictment or going to jail and he believes the trouble was started by Tony Anastasia, that is Anastasia set him up for that conviction, so to speak, is that the reference that he is talking about when he says Gleason put the finger on him, meaning Gleason told Clemente that Anastasia was trying to put him out of the waterfront picture by having Clemente go to jail?

Mr. FREEH. Yes, that was Clemente's understanding.

Mr. STEINBERG. And did Clemente go to jail relating to waterfront activity?

Mr. FREEH. Yes, it was a perjury and extortion conviction involving the John McGrath Co., which is one of the "victims," so to speak, companies in the present waterfront prosecutions.

Mr. STEINBERG. Would this be something Anthony Anastasia at that time would have been in a position to know about?

Mr. FREEH. Yes.

Mr. DEVORKIN. Senator Nunn, I would like to move, if I might, from the facts of these cases on the waterfront to discuss just briefly some of the matters in the way of legislative recommendations, administrative changes.

Senator NUNN. We would be interested in hearing from you on that.

Mr. DEVORKIN. Thank you. There are several specific areas in which I believe the committee should recommend changes and actions to strengthen the ability of law enforcement and the tools available to all law enforcements to deal more effectively with labor racketeering and organized crime.

Although I want to make specific suggestions, I know the committee is sensitive to the problems of law enforcement in this area, but I hope I can further increase that sensitivity because there are many problems law enforcement faces.

I am sure in some cases some of these things have been recommended in the past. I only hope we realize once and for all that organized crime and its accomplices are going to ultimately corrupt our entire value system in the sense of business and political ethics unless we deal effectively to tip the balance of forces and win this struggle or at least start to win this struggle against their infiltration and domination of major segments of our society.

Senator NUNN. You think we are not winning the struggle now?

Mr. DEVORKIN. I think we are holding our own at best. I think there have been a lot of major prosecutions in the last 4 or 5 years of very significant organized crime figures, including, for example, the convictions you have heard about and the conviction recently of Frank

Tieri. That doesn't seem to stop organized crime's ability to infiltrate or keep control of areas of society they have already infiltrated.

The first place to start, at least, in this labor racketeering hearing is by raising the stakes to both sides of these potential criminal transactions, to make the penalties much higher, much swifter, much more certain to try to deter at least those on the margins who will be deterred from this kind of conduct.

If they can't be deterred, at least remove them from society for substantial periods of time so society can be protected. The first thing I put on that list is making the payment or receipt of a benefit by labor officials a felony, punishable by 5 years in prison and a \$10,000 fine.

I think it really demeans the whole area and significance of law enforcement in this area to have one of these violations be a simple misdemeanor.

Senator NUNN. Is it a misdemeanor now no matter whether you received \$1 or \$1 million?

Mr. DEVORKIN. Yes. If I made a one-time payment to a labor official of \$1 million, and we don't have evidence of a pattern, unless they can come up with some other Federal jurisdiction statute to create a felony, you have a misdemeanor. That is sending a message both to the people involved and to society about how important we think this type of activity is.

I think also there is a gray area in the law right now and there is a difference in the circuits about this; I think we ought to eliminate intent to influence the labor official as any element of this offense.

At least we ought to do something like what we have in the political bribery field. In the political bribery field, it is, I believe, a 5-year felony to make a payment to a political official of the United States with intent to influence.

It is a 3-year felony if there is no intent, if it is a gratuity. There is a minimum. I would like to see that removed completely. One of the reasons I would like to see it removed, if we don't change the forfeiture provisions, the present forfeiture provisions are read by the cases, I believe, therefore by the Department of Justice, to only reach payments with intent to influence.

The Department takes the position, I think it very well may be justified under the statute, that if I pay a labor official \$1 million and am convicted for a Taft-Hartley violation but it is not an intent to influence violation as defined in the statute, the subparts, that is not a viable offense and there are times when you cannot prove intent to influence, you don't have sufficient proof.

My view is there shouldn't be intent to influence. These people should know they can't give or receive payments to labor officials or businessmen in this field.

One of the other things I would recommend in this area, I think, of the payments received, there ought to be a mandatory forfeiture of those payments to the Government.

Right now, once again, if a labor official receives an amount of dollars in payoffs, he may be convicted, he might get a sentence, it might be a light sentence or he might get a reasonably heavy sentence. He keeps

the fruits of his crime. I don't think there should be any way he can keep those.

I think if the jury finds he receives, there should be an order to forfeit those fruits of crime to the Government of the United States. There are people in this area who if you say to them, I will make a deal with you, I will give you \$1 million as a payoff and you have to serve 2½ years in jail, they will take that deal.

Senator NUNN. How much did the Government establish Scotto had taken?

Mr. DEVORKIN. I believe Mr. Fiske's statement reflects he received more than \$500,000.

Senator NUNN. How much was his fine?

Mr. DEVORKIN. I don't know the exact fine. It was not nearly that much.

Senator NUNN. \$75,000, wasn't it?

Mr. DEVORKIN. Something in that order.

Senator NUNN. Did he keep the \$500,000? Was there forfeiture?

Mr. DEVORKIN. There was no forfeiture. It is not clear under the law now if there is position for forfeiture. I believe under the law now you can make an argument that money received under the operation is fruits of the crime and therefore should be forfeited. There is no case law on that.

It should be much clearer. If a labor official takes \$10,000, in addition to all the other penalties, that should be forfeited to the United States.

Also, it is very important to raise the penalties for businessmen to provide these payments. It is a gray area in these cases as to who is more culpable, the labor official or businessmen. You can get into a lot of chicken and egg arguments in this field.

I think these are the people who can perhaps be deterred. If you raise the sanctions substantially, we have a better chance of deterring them.

I would like to also see some provision for mandatory forfeiture by the businessmen. That is if a businessman pays \$50,000 to a labor official and is convicted, he, in addition to all his other penalties, has to forfeit the equivalent the amount of the payment to the United States.

As I said in my statement, I would like to see other mandatory provisions. Since the businessmen have Government contracts, if a businessman is convicted of one of these crimes, even if it is a felony, the Government contracting offices have discretion to continue to do business with him. I haven't seen any swift action by the Government contracting officers to bar those individuals.

I also think I would like to see, as you discussed earlier this morning, much tougher and more effective civil penalties against the businessmen and particularly against the union. I think you should expand the barrable offenses to include any Taft-Hartley violation, whether or not you change it to a felony.

I think you should make it clear that all Taft-Hartley violations, whether or not there is intent to influence, prove barrable offenses. I would also like to see the barrable offenses expanded to, if not include every felony, at least include other crimes, such as tax evasion, and many others, which can be proven to relate in any way to the

union affairs of the union officer. I would include as a general category, obstruction of justice, perjury, so forth.

I think the barrable offense provision should be longer. I think 5 years is too short. If you are not going to make it permanent, I think it should be a 10-year-barrable period. I think as you were focusing this morning on this issue, I think it has to be mandatory that these individuals are suspended from office—at least suspended from office—pending appeal from any barrable conviction.

It really is outrageous that they continue to serve in office the way they do, that businessmen, some who may have even testified against these individuals, have to negotiate back and forth across the daily table of employer—employee relationships, negotiating under or about collective bargaining agreements. It was fortunate in the *Clemente* case since the remand order was issued by Judge Sand, and was affirmed by the second circuit, that Buzzanca, Colucci, and Gardner went to jail immediately. The ILA apparently is not so brazen that it would permit their officials to continue holding their post while sitting inside a Federal prison.

That is the only place they draw the line. You don't often get judges remanding these individuals. So I think that is a very critical change and I think it has to be extended to include all positions of any kind with the union.

As you may know, Fred Field and there may be other examples of this, after he was convicted in New York of racketeering and indicted in Florida for another racketeering offense, was finally debarred by the provisions of the statute, which had him resign his official posts after his New York conviction was finally affirmed. But as I understand it, he continued to hold positions as an employee or consultant in the ILA. The ILA or any other union would be free to pay any of these former debarred officials as much as they want for performing as little service as they want and this is still not reachable under the debarment provision.

I don't think these people should be able to consult with the union, hold any post of employment whatsoever. As I say in my statement, I would like to see some kind of provision for immediate election after their conviction, the possibility of the NLRB or a Federal judge supervising such an election. I commend very highly to the committee's attention the suggestion about the possibility of a trusteeship for a union where its major officers at least have been convicted of racketeering offenses.

I think there are other matters in the way of change in the law in my statement. I will rest on those. I would like to point out a couple things about the impact some of the activities in the last couple of years have had on law enforcement. As Mr. Fiske alluded to this morning, there have been a number of changes, such as the Tax Reform Act, Financial Privacy Act, and so forth, which have been passed with laudible purposes in mind but which have had intentionally or otherwise the effect of making law enforcement in this difficult field very complicated and much more difficult.

Every time one of these burdens is passed and I speak not as the U.S. attorney, I speak as an assistant who has to work on these cases over many years, every time one of these programs is passed, it is

creating another layer of administrative, bureaucratic rules, and procedures which an assistant has to follow in order to get some information just sitting in a Government file somewhere.

Ninety-nine percent of the time for substantive reasons it is not difficult at all for him to get that. He can meet all the burdens the statutes have imposed, but what he winds up having to do is spend hours, if not weeks, getting this information.

What happens is that the prosecutors are spending more time on that and necessarily spending less time on prosecutions. That happens every time Congress passes a new set of procedures, new set of requirements and, respectfully speaking, they don't put into effect a commensurate increase of resources. You have the same amount of resources incurring substantially more burdens and, therefore, the effect is less law enforcement.

Senator NUNN. I agree with that. As you may know, we are trying to change the Tax Reform Act to reduce that burden.

Mr. DEVORKIN. I understand that. It is a very important area. It is not the substantive provisions, because we can almost always meet those. It is having to go through the procedures, while not achieving any substantive purpose Congress had in mind, but we waste the time getting them. The effect of that quite candidly, Senator, is that many prosecutors now just don't bother with those type of prosecutions. They don't get involved in a tax prosecution.

If they have a title XVIII, they work on that and forget about the tax provision.

It doesn't make sense for them to spend their resources needlessly. I would just comment finally and briefly about the prosecution of tax cases. I think this in an overlooked area. I believe, Senator Nunn, you were involved in, a year or two ago, maybe more recently, in pressing the IRS in this field. I think it is important to recognize, speaking as somebody who was put on the line for the last few years, that I don't really sense there has been change.

I think that most of the time, more often than not, the relationship between the U.S. attorney's office and the Internal Revenue Service, not so much the agents, but supervisory people and the region counsel's office is almost an adversarial position. There is not a strong interest in the regional counsel's office and other places in the tax bureaucracy in prosecuting the tax laws on a criminal basis. They don't see that as their function. They tell you that quite candidly. They make it very difficult.

If the average citizen knew how difficult it was to get prosecuted and convicted for violating the criminal tax laws nobody would pay their taxes.

You really have to work at it to get yourself indicted and convicted. I think this particularly comes up—because the regional counsel's office has the authority to review and make recommendations on both tax prosecutions that you are proposing once you have grand jury authority and on the convening of a tax grand jury. You have constant delay. You have the interposing of objections which are really irrelevant to the regional counsel's position. You have the regional counsel attorneys telling you that they don't think the case is strong enough,

or you don't have enough evidence, or that you only have two witnesses instead of three witnesses. That is not their function.

First of all most of them have never tried a case. They know very little about trying cases.

Their function is to give expert tax advice where it is needed. Their function really should not be to review substantive reasons whether or not Mr. Smith or Mr. Jones should be prosecuted or has committed a violation.

Just to give you one example, if you will bear with me, there is an industry which, believe it or not, really makes the ILA, in terms of its involvement with organized crime, look like a picnic. There was an effort made to conduct an open-ended grand jury, a tax grand jury investigation in this industry, because it is apparent to those involved that like the waterfront, it is replete with payoffs. Every time you turn around and investigate a new individual, you are finding evidence of more payoffs. Yet when the prosecutors wanted to do in that case what we did in this case—which is basically have an open-ended tax grand jury and have the authority to investigate individuals as their names came to our attention during the course of the investigation—the prosecutors were told, “No, you have to submit an application every time you get a new individual who turns up who is a potential target, or a potential witness.” What happens then is that the agencies and the assistants spend months preparing that application, the application sits in the regional counsel's office and several months later it may get approved.

In the meantime, the assistant is doing nothing on that end of the investigation.

Senator RUDMAN. If I understand you correctly, what you are essentially saying is that you have an organized crime or racketeering investigation going on; you have fulfilled all the criteria to bring felony charges in those areas which are listed under the statute you are using; in so doing you find, through electronic surveillance, informants, and other investigative techniques, that one of the people under investigation has received \$150,000 cash and you are relatively sure that this money was not reported on his tax return, which you may or may not have seen. In this situation you do not have the authority in the U.S. attorney's office to proceed under an indictment for tax evasion at that time?

Mr. DEVORKIN. That is right.

You have to make an application, present your evidence to get authority from the Department of Justice for that prosecution, every tax prosecution. That is not that terrible. But what happens is the Tax Division then requires that the IRS and the regional counsel's office express an opinion about the merits of your prosecution. They wait; the Tax Division waits before giving you authority until they get an opinion on that, or opinion memorandum from the regional counsel's office.

In a high priority investigation with a major target and a lot of significance attached to it, you can speed that process up somewhat, but in the average case, or above-average case, you can't. It is a tremendous waste of time, and a delay in the whole process.

Senator RUDMAN. What do you think the risks would be in terms of due process of law or proper administrative procedure and enforcement of criminal law, if in fact a U.S. attorney's office by statute were given the authority in organized crime cases and racketeering cases, in the event that investigations reveal evidence of violations of our Internal Revenue Code, that the U.S. attorney's office, on its own motion, through its own superiors, through its own department, would have authority to proceed with indictments without any further provision from any other agency?

Mr. DEVORKIN. I would think I would prefer something in between. I don't think there would be any disastrous consequences from that because U.S. attorneys have been delegated by the Attorney General authority in various areas to proceed on their own. You don't always need the Department of Justice's permission. There are certain areas in the tax field where we do need the Department of Justice's permission. I don't object to that per se. But I say the problem is that law enforcement in the tax area ought to be concentrated in the Department of Justice. I don't really believe that the regional counsel's office should have anything to do with recommending or expressing opinions on whether or not the tax prosecution is valid: (a) the quality of their people is not very good; (b) they are not oriented; (c) they are expressing opinions about matters they have no knowledge or expertise in. Where the Tax Division attorneys are experienced in tax matters, they are fully qualified to advise the U.S. attorney's office that this is a prosecution which is not consistent with all of the other tax prosecutions around the country.

For that reason I don't mind them, I don't object to the principle of the Department of Justice having the authority because I think there is something to be said for prosecution of tax laws, not having taxpayers prosecuted for different types of crimes in different districts where one district doesn't consider it a crime and one does.

I think there is potential abuse in the administration of the Tax Code that way. I would get IRS and regional counsel people out of that. I would get them out of the inception stage, where you want a tax grand jury. You are talking about when you finish the investigation you talk about the tax violation. What often works where you have an investigation, where you are just getting started, you are starting to see a pattern develop. You don't have enough evidence to indict. But you are starting to see a pattern develop of payoffs.

If you know that tax evasion, fraudulent tax returns are therefore going to be a result of your investigation or an important phase of your investigation, you want authority to have a tax grand jury. You cannot use a grand jury in the United States for tax investigation—putting aside the authority to indict—you cannot use a grand jury for tax investigations unless you have the Department of Justice's approval.

I don't mind that, either, but at the same point, they go over to IRS, they get IRS's opinion. If IRS won't commit the agents to such a grand jury, the Justice Department is hesitant to authorize you to have a tax grand jury. I think that is a mistake. I think the more frequent use of tax grand juries, a quicker approval of tax grand juries, particularly open ended, where they are not naming individ-

uals that you are looking at, but looking at a group of people or industry, are absolutely necessary and help make the investigation successful.

Senator RUDMAN. It seems to me that under the organized crime statutes and under the antiracketeering statutes that a natural result of almost anything you do—my own experience tells me—is that you almost immediately come up with various kinds of tax evasion which very few people want in this business for obvious reasons. I think one of the most interesting things you have said here this afternoon in your commentary for the last 10 or 15 minutes is that the use of tools that would be most valuable to the Department of Justice and to the U.S. attorneys around this country in these investigations, is blocked by an administrative bureaucracy which, although set up for apparently good reasons in some areas, in this particular area only serves to inhibit what you really want to do.

I am going to look into this myself and have staff look into this because I happen to believe that when you are dealing with these statutes, and I am familiar with them, you ought to have the full power of all Federal statutes to bring to bear against those people who are involved in this type of extortion, labor racketeering. One of the most powerful statutes you have to use is the Internal Revenue Code. Essentially you are saying that you don't really get a chance to use the Internal Revenue Code unless your request to do so goes through an administrative procedure which, if it takes long enough, can throw your own timing off, I assume.

Mr. DEVORKIN. I think that is true.

Senator RUDMAN. I think that is a very interesting aspect of your testimony, which I think would only come up in this kind of hearing.

Mr. DEVORKIN. As you are aware from what you just said, obviously, Senator, many times you may find payments or illegal income to one of these individuals that amount to a tax violation at the outset, but you can't yet prove that it is a title XVIII violation. You can't prove why they are being made, or where they necessarily came from. It is very, very helpful to have that, if you call it, that leverage from the outset because you have that tax violation. You have those tax agents working with you and with the FBI agents, for example, at the same time, so that you could take what you find initially as a tax violation and help turn that case into a much broader case, explaining where the money is coming from, why it is being paid, prove the whole panoply of crime but use the tax in some cases as an advantage, maybe develop a witness because you convict him of tax violations and he is willing to cooperate.

Senator RUDMAN. That is, of course, the other side. The tax violation—you discover that he took in an extra amount—you obviously have a party to that. That has been used by many prosecutors to get cooperative witnesses, Federal and State, because most people are in some fear of tax prosecution. I don't believe the Internal Revenue Code should be used as a club, but used as a small stick occasionally. I think that is probably an appropriate use.

Mr. DEVORKIN. I think you should also be aware that right now as the regulations are constituted, the U.S. attorneys need the approval of the Department of Justice for any RICO prosecutions. That, in and of itself, is not a bad principle. In particular, I think the Department has been—I can say this because I am a former employee of the De-

partment, I am not presently employed by the Department, I feel free to say this—but I think it is true that the Department has been a little bit leery of pushing RICO too far because they are afraid it is going to be taken away as a tool either by the Congress or by case law from the courts.

As you may know, there is a case pending in the Supreme Court from the first circuit, in which the first circuit held that RICO was not designed to be applied to enterprises which consist of wholly illegal activity; that is, if a group of individuals get together as a network to commit murder, on a regular basis and they are not incorporated, they don't have a recognizable entity and they cannot be prosecuted under RICO, according to the first circuit. And although all the other circuits have gone the other way, I think the Department, until some of these issues have gotten resolved, they are leery that different U.S. attorneys are going to go off in strange areas using the RICO statute.

Senator NUNN. I think we have covered most of the questions during the course of your testimony. I think Mr. Steinberg has a couple of questions.

I will let you pose them so we don't duplicate.

Mr. STEINBERG. You have stated Michael Clemente, a recognized member of organized crime, exercised control over a number of ILA officials, including Teddy Gleason, president of ILA. From what evidence do you draw that conclusion?

Mr. DEVORKIN. I think the evidence, some of it, was apparent to the subcommittee today, which is that Clemente's conduct during the entire course of dealings with Montella involved instances when he was able to instruct members of organized crime and ILA officials to do what he wanted with respect to intervening in Montella's behalf when he was having problems with Colucci, Gardner, to intervening and insisting Barone do certain things for Montella, intervening and telling Scotto to do certain things. Then in addition to that, you have Clemente's statements over and over again to Mr. Montella concerning his relationship with these various ILA officials, Mr. Gleason, Mr. Scotto, and many others. And I think that evidence, when you put the two together, demonstrates that he has the power that he says he has.

So what I am saying is he says he has the power, he describes how he has the power, then he exercises it. You have the evidence they have been exercising it. That is what I would rest my case on.

Mr. STEINBERG. Knowing the power that Mr. Clemente has through your investigation, would you imagine that it would be hard to be immune from that type of power if you held an official position in the ILA?

Mr. DEVORKIN. No. I think it would obviously be hard to—I don't think any of these individuals are immune from it. I think the ultimate power you are talking about, as Mr. Clemente himself made quite clear, is the power of physical violence. I don't think in the extreme case that any of these individuals, Clemente or Fiumara, in particular, would hesitate to use that power.

I think if you talked to people on the waterfront, or any of the witnesses we talked to, used in any of these cases, that is a very, very dominant consideration for any of their behavior, both on the waterfront, and in deciding to cooperate, they truly will be—and there is

no question in my mind that if any of these people could get a hold of, for example, Mr. Montella, that he would be killed.

Mr. STEINBERG. Mr. Devorkin, you have stated Tino Fiumara was able to control the piers of Newark through his organized crime connections. Do you have any undercover evidence of Fiumara attending regular meetings with high-level organized crime figures?

Mr. DEVORKIN. I think in addition to the proof in the case, I consider Clemente an extremely high-placed organized crime figure, evidence as you have heard of Fiumara's substantial meetings with him. There is also evidence, as I set forth in my statement, of meetings between Fiumara and Teamster officials Provenzano, who were organized crime figures in Jersey.

There was also another witness who told us that he accompanied Fiumara on several occasions to what were described to him as regular meetings in Brooklyn, conducted by Frank Tieri, members of his family, for the purpose of discussing the business of that family, and Fiumara attended such meetings and talked privately with Tieri extensively about family business. So I think to put all the proof together, from all the different sources, not just one source, a whole variety of sources, different witnesses, there have been different experiences, that he has attended such meetings.

Senator NUNN. One final question I have: How effective in your opinion has the Department of Labor been in dealing with corruption on the waterfront?

Mr. DEVORKIN. Not very effective, I think, Senator, I think for several reasons. I want to preface that by saying that there are, over the years, very good people in the Department who are extremely familiar with organized crime and labor racketeering, some I believe who came from working for, in fact, worked with this subcommittee many, many years ago during Senator McClellan's hearings. But the problem with the Department of Labor is as it is currently constituted, the crimes that they can really turn up are crimes either where somebody walks in off the street or advises them on something specific, or more frequently crimes that are—can be documented on books and records. They have the authority to go in, look at books and records. If they can find the crime there, they can be pretty good at investigating it. But they don't really have the capacity, and I don't think they really have the will to go out and initiate undercover investigations of either individual labor officials or broad industries such as in this case. It is not something that they are eager to do, and I think one thing you have to realize with respect to them is they can't do, I believe, as I said in my statement, the undercover investigations that are the most critical in this field. If you don't do those, you are not going to have successful law enforcement most of the time.

But the Department of Labor investigators are not authorized to carry weapons, as I understand it. You cannot conduct one of these investigations with agents who are not authorized to carry weapons because you cannot safely work with a cooperating witness engaged in the kind of meetings that you heard about here unless you have the capability to protect that witness, or if it is an agent working undercover protecting that agent. So unless that policy, whether it is stat-

utory, regulatory, I am not sure, where to change, that is a major problem.

Senator NUNN. Senator Rudman?

Senator RUDMAN. We want to thank both of you for appearing. Mr. Devorkin, you have been an excellent prosecutor for the Department of Justice, and I know you have had a great career there. We wish you luck in your private practice. We appreciate your cooperation before this subcommittee. You have been enormously helpful.

Mr. DEVORKIN. Thank you. I wish you a lot of luck.

Senator NUNN. Thank you.

[Prepared statement of Michael S. Devorkin follows:]

STATEMENT OF MICHAEL S. DEVORKIN

On May 2, 1980, a jury in the Southern District of New York convicted seven defendants in *United States v. Clemente, et al.*, on 160 counts involving Federal charges of racketeering, racketeering conspiracy, extortion, illegal labor payments, tax evasion and prejury.<sup>1</sup> These verdicts were reached after a twelve week trial before a sequestered jury, and represented the culmination of more than three years of coordinated criminal investigation by the United States Attorney's Office for the Southern District of New York, the FBI, and the Internal Revenue Service. This investigation involved the efforts of several Assistant United States Attorneys, scores of FBI agents, substantial and highly significant court-authorized wiretapping and eavesdropping, consensually recorded meetings and the critical and risky undercover cooperation of several witnesses.

In my former position as an Assistant United States Attorney, I served as lead prosecutor in the *Clemente* case and worked for more than three years on the overall investigation of waterfront corruption being conducted by the office of the United States Attorney for the Southern District of New York. Assistant United States Attorney Daniel H. Bookin assisted me at trial. Sitting next to me is Special Agent Louis Freeh of the Federal Bureau of Investigation who served as case agent during the investigation and trial of the *Clemente* case, and as one of the principal agents responsible for the success of the overall waterfront investigation in New York. He is now a supervising agent at FBI headquarters in Washington, D.C.

The indictment in *Clemente* charged that a core group of the defendants were associated with and managed the affairs of an enterprise which controlled waterfront businesses and unions in the Port of New York and elsewhere through a pattern of racketeering activity consisting of extortion and illegal labor payments. The enterprise operated by extorting money from waterfront businesses in exchange for labor peace, the right to do business in the Port and the right to do business with other waterfront companies which employed ILA labor. The proof at trial established that the enterprise extorted or demanded more than \$1.5 million from four businessmen who testified at trial. Based on this and other evidence available to the Government, it is fair to conclude that millions of dollars of other payoffs were received.

The enterprise was led by Michael Clemente and Tino Fiumara, two high-ranking organized crime figures in the Genovese crime family headed by Frank "Funzi" Tieri. The enterprise was divided into territories or areas of influence. Those in control of one territory recognized the control and influence of other members over another territory and worked together for their mutual benefit and the benefit of the enterprise. The organized crime figures in charge of each territory controlled and dominated the officials of the ILA, various subordinates and businessmen within their territory and together influenced and eliminated officials throughout the ILA, including its highest leadership. They, of course, reported to higher level organized crime figures.

<sup>1</sup> The defendants received the following prison sentences: Michael Clemente, 20 years; Tino Fiumara, 25 years; Thomas Buzzanca, 10 years; Vincent Colucci, 5½ years; Carol Gardner, 10 years; Michael Copolla, 13 years; Gerald Swanton, 5 years. All except Swanton were denied bail pending appeal.

In summary, the trial and verdicts in *United States v. Clemente* demonstrated for the first time in open court that organized crime continues to control union and business activity throughout the waterfront, and in particular dominates and controls officers of the ILA. Indeed, many of the ILA's highest leaders are either organized crime members or worked for organized crime figures. Available evidence shows, therefore, that in this respect very little has changed in this industry since the 1950's and the New York Crime Commission hearings.<sup>2</sup>

These are not personal observations. Upon the verdict in *Clemente*, William Tedy, the United States Attorney at the time, issued a statement to this effect. Moreover, when Judge Sand, the presiding judge, denied the defendants' motions for bail, he stated that the evidence at trial had shown that there was "an unholy alliance" between organized crime and the ILA.

What I would like to do today is first, give an overview of organized crime and the waterfront based on the proof in *Clemente* and other related cases and sources; second, detail some of the facts proven in *Clemente* and elsewhere, as demonstrated by tape recordings obtained during the investigation; third, explain and investigative techniques used and problems encountered in this investigation; and fourth, pinpoint some enforcement problems and offer suggestions for possible solutions or remedial actions.

#### I. ORGANIZED CRIME AND THE WATERFRONT—AN OVERVIEW

The Government's proof at the *Clemente* trial established that Clemente and Fiumara directed the operation of the enterprise described in the indictment through their control and influence over high ILA officials including the defendants Buzzanca, Colucci, Gardner, unindicted co-conspirator George Barone, Fred Field, Anthony Scotto, and others.

Clemente, aged 73, was the senior member of the enterprise. He exercised far-reaching influence over high officials of the ILA. His specific base of control was port activity in Manhattan. Because of his power over the ILA, Clemente had concomitant power over waterfront employers of ILA labor. Clemente was able to not only extort moneys from employers, but was also able to collect more than \$1.2 million in cash payments from Netumar Steamship Line ("Netumar") in exchange for exercising his waterfront influence on behalf of Netumar.

Clemente was a member of the Genovese crime family, and reported directly to its current leader Frank Tieri.<sup>3</sup> Clemente was involved in waterfront corruption and other mob activities for more than forty years. In the 1940's and early 1950's, he was the principal officer of ILA Local 856 in Manhattan. He was also associated directly with Albert Anastasia, Vito Genovese and Joe Profaci.<sup>4</sup> In

<sup>2</sup> See, e.g., *4th Report*, New York State Crime Commission (May 20, 1953).

<sup>3</sup> As I am sure the Subcommittee knows, organized crime families are run in a hierarchical manner. Each family is controlled by a "boss" who is assisted by an "underboss" and advised by a "consigliere." Each boss has under his control a number of "capos" or lieutenants, depending on the size of the family. Each "capo" controls a "regime" consisting of a number of initiated members of the family. These men are the lowest members of the family and are referred to as soldiers or button men. A member of a family is sometimes referred to as a "wise guy" or "made" man, and they sometimes have non-members working for them.

There are five organized crime families in New York: Genovese, Gambino, Bonnano, Profaci and Luchese. There is one family in Chicago. The Affairs of all six families throughout the United States are overseen by a National Commission whose six members are currently the heads of the six families in New York and Chicago. From at least 1976 to date, Frank, a/k/a "Funzi," Tieri has been the Boss of the Genovese family, the largest and most powerful organized crime family, and the senior member of the National Commission. For a substantial part of this period, "Fat" Tony Salerno was the underboss and Ely Ziccardi, an associate of Clemente's, was the consigliere of the Genovese family. Carlo Gambino headed the Gambino family and he was succeeded at death by Paul Castellano.

<sup>4</sup> Joe Profaci and Vito Genovese were each head of one of the five New York City crime families. Albert Anastasia, who was murdered in 1957 in the barber shop of the New York Park Sheraton, was Carlo Gambino's predecessor as head of one New York family. He also operated Murder, Inc. He was the brother of "Tough Tony" Anastasia, a key ILA official from Brooklyn in the 1940's and 1950's, who was a capo in the Gambino family. "Tough Tony" Anastasia was the father-in-law of Anthony Scotto and uncle of Anthony Anastasia, a key ILA official in Scotto's Local, who was recently convicted with Scotto.

At public hearings of the New York State Crime Commission on January 21, 1953, recordings were received in evidence of phone calls between Albert Anastasia and Clemente discussing waterfront business. Clemente admitted at his own state trial that he had been requested by Albert Anastasia to make his brother "Tough" Tony a hiring boss on the breakwater. Surveillance evidence before the Commission showed that Albert Anastasia and others such as Joe Profaci, Johnny Diaguardi, Carlo Gambino were observed at the wedding of Clement's daughter in 1951 and Clemente was observed meeting Albert Anastasia for dinner on September 16, 1952.

1953, he was convicted in New York State for extortion and perjury in connection with payoffs he received from waterfront businessmen, including the same John McGrath Co. involved in this case. As a result of that connection, he resigned his position in the ILA. Clemente served almost five years in New York State prison, during which time Vito Genovese and Joe Profaci, according to Clemente's statements on tape, arranged to send money to his family. Thereafter, Clemente never held an official position of any kind with a union or any business holding a license from the Waterfront Commission. Companies licensed by the New York Waterfront Commission were effectively barred from contact with him because they feared a loss of their own license if caught dealing with a person of his character. Fred Field, his prodigy was appointed his successor. However, through Field, other ILA members, and his organized crime affiliations, Clemente effectively maintained his control over the Manhattan waterfront and various ILA and waterfront activities.

Clemente exercised control over union members and company supervisors and executives who worked principally on the Manhattan piers. He also exercised control over various ILA leaders on the local and international level, including Teddy Gleason, the ILA president, Anthony Scotto, George Barone, Fred Field and Thomas Buzzanca.<sup>5</sup>

Fiumara controlled port activity in Newark through his control of organized crime figures and various ILA officials, including the defendants Gardner, Colucci and Buzzanca, all presidents of ILA New Jersey Locals.<sup>6</sup> Fiumara, 38 years old, never had any official connection with a union. He was allegedly employed as a part-time salesman in a New York auto body repair shop. His assistant, the defendant Michael Copolla, also held no union position, and claimed to be a self-employed haberdasher who worked out of his home or car.

In fact, Fiumara had close ties with Frank Tieri and was assigned by the Genovese family to control all waterfront activities in the northern New Jersey area. He had a well-deserved reputation for ruthlessness and was widely feared by businessmen and by enterprise members such as Buzzanca, Gardner and Colucci. Reliable government informants have identified him as associated with the late Pete LaPlaca, a capo in the Genovese crime family, and friend of Clemente's. During the investigation, Clemente confirmed on tape that Fiumara worked for LaPlaca.<sup>7</sup> According to reliable government informants, Fiumara personally murdered the two brothers of the defendant Vincent Colucci, an ILA Local president.

The strength of organized crime's control over the waterfront is classically shown by the fact that Colucci continued to respect and obey the very man who had killed his own brothers. Fiumara's power was obviously founded in fear.

As the Manhattan piers became obsolete and waterfront businesses moved out of Manhattan to New Jersey and to some extent Brooklyn, Fiumara's territory became more and more important in terms of overall Port business. Nevertheless, Clemente and Fiumara recognized and respected each other's control over their respective territories, working together for their mutual benefit. Clemente, by

<sup>5</sup> George Barone was a Vice-President of the International, an officer of Local 1804 in Manhattan, and President of ILA Local 1422, Miami, and was recently convicted of racketeering in the Southern District of Florida. According to a reliable source, he is a member of the Genovese family. Fred Field held the ILA's third highest post of General Organizer until his racketeering convictions, first in the Southern District of New York, *United States v. Field*, 432 F. Supp. 55 (S.D.N.Y. 1977), *aff'd* 578 F.2d 1371 (2d Cir.), *cert. dismissed*, 439 U.S. 801 (1978), and then in the Southern District of Florida with Barone. He originally had been Clemente's successor at Local 856. Scotto, who was also recently convicted, *United States v. Scotto*, Dkt. Nos. 80-1041-1044, slip op. 5363 (2d Cir. Sept. 2, 1980), was the President of Local 1814, Brooklyn, the ILA's largest local, and an International Vice-President and Field's successor as General Organizer.

<sup>6</sup> The defendant Buzzanca was president of ILA Locals 1804 and 1804-1, whose members were lashers, maintenance men, and container repairmen, employed in Manhattan and New Jersey. According to a reliable source, he is a member of the Genovese family. Colucci and Gardner were presidents, respectively, of Locals 1235 and 1233, whose members were longshoremen doing identical stevedoring work in Newark, New Jersey; Colucci's men were white and Gardner's black. All three men held major offices in the International, ranking from vice-president to organizer. Prior to the time of trial, but after his 1979 conviction in the Southern District of New York for illegal labor loans, Gardner was elected the assistant general organizer allegedly the fourth highest ILA post.

<sup>7</sup> This strongly corroborates the testimony at Fiumara's sentencing hearing before Judge Stern describing LaPlaca as a capo in the Genovese family and Fiumara's association with him. It is also corroborated by the surveillance of LaPlaca and Fiumara together. Many years ago Joseph Valachi identified LaPlaca as a soldier in Ruggerio Bolardo's regime. Fiumara was observed meeting Bolardo on December 30, 1976.

virtue of seniority and experience exercised the greatest control, to which even Fiumara deferred. Directed by Clemente and Fiumara, the other defendants systematically demanded money from ILA employers who were seeking business or labor peace in the Port of New York.

Any accurate description of the mob's control of the waterfront must include a description of the third geographic area comprising Port activities: Brooklyn and Staten Island. Anthony Scotto, an International officer and head of the Brooklyn Local, largest in the country, exercise extortionate control, akin to Clemente's and Fiumara's, in Brooklyn and Staten Island.

I understand that the Subcommittee has this morning learned the facts of Scotto's conviction through the testimony of former United States Attorney Robert B. Fiske, Jr. Additional data on Scotto's connection to organized crime has been uncovered during the course of the *Clemente* investigation. Those facts are as follows.

In 1959, Scotto's uncle, Anthony "Tough Tony" Anastasia—brother of Albert Anastasia of Murder Inc. fame<sup>8</sup>—who was a key ILA figure and head of the Brooklyn ILA Local, died. This Local was controlled by Carlo Gambino. Later Scotto and the Anastasia family asked Gambino to appoint Scotto as Anastasia's successor. Scotto also went to Clemente and asked his assistance. In 1963, at the age of 28, Scotto promised his allegiance to Gambino, and was made president of the Brooklyn Local and a "button" man or soldier in the Gambino crime family. Later he was made a captain in that family.<sup>9</sup> Given his union positions, he exercised the same type of extortionate influence over business and the assignment of waterfront works in Brooklyn and Staten Island as did Clemente and Fiumara in Manhattan and New Jersey. He effectively exercised that influence on behalf of the mob. Although showing proper respect to Clemente where appropriate, he continued to secretly meet with Gambino, the most important Mafia figure in the city. His close allegiance to Gambino enabled him to successfully ignore the requests of the other high Mafia leaders operating within Brooklyn or Staten Island, at least as long as Gambino was alive. At least one leader of another organized crime family complained that he could do nothing about Scotto's activities within his area due to Scotto's connection to Gambino.<sup>10</sup> Indeed, during our investigation, in a tape recorded conversation on December 12, 1978, Buzzanca referred to the fact that Scotto's power was greatest when Gambino was still alive.

Any doubt about Scotto's organized crime involvement should be erased by statements Clemente made on tape to Mr. Montella, a cooperating Government witness on September 12, 1978. On that occasion, Clemente explained, as I've set forth above, how Scotto came to him for assistance, and how Scotto was made first a soldier—or a "button"—and then a capo in an organized crime family. On June 15, 1978, Clemente advised that same witness, again on tape, that Scotto would be murdered within 24 hours by organized crime members if he ever decided to cooperate with the Government.

<sup>8</sup> I would refer the Subcommittee to the testimony which it heard in 1963 from Joseph Valachi. Valachi, a member of the Genovese family, testified at length about the control of and membership in the various families and the importance of Anastasia. He identified Frank Tieri, Anthony Sa'erno, Michael Clemente, Peter LaPica and many others as soldiers at the time in the Genovese family. Clemente and Tieri were members of the same regime. Hearings Before Permanent Subcommittee on Investigations of the Committee on Government Operations, 80th Congress (1963), pp. 162, 248.

<sup>9</sup> Informant information obtained by the FBI from an FBI member source from as far back as 1963 has labelled Scotto a capo in the Gambino family. Based on this and other information, the Department of Justice publicly identified Anthony Scotto as a "capodecina" in the Gambino crime family in a report filed with the United States Senate Subcommittee on Organized Crime in 1969. 115 Congressional Record 23433, 23441 (1969). Shortly thereafter, in early 1970, Anthony Scotto asserted his Fifth Amendment privilege before the New York Senate Joint Legislative Committee on Crime in answer to questions concerning his relationship with the Gambino family. A reliable informant and member of one of the crime families has told the Federal Bureau of Investigation that in 1974 the late Carlo Gambino, in a conversation which related to placing a leading member of another major New York City crime family in a high position on the waterfront, introduced Scotto to another individual as a capo and introduced Anthony Anastasio as a member in his family. In 1966, Scotto was observed meeting with a capo in the Buffalo organized crime family.

<sup>10</sup> As Scotto became more politically active and publicly visible, he tried as much as possible to avoid direct contact with organized crime leaders such as Clemente. Thus Clemente frequently complained on tape to Government witnesses that Scotto—who he called "a politician"—was not sufficiently accessible and did not respond adequately and promptly to those organized crime figures who were responsible for Scotto's position and rise to power, apparently because Scotto did not want to be seen with them any longer.

## II. UNITED STATES V. CLEMENTE: THE FACTS

### A. A summary

Turning to the specific facts of the *Clemente* case, the enterprise therein succeeded through a classic scheme of extortion. Its victims were the steamship lines and other waterfront businesses servicing the Port of New York. These companies employed two types of ILA members: (1) longshoremen, who loaded and unloaded cargo on ships docked in the Port; and (2) carpenters and lashers, who secured cargo previously loaded on board ship. The ability of the ILA to artificially increase costs through work stoppages, disputes over procedures and manning requirements, or by causing low productivity was well-known and feared in the waterfront industry. Capitalizing on the fear of economic injury from adverse union activity, the defendants were able to extort money for labor peace, thus controlling the allocation of waterfront business and extorting massive sums of money from the waterfront employers competing for such business.

During the *Clemente* trial, five waterfront businessmen testified about the defendants' extortion racket and their payment of more than \$1.5 million directly to or in the presence of every defendant from 1974 through 1978. Three businessmen—William Montella, Dennis Meenan and Manuel Castelo, Jr.—testified that they paid more than \$300,000 in cash to avoid economic injury threatened by one or more of the defendants. Walter Gainsbury and Charles Mattmann testified about \$1.2 million they paid to Clemente to obtain economic benefits for their company, the Netumar Line. All of these witnesses were corroborated by numerous electronic recordings of the conversations of the defendants, documents, physical surveillance by Government agents and by the testimony of other witnesses.

A substantial number of the payments received by the defendants were made by William Montella, the general manager of Quin Marine Services, Inc., a marine carpentry, lashing and container repair firm with headquarters in Brooklyn.

From May, 1974, through December, 1978, Montella complied with the extortionate demands of Clemente and Gerald Swanton, a Netumar Vice President associated with Clemente, and paid Clemente \$42,000 in monthly cash payments to obtain and retain the business of the Netumar Line at Pier 36 in Manhattan. From August, 1975 through December, 1978, Montella also paid approximately \$100,000 in order to obtain and retain the account of the Concordia Line in Newark, New Jersey. At first, Montella made these payments to Colucci and Gardner. Later, after complaining to Clemente about the collection tactics of Colucci and Gardner, Clemente arranged for Montella to make the payments to Buzzanca, who, in turn, handed over the monies to Fiumara.

From 1975 through 1978, the Ecuadorian Line in Newark also paid more than \$100,000 to Gardner for labor peace. The Castellinos paid Gardner \$1000 per month during this period in order to retain the business of Ecuadorian Line.

During the period of time that Montella was paying Clemente and Fiumara, Clemente arranged for Fiumara, Buzzanca and George Barone from Miami to get additional business for Quin. Clemente and Fiumara also worked to expand the scope of the enterprise and to insulate the enterprise from detection and prosecution.

### B. Quin's payments for the Netumar account

From 1970-72, N.J. Export was the carpentry contractor for Netumar, a Brazilian-owned steamship company which operated from Pier 36 in Manhattan. Beginning in 1970 or 1971, the defendant Swanton, who was then employed by Netumar as Vice-President, demanded cash kickbacks from Montella in order to permit N.J. Export to retain the Netumar account. Swanton left no doubt that such payments were mandatory on the waterfront, and that if Montella did not "do the right thing" and bring back enough cash to him, he would "throw them out." Montella capitulated and began to pay Swanton substantial amounts of cash so that N.J. Export would not lose the Netumar business.

Swanton made clear to Montella that Mike Clemente was actually the man behind the scenes, the "boss," who ran the East River Piers in Manhattan. Swanton explained that he was "with" Mike, whom he saw from time to time, and that Mike was responsible for labor peace and could shut the piers down any time he wanted to. Swanton also told Montella that he had to give Clemente some of the kickback money that Montella was paying.

Montella continued the payments to Swanton until September, 1972 when he left N.J. Export for C.C. Lumber Co., a Brooklyn company owned by Joseph

Lacqua, a cousin of Anthony Scotto. When Montella left, Swanton refused to give Netumar's business to Lacqua because Clemente was not on good terms with Scotto at the time.

In June, 1973, Montella became general manager of Quin Lumber, another carpentry lashing company. In early 1974, Swanton told Montella that he would give the work to Quin Lumber and could do so then because Clemente and Scotto were again friendly. In April, before the work began, Swanton directed Montella, in connection with the account, to go to the Shelton Health Club and see Clemente directly and promise to pay Clemente \$500 a month.

Montella followed Swanton's instructions and met Clemente at the Shelton Health Club in April, 1974. He explained that Swanton had sent him to see Clemente because he was going to be the carpentry contractor for Netumar. Clemente told Montella: "I hope you do the right thing. I hope you are not cheap." Montella understood that on the waterfront "do the right thing" meant payoff and he assured Clemente that he was prepared to give Clemente \$500 per month. In April or May, after Quin worked its first Netumar ship, Montella began to pay Clemente monthly cash payments of \$500. Through December, 1976, Montella arranged monthly, regular and secret meetings with Clemente, almost always at the Shelton Health Club where Montella gave Clemente \$500 cash in a white envelope.<sup>21</sup>

Montella made the monthly payments to Clemente because he had been directed to do so by Swanton and because he accurately believed, based upon his dealings with Swanton and Clemente, that Clemente was the "boss" of the Manhattan piers who was one of the most influential and powerful men controlling the ILA and waterfront business and who would take the contract away from Quin if the payments ever stopped. There was overwhelming evidence that Montella's conclusions were accurate.

In early 1977, Clemente arranged to give Quin the lashing work at Netumar and Montella agreed to Clemente's request for "another \$500" for this work. He did so because he believed Quin would lose this business if Clemente were not paid. Thereafter, beginning in January, 1977, through December, 1978 Montella paid Clemente monthly \$1000 in cash at the Shelton Health Club.

During many of Montella's meetings with Clemente, Clemente told him of his power over and relationships with high ILA leaders and waterfront businessmen and operations. He often told Montella that he was responsible for getting Fred Field his powerful position in the ILA, as its General Organizer, a position for which Clemente said he was grooming Scotto.<sup>22</sup> He explained which ILA officials controlled what areas of business. Clemente also frequently discussed his own contacts with the ILA, his numerous meetings with high ILA officials, and his ability to have ILA officials do things for him, including get work for businessmen he favored. He also told Montella about his close relationship with certain waterfront businessmen and his ability to influence them. These conversations reaffirmed for Montella that Clemente was the power behind the Manhattan piers and could, as Swanton had told Montella, easily cause Quin to lose Netumar's work.

#### C. Netumar Line's payments to Clemente.

At the same time that Clemente was extorting moneys from Montella, he was also using his position of power over business and labor affairs on East Side piers to obtain approximately \$200,000 per year from Netumar itself.

Shortly after Netumar began its operations at Pier 36 in 1968, Swanton began to meet with Clemente to discuss with him various aspects of Netumar's operations at the pier. Swanton made clear to his superiors at Netumar that Clemente was "the man behind the scenes" on Pier 36 whose cooperation was necessary to Netumar's success. Later, after an initial introduction by Swanton, those officials continued to meet with Clemente to discuss Netumar's operation at Pier 36.

In 1972, Netumar concluded that United Terminals, Inc., Netumar's stevedore at the time, was grossly overcharging Netumar for the rental of its equipment at Pier 36. Walter Gainsbury Netumar's owner, unsuccessfully attempted to

<sup>21</sup> Quin Lumber became Quin Marine Services, Inc., and Montella continued these payments for Quin Marine.

<sup>22</sup> In fact, shortly after Clemente's indictment Scotto was so promoted.

persuade Irving Held,<sup>23</sup> United's owner, either to reduce United's annual rental fee of approximately \$800,000 or to sell Netumar the equipment for a reasonable price. When Held insisted on a \$1,000,000 sales price, Gainsbury and Mattmann sought Clemente's help. During their initial discussions, Clemente obtained Gainsbury's agreement to pay Clemente \$.25 on every dollar he could arrange to save Netumar. Clemente investigated the situation, concluded that Held was greatly overcharging Netumar, and told Gainsbury to offer Held far less. After Clemente's intervention, Held suddenly agreed to sell his equipment to Netumar for \$300,000 payable over three years. Given Clemente's control over Manhattan and his ties to Tieri, it is not surprising that Held suddenly changed his mind. After Held's reduction in price, Gainsbury then agreed to secretly pay Clemente approximately \$200,000 in cash each year.

From 1973 through 1978, Netumar made these secret cash payments to Clemente on a quarterly basis in restaurants in Brooklyn or Manhattan. Clemente's influence over the ILA appeared to improve the efficiency of the Netumar operation. The payments were all surreptitiously delivered and were made by Mattmann or Gainsbury. These meetings were also arranged surreptitiously, usually by coded conversations directly with Clemente or through coded messages from Frank Chiarello, the hiring boss at Pier 36, who also served as a loyal Clemente aide. When the payments were late, Clemente or Chiarello called to remind Netumar of its commitment.

#### D. Quin's payments for the Concordia Line and Quin's loss of the Chilean Line; the enterprise operates in New Jersey

1. Gardner and Colucci—The payments begin.—In about June 1975, the enterprise began its efforts to extort money from Quin in connection with other business in the Port of New York. Quin had been doing some business in New Jersey with Castelo and Sons Ship Servicing Inc., a lashing company owned by Montella's friends Manuel Castelo and Joseph Castelo, Jr. The defendant Carol Gardner, president of ILA Local 1233, the black stevedore local in Newark, approached the Castelos and demanded money from them to permit them to do the lashing work for the Concordia Line's ships in Newark. At the time, the Castelos were doing lashing work for Concordia Line in Hoboken, but the line was scheduled to move its operation to Newark, which was part of Gardner's territory.

The Castelos told Montella about Gardner's demand that they pay kickbacks in order to get the Concordia Line account. Montella spoke with Gardner who told him to meet him at the ILA's annual convention in Miami Beach, Florida, where Montella could discuss the matter with Gardner and "his partner." Montella went to Florida in July 1975, and met with Gardner and his partner, the defendant Vincent Colucci, president of ILA Local 1235, the white stevedore local in Newark. Gardner and Colucci demanded \$50,000 in advance from Montella in exchange for the Concordia account because other competitors were willing to pay such an amount. After a brief discussion, Gardner agreed to meet Montella in New York for further discussions.

At subsequent meetings in New York, Montella attempted to reduce the demands of Gardner and Colucci. Gardner warned Montella that "his people" wanted to sell the account to one of Montella's competitors, but he assured Montella that he would convince "his people" to sell the account to Quin, on the condition the Montella made a secret, extra payment to Gardner. Montella complied with Gardner's demands. He agreed to pay \$10,000 up front and \$2,000 per month for the account, all of which was to be divided equally between Gardner and Colucci. He also agreed to give Gardner individually an additional \$10,000 for his efforts, and promised Gardner that he would never tell anyone about the

<sup>23</sup> Held was convicted with Gardner in May, 1979, in the Southern District of New York, for arranging four illegal labor loans for Gardner totalling \$68,000 in violation of 29 U.S.C. § 186. Held was sentenced to and served eight months in prison and paid a \$40,000 fine. He also has recently pleaded guilty to tax evasion charges in the Southern District of New York relating to corporate funds he secretly removed and used personally.

Held has been observed by two reliable witnesses meeting with Frank Tieri. According to Buzzanca's statements to Montella on December 12, 1978, Held was originally associated with Clemente, and through Clemente, he became directly associated with Tieri. Fiumara has been recorded discussing his own relationship with Held in New Jersey. Other reliable information suggests that Held made other payoffs to ILA leaders in New York and New Jersey.

additional money. Montella made these arrangements and the subsequent payments because he believed that this was the only way to get such an account in New Jersey. The Castelos then agreed with Montella to contribute \$5,000 for the downpayment and \$1,000 of each monthly payment in exchange for receiving the lashing portion of the Concordia account.

Montella gave Gardner \$20,000 in cash in August, 1975, and Gardner took Montella down to the pier and assured the pier boss that Montella had his blessing. Shortly thereafter, the vice-president of Concordia invited Montella to bid for the work at Newark and shortly thereafter, Quin was awarded the contract.<sup>14</sup>

Even before the work began, however, Gardner called Montella in September and reminded him of his monthly obligation. Montella then met Gardner in the parking lot in front of the International's office at 17 Battery Place, Manhattan, and gave him \$2,000 in cash for September. Shortly thereafter, Colucci also called Montella to remind him to make his payment. When Montella explained that he had already seen Gardner, Colucci insisted that in the future he see him instead. Montella agreed.

In October and November, 1975, this pattern repeated itself. In each month, Montella received a call from Gardner, met him at 17 Battery Place and gave him \$2,000. After each payment to Gardner, Colucci called and insisted he should get the payment instead, and each time Gardner assured Montella that it was necessary to pay Gardner. Finally, Montella insisted that Gardner and Colucci come to the same meeting to straighten out these problems. At their meeting, Montella complained about the duplicate demand calls, which he later termed "double banging." Gardner and Colucci reassured Montella that they were partners and that it made no difference which one of them Montella paid. When Montella left that month's payment, however, Gardner insisted that it was for the previous month instead.

2. *Quin loses Chilean Line.*—During the first three months of payments for the Concordia Line, Montella encountered other problems with Gardner and Colucci when they attempted to extort additional payments from Quin to permit it to retain its Chilean Line account in Newark. At this joint meeting with Gardner and Colucci, Montella was told that he was not paying for other accounts he had in Newark, particularly the Chilean Line. When Montella protested that the Chilean Line account was "his" because he had it for many years in Brooklyn and had merely kept it when the line moved its operation to Newark, Gardner corrected Montella and stated: "Wrong, that's my account." Montella was then told that one of his competitors, Lee and Palmer, had offered \$2,000 monthly for the account and that if Montella wanted to keep the account, he could "take it or leave it, [for] \$2,000 a month."

At a subsequent meeting with Gardner and Colucci, Montella offered \$500 but this was rejected. He was told that his competitor was "going to give us \$2,000 a month, so you got to get out." When Montella complained that it was not fair that he should lose the Chilean Line just because he had paid them for the Concordia Line, they revealed to Montella for the first time that they were both working for Fiumara whom they referred to as "T," and whom they described as the boss in charge of this waterfront extortion racket in Newark.

Montella, knowing well the consequences of resistance, followed these instructions to "get out" and simply told the Chilean Line that he could no longer do its work in Newark. The account went to Lee and Palmer. Montella did this because he knew that Gardner and Colucci had the power to take Concordia Line away from Quin and to prevent Quin from getting any New Jersey work. He did not want that to happen and did not want to lose the \$26,000 he had already paid for Concordia Line.

Montella's experience in getting the Concordia Line account and losing the Chilean Line persuasively demonstrated how Gardner and Colucci successfully insured that anyone wanting business in Port Newark had to make the payments that were part of the system of tribute controlled by Tino Fiumara.

<sup>14</sup> These payments for New Jersey business ultimately caused Montella to make payments to Scotto to protect his company's business in Brooklyn. Scotto learned about Montella's plans to pay such amounts for New Jersey business from his cousin Joseph Lacqua, who participated in Montella's first conversation with Gardner and Colucci. Somewhat later in 1975, Lacqua told Montella that Anthony Anastasia was asking what Montella intended to do about payments for Brooklyn. Knowing that Scotto and Anastasio knew about his payments for New Jersey work and fearing that if they did not receive similar payments in Brooklyn, Scotto and Anastasio could and would hurt his company's substantial business in Brooklyn, Montella agreed to pay Scotto \$25,000 cash per year.

3. *Clemente intervenes and arranges for Buzzanca to take over for Fiumara.*—Fiumara's control and his relationship to Clemente became more visible in December, 1975. At that time, after the duplicate demands by Gardner and Colucci and the loss of Chilean Line, Montella went to see Clemente at the Shelton Health Club describing to him his monthly payments for the Concordia Line account and his most recent difficulties with Gardner and Colucci. Clemente told Montella that if he had come to Clemente in the first place, he would not have had to pay Gardner and Colucci at all. Clemente instructed Montella, however, that "Now you made a commitment you got to live up to it" (sic). This confirmed to Montella "that when you agree to pay something, you have to live up to your commitment." Clemente also told Montella to "go see this kid Tommy Buzzanca, tell him you are with me and tell him the story."

Shortly thereafter, Clemente introduced Montella to Buzzanca and instructed Montella to tell Buzzanca about his problem with Gardner and Colucci. Buzzanca apologized to Clemente for these problems because "I don't know the kid was a friend of yours" (sic). Buzzanca told Montella to bring the \$2,000 monthly payments to him from then on and to tell Gardner and Colucci that he would no longer see them.<sup>15</sup>

Montella followed Buzzanca's directions. When the next payment was due, Montella met Buzzanca in a private office at the headquarters of Local 1804 and 1804-1, and paid him \$2,000 cash. Buzzanca then brought Fiumara into the private room and asked Montella to repeat the story of his dealings with Gardner and Colucci for Fiumara's benefit. Montella, of course, complied. He was not, however, introduced to Fiumara at that time. Fiumara listened and said nothing. After Montella finished, Buzzanca reminded him to bring him the money in the future and assured him that he would no longer be bothered by Gardner or Colucci.

Montella continued to meet Buzzanca on a monthly basis either at Local 1804 or in the men's room at Ponte's restaurant, regularly delivering to him \$2,000 cash in a white envelope. The meetings were usually arranged by coded telephone conversations between Buzzanca and Montella. Often Buzzanca called to remind Montella he was late. Buzzanca delivered Montella's payments to his boss Fiumara.

On several occasions, Michael Copolla, Fiumara's assistant and chauffeur, contacted Buzzanca or Montella to remind them that the payment was due or to arrange its delivery. On several occasions, Copolla personally came to Montella's office and picked up the payment. Lawrence Ricci, an ILA shop steward and agent of Fiumara's, also picked up a payment in Montella's office. These payments continued through December 21, 1978, when Fiumara met Montella himself and picked up his money.

Buzzanca's greed and brazeness are exemplified by his meeting with Montella on May 19, 1978. This was two days after the Government secretly began to negotiate with Montella for his cooperation but before any agreement was reached. Montella tried to warn Buzzanca that the investigation was coming closer and that they could all wind up in jail. Buzzanca's response was "I could use the rest. Business as usual." Montella was afraid to stop payment so he gave Buzzanca the \$2,000 at that time. Buzzanca's warning was similar to an earlier warning in 1977 from Fiumara that payments must continue despite the investigation. This conduct was typical of the defendants. They all knew that there was an intensive investigation of their activities, that they were being followed, that their phones were possibly tapped, and that colleagues, like Barone, had already been indicted in Miami, and yet their racketeering activities continued in full force. As Judge Sand noted after the trial, this demonstrated either their complete contempt for society and law enforcement or their inability to withdraw from the conspiracy.

4. *The Castelos and Ecuadorian Line also pay the Enterprise.*—Similar extortion tactics were used against the Castelos and Ecuadorian Line. Early in 1975, Gardner had demanded \$1,000 a month to permit the Castelos to retain the lashing work of Ecuadorian Line in Newark. They complained to their friend, Dennis Meenan, president of Ecuadorian. Despite the fact that he had given the work to them in the first place, Meenan could do nothing to stop Gardner's threat and indeed suggested that they pay him. Their fruitless discussion with Meenan demonstrated the extreme power that the enterprise had over the steamship lines

<sup>15</sup> Gardner and Colucci never contacted Montella again.

because of their heavy dependence on the ILA for labor peace. Shortly thereafter, the Castelos agreed to Gardner's demand, and made monthly payments of \$1,000 cash to Gardner from April, 1975 through early 1978.

Gardner was also able to extort more than \$100,000 from Dennis Meenan, Ecuadorian Line president, in connection with Ecuadorian's operations in Newark. Meenan made three types of payments to Gardner. First, in August, 1975, Gardner demanded and received from him \$15,000 in cash in exchange for permitting a modernization in the pier operation and ending a work stoppage which resulted from it. Second, beginning in March, 1976, Meenan paid Gardner \$2,500 monthly in exchange for eliminating four union employees from Held's payroll at the pier. Three of the men belonged to Colucci's Local and one belonged to Gardner's. These payments stopped on advice of Meenan's counsel in August, 1978. Gardner, however, insisted to Meenan that he would collect the money after the investigation was over. Third, in November, 1977, Meenan paid more than \$20,000 to guarantee that Ecuadorian banana ships could load and unload during an ILA strike.

#### E. Fiumara's control over New Jersey

There was overwhelming evidence that at all times pertinent to the events proved at trial, Fiumara directed and controlled the activities of Buzzanca, Colucci, Gardner, and other ILA officials, as well as those of Copolla, his trusted assistant. Through words and deeds, the evidence at trial starkly revealed Fiumara's powerful role in the illegal enterprise, as well as the close relationship among him and the other defendants who participated in the enterprise.

Fiumara's power over the New Jersey waterfront and the ILA defendants is perhaps best illustrated by two of the recorded conversations Montella had with Buzzanca and Gardner in December, 1978.

Buzzanca described his relationship with Fiumara and his power over the distribution of work on the New Jersey waterfront this way:

"Tino's good point is that everybody fears and respects him. That's a good thing. . . .

\* \* \* \* \*

"I love Tino and I would do anything in the world. . . .

\* \* \* \* \*

"I love him. I love him. And I got to. Ya know like, and I live with him everyday. I absolutely think, if this guy tempers himself, he'll be, ten years from now, he'll be awesome. . . . He'll have the best of two worlds. Good sense, good judgment. Plus, which we all live under fear. Ya need to have that balance. . . . Fuckin' money—we'll make money. We'll steal it, if we have to.

\* \* \* \* \*

"Somehow I get in fact, I notice in Tino and more than Mike. I come from the greatest guy in the world."<sup>10</sup>

Gardner, another powerful ILA official also described to Montella his "love and loyalty" for Fiumara and Fiumara's controlling role in similar terms. On December 22, 1978, in a discussion on tape about additional contracts Montella might be able to obtain for the right price, Gardner aptly summarized the situation this way:

"I don't make no move until I, ya know, check with, I do the right thing. . . . I don't have the last decision.

\* \* \* \* \*

<sup>10</sup> Buzzanca's observations about Fiumara's use of fear to run his affairs are strongly corroborated by the facts of Fiumara's New Jersey extortion conviction, where Fiumara used threats and fear to take control over a New Jersey restaurant. As Judge Stern noted after a sentencing hearing:

"these defendants were in an organized criminal conspiracy among themselves and that they had contact with other organized criminal conspiracies beyond this State.

\* \* \* \* \*

"A meeting of hoodlums [was] held in a kind of unlawful court in which [the victim's] problems are adjudicated not in a civil court, but among hoodlums.

\* \* \* \* \*

"Fiumara, the defendant Michael Copolla, and the defendant Jerry Copolla, traded on and used the defendant Fiumara's reputation in the community for violence, for fear, for wrongdoing in general, as a tool or a weapon against [the victim and] . . . the defendants enjoyed such a reputation, and that they used such a reputation like a very weapon."

"I love him cause he was helpin' me when other people was trying to fuck me around. And he came in. I laid it on the line and he, he opened the door for me.

\* \* \* \* \*

"I say I'm very loyal to this guy."

Extensive proof confirmed the accuracy of Buzzanca's and Gardner's description of the enterprise, Fiumara's role in it, as well as that of the other defendants. A few examples convey the appropriate flavor.

Lawrence Ricci, an ILA shop steward who was an unindicted co-conspirator, also worked for Fiumara in the enterprise. On May 25, 1977, Ricci brought Gardner to a restaurant in New Jersey where he and Fiumara spoke alone for about an hour. Within minutes of his meeting with Gardner, Fiumara met with Robert Delaney, a State police officer who was working undercover as the officer of a trucking company and who understand will testify as a witness before this Subcommittee later during the course of these hearings. Fiumara promised Delaney that he could have the trucking business of several steamship lines. Less than two weeks later, Copolla met with Delaney and re-confirmed Fiumara's promise of business for Delaney. During this meeting, Copolla also told Delaney that Fiumara had control over Irving Held's stevedoring work on the banana piers in Newark, including the work at the Old Grace Line pier which was used by Ecuadorian Line. Copolla confided that Fiumara had worked with Held to reduce the number of ILA workers who were employed at the pier, thereby reducing Held's labor costs.<sup>17</sup>

On July 6, 1977, Ricci, at Fiumara's request, placed a series of coded calls to Colucci, Buzzanca, and Copolla, which vividly demonstrated the close and clandestine relationship among the defendants and Fiumara.

On April 13, 1978, Fiumara and Copolla telephoned Buzzanca and arranged for Buzzanca to set up meetings with Colucci and Gardner that day for Fiumara. Buzzanca instructed Colucci to meet Fiumara at a Holiday Inn at the New Jersey end of the Holland Tunnel and then arranged for Gardner to meet Fiumara at Local 1804 shortly thereafter. While Copolla and Buzzanca were waiting in Buzzanca's office, they discussed some of their other extortionate activities. They attempted to pinpoint how much money they had recently demanded from an unidentified party, and Copolla bragged that that victim "absolutely shakes over there." On other occasions, Buzzanca spoke in his office about similar matters, including other extortions involving Fiumara and leaving money for Fiumara.<sup>18</sup>

#### F. Clemente's control over Fiumara and the enterprise

Although Fiumara exercised an iron grip over the New Jersey waterfront and the New Jersey Locals of the ILA through such high-placed ILA officials as Buzzanca, Colucci, and Gardner, Clemente had even greater power in the enterprise. He was not only Fiumara's senior partner, but also the undisputed head of the enterprise, which extended its illegal reach beyond the confines of New Jersey.

<sup>17</sup> As I noted above, Gardner was able to extort more than \$100,000 from Ecuadorian Line.

<sup>18</sup> Fiumara's organized crime activities and control over the New Jersey segments of the Port are further corroborated by information provided the Government by Ralph Picardo, a highly reliable witness who has testified several times for the Government. Picardo worked on illegal schemes for Sal Briguglio and Tony Provenzano, who were Genovese members who ran a New Jersey teamster local and other organized crime activities in New Jersey. Both Briguglio and Provenzano disliked Fiumara but told Picardo they had to tolerate Fiumara because he was with "Funzi." Provenzano told Picardo that Fiumara was "made" and was in charge of the Port. Another reliable witness has reported observing Fiumara attend regular meetings with Tieri to discuss family business. Tieri is known to have had indirect ownership of at least one waterfront related company.

To some extent, the proof at trial was only the tip of the iceberg of Fiumara's port activities. Picardo was partly responsible for receiving labor payments in the port from the Seatrain for the Teamsters. He was told by his associates that Fiumara also received payoffs from that company for labor peace with the ILA. He agreed with Seatrain to work out with Fiumara a method for making future ILA peace payments and he did reach an agreement with Fiumara. Picardo and Provenzano and Briguglio also had an arrangement with Fiumara for Fiumara to respect trucking businesses Picardo was operating with certain shipping lines for Provenzano and Briguglio. Fiumara told Picardo that if he had any trouble with a particular steamship line he should see him or Copolla.

Picardo also reports that in 1974 he was operating a container stuffing facility for Provenzano and Briguglio and was approached by someone from Coluccio's local inquiring about the use of union labor at the facility. When Picardo, Briguglio and another person explained to Coluccio that this was their facility, Coluccio agreed not to interfere. Coluccio asked who would get Fiumara's consent, and was told that they would make arrangements with Fiumara. Picardo saw Fiumara, who agreed that the facility would remain non-union.

Perhaps the most vivid illustration of Clemente's power and his connection with the New Jersey operations of the enterprises was his personal handling of the difficulties Montella was having with Gardner and Colucci in late 1975 and early 1976 concerning the Concordia payments. Upon hearing the complaints about the collection methods of Gardner and Colucci, Clemente swiftly acted to resolve the dispute and arranged for Buzzanca to assume the collection function.

Clemente's partnership-like relationship with Fiumara was also shown by his efforts on behalf of Montella to obtain more business for Quin in New Jersey. On November 21, 1978, Clemente told Montella that he had met with Fiumara and Buzzanca and that Fiumara had agreed to exercise his powers to get additional business for Quin. Clemente boasted that "Tino give me some satisfaction." Buzzanca confirmed the agreement between Fiumara and Clemente the next day when Montella made his monthly payoff. A few days later, Clemente instructed Montella to "keep in touch" with Fiumara. Montella did that on December 21, 1978, in Ponte's when he delivered the \$2,000 for December and an extra \$2,000 "for Christmas" to Fiumara. After Fiumara confirmed that he had talked to Clemente and as a result would give Montella "first shot" to pay for any new business, Montella and Fiumara retired to the secrecy of the men's room, where Fiumara accepted his \$4,000 payoff.

Clemente demonstrated his control over the affairs of the enterprise, his co-defendants, and other ILA officials on numerous other occasions. One example was his successful effort on behalf of Montella to obtain additional work for Quin in Norfolk, Virginia. To accomplish this end, Clemente in 1976 instructed George Barone, an ILA vice-president and officer of Buzzanca's Local, to secure the additional work for Montella. Barone did that, but the amount was not substantial. Therefore, Clemente met with both Buzzanca and Barone, in Montella's presence, and instructed them to get more business for Quin in Norfolk. A few days later, Barone told Montella that he had gotten Quin a new contract in Norfolk. Some time later, Clemente told Montella that Buzzanca and Barone would expect a payoff for their efforts. Clemente also continued directing Barone and Buzzanca to get more work for Quin. Eventually, on December 12, 1978, at Barone's suggestion, Montella gave \$1,000 to Buzzanca, which he split with Barone. At a brief encounter at a party, Barone acknowledged the payment and thanked Montella. The consensual tapes of Clemente, Barone and Buzzanca made by Mr. Montella, show that Barone and Buzzanca consistently followed Clemente's instructions to get more business for Montella, and that Barone did so by using his position as a high ILA official to influence waterfront companies.

Further evidence of the scope of Clemente's power and the interrelationship of the defendants occurred on November 29, 1977, when Clemente acted to protect the enterprise and his organized crime associates from the Government's investigation. At about that time, Clemente received a document from someone he identified to Montella as "his guy"—a term frequently used to refer to Frank Tieri. This piece of paper was apparently from a source who Tieri and/or other organized crime figures had at the Waterfront Commission. Clemente showed the paper to Montella. It indicated that the Commission had somehow learned something about ongoing Federal electronic surveillance, which showed that Montella was making payments to Buzzanca, Gardner, Colucci and others. At first, Clemente explored with Montella the possibility that an informant was cooperating against him. Clemente was concerned about this treat and questioned Montella closely about the paper and the possibility that an informant had betrayed Montella. He promised Montella that if Lacqua, Scotto's cousin, were an informant, "we'll break his ass." Next, he ordered Montella to appear for a meeting that night at Martin's restaurant in Brooklyn. That night, under the observation of an FBI agent, Clemente arrived at Martin's with Anthony Scotto, and met with Montella. They both spoke to Montella about the possibility of an informant in Montella's organization. Scotto assured Clemente that he also had received the same piece of paper and that there was nevertheless no reason to be concerned. Clemente then told Scotto to make sure that he was helping Montella get business and Scotto promised Clemente that he was helping Montella. At that point, Montella was told to leave. Clemente and Scotto left a few minutes later.

I'd like to show you pictures of Clemente and Scotto leaving the bar that night. I want to point out that Buzzanca also received a similar piece of paper from "his guy" or boss, whom Buzzanca and Clemente both identified as "Fat Tony." This was Anthony Salerno, underboss of the Genovese crime family whom Buzzanca regularly visited at his headquarters in East Harlem. Buzzanca, like

Clemente discussed the information contained on the paper with Scotto in order to protect himself and other members of the enterprise. He was upset that Scotto had not tried to protect Buzzanca by bringing the matter to his attention earlier in case Buzzanca had planned something illegal before learning about the possible danger to the conspiracy.<sup>19</sup>

This and other information confirmed Buzzanca's own role with organized crime, and organized crime's control over the waterfront. Thus on December 12, 1978, Buzzanca explained to Montella how many years ago "his people" had instructed him to work with Fiumara. Buzzanca also discussed with Montella the fact that people on the waterfront are "with" someone,<sup>20</sup> and he explained that Irving is "with friends;" "he's with Funzi through Mike." According to Buzzanca, "Mike had this guy [Held] thirty years ago."<sup>21</sup>

### III. THE INVESTIGATION

I would like briefly to outline for the subcommittee the three critical phases of the investigation of this case to show which investigative techniques were employed and why they were successful. I will speak only to the New York operation although I understand that a similar sequence of events unfolded in Miami.

The most successful method for prosecuting this type of criminal activity is the use of agents or cooperating witnesses in an undercover capacity to record on tape the criminal activities of the subjects of the investigation. This was the principal goal of the investigation. However, this method is also the most difficult and the most dangerous often it is also time consuming and expensive.

Phase One of the investigation of New York waterfront corruption began in 1976 and involved a general investigation by the FBI to develop evidence of criminal activities by either business executives or labor officials. Every good law enforcement official works on the premise that if a defendant can be prosecuted successfully and then persuaded to cooperate, that defendant will know of and be able to assist in the successful prosecution of other individuals. This is one field where the domino effect really works. Corruption in the waterfront industry was believed by us to be so widespread that we suspected that any initial successes could produce widespread results if we could develop cooperating witnesses. Equally important, the industry—particularly the union—had such strong traditions of being a closed society with a code of silence based upon widespread fear of economic or physical retaliation, that it was absolutely critical that we convict those inside the industry and then persuade them to cooperate. Only persons inside the industry would have the confidence of others and thus be able either to testify about firsthand knowledge of criminal activity or preferably to work undercover against others in the industry. The waterfront industry proved to have several key dominoes which produced enormously successful results.

In the spring of 1977, the FBI obtained significant evidence of fraudulent activity in the form of kickbacks and commercial bribes by officials of the Prudential Line. The FBI and the U.S. Attorney's office persuaded certain of these individuals to plead guilty and to cooperate. The individuals were thoroughly debriefed about their knowledge of or participation in criminal activity, and wherever possible consensual tape recordings were made with former confederates to corroborate certain historical crimes. With some exceptions, however, the crimes these individuals were involved in had already occurred and, therefore, they were helping to build what we call historical cases. However, one of these individuals, John Marano, knew about another businessman, William "Sonny" Montella, who possibly was committing ongoing crimes. Marano then recorded conversations with Montella in Montella's office which confirmed that

<sup>19</sup> Scotto told Buzzanca that "your friend"—meaning Salerno or Tieri—would get the paper also.

<sup>20</sup> "With" commonly is used on the waterfront to indicate who one works for or pays.  
<sup>21</sup> A confidential and reliable informant, who was a labor official associated and friends with Clemente, Salerno, Barone and Buzzanca, provided the following information to the F.B.I. As early as the 1960's he identified Salerno as a major organized crime member operating from East Harlem, who had for many years controlled the largest numbers operation in New York City. He further advised that George Barone was associated with and responsible to Salerno in organized crime matters. Barone in turn had Buzzanca and Cashin answering to him. In the late 1970's, Salerno was the underboss of the Genovese family, and he acted as the sponsor for Barone and Buzzanca when they were made members of the Genovese family. After Clemente's return from jail, he became involved in a number of labor disputes and had several organized crime associates working for him.

Montella was paying various ILA officials and was using his office to collect the money necessary to make these payoffs.

This immediately led to Phase Two of the investigation which began in August, 1977. Based upon Marano's recordings of Montella and Marano's observations of Montella using his office to commit crimes, and based upon information gathered by the FBI to corroborate Marano, the Government obtained a warrant to secretly install a listening device in Montella's office and to record criminal conversation of his office. This order was extended monthly by a federal district judge to permit continued interception of conversation through March, 1978. During this time additional orders were obtained to permit wiretaps to be placed upon Montella's office phones. The results of Phase Two were remarkably successful. For approximately seven months, the FBI was able to monitor conversations of Montella and his employees discussing in detail (1) raising cash to make monthly illegal payments; (2) the illegal methods for making such payments; (3) the reasons the payments were made, and the recipients of the payments; (4) the relationships between various waterfront individuals; and (5) payments made by others, including Montella's boss. In addition, the agents listened contemporaneously as Montella gathered and counted the money for each monthly payment, made arrangements by phone to meet the recipient to make the payoff, and then described after the call or after returning from the payment exactly what had occurred. This enabled the agents to follow Montella to his meeting place to corroborate the payments as much as possible. Indeed, in the case of the payments to Clemente, Agent Freeh became a member of the Shelton Health Club where Clemente held court, and Agent Freeh was able actually to observe most of Montella's payments to Clemente, whether in the massage room or the locker room.

In effect, during Phase Two the agents developed a detailed diary of Montella's activities and the evidence necessary to prove the crimes in a court of law. Indeed, the Government probably knew as much about Montella's activities as he did. This was evidence not just of isolated payoffs but of a widespread pattern of massive payoffs by labor officials and businessmen. Eventually the collection of evidence led to Phase Three, but first came two very important developments.

Montella, of course, was making payments to Scotto and Buzzanca, among others. While the FBI followed Montella to these payoff meetings and Montella fully described in his own office what happened either before or after the meeting, neither Scotto nor Buzzanca talked openly or explicitly to Montella on the phone and the agents did not see Montella pass them envelopes and did not usually overhear their conversations. Thus, our goal was to duplicate our approach to gathering evidence against Montella, by placing a court authorized listening device right in their office and record their receipt of payments and their related criminal activity. This is exactly what was done.

The court authorized recordings at Montella's office and the corroborative surveillances by the FBI established overwhelming probable cause that Scotto and Buzzanca were using their respective offices for conversations involving significant criminal activity. Pursuant to court orders, a listening device was installed in Scotto's office in December, 1977 and in Buzzanca's office in March, 1978. The Scotto device remained in operation until April, 1978. The Buzzanca device, supplemented by court ordered telephone taps of his office phones, remained until June, 1978. Each device produced the important evidence it sought. Scotto was overheard receiving his payments and discussing related criminal activity. Buzzanca was overheard in similar conversations and in conversations which conclusively linked Fiumara, Copolla, Colucci, Gardner and others to the pattern of criminal conduct.

Needless to say, the amount of resources necessary to conduct Phase Two of the investigation was enormous. Several court authorized listening devices had to be monitored at the same time; surveillance teams were actively following subjects; and other agents continued to press ahead with a multitude of other areas of the investigation. In short, the FBI is to be commended for its high degree of professionalism and an extraordinary commitment of resources which made this investigation successful. Similarly, the IRS made significant commitments of resources to our efforts so that several highly qualified agents were working with us full time and were invaluable. I mention these facts because I think it is important for the subcommittee to keep in mind the amount of effort and coordination and length of time that is necessary to make one of these extreme difficult investigations successful.

Phase Three of the investigation involved approaching one of the participants in the criminal conspiracy and persuading him (1) to plead guilty; (2) to testify fully about his knowledge of criminal activities; and (3) to wear a secret tape recorder and record all of his conversations with those with whom he had been engaged in criminal conduct. After considerable discussion between the FBI and the Office for the United States Attorney of the Southern District of New York, it was agreed that based upon the evidence thus far obtained, it would be best to approach William Montella first. This decision was based upon an evaluation of various factors, including the quality of the evidence already obtained against the proposed individual which was needed to convince him to cooperate, the likelihood he would cooperate, his usefulness as a cooperating witness, and the likelihood that he would inform his criminal confederates of the status of the investigation. This last point was particularly important. If we made the wrong choice, and the subject of our approach rejected our request and then informed his confederates of what had happened, it would be impossible and far too dangerous to obtain the successful cooperation of any second choice. By that time, the whole waterfront would know where the investigation stood.

On May 17, 1978, the approach to Montella began. At about 5:30 p.m., two Special Agents of the FBI, Louis Freeh and Robert Cassidy spoke to Mr. Montella at his office in Brooklyn and told him briefly what they wanted. To convince him of the seriousness of their request and to persuade him to leave the office and meet with them immediately at a safer location,<sup>22</sup> they told him generally that they knew the details of his criminal activities and explained that his office and phones had been bugged for a long time. They even played one tape for him. Finally, Mr. Montella agreed to meet Freeh and Cassidy in New Jersey that night at a safer location, and at that meeting he discussed further with the agents the possibility of cooperation. To give you some idea of the magnitude of such an effort and the scope of the planning necessary to make it successful, I would like to note that on the evening of the approach to Mr. Montella, Agents Freeh and Cassidy were supported by numerous backup and surveillance teams of agents, including separate groups of agents that were prepared to interview that night numerous employees of Mr. Montella's in case the approach failed. In addition, I was available a few blocks away during the evening, both in Brooklyn and New Jersey, in case it became useful to provide Mr. Montella an opportunity that evening to speak with the prosecutor in charge of his case.

That, however, was unnecessary. Instead, the next evening, Agents Freeh and Cassidy and I met with Mr. Montella and his attorney and commenced three weeks of negotiations leading to June 10, 1978, when Mr. Montella signed a written agreement requiring his full cooperation and plea of guilty to two felonies carrying a maximum penalty of three years in prison. During this period of negotiations, the agents and I also met with Mr. Montella alone for security purposes.

After the Cooperation Agreement was signed, I worked as the prosecutor in charge of Mr. Montella's investigative use and Agents Freeh and Cassidy worked as the FBI agents in charge of his undercover work. We immediately commenced debriefing Mr. Montella about all of his own criminal activities and his knowledge of other crimes, and began to make plans for Mr. Montella to continue conducting business as usual but to record his conversations and meetings, including payoffs, with criminal confederates. We conducted scores of meetings to debrief Mr. Montella. From June 15, 1978 through December 22, 1980, Mr. Montella recorded more than 100 conversations, which included the payment of more than \$70,000 in required payoffs, using Government funds. This work was directed by Special Agents Freeh and Cassidy. Their extraordinary patience, caution, thoroughness, and their extremely high degree of professionalism and effectiveness in working with Mr. Montella, sometimes under very difficult or dangerous conditions, were critical to the success of the investigation.<sup>23</sup>

<sup>22</sup> Numerous confederates of Montella were known to come by his office. Indeed, Scotto's cousin Lacqua came by while Agents Freeh and Cassidy were inside speaking to Mr. Montella.

<sup>23</sup> Once again, this phase of the investigation required enormous resources. For example, in order to provide for Mr. Montella's security, each meeting involved numerous agents providing adequate surveillance and protection. In addition, numerous agents were needed to provide surveillance of the subjects of the meetings. Indeed, on one occasion, we used a helicopter to assist us in following Buzzanca to meet Fiumara to give him the \$2,000 monthly payment Buzzanca had just received from Mr. Montella.

Immediately after December 22, 1978, Mr. Montella and his family left the area and entered the witness protection program, and our investigation became public. Shortly thereafter, the major indictments followed: Scotto and Anastasia in January, 1979, and Clemente, Fiumara and ten others in March, 1979.

Mr. Montella and his family have made an extraordinary contribution and sacrifice. During the length of his undercover work, he worked at great personal risk to himself and family, and he and his family were under extraordinary emotional pressure. This, of course, has continued during the period of almost two years while Mr. Montella has been testifying for the Government at various trials. He and his family have had to abandon family and friends and begin a totally new existence. There is no doubt in my mind that those against whom he has cooperated would murder Mr. Montella or members of his family if they could do so, and it should be obvious that the witness protection program has been invaluable in this case.

All of this has been well worth the effort. More than twenty major ILA officials, organized crime figures and business executives have either been convicted by a jury or pleaded guilty as a result of Mr. Montella's cooperation. Numerous individuals agreed to cooperate as a direct result of knowing that Mr. Montella was cooperating. In sum, he has been one of the most successful witnesses developed by the Government in recent years in the labor racketeering field.

#### IV. RECOMMENDATIONS

There are several specific areas in which I believe the Subcommittee should consider recommending remedial action to strengthen the ability of and the tools available to Federal law enforcement to deal effectively with organized crime and labor racketeering. I intend to make specific suggestions, but I hope as well that I can make the subcommittee sensitive to certain problems law enforcement faces. I am sure that some of these matters have been recommended many times in the past. I only hope, however, that we will all finally realize that organized crime and its accomplices will ultimately corrupt our entire value system and sense of business and political ethics unless we act effectively to tip the balance of forces and win the struggle against organized crime's infiltration and domination of portions of our society.

##### A. Change the Taft-Hartley criminal penalties

1. Make payment or receipt of benefits for a labor official a felony punishable by five years in prison and a \$10,000 fine.

2. Eliminate intent to influence as an element of any variation of this crime, or at least provide that the absence of such an intent will only reduce the crime to a felony punishable by three years in prison and a \$5,000 fine.

3. Require the mandatory forfeiture to the Government of all payoffs and other benefits received by union officials or any non-union officials convicted of aiding and abetting such payments.

4. Raise the penalties for businessmen who provide such payments in order to make the costs of agreeing to such payments prohibitive to those who otherwise simply consider such payments a cost of doing business.

(a) Raise to \$25,000 the amount of fines for making payments.

(b) Require the mandatory forfeiture to the United States by the payor of such benefits of an amount of money equal to the amount of the illegal payments made.

(c) Require mandatory debarment for several years from obtaining Government contracts. Establish a single board for all Government agencies—civil and military—to enforce this provision. Require mandatory, immediate disclosure by the Courts and companies to such a board. Permit exceptions to debarment only if no other contractor exists to perform the work or if the convicted business or businessman has cooperated with the Federal law enforcement authorities, as certified by the Department of Justice.

##### B. Change civil penalties for union officials

1. Expand barrable offenses to include any Taft-Hartley conviction, irrespective of intent, any crime of violence, and any other crime, including tax evasion, which is related in any way to the affairs of union office.

2. Increase barrable period to at least ten years or make it permanent.

3. Provide for mandatory suspension from office of union officials pending appeal for barrable convictions.

4. Extend debarment to include all positions of any kind, including employee and consultant, with any union organization, or pension or welfare fund.

5. Where any union officer is convicted of a RICO violation, provide for immediate union election for his replacement, and provide that election shall be supervised either by trustee appointed by and answerable to judge who presided over criminal trial or by the NLRB.

##### C. Change—Other Federal statutes

1. Resist any attempts to weaken RICO, specifically reject any court decision which holds that it does not apply to wholly illegal entities.

2. Make mandatory the forfeitures to the United States of all fruits of operation of RICO enterprise.

3. Make *Fatico* hearings mandatory and require additional punishment for those found by sentencing judge to be members of organized crime families.

4. Consider eliminating parole for RICO convictions.

##### D. Law enforcement agencies and procedures

1. Insist on increased number of prosecutors to compensate for legislatively imposed burdens which have seriously reduced prosecutorial resources.

2. Do not pass any additional legislation without analyzing its impact on prosecutorial resources and without providing sufficient additional resources to meet the new burdens imposed.

3. Do not impose any warrant requirement on the use of informants or undercover individuals; indeed, support undercover work with additional resources.

4. Do not weaken the grand jury's power or procedures and do not permit private attorneys in the grand jury room.

5. Do not permit diversion of FBI resources from white collar and organized crime fields.

6. Strengthen tax prosecutions.

(a) Place IRS special agent in Department of Justice.

(b) Insist on more vigorous criminal enforcement by IRS and the assignment of IRS agents to Strike Forces and United States Attorney's offices on a regular basis.

(c) Facilitate the prompt use of open ended tax grand juries by at least eliminating IRS from the process for review.

(d) Eliminate regional counsel from review of criminal tax cases.

7. Resist Justice Department efforts to impose ceilings on the number of wiretaps and RICO prosecutions.

8. Support the witness protection program and all efforts to fund it and further professionalize its staff.

#### CONCLUSION

That concludes my statement. I sincerely want to thank the subcommittee for the opportunity to testify about these matters. I welcome the opportunity to do so and to provide any other assistance that the subcommittee may request.

Senator NUNN. Mr. Freeh, we appreciate again your being here. You have done an extraordinary job of presenting evidence and explaining it in a very factual, candid way and we appreciate that.

We again express our appreciation both to you and your associates who are working with you.

Mr. FREEH. Thank you, Senator. We are appreciative that we were invited here to testify.

Senator NUNN. Thank you very much, both of you.

Our final witness today is Mr. Nicholas Scoppetta. Mr. Scoppetta is the commissioner of the waterfront commission in New York Harbor.

I don't know who you have with you today, but if anyone else will testify, we appreciate your introducing them and we will have them sworn in, too. If it is just you who will testify, we will swear you.

Mr. SCOPPETTA. They will be here to answer questions; all staff of the waterfront commission and my fellow commissioner from New Jersey, Henry Luther III, is here as well.

Senator NUNN. Why don't you take the oath? We swear all the witnesses before the subcommittee as a matter of course.

Do you swear the testimony you are about to give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF NICHOLAS SCOPPETTA, COMMISSIONER, WATERFRONT COMMISSION OF NEW YORK HARBOR, ACCOMPANIED BY HENRY N. LUTHER III, COMMISSIONER; GERALD LALLY, GENERAL COUNSEL; AND PAUL KELLY, DIRECTOR OF LAW**

Mr. KELLY. Senators, I would like to take this moment to introduce you to Commissioner Nicholas Scoppetta, who will make the presentation on behalf of the Waterfront Commission of New York Harbor.

Commissioner Scoppetta has been with the waterfront commission since 1979, after appointment as the New York commissioner by Governor Carey. An attorney, Commissioner Scoppetta was assistant district attorney in New York County, assistant counsel to the Knapp commission, a special assistant U.S. attorney in the southern district of New York, commissioner of investigation for the city of New York under two mayors, and deputy mayor of New York City for criminal justice.

In addition, Mr. Scoppetta is the former executive director of the Institute of Judicial Administration and currently serves as a professor at New York University School of Law.

Also present is Commissioner Henry N. Luther III, who was appointed as New Jersey commissioner in 1977 by Gov. Brendan Byrne. Commissioner Luther was formerly executive secretary to Governor Byrne and served as executive director of New Jersey Lottery Commission, and was the mayor of Parsippany Troy Hills in New Jersey, and he is a member of the New Jersey Bar.

At the far end of the table—

Senator NUNN. Let me get the spelling of the last name.

Mr. KELLY. L-u-t-h-e-r, Henry N., III.

Senator NUNN. We are delighted to have you, Mr. Luther.

Mr. KELLY. At the far end is Gerald Lally, general counsel to the waterfront commission; and my name is Paul Kelly, director of law for the waterfront commission.

Senator NUNN. We are delighted to have all of you here. I know you have been sitting here quite a while. We have a long day. We appreciate your patience. We appreciate your being willing to testify before the subcommittee.

I understand that you are going to summarize your statement and we will make your whole statement a part of the record. I read it all. I found it fascinating.

We appreciate your being here.

[The statement follows:]

**STATEMENT OF NICHOLAS SCOPPETTA, COMMISSIONER, WATERFRONT COMMISSION OF NEW YORK HARBOR**

Mr. Chairman and members of this committee, my name is Nicholas Scoppetta and I am the New York representative of the Waterfront Commission. I first wish

to express my appreciation, as well as the appreciation of my fellow Commissioner, Henry N. Luther III, of New Jersey, for the opportunity offered us to appear before you and relate the background and activities of our agency.

The Waterfront Commission of New York Harbor is a bi-state instrumentality of the States of New York and New Jersey. It was created by a Compact between those States enacted in 1953 and approved by Congress by Act of August 12, 1953, chapter 407.

The Commission was established for the purpose of eliminating various evils on the joint waterfront of New York and New Jersey, which had been publicly exposed by the New York State Crime Commission, the New Jersey Law Enforcement Council and other investigative bodies. The investigation by these bodies was the culmination of a number of inquiries made over many years into unscrupulous procedures and criminal practices in the Nation's leading harbor. When the New York State Crime Commission undertook its investigation in the early 1950's, criminal abuse was threatening the very welfare of the Port.

Among the findings and declarations made by the New York Crime Commission in its report on the water front and by the two States in enacting the Compact were: That the conditions under which waterfront labor was employed in the harbor was depressing and degrading to such labor; that corrupt hiring practices existed and that persons conducting such hiring were frequently criminals and persons notoriously lacking in moral character and integrity and neither responsive nor responsible to the waterfront employers nor the uncoerced will of the majority of the members of the waterfront labor organizations; that known criminals were in control of important waterfront union locals and of key waterfront areas; that there were many instances of collusion between steamship and stevedore officials on the one hand and union officials on the other; that corrupt labor leaders were using their office for the promotion of private business interests, often illegal, and in disregard of the welfare of the members of the unions; and, that as a result of such practices, the laborers on the piers suffered from irregularity of employment, fear, insecurity, inadequate earnings, exploitation and extortion as the price of securing employment, and a loss of respect for the law.

The Legislature of the two States found that these conditions were destroying the dignity of an important segment of American labor and that waterfront crime was imposing a levy of increased costs on the merchandise handled in the port.

New York and New Jersey created the Waterfront Commission as a unique licensing, investigatory, law enforcement and regulatory agency. Its broad authority includes the licensing of the stevedore companies moving cargo in the Port, as well as their representatives on the docks, the pier superintendents and hiring agents, the licensing of the private cargo guards, and the registration of the longshoremen and longshore checkers. The Commission's licensing authority does not extend to the carriers of waterborne freight nor the trucking companies and drivers who deliver and receive cargo at the piers.

In its twenty-seven year history, the agency has screened over 140,000 applicants for the various types of licenses and registrations it issues to prevent persons with serious criminal records or who lack the good character and integrity required of certain licensees from having a deleterious influence in the Port of New York and New Jersey. At present, the Commission registers 10,500 longshoremen and checkers, and 2,700 persons performing work incidental to the movement of waterborne freight, including such services as repairing waterfront containers and the weighing of cargo, and licenses 650 port guards, 650 hiring agents and pier superintendents, and 110 stevedore companies.

No application for a license or registration is denied without the applicant having an opportunity for a full administrative hearing. Similar procedures are in effect with regard to the suspension or revocation of any registration or license issued by the Commission. The Waterfront Commission Compact provides for judicial review of Commission determinations in either Compact State.

The Commission is also responsible for the regularization of longshore and checker employment in the harbor, to insure a balance between waterfront workers and the demand for their services. It accomplishes this by controlling the size of the longshoremen-checker Register and by removing from the Register those persons who fail to seek dock employment on a regular basis. This control by the two States of the waterfront labor supply is considered by the Commission as important to prevent a recurrence of the conditions prior to the creation of the

agency when a vast oversupply of labor led to kickbacks to criminals as a means of obtaining employment and other evils.

One of the Commission's most significant powers under the Compact is its extensive authority to investigate waterfront conditions and practices within the port. In connection with such investigatory function, the Commission has a staff of some fifty-five law enforcement officers, with police powers in both States, as well as attorneys and accountants.

Some of the Commission's investigative accomplishments will be detailed shortly. Suffice it to say for now that the Commission's expertise in uncovering waterfront crime has long been recognized, as illustrated by its participation and cooperation in the recent widespread investigation of east and gulf coast waterfront corruption by the Federal Government, the so-called "Unirac" investigation. Thus, for example, the United States Attorney's Office for the Southern District of New York has on a number of occasions expressed its gratitude to the Waterfront Commission, not only for its assistance and cooperation, but also for the actual development of certain of the cases in the investigation. Some of these expressions of recognition are annexed to this statement.

Another of the tools granted the Commission to utilize in its fight against pier crime is a legislative ban on criminal elements in waterfront unions. By almost identical individual State statutes, made part of the Waterfront Commission Act, New Jersey and New York have, in effect, prohibited union officials who are convicted of serious crimes from continuing in waterfront union office. The Commission's enforcement of these statutes will also soon be detailed.

The Commission will not attempt to provide this committee with a complete inventory of its many investigations into the attempts by criminal elements to dominate various aspects of the waterfront. What we shall do is to cite several cases which illustrate what we believe has been an organized effort by criminals to exert their nefarious influence in this important segment of cargo transportation.

In the mid-1970's, the Commission initiated an investigation into a maintenance and janitorial service company called Maintenance Associates, Inc., which was seeking to extend its operation to the waterfront. The company's books revealed that it had three stockholders, one of whom, a Henry Johnson, had been in the cleaning business for 15 years. The other two stockholders were known labor racketeers and convicted criminals, Jack McCarthy and Frank D'Ambrosio. Evidence gathered by the Commission demonstrated that McCarthy and D'Ambrosio had insinuated themselves into the ownership of the company, acquiring seventy-five percent of the corporation's stock and complete control of its operations, without any investment on their part. A short time after being issued stock for no money at all, McCarthy and D'Ambrosio entered into an agreement with Johnson granting them, McCarthy and D'Ambrosio, the right to sell the stock back to the corporation for substantial sums of money.

Indeed, shortly after the Commission started investigating the company, McCarthy sold his stock back to the company for over \$202,000, including interest, payable in installments and D'Ambrosio sold back his stock for over \$100,000, including interest, also payable in installments.

The involvement of D'Ambrosio in organized crime was revealed by the Waterfront Commission when he was found to be a frequent visitor at a regular meeting place of members of organized crime at a lower Manhattan storefront under surveillance by Commission special agents. The Commission agents set up observation posts overlooking the storefront and for several months filmed meetings of such persons as Saro Mogavero who had prior convictions for extortion and income tax evasion and Michael Clemente, the former boss of ILA Local 856 who, prior to the creation of the Commission dominated the East River longshoremen. Clemente was convicted of perjury in testimony given before the Crime Commission in its investigation of the waterfront in denying participation in payments of \$7,500 made by a shipping company. After his release from New York State prison in 1961, he was barred by the Waterfront Commission Act from acting as a waterfront union official. However, he remained involved in waterfront related activities outside the licensing jurisdiction of the Commission.

As you know, Clemente was convicted in Federal Court on May 2, 1980 and sentenced to 20 years in prison, after a trial in which it was revealed that he collected \$1 million from a Brazilian shipping company between 1972 and 1976 as the price for doing business at an East River pier. Parenthetically, testimony at the Clemente trial disclosed that the shipping company was contemplating

performing its own loading and unloading of cargo, rather than engaging a stevedore company contractor. However, since such an undertaking may have required that the company be licensed as a stevedore and that its books and records be subject to audit by the Waterfront Commission, the company chose not to do stevedoring work.

Based on the association of the maintenance company's president, Henry Johnson, with McCarthy and D'Ambrosio, the Commission initiated an administrative hearing to determine whether the company should be licensed to operate in the Port of New York New Jersey. After the hearing, the Commission found that not only was the company's president associated with McCarthy and D'Ambrosio in the company applying for a license, but that they were also related in another firm; that McCarthy and D'Ambrosio were both convicted felons; and that D'Ambrosio was in frequent attendance at the storefront meeting place of organized criminals, along with such publicly identified members of organized crime families as the late Rosario "Saro" Mogavero, Salvatore Gen-carelli, Michael Clemente, Peter DeFeo, Benedetto Cinquegrana, Thomas Eboli, Alphonse Persico and Vincent Gigante.

The Commission, in determining that Maintenance Associates' application for a license to operate in the port should be denied, determined that Johnson lacked good character and integrity in view of his association with criminal elements to enhance his personal profits.

A few years earlier, the Commission developed evidence exposing the participation by Vito Genovese, the leader of one of the most notorious crime families operating in the New York metropolitan area, in a company performing cooerage and strapping services at the piers.

Audits by Commission accountants of the books of the cooerage firm, Erb Strapping Co., Inc., established that Genovese purchased 49 percent of the stock of the company for a mere \$245 at the time the company was incorporated. Genovese was then elected a director and vice president of the company and, indeed, was paid a higher salary than any other officer of the company.

When Genovese was incarcerated in a Federal penitentiary on a narcotics conviction in February, 1960, he transfer his 49 percent stock interest to his brother, Michael Genovese. Michael Genovese was described by a crime expert at a later Commission proceeding as Vito's messenger while Vito was in prison. When called before the New York State Investigation Commission investigating loansharking activities in 1964, Michael Genovese refused to answer questions, although other witnesses tied in Michael with such loansharking activities. Shortly before Vito Genovese died in the penitentiary in 1969, Michael sold the stock originally purchased for \$245, to the other stockholders for over \$198,000, including interest.

In an administrative licensing trial to determine whether Erb Strapping should be permitted to perform services on the piers, the Commission found that because of the firm's association with leaders of organized crime it was able to employ nonunion workers in violation of its collective bargaining agreement and without interference from union officials. Other findings of the Commission were that one of its officers caused the company to commit commercial bribery and that its officers allowed the firm to continue doing business in a Florida port by certain misrepresentations after the company's permit to do business in that seaport had been revoked.

In denying a license to the company, the Commission stated the following: "One of the purposes of the Commission's power of licensure is to eliminate in the area over which the Commission was given jurisdiction, organized crime and the accompanying evil conditions that infested the waterfront prior to the establishment of the Commission. \* \* \* Vito Genovese and Michael Genovese are the very epitome of the type of person whom the Commission was mandated to eliminate from the waterfront and it is the Commission's statutory mission to root out their kind and their influence.

"The Commission itself cannot prosecute members of organized crime for any illegal acts in which they may be engaging. The Commission can, however, keep them out of licensed waterfront activities and its licensure powers must be used against any of its licensees who choose to associate with notorious members of organized crime, such as Vito Genovese."

As this Committee is most probably aware, an important part of the Commission's investigatory functions through the years has been concerned with the illicit conduct of some waterfront union officials.

To cite a few illustrations, in the early 1960's the Commission uncovered a practice requiring persons seeking to become waterfront checkers to make payments to union officials, under the guise of initiation fees for union membership. Several union officials were indicted for embezzlement and perjury as a result of this investigation.

In June 1960, the Commission held public hearings at which it was revealed that criminals controlled certain locals of the International Longshoremen's Association not subject to the provision of the Waterfront Commission Act barring persons with serious convictions from holding waterfront union office. These hearings also demonstrated that criminals, ineligible to be officers or agents because of this statutory ban, were placed on payrolls of the same ILA locals as "employees," drawing large salaries for little or no work. Based on these hearings, the Waterfront Commission Act was strengthened by the States of New York and New Jersey. As a result of this amendatory legislation, such union officials as Douglas Rago and James Vanderwyde, names familiar to this committee, were compelled to leave the Port of New York and New Jersey. However, they shifted their operations to the Port of Miami, together with George Barone, who, while the business agent of a Manhattan based ILA maintenance local and the vice president of a related maintenance local retained long distance contacts with our port.

Several welfare fund operations in which the International Longshoremen's Association was a participant have also come under scrutiny by the Commission. In connection with one of these Funds, the NYSA-ILA clinic in Brooklyn, New York, the Commission established in the early 1960's that Carmine Lombardozzi, a convicted gambler identified as a participant in the notorious Appalachian mob meeting, was the financier and the real party in interest of an optical company having the contract with the ILA clinic to supply eyeglasses for dockworkers. These glasses were paid for from welfare funds and, in a four month period, Lombardozzi's company made \$9,100 in profits.

As a result of the Commission's investigation, the services of Lombardozzi's company were concluded and the clinic itself then supplied glasses to longshoremen.

The Commission also examined the affairs of a dental clinic established by a Welfare Fund in Hoboken, New Jersey. This case developed from a preliminary audit by the New York State Department of Insurance of Welfare Fund accounts, which showed discrepancies in the records of the clinic. When the Hoboken dental clinic was originally organized, a dentist was appointed the director of the clinic at \$50,000 a year, through the intercession of Charles Buoncuore, then business agent of ILA Local 2 and one of labor's representatives on the clinic's advisory council. Buoncuore was later convicted in 1973 in Federal court of making false entries in and destroying certain waterfront union books and removed from office pursuant to the Waterfront Commission Act.

The investigation of the Hoboken clinic developed that:

A furniture bill of \$937.97 was paid by the Welfare Fund, even though no furniture has been delivered or ordered;

Orders for major dental equipment and supplies totalling \$27,789.45 were written on blanks printed by the clinic's director in the name of a non-existent dealer;

Bills from a dental laboratory for dentures allegedly supplied during 15 months ran to \$40,000 prior to the investigation; after the start of the inquiry, the monthly bills from the laboratory dropped to less than \$1,000; and

Over forty longshoremen testified they received no dental treatment and in some cases still had all their teeth despite the fact the clinic records indicated they received full sets of dentures.

Several years later, the Commission conducted a public hearing concerning abuses in the operation of a medical and dental clinic established pursuant to a collective bargaining agreement between an ILA local representing waterfront maintenance workers and the employers group.

Testimony revealed that the clinic, established to service six hundred members of the local and their families, was set up in a tiny office in Manhattan. The clinic's medical director, a doctor, was selected because of his close acquaintance with the local's president, Henry (Buster) Bell, and other important ILA officials. It was disclosed that the medical director received more than \$138,000 for the operation of the clinic, which was essentially a one-man operation. Based upon the doctor's own records, it was shown that the payments he received in the 1960's

for the operation of the clinic from the employer association averaged \$44 per patient visit.

While operating the clinic, the director's license to practice medicine was suspended by the State of New York for six months because of fraud, deceit and unprofessional conduct in his practice of medicine. The records of the clinic showed that during this period of suspension the doctor was paid almost \$15,000 for the operation of the clinic, despite the fact that only twenty-one patients were treated at the clinic at this time. Moreover, these patients were treated by another doctor who received a total of \$400 (presumably out of the \$15,000) from the medical director in payment for his services.

The total disregard by management and labor concerning the proper conduct of the clinic was demonstrated throughout a hearing held by the Commission. The president of the employer association, which paid all the funds for the operation of the clinic, testified that he had no knowledge of the costs of the operation and that there was no supervision by management or labor over the clinic, although the collective bargaining agreement provided for the establishment of a committee to oversee it. He further testified that he had no knowledge of the legal and moral difficulties which resulted in the suspension and ultimate revocation of the medical director's license to practice medicine in the State of New York.

Bell, as president of ILA Local 1804, testified that he did not know how much money the doctor was paid and did not have a medical committee to supervise the performance of the clinic. He further stated that he did not have any discussions with the doctor concerning the clinic, that he never requested nor received any reports concerning its operation, that he had no knowledge as to whom the medical director gave any accounting of the clinic's activities, and that he was totally unaware of the difficulties resulting in the suspension and revocation of the medical license of the director.

Parenthetically, Bell was later convicted and sentenced to Federal prison for endeavoring to influence a juror during a criminal trial of James Hoffa, then president of the International Brotherhood of Teamsters.

Another Commission investigation concerned the activities of Michael Clemente after his release from Auburn Prison in July, 1961. As we stated previously, Clemente had been barred from union office after his conviction for perjury before the New York Crime Commission. When he came out of prison, Clemente became a salesman of cargo-handling equipment. The inquiry disclosed that former acquaintances of Clemente on the waterfront bought or leased such equipment through him that they did not need and at higher than the prevailing prices for such machinery.

One pier supervisor licensed by the Commission testified that he did this "as a favor for Clemente," even though his company was losing money and the machines were too light for the work to be performed. When the facts of the Commission's investigation became known, the equipment manufacturer severed ties with Clemente and cancelled the contracts that would have netted \$77,000 in sales commissions. The employment of the pier superintendent was terminated.

Before the Commission's creation, the quickie work stoppage was prevalent as a coercive expedient by certain union officials to obtain illegal demands from waterfront employers. Such work stoppages were so recurrent as to give the port a reputation of irresponsibility with respect to the timely shipment and delivery of cargo. Since the advent of the Commission, such work stoppage has in the main disappeared.

On occasion, however, the quickie strike is still utilized. In one such case, the vice-president of a New Jersey longshore local union endeavored to compel a stevedore company to establish the position of "tractor boss" and to place his brother into such job. The company's executives refused to accede to such demand since the position was considered not necessary and would have cost an extra \$18,000 a year, unduly adding to the cost of its operation. The union official, taking advantage of the fact that the employer had over a million dollars in perishable meat and fruit on the pier, induced the longshoremen to refuse to report for work one morning. In view of the seriousness of the situation, the Commission immediately dispatched several attorneys and agents to obtain evidence concerning the reason for the stoppage. By 11 p.m. the same evening, Commission attorneys had obtained a court injunction against the work stoppage and the following morning the longshoremen were again moving the cargo.

As a result of the attempted intimidation, the union official's brother, who was a registered longshoreman and who participated in these actions, was barred by the Commission from working at the piers for several years. He was thereafter reinstated to the Longshoremen's Register by the Commission. However, this past year the Commission established that, while acting in concert with others, he had in his possession stolen stereo electronic equipment, and his longshoremen's registration has now again been revoked.

In the early 1970's, the Waterfront Commission established that Anthony Scotto, the president of the largest local in the ILA and one of the most powerful men in the International, participated in a breach of the Labor Law of New York State. This was the first occasion that any government body found Scotto to have been in violation of a law.

In a proceeding to determine whether a waterfront company supplying lumber to stevedore and stevedore companies should be licensed to operate in the port, the Commission found that the owners of the business violated the New York Labor Law by partaking in financial transactions with Scotto, who was the president of the union representing their employees, and that Scotto's activities were contrary to his fiduciary obligations as a union officer under the Labor Law.

As the highest court of New York State declared in a judicial review of the case:

"The clear policy of the [New York] Labor and Management Improper Practices Act \* \* \* is to protect union members from those few unscrupulous labor leaders who would subvert the interests of their members for personal gain \* \* \* The law demands a clear line of financial demarcation between labor leaders and employers with whom they deal on behalf of their members. \* \* \* Moreover, a union official holds a position of trust and the fiduciary principle must guide his every action. He breaches that trust and compromises his loyalty when he stands to benefit, directly or indirectly, from involvement in the financial affairs of the employers of the union members he serves. \* \* \*

"We conclude, therefore, that there was sufficient evidence for the Commission to find that Anthony Scotto breached his fiduciary obligation as a union officer under section 723 of the Labor Law, and that Joseph Lacqua and Leo Lacqua, as principals in the loan transactions in question, knowingly participated in or induced Scotto's illegal acts in violation of section 724 of the Labor Law."

As this committee is aware, Scotto was recently convicted of Waterfront labor racketeering as a result of the widespread Federal investigation. Indeed, he was removed from his union offices as General Organizer of the International Longshoremen's Association and President of ILA Local 1814 by an application of the Waterfront Commission to the New York courts to enforce the provision of the Waterfront Commission Act mandating that waterfront union officials convicted of serious crimes may not hold office.

We mentioned earlier that the Commission's enforcement of the Compact between New Jersey and New York compelled such waterfront union officials as Rago and Vanderwyde to abandon our port. Waterfront management officials have also departed from the New York-New Jersey harbor after scrutiny of their activities by the Commission. Thus, just a few years ago, the Commission found that the officers of a company performing repair work on cargo containers on the New Jersey waterfront, a father and daughter, Sebastian and Laura Cotrone, used over a quarter of a million dollars recorded as business expenses by their firm for their personal use, as well as for unrelated waterfront investments in Florida. The Cotrones were ordered by the Commission to divest themselves of all interest in the licensed company in our port, and they thereafter operated in Florida. Both Sebastian and Laura Cotrone, as well as other members of their family, were later convicted of Federal violations in Miami, as a result of the Unirac investigation.

As we indicated previously, collusive conduct between stevedore firms and longshore union officials and improper cash payment by waterfront companies to union leaders for so-called "services rendered" or "good will" were among the evil conditions existing in the shipping industry which led to the creation of the Waterfront Commission. Accordingly, the Compact between New Jersey and New York requires stevedore firms to be licensed by the Commission. One of the licensure standards is a requirement that stevedore companies have and maintain "good character and integrity." Payments by a stevedore to a longshore union official for an improper purpose is obviously inconsistent with such "good character and integrity."

In the course of its enforcement of the Compact, the Commission has charged a number of stevedore firms with lacking "good character and integrity." Within the past few years, for example, the Commission fined a stevedore \$20,000 after establishing that it paid moneys to officers and agents of three different dock union locals, whose members the company employed as longshoremen. These payments had been disguised in the books of the company as expenditures to vessel personnel for work on the hatches of ships. In addition to being fined by the Commission, the company surrendered its permit to operate and discontinued doing business in our port.

That proceeding was part of the Commission's continuing investigation into improper cash payments by waterfront companies to pier union representatives. Other portions of this Commission probe led to convictions in the Federal Unirac case.

In one such case, Commission investigatory accountants, examining the financial records of stevedore companies licensed by the agency, uncovered payments listed as contributions to a person described as the director of a children's program in New Jersey. Other moneys were recorded as being paid for tickets to a testimonial dinner for the same person. Inspection of the various cancelled checks of the firms revealed illegible second endorsements; however, the bank notations on the checks disclosed that the checks were cashed and indicated an account number in a Newark, New Jersey, savings bank. Inquiry by Commission special agents disclosed that the bank account was maintained by Carol Gardner, the president of a large ILA longshore local operating in the Port Newark—Port Elizabeth section of the harbor. Questioning of officials of the companies making the so-called "contributions" revealed that the payments were solicited by the same union leader, Carol Gardner.

Tickets purchased for the testimonial dinner listed the address of the affair in Trenton, New Jersey, a location which turned out to be nonexistent. Moreover, the Commission's investigation developed that the tickets were imprinted with a counterfeit printers' union label. Efforts by Commission agents to identify the "director" of the alleged children's program were fruitless and suggested that no such person existed.

Staff counsel thereupon questioned Gardner, who stated that he was requested to sell some testimonial tickets and that, in fact, he solicited only one steamship company. However, the Commission's investigation established that at least ten companies had made such contributions or purchased testimonial tickets. In addition, it was uncovered that a number of stevedore companies issued checks for Christmas fashion shows made payable to a female, whose address was the same as the union leader. In all, several thousand dollars of such contributions were made.

The results of the Commission's investigation were furnished to the United States Attorney for the Southern District of New York as part of the Federal investigation and, in March, 1979, the union leader was indicted by a grand jury for receiving unlawful labor payments from waterfront employers on the false representation that the money was going to a charitable cause or to a testimonial dinner. In May of 1980, Gardner was convicted of racketeering, conspiracy and extortion and received a sentence of 10 years in Federal Prison.

In a separate inquiry by the Commission of this same union president's finances, the agency uncovered \$48,000 being received by him from persons associated with the president of five affiliated waterfront firms performing stevedoring and warehouse work in the harbor. One check for \$12,000 was issued by an insurance broker and pension consultant for the companies and another check, for \$36,000, was drawn by a clothing manufacturer who was a close friend of the head of the waterfront businesses.

Entries in the personal and bank records of Gardner, subpoenaed by the Commission, indicated that these moneys may have been loans from the president of the stevedore firms to Gardner, whose members were employed by some of these firms. Since such transactions are in violation of Federal laws regulating labor-management relations, the Commission's findings were forwarded to the Federal Government.

In April, 1979, Gardner and Irving Held, the president of the stevedore companies, were indicted in connection with illegal labor loans in violation of the Taft-Hartley Act. Both defendants were convicted and received prison sentences.

As we have mentioned, the Commission is charged with enforcing those provisions of the Waterfront Commission Act which prohibit the holding of water-

front union office, including welfare or trust fund positions, by a person convicted of a felony, high misdemeanor, misdemeanor involving moral turpitude or certain enumerated crimes. The act also prohibits anyone, including a labor organization, from knowingly permitting such a convicted person to hold office and also prohibits the collection of union dues if such an individual refuses to vacate his union office. A violation of these provisions is a misdemeanor in both States.

The aforesaid provisions are commonly referred to as section 8 of the Waterfront Commission Act. Numerous legal attacks have been mounted against section 8 and, with one recent exception, these challenges have been rejected by the Courts of New York and New Jersey, as well as by the United States Supreme Court. The one exception occurred in 1980 in a case in which a judge of the United States District Court for the Southern District of New York found the dues collection provision of section 8 to be invalid. That decision is presently on appeal in the United States Court of Appeals for the Second Circuit.

In upholding section 8 of the act in 1980, Justice Frankfurter wrote for the Supreme Court as follows:

"No positions on the waterfront were more conducive to its criminal past than those of union officials, and none, if left unregulated, were felt to be more able to impede the waterfront's reform. Duly mindful as we are of the promising record of rehabilitation by ex-felons, and of the emphasis on rehabilitation by modern penological efforts, it is not for this Court to substitute its judgment for that of Congress and the Legislatures of New York and New Jersey regarding the social surgery required by a situation as gangrenous as exposure of the New York waterfront had revealed. \* \* \* New York was not guessing or indulging in airy assumptions that convicted felons constituted a deleterious influence on the waterfront. It was acting on impressive if mortifying evidence that the presence on the waterfront of ex-convicts was an important contributing factor to the corrupt waterfront situation."

Since the inception of the Commission in 1953 and prior to the Unirac convictions, 99 officers and agents of waterfront unions became subject to the provisions of section 8 of the Waterfront Commission Act. Of those 99 persons, 59 were removed from office or resigned, 8 were not reelected, 6 died pending their removal from office, 23 were allowed to continue in office because they received certificates of good conduct or relief from disability as provided for by the statute, and 3 were granted the right by the Commission to perform routine or clerical work for the union, pursuant to an exception under the act. A number of notorious criminals such as Michael Clemente resigned their union positions at the outset of the Commission, rather than challenge section 8.

As various waterfront union officials were convicted as a result of the Unirac investigation, the Commission officially notified the International Longshoremen's Association, the appropriate locals, and the following convicted defendants: Carol Gardner, as Assistant General Organizer of the International and President of Local 1233; Anthony Scotto, as General Organizer of the International and President of Local 1814; Anthony Anastasia, as a Vice President and Organizer of the International and Executive Vice President of Local 1814; George Barone, as a Vice President of the International and an officer of a maintenance local; William Boyle, as a Vice President of the International; James Vanderwyde, as a Special Organizer for the Atlantic Coast District; and Jandon L. Williams, as a Vice President of the International, of the provisions of section 8 and demanded their removal from office. None of the individuals so informed vacated office willingly and, accordingly, litigation ensued in various forms.

In the case involving Scotto and Anastasia, the New York Supreme Court, upon motion by the Commission, decreed that Scotto and Anastasia were in violation of section 8 from the date of their convictions on November 15, 1980 and entered a permanent injunction removing them from all their union offices and declaring their positions vacant. This decision was unanimously affirmed by the Appellate Division of the New York Supreme Court and leave to appeal to the State's highest court, the Court of Appeals, was denied by that Court. Accordingly, Scotto and Anastasia have been removed from their various positions in the I.L.A.

Historically, the great ports of the world have provided lucrative opportunities for racketeers who prey on commerce and labor. As the Nation's leading harbor, the Port of New York-New Jersey was for years subject to this serious criminal and economic problem. In the past three years, as a result of the Federal waterfront investigation, these criminal activities have been shown to exist in various other ports in our country. In addition to the exposure of instances of

extortion, bribery, tax evasion and violation of anti-racketeering statutes, we should also be mindful that our ports are vulnerable to large scale cargo thefts, which are undoubtedly connected with organized crime.

The Waterfront Commission believes that these problems are essentially regional and local concerns which should be dealt with by State and local governments and combinations thereof if they are to be controlled effectively. However, the Federal Government must encourage and, assist the State and local governments in such efforts since unchecked criminality is detrimental to the general economy of the entire Nation. This assistance should take the form of financial aid to those States and units of local government which have or will initiate serious and effective measures to curb these problems.

In conclusion, we again wish to thank this committee for its invitation to appear here today.

While we have related a number of the investigations of the Waterfront Commission concerning criminal activities and other evils in our port, we do not wish to leave an impression that the individual waterfront worker in the New York-New Jersey harbor is corrupt. The contrary is true; the vast majority of the longshoremen and other waterfront workers, as well as management representatives, are respected members of society, who work hard and honestly to earn a living.

The Commission is proud to have been part of a tremendous change since the early 1950's which has seen a new climate on the New York-New Jersey waterfront, enabling the average longshoreman to now earn over \$25,000 annually in our port, including guaranteed annual wages, vacation and holiday payments—a far cry from his average income in 1954 of under \$3,000 a year. This would never have been accomplished without the Commission's efforts in establishing regular employe lists on the piers, in eliminating the shape-up method of hiring, in removing casual labor which competed for employment with those workers following the waterfront for their livelihood, and without the vast investments in the port brought about by the change in its reputation.

While there are still a few greedy and lawless people on the waterfront, the piers and terminals in the Port of New York-New Jersey are no longer their private enclaves, but are now some of the most important assets of our two States.

Thank you.

Mr. SCOPETTA. Thank you. I will try to do that as briefly as I can. We would like to thank you for giving us the opportunity to appear here this afternoon. It might help if I briefly describe the background of the waterfront commission, how it is constituted and what its powers are, then address some of the issues that I know you are going to be interested in as indicated by your staff.

First: The waterfront commission of New York Harbor is a bi-State instrumentality of the States of New York and New Jersey. It was created by a compact between those States enacted in 1953, and approved by Congress the same year.

The commission was established essentially to attack evils in the Port of New York, and New Jersey, which were exposed by the New York State Crime Commission, and the New Jersey Law Enforcement Council and a number of other investigative bodies.

It is fair to say that in the fifties, and as we have heard, all day today, there are still many problems to be addressed.

Some of the findings of the New York Crime Commission which led to the creation of the waterfront commission showed that waterfront employment conditions in general were degrading to labor.

There were corrupt hiring practices and in fact persons doing the hiring were frequently criminals who were neither responsive nor responsible to the needs of the waterfront employees. Criminals were in control of important waterfront union locals and, there was disclosed

at these hearings, many instances of collusion between steamship and stevedore officials.

It was fair to say that waterfront crime was imposing a very heavy levy of increased costs on the costs of doing business in the Port of New York.

So the waterfront commission was created as a unique licensing investigatory and enforcement and regulatory agency.

With respect to licensing, the waterfront commission was given the authority to license stevedore companies and their representatives on the docks, pier superintendents and hiring agents. Private cargo guards were included, and, of course the bulk of the licensing authority applies to the longshoremen and longshore checkers or the people who are supposed to move and check the inventory as it moves in and out of the port.

It may be useful to point out that we do not license—the waterfront commission has no licensing authority over carriers of waterborne freight, nor the trucking companies and the drivers who deliver and receive the cargo.

In addition to the licensing authority, there is a very important screening role that the commission plays in this connection and in the 27-year history of the commission, over 140,000 applicants for various types of licenses, affording opportunities for work on the waterfront, have been screened.

This has some obvious benefits, not the least of which is to prevent persons who we license from getting employment on the waterfront after they have been convicted of some serious crime or for failing to meet another, more perhaps less easy to define but very important standard, a lack of good character and integrity so as to qualify for a license.

The commission performs a very important oversight function and approximately 200 or so audits are performed every year with respect to companies who are licensed to do business in the port. There are also, on the average, over 200 administrative proceedings a year. These would be proceedings to move against people who are licensed by the commission, who have committed some infraction, and it may be an infraction short of criminal conduct, but certainly would include conduct that would be classified as criminal, and may or may not have resulted in a successful conviction.

A very important function performed by the commission is the control of the labor force, which is done through the register. The register, which includes registration of over 10,500 longshoremen and another 2,700 or so persons who do work incidental to the movement of waterborne freight and a number of other personnel, hiring agents, for example, and stevedoring companies, are all registered with the commission.

The register at this point is closed; that is, there is no longer the enormous excess of potential labor at the port and on the piers which led to many of the hiring abuses which were discovered in the fifties and which led to the formation of the commission.

There is, of course, our investigative authority, some of which you have been hearing about this morning. We do that with somewhat limited resources. There are only 14 attorneys and 52 investigators or

special agents and uniformed police officers, but we have been able to make some contribution to the investigative efforts of the prosecuting authorities in the New York area.

We do not have the authority to prosecute, as you know, but we often refer matters to prosecutorial agencies and, of course, we did so in the UNIRAC investigation and in our complete statement we have details of some of our activities during that investigation which you have been hearing about and the mention that has been paid to our participation by former U.S. Attorney Bob Fiske and his successor, John Martin.

We have detailed some of the commission's investigations in the text of our prepared statement and I certainly won't take your time to go through those.

But we know from that situation that the waterfront commission has often, through its hearing authority—that is, its public hearings—has exposed connections between organized crime and some of the companies that attempted to and did do business on the waterfront and very often we were successful in barring those companies from doing business on the waterfront after exposing their connections.

In our full statement we detailed the Maintenance Associates investigation, a business controlled by organized crime figures who were associated with Michael Clemente. We succeeded in barring that company from doing business on the waterfront.

We exposed the connection between Genovese people and another company and succeeded in barring that company from doing business. We also make reference to a number of other investigations.

I think it might be useful to spend just a few minutes on one section of the waterfront compact that we have found extremely helpful and I heard several references today to the problem that section VIII of the waterfront compact attempts to address. So it might be useful to talk about that for a few minutes and our view of how it works in the State jurisdiction and how it might perhaps be strengthened with respect to Federal prosecutions.

As part of the New York and New Jersey State statutes made part of the Waterfront Commission Act, union officials who have been convicted of serious crimes may be prohibited from continuing to hold union office.

Along with that authority which makes it, by the way, a misdemeanor for the union official to stay in office, we have the authority to keep the union from collecting dues while that official is in office. So it is a very effective tool. We have often used that section.

Senator NUNN. You just cut off their source of funds, in other words?

Mr. SCOPETTA. That is right.

Senator NUNN. Until they comply.

Mr. SCOPETTA. That is right. There has been some confusion and that resulted in considerable litigation because the Federal statute says that the union official may stay in office until all of his appeals have been exhausted. Nevertheless, notwithstanding that provision we have moved against union officials and did in the UNIRAC investigation and after extended litigation through the highest court in our State, the court of appeals, we succeeded in removing, forcing Anthony Scotto out of office. We have used that provision to move against some 59 or so union officials over the years.

And indeed, just the presence of that section in our compact has caused a number of people, upon conviction, to remove themselves from office rather than challenge the section itself.

I might say that perhaps with respect to that provision and the confusion that seemed to exist, or the ambiguity in its application that seemed to exist because of the differences between the Federal statute, which says that the union official can stay in office until after all appeals have been exhausted, and the State interpretation, which says upon conviction, and does not make reference to the appellate process, we have just today in New York, we received a call while we were waiting to testify, found that the Second Circuit Court of Appeals has affirmed our position in every respect with respect to a Federal litigation.

We had a district court decision that said indeed it is a misdemeanor, a State crime, for a union official to stay in office in view of our section VIII provision, but that we were enjoined from prohibiting the collection of dues while that official was in office.

[At this point, Senator Rudman withdrew from the hearing room.]

Mr. SCOPPETTA. And we were left with having to go to the local prosecutors and ask them to prosecute the union official who was still in office. Our State courts told us that Anthony Scotto had to remove himself from office and upheld us. We got a decision just today from the Second Circuit Court of Appeals that said that our position was sustained in every respect.

Senator NUNN. I certainly am glad to hear that. Do you have any recommendation to make about the Federal statute or removal?

Mr. SCOPPETTA. I think the obvious change to make it much more effective is to make that removal provision effective upon conviction and conviction in most jurisdictions is defined as after a verdict and sentence has been imposed. I heard one of your witnesses this morning suggest that at the very least it ought to require the suspension of the union official.

We certainly would endorse that wholeheartedly.

We might also offer a second thought with respect to recommendations and that is that we have found that not only section VIII removal provisions, but the licensing authority that we have is a very effective tool in regulating the kind of misconduct that is committed by persons whom we license.

Admittedly, it doesn't reach the union officials who we don't license and investigations such as that which was conducted by former U.S. Attorney Bob Fiske and the FBI, of course, are the way to get at that problem.

As detailed in our statement, we talked about how an agency such as ours, the waterfront commission, can assist in that investigation and indeed several of those indictments were the direct result of information and evidence put together by our agents and given to Mr. Fiske so that he could present that to a grand jury. But the licensing authority with respect to controlling thefts in the port, and the kind of corruption that exists at that level is a very, very effective tool, and very often the people who are licensed fear the administrative proceeding more than they do the prosecution which may or may not, one, be successful or, two, result in incarceration. But even for those infrac-

tions which don't result in a conviction we can still have the administrative proceeding and if the administrative judge in our agency comes to the conclusion and makes a recommendation to the commissioners that the license should be revoked and the commissioners sustain that, that fellow is off the piers.

His livelihood is gone; at least insofar as it affects working in the port.

Today, I think it is fair to say that the longshore persons, we have men and women on the piers now, enjoy far better working conditions than they ever did before. It is a very attractive blue-collar job and they do indeed fear that loss of license. So that leads us to suggest that you might want to consider a recommendation that there be similar agencies in other ports that have licensing regulatory authority over the labor force and over the stevedoring companies that move the cargo in and out of the ports.

Senator NUNN. What happens when someone is caught stealing on the waterfront, somebody who is employed there? Do you have any direct authority to prohibit them from working there again after conviction of theft?

Mr. SCOPPETTA. We certainly do. We would have an administrative proceeding. He is entitled to a due-process hearing in which he is entitled to be represented by counsel, done before a hearing officer, and our staff would conduct the presentation, then a recommendation would be made to the commissioners, myself, and Commissioner Luther, and we, if we approved that recommendation and indeed called for revocation, suspension, whatever penalty, that penalty would be imposed.

Senator NUNN. Is that in practice done very often?

Mr. SCOPPETTA. It is done on a regular basis and I would say it was done over 200 times last year.

Senator NUNN. Do you find that the ILA itself is willing to take effective sanctions against members or do they leave that pretty much up to you?

Mr. SCOPPETTA. Not only do they leave it up to us, but I think that they generally try to support the accused on almost every occasion. Certainly, they have never voluntarily moved to remove union officials who have been convicted of crimes. We have had to do that, notify them that they are in violation of section 8, and that the dues collection will be prevented, will be stopped unless the official is removed, and they have often gone to court and in fact that is what happened in the Federal suit. They went to court to try to prevent us from—indeed were successful at the first level in enjoining us from prohibiting the collection of dues and we took that to the court of appeals.

So the ILA has resisted those attempts, even after conviction, of their union officials.

Senator NUNN. You mention that the New York and New Jersey law prohibits union officials who have been convicted of serious crimes from maintaining union office. Can you describe for us what you consider a serious crime?

Mr. SCOPPETTA. Felonies and what are termed in some jurisdictions high misdemeanors or misdemeanors involving crimes of moral turpitude. Certainly all felonies.

Senator NUNN. You are empowered to deny licenses or registrations to individuals or companies to work on the waterfront if they do not possess good character and integrity. How would you define good character and integrity under your laws and interpretations?

Mr. SCOPPETTA. I guess it is best done by example of the kinds of things we have, that is the kind of conduct that we have felt warranted removal or a sanction of some sort and which has been supported by the courts and affirmed by the courts. Certainly criminal behavior fits that definition whether there is a conviction or not. Sometimes a defendant would be acquitted in a criminal prosecution. We would have an administrative proceeding anyway because the burden of proof is somewhat less than proof beyond a reasonable doubt. In those cases, we may still impose penalties. Misconduct of any kind on or off the waterfront that involves fraudulent dealing and consorting with known criminals is a good example and we have been successful in those kinds of cases.

Senator NUNN. Anthony Scotto and George Barone were both convicted of serious crimes as we understand the definition you have been giving in 1980 as a result of the UNIRAC investigation. Are these men still holding their union offices or have they been removed?

Mr. SCOPPETTA. Anthony Scotto has been removed after extensive litigation and Mr. Barone has been served with papers initiating his expulsion.

Senator NUNN. What about international offices, does your State commission or your compact have the right to remove officials from international office or just the State office?

Mr. SCOPPETTA. We take the position that if there is indeed activity in our jurisdiction, New York-New Jersey as a result of holding that position that we can—

Senator NUNN. How about Mr. Scotto in his case, is he an international officer?

Mr. SCOPPETTA. I am sorry, I am just reminded, my counsel tells me that opinion that we just got from the second circuit today supports us in that view.

Senator NUNN. So you can remove them from international office as it affects your State or can you remove them from international office in general?

Mr. SCOPPETTA. Cannot hold the office at all.

Senator NUNN. What about in another district of the country?

Mr. SCOPPETTA. He would have to be operating, that is and of course the union does operate in our jurisdiction, he would suffer the sanctions available under the statute.

Senator NUNN. Within your jurisdiction?

Mr. SCOPPETTA. He cannot hold the international office.

Senator NUNN. But you can remove him from national office?

Mr. SCOPPETTA. That is right. Yes, sir.

Senator NUNN. What if he moves to, say, Miami, Fla., and exercises that office down there. How would you gain jurisdiction?

Mr. SCOPPETTA. If he is holding an international office of the ILA, what we could do is move against the dues collection, you see, in our jurisdiction only, so that the locals would be prohibited from forwarding dues collected by them to the International.

Senator NUNN. Which would be a pretty effective sanction?

Mr. SCOPPETTA. I think it would be a very effective sanction given the size of the locals in New York, it is a considerable penalty.

Senator NUNN. Mr. Scoppetta, do you believe that your successful expulsion of Scotto from union offices has terminated his influence over union affairs?

Mr. SCOPPETTA. I do not know how we can answer that question from this vantage point, especially after we have heard some of the testimony today about people who do not hold official positions but exert considerable authority over certain activities in the port, so that it would be speculation on my part, but it certainly is possible that a conviction would not preclude his influence.

Senator NUNN. We understand that Mr. Scotto's cousin, Mr. Frank Lonardo, was appointed to fill the remainder of Scotto's term. Do you have any way, first of all, of determining whether an expelled official still basically is in control and, No. 2, if they are in control through someone else who has not committed any kind of crime for which they have been convicted, is there anything you can do about that?

Mr. SCOPPETTA. Well, we can do something directly. If there is someone that we license, stevedoring companies, pier superintendents, people like that, who are associating with convicted criminals. We cannot do anything directly by way of barring someone who is in the union who is dealing or speaking with or being influenced by a convicted felon, but that certainly would be an appropriate matter for further investigation and work with prosecutors offices. But I think it is not an issue of a particular individual that needs to be addressed, as I am sure this committee is well aware, but it is the climate that exists in that union, the organized criminal activity that surrounds and pervades that union, going back to pre-waterfront commission days even. And here it is coming back to us just as bad as it was in 1950 at least with respect to corruption in the union.

Senator NUNN. Who is Carmine Lombardozi and what is his relationship to corrupt waterfront activities?

Mr. SCOPPETTA. He is no longer, to our knowledge, associated with waterfront activities. He was a principal in an optical company that we succeeded in barring from doing business at the waterfront, but he is a notorious well-known organized crime figure, has been identified as such, with a long criminal record and I might add that with respect to the optical company, it was shown he had a hidden interest in the optical company. I think maybe the Director of Law Enforcement, Paul Kelly, who is here with us today, could add a little bit more to that history about Carmine Lombardozi.

Mr. KELLY. Our prepared statement, Senator, details the efforts of the waterfront commission to expose the linkage between Carmine Lombardozi's optical company and the ILA clinic in Brooklyn which was paying exorbitant fees for the eyeglasses and the services examinations. Historically, Carmine Lombardozi since post-World War II had an active role in waterfront affairs, leasing marine equipment, equipment necessary for servicing of ships when they were tied up at the piers. Since the advent of the waterfront commission itself, he has withdrawn from that active role. I believe the name of the company was Monti Marine which he was connected with years ago. He

has withdrawn into a separate role. But he is correctly identified as a leading figure in organized crime, active in Brooklyn.

[At this point, Senator Rudman entered the hearing room.]

Senator NUNN. Thank you. I think your commission was started when, in 1950?

Mr. SCOPETTA. Twenty-seven years ago.

Senator NUNN. We had hearings by our predecessors back in the 1950's and 1960's. We have had FBI investigations, and of course your group has been active for a long time. No matter what we do we have pervasive criminal activity in regard to the waterfront. How would you address your commission in terms of the pluses and minuses of what you can and cannot do over this period of time.

Mr. SCOPETTA. I think with respect to the economic conditions of the port, the commission has had a very, very positive effect and in line with that, the general working conditions, the employment practices in particular and the conditions for the employment force in the port—what I mean by that, I would say that the corrupt hiring practices which existed throughout the port prior to 1953 just do not exist any more. There are hiring halls, they are run by the commission. Hiring is done off of computer inventory lists. That problem just does not exist any more. Two: With respect to the persons who use to be in charge of the labor force, the hiring that is, not on the union side which we do not have any control over, as you know, it was clear there were criminals who were in charge of doing the hiring. If you did not kick back to the hiring boss, you did not work on the piers. It was as simple as that. That condition is gone. It just does not exist today. And I would say given the average income of a longshoreman today, around \$24,000 or so, with all of the benefits they have, that it is considered one of the best blue collar jobs available, certainly in our part of the country.

There is no question there is criminal activity on the waterfront. We have been hearing a good deal about it. We have been involved in those investigations and I suppose until we change the climate of that particular union—we do not have this same problem throughout the country in every port—until we change the climate in that particular union, and this investigation may go a long way toward doing that, that is the Federal investigation and followup by your committee, then maybe that will begin to solve it.

Senator NUNN. Obviously the State governments have taken initiative in New York and New Jersey. Your commission is certainly evidence of that. What do you see as the Federal role? What do you think the Federal Government should be doing in this area of corruption on the waterfront that it is not doing now?

Mr. SCOPETTA. Maybe there could be some inducement on the part of the Federal Government, that is inducement offered to local government to be more aggressive, forming this kind of regulatory agency. I suppose that might come in the form of financial support as has been the case in the criminal justice area where I spent a good deal of time. Were it not for the funding that came from the Federal Government, many innovative plans and programs would never have gotten off the ground. You could not have management information systems, computerized recordkeepings for prosecutors' offices, things of that sort.

Because the Federal Government offered to pay a very large percentage of the cost, local government joined in and did something very productive.

It may be that financial inducement might be the way to go, at least initially, to see if now, given these prosecutions, given the exposure of the extent of the problem, many other ports might be less reluctant to impose an additional regulatory agency on the employment force in their port.

Senator NUNN. What about the Labor Department's role here, do you have any observations to make about the Labor Department, what it can and should be doing?

Mr. SCOPETTA. I have heard the testimony here today and I can see those on the Federal side, Federal prosecutors who deal with the Department of Labor do not seem terribly pleased with the activity of the Department of Labor. We have our own removal provision. We use that. We have not had cause to call upon the U.S. Department of Labor. Unless there is something either counsel or Director of Law want to add, I would say we do not really deal that much with the Federal Department of Labor because we have our own removal provisions which have been very successful. As I say, on 59 occasions we have been successful in moving against people in office and our State statute says upon conviction and that is much sooner than the Federal statute.

Senator NUNN. Mr. Scoppetta, what about the workmen's compensation law. We heard testimony that is an area of gross misuse, including fraudulent claims and also payoffs to prevent fraudulent claims from being filed that threaten the livelihood of companies. Do you believe that the certification of claims should be toughened or have you had any real experience in your commission on this subject?

Mr. SCOPETTA. Yes, we certainly have and we can give you details of that investigation, perhaps now or at some other point if it is not covered adequately in our full statement. But we instituted an undercover investigation and had agents go through the system and see exactly what was required to document an injury and to certify an injury, and we found that there was a pervasive pattern of corruption. That investigation helped, I think, somewhat to reduce the number of claims, but it is clear there was collusion on the part of longshoremen, claims representatives, attorneys, and doctors. As I understand some of the testimony in the Scotto prosecution, that was one of the inducements to get McGrath to make payments to Scotto, to reduce the fraudulent workmens compensation claims, so certainly that whole procedure, perhaps, needs to be looked at.

Senator NUNN. Mr. Luther, do you have anything you would like to offer here today?

Mr. LUTHER. No, Senator, the commissioner has covered everything we wanted to get before you. We certainly hope that our contribution to the committee hearings will help to prevent a repetition of what we have experienced up there in the last 3 years.

Senator NUNN. Thank you very much. We appreciate you being here, Mr. Scoppetta, Mr. Luther. I believe you have done a real service in providing this testimony. I am hoping my own State of Georgia will take a look at what you have done. We have got, I am sure, grow-

ing problems in our ports. I know the State of Florida has serious problems. We have heard all about that in Miami. We think that the initiative you have taken in New York and New Jersey, while certainly not solving all the problems, has solved some of them and has helped mitigate others. We would be wide open to any suggestions you have. We will be making some legislative recommendations when this hearing is concluded and we also, I am sure, will be following up with hearings that Senator Hatch mentioned this morning in his legislative committee. So we would welcome any observations or suggestions you may have as we keep this hearing open.

Senator Rudman?

Senator RUDMAN. I just want to also thank you very much for your testimony. I have read all your testimony. I did not have a chance to hear you today as much as I would have liked to. You have a State statute which we might be able to use at the Federal level.

Senator NUNN. Thank you very much for being here. Tomorrow we will begin the hearing beginning at 9 a.m. in room 3110. We will hear from the Honorable John Degnan, attorney general, State of New Jersey; Lt. John Liddy and Trooper Robert Delaney, New Jersey State Police. We will also hear from Mr. Walter D. O'Hearn, president of McGrath Services Corp. of New York. The hearing will adjourn until tomorrow morning.

[Whereupon, at 3:35 p.m., the subcommittee was adjourned, to reconvene on Thursday, February 26, 1981, at 9 a.m.]

## WATERFRONT CORRUPTION

THURSDAY, FEBRUARY 26, 1981

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, D.C.*

The subcommittee met at 9:13 a.m., pursuant to recess, in room 3110, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Warren Rudman presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire; Senator Sam Nunn, Democrat, Georgia; and Senator Lawton Chiles, Democrat, Florida.

Other Senator present: Senator Don Nickles, Republican, Oklahoma.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. P. Goodwin, Jr., staff director to the minority; Eleanore Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key and Raymond Maria, investigators to the minority; Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Member of the subcommittee present at the convening of the hearing: Senator Rudman.]

[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
*Washington, D.C.*

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH, Jr.,  
*Chairman.*

SAM NUNN,  
*Ranking Minority Member.*

Senator RUDMAN. I call the hearing before the Senate Permanent Subcommittee on Investigations to order.

Our first panel this morning is the Honorable John J. Degnan, attorney general of the State of New Jersey; Lt. John Liddy and Trooper Robert Delaney of the New Jersey State Police. Gentlemen, we are delighted to have you before us this morning.

I particularly want to welcome you, General Degnan, someone who I know a great deal about. We are delighted to have you here this morning. I believe you have an opening statement. I believe you have a statement.

Mr. DEGNAN. Yes, Senator.

Senator RUDMAN. I believe we will swear you all in. That is our normal procedure if that is without objection.

Do you swear the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DEGNAN. I do.

Lieutenant LIDDY. I do.

Mr. STEIR. I do.

Colonel PAGANO. I do.

Senator RUDMAN. General Degnan, you can proceed.

**TESTIMONY OF HON. JOHN J. DEGNAN, ATTORNEY GENERAL, STATE OF NEW JERSEY; LT. JOHN LIDDY AND TROOPER ROBERT DELANEY, NEW JERSEY STATE POLICE, ACCOMPANIED BY ED STEIR, DIRECTOR, DEPARTMENT OF CRIMINAL JUSTICE, NEW JERSEY; AND CLINTON L. PAGANO, COLONEL, NEW JERSEY STATE POLICE**

Mr. DEGNAN. With the Senator's permission, I would like to introduce Clinton L. Pagano, on my right. The gentleman on my left is Edwin H. Steir, Director of the Department of Criminal Justice in the State of New Jersey. At the outset I would like to thank you and the committee for the opportunity to share with you this morning some of New Jersey's experience in dealing with organized crime.

For purposes of the committee, I hope and believe that the testimony you will hear from Detective Bob Delaney and Lt. John Liddy about Project Alpha will be helpful.

But I also think it is important for this committee to hear more generally about the experience of the State that, I am proud to say, is at the very forefront, along with the Federal Government, in this country's battle against organized crime.

That experience, which I will describe generally and leave the specifics to Detective Delaney and Lieutenant Liddy, will indicate to you in no uncertain terms the dimension of the problem we all face, how we in New Jersey have begun to make inroads on that problem, and more significantly the importance of supporting and encouraging a Federal/State participation in that fight.

The story in New Jersey begins in 1967 when Life magazine dubbed our State, "The most corrupt in the Nation."

Frankly, I wouldn't mention that embarrassing motto were it not for the stunning turnaround we have effected in New Jersey since that time, a process worth recounting for a few moments since it culminated in Project Alpha, which you will hear a great deal about this morning.

In 1968, in following and responding to that, bipartisan efforts on the part of a Republican-controlled legislature, and a Democratic

Governor resulted in a massive study of New Jersey's criminal justice system.

As a result, in our State today we have a law which permits electronic surveillance, with court authorization of persons suspected of being involved in criminal activity.

We have a statewide grand jury system which resolves questions of jurisdiction and permits State prosecutors to investigate matters having intercounty implications, especially matters in which organized crime may be involved.

We have statutes permitting the State to compel the testimony in an investigatory proceeding of a witness believed to have knowledge of the commission of a crime after that witness has been granted immunity from prosecution on the basis of his testimony.

And we have a State commission of investigation empowered to probe into virtually every aspect of our governmental system to see that the laws are being faithfully executed and to make recommendations for changes in those laws.

The statute that created the SCI gave it a mission to pay particular attention to matters involving organized crime and has done so.

Two years later, in 1970, the Criminal Justice Act was passed. For the first time it made the attorney general in New Jersey the chief law enforcement officer in the State, in fact as well as in theory. That act created within my office a division of criminal justice which was authorized to investigate matters in any county in the State without regard to county boundaries and to supercede a local prosecutor on a case-by-case or indeed an entire office basis.

I believe today we have an organization which is second to no State in having developed this capability in this area.

In addition to these important statutory and policy changes, we have developed in recent years a program of coordination and sharing between the attorney general's office and that of the county prosecutors, with a better understanding on each of our parts of the needs of the other.

I relate this process of explicit and implicit integration in the New Jersey law enforcement system because it provides the foundation for what I believe is the single best example of the Federal-State law enforcement cooperation in the Nation. We now have in New Jersey what has truly become a unified approach to the problems of law enforcement in general and organized crime in particular.

The unified approach and the level of cooperation that it implies was absolutely critical to the initiation and success of Project Alpha.

Since 1967 and that Life Magazine article, the New Jersey State attorneys general, my predecessor and myself, have returned through the State grand jury system literally hundreds of indictments. The defendants have included some 200 public officials, scores of persons alleged to be members or associates of organized criminal conspiracies and many of the so-called respectable members of our communities, such as physicians, attorneys, and businessmen, engaged in white-collar crimes such as fraud and drug diversion.

We have made enormous progress in wiping out entire criminal empires in New Jersey and reducing its influence in major industries such as the solid waste industry.

And we have made other major investigations which are now under way that have the potential of further crippling pockets of organized crime in what is a constant process in chipping away its influence in our State and in the Nation.

It took New Jersey a decade to work, to develop, to mature from being the butt of jokes to the point where it is first among the States and a coequal partner with its Federal counterparts in fighting organized crime.

We are here today because of this committee's concern with organized crime on the greater New York and east coast waterfront.

Those waterfronts are the hub of this Nation's and the world's sea-going commerce.

Project Alpha provides us with a case history of organized crime's influence in this area and the success New Jersey, the FBI and the Justice Department have had in uncovering the key details.

The Law Enforcement Assistance Administration put \$1 million into Project Alpha. You might ask what it bought? Well, it allowed New Jersey State Police and the FBI to set up dummy trucking firms in the vicinity of the north Jersey dock, not so much to uncover and prosecute crimes as also to gather intelligence on organized crime in all its worst forms—loansharking, extortion, murder.

Agents such as those you will be hearing from shortly, worked undercover and dealt directly with organized crime. They gained entrance through the use of an underworld contact. They developed that operative and contact by prosecuting him on both State and Federal levels for other crimes and then encouraging him to cooperate.

Federal funds to prosecute him in essence provided the seed money for Project Alpha.

Another novel aspect of Federal/State cooperation in Project Alpha was that we cross deputized our lawyers so that each would have access to the other's grand juries without the necessity of obtaining court orders which, as you know, can be a cumbersome process merely to share information.

I can't overemphasize the Federal role and I would like to try to impress upon you today, on behalf of New Jersey, I am a jealous partner in joint enterprises of this kind. The State, I believe, deserves much credit. These men who risked their lives deserve all of our praise.

But I would be remiss in not crediting both the FBI and the Justice Department in equal measure.

And the work we did in Project Alpha has resulted in a situation whereby the Federal/State relationship that we have experienced there has, in general, flourished so that now in the areas of toxic waste, medicaid fraud, bank fraud, and others, are all areas of joint effort in our State.

I think my message is clear. The need to encourage such cooperation and the need to maintain the Federal Government's financial contributions to these efforts is absolutely essential.

Project Alpha bore fruit in and of itself. It had significant spillover effects. Intelligence gathered through Alpha resulted in dozens of indictments by Federal and State grand juries in areas well beyond the scope of Alpha.

In closing, I would urge this committee to pay heed to what I believe to be the most significant lessons of Alpha. First: That we can have an impact on organized crime.

Second: That we must encourage Federal/State cooperation in organized crime fighting. And third: We cannot be afraid to spend Federal money or State money in this area. Not only is the return well worth the investment, but the consequences of failing to address the problem of organized crime are dire and are known to us all. Thank you very much, Senator.

Senator RUDMAN. I ask first if the committee staff counsel has any questions now?

Mr. STEINBERG. No; we have questions for his State police who will be covering Project Alpha in more detail.

Senator RUDMAN. I would probably like to ask you this in light of what obviously was an enormous and successful joint effort.

As you know, LEAA funding for projects such as Project Alpha is now, I guess, running out or in fact ended. What does the State of New Jersey intend to do? What is it capable of doing with its own resources in this area now that this particular Federal funding will not be forthcoming?

Mr. DEGNAN. I suspect because of the commitment we have at the State level in fighting organized crime and corruption that we will maintain a fairly vigorous effort in the area, but it would be misleading if I didn't concede that the absence of Federal seed money and actual operating money for some of these projects will greatly impair our ability to have further undercover operations of a sensitive nature.

It is simply more expensive than we can afford, even with a fairly large commitment of State resources, such as happened in New Jersey. My colleagues around the country, I am sure you know, have not managed to secure funding on a permanent basis for programs under the State legislatures.

Senator RUDMAN. I am familiar with the New Jersey organized crime statute that gives you your surveillance powers and the other powers you have, particularly your statewide grand juries.

As you work with Federal agencies, Federal law enforcement agencies, are there any areas of the Federal law that you directly might feel could have been improved or changed that might have made the joint relationship between State and Federal law enforcement agencies more beneficial?

Mr. DEGNAN. I think one area Mr. Steir has mentioned is the tax information. We feel the privacy restrictions that have been adopted at the Federal level, which go further than we have in New Jersey, are substantial impediments to tax information which we believe we have a right to and which will be of great assistance, unless, beyond that, if I could ask Colonel Pagano or Ed Steir if they have further comments.

Senator RUDMAN. I want to comment. Senator Nunn, who has been chairing these hearings, but who has been delayed by other business for a few moments this morning, has in fact a proposal to amend the Tax Reform Act. We have heard testimony, information of this kind heretofore. I am not surprised.

I would like to follow that line and then hear from some of your other panel. I notice that you cross deputized, which is a very good tool. It is the first time I have ever heard it being done between Federal and State people in organized crime investigations.

Are you saying what you essentially did was take assistant U.S. attorneys and deputize them as State prosecutors?

Mr. DEGNAN. That is exactly what we did.

Senator RUDMAN. And you had no administrative problems?

Mr. DEGNAN. No, we didn't. It is not an easy process to work out and the chains of command have to be adjusted, but we can do that on a 1-on-1 basis.

Senator RUDMAN. Could someone else comment in response to that question?

Mr. PAGANO. The only other things I would suggest in looking very closely at the Freedom of Information Act, the Project Alpha depends on a relationship between the Federal and State agencies.

We have already furnished information to Congress relating to difficulties that our agency has encountered through FOIA.

Mr. DEGNAN. I might point out a sequel to Project Alpha was Project Mega, that was as a result of a protocol that was signed by the FBI, U.S. attorney, and the Department of Justice, which allocated responsibilities in the case we all knew, the State having developed it and having it, implications in the gaming area, would have potential for some very significant prosecutions. The way we decided to work together on that to insure each part had a meaningful role in it was to specially allocate. I think that might be one of the first examples around the company is to get people to sit down and agree in writing to a protocol.

It resulted in New Jersey in the most successful organized crime investigation we had, and will result in some good extensive prosecutions at the Federal level.

Senator RUDMAN. Thank you very much for your statement. I think the New Jersey story and the area of cooperation between Federal and State law enforcement agencies is truly remarkable. I don't think, unfortunately, it should be, but it is not the model that necessarily exists throughout the country. It tends to vary from place to place.

Obviously in a place like New Jersey, there is a very important role for both. Unfortunately that is true in other parts of the country, but it doesn't happen. I don't think legislation will ever change that. I think that is a matter of the leadership of the people in various law enforcement agencies at both levels, and law enforcement to accomplish a countergoal.

I believe our next witness will be Lt. John Liddy of the New Jersey State Police.

Lieutenant LIDDY. I am Lieutenant Liddy. I have been with the State police for 24 years, and I have spent the past 11 years supervising organized crime investigations.

I am currently assigned to the Organized Crime Bureau of the New Jersey State Police. I have a rather lengthy prepared statement and I request that statement go into the hearing record as read.

Senator RUDMAN. I will incorporate your entire statement into the record.

[The statement follows:]

STATEMENT OF LIEUTENANT JOHN J. LIDDY, NEW JERSEY STATE POLICE

Mr. Chairman, I am Lieutenant John J. Liddy of the New Jersey State Police. I have been with the State Police for twenty-four years and I have spent the past eleven years supervising organized crime investigations.

I. BACKGROUND

In October 1974, the New Jersey State Police and Federal Bureau of Investigation formulated a highly innovative investigative plan to penetrate the multi-layered infra-structure of organized crime within New Jersey. The investigation was labeled the New Jersey Joint Investigative Operation (NJJO) and was commonly referred to as Project Alpha.

uses to infiltrate businesses and labor unions.

The purpose of Project Alpha was to identify the methods organized crime previous intelligence and reliable sources continually indicated that traditional organized crime families and their associates were moving into legitimate business. Through the control and manipulation of labor unions and employer associations, monopolistic strongholds could be developed in any given enterprise or industry. We in law enforcement have long been familiar with loansharking, arson, and other means of extortion. Our intelligence had fortunately provided us with a comprehensive understanding of organized crime's involvement in labor racketeering on the waterfront which ultimately provided us with the basis for launching this project.

A unique law enforcement effort was proposed in October 1974. Through financial assistance from the Law Enforcement Assistance Administration, the project began in April 1975. The main thrust of this close collaboration between the New Jersey State Police and the Federal Bureau of Investigation focused upon a major attack against closely allied criminal ventures including cargo theft, labor racketeering, gambling, loansharking and corruption.

To confront mob exploitation and control in legitimate business, the two law enforcement agencies selected the Port Newark Complex as the prime target area for this program. It is the largest container freight port in the world and 60 percent of the water borne freight entering the New York metropolitan area comes via Port Newark. The recent designation of Newark Airport as an international airport and port of entry has greatly increased the flow of goods at the facility. The unfair competition that mob control creates through their many means greatly exacerbates an extremely difficult economic situation.

The Port Newark Complex is an ideal arena for criminal groups to exploit their versatile ventures. Intelligence available from both participating agencies indicated that traditional organized crime groups exercised a great deal of control and influence within the target area. All of the activities previously mentioned were being engaged in with extremely profitable results and to the detriment of legitimate business.

The joint Federal-State investigative venture was initially designed to encompass a time period of eighteen months. To enter into an investigation of this type, it became obvious that conventional law enforcement techniques would not suffice toward the achievement of the overall goals and objectives of the program, which were outlined as follows in application for financial assistance from the LEAA.

A. Goals

- (1) To identify inroads of organized crime into legitimate business and labor organizations.
- (2) To uncover the manner in which these infiltrations are accomplished.
- (3) Use of information gained for coordinated investigations and prosecutions by both agencies involved.
- (4) Allow for the development and implementation of specific programs whose likelihood of success will be greatly enhanced through concentrating resources upon problem areas in the most effective manner.

B. Objectives

- (1) To establish a business and have it accepted as a viable, legitimate enterprise within the target area.

(2) To have covert operatives accepted into the business and social communities.

(3) Using the credibility of the business, and informal contacts made to establish deeper and more meaningful relationships with organized crime figures and their associates.

(4) Use of the available intelligence to guide undercover personnel to business and social gathering places where significant contacts would most likely be made.

(5) Exploit intelligence gathered for the benefit of conventional enforcement units of participating agencies, without compromising the program.

(6) Make significant arrests, and obtain indictments and convictions.

(7) To enable law enforcement to modify and adjust its conventional units of both participating agencies whose mission required them to target in on specific activities of organized crime.

(8) Dissemination of the information developed to those standing committees or special commissions of both the State and Federal legislative bodies with recommendations for specific action which would facilitate the adoption of effective criminal sanctions and investigative tools needed to curtail the growth and diminish the control of organized crime in the realm of legitimate business.

## II. METHODS AND OPERATION

To create an undercover operation of this type is very difficult. Measures were taken to insure project secrecy and personal safety of all undercover personnel involved.

Undercover agents were carefully selected to participate in the program, each totally aware of the potential personal danger and self-sacrifices associated with this type of operation.

Problems were encountered in obtaining personnel both within the New Jersey State Police and the Federal Bureau of Investigation suitable for a project of this type. Certain criteria were set which were felt to be essential to any individual selected. The undercover agents would have to be young, single males, who grew up in cities of the Northeast United States and could talk and act like the people he would be associating with.

Two members of the New Jersey State Police and two members of the Federal Bureau of Investigation were selected for assignment as undercover operatives. Two other FBI agents, together with another member of the New Jersey State Police were also assigned and operated in a semi-covert manner providing needed support services.

The four undercover personnel obtained employment with existing trucking companies in the Newark area to provide added background and increase their familiarity with the business and social communities. Fictitious identification including drivers' licenses, birth certificates, and criminal records were provided for the undercover personnel. The relocation of the undercover operatives was achieved with no problems whatsoever. Apartments were rented, furnishings provided as well as telephone service. All undercover personnel were placed in separate residential locations within the Newark area.

During the initial stages of the investigative project, the covert operatives devoted their efforts to becoming accepted within both the business and social communities. The undercover personnel made themselves available to and encouraged approaches by the organized crime groups within the target area. Complicity in criminal conspiracies was anticipated.

One of the difficulties the undercover operatives faced was in winning acceptance in the Newark area. The region is noted for close-knit family and neighborhood ties. These relationships extend over into the business and labor communities. A newcomer immediately stands out. The area is small and densely populated. Some associations go back three and four generations. There are extensive grapevine networks.

To overcome these difficulties and perhaps make them advantages, a freight forwarding and warehousing business was established in February 1975. The company incorporated in Delaware, under the name of Mid-Atlantic Air Sea Transport (MAAST), to conceal its true origin and to provide additional cover to the agents actually staffing it. The business rented office and warehouse space in the Port Newark Complex. The establishment of a corporation checking account and line of credit was a necessary first step to make the enterprise a viable and credible entity.

Undercover operatives placed ads in business journals to stimulate business and approaches by unions. Rate schedules were prepared and disseminated to prospective customers, and as a result project members succeeded in obtaining accounts with several businesses within the target area.

Once established and accepted in the business and social environment, the undercover personnel then made themselves accessible to the criminal community. Their activities centered around being accepted by persons who were associated with previously identified crime syndicates.

The word got out in the Newark criminal underworld that this was an enterprise run by persons who were acceptable by the criminal community. As a consequence, criminals began coming to the company wishing to sell stolen property, to have the company serve as a fence for the sale of stolen goods and for other illegal activities.

Our undercover agents were brought a large amount of State of New Jersey unemployment checks, more than 200 stolen appliances, and large quantities of stolen clothing. Two agents regularly played in illegal lottery and sports betting operations and one undercover operative identified a local law enforcement towing service driver as being involved in various stolen car thefts in conjunction with organized crime associates. In effect, these people were running a chop shop operation.

To this point the undercover agents' enterprise had been accepted as a place to do illicit business. But we were dealing with lower level criminals. Undercover operatives soon realized that an escalation of the business was needed if they were to successfully infiltrate the multilayered structure of the organized crime hierarchy and to establish more meaningful relationships with the higher level criminals.

In November 1976, it was decided that the Mid-Atlantic Air Sea Transport Company was no longer useful to the overall goals and objectives of the project. The reasons for the demise of MAAST were: (1) No more could be accomplished which could not be achieved elsewhere; (2) its physical makeup was inadequate to support the proposed new venture; (3) through the use of confidential co-operative witness, Patrick J. Kelly, contact was made with significant members of the Bruno organization operating in Newark. Overtures were made that they participate in a joint venture with those organized crime figures.

In December 1976, Mid-Atlantic Air Sea Transport was dissolved in favor of a larger trucking firm which was called, "Alamo Transportation Co., Ltd." Appropriately, undercover operatives printed business cards containing the following caption, "When in Trucking, Remember the Alamo."

The business venture was designed to be legitimate in scope with the undercover operatives providing the working capital while the organized crime people provided the connections and muscle if needed. Alamo Transportation operated as a contract trucking operation and a percentage of the profits were being kicked back to principal organized crime figures who control the target area of portions thereof. For this kickback law enforcement undercover agents were guaranteed: (1) preferential status in obtaining hauling contracts; (2) no union problems whatsoever; and (3) no fear of theft or hijacking.

In addition to the kickbacks, we were directed to place certain organized crime associates on the payroll, obtain work from certain companies, obtain support services and equipment maintenance from designated firms or individuals and act as a front for certain organized crime figures so as not to disclose their involvement in particular business ventures or the large amounts of money that they have available.

The project was awarded a twelve month extension along with additional funding by the LEAA to support such a program. Two additional undercover agents were assigned to the operation as well as six additional support personnel.

During the period between January through June 1977, the business venture expanded into a full scale trucking operation. At one point the trucking firm employed over twenty-five tractor-trailer units. Through arrangements made with a mob operated company, Frigid Express, within the target area, the tractor trailers transported cargo both locally and on long distance "over the road" trips. The business venture established accounts for pick up and delivery of freight with twenty-four different trucking firms. As a result, the business realized over \$200,000.00 in accounts receivable. The project income was immediately recycled back into the program.

The undercover agents, acting as corporate officers, obtained the services of an attorney closely associated with organized crime membership. The attorney was instrumental in providing legal services in registering the business as a legitimate corporation.

The business operatives were offered the opportunity to serve as a broker for out-of-state trucking companies to haul cross country loads back into the target area. This offer was made by a legitimate trucking enterprise. The offer was rejected by project supervisors as it would require a formal long-term lease. This agreement would commit the law enforcement operatives to remain as brokers far beyond the termination of the project, thereby presenting the possibility of civil liability for breach of contract.

Rental of the truck units used in the business venture was accomplished as a result of previous arrangements made with a major leasing company.

In order to adhere to Federal and State workman's insurance and compensation regulations pertaining to employers, payments were made to both Federal and State government agencies in order to satisfy those regulations.

Business operatives continued their involvement in attending social events within the target area. Two law enforcement operatives attended a testimonial dinner for a low level organized crime figure. The proceeds from the testimonial affair were actually used to supplement a legal defense fund for a prominent organized crime figure.

Since the establishment of the covert trucking venture, undercover operatives succeeded in their infiltration of significant membership of the Genovese and Bruno crime groups, who have been operating within the Newark area. During that time it also became obvious that high echelon members of organized crime exercised extreme caution in accepting new associates. To develop any meaningful communication with these individuals requires a great amount of time and money. Further, the close association with organized crime principals showed that police cannot hope to penetrate a crime syndicate on a low budget. Those who wish to be accepted by mobsters must be prepared to spend a lot of money, much of it on the mobsters themselves.

Undercover personnel were approached by organized crime operatives conspiring to steal tractors from a national leasing company and use them in the business operation.

One undercover operative was successful in receiving a loan from an organized crime loan shark at usurious interest rates.

Undercover operatives obtained evidence regarding a scheme by prominent organized crime figures to extort money from a North Jersey restaurant.

Project personnel learned of an extortion scheme regarding the sale of a garbage route in Newark. Organized crime figures intended to force the owner to sell his garbage route to individuals selected by organized crime operatives.

In addition to the established trucking firm, a new satellite business operation in the form of a tire and repair service was formulated by project members. This was done at the direction of Tino Fiumara, an identified member of the Vito Genovese crime family of New York, who proposed that he could provide customers and charge them for work not actually done. This fraudulent billing scheme did not begin operations due to a split between John DiGillo and Tino Fiumara, who both had influence over the activities of the business venture.

Fiumara, who had influence in the operation of Alamo Trucking, expanded his own interests into a legitimate restaurant in the Newark Port area. As a result, Fiumara forced Alamo Trucking to purchase items for this restaurant.

It was learned by the undercover operatives that Fiumara became very active in the acquisition of landfill sites in the Newark area. Fiumara and an organized crime associate formed Air Port Landfill Corporation and began operations to dispose of solid wastes in the target area.

In April 1977, additional legal personnel were assigned to prepare the criminal complaints and cases which developed from this project. Five United States Attorneys and five New Jersey Deputy Attorney Generals were assigned to complete this segment of the program.

A meeting was held in conformance with agreements made in confidential memorandum of understanding signed by the New Jersey State Police and Federal Bureau of Investigation. Progress of the project for the month of June was evaluated by members of the State Police, Federal Bureau of Investigation, New Jersey Division of Criminal Justice, and the United States Attorney's Office. As

a result of this meeting, preliminary plans were made to terminate the project in August or September 1977.

The project ended in September 1977. The court-authorized electronic surveillance was terminated. Undercover agents began preparing a presentation to Grand Jury.

Contingency plans were developed in early July for the relocation of the principal informant, Patrick Kelly, and his family.

The undercover project was ended for three reasons. First, sufficient criminal evidence had been obtained for prosecution against prominent, high level members of organized crime operating within the target area.

Second, the Alamo Trucking became known to be involved with organized crime associates, and, as a result, other law enforcement agencies began to show an interest in the activities surrounding the Alamo enterprise. For example, local, county and municipal law enforcement agencies began to conduct inquiries and surveillance of their own. These police agencies did not know that Alamo Transportation was an undercover operation.

And, third, the personal security of each undercover agent increasingly became a greater factor each day.

In order to terminate the trucking business without creating any suspicion which would jeopardize the project, undercover personnel had completed agreements with the principal targets in the investigation that they were phasing out of the trucking business in order to begin a new business venture in the target area. The organized crime figures were led to believe this transition would take place in September 1977.

State and Federal charges were brought against the 34 individuals for a variety of crimes including possession of stolen property, unlawful sale of handguns, conspiracy for possession of stolen property, possession of counterfeit New Jersey Certificates of Titles, possession of counterfeit checks, usurious lending conspiracy, possession of counterfeit New Jersey Drivers Licenses, and interstate transportation of stolen property.

On September 28, 1977, the culmination of the undercover phase of this investigation occurred during a series of arrests of the above individuals by State and Federal authorities. A total of 60 New Jersey State Police personnel and 40 agents from the Federal Bureau of Investigation combined to arrest 30 of the above individuals.

In addition, Federal and State subpoenas were issued to 20 organized crime associates for appearance to testify before those respective grand juries.

The majority of the individuals indicted have been convicted or pled guilty, and are currently serving prison terms or are on active probation.

Lieutenant LIDDY. Thank you, sir.

I would like to give a shorter summary statement now, if I may.

Before investigative resources were committed to Project Alpha, the New Jersey State Police made an assessment of organized crime's involvement in the labor unions on the New Jersey waterfront.

Through a variety of sources, one of which was Patrick Kelly, the Intelligence Bureau had mapped out an investigative approach which will ultimately result in the prosecution of significant organized crime figures, as will be related to you by Detective Delaney, one of the undercover operatives used in this investigation.

Had it not been for the intelligence which was developed prior to initiating this extensive investigative project, we would not have successfully met our goal. Moreover, as a result of this investigation, we have been afforded the unique insight into organized crime and how it uses labor union officials to bill the members of the union, as well as businessmen who are forced to do business with them.

There are, even among experts, many misconceptions about organized crime. There are gaps in our knowledge and understanding of how organized criminal groups operate and how they interact with each other.

In the Project Alpha, our focus was primarily on Italian crime families, namely, the Genovese and Bruno organizations and how they use legitimate businesses and labor unions to further their ends.

We, of course, recognize that there is much more to organized criminal conduct in this Nation than the traditional organized crime family networks. When Project Alpha began, we mistakenly operated under the assumption that a smaller trucking business would give us entree into senior levels of the Newark underworld. It proved to be a useful mistake because we learned that small enterprises attract relatively small criminal conduct.

If we were to obtain evidence on the more senior members of these organized crime families, we would have to be perceived by them as a more lucrative business target.

In 1976, we created a more lucrative business front known as the Alamo Transportation Co. Detective Delaney was designated owner of the firm. Undercover detectives were young and single. They knew how to assume the lifestyles and mannerisms that would enable them to blend in with organized crime figures.

The undercover personnel succeeded in ingratiating themselves with the Newark underworld because of a very cooperative informant. The agents, particularly Detective Delaney, had many contacts with precisely the higher level organized crime operatives we had previously identified.

Alamo Transportation came to be known as an enterprise organized criminals could do business with and could be trusted to make payoffs in return for favors from the mob. The favors received were substantial. They included organized criminals referring considerable amounts of business to Alamo Transportation.

The favors also included guarantees that no problems with organized labor would confront the young businessman. The guarantees were not broken. Alamo Transportation prospered.

Ultimately there were 12 employees on the payroll. The firm was shipping products in 25 tractor-trailers. Its routes included a profitable run from the Newark Port to Miami. At its peak, 1 year after the business was started, Alamo Transportation had accounts receivable of \$200,000, but there were serious problems facing Alamo that were the result of the firm's alliance with organized criminals. Payoffs were enormous and kept the firm on the edge of bankruptcy. Alamo Transportation paid mobsters more than \$50,000 in 12 months of its existence.

A typical month's costs were approximately \$3,500 in payoffs. Not one, but three separate organized crime groups demanded and received periodic payoffs.

Two of the crime groups were part of the same organized crime family, the Vito Genovese family of New York. The two representatives of the Genovese family operating out of different geographical areas both demanded tribute, that is to say to pay off one of them was not sufficient. Both had to be paid off. Both commanded their own separate groups of enforcers to be utilized should payment not be made.

In addition, payoffs were also demanded by and paid to a representative of the Angelo Bruno crime family of Philadelphia. The payoffs were usually cash. They also included the placing of organized crime associates on the payroll of Alamo Transportation. These were strictly

paper jobs. The so-called no-show or phantom employees did no work for the firm. They did nothing except collect their pay.

Alamo picked up the cost of a luxury car for the girl friend of an organized crime figure. Alamo paid for soil tests on a gangster's garden. Alamo paid the expenses for the family of an organized criminal when they went on vacation to Disney World in Florida.

The organized criminals demanding the tribute were not subtle. They demanded as much money as they desired. They had absolutely no concern about whether or not Alamo would survive month to month. They practiced a form of extortion that was not only selfish, but brutal. Just as they assured us that no new business would compete with us and that Alamo Transportation would have no labor problems, the organized criminals made no secret of what would happen should payments to them be stopped or be too little to suit them. They declared they would simply close down the firm and they would do it immediately.

There was, in addition, the ever-present threat of physical violence. It is the view of law enforcement officials that what happened to Alamo Transportation was an accurate reflection of what happens to many businesses in the Newark Port area. Of course, our company, Alamo Transportation, working in undercover capacity, made itself readily accessible to the organized crime trade.

[At this point Senator Nunn entered the hearing room.]

Lieutenant LIDDY. But eventually, in one way or another, organized crime does try to infiltrate legitimate business. Thus, Alamo Transportation proved to be a laboratory for law enforcement to study organized crime's infiltration of legitimate businesses.

A legitimate business in the slump faced with a negative cash flow and continued downturn may finally accept a favor, a small one at that from mobsters. That may be all the crime groups require initially. Once these criminals have a foot in the door their demands grow. Finally the once independent and otherwise legitimate businessman has little choice but to deal with organized criminals on a regular basis. In some situations he cannot do business any longer without mob connections. Some entrepreneurs are so intimidated by mob threats that they are afraid to even go out of business. Alamo Transportation did go out of business in the fall of 1977. It was the judgment of the law enforcement officials supervising the undercover operation that Project Alpha had served its purpose. So successful had the enterprise become in winning the confidence of organized criminals that it began to attract the attention of law enforcement agencies oblivious to the true purpose of the business. It would have been counterproductive to have other police organizations investigating an organization run on an undercover basis by law enforcement.

Some of the information learned during Project Alpha has become part of the public record through testimony given in the courts. However, the total insight and information obtained in Project Alpha has never been revealed in any public forum. At your request we are pleased to be able to provide a detailed account to the Permanent Subcommittee on Investigations.

In conclusion, Mr. Chairman, an investigation such as Project Alpha would never have reached the level it did without the assistance pro-

vided through the criminal conspiracy unit of the Law Enforcement Assistance Administration. Most local law enforcement organizations would be unable to provide the necessary funds for an operation of this magnitude. An investigation such as Project Alpha would never have reached the level it did without the cooperative witness, Patrick Kelly, and without the Federal relocation program there may never have been a Mr. Kelly because the new life for the cooperative witness would not have been possible.

Last: An investigation such as Project Alpha would never have reached the level it did without the use of electronic surveillance and a commitment by the division of State police and the Federal Bureau of Investigation to devote the necessary resources to fully investigate organized crime.

All the tools I have just described along with the use of law enforcement undercover operatives were necessary to assure the success of Project Alpha.

Thank you, sir. I will try to answer any questions that you may have.

Senator NUNN. Thank you very much, Lieutenant Liddy. Mr. Attorney General, I am sorry I was late this morning. I have read your testimony and am very impressed with what you are doing. I had a meeting with some other Senators and I was the host and I could not get away unfortunately. But we really do appreciate your being here. I appreciate the initiatives that are taken in New Jersey, many of them under your leadership with the cooperation of both Federal and State law enforcement officials. We appreciate all of your being here today.

Senator Rudman, why do you not lead off with questions. Then we will rotate back and forth.

Senator RUDMAN. I wonder, Lieutenant, if you could give us from the State perspective—we have a pretty good idea of the Federal perspective—your views on the use of your electronic surveillance law in the State of New Jersey, its relative weight of importance in terms of what you have accomplished with Project Alpha and other projects?

Lieutenant LIDDY. The importance of the statute to us, sir, is to allow us to identify inroads that organized crime has made into labor organizations and private businesses and to identify the methods by which that infiltration is made. The information is used to develop and supplement meaningful programs, the success of which is greatly enhanced by the most effective application of available resources.

Senator RUDMAN. When you put this trucking operation undercover did you encounter a lot of problems of a technical nature because you were operating undercover, or in terms of business contracts, or relations with other legitimate businesses? Did you find this to be a great difficulty in getting this whole undercover operation set up?

Lieutenant LIDDY. We anticipated technical problems and for months prior to inserting our undercover operatives in our own businesses, we had them employed in various kinds of positions in the industry so that they became knowledgeable with the terminology and the general working of the industry. We also provided technical assistance to them in tariff schedules, the maintenance of trucks, bookkeeping methods, tax stamp requirements by the various States, et cetera.

Senator RUDMAN. How many State people did you have committed to this at the height of the operation? I mean under your command, undercover people, people working in this operation?

Lieutenant LIDDY. I would think taking into consideration all support personnel, probably 30 or 40.

Senator RUDMAN. That large, 30 or 40 people. I want to say the same thing to you that I said to Attorney General Degnan; that is, that I think you have shown that the States with Federal cooperation in this area can accomplish in many cases more than the Federal Government can accomplish because of your being on the scene and very familiar with the local crime scene and so forth. I think your efforts are commendable and we are very appreciative to have you here.

Lieutenant LIDDY. Thank you, sir.

Senator NUNN. Mr. Attorney General, before we finish this testimony I just want to mention the fact that I understand you alluded to the Tax Reform Act and some of the impediments that that has caused to law enforcement. I completely agree with you. We have had a whole series of hearings on this and in every other hearing we have had testimony on it. So we have got 2 years of record in this subcommittee about the ill effects of the Tax Reform Act. Of course it was noble in purpose but it just simply has not worked out in application the way it was originally envisioned. We do have legislation that is rather complex that has been introduced. We have had hearings in both the House and Senate. We have had a vote or two on the floor but only on very, very limited versions of the overall reform bill that I have introduced. In other words, we have not had a real test vote on the overall package.

I would hope that I will get the staff to furnish you a copy of it with an explanation if you have not seen it and I would certainly hope that we could get your views on that reform legislation because I think having your views would be very helpful to use on the floor of the Senate. If you could respond by letter then we could make it a part of this record.

I would also ask that, if you do agree with it, that you correspond with your fellow attorneys general around the country concerning it. That would be a big help because it is so complicated and complex that not many people have the time to really study it. That is why we really need some assistance by those who are most familiar with it.

Mr. DEGNAN. Senator, we are well aware of your work in this area and would be prepared to support your initiatives which have been underway for some time, both from the Jersey point of view and if it would be of assistance, I know from talking to a lot of my colleagues around the country that they share my view about the impediments that act has created. I would be glad to undertake that.

Thank you.

Senator NUNN. Thank you.

We have a witness that will testify next, Detective Delaney of the New Jersey State Police. I want to have a chance to speak to you personally, all of you, before you get away—but the New Jersey State Police has requested that he testify behind a screen. He is currently involved in a very sensitive operation and they have made this request. We think it is a reasonable request. So we will ask that the room be cleared. Before we clear the room, however, I would like Marty Steinberg, our chief counsel, to explain where we now stand with the subpoena on Anthony Salerno. As you will recall, those of you who followed this hearing, Mr. Salerno was subpoenaed last Thursday and

did not appear. We felt at that time the medical evidence offered excusing him was inadequate and we asked for certain specifics. I would like counsel to bring us up-to-date on that since we did ask for a report back today. I understand Mr. Salerno's attorney is here in the room. Is Mr. Salerno's attorney here?

Mr. GRAYBILL. I am, sir. My name is Dean Graybill and I am with Becker & Chameides. Tom Fortuin, who is the principal attorney for Mr. Salerno, is in Texas today.

Senator NUNN. You are his partner?

Mr. GRAYBILL. I am associated with him.

Senator NUNN. If Counsel Steinberg will give us an update on that.

Mr. STEINBERG. Senator, as you know as early as January 15 our subcommittee began to attempt to verify the medical condition of Anthony Salerno. During that time period we were promised various forms of verification of his medical condition which we never received. Mr. Salerno has changed attorneys to a new firm which now represents him and they have arranged for the receipt of medical records, including hospital records and affidavits of the two doctors who have treated Mr. Salerno. We have had those records reviewed by the Capitol Hill physician, Dr. Carey. Dr. Carey states that he is familiar with one of the doctors and he has reviewed each and every record we have supplied to him. He concurs that there is evidence of a mild stroke with respect to Mr. Salerno. However, he states, that Mr. Salerno's condition appears in such a state that his recovery is very rapid and he suggests that we should be receiving biweekly or monthly reports and updates on Mr. Salerno's condition so that we can continue his subpoena and require him to appear here once he is physically able to do so.

Senator NUNN. Does counsel want to comment on that record before we make a ruling on it? The recommendation is from our counsel that we accept the excuse, medical excuse, that has now been rendered but that we continue the subpoena in the hope and expectation that Mr. Salerno's condition would improve and that we would be able to have his physical presence here as a witness at some point in the future and that we would base our decision on updated medical reports which we would of course have to get agreement from counsel to furnish.

Do you want to comment on that before we make a decision?

Mr. GRAYBILL. The only point with which I might offer some objection would be the characterization as a mild stroke. I believe Dr. Goodgold's or Dr. Lara's affidavit described it as a severe stroke. As you know his condition was also described as one where he is still experiencing partial paralysis and so forth. But I do not think I need to go into that detail at this point. As always, we will be absolutely happy to give you whatever reports you require and perhaps I could discuss with Mr. Steinberg whatever details he may require after the hearing.

Senator NUNN. You will cooperate with the committee in providing the information we need so that we can keep current on Mr. Salerno's physical status so we can have him here at the earliest opportunity that is consistent with his own health.

Mr. GRAYBILL. We would be happy to keep the committee informed.

Senator NUNN. We will accept our chief counsel's recommendation and work with you as his attorney.

Mr. GRAYBILL. Thank you.

Senator NUNN. Thank you. We appreciate your cooperation.

Mr. GRAYBILL. Thank you.

Senator NUNN. At this point, Mr. Attorney General, I want to speak to you before you leave but we will clear the room now and we will come back in approximately 5 minutes.

[Brief recess.]

[Members of the subcommittee present at the time of recess: Senators Nunn and Rudman.]

[Members present after the taking of a brief recess: Senators Nunn and Rudman.]

Senator NUNN. The subcommittee will come to order.

Mr. Delaney, will you remain seated. I will give you the oath. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF TROOPER ROBERT DELANEY, DETECTIVE  
NEW JERSEY STATE POLICE**

Mr. DELANEY. Yes, sir, I do. Mr. Chairman, I am Detective Robert Delaney of the New Jersey State Police.

Senator NUNN. Just 1 minute. Let me make sure the ground rules are understood. We ask that no pictures be taken of Mr. Delaney. We have got the screen for that purpose. But there is no restriction on voice or anything of that nature. We had to do it last week. So the screen is basically a covering. Let me mention this. During the course of this testimony we anticipate there will be certain tapes played. Those tapes contain very vulgar language. We regret that. It is the nature of our investigation to lay out the facts as they are and I think really it is beyond our control. But I would caution anybody in the audience that does not want to hear vulgar language about these tapes. I certainly caution against having young children in the room.

Mr. DELANEY. I am assigned to the intelligence bureau of the special staff section. I am 29 years old. I have been with the State police since 1973.

I have asked to be able to testify from behind this screen today because I am involved in an undercover operation at this time.

You have just heard testimony from Lt. John J. Liddy of the New Jersey State Police regarding Project Alpha, and undercover operation based in the Newark Port area from December 1974 to September 1977.

I was assigned to that investigation on an undercover basis for 2½ years. On this assignment, I had the unique opportunity to see firsthand the problems of organized crime and labor racketeering in New Jersey and elsewhere.

All of the characterizations I will make in my testimony of the various individuals I encountered in Project Alpha are based on direct conversations, observations, and by other firsthand experiences and by independent investigations conducted by Federal, State, and local law enforcement agencies, including tape-recorded conversations and surveillances.

In my undercover assignment, I presented myself as a rich, young, unmarried man who was interested in becoming involved in the trucking industry.

I also let it be known that I was willing to become associated with members of the criminal underworld.

My contact was a man named Patrick Kelly. Kelly had many friends and associates in the Newark underworld.

Patrick Kelly is an extraordinary man. A very successful businessman whose interests in real estate, construction, and other ventures had made him quite comfortable financially, Kelly had cut some corners, made some questionable transactions and had come to the attention of law enforcement.

Kelly found organized crime fascinating. He was the kind of smooth-talking, cordial, and imaginative person who can be extremely helpful to law enforcement.

Accordingly, Kelly, who was then about 42 years old, was given a choice. He could face the possibility of prosecution for his own violations of law. Or he could become a cooperating informant. He chose to be an informant.

Patrick Kelly began cooperating with the New Jersey State Police Intelligence Bureau and subsequently with the Federal Bureau of Investigation.

It was apparent to officials organizing Project Alpha that Kelly could play an essential role in the operation. This was especially so because Kelly was already on close terms with several organized criminals in the Newark Port area, including Dominick DiNorscio's branch or crew of the Angelo Bruno crime family of Philadelphia. The term "crew" means a group of men who work under a member of the larger organization known as the crime family. A crew usually has 7 to 10 members.

It is important to stress why a man like Patrick Kelly was perceived as valuable by Dominick DiNorscio and his associates. Kelly knew legitimate business. He had made himself a lot of money in legal pursuits. He was willing to break the law as well. And he had that additional quality that organized criminals are drawn to—the ability to bring in large amounts of money.

We hear the term "earner" frequently in organized crime today. An earner is one who has the ability to generate cash. Enforcers or bulls—that is, those who enforce the will of the mob through physical violence or the threat thereof—serve a vital function, just as they always have. But an earner enjoys a special category. Generating cash is a primary objective of any organized crime activity. The earners, if they adhere to other conditions such as loyalty, are highly thought of.

Patrick Kelly met the conditions such as loyalty and he was also an earner, a big earner. He was so good at it that had he been of Italian ancestry, he would probably have been a made man; that is, he would probably have been made a member of a crime family.

In summary, Kelly got along very well with the organized criminal underworld. Everybody liked him and trusted him, all the way to the highest levels of the criminal hierarchy. Because of him, I was accepted by these same organized criminals. He made our undercover effort work. Without him, Project Alpha would never have succeeded.

Patrick Kelly's having won the confidence of Dominick DiNorscio was our first foot in the door in our effort to penetrate the Newark criminal underworld.

Dominick DiNorscio, who was also known as Tommy Adams, was a member of the Bruno organization. Dominick had a son, Giacomo DiNorscio. Giacomo DiNorscio, like his father, was a member of the Bruno organization.

Both Dominick DiNorscio and Jack DiNorscio were in prison while our undercover operation was going on. Dominick was in the Federal prison at Lewisburg, Pa., serving a 2-3 year sentence for interstate transportation of stolen property.

Jack DiNorscio was serving an 8-year sentence in the Rahway, N.J. State Prison following his conviction for bookmaking.

Before going to prison, the DiNorscios, who had a high regard for Patrick Kelly and had worked with him in the past, directed Kelly to manage their criminal activities for them while they were away. The DiNorscios were and still are involved in a variety of criminal pursuits including but not limited to car theft, trafficking in stolen goods, narcotics, bookmaking, and extortion. Kelly's task not only was to oversee the crew or gang members reporting to the DiNorscios. It was also Kelly's job to see to it that the wives and certain close relatives of the DiNorscios received sufficient funds from the illegal activities to enable them to live at the level they were accustomed to while the DiNorscios were in jail. In addition, Kelly was responsible for assuring an appropriate distribution of the remaining funds for members of the DiNorscio crew such as William "Woody" Brown.

Kelly was to report regularly on the DiNorscio affairs to John Simone. Simone, who was also known as Johnnie Keyes, was a captain or capo in the Bruno organization. He was directly under Angelo Bruno himself and ran Bruno's operations in south Florida. At that time, Simone was living in Hollywood, Fla.

It was Simone's job to make sure that Patrick Kelly was effectively managing the DiNorscios' criminal activities, and to make sure he was loyal.

But Simone, because he was living in Florida, could not keep close tabs on Kelly. So Simone asked Tino Fiumara to oversee Kelly's activities for the DiNorscios.

Tino Fiumara was a member of the Vito Genovese crime family of New York. Here we had Simone, a Bruno made member, having Tino Fiumara, a made Genovese member, overseeing the affairs of the DiNorscios, who were made Bruno members. That may appear to violate family and jurisdictional rules. But that is only a superficial analysis.

The truth of the matter is that the crime families are structured, but not nearly as highly structured as the media and popular writers have portrayed them.

A major consideration is to bring in money. They will not let family jealousies get in the way of profit, except in extreme circumstances. And this was not an extreme circumstance.

Another factor was the high regard Tino Fiumara was held in by all the crime groups. Tino was seen as a powerful, up-and-coming mob figure. He enjoyed a reputation for success and ruthlessness and violence. He was rumored to have murdered several men in singularly

brutal fashion. One victim, for instance—a rival of his in Paterson, N.J.—Tino was alleged to have done away with by strangling him with a piano wire.

It is possible that Tino Fiumara did not murder all of the men he was given credit for having killed. However, his reputation was of such dimensions that frequently mob figures of less consequence would not even mention his name.

Tino, who was about 37 years old at the time, had a "crew" and an underboss, Michael Copolla. The Fiumara crew was very much into nostalgia. They followed the old traditions. They greeted one another by kissing on the cheek. One example of how well accepted Patrick Kelly was with crime family members was that he would exchange kisses on the cheek with Fiumara himself. That was considered a level of acceptance of great consequence.

Because Tino Fiumara was so well thought of in the underworld, John Simone was willing to do business with him. Simone, or Johnnie Keyes, as he was known, concluded that Tino was such an effective operator and such a good earner that it was preferable to join him rather than compete with him, and for this reason Simone asked that Fiumara watch over Patrick Kelly.

Law enforcement has observed in recent years the frequent blurring of family lines as we saw in Johnnie Keyes' alliance with Tino Fiumara, a connection that tied the Genovese family to the Bruno family. In other instances, we have seen members of one family working closer and more effectively with members of another family than they worked with members of their own. It is apparent that the conventional and popular perception of the family members working only with each other does not always apply.

Representing the DiNorscios and reporting to Tino Fiumara, Patrick Kelly was in frequent contact with many organized criminals. Kelly used these contacts as a vehicle to introduce me to several higher level organized criminals and their associates.

The word "associate" has a specific meaning in this context. It describes a person who is not a made member of a family but who is accepted and trusted by the family and who joins with family members in criminal pursuits.

An associate can come from virtually any ethnic background. Patrick Kelly, for instance, was clearly considered an associate of the Bruno family, although, as will be shown, he switched allegiance.

After having us operating smaller businesses in the trucking industry, Project Alpha officials who were supervising undercover agents decided we would have to open a bigger enterprise if we were to obtain the high level of organized criminal intelligence we desired.

The small businesses tended to involve us with small-time criminal activities. We were involved in a little fencing, some purchasing of stolen goods, and relatively minor criminal conduct like that. But this was never intended to be a sting operation. My own experience is that we could not buy up the criminal ladder. As long as we were perceived as small-time operators, that was the kind of criminal behavior we would be exposed to.

We opened the Alamo Transportation Co. in December 1976. Our offices were located at 231 Communipaw Avenue in Jersey City. We

were about 8 miles from the Newark Port. Our slogan was "When it comes to trucking, Remember the Alamo."

Our facilities included administrative offices, a depot, and an outside storage yard and garage.

Initially, Alamo Transportation had a work force of four drivers and several executives. These executives were myself, serving as president and owner, and other undercover agents, including Detective Ralph Buono and Detective Robert Weisert, both of the New Jersey State Police, and three FBI agents.

While our startup funds actually came from the Criminal Conspiracies Unit of the Law Enforcement Assistance Administration, the story I put out was that the original investment came from a large sum of money I had been awarded in a suit following the death of my parents in an automobile accident.

Patrick Kelly, who was Alamo's terminal manager, used his contacts to set in motion a series of events that led to our first important contract. It was with the Frigid Express Co. This firm was then located on Henderson Street in Jersey City. It later moved to Marsh Street in Port Newark.

Frigid Express shipped high-quality, expensive goods such as frozen seafood and frozen delicacies such as frog legs. Frigid had some trucks but not enough to handle all the goods it shipped. Frigid had to contract out much of its shipping business. These were lucrative contracts because shipping frozen seafoods and the like is an expensive exercise.

Frigid Express was controlled by Pasquale Macciarole, who was also known as Patty Mack. Patty Mack was the underboss to Funzi Tieri, the head of the Vito Genovese family.

Alamo Transportation's initial encounter with Frigid Express was through Anthony Pacilio and his cousin, Neil Pacilio. The Pacilios are members of a crew headed by John DiGilio. DiGilio is a made member of the Genovese family.

Patrick Kelly introduced me to Anthony Pacilio. That led to our contract with Frigid Express.

Under the terms of this arrangement, Alamo Transportation was to become the house trucker for Frigid. A house trucker is a firm that provides most of the trucking for another enterprise.

Our arrangement with Frigid was beneficial to Alamo. It enabled us to expand our work force, obtain more equipment and trucks and go after more business.

In a short time, other mob-connected firms came to us to give us more work. Most of these firms came to us not necessarily because we were known to do good work, although we did try to provide satisfactory service. They came to us because they were told to by Tino Fiumara, John DiGilio, and the DiNorscios.

Alamo Transportation was reaping the benefits from having boosters in the mob. This is what gangsters call the romancing stage—that period when the businessman is being tempted with promises and actual profits resulting from going along with organized criminals.

It is comparable to courtship and marriage. The suitor may treat the maiden much better during courtship than he treats her during the marriage. At this point, Alamo was in the courtship stage.

Our courtship was made even sweeter by the fact that I made clear that for the time being Alamo would be nonaligned. We did not want to be claimed by Fiumara, DiGilio, or DiNorscio. That made Fiumara and DiGilio try even harder to lure us into their respective camps.

Giacomo "Jackie" DiNorscio, who was close to Patrick Kelly and who was incarcerated in Rahway State Prison, was the least effective suitor. He was greedy and always tried to intimidate people. He had the attitude that he controlled Alamo Transportation because he thought he controlled Patrick Kelly.

His being in prison needn't have distorted his view of reality. Many mob figures, more sensitive to signals and reports they receive from the outside, have been able to run their crime groups from a prison cell. But Jackie DiNorscio wasn't sensitive to the possibility that Fiumara would take over the Alamo operation. However, as we will see later, DiNorscio attempted to run his criminal activities from his jail cell.

As part of the investigative strategy designed by our supervisors, Patrick Kelly was seeing Tino Fiumara frequently. Fiumara liked Kelly. He was coming to the conclusion that in Kelly he had someone who would generate large amounts of money.

Fiumara, a member of the Genovese family, succeeded in winning over Kelly. That was according to the game plan. Jackie DiNorscio, who was with the Bruno group, was losing out with Kelly. That also was according to the plan.

But it should be pointed out that the Bruno organization, through Jackie DiNorscio, never was completely cut off from Patrick Kelly or Alamo Transportation. Alamo paid more than its share of payoffs to the DiNorscio's.

John DiGilio, who was the boss of Anthony and Neil Pacilio in the Genovese organization, also saw the potential earnings to be gained from Alamo Transportation. DiGilio also cut himself into the profits of Alamo.

Alamo began paying off Fiumara, DiGilio, and DiNorscio in payments equal to approximately 25 percent of the company's weekly profits. This came to a total of about \$2,500 a week during reasonably productive periods. Payoffs sometimes dropped as low as a total of \$1,500 or they rose in peak periods to \$3,500.

What we were faced with, then, were three crime groups being paid off by us—and all three of them vying for complete control over our firm.

It can be confusing when you hear it for the first time. So I will summarize the situation again.

There was Tino Fiumara from one branch of the Genovese family. He controlled the Port of Newark and the unions working there and sections of the city of Newark for the mob. Tino was often represented by his underboss, Michael Copolla.

There was John DiGilio, Anthony Pacilio, and Neil Pacilio from another branch of the Genovese organization. They controlled Bayonne, sections of Jersey City, and the ports and unions in these areas.

And there was the incarcerated Jackie DiNorscio from the Bruno group. They were the organized crime group that originally controlled Patrick Kelly and his enterprises.

In this competition to influence and ultimately control Alamo Trucking, there was an understanding of sorts among the three competitors.

That understanding was that no violence against each other was to be used. They were not interested in hurting one another. They were interested in money.

In addition, in a sense, they were hedging their bets. John Simone, a capo in the Bruno family, knew that Patrick Kelly was not looking out exclusively for Dominick and Jackie DiNorscio's interests. The DiNorscios were from the Bruno family, too, but Simone was more interested in being on the good side with Tino Fiumara, who was becoming a very influential Genovese member. And Fiumara and John DiGilio, both being from the Genovese family, were not likely to try to do away with each other. It wasn't exactly a healthy competition in the traditional sense of the word. But neither was it a traditional gang war. Not by any means.

While they did not want to inflict pain on each other, they were not so tolerant with us. They assaulted none of our people. But there was always the suggestion of violence hanging over our heads.

And, at times there were threats of violence. Organized criminals like these have benefited from the publicity they receive from the media.

That benefit is that they are known to enforce their will through assault and murder. Once that threatened enforcement mechanism is perceived as real in the minds of their victims, the victims bend very easily in any direction the mobsters want to bend them.

Actual violence may not be necessary once the threat is perceived as genuine. The mob members used their violent reputation to their advantage to influence victims.

The romancing efforts I described earlier continued as the three groups tried to take us over exclusively.

Early in 1977, Anthony Pacilio told me of the advantages I would realize if I placed Alamo Transportation in the DiGilio crew of the Genovese family.

Incidentally, DiGilio himself would never speak so bluntly or candidly to me. It would have been unseemly for a man of his position to do it, and the higher ranking members always tried to insulate themselves whenever they could. So he sent Anthony Pacilio to do it.

Pacilio went on to say that he had recently had a meeting with Donald Carson. Carson was business agent and secretary-treasurer of ILA Locals 1587 and 1588 in Bayonne, N.J., and vice president of the ILA District Council. Pacilio said it was DiGilio who directed him to meet with Carson.

Pacilio said he and Carson discussed contracts which would go to Alamo if I were in the DiGilio camp. A union leader can be very influential in persuading a company to take its business to another firm.

The union leader can say, in effect, if you want labor peace, take your business to Alamo. That was the kind of help Pacilio meant for me to understand that Carson was prepared to give to Alamo.

Patrick Kelly was with John DiGilio and Anthony Pacilio when a meeting took place with the president of ILA Local 1588, William "Butch" Fullam, at 550 Kennedy Boulevard, Bayonne, N.J.

The meeting was held in the union offices. Kelly was wired with a recording device. A portion of the transcript is printed below. I would like to play that portion of the tape now.

As Lieutenant Liddy has mentioned, many of these undercover tapes have never been played publicly.

The following is a transcript of a portion of a conversation between Patrick Kelly, John DiGilio, Anthony Pacilio, and William "Butch" Fullam on February 11, 1977, at the offices of ILA Local 1588-1587, 550 Kennedy Boulevard, Bayonne, N.J.

DiGILIO. Say hello to Pat Kelly over here, you know Anthony, don't you?

FULLAM. Pat Kelly.

KELLY. How are you?

FULLAM. My pleasure, Butch, my pleasure.

DiGILIO. They're in the trucking business.

FULLAM. Right.

DiGILIO. [Inaudible.] I want you to get 'em some work.

KELLY. Alamo

DiGILIO. Alamo.

FULLAM. You got a card.

PACILIO. Yeah [inaudible].

KELLY. Ah, right here.

DiGILIO. I don't want no lip service, need work, I mean ah—

FULLAM. [Inaudible.]

DiGILIO. Can we send them to ah someplace?

FULLAM. Where you, where are you located?

PACILIO. We're located at 231 Communipaw Avenue.

DiGILIO. This Irishman can bullshit the ears off a monkey so send them in.

KELLY. All our, all our equipment is new.

PACILIO. Yeah.

[Note: Background noise, inaudible.]

FULLAM. I'll ah, I'll be with this guy Monday, in fact I just got off the wire with him.

DiGILIO. Like I told Donald, I told him, like he had to leave, I told him I was comin' down to talk to you.

FULLAM. Yeah.

DiGILIO. I want this done, this is a fuckin' must.

FULLAM. High priority.

DiGILIO. Top, this is top, top priority.

FULLAM. All right, ah—

Mr. STEINBERG. Detective Delaney, do you want to explain to us what we just heard on that tape?

Mr. DELANEY. On the first part of the tape, DiGilio is introducing Patrick Kelly to Mr. Fullam, president of ILA 1588. He is telling Mr. Fullam that he wants work to be provided to Alamo Transportation, that he doesn't want any lip service, he wants to see some action and that he had spoken to, on page 12, where DiGilio said, "Like I told Donald, I told him, like he had to leave, I told him I was comin' down to talk to you," he was referring to Donald Carson, the gentleman I referred to earlier being involved in the ILA.

Mr. DiGilio saying this is top priority, he wants this done. It is at his direction that work would be given to Alamo through the ILA.

Mr. STEINBERG. Mr. DiGilio, an organized crime figure, is telling the president and other members of the union to get work for Alamo Co.; is that correct?

Mr. DELANEY. That is correct.

Mr. STEINBERG. Is that because you were paying off the organized crime members?

Mr. DELANEY. That's correct.

Mr. STEINBERG. Can we play the next tape, please?

DiGILIO. Between me and Tino, me over here, Tino over there, you know you fuckin' guys forget about it. Fuck, youse got, I can, I can only give you my strength what I can do for you, youse gotta go out and, I wish somebody opened the doors like that for me.

KELLY. Well, we appreciate it, we, I mean—

DiGILIO. No, don't appreciate it, we're all together.

KELLY. Yeah.

DiGILIO. I can only function in one way here, you guys gotta do the rest. I, I can't get behind a desk and start dispatchin' trucks.

KELLY. Well, we can make, the way they're talkin', in other words, we can pull, two, each tractor, two of them containers a day out of there.

DiGILIO. Yeah.

KELLY. Eight hundred dollars.

DiGILIO. A little work here [inaudible] you know what, you, my friend, a couple of years, you know.

KELLY. We relax.

DiGILIO. No, relax, you have somebody else, you have a big operation going, you'll be one of the biggest in the country.

Mr. STEINBERG. Detective Delaney, could you explain that portion of the conversation?

Mr. DELANEY. That is another portion of the same conversation that I just previously explained.

DiGilio is saying in the first line, "Between me and Tino, me over here, Tino over there," referring to his contact with the ILA and Tino's contacts in the ILA in the Down Neck area, and through both of those men that we would be able to have more than enough work.

Mr. DiGilio goes on and says, "I can only give you my strength." He is referring to his power and his contacts in the ILA to be able to provide work to Alamo Transportation. Again reiterating, he says, "I can only function in one way here, you guys gotta do the rest. I can't get behind a desk and start dispatchin' trucks."

Mr. DiGilio was not about to become a working member of our company. His function would be to provide contacts he had through his organized crime contacts with the ILA.

On the next page, in the last sentence, Mr. DiGilio said he is going to make us not only one of the biggest trucking companies in the State, but one of the biggest in the country. This would be through Fiumara and DiGilio's contacts.

Mr. STEINBERG. So, Mr. DiGilio was recognizing the fact that Mr. Fiumara and himself were working together and using their individual organized crime groups to help Alamo because Alamo was paying them off.

Mr. DELANEY. That's correct.

Mr. STEINBERG. Could you continue with your statement?

Mr. DELANEY. Anthony Pacilio referred to John DiGilio as "Johnny D." Pacilio said to me, "'Johnnie D' my friend, is a made man and my family is the strongest."

That was Pacilio's way of saying that John DiGilio was made member of the Genovese organization, that when I dealt with DiGilio I was dealing with someone of consequence and that by going with his group I would enjoy much greater benefits than I would receive from siding with Tino Fiumara or the DiNorscios.

As long as we were on the subject of Carson and organized labor, I pointed out to Pacilio that Alamo Transportation was growing rapidly and I was wondering if, in light of that rapid growth, we might encounter any union problems.

Referring again to John DiGilio, Pacilio said, "We handle the problems. Johnny is the union and don't tell anyone this, but he took a guy off a high-low (forklift) and made him president of a big union." Later I understood that Pacilio was referring to William "Butch" Fullman, president of ILA Locals 1587 and 1588.

Pacilio was not bluffing. One of the benefits of dealing with the mob was that we were assured of no union problems. It was noteworthy that Alamo Transportation was in Newark Port area, which has a lot of union activity, but in our firm's lifetime of approximately 12 months no effort was ever made to have our drivers sign up with the Teamsters or the ILA.

All our drivers were nonunion. They stayed that way, too. The union never even sent a representative around to ascertain whether we were a union shop or not.

On another occasion, Patrick Kelly and I were talking to Anthony Pacilio. I told him that I wanted more business than the over-the-road hauls Alamo Transportation was doing through Frigid Express.

I said I wanted more work for Alamo in and around the Newark Port. Pacilio said he would talk to John DiGilio about that. As another illustration of intrafamily cooperation, at the same meeting in the presence of Pacilio, Patrick Kelly said he would raise the same subject with Tino Fiumara.

Then Kelly asked Pacilio if we got the additional work around the port, what unions our drivers and other employees would have to join? Pacilio said we should not worry about the unions. He explained, "We may start our own—local—union and put our man in as shop steward."

Pacilio said that ILA Locals 1587 and 1588, headed by Donald Carson, would be available to assist in any potential union problems.

It wasn't just Pacilio's assurances that convinced me we wouldn't have any union difficulties. It was in the air, a kind of unwritten understanding that if we lived up to our end of the bargain with the crime groups, the unions would be invisible. For most of Alamo activities, it was as if there were no unions, no union rules and regulations.

The conversations with Anthony Pacilio were two of many similar discussions I had with him as he told me the numerous advantages that awaited us if I would steer Alamo Transportation toward John DiGilio.

As I mentioned earlier, we were paying off DiGilio anyway, as well as Fiumara and DiNorscio, in a weekly tribute of about 25 percent of our profits or about \$2,500 a week.

Now a new toll was to be extracted from Alamo. Since John DiGilio would be opening up business opportunities at the Newark Port, Alamo Transportation was expected to return the favor.

For example, on April 30, 1977, ILA Locals 1587-1588 held a dinner-dance. At the direction of the DiGilio group, Alamo bought a table for 10 persons at a total cost of \$400. We also took out a full-page ad in the dinner dance program at a cost of \$150.

Mr. Chairman, I have the ad, the tickets and other materials from the dinner-dance. You may wish to have them received as exhibits.

Senator NUNN. Without objection, they will be exhibits incorporated in the record.

[The document referred to was marked "Exhibit No. 4" for reference and may be found in the files of the subcommittee.]

Mr. DELANEY. During the dinner, Donald Carson came to the Alamo table and introduced himself to Patrick Kelly and me. Carson said to us, "Give my regards to where they have to go." I understood him to be asking us to express his best wishes to John DiGilio.

In the history of law enforcement, I doubt that there have been many undercover operations as long as this one. Two and a half years is a very long time to be undercover, particularly in the role my colleagues and I were in. We had to be what we purported to be, not just 8 hours a day, 5 days a week; we were playing the role 24 hours a day for 7 days a week. It was a tremendously exhausting effort.

To win their confidence—and to keep it—I had to socialize with organized criminals. I had to drink with them, dine with them, gamble with them. I had to adopt their style of dress, their way of talking, their outlook on life. At the same time, I had to remind myself that I was also a young, upwardly mobile businessman anxious to become a reputable community leader.

I had also to be ever mindful that I was a police officer on a difficult assignment. One drink too many, one careless remark, one indiscretion and I could be revealed. The result could be disastrous.

We were lucky to have an excellent law enforcement support team working in our behalf. Stationed in a building in Newark, Lt. John Liddy was also undercover, pretending to be a consultant in the construction industry.

I used the excuse that I had a sideline business connection with the construction industry and that explained my frequent trips to Lieutenant Liddy's offices in Newark.

One of the most stressful problems I had as resident and owner of Alamo was the frequent efforts by the organized criminals to extract new favors from the company.

One such favor the Alamo Transportation Co. bestowed on the DiGilio group concerned Neil Pacilio, the cousin of Anthony Pacilio. Neil was in Federal prison. In December 1976, he was to be given a furlough.

While on furlough, Neil Pacilio would need a car. But not just any car would do. It had to be a luxury model. Anthony Pacilio said Alamo should rent one for Neil. We did. It cost us \$320 to rent this luxury vehicle for Pacilio's 1-week furlough.

Patty Mack, whose real name was Pasquale MacCarole and who was the underboss to Funzi Tieri in the Genovese family, did not take an active role in the exercise of mob influence on Alamo Transportation.

But Patty Mack did direct his associate, Fred Agnello, to give us a message. The message was that Alamo had to pay \$15 to Frigid Express for every load we carried for Frigid. Patty Mack controlled Frigid.

The money was not for Patty Mack. It was for employees at Frigid, those who owed their allegiance to him.

Fifteen dollars a load may not seem like much money. But, remember, we were already paying 25 percent of our weekly profits to organized criminals.

And we might carry 20 loads a week for Frigid Express. That was about \$300 a week, \$1,200 a month, and \$14,000 a year.

That is a sizable kickback and only added to the financial strain caused by payoffs to the mob.

The Genovese family factions were not alone in demanding money in addition to the regular weekly squeeze.

Jackie DiNorscio, still in Rahway Prison, sent word to me that he wanted his wife, Marlene, and two children, and his mother to have a vacation at Disney World in Orlando, Fla. On their vacation, DiNorscio wanted his family to be guests of Alamo Transportation.

I sent word back to him that the answer was no.

William "Woody" Brown was DiNorscio's enforcer. He was a big man physically. He came to me with Jackie's latest message, the point of which was that I should change my mind and have Alamo Transportation pay for the family's vacation.

Alamo did pay for most of the DiNorscio family's vacation at a cost of \$1,500.

We were able to record Woody Brown as he gave me Jack DiNorscio's message.

The transcript of a portion of the tape follows. I would also like to play the pertinent part of the tape for the subcommittee.

The following is a transcript of a conversation between William "Woody" Brown, Pat Kelly and myself, which occurred on February 10, 1977, at the offices of Alamo Transportation.

Senator NUNN. Play the tape.

KELLY. Now, what's the situation on these ah, tickets, with Jackie?

BROWN. We got, we need the money for the travel agency and we got the credit come back over to here.

KELLY. The tickets are thirteen twenty-five fifty-nine.

BROWN. Right.

KELLY. That's for Marlene.

BROWN. That's for Marlene and the kids.

KELLY. The two kids and the mother-in-law, right.

BROWN. The mother.

KELLY. The mother I mean, now Bobby.

DELANEY. That would be it I mean, I'm not gonna you know after that's over, there's something else.

KELLY. What did Jackie tell ya how ah—

BROWN. Well, Jackie said, this is his wife all right and if we can't do this here for him he said that he'll call Tino and Johnny and he'll shut everything down, there won't be nothing moving out of here.

Mr. STEINBERG. Detective Delaney, would you explain that conversation.

Mr. DELANEY. Yes, sir; the message that was being given to me was that if I did not pay for the vacation for Jackie DiNorscio's family to Florida, that the incarcerated Jackie DiNorscio would make a telephone call to DiGilio and Tino Fiumara and would shut down my business.

Mr. STEINBERG. Is this in addition to the weekly and monthly payments you were already making?

Mr. DELANEY. Yes, that is correct.

Jackie's wife, Marlene, and their children did not live ostentatiously while her husband was in prison. Interestingly, because of DiNorscio's status in prison he had his wife apply for public assistance which she subsequently received.

She didn't deserve welfare because sufficient money was coming in from Jackie's criminal interests. It was typical of DiNorscio, though, that he would have her on welfare. He want to collect on everything.

DiNorscio had a girlfriend named Jackie. He told me she should be collecting unemployment insurance now that she was no longer working for Alamo Transportation.

He told me to arrange for her to receive unemployment insurance. That would have been easy enough to do, except she never had been an employee of ours. She had not even been a no-show employee. We had no record of her ever having worked for us.

That didn't trouble DiNorscio. He just assumed I could fix it for him. I remember him saying something to the effect that I should do it for the woman because it wouldn't cost anyone anything.

Of course, it did cost. Had we been a real business, trying to show a profit, the cost of the payoffs and other favors would have been very high. Payoffs and other favors are costs of doing business. But, unlike legitimate costs of doing business, payoffs and other favors cannot legally be deductions on taxes. And a legitimate business would have had to pass on these payoff and kickback costs to the consumer.

In addition, creating no-show employees also is accompanied by costs such as IRS withholding and social security payments and other items that must appear in a company's books. A legitimate businessman, constantly pressured by the mob's demands for more and more payoffs, cannot long remain legitimate. If only to accommodate the Jackie DiNorscios of this world, the once honest businessman is literally forced to begin doing illegal acts, beyond the payoffs. One such illegal act is that he will probably have to juggle and distort his books in order to satisfy standard recordkeeping requirements.

Jackie, DiNorscio's girlfriend, was a frequent problem for Alamo Transportation. While still in prison, DiNorscio called me for another favor. He wanted me to rent a car for his girlfriend. The request had originally come through an intermediary and, at that time, I said no.

Now, Jackie himself was calling me about his girl friend's car. He was angry that I had refused. The temper, tone, and language of DiNorscio in this call are typical of the manner in which he and others like him would make demands on Alamo Transportation. As you will note, when someone talks to you like this it is difficult to say no.

The call was recorded. A portion of the transcript follows. I would like to play that portion of the tape for the subcommittee now.

The following is a transcript of a conversation between Jackie DiNorscio and myself which occurred on January 27, 1977. I received the phone call at Alamo Transportation.

Senator NUNN. Was he in prison at this time?

Mr. DELANEY. Yes, sir, he was.

DELANEY. Hello.

DiNORSICIO. Bobby, this is, you know who this is right.

DELANEY. Hello.

DiNORSICIO. You know who this is?

DELANEY. Oh yeah, how ya doing?

DiNORSICIO. Ah, did you tell me we could go get that yesterday.

DELANEY. I told ya I'd do what I could, I'm having a problem getting the money.

DiNORSICIO. You having a problem, did I tell you to lay it out personal?

DELANEY. I'm having a problem personally.

DiNORSCIO. Hey, Bobby what are youse trying to do make a fuckin' jerkoff out of somebody?

DELANEY. Hey, no there's nothing like that being done.

DiNORSCIO. Nothin' like that, I mean what the fuck you think that I'm a fuckin' beggar or something.

DELANEY. Nobody's saying that.

DiNORSCIO. Well, I asked ya for fucking one mother fuckin' favor and youse are gonna tell me that youse are gonna have a problem with 500, I mean you wanna see me blow my fuckin's top down there?

DELANEY. No, I don't want to see that, I, I don't want to have a problem with anybody.

DiNORSCIO. A problem? I mean what the fuck, youse are trying to make a fuckin' fool out of somebody then. I don't never ask nobody for nothing, I ask for one fuckin' favor and youse are tellin' me I can't get a favor there.

DELANEY. I'm not saying that I'm telling ya.

DiNORSCIO. You're tellin' me you can't get fuckin' 500.

DELANEY. Right now I can't I don't have it (Pause) I can get some of it, from me personally.

DiNORSCIO. How much money you want to give her today?

DELANEY. A few, I'm gonna have to go into my checking account.

DiNORSCIO. Bobby, how much could you give her today?

DELANEY. Deuce.

DiNORSCIO. I need 350 at least, could youse come up with the 350 today, it's got to be this morning.

DELANEY. Phew, oh shit, um (pause) you understand the problem I got, right.

DiNORSCIO. You understand, you know that little motherfucker I'm gonna show you all something, you see that little motherfucker there, I'm gonna show him something first of all. Now, I'm gonna tell ya what, I'm puttin' a fuckin' man down there and I'll show youse all something down there. Youse must think this fuckin' thing, I mean youse got the fuckin' favors and all of a sudden (talking to someone else) one minute, Ralph, I'll be out in one minute, am I done? You hear what I'm saying.

DELANEY. Yeah.

DiNORSCIO. I tell ya I never begged a mother fucker in my life and I'm not gonna about to start now, especially with my fuckin' moves, you, you tell me you got a problem with that little cocksucker. I'm gonna show him. I'm puttin' a fuckin' man down there and I wanna see the fuckin' thing the way it's being run. If I can't get it.

Mr. STEINBERG. Detective Delaney, would you explain portions of that conversation?

Mr. DELANEY. The conversation is about the money that I had refused to pay for Jackie DiNorscio's girl friend's car. Jackie is saying at page 20, when he refers to another person that I have a problem with, he is referring to another undercover agent posing as my partner in the business. When he says "Youse got the favors," he is referring to the preferential treatment we are receiving in the trucking industry and he is claiming it is as a direct result of his contacts.

Mr. STEINBERG. Were those favors in exchange for payoffs you were making to him already?

Mr. DELANEY. Ycs. Toward the bottom of page 20, when he is talking to someone else, he is talking to someone at the prison. He apparently was only allotted a certain amount of time on the phone and he was being told his time was up. He says later on that same page that he has never begged anyone before, especially with his moves. His moves he is referring to is his ability to produce business for Alamo Transportation.

And on page 21 he is saying that he is going to put a man down there to watch us and that he wants to see the way the company is

being run and he will do this if he does not get the money for his girl friend's vehicle.

Mr. STEINBERG. When he says he is going to put someone down there and show you something, by reputation and their previous actions, what did you take that to mean?

Mr. DELANEY. I understood that to mean he would probably shut down our trucks as he had previously threatened to do.

Mr. STEINBERG. So at this point in time not only were you paying him off and two other organized crime groups, but you were making payments to his wife and to his girlfriend.

Mr. DELANEY. Yes, sir.

Mr. STEINBERG. Would you continue with your statement?

Mr. DELANEY. That call from DiNorscio came over a line made available to all prisoners at Rahway State Prison. But DiNorscio was not satisfied with the use of that phone. Somehow he had arranged to have his own telephone actually connected to his cell.

What he had done was figure out where the telephone lines were in the prison. He discovered one near his cell and plugged an unauthorized extension into it.

DiNorscio had all his calls charged to a third party number. That third party was Alamo. All billings came to us. The telephone company became curious. They investigated, and discovering the position of DiNorscio's line, disconnected it. But DiNorscio before being found out did manage to run up long distance bills totaling several thousand dollars, all of which were paid by Alamo.

DiNorscio wanted me to visit him in prison. He and I never met face to face. He often said that all he wanted was 1 hour of my time. DiNorscio may have suspected that Kelly was leaning toward Tino Fiumara and wanted me to confirm or deny his suspicions.

He kept asking me to come to Rahway. I refused. Inmates might have identified me as a State trooper. My going to the prison was a risk neither I nor my supervisors wanted to take.

DiNorscio sent Woody Brown to see me. This time Brown was accompanied by another enforcer, Larry Maturo. Maturo was there for a reason. I was seeing Woody Brown a lot. We were becoming friendly. It would have been difficult for Woody to intimidate me. But Maturo didn't know me. He could intimidate me. That was why DiNorscio sent him.

Maturo said, "It would be healthier for you to go to see Jackie. Just do what you're told and we'll leave it at that."

I told him that I was trying to be a legitimate businessman and I did not want to advertise my association with DiNorscio by visiting him in prison. The pressure to visit him in prison went on but it never came about.

Woody Brown was supposed to come by Alamo each week to pick up the payoff money for DiNorscio. Sometimes Woody would either not show up or spend some of the money on himself. After that DiNorscio would have his wife, Marlene, pick it up.

Jack DiNorscio's father, Dominick DiNorscio, who was also in prison, was to be given a furlough from Lewisburg, Pa., to visit his wife who was ill in a hospital in Philadelphia. Dominick sent word

that Alamo should pay his expenses. We did. The cost was approximately \$500.

These demands on the firm reflected the DiNorscio's belief that they controlled Alamo Transportation because they controlled Patrick Kelly and that they would obtain money from us whenever they chose.

Similarly, Tino Fiumara felt he controlled Alamo Transportation. Not satisfied with our regular weekly payments, he also wanted more.

Fiumara billed Alamo for appliances which had been purchased for a bar and restaurant he controlled. Alamo received the bill for a soil test performed on Fiumara's lawn. And Tino demanded that Alamo dispatch truckdrivers to his home on weekends where they did jobs such as yard work and building a barbecue in his backyard. Alamo went along with Tino's demands because the company had no choice.

Our assignment was to do business as if we were any other firm. Once a businessman found himself this deeply involved with mob figures, there seemed to be no turning back.

Both Fiumara and DiGilio each had a no-show employee on the payroll of Alamo Transportation.

DiGilio's man, Frank Trautz, and Fiumara's man, Raymond Tango, were each paid a \$150 a week. Tango and Trautz did not work for the company. Their only job was to collect and cash their paychecks.

Fiumara and DiGilio also had "watchdog" employees on the Alamo payroll. These workers were there to keep an eye on how we did things and what we were planning to do.

Fiumara's watchdog was Anthony Ray; DiGilio's was Anthony Pacilio.

They were there most of the time, but they were not required to do anything. Pacilio didn't do anything. Ray wanted to work and did.

As president and owner of Alamo, I would not declare my allegiance to any crime group. Because of that, the firm opportunities were limited somewhat. I didn't declare any allegiance because for investigative purposes we wanted to gather as much evidence as possible. Fiumara and DiGilio were in positions to get us more business. But they both held back, for the same reasons.

They both knew how much potential Alamo had to make more and more money. But Fiumara and DiGilio didn't want to make us too prosperous because they did not want to have to share our growing profits with each other and with DiNorscio.

Fiumara had an idea for a new company. He told Patrick Kelly that I should start an enterprise known as Liberty Tire & Trailer Service.

Liberty was to service trucking firms in the Port Newark area. It was also to exercise a scheme to charge for work not actually done. In this scheme, the firm might, for example, replace the tire on a truck and bill the company for five new tires. Often, in this kind of scheme, the company that was overcharged might also be controlled by Fiumara. Generally, this would be a trucking firm which would use this scheme to hide payoffs to Fiumara. Both victim and thief would be party to the scheme.

In April of 1977, the company was formed. It was to be located at Alamo Transportation. A truck was purchased and it seemed as if operations would soon begin. But Liberty Tire & Trailer Service never became operational.

Backing out at the last minute, Fiumara concluded that since Liberty was to be located on the Alamo grounds, DiGilio and DiNorscio would feel that they had an interest in it and would insist upon their usual cut. Rather than share profits with them, Fiumara decided against the business altogether.

By the spring and early summer of 1977, Tino Fiumara had become convinced that Alamo was, or would soon be, fully under his control. Fiumara's frame of mind is seen in a recorded conversation between Copolla, Kelly, and me.

This exchange, with Copolla representing Tino, clearly illustrates that Fiumara was holding back in the business he was capable of sending to Alamo, and that he was holding back because he felt DiGilio and DiNorscio would share in the additional profits.

At this time, I would like to play the tape. I believe you heard portions of this tape during Mr. Devorkin's testimony. The following is a portion of a transcript of a conversation among Michael Copolla, Patrick Kelly, and myself, which occurred on June 4, 1977, at my undercover apartment, located at Waters Ebb Apartments, Edgewater, N.J.

KELLY. What with, with the with the trucks now, we gonna form a new corporation or we gonna run that through Airport?

COPOLLA. I don't know.

KELLY. What do you think? He definitely wants him to move.

DELANEY. He wants, he wants that out of Alamo.

COPOLLA. Nah, because we can't do what we want over there. We're holdin' ourselves back from the pier work and, ah, everything else, ya know. There's other people involved there that, ah.

DELANEY. Yeah, that's, well that's the biggest problem, because the setup is beautiful, ya know. The terminal's a good set up.

COPOLLA. There'll be other terminals. Ya know. The Newark area is good. It's full of places like that, ya know. Especially like in the Down Neck area, you know, there's a million places around.

KELLY. Well, what we gotta do is—

DELANEY. Why don't we start looking around there, Pat?

KELLY. Immediately we got to get another company and a name, and a telephone. Unless youse wants to run it through, ah, one of them other corporations.

COPOLLA. I say, I say, the whatta ya call it, the trailer we got there (UI) throw it right on there and start right there and fade out gradually with, ah, over at Alamo. By that, we can still be lookin' for somethin' else, so we can bring the trucks over.

DELANEY. Yeah.

COPOLLA. By that time we'll be fadin' out, ya know, a little at a time and, ah.

KELLY. Just so the calls and the billing and everything isn't done there.

DELANEY. Oh, yeah, well, ya think we can keep the same name?

COPOLLA. We got two, three steps right off the bat that (UI). We can wind up with ITO to Russian Line. Right off the bat we should wind up with that. We should wind up with a piece of Primm.

KELLY. They went over to, ah, Sea Land yesterday, Tony, talk to, ah Keller (PH).

DELANEY. So you're talkin' about incorporating a whole new company, put Alamo to bed and, ah.

KELLY. Just let Alamo, right?

COPOLLA. Gradually out and we'll leave it going because this Maersk opening and gradually we'll just, ah, fade right out.

DELANEY. What's he want to do about you, where we gonna work the other office or—

Mr. DELANEY. The conversation continues.

KELLY. Yeah, ah, he's good. Ah, we'll leave the Maersk account there, then?

COPOLLA. (UI). That'll be like the last thing we bring out—

KELLY. So the tire, ah, and ah Airport and the new trucks will run out of the other place?

COPOLLA. Ah, why not leave the tire there, it's a waste, too.

KELLY. Yeah.

COPOLLA. Let's see if he brings somethin' in; he give ample commitment with, ah, guys with Donald Carson. You still never met that Donald Carson, right? I don't see no reason to even meet him now.

KELLY. No, the only time—

[All talk at once.]

COPOLLA. If he was gonna do the right thing, he woulda put you together with Donald, ah, along time from the get. Pat. Ya know, this is what the other guy can't understand. Ah, ya know, how come he didn't bring Donald up the office and say, look, ah, over a Global just bring them in there and start moving. Evidently they're doing something with somebody else also, ah, over there.

KELLY. I, ah, figure with the Moose. The Moose came and asked T about container work, so on and so forth. He's got that guy from Philadelphia.

COPOLLA. It's crazy, we're lookin' for same kind of work that they're comin' askin' us for. Ya know?

DELANEY. The only thing, ah, is when I went out of my way to meet, ah, Donald Carson was at that ILA dinner.

KELLY. Yeah.

DELANEY. But, ah.

COPOLLA. Oh, that was put together so, ah—I mean any of the ILA dinners that we usually have, you know, Larry would be there forget about it, he'll, ya know. And you met, you met all the delegates anyway.

KELLY. Um, well, Larry said he's gonna be spendin' some time on this thing now, on Airport thing.

Mr. STEINBERG. Detective Delaney, would you explain that conversation?

Mr. DELANEY. Yes, sir. I would like to point out there is a lot of background music in that conversation. When Mike Copolla did come to the apartment he directed me to turn up the stereo which was a common practice with the people I dealt with. They would either turn on a TV or radio with a stereo trying to block out any potential electronic surveillance that might be being done. They thought along those terms all the time. What Michael Copolla is saying at the bottom of the page, "Nah, because we can't do what we want over there." He is referring to Alamo Transportation. "We're holding ourselves back from the pier work." "We're" being the Fiumara group holding themselves back from producing more work on the Port Newark and Elizabeth. "There's other people involved there that, ah," he is referring to the DiGilio group and the DiNorscio group.

On the next page when Michael Copolla says, "The Newark area is good. It's full of places like that, ya know. Especially like in the Down Neck area," what he is doing is directing us to look at the Down Neck area of Newark because that is the area Tino Fiumara controls and Fiumara did not like the idea of Alamo Transportation in Jersey City—

Mr. STEINBERG. Was he starting off the conversation by telling you the Fiumara group was not going to give you any more work because if they did they would have to share it with the other two organized crime groups?

Mr. DELANEY. Yes, sir. Down that page a little further he says that, "fade out gradually with, ah, over a Alamo." He is referring to closing down Alamo Transportation. I was being directed to close down the company I had and start a new company so they would have total control over that company and would not have to share any of the payoffs or profits realized with the other crime groups.

Later down the same page, Michael Copolla says, "We got two, three stops right off the bat. We can wind up with ITO to Russian Line" and can wind up with a piece of Primmi. He is talking about shipping lines at Port Newark we would be doing trucking for, that they would be produced by Fiumara.

At the next page, top of page 26, "Gradually out and we'll leave it going because this Maersk opening and gradually we'll just, ah, fade right out." This was one of the bases for the whole problem and the reason Fiumara wanted Alamo closed. Fiumara provided Primmi Shipping Line as a contract for Alamo Transportation. And no one else, meaning the DiGilio group came up with it. Fiumara felt he was the only one producing for the company. If that was the case, he wanted to control the company altogether.

Later down the page, Copolla says, "Let's see if he brings somethin' in; he give ample commitment with, ah, guys with Donald Carson." He refers to the guy as John DiGilio. He says let's see if you bring in some work through Alamo. He is referring and bolstering the fact that John DiGilio has control of the ILA through Donald Carson.

Mr. STEINBERG. Is he saying, since DiGilio controls Carson, he should be in a position to bring in Alamo much more work?

Mr. DELANEY. Yes, sir.

[At this point, Senator Chiles entered the hearing room.]

Mr. DELANEY. Copolla then says, "If he was gonna to the right thing," do the right is common in organized crime. I understood it to mean to do what is expected of you, bringing in work to pay off people. The "he" is referring to the DiGilio, DiGilio would do what is expected of him, he would be put together with Donald, meaning Donald Carson. "\* \* \* this is what the other guy can't understand." The other guy being Tino Fiumara. He said, "He didn't bring Donald up to the office and say, look, ah, over a Global just bring them in there and start moving." John DiGilio should have brought Carson up to our office. He knows of business he should have given to us, Global Lines, and they did not. Evidently they are doing something with someone else, meaning the DiGilio group is doing something with someone else. Kelly answers, "I, ah, figure with the Moose." The Moose there is John Marone, who is also known as Johnnie Moose, who is an associate of John DiGilio. The Moose came and asked T about the container work. T is a known nickname for Tino Fiumara. And so on and so forth. He's got that guy from Philadelphia. At the time John "Moose" Marone was actively involved with a trucking firm in Philadelphia.

Copolla answers, "It's crazy, we're lookin' for the same kind of work that they're comin' askin' us for." "We're" being the Fiumara group is looking for the same kind of work the DiGilio group is coming and asking us for. I bring up the point of the ILA dinner and Donald Carson. Copolla said, "That dinner was not put together so, ah \* \* \* I mean any of the ILA dinners that we usually have, you know, Larry would be there forget about it." The "we" being the Fiumara group and any of the ILA dinners that they run and the person he refers to Larry, Larry Ricci, an associate of Tino Fiumara who is previously serving a Federal prison sentence for extortion.

Mr. STEINBERG. Now in that conversation, the dinner he is referring to, that is the same dinner dance your company was required to buy a table at and buy an ad in the ILA paper?

Mr. DELANEY. Yes, sir.

Mr. STEINBERG. Mr. Copolla, who is giving you all the information about controlling ILA locals and telling waterfront businesses what to do, what does he list his occupation as?

Mr. DELANEY. He is a part-time haberdasher.

Mr. STEINBERG. Continue your statement, please.

Mr. DELANEY. Lieutenant Liddy and other officers managing our undercover effort decided to close Alamo. The decision was made in June of 1977. We went out of business in September of 1977.

We had been given a new strategy. We were to follow Fiumara's plans to set up an entirely new entity called Liberty Trucking. Liberty Trucking was to work in conjunction with Airport Landfill Corp., a firm controlled by Fiumara.

Liberty Trucking was to provide tracks for Airport Landfill. The new business was also to provide trucks to be used solely for transportation in and around the port.

Fiumara had begun talking about his idea for Liberty Trucking as early as May of 1977. He wanted Alamo to close and for us to devote our resources to the new enterprise. Not only would this be profitable for Fiumara but, by setting up a new company, he would be cutting out his organized crime competitors that he inherited with Alamo.

I have a tape of Fiumara, Michael Copolla, Patrick Kelly and myself conversing about Liberty Trucking. A portion of the transcript follows. I would like to play that portion of the recording now.

The following is a transcript of a conversation between Tino Fiumara, Michael Copolla, Patrick Kelly, and myself, which occurred on May 25, 1977, at the Bella Vita Ristorante, Route 46, Parsippany, N.J.

Mr. Fiumara is directing this conversation to me as we are standing at the bar in the restaurant.

Fiumara. With the other thing there we, we can support it from beginning. Find another, ah, find another terminal.

Copolla. Yeah.

Fiumara. Ya know how much work, I'm gonna put in there with the other thing what did we start five a month now, before the end of the month five.

Kelly. Maersk?

Fiumara. Yeah.

Kelly. Nine thousand.

Fiumara. Nine a month. OK. I have, I have two other, ah, lines that we were gonnah, ah. I'll make you house truckers.

Kelly. Well, roughly what does Maersk control?

Fiumara. House truckers, you're gonna be house truckers. Three other lines. Just move out of there, move the other operation, for Pete's sake. I, I, I don't, this kid's nothing but a, a, a weed. He's nothing but a weed. He's not good for anything. (Pause) Work there, work is no problem and, in the meantime, we got another appointment this morning with, ah, ah, with the tire service.

Later on during the conversation:

Fiumara. Such a nice, such a nice terminal there, I, I hate to blow the terminal. I'll be honest with you, but, in the long run forget about 'em. Let's, let's start looking right now. Right away, let's get going.

Kelly. I'd like to get—

Fiumara. I'll throw two, I'll throw two more lines in there right away.

Kelly. If we get one of them little things, you know (UI).

Fiumara. (UI) Chase that kid. He's a weed.

Copolla. (UI).

Fiumara. What are ya upset about? It's no problem.

Mr. STEINBERG. Detective Delaney, would you explain that conversation?

Mr. DELANEY. On page 28, Mr. Fiumara is saying, "With the other thing there," he is referring to Liberty Trucking, the new company he wants to be started. The we meaning himself and his group, "can support it from beginning." He said, find another terminal, close down Alamo Transportation, start a new terminal. "You know how much work, I'm gonna put in there with the other thing what did we—five a month now, before the end of the month five." He is talking about Maersk clients, what he did for Alamo Transportation, not only will he do that but much more with the new company.

Down the page a little further, "I have two other lines that we are gonna, ah. I'll make you house truckers." What he is saying is he has two other shipping lines that he will make my company house truckers of. House trucker is a trucking firm that does the majority of the trucking for another company.

He goes on to say then, "House truckers, you're gonna be house truckers. Three other lines." The lines he is referring to are shipping lines at the Ports of Newark and Elizabeth. Then he says, "Just move out of there, move the other operation—" he is referring to Alamo operation, "— for Pete's sake. This kid's nothin' but a weed." What he is saying here, he is referring to Anthony Pacilio as being a weed and he's not good for anything. But in reality what he is saying is he does not want to be associated with John DiGilio in the new company, but Tino Fiumara could not say that to me because I was not at that level in the organized crime groups so he brought the point home by referring to John DiGilio's kid as a weed.

Mr. STEINBERG. This is his way of telling you to get rid of the other two organized crime groups involved in the Alamo?

Mr. DELANEY. That is correct. On page 29 he reiterates, "I'll throw two, I'll throw two more lines." He said "Chase that kid," meaning DiGilio's kid.

Mr. STEINBERG. Is he talking about his ability as an organized crime member to generate business for your company so you can pay him off and also so he will not have to share with the other organized crime groups?

Mr. DELANEY. That is correct.

Mr. STEINBERG. Mr. Fiumara, who is apparently directing these shipping lines, ILA offices, so forth, what does he list his occupation as?

Mr. DELANEY. He lists it as a part-time auto salesman.

Mr. STEINBERG. Would you continue with your statement.

Mr. DELANEY. The idea was that Liberty Trucking would provide a terminal for nonunion workers. This would save the cost created by a union rule that required containers and trailers that arrive at a port within a certain area be packed by union labor.

The rule said that the trailer or container had to be unloaded, or "stripped," by union workers and then reloaded, or "stuffed," by union workers before it could be delivered to the ship.

The stripping and stuffing rule meant that the work had to be done twice, at double the cost. But a terminal located a certain distance from the port didn't have to meet that rule. That was what Fiumara had in mind.

Fiumara had directed Larry Ricci to be president of Airport Landfill. Ricci, who was an associate of the Genovese group, was an employee of Primmi Lines, a shipping company that used the port. Ricci was a former officer of ILA Local No. 1 at 17 Battery Place in Manhattan.

Mr. Chairman, I have a tape that provides an insight into the kind of job Ricci had with the union and how conscientiously he worked at it. The transcript follows. I would like to play it.

The following is a transcript of a portion of a conversation between Larry Ricci and Pat Kelly. The conversation took place on July 28, 1977, while they were traveling in a vehicle.

RICCI. I got a job, all right, park right here. I got a job, I make forty-five thousand a year on my job. I could, I could be going to work every morning, put my feet on my desk, go to sleep, wake up, watch T.V. and the only time I should be able to leave my fuckin job is when the other guy wants me for something. No headaches, no nothin'.

Mr. STEINBERG. Detective Delaney, would you explain that conversation?

Mr. DELANEY. Mr. Ricci is saying that he has a job where he makes \$45,000 a year and that is at Primmi Lines in the Port of Newark. Obviously he feels he should not have to really work that hard at his job other than putting his feet on his desk, waking up, watching T.V. He said the only time I should leave that job is if the other guy wants me for something. The other guy meaning Fiumara.

Mr. STEINBERG. Would you continue with your statement.

Mr. DELANEY. Ricci told me that I might be questioned by the Bi-State Waterfront Commission in connection with his ties to Liberty Trucking and to organized crime.

Ricci told me to get together with Anthony Ray and make up a plausible story to give the commission. Anthony Ray was under Fiumara and he had been a watchdog employee at Alamo and he was being promoted to terminal manager for Liberty Trucking.

Anthony Ray knew how to develop a believable story from Ricci's point of view. Then it was up to Ray and me to come up with an equally plausible story that would support Ricci from the point of view of Liberty Trucking.

Another task Anthony Ray had was to check on business possibilities for Liberty Trucking. He went to several firms in the Port of Newark and the Port of Elizabeth. On September 12, 1977, Ray and I discussed these opportunities.

Ray said he had talked to personnel of Baltic Lines, Primmi Lines, Maersk Lines, and Zim Lines. All of these shipping lines in the Port of Newark. Ray said, "Phone calls have been made. They know who we are before I get there."

It was my understanding that Tino Fiumara had directed that the shipping lines be advised of Liberty Trucking's services. That was all that was required. Everyone apparently agreed to cooperate.

Ray told me privileges would be given Liberty Trucking. He said our trucks would not be subjected to normal procedures for picking up

containers on the docks. Liberty drivers would not have to wait in line to load. A new line would be opened up when Liberty arrived.

It was understood that a percentage of the business would be paid to Tino Fiumara and his associates for the use of his "influence."

During the 2½ years of Project Alpha, I met several high-level organized crime figures who were not directly tied to our business.

On February 2, 1977, Patrick Kelly and I traveled to Hollywood, Fla., for a luncheon date with John Simone, who was also known as Johnnie Keyes. And was a captain in the Bruno crime family.

We were met at the airport by Simone, Carl Ippolito, and Edward Bralynski. Ippolito was also known as Pappy, and Bralynski was also known as Brownie.

Ippolito was a made member of the Bruno organization; Bralynski, an associate.

We had lunch at Joe Sonken's Gold Coast Restaurant in Hollywood, Fla. Kelly and Simone had a private conversation at another table.

After lunch, as Kelly and I were leaving, I shook hands with Simone. I gave him two \$100 bills. I thanked him for his help concerning Alamo.

Simone told me that he would do all he could do to help Alamo Transportation. Twice Simone told me to "do the right thing."

"Doing the right thing" is a very important dictum to these organized crime figures. Doing the right thing, in my association with Simone, was to give him the two \$100 bills. It was a way of showing proper respect.

Kelly later to me that he and Simone had talked privately about how Simone would work to provide new trucking routes for Alamo to and from Miami.

Three days later, on February 5, 1977, Simone called Alamo and spoke to one of the other undercover agents. He gave two names and phone numbers. Simone said that we should call these people concerning truckloads which Alamo could haul from Florida to the Newark area. Simone provided the assistance he promised us in getting our route.

Also in February of 1977, Patrick Kelly and I met with Roy Stocker, an associate of the Angelo Bruno crime family, and John McCullough, president of local No. 30 of the Roofers Union in Philadelphia and also an associate in the Bruno organization.

We met at a Sheraton Inn outside Philadelphia. Kelly introduced me as the owner of Alamo Transportation. Kelly asked them to help us get new business. They said they would call on their contacts in the Port Camden area to obtain business for Alamo.

Kelly made a point of telling them we had been to Florida recently to visit John Simone, or Johnnie Keyes. Because neither Stocker or McCullough was a "made" member, I did not give them any money. Nor did either of them expect such a gesture. However, as we were leaving the meeting, Roy Stocker reminded me to "do the right thing" in my future dealings.

The same injunction to "do the right thing," to show proper respect, came to mind again on July 15, 1977, when I visited the summer home of Peter Casella in Long Port, N.J.

Casella, a high-ranking member of the Bruno family, told me that he would be of assistance to Alamo if any "obstacles" came up.

Casella told me that he would talk to his friends to assure that Alamo Transportation was given preferential treatment in the trucking industry.

Dominick DiNorscio had told Kelly to arrange for me to meet Casella. His directions were that at the conclusion of the meeting it would be wise for me to make a friendly gesture to Casella. At the end of the meeting, as we shook hands, I placed three folded \$100 bills in my palm and placed them in Casella's hand.

I was "doing the right thing." In that environment, the amount of money that is passed will not make anyone rich. It is only meant as a token of esteem and respect. There is great stress on these gestures in the crime families, some groups placing more emphasis on the gesture than others.

I spoke earlier about Fiumara's "crew" following more traditional mannerisms such as the kiss on the cheek. I saw men kissing the hands of family members senior to them.

I also saw these practices performed by younger family members and associates who were going through a kind of revival of oldtime criminal customs.

The movies, "Godfather I" and "Godfather II," have had an impact on these crime families. Some of the members and associates would inquire of me, had I seen the movie? I said, yes. They would reply that they'd seen it three and four times. One young man said he'd seen it 10 times.

At dinner one night at a restaurant, Patrick Kelly and I were with Joseph Doto, who is the son of Joseph Adonis, and known as Joey Adonis, Jr. Joey Adonis, Jr. gave the waiter a pocketful of quarters and told him to play the juke box continuously and to play the same song, the theme music from the "Godfather." All through dinner, we listened to the same song, over and over.

Senator NUNN. In other words, you are saying sometimes they go to the movie to see how they themselves are supposed to behave, is that right?

Mr. DELANEY. That is true. They had a lot of things taught to them through the movie. They try to live up to it. The movie was telling them how.

Joe Adonis, Jr., was one of the many organized crime figures who would drop by Alamo from time to time. Others included Joseph Insabella, Vito Pizzolato, Charles Cannizzo, Nick Paterno, and Thomas Principe. Each of these men said he would make an effort to bring in business to Alamo.

I would like to comment on the high price, financially and emotionally, organized criminals extract from businessmen they victimize. I have great empathy for legitimate businessmen who are caught up in the kind of situation that confronted Alamo Transportation.

I felt the fear of threats and I felt the hopelessness that comes with the realization that one is subservient to the whims of organized criminals. But I was a law enforcement officer who could end my undercover role should I find myself in personal danger.

Although I assumed the role of the owner of the company, it was not my money at stake. It wasn't my savings and my years of hard work and sacrifice that were being torn away ruthlessly by mobsters.

But, having seen how the system works firsthand, I have an idea of the impact it must have on honest people whose only objective is to run their business successfully. It must be a source of anger and frustration when men force themselves into your business and your life and begin making demand after demand.

I was assuming the role of a victim, but before long I began to empathize with the legitimate businessman who was placed in a similar position. Had I not been a police officer fully aware of the resources and resources available to me, the fear and intimidation instilled in me by the individual organized crime figures I had constantly come in contact with could have easily created an intolerable situation.

In conclusion, I would like to point out that Project Alpha represented a unique and innovative law enforcement strategy designed to provide substantial evidence with respect to organized crime's involvement in labor. A natural consequence of such an intensive investigatory inquiry has been the gathering of intelligence. We are fortunate in New Jersey to have a commitment to intelligence and what has been described as a unique and extraordinary analytical capacity. The intelligence bureau studied, analyzed, and synthesized the amount of intelligence data gathered in Project Alpha and through this commitment maintains an excellent understanding of organized crime—its methods and operations—in New Jersey. Had it not been for this commitment of resources provided by Colonel Pagano and Maj. Justin Dintino, the quality of the enforcement effort in Project Alpha would have been seriously deficient. Let me briefly touch upon one of the more significant prosecutions.

Patrick Kelly's lawyer, Dominick Mirabelli of Elizabeth, N.J., assured Kelly that he could fix a case so that if Kelly pled guilty, he would not go to jail, despite having a prior criminal record. But, Mirabelli said, it would cost \$2,500 to bribe the prosecutor.

I personally gave Mirabelli 25 \$100 bills in a meeting we had down the hall from the courtroom. As Mirabelli promised, Kelly did not go to jail. As a result of this undercover operation, Mirabelli was confronted with the fact of his bribe. Mirabelli pled guilty to an accusation—as opposed to an indictment—and was disbarred for 3 years, and had to pay all costs associated with the case.

Other prosecutions involved organized crime figures in illegal sale of weapons, stolen property, and interstate trafficking in stolen securities and counterfeiting. Several of the organized crime figures dealt with in Project Alpha were charged and convicted in cases that resulted directly from our undercover operation.

Altogether, more than 100 cases were developed as a result of Project Alpha. These cases, in addition to the inside look law enforcement was afforded into the subculture of organized crime, provided a successful conclusion to this long-term investigation.

For the purpose of completing the hearing record, I would like to indicate briefly what has happened to the principal figures in our investigation.

**CONTINUED**

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Patrick Kelly is living under an assumed name under the Federal witness protection program.

Senator NUNN. Did he ever get threatened that you know of? Was he threatened as a witness? Did he testify?

Mr. DELANEY. Yes, sir, he testified in many cases in the State of New Jersey, at the Federal-State level and we had information from the informants that there was a contract out on Mr. Kelly's life.

Senator NUNN. He is under the witness security program?

Mr. DELANEY. He is in the program now, sir.

Tino Fiumara is serving a 25-year sentence following his conviction in Project Alpha for extortion and in connection with an ILA prosecution in New York City.

John DiGilio is awaiting trial for loansharking.

Michael Copolla is serving a 10-year prison sentence for extortion in Project Alpha and in connection with the New York ILA prosecution.

Anthony and Neil Pacilio are awaiting trial on a loansharking charge related to Project Alpha.

Giacomo (Jackie) DiNorscio is a fugitive from justice, from charges stemming from Project Alpha, whereabouts unknown.

Raymond Tango is awaiting trial for murder.

Larry Ricci is serving 3 years in prison for extortion in Project Alpha.

Anthony Ray is a suspect in an on-going criminal investigation.

Dominick DiNorscio is out of prison and living in Union County, N.J.

Patty Mack was shot to death and stuffed in the trunk of a car. The crime is unsolved.

Angelo Bruno was shot to death. The crime is unsolved.

William (Woody) Brown was shot to death. The crime is unsolved.

John Simone was shot to death. The crime is unsolved.

John McCullough was shot to death. The crime is unsolved.

I would like to thank the subcommittee for asking me to testify here. I would be happy to respond to any questions you have at this time.

Senator NUNN. Thank you very much for a fascinating story developed and after a great deal of sacrifice on your part and a great deal of danger that you undertook this mission. The people that you list at the end of the pages as having been shot and so forth, are you suggesting any kind of connection between these deaths or is this just—

Mr. DELANEY. No. I am just completing the record as to what has happened to the people that were involved with Alamo Transportation and came up during our investigation, and I think it would indicate the lifestyle that these people do lead.

[At this point, Senator Rudman withdrew from the hearing room.]

Senator NUNN. Mr. Delaney, do you have a glossary of terms which were commonly used by hoodlums? You alluded to several of them? Do you have a glossary that you could furnish us for the record?

Mr. DELANEY. Yes, sir. The glossary contained common organized crime terms that I became familiar with during my undercover role, also terminology that would be used in my statement, which is common to the trucking industry; and a list of code names which we were able

to learn through the undercover operation, code names used for actual persons by Mr. Fiumara and other organized crime groups.

Senator NUNN. I guess we probably don't need to go through the nicknames. I think people have already heard that through your testimony, but how about going through for us if you would and reading the terms used that you listed on this sheet?

Mr. DELANEY. A beef would be a dispute or argument, they refer to a car as a boiler, a button guy would be a respected and inducted member of organized crime, soldier, a capable kid when they refer to someone as being a capable kid, they are referring to him as being a murderer, claimed is a terminology used commonly, meaning that a person or business is controlled by a specific crime family, a crew is a small group within the crime family, an earner is a person who generates cash for the crime family, a fence jumper would be an individual who has gone from one family to another, George means a good person or a thing, and it is a common nickname for subordinates to use when referring to a boss which was a common nickname for Tino Fiumara and even went by the name of Mr. D. George.

He has got the medallion—means the same a button guy, inducted member of organized crime, juice or vig would be an interest on a shy loan, kid is everyone who is not made, someone may be 55, 60 years old and still referred to as a kid in the mob, which means it is an indicator that the person is not made, law or Johnnie Law are all people in law enforcement.

There is no distinction. They would refer to a person as a school crossing guard or the U.S. Attorney General as the Johnnie Law.

Madam is an extortion victim.

A made guy is the same as a button guy.

My friend or a friend is an associate referring to the made men he reports to.

The outfit is the crime family, for example, the Genovese or Bruno or Gambino crime families.

Pedigree, is a background check on persons or business.

A pigeon would be an informant, also referred to as a stool pigeon.

Registered beef would mean that the problem has been brought to the attention of a made man.

Riding the Erie, someone is listening to the conversation.

Sit or sit down, meeting to determine the solution to a problem.

Swag is stolen property.

Take it to the table means the same as a sit down.

Tom means a bad guy or sometimes I have heard it referred to as law, refer to law enforcement people as Tom.

Who is he with, which made guy the individual reports to, and wise guy is common terminology for mob guys.

Senator NUNN. Thank you very much. We will make all of it part of the record.

How does Project Alpha relate to the Government's waterfront investigation?

Mr. DELANEY. We were a trucking company operating in and around the port. In exchange for payoffs to Tino Fiumara, DiGilio, Johnny Simone, Mike Copolla, DiNorscio and other mob members and associates we received special privileges such as obtaining business

directed to our undercover company by organized crime members, operating a nonunion shop in a totally unionized area without any interference with the ILA or the Teamsters.

We had the benefit of the mob members' absolute control and domination over the ILA officers we dealt with. We were assured by the organized crime figures that they dominated the waterfront and if we kept paying off as John DiGilio said in the tape that we listened to we would become one of the biggest trucking companies not only in this port, but the entire country.

We dealt with many of the same individuals later convicted in the UNIRAC case, such as a Tino Fiumara. Our evidence was used in support of the UNIRAC case. Our investigation confirmed the outgrowth of power organized crime enjoys on the docks.

Our investigation showed that through the unions organized crime soon controls any legitimate business dealing in and around the docks, especially firms related to the transportation business where organized crime can get leverage through the ILA or Teamsters.

Senator NUNN. Did any of the UNIRAC defendants' names come up in your investigation other than the ones you have named?

Mr. DELANEY. Yes, sir. Through court-authorized wiretaps that were being used by Alpha Transportation, we showed the connection between the Fiumara group, Fiumara himself and Thomas Buzzanca, and Vincent Colucci, through these taped conversations we were able to decipher a code that Mr. Fiumara had with the two ILA officials.

He would refer to Thomas Buzzanca as Strawberries, that was his nickname and he referred to Vincent Colucci as the Vietnamese guy or the Vietcong.

They picked that up off the first two initials, V. C., going to the Vietnamese, or Vietcong.

Senator NUNN. In your statement you mentioned that the Frigid Express was controlled by high-ranking organized crime figure referred to as Patty Mack who you stated has since been murdered.

Yesterday the FBI agent Freeh mentioned that an individual named Irving Held who is a major importer of bananas was controlled by Tino Fiumara.

Who now owns or controls Frigid Express after Patty Mack was murdered?

Mr. DELANEY. Irving Held. The name has been changed to Port Refrigerated Trucking and it is in the Port of Newark.

Senator NUNN. It is still in existence?

Mr. DELANEY. Yes, sir.

Senator NUNN. You stated that during the 2½ years you were undercover in Operation Alpha the organized crime figures used their reputation for violence as a part of their overall modus operandi. Could you explain this? Give us an example of it.

Mr. DELANEY. I was having dinner one night with Mr. Fiumara and some of his associates and during the conversation Michael Copolla excused himself from the table and told Mr. Fiumara that he was going out to his car to get something out of his trunk. Tino made a joke, said "Michael, you are getting something out, aren't you usually putting something in?" meaning dead bodies that they would put in trunks of cars, being a method of operation in organized crime.

Fiumara looked over at me and just smiled. It was a way of letting me know that he was the boss and the fear and intimidation should be something that I should be aware of.

Senator NUNN. You spent around 2½ years undercover on and around the waterfront operating the business there. In the course of that experience, how would you characterize the chances for a legitimate business that refused to participate in any payoffs, bribes, or corruption, making a profit or a success on the waterfront?

Mr. DELANEY. I would say that the businessman who goes along with the organized crime people on the ports has a distinct advantage in becoming a successful businessman as opposed to someone who played by the rules.

Senator NUNN. Does the free enterprise system exist on the waterfront as we know it?

Mr. DELANEY. I don't believe so.

Senator NUNN. Many trucking companies fear hijacking. Did the Alamo Trucking Co. have any problem in this regard?

Mr. DELANEY. No, sir. We were told when we went to work for Frigid Express that because Frigid Express is known to be Patty Mack's company that we would have no problem with any hijackings and two stories were told to us, that early in Frigid Express Co. being informed two hijackings did occur and both of those hijacked trucks were returned the next day.

Senator NUNN. In your undercover operations how do you handle a situation when you are expected to actually commit a crime as opposed to paying off and that kind of thing? If someone had told you as an undercover person you expected to direct a hijacking operation or something of that nature, how would you have handled that?

Mr. DELANEY. Most times we try to talk our way out of it. If we got to the point that the crime was going to be committed, there was no other recourse, that would be the time that the operation would come to an end and we would have to take on the role of law enforcement as opposed to undercover agents.

Senator NUNN. Has there been any attempt to retaliate against you or any threats on your life?

Mr. DELANEY. The FBI received information in 1977 that a contract or a hit had been placed on my life.

Senator NUNN. Never any attempts, though, that you know of?

Mr. DELANEY. No, sir.

Senator NUNN. Senator Rudman?

Senator RUDMAN. I would like to know in terms of your association of the 2½ years, how close did you come to acceptance to the mobsters that you were working with?

Mr. DELANEY. There were different levels of acceptance in organized crime. They are demonstrated by different outward signs, like handshaking, a hand on your shoulder as someone shaking your hand would show that you are a little bit closer to that organized crime figure.

Then you may actually get a handshake and then a hug which even shows that you are even more closer and then the actual kiss on the cheek as you exchange handshakes shows that you are an accepted member or an associate of that crime group. I moved along those lines

with the Fiumara group, the DiGilio group, and the DiNorscio group.

I was on the kiss on the cheek stage with most of those people. However, I never reached that stage with Mr. Fiumara.

Senator RUDMAN. Talking about him, prior to the UNIRAC conviction, he was convicted on another charge related to Project Alpha. Could you tell us about that?

Mr. DELANEY. Mr. Fiumara was convicted on extortion charge under the RICO statute in New Jersey Federal Court system. He had extorted money from the restaurateur in New Jersey. He had allegedly done a favor for that restaurateur in exchange for the favor told the businessman that he was going to put one of his boys on the payroll for \$300 a week. And he did that for a period of 2 months and at the end of 2 months he told the businessman that he wanted 25 percent of his profits on a weekly basis.

Shortly after that, our operation terminated and we were able to make the case against Mr. Fiumara and his associates on the extortion of that restaurateur.

Senator RUDMAN. During the 2½ years that this operation was going on, did you see a definite ascension of his power in that structure of organized crime, that he was wielding more and more power?

Mr. DELANEY. Yes. Mr. Fiumara was an expert in demeanor. He would be able to come into a room, you could tell that there was someone of importance in that room by the way his people would handle themselves around him, the way he handled himself, the way he spoke and it was even spoken about by other organized crime figures that Tino was an up-and-coming guy, he would be someone to be reckoned with within the next few years.

Senator NUNN. Let me ask one question if I could interrupt. You talked about the method of greeting, hugging, kissing, the customary way of greeting and going back to the old times, nostalgia, that kind of thing.

Do they do this in public? Is this in the public area?

Mr. DELANEY. Yes. It will be done in public.

Senator NUNN. Doesn't that attract attention when two men come up and kiss each other on the cheek in public? In the old days it would have. I don't know about now. [Laughter.]

Mr. DELANEY. I guess it would depend on what part of the city you were in. It does attract attention. We were frequenting one restaurant and I was at the bar with Mr. Fiumara and Mr. Copolla, Mr. Kelly, and about six or seven of Mr. Fiumara's associates came into the bar. We were going to have dinner together.

This place we frequented, there was a new bartender who had just started working that night. We all started exchanging kisses, everybody is kissing back and forth, like four guys were there, six new guys come in, a lot of kissing going on back and forth.

Senator NUNN. You were participating in that?

Mr. DELANEY. Yes.

Senator NUNN. Even though you were not a button or made man, you did participate?

Mr. DELANEY. That is correct. The bartender thinking that he was going to be a comedian, says what is this, a fag bar or gay bar? Tino

got very upset, he took Michael Copolla, his underboss, to the side, he said go talk to that kid.

Michael went down to the end of the bar, pulled the bartender over and spoke to him very strongly and when the bartender came back, he was obviously upset and was having a hard time even figuring out how to pour a drink.

Senator NUNN. He explained the situation to him?

Mr. DELANEY. Yes, sir.

Senator RUDMAN. Your company had a longstanding relationship with the mob and many of them were involved with the ILA. I believe you said you had to go to an ILA dinner dance, you got \$400 worth of tickets and an ad, for, I believe, \$150.

Mr. DELANEY. That is correct.

Senator RUDMAN. Do you have a copy of that?

Mr. DELANEY. Yes, sir.

Senator RUDMAN. I think we probably, Mr. Chairman, will put that in the record.

Senator NUNN. We will put it in the record.

[The documents referred to was marked "Exhibit 5" for reference and may be found in the files of the subcommittee.]

Senator RUDMAN. I want to ask you, were there any ads in that program which reflected in your view the relationship between organized crime and that particular ILA local that they controlled?

Mr. DELANEY. Yes, sir. As I pointed out in the glossary I used the word, "My friend or friend," and explained that as being an associate, referring to a made man. In that book, if you will notice, there are a few full-page ads where it says compliments of a friend.

I do realize that in some other journals that that terminology is used also at schools, putting out a journal, in order to fill the journal. But I would think that if anyone was trying to ingratiate themselves with the ILA that they would clearly identify themselves on that ad as we did, Alamo Transportation, so we would be able to get, let the ILA know that we were in support of them.

I think that the friends that put the ads in were organized crime figures such as John DiGilio, and possibly Mack Queli, people of that type and they can't identify themselves by being supportive of the ILA, because then there would be a direct link between them and the ILA by putting their names—it says compliments of John DiGilio, it would be too much of a direct link between organized crime and the ILA.

So this is their way of showing that they are in support.

Senator NUNN. When you put this ad in there, bought the tickets, you didn't have any union members working for you as you testified?

Mr. DELANEY. No, sir.

Senator NUNN. You were exempt from having employed union members because you were paying off?

Mr. DELANEY. We were told that.

Senator RUDMAN. Is there any way that any of these legitimate businessmen can get into an initial transaction with these people, with a fairly reasonable, large sum of money up front and get them off their back?

Mr. DELANEY. I don't feel that is the reality. I think once you make yourself available or become involved with organized crime, and you have opened that door, that they are just going to keep coming into you.

They are not going to let you get off the hook, so to speak.

Senator RUDMAN. I think the subcommittee would be interested in knowing in a very personal way what problems you had going undercover and dealing with these people for 2½ years.

Mr. DELANEY. It is a difficult position to be in because you take on a lifestyle that is not one that you have been brought up in. It is not a lifestyle that is your own. In fact, very opposite. A person who is in law enforcement has a set of ideas, or morality, and in many ways you had to learn the whole way of thinking.

When they referred to someone as being a good cop, that didn't mean he was a good police officer. That meant he was the kind of guy you could buy off. Now you had to start changing about your whole way of thinking, and after you do it for 2½ years, it is not easy to change back again to the way that you were initially before 2½ years.

So I found it to be a stressful situation.

Senator RUDMAN. During the Miami portion of our hearings we understood that there were some payoffs made to avoid the ILA rule regarding the use of the ILA labor, the 50-mile radius within the port.

Did you have similar experience with Alamo, with that particular ruling?

Mr. DELANEY. That was the understanding for the Fiumara telling us that we would start the New Liberty Trucking. Liberty's main job would be the transportation of containerized cargo to the port.

I understand that Liberty Trucking could avoid the ILA rules requiring stripping and stuffing by ILA labor because of Mr. Fiumara's influence.

Senator RUDMAN. This is the last question I have for you. I believe in February of 1977 you went to Florida and met an organized crime figure, Johnny Simone. You were attempting to get some trucking business from the south Florida ports.

Two questions for you: What family was he in, and were any other of the organized crime members present at the time you met him?

Mr. DELANEY. John Simone was a captain in the Bruno family and, yes, there were other organized crime figures there as I said.

Carlo Polito, Edward Balinski, but I was also told that at another table in an alcove in the restaurant was Russell Bufalino, who is head of the Pennsylvania organized crime family. I was not introduced to him, but I was told by Mr. Kelly and Mr. Simone that Russ Bufalino was there that day.

Senator RUDMAN. I have no further questions, Senator. I want to reiterate what you said to Trooper Delaney, that I think you, officer Delaney, have exemplified the highest standards of law enforcement. I have been familiar with the use of undercover agents in the State operation. I realize what considerable risk you put yourself and your family through, and we are indeed fortunate to have people who are willing to take those risks, because in my view, the only way that evidence of this kind can be produced is either through undercover work

or through the use of electronic surveillance. You are certainly to be commended.

Mr. DELANEY. Thank you, sir.

Senator NUNN. I have just a few more questions.

Senator Nickles, we would be delighted for you to participate and ask questions, if you have any observations. We are delighted to have you again today.

In the 2½ years on and around the waterfront was theft commonplace?

Mr. DELANEY. Yes, sir. We had purchased stolen property as Lieutenant Liddy has brought out. We didn't want to get into the Sting operation where we spend a whole lot of money recovering stolen property, but being law enforcement officers, the stolen property did become available to us, we did buy, and there were many occasions when we were offered merchandise that was being stolen from the port.

We did buy one full container of Puget bicycles which was a very expensive load, because those bicycles sell for between \$200 and \$300 a piece.

Senator NUNN. You mentioned that Tino Fiumara was feared by most of the people that you dealt with, including mob people. Why was he so feared?

Mr. DELANEY. Fiumara had a reputation for violence and he had been credited with murders in the State of New Jersey. He had been given credit for killing the two brothers of Vincent Colucci, Vincent Colucci being the ILA official that was indicted with Mr. Fiumara in the conspiracy in New York and he was also given credit for killing a fellow by the name of James Quile and this was in the New Jersey Monthly Magazine, an article, a public document indicating that Fiumara had killed James Quile. James Quile was an East Side high school principal in Newark and was alleged to have been involved in bookmaking operations in the school systems. That operation was under Fiumara's operation. Quile and Fiumara had grown up together.

Quile had gone to college, Fiumara did not and they went their separate ways, when Quile came back to Newark as a teacher and later as principal Fiumara was alleged to have been his boss in the bookmaking operation.

It is further alleged that Quile was not paying back all the money that he was supposed to to Fiumara, that Fiumara sent some people out to speak to Quile, Quile said that he wasn't stealing from Fiumara, Fiumara said that he was.

Shortly after that, Mr. Quile was shot to death as he was going into his home in Northlawn, N.J.

Senator NUNN. Did you get close to Fiumara when you were undercover?

Mr. DELANEY. Yes, sir, I did. I had what I thought was a good relationship with Tino Fiumara. He and I had things in common, such as sports, that he was an avid sports fan. He is an athletic man. He would have conversations with me about other things, not only our business. So we did have a good relationship and we had dinner together on occasions.

Senator NUNN. Have you met him since you went undercover and your undercover became—let's say since you came out from undercover? Have you talked to him or met him since then?

Mr. DELANEY. He is not too inclined to speak to me. [Laughter.]

But I have seen him at two trials that I testified against him, that being the New York *UNIRAU* case, and the New Jersey extortion.

Senator NUNN. How does he act when you see him?

Mr. DELANEY. He no longer, I think, considers me a friend. [Laughter.]

He used abusive language to me and on most occasions when he sees me he will spit on the floor.

Senator NUNN. Any threats?

Mr. DELANEY. Not that could be construed as threats, some hand motions.

Senator NUNN. What kind of hand motions?

Mr. DELANEY. Another explanation of mob techniques or mob ways is if I took my finger and I rubbed it against my eye, continual motion, while I was staring at you, it would mean I will gouge your eyes out and I would stare at you, make you feel uncomfortable, all of a sudden I had your attention, start doing this to you. Then that would be an indication that he no longer likes you. He is going to gouge your eyes out.

Senator NUNN. Any other kind of hand motions?

Mr. DELANEY. Not that I recall.

Senator NUNN. You mentioned several organized crime families in the course of your undercover operation and you mentioned these families worked together. Are you saying that this is a usual pattern? We had always heard they had separate territories and so forth. You are saying a lot of overlapping jurisdictions and a lot of working together; is that right?

Mr. DELANEY. Yes, sir. We saw Gambino members working with Genovese members, Bruno members working with Gambino members, a whole cross section of the crime family, working with each other, not necessarily because they wanted to but because there was money to be gained.

Senator NUNN. Did they identify themselves by the family? Is that a pretty rigid identification or is it a lot of vagary?

Mr. DELANEY. I think we in law enforcement have a tendency to structure organized crime so that we are able to understand it. We make the captain, table of organization because we are used to table of organizations and we are used to being identified by uniform or by credentials. That does not take place in organized crime. It is a thing that is understood, it is a way of life with them. When it does come time where a beef comes up, or an argument, it has to go to the table or sit down for the determination or solution to the problem; one organized crime figure will say to another, do you have your friend, who is your friend? Then by saying who the friend is, who the made member is, people know that John DeGilio is the Genovese crime family member. People know that John Simone is a Bruno crime family member. So it is a bulletin or an understanding that the people in organized crime, associates, know who the bosses are and what crime families they report to.

Senator NUNN. Senator Rudman?  
Senator Nickles?

Senator NICKLES. A couple of questions, and I, too, would like to compliment you, Mr. Delaney, for your courage and convictions and in the success that I think you certainly had in your 2½ years undercover.

A couple of questions.

Just looking at the results of so many people that you had mentioned were killed, murdered, was it that commonplace or was all of that a result of your investigation or are they interrelated?

Mr. DELANEY. I don't mean to suggest it is as a result of our investigation. The reason that I did that, give the statement, was to give the committee an idea of the people that we were dealing with; where they are today and what positions they are in. That is why I read you off the people who are in prison, and read the people who were killed. I think that we have seen over the years that is commonplace for many mob figures to be killed, rather than to die a natural death.

Senator NICKLES. Do you feel like the conviction ratio was sufficient that you had enough success in the courts to justify your efforts, and the efforts of the operation?

Mr. DELANEY. I thought it was very successful along those lines. We had a lot of people who pled guilty and I think that this was because of the overpowering evidence that was gained through the electronic surveillances. It was a lot more damaging to go into a courtroom with a tape recording of the person's voice and the actual crime being committed than just the testimony of the police officer.

Senator NICKLES. Were the terms given to those convicted sufficient or satisfactory to you? I noticed you had some 10 years, 15 years, and 3 years in prison for this and that.

Mr. DELANEY. I would think that they were sufficient. Of course, I would be prejudiced in that area and would like to see them go away for the full time. But I think that they were satisfactory.

Senator NICKLES. One other question.

You mentioned the Teamsters and yesterday I participated in most of the conversation concerning the longshoremen and the involvement of organized crime with longshoremen. Are they into the Teamsters on an equal amount, would you say? How would you compare the two?

Mr. DELANEY. As far as power?

Senator NICKLES. The organized crime's influence with the Teamsters as compared to, say, longshoremen?

Mr. DELANEY. I would think they would be along the same lines.

Senator NICKLES. The testimony that I heard yesterday and part of what you said today, that organized crime pretty well controlled the longshoremen at least on the coast, would you say that they also pretty well controlled the Teamsters on the eastern seaboard?

Mr. DELANEY. I feel that they would, yes.

Senator NICKLES. Thank you very much.

Senator NUNN. Mr. Delaney, again let me thank you for being here and let me thank you for the superb job that you have done for your State and for the citizens of the country. It is a very important role.

Mr. DELANEY. Thank you, Senator.

Senator NUNN. Also, I hope you will express the appreciation of the subcommittee to all of your officers who worked with you in this investigation and to your superiors also.

Mr. DELANEY. I will do that.  
Thank you.

Senator NUNN. At this point, we will have one more witness today and I anticipate we can probably take about an hour. So I will continue the hearing, but we will clear the room and ask the cameras be turned in a downward position and Mr. Delaney will leave the room.

We will come back in approximately 5 minutes to conclude the hearing today.

The next witness is Mr. Walter O'Hearn, Jr.

[Members present at time of recess: Senators Nunn, Nickles and Rudman.]

[Brief recess.]

[Members present at time of reconvening: Senators Nunn and Nickles.]

Senator NUNN. Mr. O'Hearn, we are glad to have you today. Would you hold up your right hand? We swear in all the witnesses before the subcommittee.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. O'HEARN. I do.

Senator NUNN. Thank you, sir. We appreciate your being here today, Mr. O'Hearn. We would like to give you the chance to give us a full statement, if you have a statement, then we will proceed to questions.

**TESTIMONY OF WALTER D. O'HEARN, PRESIDENT, McGRATH SERVICES CORP., NEW YORK, N.Y.**

Mr. O'HEARN. Mr. Chairman, members of the subcommittee, my name is Walter D. O'Hearn, Jr. I am appearing before you pursuant to subpoena and am availing myself of the opportunity to submit a statement recounting, to the best of my present recollection, an instance of how organized crime exploited the flaws of an existing law to achieve its ends, jeopardizing the existence of waterfront companies in the process.

John W. McGrath Corp. ("McGrath") was founded by my grandfather in 1933. It is a stevedoring company engaged in the business of loading and unloading vessels and operating terminal facilities at ports on the Atlantic, Gulf and Pacific Coasts of the United States. McGrath employs longshoremen, most of whom are members of the International Longshoremen's Association; commonly referred to as the ILA.

My experience with McGrath and the waterfront began as a messenger at the age of 15 when I commenced the first of many summer employments. During my 30-year association with McGrath, I have been a messenger, a gearman, a longshoreman, a forklift driver, a law clerk, a member of the board of directors and president and chief executive officer of McGrath's parent company.

During that time, I managed to balance my practical waterfront education with more traditional achievements and events; a bachelor of arts degree from Williams College in 1956, service in the U.S. Army from 1956 until September 1958, a law degree from New York Law School in 1960, the position of editor in chief of the law review publi-

cation of that school, admission to the bar of the State of New York in 1961, a master of laws degree from New York University School of Law in 1963 and private practice with a small law firm in New York City from 1961 to 1973.

In 1972, a group of five persons purchased a New York City newspaper distribution company, Metropolitan News Co., from its two owners; one of whom, David Rosen, remained as an employee.

In January 1973, these five individuals and Rosen purchased John W. McGrath Corp. Both purchases were effected entirely through bank borrowings. These purchasers formed McGrath Services Corp., to be the common parent of Metropolitan and McGrath. Two of the aforesaid five individuals departed years ago. Heiman Gross, Robert Nicol and Edward Wallach—sometimes referred to herein as my partners—remain as officers, directors, and stockholders. I joined McGrath Services Corp., as president in March 1973.

Workmen's compensation is a system mandated by law whereby an employer—or its insurer—is required to provide wage substitution payments to employees who are unable to work because of work associated injuries or disabilities. Workmen's compensation for the stevedoring industry is governed by Federal law; specifically the Longshoremen's and Harbor Workers' Act (33 U.S.C. 901), which I will refer to herein as "the act."

Early in 1974, we became aware that the cost of longshoreman workmen's compensation claims at McGrath's pier 9 operation in Brooklyn, N.Y., were exploding. These costs at pier 9 in 1972 were \$230,000.

Said costs for the first 9 months of 1973 were \$386,000; for the last 3 months of 1973, they were \$230,000. For the first quarter of 1974, these costs were \$480,000 and for the entire 1974 year, said costs were \$1,400,000; all at one pier facility. My associates and I were disturbed by these developments and we investigated them. It didn't take very long to find out what was going on.

Senator NUNN. Let me mention this. Senator Nickles is with us and I am delighted because you are on the subject right now that is in his jurisdiction in his committee and he also is chairman of the subcommittee that deals with this. He has indicated a very keen interest in this. So I think we are delighted and honored to have him here.

Mr. O'HEARN. I am delighted, Senator. This is very important.

The act was amended in 1972. Under the new law, claimants may use a physician of their choice. Prior to the 1972 amendments, the act provided that claimants had to use physicians selected from a panel nominated by employers and approved by the U.S. Department of Labor. This new free choice provision facilitated the creation of an organized racket in Brooklyn in which dishonest longshoremen, physicians, lawyers and compensation representatives conspired to create fraudulent accident claims in order to garner workmen's compensation benefit payments for themselves. Certain factual patterns were evident; the cost increases coincided with a marked trend to nontraumatic or subjective injuries and the handling of claims by a distinctly identifiable group of doctors and lawyers.

The implications were very serious. The racket appeared to be foolproof because of the doctors. We all know of the difficulty, indeed impossibility, of challenging a doctor's medical findings. Moreover,

the existence of the racket and the exploding costs it fostered threatened the existence of McGrath.

I mentioned before that the purchases of John W. McGrath Corp. and Metropolitan News Co. were entirely debt financed. McGrath is not a rich company. Early in 1974, net worth was approximately \$2 million. Goodwill on the books was \$7 million, thus the net tangible deficit was \$5 million.

McGrath owed banks and other institutions over \$20 million with an interest rate of 4 over prime. Interest costs alone exceeded \$3 million a year. Also, we had to invest between \$2 million and \$3 million in machinery and equipment each year in order to remain competitive.

The cost results in the insurance area were horrible. I should explain that McGrath was and is a self-insurer. In 1974, McGrath self-insured the first \$50,000 of each workmen's compensation claim, covering liability above said amount with conventional excess insurance.

The status of self-insurer is governed by Federal regulations and is supervised by the Department of Labor. A standard requirement is that the self-insurer deposit securities with the Department of Labor sufficient in amount to cover the total of the self-insurer's liabilities at any given point in time.

I have spelled out the huge increase in direct workmen's compensation costs in Brooklyn. There were other increases in costs. As a result of the racket, the premiums for McGrath's excess coverage rose from \$400,000 to \$2,500,000 in 2 years. In addition, McGrath was required to deposit an additional \$2 million in securities with the Department of Labor over a 2-year period.

All of these factors, some immediate, some prospective, caused McGrath's board of directors to conclude early in 1974 that unless the cost of claims in Brooklyn subsided, McGrath would have no choice but to cease operations in the Port of New York resulting, in all likelihood, in the ultimate failure of the company.

McGrath's board of directors determined that we had no choice but to stay in business in the port and fight the racket.

My associates and I attempted to dismantle the scheme by various methods, all unsuccessful. We appointed an experienced waterfront superintendent to intensify company safety efforts. Attempts to intimidate him were immediate. I learned that his wife had received disturbing phone calls, that his car had been set on fire and that he had been threatened.

We increased our safety staff. We instituted cash incentive programs whereby employees with claim-free work records would be awarded cash bonuses.

Senator NUNN. While you were trying to improve the safety of the workers and increasing the safety efforts, you were being faulted by whom?

Mr. O'HEARN. I was—excuse me?

Senator NUNN. Who was fighting this? Who was causing these threats to be made, and who was against improving the safety of your company for the workers' benefit?

Mr. O'HEARN. Persons who were involved in the conspiracy and operation of the racket itself. And that chain ran from the longshoremen who participated in the scheme, the lawyers who facilitated the

processing of claims in the Department of Labor, doctors who supplied the fraudulent certifications, the steerers who set up the case in the first place, and those behind them, and, most likely, organized crime figures who set the whole thing up.

Senator NUNN. Thank you.

Mr. O'HEARN. None of these programs succeeded. We turned to the Government for assistance. I met on several occasions with the New York Region Deputy Commissioner of the U.S. Department of Labor. I gave him the details of our rising claim costs and conveyed to him my belief that a fraudulent compensation claims racket was flourishing on the waterfront. The Commissioner told me that the Department of Labor knew something was going on but felt there was little that the Department could do about it, given the provisions of the act.

He explained that a lack of funding was preventing the Department from implementing a system of treatment of claimants by impartial physicians.

My partner, Robert Nicol, sought the assistance of the Waterfront Commission of New York Harbor and the King's County Medical Association without avail. The cost of claims continued to rise. The economic future of McGrath Services Corp. looked grim.

Late in 1974, I began to seek amendatory legislation; first alone, then with the National Association of Stevedores, an industry association. My purpose was to get rid of the doctors who were abetting the racket; the industry purpose was to correct the many imperfections of the act. To date, this effort has been unsuccessful even though amendatory bills have been introduced in the U.S. House of Representatives.

Finally, I decided to seek the assistance of Anthony Scotto, then president of local 1814 of the ILA, a Brooklyn-based local. I had never met Mr. Scotto. I knew that he was widely regarded as an astute and politically powerful labor leader. It was said that he would be the next president of the entire ILA.

I arranged an introduction to Scotto in March 1974, and met with him half a dozen times between March and October 1974.

I tried to enlist his aid in ending the fraudulent compensation claims racket in Brooklyn. I told Scotto that it was in the mutual interest of both the union and McGrath to suppress the racket since its existence would lead both to the departure of shipping companies from Brooklyn to New Jersey where compensation costs were substantially lower and to the cessation of McGrath's business in Brooklyn. In a nutshell, Scotto denied the existence of the racket and disclaimed any ability on his part to remedy the cost problems.

At this stage, David Rosen suggested that I allow him to investigate the problem through his extensive labor contacts. Rosen had been an owner of Metropolitan News Co. and had acquired extensive experience in labor matters with that company. Rosen was by this time a substantial stockholder of McGrath Services Corp. and a member of its board of directors.

I agreed. In January 1975, Rosen reported that he had learned that the racket did indeed exist, that it was organized and that Anthony Scotto could suppress it. Subsequently, at Rosen's request, I introduced him to Scotto.

In May 1975, Rosen told me that he had been meeting with Scotto and that Scotto had told him that the phony claims could be stopped for a price.

The demand was \$5,000 a month and something at Christmas, all of which was to be paid by McGrath to Scotto. Rosen told me that he had already agreed to the deal with Scotto and that he had in fact already paid Scotto on behalf of the company.

My partners and I were distressed to learn that Rosen had agreed to and had begun making payments. It was evident that the issue before us was whether we could renege on the commitment.

After talking with Rosen many times, my partners and I determined that we had little, if any, real choice in the matter. He told us that if we backed out of the deal, McGrath was bound to suffer economic retaliation and we could suffer physical harm as well. We took Rosen's words with total seriousness, given our perception of Scotto's alleged links to organized crime.

My partners and I discussed the idea of going to law enforcement authorities for help. We reached the decision, however, that "blowing the whistle" on the deal presented too grave a risk to our personal safety and to our business.

We also decided that the payments to Scotto could not be made by Rosen. We felt that if Rosen continued to make the payments, his relationship with Scotto could result in further loss of our control over the company.

I was the only one of the four of us who had met Scotto. For these reasons, we agreed that I would tell Rosen that I would make the payments to Scotto and that Rosen should bow out of the situation. Rosen agreed to abide by that decision.

Shortly after that conversation with Rosen, I met with Scotto and told him that I would be handling the agreement which Rosen had made with him for McGrath. I should note for the record that Rosen's employment by the company terminated in July 1976.

From June or July 1975, through September 1978, I made 18 cash payments to Scotto totaling \$210,000. The results were dramatic. McGrath's workmen's self-insured compensation costs at its pier 9 facility in Brooklyn, N. Y., were as follows: 1972, \$230,000; 1973, \$616,000; 1974, \$1,400,000; 1975, \$883,000; 1976, \$302,000; 1977, \$345,000; and 1978, \$375,000.

Senator NUNN. The time sequence, from 1974 when you reached the peak, \$1,400,000, between then and 1975, right in that time period is when you started making the payoffs? Some time after the \$1,400,000 claim in 1974?

Mr. O'HEARN. That is right.

Senator NUNN. It went then from \$1,400,000 in 1974 down to \$375,000 in 1978?

Mr. O'HEARN. That is right, Senator. It actually went to a low of \$302,000 in 1976, \$375,000 in 1978.

Senator NUNN. So it was divided basically, it was reduced by four times, reduced by 400 percent after you started making payoffs?

Mr. O'HEARN. Correct.

It should be noted that these cost reductions were realized in the face of rapidly mounting benefits under the act. From October 1, 1973 to

October 1, 1978, maximum weekly benefits payable under the act rose from \$210.54 to \$396.78 and from July 1, 1975 to January 1, 1978, the manual rate—an insurance industry computation of actual cost under the act expressed as a rate per \$100 of bare payroll—for Brooklyn rose from \$28.60 to \$65.41. I have submitted to the staff my computation that McGrath's actual cost savings, weighted for benefit and manual rate inflation, exceeded \$5 million. To put it succinctly, McGrath could not otherwise have survived.

The last payment to Scotto occurred in September 1978. In November 1978, I was called in by the Department of Justice. I was informed that the Department had evidence of my payments to Scotto and was contemplating charges against me. In January 1979, I entered into an agreement with the U.S. attorney for the southern district of New York. I testified for more than 5 days in the fall of 1979 as a principal Government witness in the criminal case of *United States v. Anthony Scotto and Anthony Anastasia* in the U.S. District Court for the Southern District of New York. Anthony Scotto was convicted and sentenced. His conviction is under appeal. I pleaded guilty to eight misdemeanor violations of the Taft-Hartley Act and received a suspended sentence with 6 months' probation. McGrath Services Corp. pleaded guilty to eight misdemeanor violations of the Taft-Hartley Act and was fined \$1,000. I regard the Government's demand for these pleas from my company and me as harsh, even abusive. We had no choice but to accede to that demand because extortion is not a defense to charges of unlawful labor payments under the Taft-Hartley Act. In fairness to my partners and myself, I cannot regard our conduct as immoral or unethical in light of the facts. We did not approach the compensation rackets as hard-bitten businessmen.

The McGrath Co. has been a part of my life for 30 years. My partners and their wives personally had guaranteed the McGrath bank debt. We were deprived of our will by overwhelming forces. There is no way to convey to you the fears, anxieties, and constant forebodings we have experienced during the past 6 years.

It is common practice to depict instances of corruption as having an impact on the consumer. At first blush, it appears that the consumer did not suffer as a result of the fraudulent compensation claims racket. McGrath saved its corporate existence and the jobs of 400 employees by paying Anthony Scotto \$210,000; \$100,000 of this amount came as a personal loan to my partners and me from Robert Nicol's father. But, in truth, the consumer has been savaged. The magnitude of the racket added materially to the experience base utilized by the insurance industry to compute ongoing rates. These rates have exploded nationwide for all employers subject to the act, adding costs in the tens of millions of dollars. The consumer has borne these increased costs and will continue to do so.

Unfortunately, the potential on the waterfront today for fraud under the act continues despite the convictions resulting from the FBI investigation. There are some steps which I believe should be taken to correct that situation. Specifically, I recommend at a minimum, that the act be amended to reinstate the prior method of selecting physicians for the treatment of claimants.

Also, I recommend the repeal and/or revision of section 20 of the act, which bestows a presumption of validity on claims filed by workers. The general attitude of the Department of Labor in administering the act has been one which favors workers over employers. By virtue of that attitude, the presumption of validity under the act has been seriously overplayed, even in the face of the astronomical rise in insurance and claim costs.

Section 31 of the act imposes a misdemeanor penalty on any person who willfully makes a false statement to obtain benefits. This section should be amended to impose felony penalties on such conduct. Some way must be found to compel the Department of Labor to pursue convictions under this section as I am not aware of any conviction to date thereunder.

Generally, I recommend H.R. 25, recently introduced by Congressman Erlenborn, as the type of amendatory legislation so badly needed. Congress enacted a badly flawed law in 1972. It is time Congress remedied the situation.

In closing, I can state that at least one American waterfront company was put out of business in New York and others, including mine, were seriously jeopardized by the ability of organized crime to subvert an existing law. I hope my testimony here will further the objectives of the subcommittee. Thank you.

Senator NUNN. Thank you very much, Mr. O'Hearn. I can assure you your testimony will be of great help to us. I can assure you we will have recommendations in this area you just identified.

Are there particular characteristics of the stevedoring industry that make it more susceptible than others to this kind of fraudulent claims under workmen's comp?

Mr. O'HEARN. Senator, the stevedoring industry is intensely competitive. Curiously, a great number of costs are the same across the board, the same for all competitors.

For instance, the cost of machinery is the same for all competitors. The manning table required by the collective bargaining agreement is virtually identical for all competitors, the wage scale is the same.

The insurance cost area, which is the second largest cost area for stevedoring companies; the first being the cost of labor, is the one variable cost area where a company, through diligence in its safety efforts and its skill in reducing costs, can achieve the margin between loss and profit.

It is difficult enough to accomplish this in this insurance area, given the industry problems with the act. It is a virtual impossibility when confronted with a racket of this magnitude.

Senator NUNN. You mentioned that David Rosen indicated to you that you should cooperate with Scotto or you might be faced with economic or even physical retaliation. Did you believe at that time that Scotto was a member of organized crime?

Mr. O'HEARN. It was my state of mind at that time, Senator, that Anthony Scotto was affiliated or connected with organized crime.

Senator NUNN. Did you have a genuine fear for your own physical safety at that time? Were you concerned about physical safety or any kind of intimidation or threats?

Mr. O'HEARN. Yes, sir, Rosen flat out told me that I was up front because Scotto had identified me as being part of the arrangement and that if he, Rosen, reneged on it—if we reneged on it, I could suffer the consequences.

Senator NUNN. In other words, he presented you with a fait accompli. You either were going along for the arrangement of paying off or suffer economically or even physical violence.

Mr. O'HEARN. That is precisely right.

Senator NUNN. Are you aware of any connection to date that Rosen had with organized crime at that time?

Mr. O'HEARN. I knew from Rosen's own mouth that he was acquainted, closely acquainted with Russell Bufalino. Rosen had told me on a couple of occasions that he was accustomed to meeting Bufalino frequently for lunches and other social occasions.

He referred to him as "The Old Man." I knew from media references that Bufalino had been identified as a high-ranking member of organized crime in Pennsylvania.

Senator NUNN. Were there any other sources of information relating to Rosen's connection with organized crime?

[At this point Senator Chiles entered the hearing room.]

Mr. O'HEARN. Yes, Senator, there are.

Rosen, in about May 1975, had a number of separate conversations with my partners, much of the content of which was not disclosed to me by them because they did not want to aggravate my concerns, which were already grave enough.

Rosen disclosed quite a wealth of detail about his association with organized crime figures dating back to the early 1970's. I am given to understand that the details of his relationship with organized crime figures is going to be presented to this hearing by way of a staff memorandum. That staff memorandum will not only contain what any partners heard from Rosen, but, I believe the results of independent investigations.

Senator NUNN. That will be submitted tomorrow by staff. You mentioned you feared to have Rosen make the payoffs and deal directly with Scotto because you would lose control of your company.

What did you mean by "lose control of your company?"

Mr. O'HEARN. Senator, you have to understand that Anthony Scotto was the most important labor leader in McGrath's horizon at that time. We felt that if Rosen continued to pay Scotto, that role would enable Rosen to use leverage to acquire additional control of the affairs of our company and that he would use that leverage to introduce organized crime elements further into the company and, simply put, there would be a day when we would face the proposition of losing control of our own business.

Senator NUNN. How did Rosen's termination come about? You mentioned he was terminated, I believe, in 1976.

Mr. O'HEARN. My partners and I determined in those days of May and June 1975, that we had to get rid of Rosen. It wasn't just a matter of firing him. He had an employment contract, he was running the Metropolitan News Co., and he was a substantial shareholder.

We did negotiate a separation with him which took place in July 1976, under which he resigned as an officer and director. He is still a shareholder. We are trying to purchase his shares.

Senator NUNN. You mentioned that your insurance claims went down dramatically after you started making the payoffs and there is certainly every indication in your testimony that the payoffs were directly related to it.

Could you tell us, No. 1, if you believe Scotto was responsible for the claims going down after the payoffs were made to him and, No. 2, how did he go about doing this?

Mr. O'HEARN. It is my belief that Anthony Scotto was primarily responsible for achieving the reduction in costs I spelled out to you. This was done in a number of ways. In Brooklyn, management and the union operate a clinic for the treatment of longshoremen and their families. In those days, that clinic was not empowered to treat work-associated injuries. It was barred from doing so by Federal regulation and by State law.

Anthony Scotto managed to have the law of the State of New York changed in that regard and the regulations of the Department of Labor changed in that regard so that in the summer of 1976, the clinic began to treat work-associated injuries. All of a sudden, claimants started utilizing the clinic rather than the doctors who had been part and parcel of the conspiracy.

Also, I know Anthony Scotto made personal visits to the piers to convince longshoremen that phony claims were injuring the union in Brooklyn and that they should cease and desist that practice.

I know of one instance where he personally intervened in a claimant's case which our people clearly thought was a fraudulent case.

Senator NUNN. Tell us about that instance.

Mr. O'HEARN. The claimant's name was Giardinia, a longshoreman in Brooklyn. I received a telephone call one day from our manager of operations in New York who was literally hopping mad. He said this case was an obvious phony, it was wrong, and he asked me to take it up with Anthony Scotto.

I obtained the file. I sent it to Scotto and asked him to look into it. I received the file back approximately a month later and in about another month I was informed that the claimant, Giardinia, had withdrawn his claim.

Senator NUNN. Did any other companies have this problem that you know of who were in your similar line of business?

Mr. O'HEARN. Yes, sir, the Pittston Stevedoring Co., a long-established stevedoring company in the Port of New York, went out of business in New York on June 1, 1976, because it was unable to procure insurance under the act. It literally could not obtain an insurance policy and on June 1, 1976, ceased operations.

I attended a meeting in the office of the superintendent of insurance of the State of New York with representatives of the State fund, which you can think of as an assigned risk fund in the State. It was clearly established that the astronomical number of accidents which Pittston had suffered in the preceding years had caused insurance companies to decline coverage.

Senator NUNN. Did Scotto ever mention that company to you in any kind of conversation?

Mr. O'HEARN. Sometime in the spring of 1976, I had a meeting with Scotto and during the course of that meeting, he made a remark to me to the effect that Pittston's having trouble with accidents, but why should we help them, they are not our friends. What he meant by that was that he was aware that Pittston Stevedoring Co. was trying desperately to take whatever customers it could out of Brooklyn and transfer them to New Jersey, where it also conducted operations.

Naturally, Anthony Scotto, being head of the union in Brooklyn, wouldn't care for that.

Senator NUNN. Did you ever consider—you or your partners, ever discuss terminating payments that were being made to Scotto?

Mr. O'HEARN. We talked about that many, many times, Senator, and we always came to the conclusion that we really had no choice, that renegeing on those payments carried the unacceptable risk of retaliation economically and possibly physically.

Senator NUNN. Did you ever discuss payments with Mr. Scotto, that you were going to terminate the payments or you were thinking about terminating the payments, anything along that line?

Mr. O'HEARN. I did. I remember this vividly. On January 26, 1977, the existence of a massive FBI investigation into the maritime and waterfront businesses on the east coast was announced by television and then by media the next day. It just so happened I was scheduled to meet Scotto on January 27, and I did so. I think it is fair to say I was badly shaken by the revelation of this investigation. I began to talk with him about ceasing the payments, using caution, and his statement to me was, "I hope no one's thinking of changing our arrangements."

Senator NUNN. You mentioned the investigation to him?

Mr. O'HEARN. I had the New York Times with me. His picture was in it.

Senator NUNN. His picture was in it?

Mr. O'HEARN. Yes.

Senator NUNN. As being someone the allegations had been made against?

Mr. O'HEARN. That's correct.

Senator NUNN. He basically said I hope no one is thinking of changing these arrangements. What did he mean by that? Was he warning you?

Mr. O'HEARN. He said he wasn't particularly concerned about this investigation and then said, and this is a quote: "I hope no one is thinking of changing our arrangements."

I took that as an explicit threat.

Senator NUNN. You mentioned that you went to the Labor Department, I believe you said, the regional director, and asked them to help on this situation before you made the payoffs. Did they give you any assistance ever or did you find any real active role by the Labor Department in helping prevent or monitoring fraudulent workmen's comp claims.

Mr. O'HEARN. Well, I said that the Deputy Commissioner felt he could do very little, given the provision of the act. What he was refer-

ring to was section 20 which says that every claim must be presumed to be valid unless disproved by the employer. They construe that as the congressional intent and they enforce it vigorously. He also said he was interested in implementing an impartial physician review to try to counter this exploding cost phenomenon which he was aware of, but funding problems were preventing him from doing something.

I know a couple of years ago the Department of Labor undertook an extensive review of its own performance and procedures in administering the act and came out with an OWCP report and put many of the recommendations into practice. And I believe the performance has gotten better in recent years. But given that presumption of validity, Senator, there isn't very much they can do. It makes the claims examiner a person who does not judge the merits of the claim, but just makes sure the claim is processed in accordance to the act and regulations.

Senator NUNN. So the burden is on the employer to disprove the claim. There is little burden on the employee or—

Mr. O'HEARN. There is none. We had instances in our company. In one instance a worker showed up wearing patent leather shoes. He went to work and he showed up 5 minutes later and said, "I hurt myself." That claim was valid because of the provisions of the statute.

Senator NUNN. Can you tell us how the typical claim works?

Mr. O'HEARN. Let's take that instance, the man with the patent leather shoes. It would be set up where he would utilize a particular lawyer and a particular doctor. In a hypothetical case, the doctor would find that the claimant had lost 20 percent use of his right arm and, if that were the ultimate conclusion of the case, that conclusion called for a certain lump-sum award under the act. I just happen to have the act with me. For the total loss of use of an arm, there is required to be paid 312 weeks' compensation. If there is a 20-percent loss of use, it comes down to 62½ weeks, and at current maximum weekly benefit levels, that is in excess of \$20,000. That was really the magnitude of what was going on. It wasn't that claimants were ripping us off in the wage replacement area. It was more in these loss-of-use cases where they could, if I may add, make the claim, collect the benefit and return to work able to perform 100 percent of the function previously performed.

Senator NUNN. In other words, they didn't stay out of work that long a lot of times. They just make the claim, collect it, and then come back.

Mr. O'HEARN. Well, there was a little bit of an act that went with it, whirlpool treatments and the like. They might be out a month or two. The claimant would return to work and would receive the award also.

Senator NUNN. You have testified in detail about payoffs to Scotto to prevent false workmen's compensation claims. Were there any other kind of payoffs, contract awards or anything of that nature?

Mr. O'HEARN. I was approached in the summer of 1976 by William Montella who was general manager of a subsidiary of ours. He said that he was acting strictly as a messenger for Edward Pierson, then an operations officer of Moore-McCormack Lines in Brooklyn and for Anthony Scotto. When Pittston went out of business in June of 1976,

Moore-McCormack had to find another stevedore. They put a solicitation for bids; the contract to be awarded as of October 1, 1976. Montella's message to me was McGrath could have that work if we were willing to pay Pierson and Scotto \$75,000. In short, I just told him to forget it. He came back a little later and said that now the offer was \$25,000 lump sum and a sort of rent per month as long as McGrath had the account.

Again I told him to forget it. My partners and I didn't want to go anywhere near a blatant bribery. We bid honestly on the account. We lost it in a competitive bid.

Senator NUNN. So you never got involved in any payoffs on contracts?

Mr. O'HEARN. No, sir.

Senator NUNN. Mr. O'Hearn, I want to express our appreciation to you for testifying. I want to ask Senator Nickles if he has any questions here before we dismiss you as a witness. You have been enormously helpful to us. You have cooperated.

[At this point Senator Chiles withdrew from the hearing room.]

Senator NUNN. I know you have suffered a great deal with all you have been through. I certainly wish you better luck in the future. I know you have been through a great deal and I can understand the frustrations you have had in going through this trying experience.

Mr. O'HEARN. Thank you.

Senator NICKLES. Mr. O'Hearn, if I could echo those statements, that is quite a statement of record as far as what you went through after the passage of the Longshoreman's Act. A very, very vivid and valid one. I can tell you, too, that your words were listened to with great intent and that I have been in contact with Congressman Erlendorn. We are going to take a look at the review and oversight of that act in our committee and in the House likewise, hopefully. Hopefully we can eliminate some of the abuses that have been happening in your industry and have multiplied throughout the entire maritime industry.

Is your business still going now?

Mr. O'HEARN. Yes, sir.

Senator NICKLES. Is it flourishing?

Mr. O'HEARN. Well, with interest rates as high as 20 or 22 percent prime, it has been difficult, but we are profitable and the future looks pretty good.

Senator NICKLES. Do you have problems with longshoremen now?

Mr. O'HEARN. No, Senator, we don't, not that I am aware of. There has been no aspect of retaliation that I am aware of. Claims are filed. In the judgment of our people, the claims that are filed are legitimate.

Senator NICKLES. You took us through the history up through 1978. What has been your history, say, for 1979 and 1980 on? Pretty much \$300,000 or \$400,000?

Mr. O'HEARN. Well, I think it has increased above that, Senator, but not to a degree that it would come to our attention as a problem. You do have benefit escalation and manual rate escalation under the statute. Our people feel that the claims under the act are legitimate and the costs may have increased, but it would be an increase called for by inflation rather than any other factor.

Senator NICKLES. I am trying to get an idea on what kind of impact that is on your business. Do you mind me asking what kind of dollar volume, not for every year, but what you were doing in the early 1970's, mid-1970's and possibly now? You are talking about \$2 million in claims in 1974.

Mr. O'HEARN. \$1,400,000 in 1974 at one pier and in the Port of New York we probably had a 1974 volume of about \$20 million.

Senator NICKLES. A very substantial part of that business. The dollar volume—you said something about as far as your claim is, right now 65—is that \$65 per \$100, is that still current?

Mr. O'HEARN. It has gone higher in New York. My belief is it went as high as \$85 in costs of insurance for every \$100 of payroll. The last manual rate adjustment was a downward adjustment, a slight but downward adjustment, down to perhaps \$80.

Senator NICKLES. Is there a limit on a number of hundred dollars that that would stop on?

Mr. O'HEARN. No; theoretically you could go to any level. I mentioned a meeting in the office of the superintendent of insurance about Pittston. The representatives of the State fund said that in assessing Pittston's experience they determined that they would have to charge Pittston twice the manual rate as then existed in order to give Pittston insurance. That would have meant a cost to Pittston, to the best of my recollection, of approximately \$140 per \$100 of payroll.

Obviously Pittston could not survive economically with that type of cost, so it went out of business.

Senator NICKLES. And you think even today in New York we are looking at a rate of somewhere in the \$60 or \$70 range per \$100?

Mr. O'HEARN. The manual rate on the New York side of the harbor, I think, is higher than that. Probably more like \$75-\$80.

Senator NICKLES. So an individual making \$10,000, you would have to basically pay \$7,500 in worker's comp premiums?

Mr. O'HEARN. That would be a cost for a straight policy. That is why employers go self-insured. One of the fundamental reasons for that is the old analysis that of every dollar that went to the insurance company, only about 61 cents went into the claims. The employers hired their own people to handle these claims, feeling they would do so more vigorously. Our costs are now lower than that, \$70 per \$100 of payroll.

Senator NICKLES. Are all companies that you are aware of—in the first place, your union contract with longshoremen, was it mandatory all persons be members of that union?

Mr. O'HEARN. Yes, sir.

Senator NICKLES. Is that pretty much a typical labor agreement?

Mr. O'HEARN. As far as I know it is. You employ labor on the docks: they have to be ILA.

Senator NICKLES. They have to be?

Mr. O'HEARN. Yes.

Senator NICKLES. Do you have any nonunion companies?

Mr. O'HEARN. Nothing of any consequence doing stevedoring work that I am aware of. We have nonunion employees on the waterfront, but those are supervisory personnel on up.

Senator NICKLES. Do you have an individual, let's say he has been in the Florida area, Texas area, and he wants to set up a stevedoring

company in New York Harbor on the waterfront, could he set up a nonunion company? Do you think he would be subject to undue harassment from the longshoremen or other groups?

Mr. O'HEARN. I don't know about the harassment. I just don't think he could do it. I have never thought out the constraints that would prevent that. It seems to me there are legal constraints and shipping companies would refuse to deal with that contractor. I don't know where he would get the labor. I don't think it could happen.

Senator NICKLES. Let me just ask you a question to get an idea. What kind of average wage rate does, say, a longshoreman make in your type of company? Do you have any idea?

Mr. O'HEARN. I think the average hourly rate is over \$10 an hour now, straight time.

Senator NICKLES. I don't want to say for nonskilled, but ordinary manual labor.

Mr. O'HEARN. Yes, ordinary, difficult, and dangerous, manual labor.

Senator NICKLES. Very good. I want to thank you very much for your testimony and for your cooperation with the committee, and also throughout your past endeavors.

Mr. O'HEARN. Thank you, Senator. I hope your subcommittee will try to deal with this. It is very important.

Senator NICKLES. We will.

Senator NUNN. Mr. O'Hearn, thank you very much for being here today.

Tomorrow morning we will be in room 3302 at 9 o'clock.

Without objection, we will enter into the record a statement by Mr. Dennis Meenan. Mr. Meenan has agreed to this statement, signed it, and he is not going to be appearing as a witness. It will be put in the record and available.

[The statement follows:]

STATEMENT OF DENNIS A. MEENAN BEFORE THE U.S. SENATE PERMANENT  
SUBCOMMITTEE ON INVESTIGATIONS

My name is Dennis A. Meenan and I am president and 25 percent owner of Ecuadorian Line, Inc., a steamship agency operating in Port Newark, New Jersey. I have been president of Ecuadorian since the company's inception in 1975. I have been employed within the waterfront industry in various capacities since 1957 with the exception of a few years when I worked for my family's business, Meenan Oil Company, between 1971 and 1975.

Ecuadorian operates as a steamship agent and is responsible for soliciting general cargo which is being transported southbound as well as supervising the unloading of bananas from vessels northbound. Ecuadorian services ports in New York, Miami, Panama, and Guayaquil, Ecuador.

Ecuadorian uses the services of United Terminals, a stevedoring company, to perform the actual loading and unloading of bananas. The longshoremen employed by United Terminals are members of Local Union 1233 and 1235 of the International Longshoremen's Association. The president of Locals 1233 and 1235 are Carroll "Junior" Gardner and Vincent Colucci, respectively.

Regarding the operation of loading southbound cargo, Ecuadorian uses the services of a lashing company, Castelo & Sons Ship Servicing, to secure the cargo while it is in transport aboard ship. The owners of Castelo & Sons are Joseph and Manuel Castelo. I have personally known Joe and Manny Castelo for several years. I first became familiar with their services when they worked for my former employer in the 1960's, American Exporters Isbrandtsen Lines, and based on my experiences with them have used the services of their company since the inception of Ecuadorian Line, Inc.

I have been employed in the waterfront industry for over twenty years. As president of Ecuadorian, I personally made illegal cash payments of approximately \$100,000 to a union official. Ecuadorian subsequently pled guilty to nine misdemeanor charges involving violations of the Taft-Hartley Act and one felony charge of conspiracy to pay a union official. Ecuadorian was sentenced to pay a fine of \$100,000, over a 3-year period.

My first experience in which I agreed to pay a union official occurred in 1975. Manuel and Joseph Castelo advised me that, in order for their company to continue to perform the lashing services at my pier, they would have to pay Carroll "Junior" Gardner, president of Local 1233, \$1,000 a month. The Castelos suggested that the volume of work my business provided them did not warrant such an additional expense on their part. I agreed to absorb the \$1,000 a month payoff to Gardner for the Castelos. The Castelos actually paid Gardner and included the additional cost in their billings to Ecuadorian. The Castelos were an excellent lashing company and it was worth the additional \$1,000 a month to maintain their services. The entire amount of this payoff was passed on to the Ecuadorian customers, so it cost Ecuadorian nothing. This was done by adding costs in the "materials" sections of bills which were passed on to our customers by either creating a shortage of equipment delivered or by inflating the prices paid for delivered materials. In this way, the actual payoff cost of \$1,000 a month was passed on to the customers. I never inquired as to why the Castelos had to pay Gardner, nor did I ever ascertain whether such payments were actually made.

During the years 1975 through 1978, there were other instances in which I personally paid Gardner in return for influence he exercised with the longshoremen of Local 1233 who worked at my pier.

In addition to the \$1,000 Ecuadorian absorbed for payments to Gardner through the Castelos, for example, I also paid Gardner \$15,000 in August 1975. This occurred as a result of design changes I made in the unloading procedures for the banana operation. The changes increased both production for Ecuadorian as well as the number of crews who performed the unloading. I met with Gardner in June of 1975 and advised him of my plans to redesign the unloading system. Gardner advised me to proceed with the new system. In August of 1975, the first stage of the new system went into effect. I requested that Gardner be at the pier in the event the change created problems with the longshoremen. The longshoremen from both union Locals 1233 and 1235 complained of the change and stopped work. Gardner arrived at the pier and consulted with the workers and they commenced work again. Gardner then met with me and stated that he had done his part and I should do mine. He subsequently asked that I pay him \$25,000. On behalf of Ecuadorian Lines, Inc., I agreed to pay Gardner \$15,000. The money was raised through creating a fictitious payment to a cargo ship as an advance to the master, which is a cash payment made to the captain of a ship prior to its arrival. As with the monies paid to Gardner through the Castelos, this expense was also passed along and eventually absorbed by our customers. Ecuadorian did not lose any money as a result of the payoff. I agreed to make the payoff to Gardner because I had invested approximately \$85,000 in the design changes. I also believed that, without Gardner's influence with the members of Local 1233, I would continue to incur labor problems.

During 1976, I approached Gardner regarding a possible reduction in the number of permanent staff employees who were ILA members at my pier from 25 to 19. I informed him that if he could do this, I would do something for him. Gardner eventually had a total of four staff positions eliminated, which was a savings to Ecuadorian of approximately \$100,000 to \$125,000 a year. For this, I agreed to pay Gardner \$2,500 a month. I eventually arranged to pay Gardner \$7,500 every three months rather than \$2,500 each month. I entered into this deal with Gardner so that I would derive some benefit for all the moneys I was paying him. In addition to the instances already mentioned in this statement, Gardner was continually contacting me and asking me for money. I usually paid him when he would ask for money to "get him off my back." However, I finally decided that if I was going to continually pay him, I wanted some benefit. Therefore, I asked him to use his influence to reduce the number of permanent staff employees at my pier. Like the other payments to Gardner, these payoff expenses incurred by Ecuadorian were passed on to and ultimately paid by the customers.

During October and November, 1977, there existed a period of labor unrest. Some ships were working and some were not. It was not an official strike. During

this time, Gardner would contact me prior to a ship docking and advised me that if I did not want problems discharging bananas and loading cargo, he wanted money to make sure there were no problems. This occurred approximately six to eight times, and I paid him a total of about \$20,000.

The last payment I made to Gardner was \$7,500 in August, 1978. I advised Gardner that, based on advice from my counsel, I should not make any more payment to him because of the ongoing investigation. Gardner informed me that he would "keep the meter running" until after the investigation.

My dealings with Junior Gardner were the first experience I personally encountered regarding illegal payments to union officials. I was not surprised or dumfounded by the events. I agreed to pay Gardner in each instance so that the production of Ecuadorian would be improved or, at the very least, not be impaired. I conformed to this behavior with the attitude that it was the cost of doing business. I was aware that Prudential Lines, which had operated on the same pier prior to Ecuadorian, had been forced to close down its operations because of chronic labor problems. I also knew that Prudential Lines had only unloaded an average of 1,800 boxes per hour, while Ecuadorian was, without labor problems or interference with our new production methods, averaging 3,000 boxes per hour. I believe that if I did not pay Gardner, my business would suffer. In paying Gardner, I passed the payoff expenses on to the customers. Ecuadorian actually did not lose money on any of the payoffs.

I have read, reviewed, and initialed each page of this statement, and I swear to the best of my knowledge and belief that it is true and correct.

Senator NUNN. Tomorrow morning we will begin at 9 a.m. We will hear from Mr. David Rosen, Mr. Russell Bufalino, Mr. Thomas DiBella, Jr., Mr. Tino Fiumara, Mr. Michael Clemente, Mr. Anthony Scotto, and Mr. Thomas Gleason, president of the International Longshoremen's Association.

[Whereupon, at 12:55 p.m., the subcommittee was recessed to reconvene at 9 a.m., Friday, February 27, 1981.]

## WATERFRONT CORRUPTION

FRIDAY, FEBRUARY 27, 1981

U.S. SENATE,  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,  
Washington, D.C.

The subcommittee met at 9:03 a.m., pursuant to recess, in room 3302, Dirksen Senate Office Building, under authority of Senate Resolution 361, dated March 5, 1980, Hon. Sam Nunn presiding.

Members of the subcommittee present: Senator Warren Rudman, Republican, New Hampshire, and Senator Sam Nunn, Democrat, Georgia.

Also present: Senator Don Nickles, Republican, Oklahoma.

Members of the professional staff present: Marty Steinberg, chief counsel to the minority; W. P. Goodwin, Jr., staff director to the minority; Eleanore Hill and Gregory Baldwin, assistant counsels to the minority; Jack Key, Raymond Worsham, Raymond Maria, and Glenn Fry, investigators to the minority; Myra Crase, chief clerk; and Mary Robertson, assistant chief clerk.

[Members of the subcommittee present at the convening of the hearing: Senators Rudman and Nunn.]

Senator NUNN. Our first witness this morning will be a member of the staff, Mr. Marty Steinberg, who is the minority chief counsel. Mr. Steinberg, you have not been given the oath, have you?

Mr. STEINBERG. No, I have not.

Senator NUNN. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. STEINBERG. I do.

### TESTIMONY OF MARTY STEINBERG, MINORITY CHIEF COUNSEL, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Senator NUNN. Mr. Steinberg, I understand you have a staff statement. We will hear from you now.

Mr. STEINBERG. Senator, organized crime secures and maintains a viselike grip on the activities of legitimate waterfront business through the leverage gained by the power of labor unions such as the ILA.

Once organized criminals have infiltrated such a union and taken over its leadership posts, it can turn almost any business into a willing, even anxious, victim.

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This is done by using the union to create situations which are potential economic disasters for businessmen, and then graciously interceding to ease the situation they themselves created for a price.

Usually the price, while extremely large—as much as \$70,000 a year as Mr. O'Hearn testified to yesterday—is merely a fraction of what the business loss would be if the payoff were not made. In this way the businessmen actually see the payoffs as conferring an economic benefit on them, and usually come to consider the payoffs as merely another cost of doing business.

No clearer example of this can be found than the workmen's compensation situation described by Mr. O'Hearn. What Mr. O'Hearn described is only part of the picture, however, and I would like at this point to describe the full background that led to the payments to Mr. Scotto in order to make it clear just how such situations develop.

I will begin by explaining Mr. Rosen's history with McGrath Services, his prior associations with organized crime, the compensation claim payoffs and then subsequent relations between organized crime, Rosen, and McGrath Services.

I will explain the sources of our information as I proceed but generally they are our own investigations, FBI investigations, wire-tap recordings, surveillances, witness testimony, informant information and admissions by the participants.

If you will remember, Senator, we asked the FBI yesterday under oath if the statement we were giving was accurate, and they said, yes, to the best of their knowledge.

Besides Mr. O'Hearn, the three officers and directors of McGrath Services who later became enmeshed in the Scotto workmen's compensation payoffs are Heiman Gross, Edward Wallach and Robert Nicol.

They stated to the staff of this subcommittee, and independent FBI investigation confirms, that they first met David Rosen in 1971. Mr. Gross was then a consultant specializing in mergers. Mr. Rosen and his partner, Mr. Weinstock, wanted to sell or merge their company, Metropolitan News. Metropolitan News was a company in New York City which distributed the various New York newspapers, such as the New York Times, the Wall Street Journal, the Daily News, the National Enquirer, El Diario and various other foreign language newspapers. Metropolitan News distributed over 110 different publications on a daily or weekly basis.

Mr. Gross obtained business partners, including Mr. Nicol and Mr. Wallach, and, in effect, bought Metropolitan News. Part of the deal was that Rosen would be permitted to hold substantial shares and be an officer in the new company called Metropolitan News Corp. or MNC. The purchase price was \$4.8 million.

In September 1972 Mr. Gross became interested in a stevedoring company called McGrath Stevedoring Co. The purchase price was \$18 million. When the group of partners bought McGrath part of the loan requirement dictated that MNC be merged into the new company so that the MNC cash flow would offset any outstanding loan balance.

MNC was merged into McGrath Services in exchange for stock and the parent company, McGrath Services Corp., was formed. As a re-

sult of the stock swap, David Rosen became a stockholder in the parent company along with people who held stock for him as nominees.

Prior to the merger, Walter O'Hearn had been an officer in McGrath Stevedoring Co. His grandfather had started that company. Because of his expertise and knowledge, Mr. O'Hearn became president and chief executive officer of McGrath Services.

David Rosen and his group of nominees controlled approximately 22 percent of the parent company.

The operation was set so that Rosen, who had operated Metropolitan News, could take care of MNC, the newspaper distribution subsidiary. Walter O'Hearn, who had run the McGrath Stevedoring Co., would run the stevedoring subsidiary of the parent company.

The first indication to his parents that Mr. Rosen might be involved in questionable activities arose in 1972, when Mr. Wallach informed Rosen that as one of the chief operating executives, the bank required the company to take out a "key man" life insurance policy on Rosen for \$1 million. Mr. Rosen was very unhappy about this and told Mr. Wallach that there had once been a murder contract out on his life.

Then in 1973 and 1974, MNC started experiencing tremendous labor problems with the New York Newspapers & Mail Deliverers Union. The NMDU, as it was called, at times was extremely violent and damaging to MNC employees and property.

Also at times the union caused a shutdown of MNC services. Company records clearly reflect these problems. George Fox and Douglas LaChance ran the NMDU, and Rosen told the partners that they were giving him trouble. Around this time, Rosen hired an individual known as John Francis as a "labor consultant."

In the manner in which Mr. Rosen talked of Francis, the partners believed Francis to be a hired goon. Intelligence resources contacted by the staff of this subcommittee have advised that Francis is an associate of the Russell Bufalino organized crime group. This is confirmed by the Federal, State, and local law enforcement authorities.

Mr. Rosen's contacts with the Bufalino faction predate the hiring of Francis, although they relate from the beginning to the "fixing" of labor problems. According to Rosen's former partners in McGrath Services, Mr. Rosen told them in 1975 that in prior years he had established contact with Angelo Bruno, the former head of the organized crime faction in Philadelphia, and with Russell Bufalino. Rosen said he had met Bruno when the old Metropolitan News Co. had some union problems in Philadelphia which affected their distribution of newspapers. In 1975, Rosen told Nicol that Bruno had helped him straighten out these problems.

According to an FBI investigation, and admissions by some of the participants, at the same time Rosen hired Bufalino associate John Francis as his "labor consultant," and while Rosen was experiencing his problems with NMD union officers Fox and LaChance, Bufalino arranged to hire two "hitmen" to kill Fox and LaChance.

According to the "hitmen" themselves, who have been interviewed concerning these events, they traveled at Bufalino's orders to New York in 1974 and contacted the McGrath "labor consultant," John Francis. They relayed to him Bufalino's orders to establish an alibi for

them in the event that they could carry out the contract on one of the union officers.

During the next few weeks, the hitmen met with John Francis and Larry Bufalino. Larry Bufalino is the nephew of Russell Bufalino and was then a foreman for Rosen's company at Metropolitan News.

Francis told the hitmen that they would be paid \$40,000 for killing the two union officers, Fox and LaChance. In attempts to arrange this contract, many meetings were held at Vesuvio's Restaurant in New York City.

According to the hitmen, most of these gatherings were attended by Francis, Larry Bufalino, Russell Bufalino, David Rosen, and the hitmen.

During one luncheon Rosen was observed signing over to Francis what appeared to be \$40,000 in bonds. Also discussed at the luncheons was the feasibility of paying off LaChance and Fox to alleviate the problem. The figure of \$100,000 was discussed. Ultimately, a peaceful settlement was reached, due to Bufalino's intervention, and the murder contracts were canceled.

As far as McGrath Services' problems were concerned, these union problems were ended after Rosen, with the help of Bufalino, contacted Joe Beck, an organized crime figure who Rosen stated controlled the NMD Union officers.

The FBI confirms that Bufalino interceded to help Rosen with his union problems if Rosen agreed to pay off.

Joe Beck, who is described as controlling the NMD Union officers, is also known as Joseph DiPalermo, has a criminal record dating back to 1925, that includes arrests for Federal alcohol violations, homicide, sale of gas ration coupons during World War II, possession of counterfeit money, securities fraud, aiding a fugitive in avoiding prosecution and narcotics violations.

The head of his own trafficking group, he is considered a leading organized crime figure in New York City, is a member of the Lucchese/Tramunti La Costa Nostra family and has been associated with members of the Vito Genovese LCN family of New York.

In 1963, the Permanent Subcommittee on Investigations' hearings on Organized Crime and Illicit Traffic in Narcotics identified Joseph DiPalermo, Charles DiPalermo, and Santo Trafficante, Jr., as smuggling French-processed heroin to New York City through Cuba and Miami.

Beck was sentenced to serve 15 years as a result of a narcotics conviction. He also has convictions for violating Federal liquor laws and counterfeiting laws.

Federal law enforcement officials confirmed to this subcommittee that Joe Beck had substantial influence over certain NMDU officers such as LaChance.

After Bufalino's intervention, Rosen received assurances from Beck and the partners later discovered in 1976 that Rosen had been paying off LaChance about \$1,000 a month as part of the settlement to end the union violence and work stoppages in exchange for canceling the contracts on Fox and LaChance.

These contacts between Rosen and organized crime figures have been corroborated by a court-authorized wiretap conducted by the rackets bureau of the Manhattan district attorney's office.

During January-February 1975 that office conducted that tap on telephones in Vesuvio's Restaurant in New York City.

In one conversation on February 10, 1975, between Russell Bufalino and Eddie Sciandra, a Bufalino crime family capo, Sciandra spoke of "our friend Rosen" in apparent reference to arranging a meeting with an unnamed party concerning the handling of a union matter.

Later on that same day, Rosen was intercepted speaking to Sciandra. During that conversation, Mr. Rosen spoke of George and Doug and an apparent meeting that evening. Rosen in his conversation with Bufalino Cupo Sciandra, was referring to George Fox and Douglas LaChance, the same two officers of the NMDU who had been causing so many union problems and the same two men the murder contracts had originally been ordered for.

The following day, at 5:05 p.m., Mr. Rosen was seen by a law enforcement officer meeting with Sciandra. This was not the first such observation. On February 3, 1975, Mr. Rosen was seen meeting with Mr. Sciandra and John Francis. The observing officer reported that money was discussed by these three men. The meeting lasted about 3 hours.

These contacts, payoffs and meetings by Rosen comprised the basic situation in late 1974 when another new and more serious labor problem confronted McGrath Services. At that point, Rosen's organized crime contacts were in place and in full working order. They were soon to be utilized again.

During 1974 and into 1975, McGrath Stevedoring Subsidiary, headed by Mr. O'Hearn, began experiencing a tremendous volume of workmen's compensation claims under the Longshoremen and Harbor Workers Act. The company officers noticed a pattern of the use of the same doctors and lawyers appearing in most cases.

The company tried every safety technique known, but the claims kept rising dramatically. The company executives noticed that the workmen who got hurt, even though living in extremely diverse geographical areas, always ended up at the same doctor or lawyer. Moreover, the alleged injuries suffered were all nonvisible, soft tissue injuries and were impossible to prove or disprove.

The partners asked Walter O'Hearn to seek union help. O'Hearn met with Anthony Scotto. After this meeting O'Hearn came back and told his partners that Scotto wouldn't help them out. O'Hearn also sought help from the New York Waterfront Commission, also without success to the point where the company was in real financial trouble in New York. The partners stated that they operated in 26 other ports, but didn't experience any similar problems.

Around this time David Rosen was taking more and more of an interest in the parent company and the McGrath Stevedoring Subsidiary, and began attending meetings with Wallach, Gross, and O'Hearn.

During one meeting in early 1975, Mr. O'Hearn told the others about the facts behind the claims and how he felt it was a "racket." Gross

said that if it was a racket, it was killing them and they should report it to the authorities.

David Rosen interjected and told the other officers not to go to the authorities because if they did, it might really kill them. He told the partners he would check with a source of his in Philadelphia and get back to them.

Rosen told his partners at this point that he felt that he was the only one of them who was "street wise" enough so that he believed he could solve the McGrath problems more effectively with his criminal contacts than his partners could by recourse to legitimate authorities.

The FBI has reported that Rosen met with Russell Bufalino, and Russell Bufalino told Rosen to go see Tommy DiBella, Jr., about the workmen's compensation problems.

Tommy DiBella, Jr.'s father, Tommy DiBella, Sr., was the acting head of the Colombo organized crime family. Bufalino introduced Rosen to DiBella, Jr., at Vesuvio's Restaurant. Mr. Rosen explained the fraudulent claims problem to DiBella. After the initial meeting, Mr. DiBella recontacted Mr. Rosen and told him that a claims racket did exist and that in order to control it, it would be necessary to make payoffs. Arrangements were made for Rosen to meet with Anthony Scotto, who DiBella said controlled the fraudulent claims racket and who the company would have to pay off.

In March of 1975, Mr. Rosen met with Wallach, Gross, and O'Hearn. Nicol was out of town at this time. At this meeting Rosen said he had talked to his "Philadelphia people." Rosen said the Philadelphia people confirmed that it was a fraudulent claims racket and that it was being run by Anthony Scotto. Rosen told O'Hearn to arrange a luncheon meeting with Scotto. O'Hearn arranged the meeting for O'Hearn, Rosen, Scotto, and Anthony Anastasia to meet for lunch. Nothing was discussed, except polite social talk.

In late March or early April, O'Hearn was told by Rosen that he, Rosen, had been secretly meeting Scotto and had made a deal with Scotto to get the fraudulent workmen's compensation claims stopped. The deal called for payments of \$5,000 a month or \$15,000 a quarter to Scotto. Rosen said he already made one "good faith" payment to Scotto.

When Nicol finally returned to New York City in May, 1975, Mr. O'Hearn told him about Rosen's meetings with Scotto and the payoff arrangement. Once he heard this, Nicol immediately went to Rosen and asked him about the Scotto payoff deal.

Rosen said he was "street wise" and they—the other company executives—were not. Rosen said that he knew how to handle these problems and that he had many friends in Philadelphia, including Angelo Bruno—former head of the family.

It was at this point that Mr. Rosen began to admit to his partners about his organized crime connections, saying that he had met Bruno years ago when the Metropolitan News Co. had some union problems in Philadelphia that affected their distribution of newspapers. Mr. Rosen told Mr. Nicol that Bruno had helped him straighten out these problems.

Rosen said he was also very friendly with Russell Bufalino and that Bufalino and Bruno had vouched for him with Scotto. Rosen said

that Scotto belonged to a New York organized crime family and that Bruno and Bufalino were heads of Pennsylvania organized crime families.

Bruno and Bufalino, he claimed, had contacted the heads of the New York families to vouch for Rosen and make arrangements for Rosen to meet with Scotto and settle the matter of fraudulent claims by making payoffs to Scotto.

Later, in May of 1975, the partners Gross, Wallach and Nicol met with Rosen. O'Hearn was absent at this meeting. Mr. Rosen admitted at this meeting that he had met with Scotto and had made a deal to pay Scotto \$5,000 a month or \$15,000 quarterly to solve the phony claims racket. Rosen said he had already made one "good faith" payment to Scotto. Finally, becoming concerned about Rosen's criminal connections, Gross accused Rosen of bringing into the company criminal elements who would be attracted to the company like bees to honey and who would try to take over the company.

Rosen told the partners that he was confident he could handle the situation and deal with the mobsters.

The partners asked Rosen where he got the money he used to make the first payoff, but Rosen refused to tell them.

Rosen ended the meeting by telling the partners that the rules were that once a deal was made they had to stick to it or get hurt. Rosen said that if they welched on the deal, they would be hurt; and, if they squealed, they would be killed.

Rosen made it clear that O'Hearn was out front on this situation since he had the dealings with Scotto; and, that if they didn't go along, that O'Hearn would "take a long walk off a short pier."

Rosen's partners now began to become seriously alarmed about Rosen's organized crime connections, and in subsequent weeks they tried to find out just how deeply Rosen was involved in organized crime.

Nicol talked to Rosen on numerous occasions. Rosen told Nicol that he was a partner with Russell Bufalino in a real estate deal involving a New York hotel. Nicol and Wallach subsequently noticed Rosen reviewing the restaurant receipts of the restaurant which was located in the hotel which Rosen claimed he and Bufalino were partners in.

On one occasion, Mr. Rosen told Mr. Nicol that he didn't have time to talk with him because he had to go down to see a pornographic film that was being made. Rosen asked Nicol to go along with him. Nicol said, "My God, you are not into that, too, are you?"

Rosen replied that the profits were great if you had the right partners. Rosen said that the problem wasn't in making the porno movies but in the distribution end. Rosen said that in this respect he was a partner with Russell Bufalino and that Bufalino and his associates controlled the distribution of the pornographic films.

Later in May, a third meeting was held. O'Hearn, Wallach, Nicol, and Rosen attended. The subject of the meeting was to make a decision on what to do with the Scotto payoff. Rosen immediately began the meeting by telling the partners that there was no decision to make because the decision had already been made for them. Rosen told them that there would be economic as well as physical retribution if the payoff deal fell through.

Shortly after this Rosen got a wiretap notice that he had been overheard at Vesuvio's Restaurant. This notified him of the intercepts made in January and February 1975, which have been described already. Mr. Rosen was extremely upset and told the partners that this was his meeting place with Russell Bufalino, but he refused to disclose to his partners what he had been discussing with Bufalino at the restaurant.

The partners met without Rosen in mid-1975 and decided on two things: One, as a long-term objective, they had to get Rosen and his hoodlum associates out of the business, and, two, on a more immediate basis, one of them would have to carry through with the Scotto payoff deal because if they allowed Rosen to continue, it would only increase the possibility of organized crime moving further into their company.

The partners convinced Walter O'Hearn to make the Scotto payoffs since O'Hearn was the most familiar with the stevedoring company. O'Hearn resisted, but for the good of the company, he agreed, mainly to get Rosen out of the picture. Thereafter, for a substantial period of time, the company paid Scotto between \$60,000 and \$70,000 per year. As soon as the first payments were made, the workmen's compensation claims dropped dramatically from approximately \$1.4 million yearly to about \$300,000 yearly.

Finally, in 1976, Rosen resigned as an employee and director after being put under pressure by the rest of the partners. However, Mr. Rosen still owns substantial stock which the partners are attempting to purchase.

In 1978, the specter of Mr. Rosen and his associates once again crossed the path of McGrath Services Corp.

In 1978, the pressmen struck the New York City newspapers such as the Times, the Post, the Daily News, and the other dailies. The city was without a daily newspaper and MNC, the McGrath subsidiary, was without papers to distribute.

During this time period, enterprising entrepreneurs opened up interim papers and MNC wanted to distribute them until the strike ended. In order to do this, MNC would have to deal with the NMDU and its officer, Douglas LaChance, the same person who had been the subject of the previous unexecuted mob contract and who later was paid off by Rosen to end the union problems.

MNC had a labor consultant named Leon Bronstein. Bronstein was already familiar with dealing with LaChance and the NMDU. It was he who acted as Rosen's bagman and delivered monthly payoffs to LaChance for labor peace in prior years.

Bronstein met Gross at LaChance's office. Bronstein told Gross that LaChance would manipulate the union if the company came up with a penny a paper as a kickback on distributor's rights. In other words, it would cost a penny a paper to distribute the interim papers to replace the regular New York dailies during the strike.

In June of 1978, Nicol told Bronstein that they couldn't pay off LaChance because the FBI's waterfront investigation was heating up and it might become obvious. Bronstein said that he understood but the people behind the union, like Joe Beck, might not understand.

Bronstein again met with Gross. Gross said that they couldn't pay a penny a paper but might be willing to pay a half-penny per paper.

Bronstein told them that he thought this was much better than being forced to experience sabotage, violence and labor problems.

From prior experience with the mob control over the unions and prior sabotage and violence at MNC, the partners were well aware of the potential for disaster at the NMC subsidiary. Thus, the partners agreed to half-penny per paper as a kickback to the union, and through the union to Joe Beck to allow MNC to distribute the interim papers. This half-penny per paper amounted to approximately \$11,000 per week.

Gross himself made every payment for the length of the strike. Every week LaChance would arrange to come to the office of MNC. Gross would leave an envelope of money in a certain drawer in a desk and then leave the office. LaChance would go to the office and leave very shortly. Gross would go back to the desk and find the envelope full of money missing on each occasion.

Bronstein told Nicol that this whole operation had been cleared with Joe Beck.

During this payoff the partners were reminded that in 1976, toward the end of David Rosen's active participation in the company, MNC had a problem with the distribution rights on a popular Spanish language newspaper called El Diario.

Shortly after LaChance became president of NMDU, El Diario announced that it no longer wanted MNC to distribute its newspapers. Rosen had tried to make a deal with the union to payoff to keep the distribution rights of El Diario. At one time, when Rosen was distraught over this situation, he told his partners, "They told me I'd keep it. They told me I wouldn't lose it."

When the partners asked Rosen what he was talking about, Rosen told them that Joe Beck was a mob guy who controlled the NMDU and that Beck had promised Rosen that he wouldn't lose El Diario.

Bronstein later confirmed this by saying that any change in the union had to be cleared by Joe Beck.

As a result of the loss of the El Diario business, the partners had to lay off approximately 25 drivers since they had less papers and areas to distribute. Even though the contracts allowed them to lay off union drivers when work reflected the need to do so, the partners were told that if they didn't want violence, sabotage and work stoppages, they had to pay off \$3,000 for every man laid off.

These orders, they were told, came from Joe Beck and Doug LaChance. The partners asked Bronstein why they had to pay off to let people go when the union itself caused them to lose the El Diario business in the first place and that they were already paying off \$1,000 a month. Bronstein said the \$1,000 a month was just to "join the club"—everything else was extra. MNC ended up furloughing 20 to 21 people and made a payoff of some \$75,000.

The FBI reports that LaChance was later convicted in Federal court on similar charges of taking \$330,000 in illegal payoffs from several wholesale companies which employed NMDU members. MNC was one of these wholesalers.

David Rosen pled guilty to three counts of paying and delivering money to ILA officers as a result of the UNIRAC investigation in March of 1980.

I hope that this puts Mr. O'Hearn's testimony more fully in context for this subcommittee. More importantly, I hope that it demonstrates how the leverage provided by control of a union can result in the economic control and strangulation of legitimate businesses and businessmen.

Senator NUNN. Thank you, Mr. Steinberg.

Senator RUDMAN, do you have any questions?

Senator RUDMAN. No questions, Senator.

Senator NUNN. Our next witness is Mr. David Rosen.

Is Mr. Rosen here? Is this Mr. Rosen?

We swear in all the witnesses before our subcommittee. Would you hold up your right hand, Mr. Rosen?

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ROSEN. The same.

**TESTIMONY OF DAVID ROSEN, NEW YORK, N.Y., ACCOMPANIED  
BY ROBERT HILL SCHWARTZ, COUNSEL**

Senator NUNN. Would you please state your full name and address?

Mr. ROSEN. David Rosen, 2575 Lake Avenue, Miami, Fla.

Senator NUNN. Is that your home address?

Mr. ROSEN. Yes, sir.

Senator NUNN. Do you have a business address?

Mr. ROSEN. The same.

Mr. Rosen, before we ask you any more questions, in the interests of making you aware of your obligation under the law to testify fully and truthfully at this hearing, I will point out the following matters to you.

First, the subcommittee has full legal authority to compel your testimony. Under rule 26, we have the right to require testimony by witnesses by subpoena.

In addition, Senate rule 361 expressly authorizes the Committee on Governmental Affairs and its duly authorized subcommittees, one of which is this subcommittee, to require by subpoena the testimony of witnesses.

We are providing you with copies of rule 26, Senate Resolution 361, subcommittee rules, and we have already, of course, served you with a subpoena. You should be aware of the penalties for either refusing to testify or testifying falsely. Under title 2, United States Code, section 192 for refusing to answer any question pertinent to the question under inquiry you can be prosecuted for contempt of Congress and punished by up to 1 year in prison. Under title 18, United States Code, section 1621 and other statutes, for testifying falsely on material matters you can be prosecuted for perjury or for making false statements and punished by up to 5 years in prison.

We are furnishing you copies of these statutes.

You may be represented by counsel before the subcommittee in accordance with our rules. Are you represented by counsel?

Mr. SCHWARTZ. Senator, may I introduce myself? My name is Robert Hill Schwartz and I am appearing here as counsel for David Rosen. I

am admitted to the bars in the States of California and New York with offices in New York City.

Senator NUNN. Thank you.

Mr. ROSEN, is Mr. Schwartz representing you here this morning?

Mr. ROSEN. Yes.

Senator NUNN. In addition you have the privilege under the fifth amendment of the Constitution not to incriminate yourself in any testimony you give before this subcommittee.

Do you understand your rights and obligations as a witness before this subcommittee?

Mr. ROSEN. Yes, Senator.

Senator NUNN. Mr. Rosen, have you pleaded guilty to charges related to the UNIRAC investigation?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator NUNN. You are claiming your fifth amendment privileges?

Mr. SCHWARTZ. Senator, I am sure the Senate is familiar with the U.S. Constitution from which Mr. Rosen is reading, and that is the language of the fifth amendment of that U.S. Constitution.

Senator NUNN. Thank you, Mr. Schwartz.

In 1972, after you became an officer in the parent company and were told that the banks would require a keyman life insurance policy, did you tell your partners that this concerned you because there had once been a murder contract out on your life?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, do you know Russell Bufalino?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, do you know Angelo Bruno, now deceased, former head of the Philadelphia organized crime family? Do you know him? Did you know him?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, to resolve the labor problems NMC faced, did Russell Bufalino, Larry Bufalino, John Francis, and yourself arrange to hire two hitmen to eliminate Doug LaChance and George Fox?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, did Russell Bufalino finally solve your labor problems with the NMDU by contacting Joe Beck, a high-ranking Lucchese family who controlled certain officers of the NMDU?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, in 1974 and 1975, we have heard testimony that McGrath Stevedoring Co. began experiencing a tremendous volume of workmen's compensation claims and that because of your previous association with Russell Bufalino and Angelo Bruno, now deceased, you offered to look into this situation. Did you look into it and contact Russell Bufalino?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Did Bufalino set up a meeting at Vesuvio's Restaurant between you and Tommy DiBella, Jr., whose father, Tommy DiBella, Sr., was the acting head of the Colombo organized crime family?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator NUNN. After this meeting where you explained the claims problems to DiBella, did DiBella contact you and confirm to you that the ILA workmen's compensation claims was a racket and that in order to control it, you would have to pay off Anthony Scotto who controlled this racket?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator NUNN. Mr. Rosen, we have many questions we would like to ask you this morning. We obviously heard your name come up in this investigation many times. We felt there were many things that you could explain to this subcommittee. Obviously you are asserting your rights under the Constitution, which you have the right as a witness to do. I will ask you a couple more questions and turn to Senator Rudman.

Did you meet with Anthony Scotto and agree to have McGrath Services Corp. pay him \$60,000 to \$70,000 per year in order to eliminate the fraudulent workmen's comp racket?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator NUNN. Did you tell your fellow stockholders in McGrath Services that they would have to pay off because if they did not live up to the deal you made with Scotto the mob would hurt them, both physically and economically?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Senator Rudman.

Senator RUDMAN. Mr. Rosen, would you repeat your Miami address for me, please?

Mr. ROSEN. 2575 Lake Avenue.

Senator RUDMAN. Would you pull that microphone a little closer? I can't hear you.

Mr. ROSEN. 2575 Lake Avenue.

Senator RUDMAN. Did you also state in response to Senator Nunn's question that that is your business address?

Mr. ROSEN. Yes, sir.

Senator RUDMAN. Can you describe for the committee your current business?

Mr. ROSEN. Senator, I respectfully decline to be compelled to be a witness against myself.

Senator RUDMAN. Are you married, Mr. Rosen?

Mr. ROSEN. Yes, sir.

Senator RUDMAN. Is your wife in your business with you?

Mr. ROSEN. Senator, I respectfully decline to be compelled to be a witness against myself.

Senator RUDMAN. Mr. Rosen, would you tell us what percentage of McGrath Services you presently own?

Mr. ROSEN. Senator, I decline to be compelled to be a witness against myself.

Senator RUDMAN. Mr. Rosen, would you tell us the last time you were in New York City?

Mr. ROSEN. I decline to be compelled to be a witness against myself.

Senator NUNN. Thank you, Mr. Rosen.

Thank you, Mr. Schwartz.

Mr. SCHWARTZ. Thank you, Senator.

Senator NUNN. Our next witness is Mr. Russell Bufalino. Is Mr. Bufalino in the room?

I understand he will be brought in.

Mr. Bufalino, would you hold up your right hand. We swear all witnesses before the subcommittee. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help your God?

Mr. BUFALINO. I do.

TESTIMONY OF RUSSELL BUFALINO, KINGSTON, PA., ACCOMPANIED BY CHARLES GELSO, COUNSEL

Senator NUNN. Would you state your name, please?

Mr. BUFALINO. My name is Russell Bufalino.

Senator NUNN. Could you give us your current address, Mr. Bufalino?

Mr. BUFALINO. 304 East Dorn Street, Kingston, Pa.

Senator NUNN. Mr. Bufalino, in the interest of making you aware of your obligation under the law to testify fully and truthfully at this hearing, I will point out the following matters to you.

First, the subcommittee has full legal authority to compel your testimony. Under rule 26 we have the right to subpoena the testimony of witnesses. We also have the right under Senate Resolution 361 to require by subpoena the testimony of witnesses before this subcommittee. We are providing you a copy of those rules.

You should be aware of the penalties for either refusing to testify or testifying falsely.

Under 2 United States Code 192 for refusing to answer any question pertinent to the question under inquiry, you could be prosecuted for contempt of Congress and punished by up to a year in prison. Under 28 United States Code 1621 and other statutes for testifying falsely on material matters you can be prosecuted for perjury or for making false statements and punished by up to 5 years in prison.

You may be represented by counsel, to receive legal advice concerning your response to our inquiry.

Are you represented by counsel?

Mr. BUFALINO. Yes.

Mr. GELSO. Senator, my name is Charles Gelso. I represent Mr. Bufalino and I have so advised this committee by correspondence to its chief counsel.

Senator NUNN. Thank you.

Could you give us your firm name and address?

Mr. GELSO. I am in private practice by myself, Senator. My address is 1200 United Penn Bank Building, Wilkes-Barre, Pa. I am a member of the Pennsylvania Bar.

Senator NUNN. Thank you.

Mr. Bufalino, you have a right under subcommittee rules to consult counsel before you answer any question. You also have the right to not incriminate yourself in any criminal matter by virtue of your testimony before this subcommittee. Do you understand your rights and obligations as a witness before this subcommittee?

Mr. BUFALINO. Yes, sir.

Senator NUNN. Mr. Bufalino, are you head of an organized crime family operating out of western Pennsylvania?

Mr. BUFALINO. On advice of counsel, I will exercise my right to the fifth amendment and respectfully decline to answer any questions.

Mr. GELSO. If I may interrupt one moment, Senator, I have advised this committee in writing that there are presently Federal proceedings pending against Mr. Bufalino. On my advice Mr. Bufalino intends to exercise his fifth amendment rights to every question you ask him. It is my opinion that every question you ask him, to force him to exercise his fifth amendment before the media will substantially prejudice those pending Federal proceedings. I ask the subcommittee to take this representation from me as Mr. Bufalino's counsel that he intends to exercise his fifth amendment right to every question you ask and to cease questioning at this time.

Senator NUNN. I would ask the counsel to respond to this particular request by Mr. Bufalino's attorney.

Mr. STEINBERG. On February 20, 1981, I received a letter requesting the subcommittee to dismiss Mr. Bufalino's appearance on a number of grounds. Most of these grounds are irrelevant and need no discussion. The last reason Mr. Bufalino's attorney gave was that Mr. Bufalino faced an upcoming trial in the southern district of New York, which would commence shortly. He stated that the national publicity about Mr. Bufalino's appearance before the subcommittee would seriously impair the ability to select a fair and impartial jury. He added that he would make a motion to dismiss based on the publicity of Mr. Bufalino's subcommittee appearance.

On that date I telephoned Mr. Bufalino's attorney, Charles P. Gelso. I asked him what trial Mr. Bufalino faced. He stated that the trial was the *United States v. Bufalino and Rizzatello*. He stated this was a charge of obstruction of justice which related to Mr. Bufalino's prior conviction for extortion.

I asked Mr. Gelso when the trial was scheduled to begin since he claimed that the pretrial publicity would affect the impending trial. Mr. Gelso stated that the trial date has not even been set and upon further questioning stated that motions were pending and had not been decided yet.

After talking with Mr. Gelso, I called the assistant U.S. attorney in charge of the *Bufalino* case, Barbara Jones. I explained to her the purpose of Mr. Bufalino's appearance before our subcommittee. She stated to me that the subject matter of our inquiry was not related in any way to Mr. Bufalino's pending charges.

In response to questioning, she also stated that no trial date had been set and that there is no impending trial. She also stated that she concurs with the opinion of the subcommittee staff that the publicity Mr. Bufalino will receive, if any, will not be such as to prevent him from receiving a fair and impartial trial in the New York area.

Mr. GELSO. If I may respond?

Mr. STEINBERG. She stated that the publicity more than likely would be over in a short amount of time, well before any jury is selected in *Mr. Bufalino's* case. Moreover, she stated that although Mr. Bufalino was well known in certain criminal circles, he is not exactly a household word in the southern district of New York. And that 12 jurors

would be chosen very easily who had never even heard of Russell Bufalino.

Based on this and our own research of the legal situation involving pretrial publicity, I recommend that we have Russell Bufalino appear before the subcommittee to respond to questions which are not in any way related to the charges he will face in his upcoming Federal trial.

From a review of the pertinent cases concerning pretrial publicity, Mr. Bufalino's claim appears to be frivolous at best.

Mr. GELSO. I would just respond concerning the imminence of that Federal trial. Under the Speedy Trial Act, that trial would have to commence within the next 30 days.

Senator NUNN. I am not going to ask Mr. Bufalino a lot of questions, but I do have certain essential questions I think he should answer. We would hope he would answer them before the subcommittee. I understand the position of counsel, and we will hear from Mr. Bufalino and, of course, he is, I have already explained, entitled to exercise his constitutional rights.

Mr. Bufalino, are you currently serving a prison sentence?

Mr. BUFALINO. I respectfully decline to answer the questions on the fifth amendment.

Senator NUNN. Do you know Mr. David Rosen?

Mr. BUFALINO. The same answer.

Senator NUNN. Do you know Thomas DiBella, Sr.?

Mr. BUFALINO. The same answer.

Senator NUNN. Do you know Mr. Thomas DiBella, Jr.?

Mr. BUFALINO. Same answer.

Senator NUNN. I would appreciate it if you would give the answer.

Mr. BUFALINO. The answer is that on advice of counsel I exercise my fifth amendment right and respectfully decline to answer any questions.

Senator NUNN. Mr. Bufalino, did you, along with Angelo Bruno, now deceased, assist David Rosen when he had labor problems which hurt his newspaper distribution company, then called Metropolitan News by arranging for two hitmen to eliminate the union officials in the Newspaper and Mail Deliverers Union who were causing Mr. Rosen's New York labor problems?

Mr. BUFALINO. Same answer.

Senator NUNN. Mr. Bufalino, did you, along with your nephew, Larry Bufalino, John Francis, David Rosen, and the hitmen meet at Vesuvio's Restaurant to make arrangements for these contract killings?

Mr. BUFALINO. On advice of counsel, I exercise my fifth amendment right and respectfully decline to answer any questions.

Senator NUNN. Mr. Bufalino, do you know Anthony Scotto?

Mr. BUFALINO. Same answer.

Senator NUNN. Did you or DiBella receive any gratuity for arranging a payoff scheme with Scotto?

Mr. BUFALINO. Same answer, Senator.

Senator NUNN. Mr. Bufalino, we had hoped you would testify before this subcommittee. We felt you could shed light on the subject under inquiry. You are exercising your rights under the fifth amendment. We respect those rights.

Senator Rudman, do you have any further questions?

Senator RUDMAN. No questions for this witness, Senator.

Senator NUNN. I have just one or two other questions, Mr. Bufalino. Did you or your associates distribute pornographic films in conjunction with David Rosen?

Mr. BUFALINO. On advice of counsel, I will exercise the right of the fifth amendment and respectfully decline to answer any questions.

Senator NUNN. The witness is dismissed.

Mr. GELSO. Thank you, Senator.

Senator NUNN. Our next witness is Mr. Tom DiBella, Jr.

Mr. DiBella, will you hold up your right hand, please. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DiBella. I do.

**TESTIMONY OF THOMAS DiBELLA, JR., STATEN ISLAND, N.Y.,  
ACCOMPANIED BY SANTO SGARLATO, ATTORNEY**

Senator NUNN. Could you state your name, please?

Mr. DiBella. Thomas DiBella, Jr.

Senator NUNN. Would you give us your current address, Mr. DiBella?

Mr. DiBella. Yes; 20 Adlai Circle, Staten Island, N.Y.

Senator NUNN. Is that your home address or your business address?

Mr. DiBella. That on the advice of counsel and the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I may give might tend to incriminate me.

Senator NUNN. Mr. DiBella, you already answered the question about your business or home address and I am just simply asking you whether that is your business or your home address. Do you think that would incriminate you?

Mr. DiBella. That on the advice of counsel and under the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I might give may tend to incriminate me.

Senator NUNN. Mr. DiBella, I planned to read to you the rules and obligations of a witness before this subcommittee. Obviously you have already been advised. You do have the obligation to testify truthfully. You have the right to claim your privilege of not incriminating yourself in any criminal proceeding. You may be represented by counsel.

Do you have counsel representing you here this morning?

Mr. DiBella. Yes.

Mr. SGARLATO. Santo Sgarlato, Brooklyn, N.Y.

Senator NUNN. Could you give us your firm name and address?

Mr. SGARLATO. Private practice, same address. I sent the letter into the subcommittee.

Senator NUNN. Your letter will be made a part of the record without objection.

[The information to be furnished follows:]

LAW OFFICE OF SANTO R. SGARLATO, JR.,  
Brooklyn, N.Y., February 11, 1981.

Re Thomas DiBella.

SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON  
GOVERNMENTAL AFFAIRS,  
Russell Senate Office Building,  
Washington, D.C.

(Attention William V. Roth, Jr., chairman).

DEAR MR. ROTH: Please be advised that I intend to appear with one Thomas DiBella, who received a notice to appear on February 25, 1981, to testify on matters under consideration by your committee.

I am admitted to practice in the State of New York and have been admitted to practice in the United States Supreme Court of America since April 29, 1963.

I am requesting this committee's permission to represent said Thomas DiBella at this hearing.

Please advise this office if there is any procedure that I should be advised of or any other details that I should be aware of before appearing on the date set for this hearing.

Yours truly,

SANTO R. SGARLATO, JR.

Senator NUNN. Could you give us your last name?

Mr. SGARLATO. S-g-a-r-l-a-t-o.

Senator NUNN. Is Mr. Sgarlato representing you here this morning, Mr. DiBella?

Mr. DiBella. Yes, sir.

Senator NUNN. Mr. DiBella, we had hoped to have you testify fully before this subcommittee. We had many things we wanted to ask you. Your name has come up several times in the course of the hearings we have had over the last 2 weeks. Are you a member of an organized crime family?

Mr. DiBella. That on the advice of counsel and the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I may give might tend to incriminate me, Senator.

Senator NUNN. Do you know Russell Bufalino?

Mr. DiBella. That on advice of counsel and any privilege and right granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I may give might tend to incriminate me.

Senator NUNN. Mr. DiBella, is your father Tommy DiBella, Sr., the acting head of the Colombo family?

Mr. DiBella. That on the advice of counsel and by the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I give might tend to incriminate me, Senator.

Senator NUNN. Mr. DiBella, just a couple more questions. Do you know Anthony Scotto?

Mr. DiBella. That on the advice of counsel and by the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that answers I may give might tend to incriminate me, Senator.

Senator NUNN. Mr. DiBella, did you vouch for David Rosen and set up a meeting between Rosen and Anthony Scotto so Rosen could arrange to pay off Scotto to eliminate the workmen's compensation fraudulent claims racket?

Mr. DiBella. On the advice of counsel and the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I may give might tend to incriminate me, Senator.

Senator NUNN. Mr. DiBella, I have one other question. How did you as a member of the Colombo family arrange for Rosen to make a payoff to Scotto, who is allegedly a capo in the Gambino family?

Mr. DiBella. That on the advice of counsel and the privileges and rights granted to me under the Constitution of the United States of America, I hereby refuse to answer any questions asked of me by this subcommittee on the grounds that any answers I may give might tend to incriminate me, Senator.

Senator NUNN. Senator Rudman?

Senator RUDMAN. No questions.

Senator NUNN. The witness is dismissed.

Our next witness is Mr. Raymond Maria, staff member of the subcommittee. We heard from Mr. Maria before. Mr. Maria, do you understand you have already taken the oath?

Mr. MARIA. Yes; I do.

Senator NUNN. Do you understand the testimony you give here today is still under oath?

Mr. MARIA. Yes; I do.

Senator NUNN. We ask you to briefly summarize the background statement that you have.

#### FURTHER TESTIMONY OF RAYMOND MARIA

Mr. MARIA. Mr. Chairman, I will summarize the criminal background of Mr. Tino Fiumara, who will be the next witness. Tino Fiumara, born August 11, 1941, FBI #467158D, formerly resided in Wyckoff, N.J. and currently is confined at the Federal Penitentiary, Leavenworth, Kans. He has a lengthy arrest record dating back to 1959 with convictions for assault and battery; breaking and entering; gambling; extortion; and racketeering.

Federal, State, and local law enforcement agencies classify Fiumara as a captain or "capo" in the Genovese family of La Costa Nostra. Their investigation reveals that family boss, Frank "Funzi" Tieri, appointed Fiumara as the supervisor of the family's shakedowns and other illegal ventures on the waterfront in northern New Jersey. Despite his relative youth, age 39, Fiumara occupies a ranking position within the family hierarchy. Such accelerated promotion has been directly attributed to his willingness and desire to use any means, even murder and torture, to further the family's ends.

Documents in Federal court reveal that Fiumara is alive today because Johnny Key Simone of the Angelo Bruno family interceded in Fiumara's behalf in the late 1960's and prevented the family from killing Fiumara in retaliation for his unauthorized "hits" of Peter

"Flat Nose" Martello and the two Colucci brothers, "Patsy" and Nicky.

Although never an ILA official and claiming to be a part-time salesman for an auto body repair shop, Fiumara controlled the day-to-day activities of ILA International and local officers Carol Gardner, Vincent Colucci, and Thomas Buzzanca. In an FBI tape-recorded conversation, Buzzanca explained that Fiumara's elevation in the mob was directly attributable to Fiumara's dangerous, violent nature. Buzzanca, as an ILA international officer and local union president, professed blind devotion for Fiumara and stated that he would do anything in the world for him.

Carol Gardner, also a convicted ILA international vice president and local union president, professed allegiance to Fiumara, the acknowledged mobster. In referring to Fiumara in an FBI tape-recorded conversation Gardner said, "I love him. . . . I'm really loyal to him."

Fiumara instills such fear among his associates that he was able to demand allegiance and loyalty from ILA international vice president and local union president, Vincent Colucci, even though Fiumara is credited with killing his two brothers.

In November 1979, Fiumara was sentenced to 20 years confinement for extortion of a New Jersey restaurant owner. In May 1980, he was convicted of waterfront racketeering and extortion and sentenced to 25 years. The sentencing judge, Leonard B. Sand of the southern district of New York, concluded that Fiumara posed such a threat to the community that he jailed Fiumara immediately after conviction and before sentencing.

Senator NUNN. Thank you, Mr. Maria.

Our next witness is Mr. Tino Fiumara.

Mr. Fiumara, we swear in all the witnesses before our subcommittee. So before you have a seat, would you please hold up your right hand? Do you swear the testimony you give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God? Could you answer?

Mr. FIUMARA. Yes.

Senator NUNN. You can have a seat.

Mr. Fiumara, in the interest of making you aware of your obligation under the law to testify fully and truthfully at this hearing, we are pointing out the following matters to you.

First, the subcommittee has full legal authority to compel your testimony. The Senate subcommittees are authorized by standing rule 26 to require that by subpoena the testimony of witnesses and this subcommittee is part of a duly authorized standing committee that is authorized under Senate Resolution 361 to compel by subpoena the testimony of witnesses. You should be aware of the penalties for either refusing to testify or testifying falsely.

Under 2 U.S. Code 192 for refusing to answer any questions pertinent to the question under inquiry, you can be prosecuted for contempt of Congress, punished by up to 1 year in prison.

Under 18 U.S. Code 1621 and other statutes for testifying falsely on material matters, you can be prosecuted for perjury or for making false statements and punished by up to 5 years in prison. You may

be represented by counsel in accordance with the rules of our subcommittee.

Are you represented by counsel this morning?

Mr. FIUMARA. Yes.

Senator NUNN. Would counsel introduce himself. If you could pull that mike up, Mr. Fiumara, as close as you can.

Mr. McALEVY. My name is Dennis McAlevy, offices at 5 Marine View Plaza, Hoboken, N.J. I am Mr. Fiumara's counsel.

Senator NUNN. Could the clerk push the mike up. I am afraid we are not going to be able to hear.

Mr. Fiumara, in addition to your obligations to testify truthfully before this subcommittee, you have the right to exercise your constitutional privilege not to incriminate yourself in any criminal matters. Do you understand your rights and obligations as a witness before this subcommittee?

Mr. FIUMARA. Yes.

**TESTIMONY OF TINO FIUMARA, WYCOFF, N.J., ACCOMPANIED BY  
MR. McALEVY, ATTORNEY**

Senator NUNN. Mr. Fiumara, are you a member of the Genovese organized crime family?

Mr. FIUMARA. I would like to invoke the fifth amendment right on the advice of counsel.

Senator NUNN. Could you state that, I did not hear that.

Mr. FIUMARA. I would like to invoke my fifth amendment right on the advice of counsel.

Senator NUNN. Would you pull the mike up. We have a hard time hearing you. Could you give us your address, current address?

Mr. FIUMARA. I am at Leavenworth Federal Institution.

Senator NUNN. What is your permanent home address? Where is your residence?

Mr. FIUMARA. I refuse to answer that question under my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, did you direct the activities of ILA officers Thomas Buzzanca, Vincent Colucci, and Carol Gardner?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, did you collect money which Buzzanca, Colucci, and Gardner generated by shaking down waterfront employers?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, did you supervise and control the Genovese family's illegal activities on the Newark piers?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, did you report to Pete LaPlaca of the Genovese family before his death, was he your supervisor?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, we heard testimony that you regularly attended business meetings of the organized crime family headed by "Funzie" Tieri. What business did Tieri conduct at these meetings?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, did you work part time as a salesman for an auto body repair shop?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, it has been alleged that you killed two of Vincent Colucci's brothers. Is this accurate?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, we have heard tapes and testimony that you gained your mob position by the continued use of fear and violence and that you were being groomed for a leadership position in the Genovese family. Was it your intention to eliminate all of your mob competitors and assume the role of boss in the Genovese family?

Mr. FIUMARA. On the advice of counsel, I would like to invoke my fifth amendment privilege.

Senator NUNN. Mr. Fiumara, we have many questions we would like to ask you. I have many more I would like to ask you. I heard your name come up many times in these hearings. You could have shed a great deal of light on the activities on the waterfront. Obviously you are exerting your privilege this morning which you have a right as a witness.

Senator Rudman.

Senator RUDMAN. I just have a couple.

Mr. Fiumara, how long have you been at Leavenworth?

Mr. FIUMARA. October of last year.

Senator RUDMAN. Have you been able during your term at Leavenworth under the privileges granted to you to consult with your counsel when you have felt it necessary?

Mr. FIUMARA. We have had difficulties in communicating.

Senator RUDMAN. Have you been able to communicate at all, Mr. Fiumara?

Mr. FIUMARA. Yes, we communicate.

Senator RUDMAN. Can you give me an idea of how many times since last October, either by letter or by telephone?

Mr. FIUMARA. With respect to any conversations with Mr. McAlevy, I would like to invoke the client-attorney privilege.

Senator RUDMAN. I was not asking you, Mr. Fiumara, of the substance of the conversations. I was asking about how many times you communicated with him. Can you answer that?

Mr. FIUMARA. Same answer.

Senator RUDMAN. I guess what I would like to know, Mr. Fiumara, is how are you paying your counsel this morning? Where are the funds coming from to pay your counsel?

Mr. FIUMARA. Same answer.

Senator RUDMAN. What is the answer? Could you give us the answer on that?

Mr. FIUMARA. Attorney-client privilege.

Senator RUDMAN. Mr. Fiumara, do you have any source of funds at this time while you are serving time at Leavenworth other than what you might receive there for what you do?

Mr. FIUMARA. On advice of counsel, I invoke my fifth amendment privilege.

Senator RUDMAN. I would like to ask our chief counsel, is there an attorney-client privilege relating to the method of payment of the attorney?

Mr. STEINBERG. Many courts have ruled there is no attorney-client privilege as to the financial arrangements between an attorney and his client.

Senator NUNN. Mr. Fiumara, there is no privilege according to all material information we have before the subcommittee to that question. I ask Senator Rudman to repeat the question.

Senator RUDMAN. I did not understand that was his answer, but in recollection I think you are correct. You are invoking the lawyer-client privilege so I will ask you again who is paying for your counsel this morning and for his expenses?

Mr. McALEVY. It is my understanding, sir, that any fee I might have received for today's appearance in representation of my client is covered by the attorney-client privilege.

Senator RUDMAN. Well, we disagree so I would like him to answer the question.

Senator NUNN. I will ask you to answer the question, Mr. Fiumara.

Mr. FIUMARA. Am I being requested to answer the question or am I being ordered to answer the question?

Senator NUNN. Well, we first request you and if you do not answer it then I will order you.

Mr. FIUMARA. Aside from Mr. McAlvey being my attorney, he is also my friend and he is not receiving a fee for his appearance here today.

Senator NUNN. Thank you.

Senator RUDMAN. That is all.

Senator NUNN. The witness is dismissed.

I will ask Mr. Raymond Maria to come back with further staff statement.

Mr. Maria, you understand you have already had the oath and you are sworn as a witness before this subcommittee. Do you understand the testimony you are now giving continues to be under oath?

Mr. MARIA. Yes, I do, Senator.

Senator NUNN. Can you briefly summarize the criminal background of Mr. Michael Clemente?

Mr. MARIA. Yes, I can. Michael Clemente, age 73, FBI No. 2675935, presently is incarcerated in a Federal penitentiary at Danbury, Conn., as a result of his racketeering conviction in Federal court in May 1980.

During the 1940's and early 1950's Clemente was the president of ILA Local 856 in Manhattan. As a union officer he was convicted in 1953 of extorting money from waterfront employers and committing perjury before the New York State Crime Commission. As a result of these convictions, he was precluded from holding union office by the Waterfront Commission of New York Harbor.

Despite these convictions and disbarment from his ILA position, law enforcement sources revealed that upon release from prison Clemente, as a high echelon member of the Genovese family of La Cosa Nostra, controlled the Manhattan piers for that family. His control

was translated into a criminal monopoly achieved through threats and shakedowns.

Before and after his convictions, Clemente was associated directly with La Cosa Nostra chieftains Albert Anastasia, Vito Genovese, and Joe Profaci. Personal ties to these infamous, powerful criminals made Clemente a feared and revered figure on the New York waterfront.

In public hearings held in October 1963, before the U.S. Senate Permanent Subcommittee on Investigations, Clemente was identified as a senior member of the Genovese family of La Cosa Nostra.

Evidence and testimony before this subcommittee demonstrate that through his organized criminal position Clemente was able to exercise control over the now-convicted former ILA general organizer, Fred R. Field, Jr. His senior mob status, moreover, permitted him to exercise influence over Tino Fiumara, who supervised New Jersey waterfront shakedowns for the Genovese family.

Clemente has repeatedly stated on undercover tape recordings that he and other mob members have first sponsored and then removed various ILA international presidents, from Ryan through Captain Bradley to Teddy Gleason, to insure that the mob could use the ILA for its own criminal purposes.

Clemente's stature was such that Douglas Rago and George Barone would do his bidding. Although these men were directly controlled by Anthony "Fat Tony" Salerno, they responded to Clemente out of respect for his senior status within the Genovese family.

Clemente's power and respect within La Cosa Nostra was so great that in January 1978 he was able to summon Anthony Scotto to meet him in a restaurant. At that time Scotto, who originally was sponsored into La Cosa Nostra by Clemente, was a New York social luminary, a ranking ILA international officer, and president of ILA Local 1814 in Brooklyn, then the largest local in the ILA. The purpose of the meeting? To discuss a confidential court document concerning authorization to wiretap the offices of Quin Marine.

FBI tape-recorded conversations revealed that, upon the death of family head Vito Genovese, Clemente continued to enjoy senior, respected status and reported directly to the new and current family boss, Frank "Funzie" Tieri.

In May 1980, Clemente, along with two fellow Genovese family members, Tino Fiumara and Michael Copolla; three ILA officials: Thomas Buzzanca, Vincent Colucci, and Carol Gardner; and one management official, Gerald Swanton, was convicted of racketeering. The subcommittee has heard the lurid details of the defendants' activities leading to this conviction.

The U.S. Department of Justice in its prosecution described Clemente as the single, most important, influential and respected member of the racketeering enterprise. U.S. District Judge Leonard B. Sand described Clemente as "a man who has had no significant, lawful employment for many, many years, and who is, in short, a professional racketeer."

The court was so outraged at Clemente and his fellow defendants' callous indifference to the consequences of criminal activity and willingness to use violence against those who cooperated with the Government that the court remanded Clemente and the defendants directly to

jail upon conviction and before sentencing, believing them to be a danger to the community. Clemente subsequently was fined and sentenced to 20 years.

Senator NUNN. Thank you, Mr. Maria.

Our next witness is Mr. Michael Clemente.

Mr. Clemente, before you have a seat so you will not have to get back up, we swear in all the witnesses before our subcommittee. Do you swear the testimony you give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help me God?

Mr. CLEMENTE. So help me God.

Senator NUNN. Was the answer yes?

Mr. GELSO. The answer is yes, Senator.

Senator NUNN. I will ask the clerk to pull the microphone up so Mr. Clemente will not have to strain. If you could push it down a little bit, please.

Could you give us your name and address, please?

**TESTIMONY OF MICHAEL CLEMENTE, NEW YORK, N.Y.,  
ACCOMPANIED BY MS. P. COSTELLO, ATTORNEY**

Mr. CLEMENTE. At the present time, I am an inmate at Danbury, Conn. Michael Clemente.

Senator NUNN. Mr. Clemente, in the interest of making you aware of your obligations under the law to testify fully and truthfully to this hearing, I point out the following matters to you. First of all, this subcommittee is empowered as a subcommittee of the full committee to issue subpoenas and to require the testimony of witnesses before this subcommittee. Second, when we have witnesses before the subcommittee you are sworn in. You are expected to testify fully and truthfully before this subcommittee. If you do not testify fully and truthfully, you are subjected to the law of perjury of the United States. In addition, you have the right to be represented by counsel. Are you represented by counsel this morning?

Mr. CLEMENTE. Yes.

Senator NUNN. Would counsel state for the record your name and address?

Ms. COSTELLO. My name is Patricia Costello. My office is located at 5 Marineview Plaza, Hoboken, N.J. I am representing Mr. Clemente.

Senator NUNN. Mr. Clemente, you have the right to consult with counsel before answering any question. You also have the right not to incriminate yourself in criminal matters with your own testimony.

Mr. CLEMENTE. Yes.

Senator NUNN. Do you understand your rights and obligations as a witness before this subcommittee?

Mr. CLEMENTE. Yes.

Senator NUNN. Mr. Clemente, were you formerly the president of ILA Local 856 in Manhattan?

Mr. CLEMENTE. Upon advice of counsel, Senator, I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, in a tape-recorded conversation on June 15, 1978, did you describe how you and other organized crime figures threatened then ILA President William Bradley to step down in favor of the mob's new candidate, Teddy Gleason?

Mr. CLEMENTE. I am taking the fifth amendment on the advice of counsel.

Senator NUNN. Isn't that changeover in 1963 at about the same time ILA's probationary period ended in the AFL-CIO?

Mr. CLEMENTE. Upon advice of counsel, I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, were you and other members of organized crime responsible for placing your own people in top leadership positions of the ILA?

Mr. CLEMENTE. Same answer, Senator.

Senator NUNN. Would you repeat the answer, please.

Mr. CLEMENTE. I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, are you a senior member of the Genovese family of La Cosa Nostra?

Mr. CLEMENTE. I invoke the fifth amendment on the advice of counsel.

Senator NUNN. Mr. Clemente, is it true that because of your high stature within the Genovese family, you reported only to the family bosses, Vito Genovese and his successor, "Funzie" Tieri?

Mr. CLEMENTE. Upon the advice of counsel, Senator, I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, is it true you used your influence with the mob to sponsor Anthony Scotto into the Gambino family and assured him powerful ILA positions after the demise of Anthony Anastasia and his brother Albert?

Mr. CLEMENTE. I invoke the fifth amendment, Senator, on the advice of counsel.

Senator NUNN. Mr. Clemente, do you know the president of the ILA, Mr. Teddy Gleason?

Mr. CLEMENTE. I invoke the fifth amendment on the advice of counsel.

Senator NUNN. Do you know Mr. Fred Field, Jr.?

Mr. CLEMENTE. I invoke the fifth amendment on the advice of counsel.

Senator NUNN. Do you know Mr. Anthony Salerno?

Mr. CLEMENTE. I invoke the fifth amendment on the advice of counsel.

Senator NUNN. Mr. Clemente, did you blame the deceased Anthony so-called "Tough Tony" Anastasia for your conviction and jailing in 1953?

Mr. CLEMENTE. I invoke the fifth amendment on the advice of counsel, Senator.

Senator NUNN. Did you actually state that Teddy Gleason put the finger on Anastasia, for you?

Mr. CLEMENTE. On the advice of counsel, I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, did you ever give Mr. Teddy Gleason orders as to what the mob wanted?

Mr. CLEMENTE. On the advice of counsel, I invoke the fifth amendment.

Senator NUNN. Mr. Clemente, we have many questions we would like to ask you, but obviously you are exercising your right under the Constitution. I will not pose any more questions. Senator Rudman?

Senator RUDMAN. I have no questions for this witness.

Senator NUNN. The witness is dismissed.

Mr. CLEMENTE. Thank you.

Senator NUNN. We will now call Mr. Raymond Maria for a staff statement.

Mr. Maria, you understand you are still under oath.

Mr. MARIA. Yes, I do.

Senator NUNN. Mr. Maria, would you give us the background on our next witness, Mr. Anthony Scotto?

#### FURTHER TESTIMONY OF RAYMOND MARIA

Mr. MARIA. Yes, I will, Mr. Chairman.

Anthony M. Scotto, born May 10, 1934, currently resides in Brooklyn, N.Y.

In public hearings before the U.S. Senate Judiciary Subcommittee on Criminal Laws and Procedures on August 1969, Scotto was identified as a captain or "capo" in the Carlo Gambino family of La Cosa Nostra. Federal, State, and local law enforcement agencies, moreover, describe Scotto as a member of the Gambino family as early as 1963.

In 1970, Scotto exercised his fifth amendment privilege before the New York Senate Joint Legislative Committee on Crime in response to questions about his membership in the Gambino family.

Scotto became a power on the Brooklyn waterfront through his marriage to Marion Anastasia, daughter of the deceased Anthony "Tough Tony" Anastasia, the former boss of ILA Local 1814, Brooklyn, N.Y. Tough Tony's brother, Albert Anastasia, formerly was a boss of his own organized crime family and ran Murder, Inc. In 1957, Vito Genovese and Carlo Gambino successfully plotted the murder of Albert Anastasia, allowing Gambino to become the boss of Anastasia's family. Following the murder, Michael Clemente of the Genovese family interceded with Gambino to promote Scotto into the Gambino family and insure that he inherited the important ILA positions held by his father-in-law.

In an FBI tape-recorded conversation in 1978, Clemente related how Scotto personally pleaded for Clemente's assistance in obtaining a position and recognition within the Gambino family. Clemente then described his power and influence over Scotto in that Clemente was able to tell Scotto what he wanted done.

In another conversation recorded by the FBI in 1978, Scotto acknowledged Clemente's superiority over him and Clemente's ability to demand that Scotto meet him at a restaurant to discuss Scotto's and Anthony "Fat Tony" Salerno's access to a confidential court document concerning a Federal wiretap on the offices of Quin Marine.

In November 1979, while serving as the ILA International General Organizer, international legislative director, and president of local 1814, Brooklyn, the largest ILA local, Scotto was convicted of waterfront racketeering, demanding and accepting payments from management, and Federal tax fraud. He was sentenced to 5-years confinement and fined \$25,000. He personally is free on bond while pursuing an appeal of this conviction. Scotto's initial appeal was denied by the U.S. Second Circuit Court of Appeals. A petition for a rehearing en banc has been pending since September 1980.

Although Scotto could not be removed from union office while his appeals are pending, the Waterfront Commission of New York Harbor was empowered to remove him from union office immediately upon conviction, regardless of appeals. Scotto, thus, has been removed as president of ILA Local 1814 in Brooklyn. In his place, the union's executive council appointed Frank Lonardo as acting president of the local. Not surprisingly, Lonardo is Scotto's cousin by marriage. Subcommittee staff investigation reveals that within the ILA, history does repeat itself and that this practice of nepotism will insure continued mob domination over the ILA.

Senator NUNN. Thank you, Mr. Maria. Our next witness is Mr. Anthony Scotto.

I understand you are representing Mr. Scotto?

Mr. UNGAR. Yes, Senator. My name is Harold Unger. I am from the firm of Williams & Connolly here in Washington. We represent Mr. Scotto in his appeal from the conviction that has been referred to and he has asked us to represent him before this committee. On Wednesday morning, Senator—

Senator NUNN. Mr. Unger, are you going to be testifying to facts?

Mr. UNGAR. No, sir; I would like to explain Mr. Scotto's absence. The staff is quite aware of what my purpose is.

Senator NUNN. I think that is a factual presentation. I was just going to swear you as a witness before the subcommittee. Do you swear the testimony you give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. UNGAR. I do.

Senator NUNN. Since you are here explaining what is basically a factual situation, I think it is appropriate you be sworn in.

#### TESTIMONY OF HAROLD UNGAR, ESQ., FIRM OF WILLIAMS & CONNOLLY

Mr. UNGAR. It certainly is not inappropriate.

On Wednesday morning I became aware of a medical condition by reason of which Mr. Scotto's appearance here this morning seemed most unlikely. I attempted to contact the staff of this subcommittee at that time and I could not get through on the telephone because these hearings were in progress and Mr. Steinberg and Mr. Baldwin with whom I had been dealing up to that point were both at the hearing.

I finally got to speak to both of them yesterday afternoon after having come here yesterday morning and again found them in the hearing.

I explained at that time that about 2 weeks ago Mr. Scotto had had, while in Miami, an apparent attack of appendicitis and had been briefly hospitalized and then discharged when it appeared that there wasn't any appendicitis.

Senator NUNN. Was he attending the AFL-CIO convention there?

Mr. UNGAR. I think it very likely that he was there in some such connection, but I don't know.

On his return to New York, he found his abdominal pains no less than they had been and possibly greater. They seemed to be increasing.

Senator NUNN. Mr. Ungar, he told you this? This is where you got it?

Mr. UNGAR. He told me this and his doctor told me this, as I will now come to.

He saw a doctor and I spoke to the doctor and the doctor told me that he found that the possible cause of the pains that Mr. Scotto was complaining of was some kind of gallbladder involvement. He conducted some tests for gallstones and found that there was no gallstone but he found some other condition which he identified as "sludge" in the gallbladder and something that needed to be watched very carefully.

As of Wednesday morning, I still did not know whether Mr. Scotto could or could not come, but I thought it most unlikely and that is why I tried to talk to the staff.

The doctor told me that Mr. Scotto came to him saying, "I am under subpoena to appear Friday morning. I have pains. I would like you to give me something to deaden the pain so that I can go and testify. I don't think my testimony is going to take very long, because I expect to invoke the fifth amendment." The committee has known since the time I accepted the subpoena for Mr. Scotto that that is what he was going to do. The doctor told Scotto that he would not give him a painkiller to mask a possible gallbladder condition because he thought that would be medically contraindicated. Scotto felt that he could not come in the condition that he then was suffering the pains. His decision in that regard was further emphasized, solidified, by the doctor's advice to him to go into the hospital as soon as possible so that further tests and possible treatment could be conducted.

Yesterday morning it was determined to admit him to the Long Island College Hospital. It took most of the day to get him in because of the shortage of beds. Some time late yesterday he was admitted to the hospital, and there he is now. The doctor tells me that he anticipates a week, possibly 10 days in the hospital, unless surgery is required, in which event it would be more.

When I contacted the staff of the committee, my purpose was to get Mr. Scotto either excused from testifying by reason of the fact that he wasn't going to produce anything except his fifth amendment invocation and I offered to produce that by way of affidavit if the committee saw fit to accept it in that way. But I can understand the committee's feeling, as told me by the staff, that they prefer this to be done in person.

Second, I thought perhaps an arrangement can be made to obtain Mr. Scotto's appearance before the committee on a later occasion, either here or in New York, in some way as to make it possible for him to testify because he has no inclination to try to avoid the testimony. He certainly knows that there isn't any way for him to avoid it. Whatever effort I made was rejected by the staff by reason of this committee's declared procedures. The staff has taken the position based on a conversation with his doctor yesterday that there is no basis for excusing Scotto's nonappearance today because the doctor did not tell them that his appearance today would be life threatening.

Well, I am sure the doctors certainly did not use those words, but what the doctor said to me, and I would suppose must have said to

the staff as well, is that it is dangerous for him to go to Washington to testify with a pain killer masking a possible serious gall bladder involvement. And he would not advise him to do that, and on his advice and his further advice to be hospitalized, Mr. Scotto is in the hospital.

I respectfully request that the committee either excuse him or agree to some way of adducing his testimony in another way, or at another time or place.

Senator NUNN. Thank you, Mr. Ungar.

I will ask minority counsel, Mr. Steinberg, to respond at this point.

Mr. STEINBERG. I believe Mr. Baldwin has looked into the situation, Senator, and he has a response.

Senator NUNN. Greg Baldwin.

Mr. BALDWIN. Senator, the subpoena—

Senator NUNN. I think we ought to swear you, too, in fairness, since you are going to be saying facts.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BALDWIN. I do.

#### TESTIMONY OF GREG BALDWIN, INVESTIGATOR, SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BALDWIN. The subpoena on Mr. Scotto was served on Mr. Ungar, his attorney, on February 3, of this year. It was served on Mr. Ungar by prior agreement between myself and Mr. Ungar. This method of service was acknowledged and accepted by Mr. Scotto and Mr. Ungar by a letter dated February 10, and signed by Mr. Scotto himself.

On Wednesday of this week, February 25, at approximately 2 o'clock in the afternoon, we received the telephone message from Mr. Ungar. That message stated basically that he was requesting a postponement of Mr. Scotto's appearance because Mr. Scotto was ill. After discussion with Mr. Steinberg and others, it was determined that since there was no evidence whatsoever of any medical condition and because the notice to us was so short that it couldn't be confirmed by us one way or another that we would decline to grant any postponement.

Consequently, I hand delivered a letter to Mr. Ungar's office myself on Wednesday the 25th advising him of this.

Later on that afternoon at approximately 3:30 Mr. Ungar telephoned and I spoke to him on the phone.

He advised me that about 2 weeks before Mr. Scotto had gone into a hospital very briefly in Miami, apparently for what they thought was an appendicitis problem. The hospital determined it was not appendicitis and he was immediately discharged. Now Mr. Ungar told me Mr. Scotto was saying that he had a gall bladder or gall stone problem, or, as Mr. Ungar put it, something like that.

I should point out that at that point there was no indication of what the hospital's name was in Miami and there was no way to determine the precise date or any possible diagnosis or records to substantiate that first hospitalization.

I should also point out that the appearance in the hospital 2 weeks prior to our notice on February 25 would apparently be very shortly

after Mr. Scotto acknowledged service of the subpoena by letter dated February 10 and also we went for 2 weeks beyond that from that hospitalization to the 25th before we were notified of any physical problem whatsoever.

I advised Mr. Ungar on the telephone on Wednesday that under the circumstances either Mr. Scotto would be required to appear or his physician would be required to appear and give sworn testimony explaining that Mr. Scotto could not possibly appear in compliance with the subpoena.

This was reiterated by letter dated February 25 and delivered on February 26 by myself, hand-delivered, at 8:30 in the morning.

We advised Mr. Ungar that no postponement for medical reasons would be given to Mr. Scotto, and we expected Mr. Scotto to appear today in full compliance with the subpoena.

At about 3 o'clock in the afternoon Mr. Ungar met with myself and Ms. Hill and Mr. Steinberg in the subcommittee staff offices.

At that time he advised us that Mr. Scotto is apparently not yet in the hospital, but that he was seeking admission into the Long Island College Hospital and was under the care of a Dr. Yuan Ku. For the record, I will spell that. The first name is Y-u-a-n, the last name is K-u.

Senator NUNN. Who is that doctor?

Mr. BALDWIN. We later succeeded in contacting Dr. Ku by phone. Dr. Ku stated that since 1968 he has been practicing medicine. He is in the field of cardiology and internal medicine.

For the past 11 years he has been working at the ILA Longshoremen's Clinic in the New York City area. He has been involved in certifying workmen's compensation claims. [Laughter.]

Dr. Ku stated to the staff over the telephone that he had seen Mr. Scotto the preceding Monday, that would be February 23. Mr. Scotto stated to him that he had some sort of a gall bladder disease.

On Tuesday, a test was given by Dr. Ku called a sonogram. That indicated according to Dr. Ku a thickening of the bile which he said fit the pattern of this apparent gall bladder problem. However, Mr. Scotto was also given an enema, the results of that indicated no problems.

He stated that Mr. Scotto complained of pain in the abdominal area. He wanted to admit him into the Long Island College Hospital for the purpose of tests. He stated in response to a question that Mr. Scotto's appearance before this subcommittee today would not be a life-threatening situation. He stated that Mr. Scotto would be physically capable of testifying for approximately half an hour.

He also stated that it was Mr. Scotto who was complaining of the pain and saying that he was in too much pain. He told us that he was unable to determine if in fact Mr. Scotto was in any pain, that this was entirely a subjective point and he had to rely on the patient for that.

Later on last night I spoke to a Dr. Corelitz, C-o-r-e-l-i-t-z. Dr. Corelitz, I am advised, is a widely recognized expert in gastroenterology, which is the field covering the type of problem Mr. Scotto is complaining of.

Among other things, Dr. Corelitz stated that the sonogram test has absolutely no relevance to determining whether or not Mr. Scotto is in

the process of a gallbladder attack and an active gallbladder attack. He did indicate, however, based on what I had described to him, that the only thing he thought would prevent Mr. Scotto from appearing would be an active gallbladder attack, and I would note that the only reason Mr. Scotto was going into the hospital at this point is for tests.

We attempted last night very strenuously to have Mr. Scotto examined by a Government doctor. However, we were unable to accomplish this because of the short notice and because Mr. Scotto was not admitted to any hospital at that point. I called this morning to the Long Island College Hospital. I was advised that no information could be given to us by the admissions office. I was referred to the community relations people. I was unable to reach them. The phone simply wasn't answered.

So I cannot confirm whether or not he has been admitted to the hospital, although it is my understanding that late last night he did in fact go into the hospital, the Long Island College Hospital, apparently for tests.

Senator NUNN. Mr. Ungar, you can understand the situation with the subcommittee. We feel Mr. Scotto had every reason to be here. We didn't get any real notice about his medical problems until very late and then when we got that notice, it was entirely inadequate and then we talked to a doctor who was his own doctor who certainly, through the testimony given by Mr. Baldwin, leads us to believe that there was reasonable opportunity for him to appear.

Under these conditions, what I would ask you, sir, is as his attorney, can you assure us that we can get Mr. Scotto examined by our chosen doctor in the next, let's say, between now and Monday?

Mr. UNGAR. I gave that assurance to the staff when I talked to them yesterday. I gather from Mr. Baldwin's statement their inability to get that done last night was the result of a simple inability to reach the right people and set it up. But there should be no objection, there is no objection to this.

What difficulties there may be because of what may be going on in the hospital I don't know, but I anticipated that.

Senator NUNN. Could you—

Mr. UNGAR. I could certainly cooperate with the staff in making such arrangements, of course.

Senator NUNN. What I would ask, then, is that Mr. Scotto—the subpoena is still in effect—be here at 10 o'clock on Tuesday morning, unless, before that time, we have had a Government doctor examine him and find he cannot be here.

Mr. UNGAR. Yes, sir. I will convey that and try to make the arrangements to get it done.

Senator RUDMAN. I just want to say, Mr. Ungar, we see a little pattern developing. You can understand our concern that with a very few key witnesses a couple of days before their appearance they have suddenly become ill. I have practiced law long enough to know that some of these cases are legitimate and some aren't. You come from a very fine firm. You are very reputable. We take your testimony. But we don't necessarily have to believe the facts that are behind it, which you cannot confirm independently. I, for one, am not going to see this subcommittee thwarted by that kind of conduct which is practiced

widely in the courts of this country and I do not think it is going to be practiced before this subcommittee.

Mr. UNGAR. Nor would I lend myself to any such effort. Senator, I think I should point out to you that when I was approached by Mr. Baldwin with the information that the subcommittee wanted Mr. Scotto's testimony, I arranged with him not only to accept the subpoena, but to arrange to get him a letter from Scotto authorizing me to accept it because there has been no disposition to try to duck testimony, to try to duck an appearance in this case.

Scotto is a man of the world and understands that this subcommittee has the right to make him appear and he knows it would be stupid for him to try to avoid appearance. He knows he has to appear.

I suggest to the subcommittee that it would be unfair simply to assume that Scotto is trying to pull some shady device to avoid appearance because he knows he has to. And ultimately if the subcommittee gives him an opportunity.

Senator RUDMAN. Thank you, Mr. Ungar.

Senator NUNN. We make no assumptions on that score, but you will have to admit after hearing 6 days of testimony about fraudulent workmen's compensation claims and the doctor being involved in this particular case is involved in that business, it does raise certain legitimate questions that we have a right to seek independent medical advice on.

Mr. UNGAR. I think, Senator, from the little I know about that ILA clinic, and all I know about it comes from the record of the trial which I had to read for appellate purposes, it seems to me that there is absolutely nothing strange about Scotto availing himself of the services of a physician at the clinic he was instrumental in setting up for all the members of the ILA. He is a member. And there is no reason why he shouldn't use that clinic. If the members are to have confidence in the doctors who work there, why should Scotto not? And if he does have confidence, what inference is to be drawn from it?

Senator NUNN. I draw no inferences, but I am pleased that you are willing for us to have our own medical doctor examine him.

Mr. UNGAR. Not only willing, but anxious. I would like to have this cleared up and I offered it yesterday to the staff.

Senator NUNN. As you have heard from staff, they tried to accomplish that last night and could not.

Mr. UNGAR. That was because of the logistics, quite obviously.

Senator NUNN. Thank you very much.

Mr. UNGAR. Thank you, Senator.

Senator NUNN. We will next have a staff statement of Mr. Steinberg.

Mr. HAMMER. May I address you, sir?

Senator NUNN. After the staff statement, when I call your client.

Mr. HAMMER. If you will, before you take the staff statement, may I address you?

Senator NUNN. No, sir. We will call you in order and when your client is called, we will hear from you at that time. That is in accordance with the rules of the subcommittee.

Mr. HAMMER. I would be pleased if you would just hear my suggestion. It is this: Mr. Gleason has come to Washington pursuant to your request, is going to appear, and give testimony. Pursuant to an arrangement made with your staff, subcommittee staff, yesterday, I was

told that Mr. Gleason would not be required until 11 o'clock. Mr. Gleason presently is at Senator Moynihan's office. The communication has been directed to the Senator's office to tell Mr. Gleason to come over, that you are ready to receive him. I think Mr. Gleason has a right, and I think it appropriate that he be in attendance when this staff statement is read.

Senator NUNN. I would be glad to accord counsel that privilege. Is he on his way?

Mr. HAMMER. He is on his way here now.

Senator NUNN. When he arrives, I assume he will be here in the next 2 or 3 minutes.

Go ahead and have a seat, Mr. Steinberg. When Mr. Gleason gets here, we will proceed.

Mr. HAMMER. I very much appreciate that, Senator.

[Brief recess.]

[Members present at time of recess: Senators Nunn and Rudman.]

[Members present at time of reconvening: Senators Nunn and Rudman.]

Senator NUNN. Is Mr. Gleason in the room yet?

Mr. HAMMER. No, Senator. He is not. But I expect him momentarily. It is a bit of a trip from over there, as you well know. He will be here any second.

Senator NUNN. It has been about 10 minutes. I certainly want to be reasonable but I would say we have to start at about 5 after, if you can make sure you can get him here by then. He was in the building. Right?

Mr. HAMMER. He was in the Senator's office, sir.

Senator NUNN. It doesn't take over 3 or 4 minutes to get anywhere in the Capitol. Have you called him? Have you talked to him?

Mr. HAMMER. I sent somebody to get him and the person who was familiar with the route so he wouldn't misstep.

Senator NUNN. I think we will have to proceed at 5 after.

[Brief recess.]

[Members present at time of recess: Senators Nunn and Rudman.]

[Members present at time of reconvening: Senators Nunn and Rudman.]

Senator NUNN. Mr. Steinberg, you realize you are still under oath?

Mr. STEINBERG. Yes, Senator.

Senator NUNN. You have been sworn?

Mr. STEINBERG. Yes: I have.

Senator NUNN. I understand you have a prepared statement. Would you please proceed?

Mr. STEINBERG. Senator. I would request that the full statement be admitted and that I be allowed to excerpt portions of it.

Senator NUNN. Without objection, the full statement will be part of the record.

[The statement follows:]

#### STATEMENT OF MARTY STEINBERG

Historically, the New York waterfront has been controlled by organized crime groups. This control goes back to the days of "Tough Tony" Anastasia and Vito Genovese, who ruled the parts with an iron hand.

Modern-day control of the waterfront by organized crime dates back to the 1950's.

In 1951 the New York State Crime Commission and the Kefauver Committee heard testimony on the I.L.A. In 1953 the Subcommittee on Waterfront Crime and Security, under the chairmanship of Senator Charles Toby of New Hampshire, again conducted extensive hearings into the I.L.A. operations in the New York-New Jersey waterfront, and concluded that:

"Criminal elements and criminal activities are firmly entrenched on the waterfront, primarily through their grip on the organized labor movement. . . . Criminals whose records belie any suggestion that they can be reformed have monopolizing controlling positions in the International Longshoremen's Association and in local unions. Under their regimes gambling, the narcotics traffic, loan-sharking, short-ganging, payroll 'phantoms', the 'shakedown' in all forms—and the brutal ultimate of murder—has flourished often virtually unchecked."<sup>1</sup>

In 1953, following these various public disclosures, the I.L.A. was expelled from the AFL for having too many criminals and running criminal rackets at the ports. Coincidentally, the International Brotherhood of Teamsters was expelled by the AFL-CIO in 1957 for similar reasons, the AFL having merged with the CIO in 1955.

The I.L.A. was expelled from the American Federation of Labor on September 23, 1953—prior to the merger of the AFL with the CIO. Six years later, on September 22, 1959, the AFL-CIO convention voted to reinstate the I.L.A. That action was, shortly thereafter, taken by the AFL-CIO's Executive Council.

The AFL's Executive Council, which met in February of 1953, was the first over which George Meany had presided as AFL President. In a February 3 statement to the I.L.A., the Council gave the union a "clean-up-or-get-out-ultimatum."<sup>2</sup> The Council noted that it had "given thorough consideration to the disclosures developed by the New York State Crime Commission" as it affected the international and local officers of the International Association. The Council's statement read, in part:

"We have followed this investigation with interest and the reported widespread alleged crime, dishonesty, racketeering and other highly irregular and objectionable practices in which it is reported that officers of your international and local unions have been and are involved.

"One of the most serious features of the New York City situation as pertains to your international union and its local unions, as outlined by recent testimony before the Crime Commission is the clear and definite indication that these workers of the Port of New York are being exploited in every possible way and that they are not receiving the protection which they have every right to expect as trade unionists and members of your organization.

"We have concluded that these disclosures are of such serious nature as to call for immediate action by us. We wish to make clear the position of the A.F. of L. on crime and racketeering within your international and its local unions.

"Your relationship with the A.F. of L. demands that the democratic ideal of clean and wholesome free trade unionism must be immediately restored within your organization and all semblance of crime, dishonesty and racketeering be forthwith eliminated." (American Federationist, February 1953, p. 7)

Declaring that it would not allow any affiliated union "to use its right to manage its own affairs as a 'shield for disreputable practices that victimize' the union's members," the Council ordered:

(a) "Immediate removal of all international and local officers who have accepted gifts or bribes from employers or have appointed former convicts to union posts.

(b) "Ouster of all union representatives with criminal records.

(c) "Abolition of the vicious shape-up system of employment, under which a worker cannot get a job unless he enjoys the favor of the hiring boss.

(d) "Establishment of democratic practices inside the union 'so that members who work on the waterfront will be able to select true and capable trade union leaders who will serve the best interests of the A.F. of L. and be free from the taint of crime and racketeering.' (American Federationist, February 1953, p. 3-4)."

On September 23, 1953, the AFL convention voted by 79,079 yeas to 736 nays to revoke the charter of the I.L.A.

<sup>1</sup> Waterfront Investigation: New York-New Jersey, Interim Report of the Committee on Interstate and Foreign Commerce (83d Congress, 1st session), July 27, 1953.

<sup>2</sup> Ibid., p. 10.

The Executive Council in a subsequent statement further explained its expulsion order to the I.L.A.:

"This action, severing an affiliation of 60 years, was taken because of public disclosures of crime and corruption on the New York waterfront which established that the I.L.A. had permitted irresponsible, corrupt and criminal elements to fasten themselves upon the body of the organization and destroy its integrity, its effectiveness and its trade union character and because the I.L.A., despite repeated warnings by the AFL Executive Council to clean house, stubbornly refused to rid itself of corrupt elements and to take other corrective action necessary to a fulfillment of its responsibilities as a labor organization worthy of affiliation with the AFL."<sup>3</sup>

Later, in discussing the mob domination of the I.L.A. in November of 1953, George Meany, President of the AFL issued the following statement:

#### GEORGE MEANY DISCUSSES OLD MOB-RULED I.L.A.

George Meany, president of the American Federation of Labor, issued the following statement in Washington on November 19 at the conclusion of a meeting of the Board of Trustees supervising the new International Longshoremen's Association of the A. F. of L.:

The racketeers who are trying to perpetuate their control of the Port of New York failed in their attempt yesterday to camouflage their "front" organization with a new look. The special convention of the discredited and foundering International Longshoremen's Association, which was ousted from the American Federation of Labor last September, was a farcical imitation of a trade union meeting. There can be no doubt that the gangster element that has exploited longshoremen on the New York docks for years was in complete control of the Philadelphia burlesque.

The convention granted Joseph P. Ryan, a \$10,000 annual pension as the price of getting him to remove his embarrassing presence and elected a new president, Captain William V. Bradley—this despite the indictments now pending against Ryan on charges of appropriating union funds to his own use. Bradley showed his colors immediately when he announced that he welcomed support from everybody—"I don't care who they are or what they are." He exposed the true nature of his supporters when he credited his election to the work of Thomas Gleason, a local union official who was cited in testimony before the New York State Crime Investigating Committee for consorting with gangsters and accepting gratuities from stevedoring and steamship company officials.

The actions at Philadelphia add up to one inescapable conclusion—the mob is still in complete control of the old I.L.A. It will not permit itself to be purged. It will not abdicate its control of the lucrative racket it operates on the New York waterfront until it is cleaned out.

The American Federation of Labor is determined to clean up the waterfront and provide a decent and democratic trade union for the longshoremen. They are in revolt against racketeer oppression. They don't want their dues to be paid over to discredited leaders in the form of pensions. They desire, above all else, to get the protection they are entitled to through a strong and effective and honest union of their own choice.

That is why the American Federation of Labor is in this fight and will continue in it to the finish.

The old-I.L.A. convention sought to create the fiction that there is still a chance for them to get back into the A. F. of L. Let this be made clear once and for all: The tools of the New York waterfront mob were ousted from the A. F. of L. We intend to keep them out. We have no intention of negotiating with them, now or in the future.

Within 2 days of the expulsion of the I.L.A., on September 25, 1953, the AFL convention chartered a new longshore union, the International Brotherhood of Longshoremen (IBL). The IBL was set up to compete with or combat the I.L.A. In addition, the convention named a committee to oversee the restoration of clean trade unionism on the docks. Ironically, Dave Beck, the President of the Teamsters, was one of the original trustees in that organization. The hearing record of the McClellan Labor Rackets Committee reflects that in late 1953, top officials of

<sup>3</sup> Report and Recommendations of AFL-CIO Executive Council Committee, Aug. 17, 1959, p. 499.

the ILA and the Teamsters met to discuss a closer relationship between the Teamsters and the ILA and to consider the impact of the IBL, which was competing with the ILA. Despite the fact that one of those at the meeting was Dave Beck, a Teamster leader and a trustee of the competing IBL, this meeting took place to try to accommodate the ILA by making them a "marine" division of the Teamsters and thus overcome the AFL-CIO opposition. When this secret meeting became publicized, the plans were dropped.

After the meeting with the Teamsters officials, the ILA competed for certification with the IBL through normal NLRB procedures. The results of the NLRB sponsored election resulted in the defeat of the IBL, and the discredited ILA was certified in 1954 to represent the waterfront workers in the New York-New Jersey area.

Later in 1954, according to the hearing record, top ILA officials, including the ILA President, Capt. William V. Bradley, and the General Organizer, Thomas "Teddy" Gleason, met with top Teamsters officials, including James Hoffa, in Chicago. At that time, the ILA and the Teamsters again discussed an alliance or compact between the two unions to "help each other out."

Further discussions were held in the summer of 1955, when the Teamsters, represented by Hoffa and his allies, met with the ILA, represented by Gleason and his cohorts. At that time they agreed in principle to form an alliance of sorts. They discussed the problem of the ILA trying to get back into the AFL-CIO.

The McClellan hearing record further reflects that shortly thereafter in November of 1955, the Teamsters and the ILA signed a 4-year contract to formalize this agreement. In exchange for the Teamsters obtaining this maritime jurisdiction and the clout and "brawn" of the ILA on the waterfront, James Hoffa prepared to "loan" the ILA \$490,000 for questionable purposes.

By early 1956, George Meany had apparently become aware of the unusual nature of this financial transaction and on February 29, 1956, Mr. Meany wrote to Mr. Beck protesting the loan from the Teamsters to the ILA. This protest caused a postponement of the "loan."

In a continued effort to obtain the "loan," ILA officials sent Jimmy Hoffa notes for the loan indicating the ILA owed the Teamsters \$490,000. The Teamsters never granted the ILA this loan but the notes reflecting it were never returned to the ILA. Mr. Bradley and Mr. Gleason told the McClellan Committee that the notes were "misplaced" in a bank which got in trouble in 1956 or 1957.

The real nature of the alliance became clear when, on December 6, 1957, the AFL-CIO expelled the Teamsters after a year of negotiations between the AFL-CIO and the Teamsters over Teamster corruption.

The action against the Teamsters was initiated by the AFL and the CIO because they had, in 1955, merged. Growing out of this merger was not only combined investigative activity but also a single Federation operation under one Constitution and Code of Ethical Practices. Applicable to the ILA and the Teamsters equally, this Code of Ethical Practices detailed specifically and clearly the norm of trade union conduct expected and demanded of all affiliates. In early 1957 the Teamsters had become a focal point of the investigations undertaken by the McClellan Committee, and as the Committee's findings became public, the AFL-CIO leadership took the logical and constitutional step (under the AFL-CIO Constitution) of investigating the various charges. On March 29, 1957, the Executive Council (of the AFL-CIO) found that there was reason to believe that the International Brotherhood of Teamsters was dominated, controlled or substantially influenced in the conduct of its affairs by corrupt influences, and directed the Ethical Practices Committee to conduct an investigation. The Ethical Practices Committee then undertook an extended investigation of the charges which had become public with respect to the leadership of the Teamsters. On September 25, the Executive Council of the AFL-CIO affirmed that its fears had been justified—that the Brotherhood was, indeed, "dominated, controlled or substantially influenced in the conduct of its affairs by corrupt influences." The Council directed that the IBT (a) correct the abuses set forth in the report of the Ethical Practices Committee, (b) "eliminate corrupt influences from the union . . . and remove and bar from any position or office, either appointive or elective, in the International Union or any of its subordinate bodies, those who are responsible for these abuses," and (c) that report be made by the IBT to the Council on October 24, 1957.

At the September 1957 convention of the Brotherhood at Miami Beach, the investigations by the Subcommittee and the actions of the Ethical Practices Com-

mittee and Executive Council of the AFL-CIO were leading topics of debate. When the IBT convention declined to act upon the mandate set forth by the Executive Council, the Council suspended the IBT from the AFL-CIO (October 24, 1957) and, failing prompt compliance with its mandate for reform, proposed to lay the issue of expulsion before the 1957 AFL-CIO convention. The IBT even then was the largest trade union in America, with a membership in excess of 1,400,000. Nevertheless, after extended debate and negotiation, the Brotherhood was expelled from the AFL-CIO by the 1957 convention on December 6, 1957. The formal reasons for the expulsion of the Teamsters from the AFL-CIO are set forth in official AFL-CIO documents. The issues discussed by the AFL-CIO convention included:

(1) *Violation of the AFL-CIO Constitution and Resolutions.*—It was charged that the IBT, under the Constitution of the AFL-CIO, was obligated to act to take appropriate action with respect to alleged corrupt influences within the Brotherhood. In suspending the IBT, the Executive Council had determined that an insufficient effort had been made by the union in response to the mandate from the Council.

(2) *Charges set forth in the report of the Ethical Practices Committee.*—(a) Use of union funds for personal purposes—President Beck, Vice President Brewster, and Vice President Hoffa.

(b) Use of official union position for personal profit and advantage—President Beck and Vice President Hoffa.

(c) Improper activities relating to health and welfare funds—Vice President Brewster and Vice President Hoffa.

(d) Failure to take action with respect to union officials who have engaged in corrupt activities offensive to trade union morality, or against whom serious charges of that nature are pending.

(e) Failure to investigate whether Teamster Union officials have invoked the Fifth Amendment to conceal personal corruption in the conduct of union affairs.

(f) The relationship between Vice President Hoffa and notorious racketeers.

In 1957 the Senate Select Committee on Improper Activities in the Labor or Management Field (the McClellan Committee) conducted extensive hearings concerning the Teamsters and the ILA. In fact, it was the exposure of corruption in the IBT by the Committee which led to the expulsion of the IBT in 1957. During those hearings, ILA President William Bradley, who had succeeded Joseph Ryan in 1953, and the then International General Organizer of the ILA, Thomas "Teddy" Gleason, were closely questioned about the alliance and were required to explain to the McClellan Committee precisely what benefits were to be derived from the alliance by rank and file longshoremen and teamsters.

Bradley admitted to the Committee that the alliance wouldn't have done the ILA much good if the Teamsters were expelled from the AFL-CIO. Gleason also explained to the McClellan Committee how the once secret plan for the ILA to join the Teamsters as a maritime division would have benefited not only the ILA but the Teamsters themselves. Gleason told the committee how the Teamsters would have benefited particularly in the Southern States, which had right-to-work laws and which hadn't been organized at this point. The idea was to combine the power of the Teamsters and the ILA to try to unionize the southern states.

It was the full scope of ILA corruption, however, and not just the questionable relationship between the ILA and the IBT, which came under scrutiny by the McClellan Committee. During the hearing, Bradley and Gleason were asked questions in 1957, which, today—24 years later—still remain unanswered and unresolved. These men were asked directly about the ILA's expulsion from the AFL-CIO due to the pervasive control of gangsters, the lack of democratic procedures, and the criminal rackets run on the waterfront by ILA members and officers. The committee reminded Bradley and Gleason that the ILA was told back in 1953 to "put its house in order" and "get rid of its criminal element and practice more democratic procedures."

At the hearing on August 16 1957, then Senator John F. Kennedy asked Mr. Bradley and Mr. Gleason a series of questions about the criminal infiltration and activities of the ILA and what they had done since 1953 to clean up the situation:

Senator KENNEDY. This fourth report of the New York State Crime Commission in 1953, May 20, talks about the ILA locals. It said that 30 percent of the officials of the ILA longshore locals have police records.

Waterfront criminals know that control of the local is a prerequisite to conducting racket operations on the pier. Through their powers as union officials, they place their confederates in key positions on the docks, shake down steamship and stevedoring companies by threats of work stoppages, operate lucrative public loading business, and carry on such activities as pilferage, loansharking, and gambling.

This is a serious charge. It is true, as I understand it, that the union was suspended from the AFL because of similar charges. I am wondering what has been done about cleaning that situation up. (p. 4801)

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Senator KENNEDY. In the report of the proceedings of the AFL in 1953, in Mr. Meany's speech, it says:

We asked the longshoremen, in keeping with the custom of the American Federation of Labor of noninterference, to do certain things to try to clean up this situation, to bring democracy into this organization, to see to it that officers, who on the face of their own admission, under oath, are unfit for office, are tried under the rules of the international. During the 8 months since then we have received nothing but delay and promises.

Then by a vote of 79,079 to 736, which is 100 to 1, the revocation of the charter took place.

That is the situation, at least in 1953. It was confirmed to some degree by the report of the Crime Commission of New York in 1953. I read their statement.

I am wondering what happened since then. Now it is 1957. What has been done to clean it up since then? (p. 4802)

\* \* \* \* \*

Senator KENNEDY. Let me just bring this out. The point I am making is that, to run a good trade union, you don't have to rely on officers that have criminal records. I have seen it in running the longshoremen's union in Boston, when I represented the district on the Waterfront in Congress, and there was not any comparable situation of this alliance that we have seen, which was described this afternoon, of these hoodlums and racketeers trying to get into the teamsters union and attempting to work out a tie with the ILA; and then we have a figure in 1953 from the crime commission where more than 30 percent had criminal records, and now in 1956, out of 242, 86 have criminal records. I do not see how you can defend that as good trade-union practices. (p. 4803)

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Senator KENNEDY. The only point I am making is that it was thrown out of the AFL. We heard Mr. Meany's statement, and after we read the record of the crime commission, and it is now 1957, and out of 230 officers, 86 have these criminal records, misdemeanors, or something and yet during the same period there was an agreement to tie in the Teamsters Union. We have already seen how that was infiltrated by Johnny Dio and "Ducks" Corallo, and a prospective loan of \$490,000. That does not seem a very good way to run a trade union. (p. 4804)

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Senator KENNEDY. My only point, Mr. Gleason, that I would like to see is, it would be possible for the ILA to set up standards within its operations to make it possible for you to rejoin the AFL. (p. 4805)

\* \* \* \* \*

To each of these questions asked by Senator Kennedy, Bradley and/or Gleason replied that the ILA was not a police force and that they didn't have any power to get rid of ILA members or officials because of criminal conduct. (This is despite the fact that the ILA International Constitution gives the International the right to discipline members, including removal from membership, for acts of dishonesty or misconduct.) However, Captain Bradley went on to say: "... our goal was, and what we were trying to do was, to prevent anyone with any kind of a record getting into the organization. And I think we done a fairly good job since I have been president." (p. 4803)

However, both Bradley and Gleason insisted that they were not a police force and didn't have responsibility in this area.

Approximately 5 months after these appearances before the McClellan Committee, Bradley and Gleason made plans in late February and early March of

1958 to meet in Miami Beach, Fla., with top Teamster officials, including James Hoffa. Also in attendance at this meeting were other top ILA officials, including Douglas Rago, George Barone, and Freddy Field. The purpose of this meeting was for these two expelled groups, the Teamsters and the ILA, to prepare plans concerning an AFL-CIO chartered union which was preparing to represent all longshoremen from Norfolk, Va., to Key West, Fla. The Teamsters and the ILA were meeting to determine their strategy to fight this competition and maintain their lucrative control over rank and file workers.

Records obtained by the McClellan Committee reflect that, during this meeting held in Miami Beach, Teddy Gleason, Freddy Field, George Barone, and Doug Rago were all registered at the Sea Gull Hotel on Miami Beach.

Rago's hotel ledger sheet contained the following notation: "OK all checks and credit for Barone, Phil Sioino (ph) and Tony Salerno." The Tony Salerno referred to is Anthony "Fat Tony" Salerno, an underboss in the Genovese family who had residences in Harlem, N.Y., and Miami Beach, Fla.

The McClellan Committee obtained films of Hoffa and Gleason meeting on numerous occasions during late February and early March, 1958 from the New York Waterfront Commission. During the time Teddy Gleason stayed at the Sea Gull Hotel, records reflect that Gleason's hotel phone was used to call the residence of Vincent "Jimmy Blue Eyes" Alo in Hollywood, Fla. Alo is an identified member of the Genovese Family.

One witness at our present waterfront hearings, George Wagner, testified about the gangster influence in the selection of the top ILA leadership. Wagner testified that he had a long and close criminal relationship with the New York mobsters, including Carmine Lombardozi. Lombardozi was a Capo in the New York City based Gambino Family [the same family Anthony Scotto was later to be made a Capo in]. Lombardozi had an extensive criminal record going back to the 1930's. During Wagner's close association with Lombardozi in the late 1950's and early 1960's, he was told that Captain Bradley, who was not cooperating with the mob, was visited by some mob members who told him he'd have to give his position to Teddy Gleason or he'd be killed. This story was again repeated by Michael Clemente in 1978. That conversation was taped and has been played here.

Lombardozi, by the way, is typical of the mob involvement with the ILA. A participant in the infamous Apalachin meeting of national mob figures, Lombardozi successfully maintained illicit financial interests in the New York waterfront himself. The New York Waterfront Commission identified Lombardozi as having a hidden interest in an optical company which had an ILA contract to supply eye glasses for dock workers. The glasses were paid for by welfare funds. Subsequent to the Waterfront Commission inquiry, Lombardozi's company's services were terminated after taking substantial sums out of the welfare fund.

Other evidence testified to by witnesses at the Permanent Subcommittee on Investigations' current hearing and confirmed by tape recordings, disclose the division of territories of the New York-New Jersey docks between the Gambino and Genovese families. Anthony Scotto, identified as a capo in the Gambino family, controls a certain portion of the New York-New Jersey waterfront, and Genovese interests control the rest. Scotto is the son-in-law of Anthony "Tough Tony" Anastasia, who used to run ILA local 1814 and was the mob's emissary on the waterfront.

Mr. Devorin and other witnesses have also stated that Anthony Anastasia's brother, Albert Anastasia, ran "Murder, Incorporated" for the mob. Albert Anastasia ran an organized crime family until he was murdered, and Carlo Bambino took over by aligning himself with Vito Genovese. Gambino assumed control over the Anastasia family and attempted to solidify the control of the docks. Michael Clemente, a high-ranking member of the Genovese family, assisted Anthony Scotto and asked Gambino to make Scotto a power on the waterfront. Since Gambino had solidified his leadership with the assistance of Vito Genovese, he agreed and Scotto was made the head of a Brooklyn Local and was made a member of the Gambino organized crime family. Later, Scotto was made a captain in that same family and he was encouraged to seek political power and influence in the community.

Moreover, on many occasions, witnesses in this current hearing have explained how the Miami Waterfront is solidly linked to the Genovese family through Underboss Anthony "Fat Tony" Salerno. Witnesses have testified that Doug Rago, a made member of the Genovese family and a subordinate of Salerno, reported to and took orders from Salerno relative to the waterfront corruption in the southern

ports. Moreover, the FBI stated that on a taped conversation Thomas Buzzanca, a New York ILA official who worked for Rago and Barone, talked openly of using Teddy Gleason to get their criminal associate, Bill Boyle, an international post.

It should be noted that the New York Waterfront Commission has reported that in 1955, Douglas Rago, identified as a high-ranking member of the Genovese family, and Jay Vanderwyde, both convicted felons with extensive records, were issued a charter for an ILA Local in New York, shortly after Rago's release from prison and Vanderwyde's release from parole. The president of this same local was George Barone, also a convicted criminal. At the time, Barone was also an organizer for the international ILA and an aide to the International President of the ILA, Captain Bradley Barone had a history of employing mob hoodlums to use strong-arm methods to convince various local, regional and national ILA officeholders to surrender their candidacies in favor of candidates supported by Barone and his criminal associates. Barone also headed ILA Local 205, which also employed numerous criminal associates. In addition to this, Rago, Barone, and Vanderwyde were trustees on the ILA Welfare Fund.

The locals which Rago, Barone, and Vanderwyde operated were exempted from the authority of the New York Waterfront Commission under a technicality. During the Waterfront Commission hearings held in 1960, Rago, Vanderwyde and Barone refused to answer questions concerning their activities and their criminal associates. The jurisdictional technicality protected them. But shortly after this, the Waterfront Commission rules were amended and the loopholes which had protected Rago, Barone, and Vanderwyde was closed. In 1962, the Waterfront Commission acted to bar Rago, Vanderwyde, and others from holding ILA offices on the New York and New Jersey ports because of their criminal background, activities, and associations.

As noted in testimony before this subcommittee, Rago, Barone, Vanderwyde and others then went to Miami, which had no Waterfront Commission or waterfront regulations. There they participated in a massive payoff and kickback scheme which they shared with their mob superiors in New York. Their success was only interrupted by the FBI's successful investigation and prosecutions known as UNIRAC.

To add to this strange mixture of organized crime members and ILA officials is the fact that George Wagner has stated that Las Vegas skim money, destined for the New York Genovese family, was divided up in New York and a portion of this skim money was sent to Doug Rago in Florida via an ILA official, James Cashin.

Tape recorded conversations, some never previously released, obtained in the federal government's undercover operation termed UNIRAC even contain several references to the President of the ILA, Thomas "Teddy" Gleason.

On June 15, 1978, Michael Clemente, a long-time high-ranking member of the Genovese family, had a conversation with William "Sonny" Montella, a shipping company executive who was paying off Clemente, other mob members and union officials.

Mr. Devorkin, who previously testified, has described Michael Clemente in the following terms: "Michael Clemente has been involved in waterfront corruption for over 40 years."

In addition to being a high-ranking Genovese family member, Michael Clemente was a principal officer of ILA Local 856 in Manhattan, New York, during the 1940's and 1950's. He was also closely associated with Albert Anastasia, Vito Genovese and Joe Profaci.<sup>4</sup>

In 1953 Clemente was convicted in New York State for extortion and perjury in connection with payoffs he received from waterfront businessmen, including

<sup>4</sup> Joe Profaci and Vito Genovese were each head of one of the five New York City crime families. Albert Anastasia, who was murdered in 1957 in the barber shop of the New York Park Sheraton, was Carlo Gambino's predecessor as head of one New York family. He also operated Murder, Inc. He was the brother of "Tough Tony" Anastasia, a key ILA official from Brooklyn in the 1940's and 1950's, who was a capo in the Gambino family. "Tough Tony" Anastasia was the father-in-law of Anthony Scotto and uncle of Anthony Anastasia, a key ILA official in Scotto's Local, who was recently convicted with Scotto.

At public hearings of the New York State Crime Commission on January 21, 1953, recordings were received in evidence of phone calls between Albert Anastasia and Clemente discussing waterfront business. Clemente admitted at his own state trial that he had been requested by Albert Anastasia to make his brother "Tough Tony" a hiring boss on the breakwater. Surveillance evidence before the Commission showed that Albert Anastasia and others such as Joe Profaci, Johnny DiGauri, Carlo Gambino were observed at the wedding of Clemente's daughter in 1951 and Clemente was observed meeting Albert Anastasia for dinner on September 16, 1952.

the same John McGrath Company involved in this case. As a result of that connection, he resigned his position in the ILA. Clemente served almost five years in New York State prison, during which time Vito Genovese and Joe Profaci, according to Clemente's statements on tape, arranged to send money to his family. Thereafter, Clemente never held an official position of any kind with a union or any business holding a license from the Waterfront Commission. Companies licensed by the New York Waterfront Commission were effectively barred from contact with him because they feared a loss of their own license if caught dealing with a person of his character. Fred Field, his prodigy, was appointed his successor. However, through Field, other ILA members, and his organized crime affiliations, Clemente effectively maintained his control over the Manhattan waterfront and various ILA and waterfront activities.

In concluding his remarks concerning Clemente, Mr. Devorkin stated: "Clemente exercised control over union members and company supervisors and executives who worked principally on the Manhattan piers. He also exercised control over various ILA leaders on the local and international level, including Teddy Gleason, the ILA president, Anthony Scotto, George Barone, Fred Field and Thomas Buzzanca."

In the June 15, 1978 taped conversation, the same Michael Clemente, whom Devorkin described in his testimony, comments on how Teddy Gleason assumed the leadership of the ILA. Clemente tells Montella that, years ago mob members from Harlem (referring to Genovese members under Anthony "Fat Tony" Salerno, who resided in Harlem at that time) attacked Captain Bradley, who was then the International President of the ILA. Clemente told Montella that he (Clemente) was told by the mob to back Teddy Gleason rather than Bradley. Clemente tells Montella that, as a result of this New York mob manipulation, Gleason and Freddy Field were put in as International President and General Organizer, respectively.

On July 18, 1963, the New York Daily News and the Washington Post carried the following articles:

[From the N.Y. Daily News, July 18, 1963]

#### GLEASON HEADS ILA

MIAMI BEACH, July 17 (UPI)—Thomas Gleason stepped into the \$20,000-a-year presidency of the International Longshoremen's Association unopposed today. The 65-year-old head of the union's Local No. 1 in New York was assured of election when William V. Bradley declined to run again for the post he held for 10 years. Bradley will continue as president emeritus at the same salary. A union spokesman would not confirm reports that union leaders told Bradley that if he did not step down he would lose the election and wind up with no job at all.

[From the Washington Post, July 18, 1963]

#### LONGSHORE UNION ELECTS NEW LEADER

MIAMI BEACH.—July 17 (UPI)—Thomas Gleason of New York City stepped into the presidency of the International Longshoremen's Association unopposed today when William V. Bradley decided not to run again after ten years in the post.

A union spokesman declined to confirm reports that union leaders gave Bradley an ultimatum to step down and be named president emeritus at the same \$20,000 chief executive's pay—or lose the election and wind up with no job at all.

In January of 1959, the ILA made formal application for reaffiliation with the AFL (now the AFL-CIO). The AFL-CIO Council recommended that the ILA be reaffiliated under certain probationary precautions dealing with compliance with the AFL-CIO's ethical standards. In November of 1959, the IBL and the ILA merged and, shortly thereafter, the ILA was reaffiliated with the AFL-CIO.

Thomas "Teddy" Gleason was elected as president of the International ILA, in 1963. This was the first international election since the ILA probationary period ended. Until that time, during the probationary period, Captain Bradley kept his post as International ILA President, George Meany having previously indicated his displeasure with Thomas "Teddy" Gleason.

In this same June 15, 1978 tape recorded conversation previously referred to, Clemente tells Montella that Gleason has received some money for some un-

specified purpose and that Clemente expected this to be revealed in the newspapers.

On July 31, 1978, Michael Clemente again spoke to William "Sonny" Montella on another secret tape recorded conversation during the UNIRAC investigations. During this conversation Clemente discusses the intense FBI investigation and recent indictment of Freddy Field. He also discusses how close the FBI is to getting Anthony Scotto. Clemente then states that (Teddy) Gleason is scared stiff. Montella asks Clemente if Gleason is involved too. Clemente replies: "Yeah sure (laughter). Yeah, you better wish that nobody talks. Then they're all in trouble."

Clemente goes on to tell Montella that they are putting someone in to take Freddy Field's job while he is in trouble and that they are using Gleason to put this person in place. Clemente goes on to complain that he feels Gleason should put up more of a fight when the government subpoenas ILA records.

On September 12, 1978, Michael Clemente and William "Sonny" Montella were again secretly tape recorded in the UNIRAC investigation.

Clemente tells Montella how other mobsters told him that he was making a mistake to make Anthony Scotto so powerful in the ILA. Clemente says he told them at the time that it took him 60 years to get an Italian to such an important rank in the Union. Clemente goes on to mention Gleason's role in the union. Clemente then says that George Barone wanted Freddie Field's job but they couldn't give it to him for various reasons. He then admitted that Barone "belongs with us" meaning the Genovese family while Anthony Scotto belongs to a different family (referring to the Gambino family). Clemente goes on to explain that Tommy Buzzanca, a New York ILA official who works for George Barone, owes his allegiance to Fat Tony (Salerno). He also tells Montella that Tino Fiumara owes his allegiance to mob boss Pete LaPlaca in New Jersey.

Clemente goes on to tell Montella that the intention of the FBI is to break up the ILA. He says that they can call a waterfront strike in Newark and shut the Newark Waterfront down. Clemente goes on to say that if Gleason had any guts he'd call a one-day strike which would, in effect, cause havoc to the investigation.

Clemente then relates to Montella how he told Joe Ryan, who was President of the ILA in the 1950's to quit his job—that his days were over and that Clemente would put someone in as President who would use an ILA waterfront strike as a weapon to combat the investigations of the ILA. (It should be noted that shortly after this Captain Bradley succeeded to Joe Ryan's post and subsequently Teddy Gleason assumed the post.)

Clemente went on to relate to Montella about how he and the mob had caused a newspaper strike in New York which tied up every newspaper distributor in the city.

Clemente goes on to tell Montella that he blamed Tony Anastasia for his going to jail. He tells Montella that Gleason "put the finger on him," and according to the FBI, this meant that Gleason told Clemente that it was Anastasia who set Clemente up to go to jail. Clemente then says he made a big mistake by working with the Anastasia brothers and the ILA. He states that he should have gone with Paul Hall, who at that time was head of the Seafarers Union, and since the ILA was kicked out of the AFL in 1953, the Seafarers would have had an opportunity to assume the ILA's maritime jurisdiction. Clemente goes on to say that Hall told him it cost them a million dollars and Clemente's going to jail, referring to Clemente's working with the Anastasias and the ILA instead of working with the Seafarers. Clemente goes on to say that the Anastasias were supposed to support his wife while he was in jail but that they never gave his family anything.

Finally, in a December 12, 1978, undercover tape recording from the UNIRAC investigation between Tommy Buzzanca, [a New York ILA official who owes his allegiance to Anthony "Fat Tony" Salerno, Michael Clemente, Douglas Rago and George Barone,] and William Montella, Buzzanca explains the position of Teddy Gleason to Montella.

Buzzanca generally tells Montella about the competition between the Irish and the Italians in the ILA. Montella, through his contacts with organized crime figures, relates his understanding to Buzzanca that, although Teddy (Gleason) is still Irish he joined forces because he had no choice.

Buzzanca confirms this saying that Gleason saw the handwriting on the wall. Montella repeats that it is his understanding that Gleason joined forces (with the mob) because he had no choice.

Buzzanca replies: "Teddy is number one, first he, he likes money. Second of all he wants to be around and third of all, he's Irish. If he could be Irish first and have the other two fine, but if he can't, he's Irish third."

In conclusion, Mr. Chairman, I would like to place in the record a series of exhibits. These exhibits are individually identified and listed at the end of my statement. I ask that they be appropriately marked seriatim as exhibits to my testimony.

(1) Waterfront Investigation: New York-New Jersey, Interim Report of the Committee on Interstate and Foreign Commerce. (83rd Congress, 1st Session) July 27, 1953.

(2) Congressional Research Service, The Library of Congress paper dated February 13, 1981, to the Permanent Subcommittee on Investigations. Subject: AFL-CIO Affiliation Status of Certain Trade Unions and supplemental documents relating to the International Longshoremen's Association (ILA).

(3) Hearings, Select Committee on Improper Activities in the Labor or Management Field, 85th Congress, 1st Session, part 12, July 1, August 14, 15, 16, and 19, 1957.

(4) Report No. 1139, Part 3, Select Committee on Improper Activities in the Labor or Management Field, March 23, 1960.

(5) Report No. 1417, Select Committee on Improper Activities in the Labor or Management Field, March 24, 1958.

#### CONTINUED TESTIMONY OF MARTY STEINBERG, MINORITY CHIEF COUNSEL, SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEINBERG. Historically, the New York waterfront has been controlled by organized crime groups. This control goes back to the days of "Tough Tony" Anastasia and Vito Genovese, who ruled the ports with an iron hand.

Modern-day control of the waterfront by organized crime dates back to the 1950's.

In 1953, following these various public disclosures, the ILA was expelled from the AFL for having too many criminals and running criminal rackets at the ports.

The ILA was expelled from the American Federation of Labor on September 23, 1953—prior to the merger of the AFL with the CIO.

The AFL's executive council, which met in February of 1953, was the first over which George Meany had presided as AFL president. In a February 3 statement to the ILA, the council gave the union a "clean-up-or-get-out" ultimatum. The council noted that it had given thorough consideration to the disclosures developed by the New York State Crime Commission" as it affected the international and local officers of the international association.

The council's statement read, in part:

We have followed this investigation with interest and the reported widespread alleged crime, dishonesty, racketeering and other highly-irregular and objectionable practices in which it is reported that officers of your international and local unions have been and are involved.

"Your Relationship with the A. F. of L. demands that the democratic ideal of clean and wholesome free trade unionism must be immediately restored within your organization and all semblance of crime, dishonesty and racketeering be forthwith eliminated.

Declaring that it would not allow any affiliated union "to use its right to manage its own affairs as a 'shield for disreputable practices that victimize the union's members,'" the council ordered:

(a) Immediate removal of all international and local officers who have accepted gifts or bribes from employers or have appointed former convicts to union posts.

(b) Ouster of all union representatives with criminal records.

(c) Abolition of the vicious shape-up system of employment, under which a worker cannot get a job unless he enjoys the favor of the hiring boss.

(d) Establishment of democratic practices inside the union so that members who work on the waterfront will be able to select true and capable trade union leaders who will serve the best interests of the A.F. of L. and be free from the taint of crime and racketeering.

On September 23, 1953, the A.F. of L. convention voted by 79,079 yeas to 736 nays to revoke the charter of the ILA.

The executive council in a subsequent statement further explained its expulsion order to the ILA:

This action, severing an affiliation of 60 years, was taken because of public disclosures of crime and corruption on the New York waterfront which established that the ILA had permitted irresponsible, corrupt and criminal elements to fasten themselves upon the body of the organization and destroy its integrity, its effectiveness and its trade union character and because the ILA, despite repeated warnings by the AFL Executive Council to clean house, stubbornly refused to rid itself of corrupt elements and to take other corrective action necessary to a fulfillment of its responsibilities as a labor organization worthy of affiliation with the AFL.

Later, in discussing the mob domination of the ILA, in November of 1953, George Meany, president of the A.F. of L. issued the following statement, and I quote:

The racketeers who are trying to perpetuate their control of the Port of New York failed in their attempt yesterday to camouflage their "front" organization with a new look. The special convention of the discredited and foundering International Longshoremen's Association, which was ousted from the American Federation of Labor last September, was a farcical imitation of a trade union meeting. There can be no doubt that the gangster element that has exploited longshoremen on the New York docks for years was in complete control of the Philadelphia burlesque.

The convention granted Joseph P. Ryan a \$10,000 annual pension as the price of getting him to remove his embarrassing presence and elected a new president, Captain William V. Bradley—this despite the indictments now pending against Ryan on charges of appropriating union funds to his own use. Bradley showed his colors immediately when he announced that he welcomed support from everybody—"I don't care who they are or what they are." He exposed the true nature of his supporters when he credited his election to the work of Thomas Gleason, a local union official who was cited in testimony before the New York State Crime Investigating Committee for consorting with gangsters and accepting gratuities from stevedoring and steamship company officials.

The actions at Philadelphia add up to one inescapable conclusion—the mob is still in complete control of the old ILA. It will not permit itself to be purged. It will not abdicate its control of the lucrative racket it operates on the New York waterfront until it is cleaned out.

Senator NUNN. What was the date of that quote?

Mr. STEINBERG. November 1953.

Within 2 days of the expulsion of the ILA, on September 25, 1953, the AFL convention chartered a new longshore union, the International Brotherhood of Longshoremen. The IBL was set up to compete with or combat the ILA. In addition, the convention named a committee to oversee the restoration of clean trade unionism on the docks.

Ironically, Dave Beck, the president of the Teamsters, was one of the original trustees in that organization. The hearing record of the McClellan Labor Rackets Committee reflects that in late 1953, top officials of the ILA and the Teamsters met to discuss a closer relation-

ship between the Teamsters and the ILA and to consider the impact of the IBL, which was competing with the ILA.

Despite the fact that one of those at the meeting was Dave Beck, a Teamster leader and a trustee of the competing IBL, this meeting took place to try to accommodate the ILA by making them a "marine" division of the Teamsters and thus overcome the AFL-CIO opposition. When this secret meeting became publicized, the plans were dropped.

After the meeting with the Teamsters officials, the ILA competed for certification with the IBL through normal NLRB procedures. The results of the NLRB sponsored election resulted in the defeat of the IBL, and the discredited ILA was certified in 1954 to represent the waterfront workers in the New York-New Jersey area.

Later in 1954, according to the hearing record, top ILA officials, including the ILA President, Captain William V. Bradley, and the general organizer, Thomas "Teddy" Gleason, met with top Teamsters officials, including James Hoffa, in Chicago.

At that time, they agreed in principle to form an alliance of sorts. They discussed the problem of the ILA trying to get back into the AFL-CIO.

The McClellan hearing record further reflects that shortly thereafter in November 1955, the Teamsters and the ILA signed a 4-year contract to formalize this agreement. In exchange for the Teamsters obtaining this maritime jurisdiction and the clout and "brawn" of the ILA on the waterfront, James Hoffa prepared to "loan" the ILA \$490,000 for questionable purposes.

By early 1956, George Meany had apparently become aware of the unusual nature of this financial transaction and on February 29, 1956, Mr. Meany wrote to Mr. Beck protesting the loan from the Teamsters to the ILA. This protest caused a postponement of the "loan."

The Teamsters never granted the ILA this loan but the notes reflecting it were never returned to the ILA.

Mr. Bradley and Mr. Gleason told the McClellan committee that the notes were "misplaced" in a bank which got in trouble in 1956 or 1957.

The real nature of the alliance became clear when, on December 6, 1957, the AFL-CIO expelled the Teamsters after a year of negotiations between the AFL-CIO and the Teamsters over Teamster corruption.

In 1957 the Senate Select Committee on Improper Activities in the Labor or Management Field, the McClellan committee, conducted extensive hearings concerning the Teamsters and the ILA. In fact, it was the exposure of corruption in the IBT by the committee which led to the expulsion of the IBT in 1957. During those hearings, ILA President William Bradley, who had succeeded Joseph Ryan in 1953, and the then international general organizer of the ILA, Thomas "Teddy" Gleason, were closely questioned about the alliance and were required to explain to the McClellan committee precisely what benefits were to be derived from the alliance by rank and file longshoremen and teamsters.

Bradley admitted to the committee that the alliance would not have done the ILA much good if the Teamsters were expelled from the AFL-CIO.

Gleason also explained to the McClellan committee how the once secret plan for the ILA to join the Teamsters as a maritime division

would have benefited not only the ILA but the Teamsters themselves.

Gleason told the committee how the Teamsters would have benefited particularly in the Southern States which had right-to-work laws and which hadn't been organized at this point. The idea was to combine the power of the Teamsters with the ILA to try to unionize the Southern States.

It was the full scope of ILA corruption, however, and not just the questionable relationship between the ILA and the IBT, which came under scrutiny by the McClellan committee.

During the hearing, Bradley and Gleason were asked questions in 1957, which, today—24 years later—still remain unanswered and unresolved. These men were asked directly about the ILA's expulsion from the AFL-CIO due to the pervasive control of gangsters, the lack of democratic procedures, and the criminal rackets run on the waterfront by ILA members and officers.

The committee reminded Bradley and Gleason that the ILA was told back in 1953 to "put its house in order" and "get rid of its criminal element and practice more democratic procedures."

At the hearing on August 16, 1957, then Senator John F. Kennedy asked Mr. Bradley and Mr. Gleason a series of questions about the criminal infiltration and activities of the ILA and what they had done since 1953 to clean up the situation.

One such example of a question is this:

Senator KENNEDY. This fourth report of the New York State Crime Commission in 1953, May 20, talks about the ILA locals. It said that 30 percent of the officials of the ILA longshore locals have police records.

Waterfront criminals know that control of the local is a prerequisite to conducting racket operations on the pier. Through their powers as union officials, they place their confederates in key positions on the docks, shake down steamship and stevedoring companies by threats of work stoppages, operate lucrative public loading business, and carry on such activities as pilferage, loansharking, and gambling.

This is a serious charge. It is true, as I understand it, that the union was suspended from the AFL because of similar charges. I am wondering what has been done about cleaning that situation up. I am wondering what happened since then. Now, it is 1957, what has been done to clean it up since then?

To each of these questions asked by Senator Kennedy, Bradley and/or Gleason replied that the ILA was not a police force and that they didn't have any power to get rid of ILA members or officials because of criminal conduct. This is despite the fact that the ILA International Constitution gives the International the right to discipline members, including removal from membership, for acts of dishonesty or misconduct. However, Captain Bradley went on to say:

... our goal was, and what we were trying to do was, to prevent anyone with any kind of a record getting into the organization. And I think we done a fairly good job since I have been president.

However, both Bradley and Gleason insisted that they were not a police force and didn't have responsibility in this area.

Approximately 5 months after these appearances before the McClellan committee, Bradley and Gleason made plans in late February and early March 1958 to meet in Miami Beach, Fla., with top Teamster officials, including James Hoffa. Also in attendance at this meeting were other top ILA officials, including Douglas Rago, George Barone, and Freddie Field.

The purpose of this meeting was for these two expelled groups, the Teamsters and the ILA, to prepare plans concerning an AFL-CIO chartered union which was preparing to represent all longshoremen from Norfolk, Va., to Key West, Fla. The Teamsters and the ILA were meeting to determine their strategy to fight this competition and maintain their lucrative control over rank-and-file workers.

Records obtained by the McClellan committee reflect that, during this meeting held in Miami Beach, Teddy Gleason, Freddy Field, George Barone, and Doug Rago were all registered at the Sea Gull Hotel on Miami Beach.

Rago's hotel ledger sheet contained the following notation: "OK all checks and credit for Barone, Phil Siolino, and Tony Salerno." The Tony Salerno referred to is Anthony "Fat Tony" Salerno, an underboss in the Genovese family who had residences in Harlem, N.Y. and Miami Beach.

The McClellan committee obtained films of Hoffa and Gleason meeting on numerous occasions during late February and early March 1958 from the New York Waterfront Commission. During the time Teddy Gleason stayed at the Sea Gull Hotel, records reflect that Gleason's hotel phone was used to call the residence of Vincent "Jimmy Blue Eyes" Alo in Hollywood, Fla. Alo is an identified member of the Genovese family.

One witness at our present waterfront hearings, George Wagner, testified about the gangster influence in the selection of the top ILA leadership.

Wagner testified that he had a long and close criminal relationship with New York mobsters, including Carmine Lombardozi, who was a capo in the New York City-based Gambino family (the same family Anthony Scotto was later to be made a capo in). Lombardozi had an extensive criminal record going back to the 1930's. During Wagner's close association with Lombardozi in the late 1950's and early 1960's, he was told that Captain Bradley, who was not cooperating with the mob, was visited by some mob members who told him he'd have to give his position to Teddy Gleason or he'd be killed. This story was again repeated by Michael Clemente in 1978. That conversation was taped and has been played here.

Lombardozi, by the way, is typical of the mob involvement with the ILA. A participant in the infamous Apalachian meeting of national mob figures, Lombardozi successfully maintained illicit financial interests in the New York waterfront himself.

The New York Waterfront Commission identified Lombardozi as having a hidden interest in an optical company which had an ILA contract to supply eyeglasses for dockworkers. The glasses were paid for by welfare funds. Subsequent to the waterfront commission inquiry, Lombardozi's company's services were terminated after taking substantial sums out of the welfare fund.

Other evidence testified to by witnesses at the Permanent Subcommittee on Investigations' current hearing and confirmed by tape recordings, disclose the division of territories of the New York-New Jersey docks between the Gambino and Genovese families. Anthony Scotto, identified as a capo in the Gambino family, controls a certain portion of the New York-New Jersey waterfront, and Genovese inter-

ests control the rest. Scotto is the son-in-law of Anthony "Tough Tony" Anastasia, who used to run ILA local 1814 and was the mob's emissary on the waterfront.

Mr. Devorkin and other witnesses have also stated that Anthony Anastasia's brother, Albert Anastasia, ran "Murder, Incorporated" for the job. Albert Anastasia ran an organized crime family until he was murdered, and Carlo Gambino took over by alining himself with Vito Genovese. Gambino assumed control over the Anastasia family and attempted to solidify the control of the docks.

Michael Clemente, a high-ranking member of the Genovese family, assisted Anthony Scotto, and asked Gambino to make Scotto a power on the waterfront.

Since Gambino had solidified his leadership with the assistance of Vito Genovese, he agreed and Scotto was made the head of a Brooklyn local and was made a member of the Gambino organized crime family. Later, Scotto was made a captain in that same family and he was encouraged to seek political power and influence in the community.

Moreover, on many occasions, witnesses in this current hearing have explained how the Miami waterfront is solidly linked to the Genovese family through underboss Anthony "Fat Tony" Salerno.

Witnesses have testified that Doug Rago, a made member of the Genovese family and a subordinate of Salerno, reported to and took orders from Salerno relative to the waterfront corruption in the southern ports. Moreover, the FBI stated that on a taped conversation Thomas Buzzanca, a New York ILA official who worked for Rago and Barone, talked openly of using Teddy Gleason to get their criminal associate, Bill Boyle, an international post.

It should be noted that the New York Waterfront Commission has reported that in 1955, Douglas Rago, identified as a high-ranking member of the Genovese family, and Jay Vanderwyde, both convicted felons with extensive records, were issued a charter for an ILA local in New York, shortly after Rago's release from prison and Vanderwyde's release from parole. The president of this same local was George Barone, also a convicted criminal. At the time, Barone was also an organizer for the international ILA and an aide to the international president of the ILA, Captain Bradley.

Barone had a history of employing mob hoodlums to use strong-arm methods to convince various local, regional, and national ILA officeholders to surrender their candidacies in favor of candidates supported by Barone and his criminal associates. Barone also headed ILA local 205, which also employed numerous criminal associates. In addition to this, Rago, Barone, and Vanderwyde were trustees on the ILA Welfare Fund.

The locals which Rago, Barone, and Vanderwyde operated were exempted from the authority of the New York Waterfront Commission under a technicality. During the Waterfront Commission hearings held in 1960, Rago, Vanderwyde, and Barone refused to answer questions concerning their activities and their criminal associates. The jurisdictional technicality protected them. But shortly after this, the Waterfront Commission rules were amended and the loophole which had protected Rago, Barone, and Vanderwyde was closed. In 1962, the Waterfront Commission acted to bar Rago, Vanderwyde, and others

from holding ILA offices on the New York and New Jersey ports because of their criminal background, activities, and associations.

As noted in testimony before this subcommittee, Rago, Barone, Vanderwyde and others then went to Miami, which had no waterfront commission or waterfront regulations. There they participated in a massive payoff and kickback scheme which they shared with their mob superiors in New York. Their success was only interrupted by the FBI's successful investigation and prosecutions known as UNIRAC.

To add to this strange mixture of organized crime members and ILA officials is the fact that George Wagner has stated that Las Vegas skim money, destined for the New York Genovese family, was divided up in New York and a portion of this skim money was sent to Doug Rago in Florida via an ILA official, James Cashin.

Tape recorded conversations, some never previously released, obtained in the Federal Government's undercover operation termed UNIRAC even contain several references to the president of the ILA, Thomas "Teddy" Gleason.

On June 15, 1978, Michael Clemente, a long-time high-ranking member of the Genovese family, had a conversation with William "Sonny" Montella, a shipping company executive who was paying off Clemente.

Mr. Devorkin, who previously testified, has described Michael Clemente in the following terms: "Michael Clemente has been involved in waterfront corruption for over 40 years."

In addition to being a high-ranking Genovese family member, Michael Clemente was a principal officer of ILA local 856 in Manhattan, New York, during the 1940's and 1950's. He was also closely associated with Albert Anastasia, Vito Genovese, and Joe Profaci.

In 1953 Clemente was convicted in New York State for extortion and perjury in connection with payoffs he received from waterfront businessmen.

Thereafter, Clemente never held an official position of any kind with a union or any business holding a license from the Waterfront Commission.

However, through Field, other ILA members, and his organized crime affiliations, Clemente effectively maintained his control over the Manhattan waterfront and various ILA and waterfront activities.

In concluding his remarks concerning Clemente, Mr. Devorkin stated:

Clemente exercised control over union members and company supervisors and executives who worked principally on the Manhattan piers. He also exercised control over various ILA leaders on the local and international level, including Teddy Gleason, the ILA president, Anthony Scotto, George Barone, Fred Field and Thomas Buzzanca.

In the June 15, 1978 taped conversation, the same Michael Clemente, whom Devorkin described in his testimony, comments on how Teddy Gleason assumed the leadership of the ILA. Clemente tells Montella that, years ago, mob members from Harlem—referring to Genovese members under Anthony "Fat Tony" Salerno, who resided in Harlem at that time—attacked Captain Bradley, who was then the international president of the ILA.

Clemente told Montella that he—Clemente—was told by the mob to back Teddy Gleason rather than Bradley. Clemente tells Montella that,

as a result of this New York mob manipulation, Gleason and Freddy Field were put in as international president and general organizer, respectively.

[At this time, Senator Nickles entered the hearing room.]

Mr. STEINBERG. On July 18, 1963, the New York Daily News and the Washington Post carried the following articles:

Washington Post, July 18, 1963: Longshore Union Elects New Leader: Miami Beach, July 17: Thomas Gleason of New York City stepped into the presidency of the International Longshoremen's Association unopposed today when William V. Bradley decided not to run again after 10 years in the post.

A union spokesman declined to confirm reports that union leaders gave Bradley an ultimatum to step down and be named president emeritus at the same \$20,000 chief executive's pay—or lose the election and wind up with no job at all.

In January 1959, the ILA made formal application for reaffiliation with the AFL—now the AFL-CIO.

The AFL-CIO Council recommended that the ILA be reaffiliated under certain probationary precautions dealing with compliance with the AFL-CIO's ethical standards. In November 1959, the IBL and the ILA merged and, shortly thereafter, the ILA was reaffiliated with the AFL-CIO.

Thomas "Teddy" Gleason was elected president of the international ILA in 1963. This was the first international election since the ILA probationary period ended. Until that time, during the probationary period, Captain Bradley kept his post as international ILA president, George Meany having previously indicated his displeasure with Thomas "Teddy" Gleason.

In this same June 15, 1978, tape-recorded conversation previously referred to, Clemente tells Montella that Gleason has received some money for some unspecified purpose and that Clemente expected this to be revealed in the newspapers.

On July 31, 1978, Michael Clemente again spoke to William "Sonny" Montella on another secret tap-recorded conversation during the UNIRAC investigations. During this conversation Clemente discusses the intense FBI investigation and recent indictment of Freddy Field.

He also discusses how close the FBI is to getting Anthony Scotto. Clemente then states that Teddy Gleason is scared stiff. Montella asks Clemente if Gleason is involved, too. Clemente replies: "Yeah, sure [laughter]. Yeah, you better wish that nobody talks. Then they're all in trouble."

Clemente goes on to tell Montella that they are putting someone in to take Freddy Field's job while he is in trouble and that they are using Gleason to put this person in place. Clemente goes on to complain that he feels Gleason should put up more of a fight when the Government subpoenas ILA records.

On September 12, 1978, Michael Clemente and William "Sonny" Montella were again secretly tape recorded in the UNIRAC investigation.

Clemente tells Montella how other mobsters told him that he was making a mistake to make Anthony Scotto so powerful in the ILA. Clemente says he told them at the time that it took him 60 years to get an Italian to such an important rank in the union.

Clemente goes on to mention Gleason's role in the union. Clemente then says that George Barone wanted Freddy Field's job but they couldn't give it to him for various reasons. He then admitted that Barone "belongs with us" meaning the Genovese family while Anthony Scotto belongs to a different family—referring to the Gambino family.

Clemente goes on to explain that Tommy Buzzanca, a New York ILA official who works for George Barone, owes his allegiance to "Fat Tony" Salerno. He also tells Montella that Tino Fiumara owes his allegiance to mob boss Pete LaPlaca in New Jersey.

Clemente goes on to tell Montella that the intention of the FBI is to break up the ILA. He says that they can call a waterfront strike in Newark and shut the Newark waterfront down. Clemente goes on to say that if Gleason had any guts he would call a 1-day strike which would, in effect, cause havoc to the investigation.

Clemente then relates to Montella how he told Joe Ryan, who was president of the ILA in the 1950's, to quit his job—that his days were over and that Clemente would put someone in as president who would use an ILA waterfront strike as a weapon to combat the investigations of the ILA. It should be noted that shortly after this Captain Bradley succeeded to Joe Ryan's post and subsequently Teddy Gleason assumed the post.

Clemente went on to relate to Montella about how he and the mob had caused a newspaper strike in New York which tied up every newspaper distributor in the city.

Clemente goes on to tell Montella that he blamed Tony Anastasia for his going to jail. He tells Montella that Gleason "put the finger on him," and according to the FBI, this meant that Gleason told Clemente that it was Anastasia who set Clemente up to go to jail.

Clemente then says he made a big mistake by working with the Anastasia brothers and the ILA. He states that he should have gone with Paul Hall, who at that time was head of the Seafarers Union, and since the ILA was kicked out of the AFL in 1953, the Seafarers would have had an opportunity to assume the ILA's maritime jurisdiction.

Clemente goes on to say that Hall told him it cost them \$1 million and Clemente's going to jail, referring to Clemente's working with the Anastasias and the ILA instead of working with the Seafarers. Clemente goes on to say that the Anastasias were supposed to support his wife while he was in jail but that they never gave his family anything.

Finally, in a December 12, 1978, undercover tape recording from the UNIRAC investigation between Tommy Buzzanca, a New York ILA official who owes his allegiance to Anthony "Fat Tony" Salerno, Michael Clemente, Douglas Rago, and George Barone—and William Montella, Buzzanca explains the position of Teddy Gleason to Montella.

Buzzanca generally tells Montella about the competition between the Irish and the Italians in the ILA. Montella, through his contacts with organized crime figures, relates his understanding to Buzzanca that, although Teddy Gleason is still Irish he joined forces because he had no choice.

Buzzanca confirms this saying that Gleason saw the handwriting on the wall.

Montella repeats that it is his understanding that Gleason joined forces—with the mob—because he had no choice.

Buzzanca replies:

Teddy is number one, first he, he likes money. Second of all he wanted to be around and third of all, he's Irish. If he could be Irish first and have the other two fine, but if he can't, he's Irish third.

In conclusion, Mr. Chairman, I would like to place in the record a series of exhibits. These exhibits are individually identified and listed at the end of my statement.

Senator NUNN. Without objection, the exhibits will be made a part of the record, appropriately numbered.

[The documents referred to were marked "Exhibit No. 6," for reference and may be found in the files of the subcommittee.]

Senator NUNN. Our next witness is Mr. Teddy Gleason.

Mr. Gleason, will you come forward.

Before you have a seat, if you would hold up your right hand, we swear in all of our witnesses before this subcommittee. Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. GLEASON, Sr. So help me God.

**TESTIMONY OF THOMAS W. GLEASON, SR., PRESIDENT, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, ACCOMPANIED BY ERNEST H. HAMMER, ATTORNEY**

Mr. HAMMER. Do you have any preference in the position?

Senator NUNN. Just whatever suits the witness, but I think he ought to be in the middle seat, if he would, so we can get that microphone right in front of him.

Mr. Gleason, you have a right to be represented by counsel before this subcommittee. Are you represented by counsel here today?

Mr. GLEASON, Sr. Yes. I am, sir.

Senator NUNN. Could you introduce counsel, or have counsel introduce themselves and all the associates?

Mr. HAMMER. May I do that, sir? My name is Ernest H. Hammer and I appear on behalf of Mr. Gleason in his capacity as president of the International Longshoremen's Union. I wish to note that Mr. Gleason is accompanied by his son, Thomas W. Gleason, also an attorney and member of the bar of New York.

Senator NUNN. Who is Mr. Gleason? Is it junior?

Mr. GLEASON, Jr. I.

Senator NUNN. Thank you, sir.

Mr. HAMMER. In addition, on the far right, is an associate of Mr. Thomas Gleason's law firm, Mr. Charles Goldberg. On my left is William Hammer, Mr. William Hammer is not an attorney. He is in his third year of law studies here at Georgetown University and at my request has attended these sessions with me and I have asked him to sit with us at the table and with your permission, he will do so.

Senator NUNN. Have you advised Mr. Gleason of his rights before this subcommittee, his rights and obligations as a witness?

Mr. HAMMER. I need not advise him, Senator. He is well aware of his rights and his obligations to respond to your requests to attend here and to speak frankly, fully, and frankly to any inquiries you may desire to put to him with the usual and ordinary limitations as to relevance and propriety.

Senator NUNN. Thank you.

Mr. Gleason, are you fully aware of your rights and obligations as a witness before the subcommittee?

Mr. GLEASON, Sr. Yes; I am.

Senator NUNN. Mr. Gleason, I understand that you have a statement and you certainly should be accorded the privilege of making that statement before we get to questions. Would you like to make a statement at this time?

Mr. GLEASON, Sr. Yes, Senator.

Mr. HAMMER. If you will, Senator, we filed a copy of that statement with the committee 2 days ago pursuant to rule 9 of this committee. Mr. Gleason is going to read his statement, which is consistent with that but it is somewhat abbreviated. There is no difference in substance.

Senator NUNN. Fine will you proceed as you desire? We give you the time to make whatever statement you would like to make. We appreciate your filing that statement pursuant to our rules.

Mr. GLEASON, Sr. Thank you. My name is Thomas W. Gleason and I am the president of the International Longshoremen's Association, AFL-CIO. Although I appear before this subcommittee pursuant to the subpoena, I welcome the opportunity to testify. Prior witnesses who have testified before the subcommittee and whose statements have been widely reported in the news media have misrepresented the facts, have misled the Congress, and have slandered both the International Longshoremen's Association, myself, and the entire shipping industry. These outrageous statements should not be permitted to go unchallenged.

The subcommittee has received and apparently accepted the hearsay testimony of informers, accomplices and convicted criminals. All persons of low credibility with every motive to distort the facts. Those witnesses were not subjected to probing cross-examination to get a true picture. Their lies, distortions and innuendos have gone into the record as the gospel truth.

I realize that this subcommittee is not bound by the rules of evidence like a court would be. But I understand that the purpose of those rules is to insure the truth and reliability of the evidence, to protect the rights of parties, and to get the whole story.

The kind of innuendos, half-truths and unsupported conclusions that have been presented in these hearings is itself a strong argument for the following the rules of evidence.

Let's take an example. The subcommittee was told that, because of its failure to purge itself of criminal elements, the ILA was kicked out of the AFL-CIO. The subcommittee was not told that in November 1959, the ILA was readmitted to the AFL-CIO—I heard that in the last statement here—and has been a member in good standing for over 20 years, that I have been vice president of the AFL-CIO since 1969

and have been entrusted by President George Meany with repeated assignments of great importance to the union and to the American labor movement.

What the subcommittee got was an old half-truth, with its suggestion of corruption, not the later developments which form the whole truth and which show that the conditions which caused the AFL-CIO to expel the ILA—before my presidency—have been corrected. I don't think this subcommittee, nor the public, are well served by such distortions and half-truths.

Or, again, various witnesses have said that, although they do not know me, someone has told them—or was told by someone else—that I was implicated in this or that. This kind of hearsay—and double hearsay—doesn't prove anything.

But its effect is to create an impression that is absolutely false. No effort has been made here to go behind the hearsay and find out how true or reliable the reported stories are.

Since some of these tall tales are directed against me, I naturally feel a personal hurt. But more important than that is the duty of this subcommittee of the Congress of the United States to get at the truth—so that the public may be informed and so that its recommendations and any subsequent legislative action may be based on reality—not upon the bravado and opinion and suspicions and outright lies of ill-informed and unreliable witnesses.

So I am glad to be here. Having served in the longshore part of the industry for 65 years, I have firsthand knowledge of the conditions that exist on the waterfront today. I welcome the opportunity to set the record straight.

I will, one by one, address the various charges that have been made and the recommendations that have been forthcoming. I am going to start with a brief discussion of the history and structure of the International Longshoremen's Association and my own experience in the longshore industry.

[At this point, Senator Nunn withdrew from the hearing room.]  
[The letter of authority follows:]

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,  
Washington, D.C.

Pursuant to Rule 5 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the Chairman, or any member of the Subcommittee as designated by the Chairman, to conduct open and/or executive hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Organized Crime's Influence and Control Over the Waterfront Industry Along the East and Gulf Coasts on Tuesday, February 17; Wednesday, February 18; Thursday, February 19; Friday, February 20; Wednesday, February 25; Thursday, February 26; Friday, February 27, 1981.

WILLIAM V. ROTH, Jr.,  
Chairman.

SAM NUNN,  
Ranking Minority Member.

Mr. GLEASON, Sr. One, the history and structure of the International Longshoremen's Association, AFL-CIO:

The International Longshoremen's Association, AFL-CIO, is a labor organization with a membership of over 110,000 members. The

union members are affiliates of some 360 locals scattered along the east coast, the gulf coast, and the Great Lakes in the United States, Canada, and Puerto Rico.

The membership of the ILA performs all work directly and indirectly involved in the loading and unloading of cargo on all floating structures, regardless of whether the operations take place on docks, piers, marine warehouses, in compounds and terminals, or on board vessels.

The union was formally organized in Detroit in 1892, although it actually had its birth in Chicago as early as 1877.

The organization and policies of the ILA today emanate from the union's executive council, and are implemented by the international executive officers and the individual locals.

The ILA's executive council includes the international president, the president emeritus, if any, the international secretary-treasurer, the international executive vice president, the international general organizer, and 25 international vice presidents.

The ILA is further structured along three districts, under which the various regions operate. They are:

One, the Atlantic coast district, which consists of every port north of Cape Hatteras, including all Canadian ports along the Atlantic seacoast and all ports of Puerto Rico.

Two, the South Atlantic and gulf coast district, which includes every port south of Cape Hatteras along the Atlantic, gulf coast, and Caribbean Sea.

Three, the Great Lakes district, which includes all ports on the Great Lakes and tributary waters.

[At this point, Senator Nunn entered the hearing room.]

Mr. GLEASON, Sr. The chief executive officer of the ILA is the international president who carries out the directives of the executive council and the membership conventions. He enjoys the privilege to attend meetings of local unions and districts. His administrative duties are set forth in the ILA's "Constitution and Rules of Order."

Responsibilities are also spelled out for all the other international officers, that is, the international executive vice president, the international secretary-treasurer, all executive council members, district council members, and local union officers.

While districts are chartered by the International Longshoremen's Association, each must adopt its own constitution for its own government. Each district elects its own officers, and operates as its constitution and by-laws provide, within the framework of the ILA's constitution.

The district councils attempt to standardize work and bargaining procedures, whenever two or more locals are formed in any one port.

All local unions hold charters issued by the ILA. Each local union adopts bylaws for its government. It elects its own officers, executive board members, and its own local union's auditing committee.

Operating systems and procedures are set up by every local. Membership requirements, programs, practices, and disciplinary procedures are established and written in each local union's bylaws. Locals are autonomous in regard to everyday operation. There is no requirement nor do the locals report the names of their elected officers

other than president and secretary-treasurer to the international or the district councils.

Two, my personal history. I leave my one-bedroom apartment at 6 a.m. each morning and am at my desk at 7 a.m. In this I repay the workers in my industry for the great honors they have given me.

I went to work with my father on the West Side piers of New York at the age of 15 at 10 cents an hour and pledged myself to bring dignity and self-respect to the longshoremen.

At the age of 19, I joined the ILA, having paid a \$2 initiation fee, and worked in a variety of jobs as checker, billing clerk, longshoreman, winch driver, truck loader, and timekeeper.

In 1932, after rising to dock superintendent, I was blacklisted by stevedoring companies and steamship lines for my union organizing activities. With the coming of President Franklin D. Roosevelt's New Deal administration and the legal recognition of labor unions by the Norris-LaGuardia Act, I was able to return to trade union work.

I became business agent and president of local No. 1, the largest checker's local in the ILA. In 1947, I was named full-time ILA organizer. In 1961, I became ILA executive vice president and became chief negotiator with the waterfront employers. I was elected president of the International Longshoremen's Association in 1963 and reelected in 1967, 1971, 1975, and 1979.

In October 1965, I was requested by the U.S. Secretary of State to survey, observe and recommend a program for the movement of cargo to relieve the congestion in the Port of Saigon, Vietnam. I made four trips to Vietnam and made available experienced longshoremen with know-how to eliminate the congested and inefficient conditions. I took similar action for the Port of Mombassa, Kenya at the request of the President of the United States.

In 1967, George Meany, the late president of the AFL-CIO, appointed me to represent the 14 million AFL-CIO membership as fraternal delegate to the Fifth National Convention of the Vietnamese Confederation of Labor (CVT) held in Saigon.

In December 1969, I represented the AFL-CIO at the 11th Convention of Histadrut, the General Federation of Labor in Tel Aviv, Israel.

In July 1970, on the recommendation of AFL-CIO President George Meany and on behalf of the Agency for International Development, U.S. Department of State, I made a special survey of the Apapa Port facilities in Nigeria.

My report and recommendations for a transport rehabilitation project aided the operations of the docks and helped to improve the economic and social conditions of the Nigerian worker.

Again in September 1970, Mr. Meany officially designated me the AFL-CIO fraternal delegate to the 1970 British Trade Union Congress—TUC—the British equivalent of the AFL-CIO.

On January 19, 1971, I was named to the Inter-American Regional Organization of Workers—ORIT—executive council by Mr. Meany.

I also serve on the board of directors of the African-American Labor Center and the American Institute for Free Labor Development.

In January 1974, I was appointed as one of the five American labor leaders to represent the AFL-CIO on a tour of inspection of the State

of Israel during the Middle East crisis. During this period, I, as a part of the delegation, met with Premier Golda Meir, President Dr. Ephraim Katzir and other high officials to discuss the need for political, military, and economic assistance from the United States.

In 1974, I was elected to the office of vice president of the International Transport Workers' Federation—ITF. I serve as one of three vice presidents of this worldwide organization which represents more than 6 million transport workers in 78 countries of the free world.

In May 1978, AFL-CIO President Meany designated me, accompanied by another vice president of the AFL-CIO, to journey to Chile and meet with a group of democratic union leaders to help resolve the confrontations over trade union rights and the repressive actions taken against Chile's trade unionists.

During that visit I met for several hours with Gen. Augusto Pinochet, the President of Chile, and other members of the Cabinet and strongly emphasized my opposition to the continued efforts of Pinochet's military dictatorship to destroy the trade union movement and the persecution of labor leaders who sought restoration of trade union rights for their workers and democracy for their country.

As a result of that meeting, some progressive action revolving around the human rights issue developed in restoring some of the trade union rights.

Again in November 1978, I was designated by Mr. Meany to represent the AFL-CIO at the executive council meeting of the Inter-American Regional Organization of Workers, held in Lima, Peru.

This meeting was held to announce that the AFL-CIO was prepared to cooperate fully with trade union brothers in Latin America and the Caribbean in mounting an effective international action against the Chilean Government's continued repression of its workers. Reports of this important mission were forwarded to President Carter by Mr. Meany.

In 1974, as chief negotiator, I led my union to a successful collective bargaining agreement without a strike or work stoppage for the first time in 30 years.

And the last contract we negotiated in 1980, last June again was without a strike or without any labor difficulty.

I have been a recipient of the following awards: Special Citation from President Lyndon Johnson in 1965; Freedom Award from Jewish War Veterans, October 31, 1965; Veterans of Foreign Wars Medal of Merit, March 6, 1967, drive against Communism; John F. Kennedy Memorial Award, Irish Institute of New York, October 20, 1972; Industrial College of Armed Forces, 1972, 1974, contributions to officers' training school; Israel Prime Minister's Award, July 24, 1975; Man of the Year, Catholic Youth Organization Award, made by Terrence Cardinal Cooke, 1979; Honorary Doctor of Law from Molloy College, 1980, and the Medalist, American Irish Historical Society, 1981.

No. 3, the positive accomplishments of ILA:

Certain witnesses have suggested that the leadership of the ILA is interested only in itself and has done nothing to benefit our membership. Any longshoreman you told that to would laugh in your face. Very briefly, let me touch upon just the highlights of what the ILA has achieved for the working man.

We pioneered the first and only guaranteed annual income program in the United States. Longshoremen whose jobs have been destroyed by increasing technology or shifts in trade, and their families, are protected from poverty or going on public assistance.

This applies only to men who are willing to work, but for whom no work is available. The ILA has a well-funded health care program with comprehensive medical centers and clinical services. We have a well-funded pension program to support our members in retirement and those whose working lives have been shortened by on-the-job injuries.

We also have an educational assistance fund in the Port of New York and a driver training program to alleviate the shortage of that specialty in the port. We have promoted and defended legislation in the field of workmen's compensation and employment rights.

We have eliminated wage differentials between the northern and southern ports and achieved pension, welfare and vacation plans for members in our South Atlantic and gulf ports as well as our northern ports.

We have been in the forefront in obtaining civil rights for minority citizens—and I mean real rights, the access to decent, well-paying, productive jobs. Our union has achieved integrated locals throughout the Nation, and more than 50 percent of our membership, especially in Southern States, is made up of black and other minority Americans.

We recommended port registers to limit the number of men in each port, and established a shorter work week.

When I took office, the ILA had a deficit of \$1.5 million. We have eliminated that deficit and established a positive and substantial net growth, which is around \$20 million today.

In our latest contract, we achieved the employers' agreement to the creation of the job security program. No other union has ever obtained a job security program which insures and guarantees short-falls in employer contributions to guaranteed income, pension and welfare plans, et cetera.

This JSP, job security program benefit protects our members against recessions, depressions, innovations, and other unanticipated economic catastrophes—a benefit without parallel in the entire industrialized world.

Mr. Chairman, anyone who says that the ILA has let down its membership is just not talking about the real world and is in serious error or is maliciously defaming a great organization.

Four, the accusation of criminal influence: In regard to the information reported in the press about the ILA being dominated by organized crime figures, I am here today to deny that, emphatically, categorically, and without any reservation whatsoever.

I neither received my office nor do I maintain my office by any means but through the right of election by the rank and file of the union. I cannot account for the reported remarks by someone who apparently in the course of a conversation brags and inflates his importance to another to serve a corrupt advantage personal to him.

You have up to now drawn or permitted to be drawn an inference that the union and I are so dominated. There is no direct, unequivocal, or reliable evidence of any such dominance. Certainly none has been produced here.

What may be noticed is that two groups of officials in two ports failed their duty. They have been proceeded against and are now under sanction. This is well and as it should be.

The suggested failure of the union and myself to discover and correct this situation early on must be matched against the sophisticated, 5-year investigation of the Department of Justice at the expense of millions of dollars which was necessary to develop the cases against these individuals.

No complaints by employers or industry participants were ever directed to the ILA or to me bringing their faults to our attention for correction. Can we be expected to produce what it took the full energy and power of the U.S. Government to develop?

Further, it is to be noted that the ILA cooperated with the authorities—this is a good one. Further, it is to be noted that the ILA cooperated with the authorities in the course of the investigation and responded fully to all requests for information as well as books and records.

The tapes and electronic recordings you rely on to show pervasive misconduct in the union confirm ILA cooperation with law enforcement by the recorded complaints about such action.

The rules on containers: The committee has heard the ILA criticized for the rules on containers. What you haven't been told is that the rules on containers were not the ILA's idea.

They were a negotiated compromise worked out by David Cole, a highly respected mediator who had been appointed by the President of the United States.

To suggest that the ILA put these rules in effect for the purpose of extorting kickbacks or bribes is pure nonsense.

As a matter of fact, when it became apparent that the use of containers would drastically reduce longshore work opportunities, the ILA took the position that things should be done as they always have been, that is, all goods should be handled at the pier break-bulk by longshoremen.

These containers belong to our employers, were developed and produced by them at a cost of millions of dollars and have resulted in enormous profits. We believe that the benefits of such new technology should be shared by the employers and the public and also by the working man whose jobs are displaced.

Ultimately, and in an agreement that did not stand in the way of technological progress, we agreed to preserve for longshoremen only a portion of the work they had traditionally performed. We agreed that more than 80 percent of the cargo crossing the docks would no longer be handled loose by longshoremen.

But we did insist that longshoremen continue to handle that cargo which was to be loaded and unloaded in the immediate port area. We could not permit substitute docks to be set up nearby, where work longshoremen had always performed would be done by other labor.

The 50-mile rule you have heard criticized came into effect because that was the radius of the Port of New York, where these rules were first put into effect, as determined by the Port of New York Authority.

The Supreme Court of the United States and the U.S. Department of Labor have both recognized that containerization has had a devastating effect on longshore work opportunities. The rules are an effort to

preserve the work of our membership. They were hammered out at the collective bargaining table together with the shipping carrier employers associations like the New York Shipping Association, Inc., and other associations up and down the coast.

The rules have been attacked here as "featherbedding." Nothing could be less true. Longshoremen have always handled oceangoing cargo. Our contract provides that, when a container comes into a port which will be unloaded within the port area, longshoremen continue to do that work at the docks.

They will unload the container and put the contents in trucks to go wherever the shipper wants. If consolidators want us to put the goods back into a container so that they can move it a few miles down the road and have their own employees unload it a second time, it is not the ILA which is featherbedding.

The subcommittee has heard stories about bribes and payoffs to avoid the 50-mile rule, and it may well be that some union members, officers—and employer representatives—did that sort of thing. It was done behind our back. It was part of a wholesale scheme by consolidators to get around the rules on containers, which included false documentation, forgery, and fraud as well.

ILA counsel told the Federal court in New Jersey of such payoffs. The court referred the matter to the U.S. attorney and the Waterfront Commission, where it ultimately died. In the first law case involving the rules, we tried to tell the NLRB and the court that kind of unlawful evasion you have heard testified to was occurring.

They dismissed it as mere "argument." Later, when solid evidence of it came to light, we went back to the Court of Appeals for the Second Circuit and to the NLRB and tried to get them to reconsider the case on the basis of newly discovered evidence.

They refused. The point is that the ILA has never condoned that sort of thing, and, when we could prove it, we have called it to the attention of the authorities. I want you to note carefully that we make no accusations against our brothers or employers lightly. It is only when solid, uncontrovertible evidence of misconduct exists that an accusation is made.

Senator NUNN. Please take your time. We are not in any hurry. My voice gets very tired when I read for a long time or make a statement. You take your time and have some water.

Mr. GLEASON, Sr. My problem is, I had eight teeth pulled out. I have a problem with my teeth. That is my problem.

Senator NUNN. Take your time.

Mr. GLEASON, Sr. Thank you very much.

This subcommittee may well increase its effectiveness by following such procedure.

Free enterprise on the docks:

You have heard witnesses say there is no free enterprise on the docks. In a way that is true—but not the way they mean. What they object to is that the workingmen in those ports are represented by a strong responsive union. But that is in conformity with law and congressional policy.

They object to the union shop. But the vast majority of States have elected not to pass right-to-work laws. They object to collective bargaining. But that is the cornerstone of our national labor policy.

And I would point out to the subcommittee that there is no disparity of strength at the bargaining table. The employers have grouped themselves into bargaining associations, like the New York Shipping Association or the Council of North Atlantic Shipping Associations. These organizations can institute lockouts on a portwide or coastwide basis. They have every bit as much economic clout as the union.

There is, however, a real sense in which free enterprise is endangered on the docks. It doesn't come from labor or from management. It comes from Government. It is an example of what the American people recognized in the recent election.

Take the rules on containers. They were worked out by the employers and the ILA with the help of a Presidential mediator. They were considered legal by the National Labor Relations Board's General Counsel and held to be valid work preservation by the Second Circuit Court of Appeals.

They were held legal by the NLRB's administrative law judge. Then, in 1975, the NLRB for no reason changed its mind and said they were illegal. For 8 years we have been involved in litigation up and down the coast.

We finally reached the Supreme Court, and it held that the ILA had been right all along in our contention that the NLRB had committed legal error.

What the Board claimed was the right to predetermine the outcome of every unfair labor charge by arbitrarily defining the work at issue. The Supreme Court sent the case back to the Board for reconsideration under the correct law. The Board sent it back to an administrative law judge—right where it was in 1973. And there is no end in sight.

The Court of Appeals for the District of Columbia Circuit said:

These Rules represent a reasoned response to the difficult problem of technological innovation and are an exemplar of the self-government contemplated by Congress when it left the bulk of industrial problems to be resolved in the private sector.

Now, the NLRB's theory has changed somewhat. Now they say the rules are illegal, not because they violate the labor law, but because the Federal Maritime Commission says that some of their provisions violate the Shipping Act—to which the ILA is not even subject.

A year ago I appeared before two other committees of Congress to urge passage of H.R. 6613, the Maritime Labor Relations Act of 1980, for the express purpose of keeping the FMC from meddling in labor affairs.

The Senate and the House passed that bill. But today the FMC says it doesn't mean a thing. They are right back, meddlesome as ever.

And there may be problems with the Interstate Commerce Commission, the Department of Customs, the Department of Agriculture, the Food and Drug Administration—all these agencies getting in their whacks over a contract we made with our employers over the use of their equipment to preserve work longshoremen have always done.

Gentlemen, if you are really interested in protecting free enterprise in the longshore industry, get this swarm of bureaucrats off us. Specifically, pass legislation taking away from the FMC any jurisdiction over collective bargaining.

Seven, legislative recommendations:

Various proposals for legislation have been put forward for the subcommittee's consideration. I would like to comment on some of them.

A. a national waterfront commission:

Several witnesses have recommended to the subcommittee that there be a national or coastwide or State-by-State waterfront commission to oversee the longshore and shipping industries. I would strenuously advise against it.

Only last week the President of the United States stressed to the Joint Houses of Congress the necessity of fulfilling his mandate to "get government off the backs of the people." I agree with him that what is needed to restore this country to economic health is less—not more—government.

This history of the Waterfront Commission of New York Harbor is a sad example where this kind of proposal will lead. Created 27 years ago as a temporary, and I underline it, measure and directed by the legislatures to end government interference and regulation as soon as possible, the waterfront commission is still going strong.

As the number of longshoremen subject to its regulation decreases, the commission's size and budget grows. The conditions for its creation as listed in the waterfront commission compact—crimes against and degradation of workingmen—have all been eliminated, thanks so largely to the benefits won by the ILA.

The commission's contributions to law enforcement and crime prevention is minimal. Its own records for last year show all of 74 arrests—not convictions, mind you—out of over 11,000 longshoremen subject to the commission's jurisdiction. This function could easily be absorbed by State and local prosecutors.

Having nothing to do in connection with its legitimate mandate, the waterfront commission engages in make work and meddles in areas far beyond its authorized jurisdiction—collective bargaining, alleged racial discrimination, and negligence determinations.

Nine years ago the waterfront commission said in its annual report to the legislature, "What a Difference Two Decades Can Make," and went on to describe all the improvements and reforms in the Port of New York and the improvement over the conditions of 20 years previous which had called for the establishment of the commission.

In its 1977-78 report it asserted that legislative reforms had "stemmed the tide of lawlessness." Yet this temporary commission goes on in the best traditions of a self-perpetuating bureaucracy, costing the people who buy goods passing through the port an additional \$5 million for its budget. That is \$5 million. Excuse me.

This sum is raised by a payroll assessment on the gross wages paid to longshoremen by employers which is, of course, passed on to the consumer.

Most important, the existence of the Waterfront Commission drives business away from the Port of New York. Shippers and carriers divert cargo to other ports to escape the meddling—and the expense—of the Commission.

If this subcommittee accepts the suggestion of a Nationwide Waterfront Commission, the same thing will happen. Trade will be diverted

away from American ports and carriers, to the great loss of this Nation's economic—and, I would add, military—strength.

And another layer of useless and counterproductive bureaucracy will be put on the shipping and longshore industries. I most earnestly advise this subcommittee not to renege on President Reagan's pledge by placing further unnecessary burden upon the back of the American people.

B. the immediate and permanent removal of convicted union officers:

It is being considered by this subcommittee that labor leaders convicted of a crime be immediately and permanently removed from office.

I would remind the subcommittee that the present policy was the creation of Congress—not of the ILA. Twice, in the Labor Management Relations Act, S. 504, and then in the Employee Retirement Income Security Act, S. 411, Congress elected to provide for removal only for certain enumerated crimes and only for 5 years and to permit a man to stay in office pending appellate review of his case.

We think that is a sound and fair policy. As a practical matter, if a man is removed immediately upon conviction, his subsequent exoneration on appeal a year or 2 later will not rectify things. Someone else will have his job. His career will be ruined, even though he is vindicated by the courts. And such unfairness is not necessary under the present law.

Might I say, sir, you have a case in Savannah, Ga. The man who is on trial down there, Jackson. He was exonerated. He was voted out of office. We have another man that was convicted down in Mobile, Ala., sir. He was convicted on appeal, a new trial. He was exonerated. That is the reason I think that the Congress put this law into effect, to protect those kinds of people.

Whenever a person is guilty of two or more offenses within a span of time, he is subject to conviction under the Racketeering Influenced and Corrupt Organizations Act. The law provides that the sentencing judge can immediately remove him from office, even before appeal. Since this takes care of the repeated or continuous offender, about whom the subcommittee is rightfully concerned, we believe it is far better to leave the decisions to the presiding Federal District Judge, who, with the assistance of the U.S. Attorney, may make that individual determination, rather than to enact a blanket exclusion.

I have noted the subcommittee's critical comments of the several U.S. District Judges who did not exercise their forfeiture authority upon the finding of guilt of a number of those accused.

Such criticism, I suggest, should be directed to the judiciary or reviewed by Congress if you deem it appropriate. It is certainly no area for criticism of me personally or of our beloved union.

We also oppose a blanket prohibition which would bar a man forever from holding office, despite the passage of time or change of circumstances or the crime involved. This would run counter to developments in all other areas of society.

The trend today—whether it be public officials, teachers, lawyers, or what have you—is against a blanket, perpetual bar and toward individual consideration of fitness for office or profession. We think that is a more just and a more practical approach which in no way sacrifices the public interest. We also think whatever restrictions are

to be utilized should be exercised uniformly and fairly against both employees and employers.

C. a single coast-wide bargaining unit:

There is one suggestion I would make to the subcommittee. Since 1953, when I began, I have espoused the position that there be one, single coast-wide collective bargaining unit which would comprise all ILA ports. As things stand now, some locals or districts constitute a separate bargaining unit on nonmaster contract items.

One single unit makes sense because the same ultimate employers—the vessel carriers—operate in all the various ports along the coast. There is no reason why they should be governed by different contracts in different localities.

A single unit would avoid the diverting of cargo from one port to another, the disrupting of established patterns of trade and the practice of playing off one port against another.

Most important for the purposes of this hearing, a single coast-wide bargaining unit will enable the international union to exercise some measure of control over all ports, subject to the rights of locals to elect their own officers and run their own truly local affairs.

As things now stand, certain items called the Seven Master Items are negotiated on a national basis and then other provisions are concluded locally. Employers have used the National Labor Relations Act to block our bargaining as a single unit. I believe that legislation to remove this roadblock would be of great benefit to the stability of the industry, the union and country as a whole.

In conclusion, I would just like to add that, despite the irresponsible charges that have been bandied about, the ILA is a law-abiding, patriotic union, dedicated to the well-being of its rank and file and to the welfare of this country. Those among its ranks who have been tried under the laws of this great land and found guilty after they have been accorded full, American due process are to be punished.

To the extent that this subcommittee is truly interested in uncovering the facts with an eye toward the betterment of the workingman and the general welfare, it has our wholehearted support. To the extent that these noble aims are used for other purposes, we must indicate our dissent. I hope that my appearance here today will set the record straight and will assist in the constructive work of this subcommittee.

Senator NUNN. Thank you, Mr. Gleason. As I told your counsel before your appearance here today, if you would like to take a break at any time, 5-minute break, if you will just let us know, we will be glad for you to do it.

Mr. GLEASON, Sr. Fire away. If you can't stand the heat, don't go in the kitchen.

Senator NUNN. Mr. Gleason, how long have you been president of the International Longshoremen's Association?

Mr. GLEASON, Sr. Since 1963.

Senator NUNN. About?

Mr. GLEASON, Sr. Eighteen years.

Senator NUNN. How much money do you make from the ILA today?

Mr. GLEASON, Sr. I get—in international I get \$100,000 a year and I get, I think, it is \$22,000 from the Atlantic Coast District, which is ACD. Salaries, incidentally, was raised at every convention.

Senator NUNN. Mr. Gleason, we have here a lot of testimony about the UNIRAC investigation and all of the grand jury indictments and convictions of corrupt ILA officials. I am sure you favor grand jury investigations which ferret out corruption of union officials so that they can be indicted and convicted if guilty, do you not?

Mr. GLEASON, Sr. That is the law of the land. I certainly do.

Senator NUNN. You said in your sworn statement before this subcommittee and I quote:

What may be noticed is that two groups of officials in two ports failed their duty. They have been proceeded against and are under sanction. This is well and as it should be.

Continuing the quote,

Further, it should be noted that the ILA cooperated with the authorities in the course of the investigation and responded fully to all requests for information as well as books and records. The tapes and electronic recordings you rely on to show pervasive misconduct in the union confirm ILA cooperation with law enforcement by the recorded complaints about such action.

Continuing the quote,

The ILA is a law-abiding, patriotic union, dedicated to the well-being of its rank and file and to the welfare of this country. Those among its ranks who have been tried under the laws of this great land and found guilty after they have been accorded full, American due process are to be punished.

I think this certainly is a good statement. I take it from these remarks you are fully and wholeheartedly in support of the Federal Government's search for truth and the Federal Government's attempts to obtain information necessary to indict corrupt union officials?

Mr. GLEASON, Sr. I think that is the law of the land. I think this is the job of the FBI, what have you, the Government agencies who are around investigating, not alone in the longshore act, but every phase of Government.

Senator NUNN. Does this include grand jury investigations?

Mr. GLEASON, Sr. Oh, I think so. I think grand juries have been on it for a great number of years.

Senator NUNN. Mr. Gleason, on page 14, you state that the ILA has cooperated with authorities in the course of the waterfront investigation and responded fully to all requests for information as well as books and records. Does this mean that you have fully cooperated with Federal law enforcement authorities?

Mr. GLEASON, Sr. Any time anybody comes into my office and asks for any papers or books or anything, we gave them to them. But I understand from listening to the statement made here this morning that that was one of the statements that one of the fellows that was making that statement on the tapes here said, what the hell is the matter with Gleason, he is cooperating with the Government.

I think that was part of the statement.

Senator NUNN. Mr. Gleason, have you personally been called to appear before a Federal grand jury?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. In connection with this UNIRAC investigation?

Mr. HAMMER. May I respectfully object, Senator? I don't think that is an area for your proper inquiry.

Senator NUNN. Well, does counsel have a reason for objecting? We have heard Mr. Gleason in his sworn statement say he fully cooperated with the Federal Government in its investigation. We heard him answer that he did appear before a Federal grand jury. We have also heard him say he believed in the grand jury process.

Mr. HAMMER. If you wish, I will state my objection.

Senator NUNN. State your objection.

Mr. HAMMER. A witness called before a grand jury, up until a very recent change in the statutes, is not entitled to have counsel with him. He does not know the nature of the inquiry in advance. He is advised of his constitutional rights. The exercise of those rights by a witness admits no inference to be drawn whatsoever and certainly not an adverse one.

Senator NUNN. Would counsel state the objection. I have made no reference to the exercise of a constitutional right before a grand jury.

Mr. HAMMER. I think that is where you are directing yourself to, too.

Senator NUNN. I have asked no questions. I simply asked Mr. Gleason if he had appeared, had been called to appear before a grand jury.

Mr. HAMMER. And he said he did.

Senator NUNN. Yes. So what is your objection?

Mr. HAMMER. I don't think further inquiry as to that appearance and his presence there is for inquiry by yourself and I might well additionally say it is my understanding, having served as a prosecutor myself for many years, that those proceedings are secret and not to be revealed, but upon application to the judge presiding and having authority over such a grand jury in the appropriate district.

Senator NUNN. Mr. Gleason has already answered the first question I posed. I will pose the next question and if you like to impose an objection, it will be your privilege.

Mr. Gleason, did you assist the Federal grand jury by answering all of their questions?

Mr. HAMMER. I object.

Senator NUNN. State the reason.

Mr. HAMMER. May I adopt my earlier statement? I think it is applicable to that—

Senator NUNN. I would like for you to state the reason again, so we can get a specific response by counsel and then we will make a ruling.

Mr. HAMMER. First, I don't think it is appropriate for your inquiry to inquire into what a grand jury under obligation of secrecy does. Further, I think it inappropriate—

Senator NUNN. We are not asking what the grand jury did. We are asking what Mr. Gleason did.

Mr. HAMMER. Well, Mr. Gleason, having appeared as a witness, was bound to secrecy himself and is—

Senator NUNN. Is that your objection?

Mr. HAMMER. Yes, sir.

Senator NUNN. Would Counsel respond to that?

Mr. STEINBERG. Senator, the first objection raised by counsel is that a person appearing before a grand jury has no right to have a lawyer represent him, that is not accurate. In a Federal grand jury—

Mr. HAMMER. Mr. Steinberg—

Mr. STEINBERG. The counsel cannot actually go into the Federal grand jury room, but the witness has a right to consult with his attorney outside the grand jury room as to any question they ask him in the grand jury.

The second objection about secrecy is governed by rule 6(e) of the Federal Rules of Criminal Procedure. That rule states that the witness himself can divulge whatever he wants to from his grand jury testimony. The secrecy requirement is imposed on the Government and not the witness.

Senator NUNN. Counsel informs us that Mr. Gleason has a right to state whatever he would like about his grand jury appearance and the rule of secrecy applies to the Government, but not to the witness. Does counsel want to respond to that?

Mr. HAMMER. I will renew my objection, Senator Nunn, and I respectfully suggest to you that Mr. Gleason may keep secret and confidential—

Senator NUNN. Is counsel's position that he is required to or is it counsel's position that he may?

Mr. HAMMER. I am sorry?

Senator NUNN. Is it your position that he is required to keep this secret?

Mr. HAMMER. No, he may and he elects to do so.

Senator NUNN. I would just advise counsel that based on the opinion of our own Counsel, Mr. Gleason is not entitled to refuse to answer that question. I am not asking what he testified to. I asked him and I will repeat the question, does he testify here under oath that he fully cooperated with the Government in investigations—he has it in his sworn testimony. He repeated it in questions, and I ask him the simple question, did you assist the Federal grand jury by answering all of their questions?

Mr. HAMMER. May I renew my objection and suggest respectfully to you, Senator, that Mr. Gleason appeared pursuant to the demand and subpoena of the U.S. attorney in the Southern District of New York, and he satisfied that subpoena and he was discharged as a witness. I don't believe that any inquiry by you as to what transpired before the grand jury in the Southern District of New York and the U.S. attorney and Mr. Gleason is appropriate material for your inquiry here.

Any other question is available to respond to.

Senator NUNN. I am not asking Mr. Gleason—I want to make this clear—what he testified to in the grand jury. I am asking him because he has testified here under oath that he fully cooperated with the Federal investigations, he says the ILA did, and then I am asking him the question, which is logical from that because the heart of this UNIRAC investigation was finally decided in the grand juries and the courts of our Nation, did Mr. Gleason assist the Federal grand jury by answering their questions?

Mr. HAMMER. I would like to suggest to you finally, Senator, that Mr. Gleason appeared and satisfied his obligation to the Government. The subpoena was complied with and was discharged as a witness. Nothing more can be asked of a citizen, or any person.

Senator NUNN. I would agree that any person has the right to exercise their constitutional privileges before a grand jury or before this

committee, but Mr. Gleason is here to testify today. He has expressed under oath that he has fully cooperated with the Federal Government's investigation of UNIRAC and he has stated here he appeared before the grand jury. And my question again is, Mr. Gleason—

Mr. HAMMER. I don't—

Senator NUNN. Did you assist the Federal Government in cooperating before the grand jury by answering the questions posed to him?

Mr. HAMMER. I don't believe Mr. Gleason said that in his statement. He said he cooperated with the Government. You are the person who made the inquiry as to the grand jury.

Senator NUNN. I didn't say—I made the statement that he said he cooperated with the Government.

Mr. HAMMER. And then you put the question, did you appear before a grand jury in New York and did you fully cooperate with the Government?

Senator RUDMAN. Will the chairman yield?

Senator NUNN. Yes.

Senator RUDMAN. Mr. Hammer, Mr. Gleason has come before this committee and read a statement. It had everything in it except the playing of God Bless America. I am sure that Mr. Gleason—

Mr. HAMMER. I am sure you don't resent—

Senator RUDMAN. Mr. Hammer, you may interrupt some people, you are not going to interrupt me.

Mr. HAMMER. Very good, sir.

Senator RUDMAN. We are not seeking prosecution from these hearings. We have had hearings, conducted under the chairmanship of Senator Nunn, uncovering the pervasive corruption on the waterfront of this country.

We have ample evidence, which you seek to characterize in your statement as hearsay, I characterize as the best evidence obtained from wiretap and electronic surveillance of subjects not under duress, showing that, in fact there has been pervasive corruption of this union.

Mr. Gleason comes here before us today and says that he is a patriotic American, he has done many good things, which I am sure are true, and wants to cooperate in ferreting out corruption in America, in his union on the waterfront. We are now going to put Mr. Gleason to the test and see how cooperative he has been for the purpose of determining for legislation we may adopt whether or not Mr. Gleason, in fact, is forthcoming or whether or not Mr. Gleason has invoked constitutional privileges, which in his position, in my view, completely eradicates and destroys any presumption of full cooperation with a grand jury or with this committee or with the Congress.

And, Mr. Chairman, as far as I am concerned, if I understand the rules of the Senate with respect to hearings, counsel has stated his objection, I think you ought to rule on it and proceed or we will be here all day.

Senator NUNN. Counsel's objection is overruled. Mr. Gleason, I repeat the question. Did you assist the Federal grand jury by answering their questions posed to you?

Mr. GLEASON, Sr. I have plenty of advice here. I went before the grand jury in New York. On the advice of my counsel, I exercised my constitutional right.

Senator NUNN. Mr. Gleason, do you think that is consistent with your prepared statement that you have given here under oath saying that you cooperated and ILA has cooperated with the Federal Government in this investigation to root out corruption in the ILA? Do you think those two things are consistent?

Mr. GLEASON, Sr. Mr. Senator, Mr. Chairman, I think I didn't alone say that. Some of your tapes got that, that I was cooperating with the Government. I believe that I have done the right thing for this union 100 percent. I believe that.

Senator NUNN. I am glad to hear that is your belief. It just seems to me there is a blatant contradiction between a statement saying ILA has totally cooperated and you have totally cooperated and your testimony here that you exercise your constitutional privileges. We respect those constitutional privileges but we don't respect the testimony that has been given that you cooperated when it was apparent you did not cooperate.

Mr. GLEASON, Sr. Forget my testimony, Mr. Senator. I had it on the tapes.

Senator NUNN. You want us then to consider you are rejecting your testimony?

Mr. GLEASON, Sr. No, I don't.

Mr. HAMMER. No, he doesn't.

Mr. GLEASON, Sr. No, I don't.

Mr. GLEASON, Jr. Senator, could you refer to the page where he said that in his statement, please?

Senator NUNN. Page 14 is one of the pages where I quoted. I can read you the quotes again, the exact quotes.

Mr. HAMMER. I don't think that is necessary, Senator.

Mr. GLEASON, Jr. Can we read that?

Senator NUNN. Mr. Gleason, has counsel found the references?

Mr. GLEASON, Sr. I think so.

Mr. HAMMER. I don't think there is anything inconsistent in that, Mr. Chairman.

Senator NUNN. We are not asking you to testify. We are not asking you to rule on whether it is consistent or not.

Mr. HAMMER. That may be—

Senator NUNN. I am asking Mr. Gleason if he believes he has cooperated when under his own testimony he has appeared before a Federal grand jury investigating corruption in his own union that deprives both consumers, business people, and union members of their own constitutional rights and he has said he did not, that he exercises his constitutional privileges.

My question is: Why would you not cooperate with the Federal Government and the Federal grand jury in trying to root corruption out of your own union?

Mr. GLEASON, Sr. Are you reading page 14 at the bottom where it says, "Further, it is to be noted that the ILA cooperated with the authorities in the course of the investigation and responded fully to all questions for information as well as books and records," is that what you are talking about, Mr. Chairman?

SENATOR NUNN. I will read you the quotes again. We are directly quoting from your statement. We can get to the exact quote, but it is your statement.

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I think the transcript will show in answer to a question that I posed to you, one of the first questions, that you stated you wholeheartedly support the grand jury investigation.

Mr. GLEASON, Sr. That is the law of the land. That is the way I answered it. That's the law of the land.

Senator NUNN. Mr. Gleason, I will just—page 14 is the reference point. If you want to look at page 14.

Mr. GLEASON, Sr. I stand on the statement I made there, "Further, it is to be noted that the ILA, cooperated with the authorities in the course of the investigation responded fully to all requests for information as well as books and records."

Senator NUNN. I yield to the Senator.

Senator RUDMAN. Mr. Gleason, I think what we are really trying to establish here is this: I am sure under the subpoena you did, in fact, produce books and records as you were required to do. You have been a major factor of this union for many, many years. According to your testimony and other public records about you, you have done many good things in this union and you refer to this as your beloved union in your statement.

So it is very hard for us to understand, if this is your beloved union, why you would not give a grand jury your best evidence and why you would have any fear to give that grand jury any information that it so desired. You have the right to take it. We are not going to ask you why you took it. We can't. We are simply commenting that we would like to believe your testimony here today; however, that testimony does not seem to be forthcoming.

Mr. GLEASON, Sr. Let me say this: I have no fear of anybody living, of anybody, no fear at all. But the same thing is happening with you gentlemen.

SENATOR NUNN. I am not sure I understand that.

Let me ask you another question along this line. You also made reference in your statement that you turned over the books and records. Were those books and records subpoenaed?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Mr. Gleason, on page 3 of your, or page 2 of your statement rather, you stated and I quote you again:

The subcommittee has received and apparently accepted the hearsay testimony of informers, accomplices, and convicted criminals, all persons of low credibility with every motive to distort the facts.

That is the end of that quote. On the same page you also stated:

Prior witnesses who have testified before the subcommittee and whose statements have been widely reported in the news media have misrepresented the facts, have misled the Congress and have slandered both the International Longshoremen's Association, myself, and the entire shipping industry.

Last week Judge Webster, the Director of the FBI told this subcommittee:

The scope of this waterfront conspiracy is now quite clear. Organized crime has gained control of major elements of the ILA and they have done so with impunity. Whether responding out of fear, mere weakness or the promise of unlawful gain many elected officials of this important union betrayed the trust of the members whom they represented and opened their organizations to the control of professional criminals.

My question is, in which category do you put Director Webster, an accomplice, an informer, or a convicted criminal?

Mr. GLEASON, Sr. Again, Mr. Webster, I have a lot of respect for the FBI. I do not think anybody in the world has more respect. He was giving conclusions, not facts.

Senator NUNN. You disagree with Director Webster's statement?

Mr. GLEASON, Sr. I don't know how he would say this union is dominated. I know definitely I am not dominated. And this union that the majority of these men are, 110,000 men here and I don't think the percentage in this union being dominated by 25 or 30 guys compares with some of the other things I have been reading about even in the Congress, even in Congress. The percentage is much higher there.

Senator NUNN. You would not then disagree with Mr. Webster's statement or did you disagree?

Mr. GLEASON, Sr. I think it is just a general statement here. I don't know; he has information that probably I don't know anything about. He made a general statement. I think this whole thing has been orchestrated. I think what we went through down in the AFL meeting down there, subject to everything going on, you don't do any business down there, you were followed around. The whole thing was set up to embarrass people.

Senator NUNN. Mr. Robert Fiske, former U.S. attorney for the southern district of New York testified that criminality disclosed by the nationwide waterfront investigation had a destructive effect on the ILA on the waterfront industry as a whole and the public. He also stated that convictions of prominent national ILA figures have brought the entire union into public disrepute.

Mr. Fiske found it significant that the ILA obviously had no intention of cleaning its own house. He described the ILA as demonstrating consistent patterns of callous contempt for the law. Mr. Fiske went on to say that it would appear that the criminal record appears to be part of the job description in the ILA. According to your statement the only people who testified and said bad things about the ILA and corruption are people who are informers, accomplices, or convicted criminals. Do you know whether Mr. Fiske is an informer or accomplice or convicted criminal?

Mr. GLEASON, Sr. No; I have a lot of respect for Mr. Fiske but the Waterfront Commission was in the Port of New York for 27 years. Mr. Fiske has his job to do. He has probably done it. But he came in here with the general statement, too and it is so easy to condemn 110,000 men who work hard every day and try to degrade this union. Maybe it is because of some of the things that we did. Maybe some of the things that we did, like boycotting the Russians. Can I finish my statement?

Senator NUNN. Yes.

Mr. GLEASON, Sr. Boycotting the Russians, even tying up Iran before anybody took any action when the hostages were held. Maybe these are some of the things that they didn't testify against. This union, we didn't have to do it. The rank and file out there did this.

Senator NUNN. I don't think anybody who has served with me in Congress thinks I am trying to protect the Russians. [Laughter.]

Mr. GLEASON, Sr. I didn't say you were, sir. We have been kicking the hell out of them since 1935, sir.

Senator NUNN. You and I can agree on some things. [Laughter.]

Mr. GLEASON, Sr. I am glad to hear that, anyhow.

Senator NUNN. I want to ask you one other question along this line. Judge Leonard B. Sand of the Southern District of New York stated there was an unholy alliance between organized crime and the ILA. What category do you put Judge Sand in? Is he an informer, accomplice, or convicted criminal?

Mr. GLEASON, Sr. No, Mr. Senator, it is so easy to say these things and you have been listening to the tapes for a long while. I assure you that nobody dominates the offices of this union especially me, nobody.

Senator NUNN. Mr. Gleason, we have had some rather substantial testimony from people before this committee who have said some of the things that you have taken exception to and those people have not been informers or accomplices or convicted criminals.

Mr. Gleason, in 1953 we heard the recitation by staff statement of counsel about the history of the ILA and its relationship to the AFL-CIO and so forth. In 1957 the McClellan committee held hearings. During those hearings Senator John Fitzgerald Kennedy posed a series of questions to you reciting the serious criminal conduct on the part of the ILA officials. Senator Kennedy posed this question and I quote him.

It is true, as I understand it, that the union was suspended from the AFL because of similar charge. I am wondering what has been done about cleaning that situation up. I am wondering what happened since then. Now it is 1957. What has been done to clean it up since then?

We have spent 2 weeks, we have heard from numerous witnesses, our staff has interviewed hundreds of other witnesses, we have had secret tape recordings played for us, we have heard from testimony of both management and labor officials. The evidence is clear that up and down the eastern seaboard of the United States from New York, New Jersey, through Norfolk, through Savannah, Mobile, and on down to Miami itself that pervasive corruption exists within the ILA. We have heard testimony of extortion, threats, payoffs, kickbacks, directing business to mob controlled companies, the use of workmen's compensation as a racket, extraordinary theft rates, the use of union rules or contract clauses as leverage to generate illegal funds. The list of crimes seems to be endless. In the Federal Government's UNIRAC investigation alone, over 40 percent of those convicted were ILA officials.

What disturbs me even more, what was not fully exposed in the Federal cases because of the court rules, came out loud and clear in our hearings. The evidence is overwhelming that specifically identified organized crime members used the ILA to extort, to threaten, to shake down, to work various criminal rackets and generally to enrich the mob at great cost to the American consumer and to the average ILA member. This pervasive control over one of this country's primary transportation unions has frightening potential. It is now 1981, nearly 30 years after Senator Kennedy posed that question, but I want to ask you the same question he asked you in 1957. What are you as ILA President doing to clean up your own house?

Mr. GLEASON, Sr. I don't know I answered that question in 1957 and I don't know but apparently we were making headway in cleaning up the organization or at least the AFL thought so because we were taken back in 1959. I am sure George Meany was a tough old navigator, he would, being the gentleman that made the recommendation that put us out, he was the gentleman who made the recommendation to take us back in again. So we must have been doing something right. From 1953 it was a hard row. The waterfront didn't have the type of contracts we have now. Since 1962, since we became the negotiator, there is no union and I stress it, no union that has got, for its people, that we, what we got in our contracts; what we were able to do, and organized crime didn't get this. We got it.

Senator NUNN. Mr. Gleason, you mentioned that on page 14, top of the page, quoting you again, "What may be noticed is that two groups of officials in two ports failed their duty." If you will look up on the right, I ask the clerk, that is pretty small up there, that is a list, chart of the ILA convictions, I will ask the clerk to furnish Mr. Gleason with a small chart that is a duplicate of that. Mr. Gleason, if you will look on this chart, there are approximately 32 names on here. You mentioned two ports. Just glancing down the chart, these are people who have been convicted. These are ILA officials who have been convicted. You mentioned two ports. Which two ports were you referring to in your statement?

Mr. GLEASON, Sr. With the testimony here, over the hearings over the last 2 weeks, I presume is Miami and New York and what I read about it in the papers.

Senator NUNN. Following down this list with me, we have the first name at the top, Charleston, S.C., second name, Mobile, Ala., the third name, Boston, Mass., the next name, Mobile, Ala., next name, San Juan, Puerto Rico, next name is no location, next name, Jacksonville, Fla., next name Wilmington, N.C., 4, 5 people from Wilmington, skipping on down, from Charleston, S.C., on down about the middle of the page, Port Allen, La. On down, Wilmington, N.C., New York City, and of course Tampa, Fla. we have heard and Miami, Fla.

Do you think that your statement is accurate that only two groups and two ports are involved in what I have termed a pervasive corruption?

Mr. GLEASON, Sr. This is the first time I have seen this sheet and I think the committee was concentrating in the two areas. That is what I was testifying. Many of these gentlemen I do not know. I don't think, I see some of them here that my God I don't even know.

Senator NUNN. You may not know them, but they are officials in your union. You have a constitution, you have a constitution that requires or at least it states that you should remove people—

Mr. GLEASON, Sr. George Dixon was one of the vice presidents I talked about before. He wanted, if they taken his job away from him, you gentlemen made the law to give these men a right to stay there.

Senator NUNN. Does this mean, Mr. Gleason, that you are not going to do anything to clean up your union beyond what the Federal law allows the Federal Government to do?

Mr. GLEASON, Sr. I didn't say that.

Senator NUNN. That is the implication.

Mr. GLEASON, Sr. I didn't say that.

Senator NUNN. If that is the implication then our legislative inquiry is proceeding right along those lines. If you are not going to do anything beyond what the law requires and the law does not allow the Labor Department to remove people which some people say this did not, then we had better change the law. That is the conclusion I reach.

Mr. GLEASON, Sr. They changed the law a couple of times, but that is not what I am thinking about. I want to clean up my union if there is anything wrong if it is brought to my attention. Some of these here, I want you to believe this, I don't, I never heard of these; I never heard.

Senator NUNN. You mean their convictions, people have been convicted by the Federal Government and prosecutions of the UNIRAC investigation which go on for 4, 5 years and you have never asked anybody to let you know which union officials in your own organization have been convicted.

Mr. GLEASON, Sr. Some of these fellows, from Wilmington, N.C., I never even heard of.

Senator NUNN. Did you ask anybody during the course of this investigation, the UNIRAC, when you read in the paper about convictions to bring you a list of people who held positions of any fiduciary trust in the union so that you could determine what appropriate action should be taken?

Mr. GLEASON, Sr. Senator, we have been thinking along the lines from last October to hold a special convention so all these problems can be adjudicated that we would sit down at a special convention and handle these matters personally. I would like to say something else here, Senator, about this. I heard a statement here this morning. I can't go—let it go. Captain Bradley and myself, I suggest that if the committee would like to get the newspapers of the year in 1962 and 1963 and find out why Captain Bradley didn't run. Captain Bradley decided to run against me in the convention. He didn't have the votes to win. To my knowledge I never even heard of anybody going to Captain Bradley or telling him not to run. Just get the newspapers from 1962 or 1963 and find out why.

Senator NUNN. I am glad to get that clarification from you. Back to the question of these convictions, you say you never heard of some of them. If you will look at the ones in yellow up there, they are marked in yellow on your sheet, these are all international officers.

Mr. GLEASON, Sr. They were removed right away.

Senator NUNN. You removed Mr. Clemon, Mr. Isom Clemon?

Mr. GLEASON, Sr. Clemon is out of the union. Clemon is out of the union.

Senator NUNN. Who removed him?

Mr. GLEASON, Sr. I think the government down there removed him. He pleaded guilty.

Senator NUNN. Did you remove him?

Mr. GLEASON, Sr. No. I didn't have to. He pleaded guilty. He was out right away.

Senator NUNN. How about Dalton?

Mr. GLEASON, Sr. Dalton, I think he did the same thing, I think he pleaded guilty. I am not sure.

Senator NUNN. Is he still an officer?

Mr. GLEASON, Sr. No.

Senator NUNN. How about George Dixon?

Mr. GLEASON, Sr. Dixon was the fellow exonerated. He is still in office.

Senator NUNN. According to this chart he was convicted of embezzlement of union funds on the first month, 30th day, 1979; sorry, first month, 26th day, 1979.

Mr. HAMMER. Your exhibit is in error.

Mr. GLEASON, Sr. George Dixon was convicted at the first trial, there was an appeal which was reversed by the fifth circuit and he went to a new trial and he was exonerated by the judge.

Senator NUNN. I am glad to get that clarification. How about Mr. George Barone?

Mr. GLEASON, Sr. No. He is still there. Barone is not—Barone is still there. He is still under appeal.

Senator NUNN. How about Mr. William Boyle?

Mr. GLEASON, Sr. He is under appeal, Barone, Boyle, they are under appeal down there.

Senator NUNN. How about Mr. Fred Field, Jr.?

Mr. GLEASON, Sr. He is out.

Senator NUNN. No longer in the union?

Mr. GLEASON, Sr. No.

Senator NUNN. How was he terminated?

Mr. GLEASON, Sr. He was convicted and he served some time I believe.

Senator NUNN. How about Mr. Cleveland Turner?—

Mr. GLEASON, Sr. He is one of those fellows under appeal.

Senator NUNN. James Vanderwyde?

Mr. GLEASON, Sr. He is under appeal down there.

Senator NUNN. Still in office?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Mr. Landen Williams?

Mr. GLEASON, Sr. Still in office, sir.

Senator NUNN. Mr. Anthony Anastasia?

Mr. GLEASON, Sr. He is out.

Senator NUNN. He is no longer in.

Mr. GLEASON, Sr. No.

Senator NUNN. Did you terminate him?

Mr. GLEASON, Sr. No.

Senator NUNN. How about Mr. Anthony Scott?

Mr. GLEASON, Sr. He is out.

Senator NUNN. He is no longer in the union?

Mr. GLEASON, Sr. No.

Senator NUNN. Was he recently at the convention in Miami with you?

Mr. GLEASON, Sr. He was, not with me.

Senator NUNN. Was he at the convention?

Mr. GLEASON, Sr. No. He was not. He probably was down, it might have been at the Maritime Trades Department. I will let him speak

for himself. I don't know. He wasn't down there representing the ILA.

Senator NUNN. Did you see Mr. Scotto while you were in Miami?

Mr. GLEASON, Sr. Yes.

Senator NUNN. Where did you see him?

Mr. GLEASON, Sr. At the swimming pool.

Senator NUNN. What pool?

Mr. GLEASON, Sr. Swimming pool.

Senator NUNN. At what hotel?

Mr. GLEASON, Sr. At the Bal Harbor, Sheraton Bal Harbor.

Senator NUNN. Is that where the convention was being held?

Mr. GLEASON, Sr. No. That was not the convention. It was the executive council of the AFL-CIO and at the same time the Maritime Trades Department had its meeting down there.

Senator NUNN. Did you talk to Mr. Scotto?

Mr. GLEASON, Sr. Yes.

Senator NUNN. Did your union pay his way to Miami?

Mr. GLEASON, Sr. No.

Senator NUNN. You are sure of that?

Mr. GLEASON, Sr. Positive.

Senator NUNN. Did you talk to him about union business?

Mr. GLEASON, Sr. There was no use to talk union business to him now. [Laughter.]

Senator NUNN. He is no longer exercising any office in your union?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. How about Mr. Thomas Buzzanca?

Mr. GLEASON, Sr. He is out.

Senator NUNN. He is out?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. How about Mr. Vincent—

Mr. GLEASON, Sr. Colucci. He is out.

Senator NUNN. How about Carol Gardner?

Mr. GLEASON, Sr. He is out.

Senator NUNN. Were any of these people that are out now removed by your union?

Mr. GLEASON, Sr. No; Carol Gardner, Colucci, Buzzanca, were convicted, after conviction was immediately put in jail, immediately taken off the payroll.

Senator NUNN. When they go to jail, you take them off the payroll?

Mr. GLEASON, Sr. No; I wouldn't say that, no. Not if you go to jail. If they are convicted, they go, if they are convicted and use their right under the law you gentlemen made in 1959 and incidentally, the judge was there, the judge made the decision, didn't he? If your records are clear.

Senator NUNN. We are asking about your decision. We recognize—

Mr. GLEASON, Sr. No.

Senator NUNN. You haven't removed any of these people from the union, have you yourself through the international orders?

Mr. GLEASON, Sr. They have a constitutional right, Mr. Senator, they have a chance under the laws to that right and I just told you about Mr. Jackson in Savannah, Ga., which was a decent guy. He was

in a trial with these fellows, he was exonerated from the trial, he come back, he had no job. He was defeated.

Senator NUNN. Apparently the U.S. Supreme Court and other Federal courts have ruled that the New York Waterfront Commission can act immediately to bar a union official from his office as soon as he is convicted by a jury prior to the expiration of his appellate process. In addition other Federal courts of appeal have recently ruled ILA unions cannot even collect dues if an officer remains in office after his jury conviction before his appeal runs. This is under the New York commission's rule. Moreover, the Federal courts have just ruled that the New York Waterfront Commission's power includes the power to remove convicted officers no matter where he has been convicted, no matter where that conviction took place.

Given all of these Federal court rulings, why does the ILA not adopt some similar procedure?

Mr. GLEASON, Sr. When did that ruling come down, sir?

Senator NUNN. Recently.

Mr. GLEASON, Sr. I didn't see that.

Mr. HAMMER. It was this week, sir.

Senator NUNN. You recognize the waterfront commission removes people in New York even before their appellate—

Mr. GLEASON, Sr. Yes.

Senator NUNN. You disagree with that?

Mr. GLEASON, Sr. I have a feeling. I think it should apply to all society. It shouldn't be, one section of this population shouldn't be set out for a special rules, for special rules.

Senator NUNN. Mr. Gleason, one other question and then I am going to defer to Senator Rudman for some of his questions, we will rotate. So your position is once the persons appeal has expired and they have been convicted, then that is when you think they should be removed?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Mr. Gleason, Douglas Rago was convicted in 1941 for attempted robbery and sentenced to 6 years in New Jersey. In 1945 he was convicted of assault and robbery, sentenced to 2 to 4 years in prison in New York. In 1953 he was convicted of perjury, sentenced to 1 year in prison in New York. James Vanderwyde was convicted in 1943 of assault, sentenced to 2½ years to 5 years in prison in New York. He was convicted of robbery in 1944 in New York, sentenced to 5 to 10 years in prison.

Are those two officials two of those on this chart that you named that are still holding positions in the international union?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Would you explain to us how you reconcile that with your rule because the appellate process has been completed, they were convicted, they were actually in jail, some of them have three convictions, some two. How does that fit into your general rule?

Mr. GLEASON, Sr. Both counsel say the same thing anyhow.

After 5 years, for 5 years, they take them away from the union for more than 5 years.

Senator NUNN. These past convictions of all sorts of crimes including perjury, assault and robbery, assault, robbery, those things do not

bother you with people holding international office in one of the largest most powerful and one of the most important unions in the country?

Mr. GLEASON, Sr. I think it bothers everybody. It means they come here and ask these questions, myself, but all over the land, it is there. You made the law, Congress made the laws. They have that right.

Senator NUNN. Do we have any law that says former people convicted of felonies having served time for two or three times are supposed to be international officers in the union?

Mr. GLEASON, Sr. After 5 years they can come back.

Senator NUNN. I know. But you have a constitutional provision that allows you to remove officials if you choose to for cause.

Mr. GLEASON, Sr. Where does it say that?

Senator NUNN. I will read it to you if you will give me a second. Mr. Gleason, this is the constitutional Rule of Order of the International Longshoremen's Association AFL-CIO as amended, convention held in Miami Beach, Fla., July 16 to 20, 1979. I refer, sir, to pages 48 and 49, article 38 under "Discipline."

Section 1-A, the term discipline when used in this section shall include without limitation a final removal from office or job, disqualification to run for office, or suspension or expulsion from membership, or suspension or cancellation of charter.

Section B, any member, officer or representative of the ILA or any of its subdivisions shall be subject to discipline when found guilty after notice of and opportunity for hearing on charges as provided for in this article of any provision of this constitution or a decision of the Executive Council or of the local union district council or district organizer of dishonesty, misconduct, or conduct detrimental to the welfare of the ILA.

You have said it is not comforting to come here and answer questions about officials who have been convicted three or four times of crimes that are still in offices, important positions in the ILA. You have authority under that constitution. Why do you not do something about it?

Mr. GLEASON, Sr. They weren't convicted of union crimes, Mr. Senator.

Senator NUNN. That is not what it says. You want me to read it to you again?

Mr. GLEASON, Sr. No. I understand it very well. They were not convicted of union crimes at all. They went down to Miami, Fla., they organized their port down there, they were doing a good job, I didn't know anything was going on down there.

Senator NUNN. You knew they had been kicked out of New York, did you not?

Mr. GLEASON, Sr. No. They were not really kicked out of New York. These fellows were working fellows. They weren't officials of the union. They were all working men. They weren't officials of the union.

Senator NUNN. Didn't the New York commission refuse to let them hold office in the New York waterfront?

Mr. GLEASON, Sr. I don't know. I couldn't answer that perfectly.

Senator NUNN. You do not keep up with the international?

Mr. GLEASON, Sr. Yes. I do. I pretty well keep up, Mr. Senator. You believe I do.

Senator NUNN. Are you comforted with the fact that you have got people in the high levels of the ILA right now who serve time over and over again on felonies?

Mr. GLEASON, Sr. I think you have that in a lot of industries, don't you, Mr. Chairman?

Senator NUNN. Have what?

Mr. GLEASON, Sr. You have a lot in industries, where you give a guy a chance to rehabilitate himself. [Laughter.] Are you going to force him out, are you going to force him out continually, to live a life of crime? He might make some mistakes, he might make some mistakes.

Senator NUNN. Do you think these people have been rehabilitated, they have just been convicted again for all sorts of crimes under the UNIRAC investigation? Are you saying ILA is running a rehabilitation program for convicted felons? Rehabilitate them to put them in high international office?

Mr. GLEASON, Sr. Maybe we will have to, Senator.

Senator NUNN. Have to?

Mr. GLEASON, Sr. Maybe we will have to.

Senator NUNN. Have to what?

Mr. GLEASON, Sr. Run a rehabilitation center like you said.

Senator NUNN. Mr. Gleason, have you considered suspending officials when they are convicted and escrowing their pay so that if the appellate process overturns their conviction they would be protected? Have you considered that?

Mr. GLEASON, Sr. We thought about that, about the leave of absence and doing something like that. But believe me, Mr. Senator, they would not have their jobs when they came back. If they were out, as long as it takes now, to find out whether their convictions are legal or not, and I told you the one case in Savannah, Ga., you would be paying these men for doing nothing. They would be building up equity, probably wouldn't be doing any work at all.

Senator NUNN. Do you not worry about people in fiduciary positions of trust handling pension funds, handling crucial decisions for hard working honest people in the union, do you not worry about convicted felons, making the kind of decisions that affect the destiny of the working people in your union?

Mr. GLEASON, Sr. There is nothing I think that we got the best reputation in the country as far as our welfare and pensions are concerned.

Senator NUNN. When they have committed a felony like perjury, assault, bribery, extortion, things like this, you do not mind leaving them in charge of the pension funds?

Mr. GLEASON, Sr. All I know is this: That nothing has been wrong with those pension funds down there. I would suggest that you would look into the record of the trial and find out why they are there. You know why they are there.

Senator NUNN. Referring to the chart again, Mr. Gleason, has the ILA removed any of these officials? I am not asking you whether they are no longer there, but has the ILA removed any of these officials? Let us start with the ones in yellow. On your own volition.

Have you taken any action to remove any of these officials through the union?

Mr. GLEASON, Sr. I think if I had the record, I don't know some of these people here now. but I think we did. I told you we removed Dalton. I don't know Sigler, Rivera, he was removed immediately, he went to jail, Thompson I don't know.

Senator NUNN. Have you removed any of them? Can you name any official that you and your top leadership in the ILA have ever removed for committing a crime? I am saying yourselves. Can you name even one?

Mr. GLEASON, Sr. I told you a little while ago, Mr. Senator, about trying to set up a special convention but I told the law 100 percent, I follow the law here.

Senator NUNN. So you are telling us today that you are willing and you are thinking about setting up a separate convention to remove these officials?

Mr. GLEASON, Sr. No; I told you this, I told you, after, I respect the law. They have a right under the law now to appeal. That is what is happening. The judge didn't exercise to remove them right away. They have that right. That is a 1959 Landrum-Griffin Act and their lawyers are very intelligent. They know they have that right.

Senator NUNN. Mr. Gleason, have you ever taken any action to remove any ILA official for misconduct or criminal activity that you can name?

Mr. GLEASON, Sr. Recently, no. Recently, no. I don't remember recently, no.

Senator NUNN. How about—

Mr. GLEASON, Sr. Could be.

Senator NUNN. How about in the last decade?

Mr. GLEASON, Sr. I think, don't hold me to that, I am not sure.

Senator NUNN. You don't recall anyone you have ever removed?

Mr. GLEASON, Sr. Not at the present time.

Senator NUNN. Was Mr. Carol Gardner promoted to assistant international general organizer of the ILA after his conviction for taking payoffs?

Mr. GLEASON, Sr. He wasn't promoted by the ILA. The rank and file of the convention which we have the history of it here elected him.

Senator NUNN. After he had been convicted?

Mr. GLEASON, Sr. I don't know whether it was after he was convicted. After he was convicted, but pending appeal. Right.

Senator NUNN. Does that seem right to you that someone who has been convicted and is out on appeal bond is promoted within the union to a higher office?

Mr. GLEASON, Sr. The convention acted.

Senator NUNN. Does that bother you?

Mr. GLEASON, Sr. Look, it is easy to come here and say a lot of things bother you, Mr. Senator. But the convention was their acting. They are the final say and who is elected for various jobs and they elected Carol Gardner.

Senator NUNN. Did you object? Were you there?

Mr. GLEASON, Sr. No; I didn't.

Senator NUNN. You didn't object?

Mr. GLEASON, Sr. No.

Senator NUNN. Did you vote for him?

Mr. GLEASON, Sr. I didn't have to vote. I was in the chair.

Senator NUNN. You were in the chair?

Mr. GLEASON, Sr. Right.

Senator NUNN. You didn't object or ask anyone to vote against him?

Mr. GLEASON, Sr. No.

Senator NUNN. How about George Barone? Was he promoted as an international officer after he was indicted?

Mr. GLEASON, Sr. No, sir. He was elected again at the convention.

Senator NUNN. Was he not promoted after he was already indicted?

Mr. GLEASON, Sr. No, sir. I think, let me see.

Senator NUNN. Were you at the convention when he was promoted?

Mr. GLEASON, Sr. He was elected vice president in 1967; George Barone.

Senator NUNN. Was he not elevated to second vice president after he was indicted in the UNIRAC investigation?

Mr. GLEASON, Sr. No, sir. He was elected vice president.

Senator NUNN. What is his current office? What is his office?

Mr. GLEASON, Sr. He is vice president of the ILA.

Senator NUNN. He has not been promoted recently?

Mr. GLEASON, Sr. No, sir. Not in the ILA.

Senator NUNN. Mr. Gleason, has any union member been expelled from the ILA for stealing on the ports?

Mr. GLEASON, Sr. Stealing on the port? I think yes. I think some of them have. I am not sure about this but I think there have been.

Senator NUNN. What is your policy about that? If someone is caught stealing on the ports that is a member of the ILA, do you have an international policy on that?

Mr. GLEASON, Sr. Of the waterfront commission, remove him immediately.

Senator NUNN. I mean you, there is no waterfront commission in Miami.

Mr. GLEASON, Sr. I would probably if it was brought to my attention. You know, years ago, Mr. Senator, things happened you didn't hear about. Today the communications are pretty good. Salaries weren't so good many years ago. Today the longshoremen in Miami and most of the ports is making in the neighborhood of \$40,000, \$45,000 a year. They are pretty well off. They don't have to take samples anymore. [Laughter.]

Senator NUNN. We have heard testimony that there is still a lot of sample taking going on and that the ILA assigns those people right back.

Mr. GLEASON, Sr. I wouldn't know about it, Mr. Senator, any more than you know what the fellow sitting along side you is doing. [Laughter.] I don't mean Senator Rudman.

Senator NUNN. Maybe I ought to ask him.

Mr. GLEASON, Sr. Don't blush up, Senator. I didn't mean to.

Senator NUNN. That is not a blush, Mr. Gleason. [Laughter.]

Senator NUNN. Do you know anyone that you could name that has been expelled from the union for stealing from the port?

Mr. GLEASON, Sr. There are quite a few of them, Senator. I don't have the records here.

Senator NUNN. Can you furnish that for the record?

Mr. HAMMER. We will comply.

Senator NUNN. Over the last 5 years. I am not talking about what the commission has removed. I am talking about the people that ILA have removed.

Mr. HAMMER. We understand.

Senator NUNN. Do you leave it up to the commission to remove these people?

Mr. GLEASON, Sr. No; they are the first ones you probably hear about—their investigations. I am talking about New York alone.

Senator NUNN. You seem to be relying an awful lot on the New York Commission here.

Mr. GLEASON, Sr. No; I don't. No; I don't.

Senator NUNN. Are waterfront companies forced by ILA to put people back to work who are caught stealing on the docks?

Mr. GLEASON, Sr. Where, sir?

Senator NUNN. Miami?

Mr. GLEASON, Sr. I don't know.

Senator NUNN. You don't know about that?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Wouldn't you think that would be bad if someone was caught stealing, convicted, would it not be bad to have them go right back to work for people who had testified against them?

Mr. GLEASON, Sr. In this case, the Seventh Commandment has been there for 2,000 years. I don't know how we are going to control it. Are you talking about Miami or the other ports, sir? I take Miami as more to worry about on the docks. I think that Broward County and Dade County—you can't walk the streets down there. You happen to know that. I am sure Mr.—Senator Chiles knows about it.

Senator NUNN. They have got big problems down there with narcotics.

Mr. GLEASON, Sr. We have got problems in Atlanta, too.

Senator NUNN. I agree. No doubt about it.

Mr. GLEASON, Sr. You have got prosecutors all over the United States, you have got laws all over the United States; it still doesn't prevent it. How is a union official going to prevent these? How are they going to know about it?

Senator NUNN. I don't think you are expected to know about it until someone has been convicted but when someone has been convicted, we have a whole list of ILA officials convicted and the president of the union says he does not know about it, that is a cause for—

Mr. GLEASON, Sr. I know about the convictions. I also know that their appeal is in there. It may be—it may be that they may have a reversal down there. Suppose that happens. Suppose that happens here. We are kicking the hell out of one another here now. It is going 6 or 8 months.

Senator NUNN. We heard Chief Justice Burger the other day say that the appellate process went on and on and on. It is almost an infinite process. If it was a rapid appeal you might have a good point. But to leave people in office for a couple of years after they have been convicted of serious crimes and still in the position of fiduciary trust seems to me to be something that the law has got to address. Let me ask you another question, Mr. Gleason. Did you follow the events down in Miami when they had some ordinances they were trying to pass down there to try to tighten up on the corruption?

Mr. GLEASON, Sr. I heard about it.

Senator NUNN. After it happened or during it?

Mr. GLEASON, Sr. While it was going on.

Senator NUNN. Did you know the union threatened to go on strike down there to prevent that legislation from being passed?

Mr. GLEASON, Sr. No, sir. I think if you check, don't hold me about this. I think that the State Federation of Labor in Florida was the active leader in that.

Senator NUNN. Did you sanction a strike down there?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. You did not urge them to strike?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. As a threat to prevent legislation?

Mr. GLEASON, Sr. No. When we make a contract for the operators, we try to live up to it, 100 percent without strikes. When we took over, something again, check into the records, there was many wildcat strikes around. No more now.

Senator NUNN. Mr. Gleason, was Anthony Scotto promoted as an international officer after he was indicted for waterfront corruption?

Mr. GLEASON, Sr. He ran at the convention.

Senator NUNN. Were you at that convention?

Mr. GLEASON, Sr. Yes.

Senator NUNN. When was that?

Mr. GLEASON, Sr. July of 1979.

Senator NUNN. Did you vote on his promotion?

Mr. GLEASON, Sr. I do not vote, sir.

Senator NUNN. Did you object to it?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Did you ask anyone to caution anyone not to support Scotto because he was in criminal difficulty?

Mr. GLEASON, Sr. No.

Senator NUNN. How long have you known Michael Clemente?

Mr. GLEASON, Sr. I guess Michael Clemente, he was around, in the 1940's sometime.

Senator NUNN. 1940's?

Mr. GLEASON, Sr. Around some time in that area.

Senator NUNN. Do you know Anthony Anastasia?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Did you know his brother, Albert Anastasia?

Mr. GLEASON, Sr. His brother?

Senator NUNN. Albert Anastasia?

Mr. GLEASON, Sr. I don't know if it was his brother or not. I know. I don't think I ever met Albert Anastasia.

Senator NUNN. Did you know Pete LaPlaca?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Did you know Tino Fiumara?

Mr. GLEASON, Sr. I think I met him once or twice, sir, at dances, union dances.

Senator NUNN. Did you know Carmine Lombardozzi?

Mr. GLEASON, Sr. No.

Senator NUNN. Did you know Michael Copolla?

Mr. GLEASON, Sr. I am not sure. I don't think I ever met him.

Senator NUNN. Did you know Carlo Gambino?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Frank Tieri, did you know Frank Tieri?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Did you know the Justice Department identified publicly Anthony Scotto as a capo in the Gambino crime family in the U.S. Senate as early as 1969?

Mr. GLEASON, Sr. I read something about that, sir.

Senator NUNN. Did that give you cause for concern?

Mr. GLEASON, Sr. I understand he denied it, said he never was part of the crime.

Senator NUNN. Did you ever ask him about it yourself?

Mr. GLEASON, Sr. The Government—I am sure you know this—has been talking about organized crime for 50 years that I know of.

Senator NUNN. Did you ever ask Scotto if he was a member of organized crime?

Mr. GLEASON, Sr. I don't know. I don't recall ever asking him, sir. I want to be truthful about it. I don't recall it. I may have. I am not sure.

Senator NUNN. Did Mr. Scotto, Mr. Field, Mr. Boyle, and Mr. Barone all hold international ILA positions at one time?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Which ones of those still hold international office?

Mr. GLEASON, Sr. Boyle, Barone.

Senator NUNN. Mr. Gleason, we heard testimony that many ILA top officials are actual members of organized crime families. We have heard allegations during the last 2 weeks, just to recite a few, that Anthony Scotto is a capo in the Gambino family, that Douglas Rago is a high-ranking member of the Genovese family, that George Barone is a member of the Genovese family, that Anthony Anastasia is a suspected member of the Genovese family, and that Thomas Buzzanca is a suspected member of the Genovese family. We also have heard testimony that many other ILA officials are controlled by ranking mobsters such as Michael Clemente, Anthony Salerno, Frank "Funzie" Tieri, Tino Fiumara, Pete LaPlaca.

Federal District Court Judge Sands in New York noted there was an unholy alliance between organized crime and the ILA.

We have heard a lot of disturbing testimony and I will just ask you this question: Are you concerned that the ILA may be influenced by members of organized crime? Does that cause you concern?

Mr. GLEASON, Sr. It certainly would. And I want you to believe this, I don't believe it. I told you I am an individual. Nobody controls me.

Senator NUNN. All right. Nobody controls you. You are saying that but what about all the other members who had allegations against them? Does that give you concern?

Mr. GLEASON, Sr. It gives me concern. Half of this has been written and written for 50 years. It is hard to believe what is going on.

Senator NUNN. Well, I do not guess it is so hard to believe when you have a whole list of people who have been convicted and you as international president really do not keep up with whether they have even been convicted. I think that was your testimony.

Mr. GLEASON, Sr. I think that you would find that in many industries and probably among yourselves you would find the same kind of a list.

Senator NUNN. Did you just attend the AFL-CIO convention in Florida?

Mr. GLEASON, Sr. I am a vice president of the AFL-CIO, it was a council meeting.

Senator NUNN. It was a council meeting.

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. Convention is the wrong word, AFL-CIO council meeting.

Mr. GLEASON, Sr. Yes.

Senator NUNN. How long were you there?

Mr. GLEASON, Sr. I left there Friday night. I was there probably about 10 days.

Senator NUNN. Was George Barone there?

Mr. GLEASON, Sr. Not at the hotel, no sir, not that I know.

Senator NUNN. Did you see George Barone?

Mr. GLEASON, Sr. I saw him, he came up to the hotel.

Senator NUNN. Was Douglas Rago there?

Mr. GLEASON, Sr. No, sir, never saw him.

Senator NUNN. You did not see Douglas Rago?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. How about Mr. Clemon?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Was Bill Boyle there?

Mr. GLEASON, Sr. He came up 1 day, maybe 2 days.

Senator NUNN. Was James Vanderwyde there?

Mr. GLEASON, Sr. Not that I saw, I didn't see him.

Senator NUNN. Thank you. I will defer to Senator Rudman at this stage.

Senator RUDMAN. Mr. Gleason, maybe you would like to take a short break.

Mr. GLEASON, Sr. I am all right, sir.

Senator RUDMAN. Mr. Gleason, other than your counsel that is here with you, who have you discussed your testimony with in relation to these hearings that have been going on before this committee the last week?

Mr. GLEASON, Sr. I might have discussed in our office with some of our people.

Senator RUDMAN. Have you had any telephone conversations with anyone about these hearings?

Mr. GLEASON, Sr. Not that I recall, no, sir.

Senator RUDMAN. Did you have any telephone conversations while you were in Florida preparing for these hearings?

Mr. GLEASON, Sr. No, sir.

Senator RUDMAN. Mr. Gleason, would you describe for us what your day-to-day work is like as a president of a 110,000-member union?

Mr. GLEASON, Sr. I testified I am in my office at 7 in the morning. I answer my phone calls, local problems that I can't be settled. Various locals around the country call me from Canada, Puerto Rico, United States call me. I try to solve their problems. At the same time, I prepare for meetings with the industry, especially with all the problems with the rules on containers.

Senator RUDMAN. I assume that you are in contact with most of the major international vice presidents located throughout this hemisphere?

Mr. GLEASON, Sr. If they call or if I need them I call them.

Senator RUDMAN. But you talk to them fairly often?

Mr. GLEASON, Sr. Yes, sir.

Senator RUDMAN. And you must have some influence over which of these people holds high position in your union?

Mr. GLEASON, Sr. Well, I would like to answer that and say yes, but it isn't so. These people, every one of our members is elected at a convention. They are all elected at convention. Myself, we are all subject to this process.

Senator RUDMAN. Well, do you have any part to play in the selection of the slate for that convention?

Mr. GLEASON, Sr. No.

Senator RUDMAN. You never had—

Mr. GLEASON, Sr. The executive council might meet, the executive council of the ILA might meet and go with a slate, but sometimes there is some disagreement.

Senator RUDMAN. Well, that is right, I understand that. There is always disagreement at a convention of this sort, but you do have a slate, which is what I am really getting at, and that slate is the slate that you as the powerful longtime president of this union have some part to play in, is that not true?

Mr. GLEASON, Sr. Well, I would like to think that I am powerful. I think the members they represent in those various areas, those are the locals, recommend and the district recommends the officials of their district to the international. And now you take the South Atlantic and gulf coast district might have a convention and might recommend their slate. I don't know if it is true or not, but they may do it, the Atlantic coast may do it or the Great Lakes may do it. But this is the same as, I guess, in politics.

Senator RUDMAN. Right, but you as president of the union, do you want us to believe your testimony that you have no influence over the selection of the slate around this country?

Mr. GLEASON, Sr. Well, I like to think I have some.

Senator RUDMAN. I think we can agree you have some influence, Mr. Gleason. And then to go on from there, I guess you and I could agree that with the waterfront and the ILA and the management companies involved and the shipping companies it is not an easy business, is it, Mr. Gleason?

Mr. GLEASON, Sr. Well, it is the most competitive business in the world.

Senator RUDMAN. Made up of some pretty strong-minded and independent people.

Mr. GLEASON, Sr. Well, they have to be, I think.

Senator RUDMAN. And as president of this union and vice president before that, you have had your share of turmoil trying to run this thing, is that not correct?

Mr. GLEASON, Sr. Well, it wasn't easy, let's put it that way.

Senator RUDMAN. So over the years, you managed to hold this union together and remain its president, but you would agree with me

that this union probably has as strong-minded and independent people in the rank and file and the shipping companies as probably any business in America, would you agree with that?

Mr. GLEASON, Sr. I think so.

Senator RUDMAN. Would you also agree with me, Mr. Gleason, that historically since the early 1950's, the ILA has had more problems with the law than most industries?

Mr. GLEASON, Sr. I really wouldn't say that, sir. I really wouldn't say that. I don't believe that.

Senator RUDMAN. So your testimony is that you think your union has had as much but no more or no less than any other union?

Mr. GLEASON, Sr. I think that we do the same as any other union, try to bring our membership together, get them contracts where we wouldn't have any problem, where they wouldn't have to resort to any kind of violence.

Senator RUDMAN. You think you are a competent union president, do you not?

Mr. GLEASON, Sr. No doubt about that.

Senator RUDMAN. You are sure of that?

Mr. GLEASON, Sr. I'm my best salesman.

Senator RUDMAN. You are a very competent president and you have had international officers convicted of a whole range of things that have really no bearing on their official duties in terms of helping the rank and file. We are talking now about racketeering, perjury, embezzlement of union funds, embezzlement of employee benefit funds, more embezzlement, income tax fraud, demanding extortion, so forth. It is all on the list you have in front of you.

Now, are you going to sit there this morning and say you do not think the ILA has had more problems amongst its international vice presidents, top level, than most other unions in this country?

Mr. GLEASON, Sr. I am not here to pick anybody else around, but defend our own union. That is all I am here for.

Senator RUDMAN. Right. I think you also testified you believe people are entitled to, I guess what I would call, due process of law and you are not going to act against them until all their appeals are exhausted. That is your union's position?

Mr. GLEASON, Sr. Well, that is the law. That is the way the law has been written up and that is the way counsel has come down out of this trial with.

Senator RUDMAN. That is what the law says, but that is not what your union would have to do. The union could develop any rule it wanted to on that.

Mr. GLEASON, Sr. I know that.

Senator RUDMAN. It chose not.

Mr. GLEASON, Sr. I don't think that we are above the law. I don't think that we should be different than the law.

Senator RUDMAN. So, essentially what you have testified to here is that you are competent, that you talk to all of your members now and then, not your members, but the people who lead the union.

Mr. GLEASON, Sr. And the members also, sir.

Senator RUDMAN. And to the members, that you have some influence over the selection of the slate, that you do not believe in removing

people from office before appeal. Having said all that, and let us assume you and I cannot agree on that, let us assume that is your right, do you not think that with the history of racketeering on the waterfront and extortion of people who have not been in the best interest of the rank and file, not possibly in the best interest of Teddy Gleason or Captain Bradley or anybody else, do you not think you have an obligation to your rank and file as a competent, experienced union president to exert some real influence over who gets placed into these positions of responsibility around this country?

Mr. GLEASON, Sr. I think we try to do that, sir. I think we try to do that.

Senator RUDMAN. Well, you have not done too well, Mr. Gleason.

Mr. GLEASON, Sr. I think here, right here you have now a sheet of paper, but I think if you go into any industry in the country and find out over a period of 30 years, 35 years, find out what happened, you would come up with a larger fact sheet than this.

Senator RUDMAN. On your union?

Mr. GLEASON, Sr. Not on my union, no. You would not because apparently you did it.

Senator RUDMAN. No; we have not done it. I have looked at the records of this union back over the years.

Mr. GLEASON, Sr. I am only thinking that you did.

Senator RUDMAN. Mr. Gleason, let me just continue that line of questioning. Your answer to me then is you do not think you owe any greater responsibility than you have exhibited over the last years to better strain the kind of people put in positions of trust to represent the rank and file, is the answer to that question yes?

Mr. GLEASON, Sr. My friend, let me say that, I have exerted every effort I can to get the best for my rank and file and I think that the majority of our elected officials have done the best over the last 25 years of any group of union officials in the country. Our contracts prove that.

Senator RUDMAN. Mr. Gleason, we are not talking about what you have done for your rank and file with contracts this morning. We are talking about extortion and racketeering on the waterfront. I am going to ask the question once more. Answer any way you want. I want to know your position because we are going to develop a record on which we are going to go someplace.

Do you feel as a competent, experienced, ongoing president of one of the most powerful unions in America that you have, in fact, exerted as much influence as you wish to exert on the screening and placing of people within your international union?

Mr. GLEASON, Sr. I don't screen them and I don't place them. They are elected by conventions. I said this two or three times already. I think the rank and file and every local around this country, 360 locals, if that is what the number is, is represented at that convention and I think it is one of the most democratic organizations in this country because anybody that attends that convention must be elected by the rank and file to attend that convention, and he uses his own judgment without the influence of anybody else to put those officers into office.

Senator RUDMAN. And how long have you been in office, Mr. Gleason?

Mr. GLEASON, Sr. I have been officially in the ILA since 1934.

Senator RUDMAN. How long have you been president?

Mr. GLEASON, Sr. Since 1963.

Senator RUDMAN. And you are going to tell this subcommittee that there is no political organization within the ILA that helps you retain your power?

Mr. GLEASON, Sr. No, the rank and file, sir.

Senator RUDMAN. We will let you stand on your testimony, Mr. Gleason.

Mr. GLEASON, Sr. All I know is, I know it is since these hearings are going on that some of our friends who have a job to do were around to question some of our fellows around the dock. I think you have a record of that. Some of the things, good things that was done, some of the good things here and these men spoke up.

Senator RUDMAN. We are not talking about your rank and file today. Not one word of testimony has been spoken against the rank and file—

Mr. GLEASON, Sr. No—

Senator RUDMAN. Mr. Gleason, not one word has been spoken against your rank and file, your union who, I am sure, are hard-working men and women whom we are seeking to protect. Mr. Gleason—

Mr. GLEASON, Sr. Can I answer that, sir?

Senator RUDMAN. Sure.

Mr. GLEASON, Sr. I was asked about the rank and file by people who were supposed to be taking some samples, I think, before. I was asked about that. I wanted to defend them. I think here I use as much power as I have to run a good, decent union, and I think we have a good, decent union.

Senator RUDMAN. Mr. Gleason, just one last question. Would you be in favor of legislation at the Federal level that would make it more difficult for people with a history of corrupt practices to be given positions of responsibility in labor unions?

Mr. GLEASON, Sr. I think here that even George Meany was against that type of legislation.

I think here more laws are not needed. The enforcement of the laws on the books now is what is needed.

Senator RUDMAN. I do not have any other questions, Mr. Chairman.

Senator NUNN. Mr. Gleason, we heard over the last 2 weeks testimony of crimes which directly affected the rank-and-file ILA members. These allegations have been made. I want to share them with you and get your comments on it.

No. 1, accepting payoffs to permit fewer ILA workers to perform jobs that call for more ILA employment;

No. 2, purposely maintaining a low level of ILA gangs to create work shortages as leverage to obtain payoffs;

No. 3, the use of ghost employees on company payrolls instead of a real ILA member;

No. 4, the use of trust money to pay benefits for mobsters and their friends by charging these benefits against a real member's rights;

No. 5, using the ILA workers workmen's compensation claims as a racket to gain leverage to generate payoffs;

No. 6, accepting payoffs to allow companies to operate nonunion;

No. 7, accepting payoffs to allow companies to abuse ILA rules and contracts such as the 50-mile rule;

No. 8, having a bought and paid for corrupt union official representing his members in collective bargaining sessions;

No. 9, finally, the allegation that was made that certain companies were exempted from strikes that paid off ILA officials.

Do you know of any of these practices?

Mr. GLEASON, Sr. No, sir, I just read about them the other day here when it was reported in the newspapers. I don't know of anybody working. I think when we have a strike, there is a strike. We are fighting for our contract. I think everybody is out.

Senator NUNN. You would not condone someone like Doug Rago or George Barone exempting certain companies from a strike and letting them go on and have workers there during the strike?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Would you think that is cause for removal of these union officials if they—

Mr. GLEASON, Sr. I surely would like to investigate it and find out if it is true. It is easy to come here and convict anybody and say we are going to do this or I do this. Let us find out—this is the first I heard about it in the past week.

Senator NUNN. There was an allegation that George Barone and Douglas Rago coordinated their efforts because of payoffs to permit companies to go ahead and have employees work during the strike. You think that would be cause for removal if that was true?

Mr. GLEASON, Sr. I think from what I read here in the papers—allegations by somebody who is trying to save his own skull.

Senator NUNN. Will you investigate that charge?

Mr. GLEASON, Sr. I certainly will, sir. I certainly will.

Senator NUNN. Will you investigate these other charges that have come up during these hearings?

Mr. GLEASON, Sr. I certainly will.

Senator NUNN. Do you have a group of auditors or investigators working for the union?

Mr. GLEASON, Sr. We appointed, at a convention, we appointed.

Senator NUNN. Do you plan, Mr. Gleason, to have a convention after these appeals have expired and clean house in your union?

Mr. GLEASON, Sr. I think I explained to you, Mr. Senator, before we were anticipating a convention right after October. We still have plans we are going to sit down and work these things out. Whatever we have to do we will do.

Senator NUNN. You are saying to this subcommittee you will take action?

Mr. GLEASON, Sr. I will take action.

Senator NUNN. Mr. Gleason, you said you have known Mr. Clemente, is that right, for 40 years?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. How well do you know him?

Mr. GLEASON, Sr. Not too well. I had known him in the dock and then I think he was an official of 856 for a while.

Senator NUNN. Do you meet with him very often these days?

Mr. GLEASON, Sr. I think I saw him maybe once or twice in 15 years.

Senator NUNN. Have you seen him in the last 2 or 3 years?

Mr. GLEASON, Sr. I think I saw him once maybe 3 or 4 years ago.

Senator NUNN. Did you talk about union business with him?

Mr. GLEASON, Sr. Could be. I don't know. I don't recall what we talked about. It could be anything.

Senator NUNN. You just do not recall.

Mr. GLEASON, Sr. No, I don't recall.

Senator NUNN. Did you ever have any animosity toward Mr. Clemente?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Did he ever have any animosity toward you?

Mr. GLEASON, Sr. I don't know. Some of the things he said he might have.

Senator NUNN. You heard a lot of the tapes where he was quoted as saying various things. What motive would Mr. Clemente have had, for instance, to say the mob put you in control and kicked Bradley out? What would be his motive for that?

Mr. GLEASON, Sr. I don't know. Maybe he was building himself up. I also told you, Mr. Senator, get the proceedings of 1963 convention and get the newspapers in 1962 and 1963 and find out why I ran for the president of the international.

Senator NUNN. Did you know Mr. Anthony Salerno?

Mr. GLEASON, Sr. I don't think I ever met Mr. Salerno.

Senator NUNN. Do you know Jimmy Alo?

Mr. GLEASON, Sr. I know him.

Senator NUNN. How long have you known Jimmy Alo?

Mr. GLEASON, Sr. I was organizing down in Florida about 1938 or 1939 and I met him at that time.

Senator NUNN. Have you seen him recently?

Mr. GLEASON, Sr. I was coming down for a meeting on a plane from New York and lo and behold he was in a seat sitting in front of me.

Senator NUNN. When was that?

Mr. GLEASON, Sr. Two or three months ago.

Senator NUNN. Have you seen him since then?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. You stay in close communication with Mr. Alo?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. He is not a close personal friend?

Mr. GLEASON, Sr. No, Senator.

Senator NUNN. Do you consult with him about union business?

Mr. GLEASON, Sr. Never, sir.

Senator NUNN. Do you ever call him on the telephone?

Mr. GLEASON, Sr. No recollection of ever calling him.

Senator NUNN. You do not recall ever having called him on the telephone?

Mr. GLEASON, Sr. No.

Senator NUNN. Do you recall having called him back in 1958—that is a long time ago—at the Seagull Hotel, do you remember anything about that?

Mr. GLEASON, Sr. Don't recall, Senator.

Senator NUNN. The hotel's records reflect that someone called from your room and talked to Jimmy Alo then but you do not recall that?

Mr. GLEASON, Sr. I don't think it was me, sir. I don't recall.

Senator NUNN. Do you think Mr. Alo is a member of organized crime?

Mr. GLEASON, Sr. I wouldn't know.

Senator NUNN. You have known about those allegations?

Mr. GLEASON, Sr. I have been reading that for I don't know how many years.

Senator NUNN. Why would Mr. Clemente have been quoted on the tapes as saying Gleason is scared stiff and Montella says he's involved too, Clemente says, "Yeah, sure, yeah you better wish nobody talks. They're all in trouble."

What would be the motivation for him to say something like that?

Mr. GLEASON, Sr. I have no idea what goes on in their minds, sir.

Senator NUNN. Did Mr. Clemente ever tell you to promote anyone in the union?

Mr. GLEASON, Sr. Not to my recollection, no.

Senator NUNN. He never has called you up and asked you to promote so and so?

Mr. GLEASON, Sr. I don't recall, no, sir.

Senator NUNN. You do not recall that ever having happened?

Mr. GLEASON, Sr. No.

Senator NUNN. Do you know Mr. Thomas Buzzanca?

Mr. GLEASON, Sr. Yes, sir.

Senator NUNN. How long have you known him?

Mr. GLEASON, Sr. I guess 20 years.

Senator NUNN. Did you support him in getting his International position? Did you support him in his union office in getting that position?

Mr. GLEASON, Sr. He was elected into his union office.

Senator NUNN. Did you support him?

Mr. GLEASON, Sr. No; I didn't have to, he was probably voted in by his own local.

Senator NUNN. Is he a friend of yours?

Mr. GLEASON, Sr. I know him very well, yes.

Senator NUNN. Does he have anything against you? Would he have any reason to dislike you?

Mr. GLEASON, Sr. I don't know.

Senator NUNN. On a tape conversation of December 12, 1978, Mr. Buzzanca confirms that you joined forces with the mob because you had no choice or as he put it quoting him, "When he sees the handwriting on the wall."

Mr. Buzzanca goes on to state why you joined forces with the mob. In this regard he says, and I will not repeat that but he goes on to say why you joined the mob.

Do you know why or why you went along with the mob? Do you know why he would say something like that?

Mr. GLEASON, Sr. I don't know. I assure you and I have said this several times here today that I am part of no mob, nobody controls me, I am an independent guy.

Senator NUNN. You do not know why Mr. Buzzanca—

Mr. GLEASON, Sr. No; I don't.

Senator NUNN. You never did anything to cause him to have animosity toward you?

Mr. GLEASON, Sr. No, sir.

Senator NUNN. Mr. Gleason, we appreciate you being here today.

Mr. HAMMER. Senator, do we take it that the subpoena is satisfied?

Senator NUNN. The subpoena is satisfied. We appreciate Mr. Gleason being here today. Mr. Gleason, we obviously do not agree with you on many of your policies. We are going to be proposing legislation in this area where we feel there is a vacuum. I just mention I will have a statement that will give some of my views on some of the legislation that needs careful attention by the Senate. I hope I will have that statement ready for distribution late this afternoon. We do appreciate you being here.

Mr. GLEASON, Sr. Thank you.

Senator NUNN. I will be looking forward to following with great interest the actions you take pursuant to the investigation you pledged here.

Mr. GLEASON, Sr. I assure you I am at 7 in the office. I answer my own phones. I will be there.

Senator NUNN. We hope you will pursue these investigations because we understand you said you are going to investigate these allegations that have been made in the course of these hearings.

Mr. GLEASON, Sr. Yes, sir.

[Whereupon, at 1:45 p.m., the subcommittee was adjourned.]

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**END**