

1 COMMONWEALTH OF PENNSYLVANIA HOUSE OF REPRESENTATIVES

2 1978  
3 SUBCOMMITTEE ON CRIME AND CORRECTIONS  
4 OF THE JUDICIARY COMMITTEE

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5 INVESTIGATIVE HEARINGS AUTHORIZED :  
6 PURSUANT TO RESOLUTION 109 :  
7 - - - - - x

8 Supreme Court Hearing Room  
9 Capitol Building  
Harrisburg, Pennsylvania

10 Thursday, January 26, 1978

11 Met, pursuant to notice, at 10:30 a.m.

12 JUDICIARY SUBCOMMITTEE MEMBERS:

13 VOTING MEMBERS

- 14 JOSEPH RHODES, Chairman
- 15 ANTHONY SCIRICA
- 16 ALJIA DUMAS
- 17 STEWART GREENLEAF
- 18 WILLIAM HUTCHINSON
- 19 GEORGE WAGNER
- 20 JOHN WHITE
- 21 HARDY WILLIAMS

19 NON-VOTING MEMBERS

- 20 HAROLD BROWN
- 21 MARK COHEN
- 22 WILLIAM DE WEESE
- 23 MARVIN MILLER
- 24 DAVID RICHARDSON

23 ALSO PRESENT:

- 24 MICHAEL REILLY, Chief Counsel
- 25 OTIS LITTLETON, Minority Counsel
- SAMUEL MC CLEA, Chief of Staff

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WITNESSES :

- MILTON LOPUS, Secretary of Revenue
- DAVID MOLEK, Chief Counsel of Bureau
- ROBERT ALLPHIN, Special Consultant
- KAREN BALL, Assistant
- DARLENE FRITZ, Special Assistant
- STANLEY WEISS, Chief Counsel of Department of Revenue
- GEORGE PARR, Acting Director of Bureau

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P R O C E E D I N G S

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2 CHAIRMAN RHODES: The Subcommittee of the House  
3 Judiciary Committee, pursuant to Resolution 109, will now  
4 come to order.

5 My name is Joseph Rhodes, Jr. I am the Chairman  
6 of the Standing Subcommittee on Crime and Corrections of the  
7 Judiciary Committee of the Pennsylvania House of Representatives

8 We are here today to begin our investigation, and  
9 our investigative hearing is authorized to Resolution 109,  
10 adopted by the House of Representatives on July 6, 1977.

11 Today, State Secretary of Revenue, Milton Lopus  
12 will explain the nature, extent and significance of the prob-  
13 lem of cigarette smuggling, and what steps have been taken  
14 and are being taken by the Department of Revenue to attempt  
15 to cope with this problem.

16 It is the intent of the Subcommittee to conduct a  
17 full and complete investigation into this problem, commencing  
18 with today's hearing.

19 Tomorrow the Subcommittee will complete its  
20 initial overview of the cigarette smuggling problem, and will  
21 examine two other areas to determine whether or not to conduct  
22 investigations into them.

23 In examining these two other areas, Assistant  
24 Superintendent Stephen Joyce and Lieutenant William Valenta  
25 from the Pittsburgh Police Department will testify on the

1 relationship between organized crime and the massage parlor  
2 and pornographic material distribution business in  
3 southwestern Pennsylvania and other parts of the country.

4           Following that, Samuel McClea, Chief of Staff of  
5 the Subcommittee, will present a research summary of  
6 organized crime activity in the Pocono Mountain resort area.

7           At the beginning of the hearing, I would like to  
8 introduce the members of the Subcommittee and our staff.

9           To my immediate left is Anthony Scirica, Minority  
10 Chairman, from Montgomery County; Representative John White  
11 from Philadelphia County; Representative Marvin Miller from  
12 Lancaster County.

13           To my immediate right: Representative Hardy Williams,  
14 Philadelphia County; Representative David Richardson,  
15 Philadelphia County; Representative William DeWeese from  
16 Fayette County; and Representative Harold Brown from Berks  
17 County.

18           Representative George Wagner from Montour will  
19 be late this morning.

20           Representative Michael Fisher of Allegheny County.  
21 is enroute. He has been delayed by the most recent storm which  
22 has descended on Allegheny County.

23           To my immediate right is Chief Counsel of the Sub-  
24 committee, Michael Reilly, Allegheny County.

25           To my left is Otis Littleton of the Subcommittee

1 staff. In the room somewhere is Sam McClea, the Judiciary  
2 Subcommittee Chief of Staff, and Dan Root of the Subcommittee  
3 staff, and Paul Newman, an intern in my office.

4 Today's hearing will now commence with our first  
5 witness, Secretary Milton Lopus, of the Department of Revenue.

6 I would like to extend our thanks for your  
7 attendance today, Mr. Secretary.

8 We would like to first swear Secretary Lopus  
9 in.

10 Is there anyone else who has to be sworn in  
11 today?

12 SECRETARY LOPUS: I would ask that our Chief  
13 Counsel, Mr. David Molek; my assistant, Karen Ball; Special  
14 Consultant, Robert Allphin; Special Assistant, Darlene Fritz,  
15 on personnel matters; and Chief Counsel of the Department  
16 of Revenue, Stanley Weiss -- Mr. Molek is Chief Counsel of  
17 the Bureau of Cigarette and Beverage Tax -- I would ask that  
18 they be sworn, and also George Parr, the Acting Director of  
19 the Bureau.

20 CHAIRMAN RHODES: I would ask that those people  
21 named please stand.

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1 Whereupon,

2 MILTON LOPUS  
3 DAVID MOLEK  
4 KAREN BALL  
5 ROBERT ALLPHIN  
6 DARLENE FRITZ  
7 STANLEY WEISS  
8 GEORGE PARR

9 having been duly sworn, testified as follows:

10 CHAIRMAN RHODES: We will proceed with the question-  
11 ing of Secretary Lopus by Chief Counsel Michael Reilly.

12 MR. REILLY: Secretary Lopus, I wonder if you could  
13 give me a summary of your background and training experience  
14 which qualifies you as an expert in this area.

15 MR. RICHARDSON: Some members of this Committee  
16 have a hard time hearing the Secretary. I wonder whether or  
17 not you could provide an adequate microphone for him.

18 MR. REILLY: There is, apparently, a technical  
19 problem with the microphone. I wonder if you could have one  
20 of the staff take a look at the mike.

21 SECRETARY LOPUS: I took office as the Secretary  
22 of Revenue on July 1 of 1976. My background is primarily  
23 in local government.

24 I had had some experience as a consultant to the  
25 Department of Revenue and was involved in several programs  
as a consultant to the Department at the time of my nomination.

My background in local government included some  
work in enforcement areas, as a city manager in charge of a

1 police department, and it also included experience as a  
2 director of redevelopment and housing activities, primarily in  
3 Bradford, the City of Bradford in Pennsylvania, and the  
4 City of Titusville in Pennsylvania.

5 MR. REILLY: Where were you city manager?

6 SECRETARY LOPUS: City manager in Bradford,  
7 Pennsylvania.

8 MR. REILLY: What formal education have you had?

9 SECRETARY LOPUS: Beyond high school, one year at  
10 Grove City College in Pennsylvania.

11 MR. REILLY: So, your experience has been, basically,  
12 on the job?

13 SECRETARY LOPUS: That is right.

14 MR. REILLY: You said that you were a consultant  
15 to the Commonwealth; is that correct?

16 SECRETARY LOPUS: To several departments of the  
17 Commonwealth; specifically, I mentioned the work that I was  
18 contracted for with the Department of Revenue, primarily in  
19 cash management and in document processing.

20 MR. REILLY: I wonder if you could give us a brief  
21 overview of the structure of the Department of Revenue, a  
22 concise summary of your Department.

23 SECRETARY LOPUS: The Department, as you know,  
24 primarily is responsible for collecting the taxes, the state  
25 taxes which we are all very familiar with.

1           Currently, we have just completed a reorganization  
2 of the Department to structure it along functional lines  
3 rather than along individual tax bureau lines.

4           Most of our operation is centered in Harrisburg.  
5 We have field offices throughout the state. The cigarette  
6 and beverage operation is primarily situated in Lewistown  
7 with field offices throughout the state as well.

8           The Department, in addition to administering the  
9 tax law and collecting taxes, has the responsibility for the  
10 Pennsylvania Lottery and we have responsibilities in providing  
11 an official estimate of the revenues anticipated by the  
12 Commonwealth.

13           I have a Deputy, Mr. Marco Sonnenschein, the  
14 Executive Deputy of the Department, and Special Assistants;  
15 Mrs. Fritz is here, and Miss Ball, as Special Assistants.

16           Each of our major operations has a director, and  
17 most have an assistant director.

18           Mr. Parr is the Acting Director -- he will be named  
19 Director -- of the Bureau of Cigarette and Beverage Tax.

20           Mr. Molek, who is Chief Counsel, will be named  
21 the Assistant Director of the Bureau.

22           CHAIRMAN RHODES: Are there any questions from the  
23 Committee on the topic of the Secretary's background?

24           I would like to point out for the record that by  
25 vote of the Subcommittee, the non-voting members of the



1 Subcommittee will not be asking questions of the witness.

2 I would also like to point out that we have been  
3 asked by the Supreme Court not to have people down in that  
4 well area between the bench and the bar. The sacred  
5 papers are kept down there.

6 Are there any questions on the topic of the  
7 Secretary's background by members or the organization of  
8 the Department?

9 The non-voting members may submit questions to the  
10 voting members, if they have them.

11 REPRESENTATIVE WILLIAMS: I have a question. Who  
12 did you say is going to be the Director of the Cigarette and  
13 Beverage Tax Bureau?

14 SECRETARY LOPUS: Mr. George Parr, P-a-r-r. H.  
15 will ask him to raise his hand. He is seated behind me.

16 (Mr. Parr complying.)

17 REPRESENTATIVE WILLIAMS: Mr. Molek is presently  
18 Chief Counsel, and Mr. Weiss is Chief Counsel for the Department  
19 is that right?

20 SECRETARY LOPUS: Yes.

21 REPRESENTATIVE WILLIAMS: And he will be changed  
22 to Assistant Director?

23 SECRETARY LOPUS: No. Mr. Molek will become the  
24 Assistant Director.

25 REPRESENTATIVE WILLIAMS: Right; and someone else

1 will be taking the Chief Counsel's place?

2 SECRETARY LOPUS: Yes.

3 REPRESENTATIVE WILLIAMS: Who is that going to be?

4 SECRETARY LOPUS: I don't know. These moves are  
5 quite current.

6 MR. REILLY: The reason that we are here today  
7 is to talk about the seriousness and magnitude of the ciga-  
8 rette problem in Pennsylvania.

9 There has been a lot of press reporting and a lot of  
10 national studies cited in the press and local speculation  
11 and prior speculation from people who held the office that  
12 you hold right now.

13 I wonder if you could give us in detail what you  
14 estimate to be the seriousness of the cigarette smuggling  
15 problem in Pennsylvania.

16 SECRETARY LOPUS: Well, tax avoidance is a major  
17 problem. It is very difficult to try to assign a number;  
18 but the number "\$30 million" has been used.

19 We, I think, subscribe to the theory that there is  
20 at least that much of a loss in Pennsylvania.

21 I think a far greater significance though than  
22 the \$30 million -- though that is a significant amount of  
23 money -- is the fact that, I think, we also subscribe to  
24 the theory that the \$30 million is used to nourish many, many  
25 operations of organized crime. Thus, it takes on far greater

1 importance than simply the loss of revenue.

2 In terms of the revenue, currently we collect  
3 approximately \$250 million per year in cigarette tax revenue.  
4 So, you can see that the \$30 million is also a sizable per-  
5 centage.

6 MR. REILLY: What I had specific reference to is:  
7 how do you arrive at this figure? Would you like to speak  
8 to that yourself?

9 SECRETARY LOPUS: Yes; because of the federal  
10 excise tax, we do know the total number of cigarettes produced.

11 MR. REILLY: How do you know that?

12 SECRETARY LOPUS: Manufacturers are required to  
13 provide us with the number of cartons of cigarettes shipped  
14 into Pennsylvania.

15 MR. REILLY: Who are they required to do that by?

16 SECRETARY LOPUS: That is a federal requirement.

17 MR. REILLY: Are those reports made to the  
18 federal government?

19 SECRETARY LOPUS: I stand correct. It is  
20 an agreement made among the states.

21 MR. REILLY: Who are those numbers reported to; are  
22 they reported to the federal government in addition to being reported  
23 to the states?

24 SECRETARY LOPUS: The numbers are reported to the  
25 states.

1 MR. REILLY: By the cigarette manufacturers?

2 SECRETARY LOPUS: Yes.

3 MR. REILLY: Are those numbers also reported to  
4 the federal government for the purposes of imposing the  
5 federal tax?

6 SECRETARY LOPUS: I would assume that the totals  
7 are, yes. However, the federal government levies the 8-percent  
8 tax; so they would have to have that information.

9 MR. REILLY: Do we compare the numbers that are  
10 reported to us with the numbers that are reported to the  
11 federal government to insure the cigarette industry are  
12 reporting the same numbers to both?

13 SECRETARY LOPUS: We compare the totals, the totals  
14 reported to us, the totals reported to the other states,  
15 with the totals as listed by the federal government.

16 MR. REILLY: So we have the federal reports and  
17 the federal auditing as an independent verification of our own  
18 auditing reports and the cigarette industry reports as to the  
19 number of cartons of cigarettes which are manufactured and  
20 legitimately shipped into Pennsylvania. Is that a correct  
21 statement or is that an oversimplification?

22 SECRETARY LOPUS: Yes, that is correct.

23 REPRESENTATIVE WILLIAMS: May I interrupt a minute;  
24 something is happening to your voice, Mr. Lopus. The last  
25 two questions were a little bit inaudible. I am not sure that

1 we are getting all the accurate information.

2 MR. REILLY: Did I understand you correctly to say  
3 that we do verify the totals of the domestically manufactured  
4 cigarettes that are shipped into Pennsylvania; those totals  
5 are verified with the federal government totals as to what  
6 volume of cigarettes are legitimately shipped into Pennsylvania?

7 SECRETARY LOPUS: Yes.

8 MR. REILLY: What other sources of cigarettes  
9 coming into Pennsylvania, other than those domestically  
10 manufactured, would there be? Do we get imported cigarettes  
11 in Pennsylvania, cigarettes which are not manufactured in  
12 the United States?

13 SECRETARY LOPUS: It is not a significant number.

14 MR. REILLY: How do we keep track of those? I  
15 imagine that they would, again, have a federal excise -- or  
16 customs duty imposed upon them. Do we, then, verify that  
17 volume through independently secured information?

18 SECRETARY LOPUS: That is correct.

19 MR. REILLY: Do the other states share the informa-  
20 tion with us, as to what volume of cigarettes, domestically  
21 manufactured and imported cigarettes, are legitimately  
22 shipped to each of those states for distribution within the  
23 states?

24 SECRETARY LOPUS: The information is gathered  
25 and published by the Tobacco Institute and made available.

1 MR. REILLY: Is that information verified as to  
2 accuracy by each of the individual states on the basis  
3 of the federal reports that are submitted by these manufacturers

4 SECRETARY LOPUS: We would assume that is the case.  
5 It would be to their advantage. Any state levying a cigarette  
6 tax would have to go through that, yes.

7 MR. REILLY: Am I correct to assume that, on the  
8 basis of those reports, we can determine, with some fair  
9 degree of accuracy, how many cartons of cigarettes are dis-  
10 tributed in each state in this nation on the basis of those  
11 two types of reports; that is, the reports --

12 SECRETARY LOPUS: Yes, with a reasonable degree of  
13 accuracy.

14 MR. REILLY: Is there any evidence of any bootlegging  
15 operation or illegitimate cigarette operation by anyone,  
16 including major cigarette manufacturers, that are producing  
17 cigarettes which are passing outside of the system of reporting?

18 SECRETARY LOPUS: Yes.

19 MR. REILLY: There are cigarettes that are being  
20 manufactured that are not reflected in these federal records  
21 and in these individual state records -- maybe the question  
22 was confusing. Let me restate the question --

23 SECRETARY LOPUS: You made the reference to boot-  
24 legging.

25 MR. REILLY: You have to listen my question, and we

1 will see later. You mean something when you say "bootlegging;"  
2 but it is my understanding -- I have read those reports and  
3 the reports have been submitted to the press, and they have  
4 been submitted to the members of the Subcommittee.

5 All of those reports, it is my understanding, are  
6 premised on the accuracy of the figures compiled by the  
7 federal government and compiled by the individual states  
8 with the assistance of the major tobacco manufacturers and,  
9 in addition, with the assistance of the Department of -- the  
10 customs and the federal authorities who regulate foreign  
11 manufactured cigarettes that come into the country.

12 If, for example, there is a major market in  
13 manufacturing unfederally regulated cigarettes, as there  
14 is in manufacturing unfederally regulated alcohol, all of  
15 these statistics are at question.

16 SECRETARY LOPUS: I understand what you are saying.  
17 No, I don't think that is a problem. The federal government  
18 does audit. In that context, no.

19 MR. REILLY: To your knowledge and the knowledge  
20 of your staff, has there ever been any prosecution, arrests  
21 or publicity surrounding an attempt by anybody to manufacture  
22 cigarettes and not comply with the minimal reporting require-  
23 ments?

24 SECRETARY LOPUS: We are not aware of any.

25 MR. REILLY: As far as we can determine, we can

1 assume that these figures are accurate, within the limits  
2 of the federal government to control them, and the individual  
3 states to control them within their borders?

4 SECRETARY LOPUS: I think that you should.

5 MR. REILLY: Is it correct that the way that we  
6 derive the \$30 million or the way that you derive the \$30-  
7 million figure is by a projection which takes advantage of  
8 those statistics -- that is, those statistics indicating the  
9 average number of smokers per unit population in a state like  
10 Pennsylvania -- and then to go from that to an average consump-  
11 tion, and from that average consumption, compare what should  
12 be distributed legitimately in Pennsylvania and what, from  
13 that inference, is smoked in Pennsylvania with what is  
14 actually passed through the legitimate channels of distribu-  
15 tion in Pennsylvania?

16 SECRETARY LOPUS: Yes, you are correct. That is  
17 one method.

18 MR. REILLY: I wonder if you could explain that  
19 method to us, please.

20 SECRETARY LOPUS: In Pennsylvania, the tax paid  
21 per capita sale in Pennsylvania would indicate in 1977  
22 per capita sales of 120.1 packs.

23 Other states; just by way of comparison, New  
24 Jersey, whose tax is 19 cents, indicates 122.8.

25 MR. REILLY: Could you give us Pennsylvania's tax,



1 please?

2 SECRETARY LOPUS: 18 cents.

3 New York's tax is 15 cents; it is 125.5. North  
4 Carolina, with a 2-cent tax, is 217. Massachusetts, with a  
5 21-cent tax, is 118.9. Kentucky, with a 3-cent tax, is 229.4.  
6 The national average is 133.6, and the median is 127.9.

7 We would be glad to make this full table available..  
8 We just selected certain states.

9 MR. REILLY: I wonder if you could repeat some  
10 of the figures. Will you repeat the New Jersey figure, please?

11 SECRETARY LOPUS: New Jersey, with a 19-cent tax,  
12 for 1977, was 122.8.

13 MR. REILLY: And the national average is 133.6.  
14 What was the median again?

15 SECRETARY LOPUS: 127.9.

16 MR. REILLY: Another thing, in reviewing the litera-  
17 ture which has been available nationally, there are indica-  
18 tions that there are a few states where there are a dispropor-  
19 tionately low number of smokers. Those states are generally  
20 cited and explained as being Mormon states, where the heavy  
21 Mormon population are strongly discouraged from the use of  
22 tobacco.

23 SECRETARY LOPUS: Utah, for example, is 78.9.

24 MR. REILLY: What is the tax in Utah?

25 SECRETARY LOPUS: We will provide that in just

1 a moment.

2 (Pause.)

3 SECRETARY LOPUS: Eight cents.

4 MR. REILLY: How does that compare with other  
5 jurisdictions having an approximately same level of taxation?

6 SECRETARY LOPUS: Oregon has a 9-cent tax, and its  
7 average is 155.6; Wyoming, also 8 cents, 160.4.

8 MR. REILLY: I think that that certainly indicates  
9 the validity of those assumptions that are made in analyzing  
10 those statistics as to the peculiarly low incidence of cigarette  
11 smoking in those Mormon states.

12 So, what we have here is an indication: there are  
13 so many packs per smoker; is that correct? Is this based on  
14 packs per smoker?

15 SECRETARY LOPUS: Per capita.

16 MR. REILLY: Packs per capita. Is there any  
17 indication of a variance, other than the Mormon states, of  
18 smokers per population; that there would be more smokers  
19 in California per unit of population than in Pennsylvania  
20 -- or, let's be more precise; that there would be more smokers --

21 SECRETARY LOPUS: California has a 10-cent tax, and  
22 they are 126.4. Outside the Continental United States --

23 MR. REILLY: Do you have Hawaii?

24 SECRETARY LOPUS: Hawaii is 95.1, and Alaska has 117.1.

25

1 MR. REILLY: What I am trying to determine is:  
2 if we are to assume, for the purposes of the findings of  
3 this Subcommittee at the termination of these hearings,  
4 that there is a validity in this approximate \$30-million  
5 figure, I am just trying to go behind the figure and determine  
6 how it was arrived at.

7 Now, what I have seen is that the federal government  
8 keeps track of and the individual states, with the  
9 verification of the federal government, keep track of how  
10 many cigarettes are available in each state for legitimate  
11 distribution.

12 If we assume that those cigarettes are smoked by  
13 the smokers in that state and that there are approximately  
14 the same proportion of smokers in each state, with the excep-  
15 tion of the Mormon states, where smoking is so strongly dis-  
16 couraged, then you have reached the inference, that I think  
17 much of your deriving your \$30-million figure is based, that  
18 cigarettes which are in theory being distributed in low-tax  
19 states, such as Kentucky, North Carolina, are finding their  
20 way to the high tax states. Is it not true that Pennsylvanians  
21 smoke significantly, but there is a significantly lower  
22 number of smokers per population in Pennsylvania or that  
23 Pennsylvania smokers smoke fewer packs than smokers in other  
24 states? Is that correct?

25

1 SECRETARY LOPUS: That is correct.

2 MR. REILLY: What is the basis of this assumption  
3 that there are approximately the same number of smokers  
4 per population in the states with the exception of the  
5 Mormon states; do we have any independent verification for  
6 that?

7 SECRETARY LOPUS: The theory, based on independent  
8 studies of smoking among --

9 MR. REILLY: I am sure that you can have access to  
10 those studies. I wonder if you could made them available,  
11 just as you have made these other studies available to the  
12 Committee, for distribution to the Committee and distribu-  
13 tion to the press. I wonder if you could secure those  
14 studies and make them available to the Committee, please.

15 SECRETARY LOPUS: Certainly.

16 CHAIRMAN RHODES: Are there any questions by  
17 members of the Committee?

18 I would also like to recognize that Representative  
19 Aljia Dumas of Philadelphia is present.

20 Are there any other questions on these topics?  
21 Representative Williams?

22 REPRESENTATIVE WILLIAMS: Do I understand that  
23 this is the only way you come to the conclusion of the  
24 \$30 million, or are there alternative ways to come to that  
25 conclusion?

1           SECRETARY LOPUS: No. There are other methods  
2 of arriving at that.

3           REPRESENTATIVE WILLIAMS: I don't necessarily  
4 want to get into that, except maybe, if you want to.

5           SECRETARY LOPUS: There are, and we will be glad  
6 to furnish them to you.

7           In fact, another approach indicates a possible loss  
8 of \$35.6 million.

9           REPRESENTATIVE WILLIAMS: While we are on that,  
10 is that the highest estimated loss, based on the analysis  
11 that your staff has done, \$35-point-something?

12           SECRETARY LOPUS: We feel that these are the most  
13 reliable sources. These sources have gone into the greatest  
14 detail with the maximum research. Yes.

15           REPRESENTATIVE WILLIAMS: Are there any with higher  
16 estimates that you don't consider reliable, but are higher  
17 estimates -- let me put it this way --

18           SECRETARY LOPUS: It really gets to the question  
19 of where Pennsylvania stands in consumption. If we are above  
20 average, then certainly that will move the numbers up to  
21 half-again as much, possibly in the range of \$4.5 million.

22           I would like to make it clear that the \$30 million-  
23 figure is one that we can believe in. We are not trying to  
24 suggest that it is necessarily limited to \$30 million. We  
25 would establish that as a floor.

1           REPRESENTATIVE WILLIAMS: I understand that.  
2 My independent concern is that it very well could be that it  
3 is a lot more money lost. Just for my own information, I  
4 want to know: what is the highest estimate, regardless of  
5 whether it was considered reliable by your own analysis.

6           SECRETARY LOPUS: Yes. I think that we would get  
7 in the range of \$45 million to \$50 million. As to your  
8 assumption, I think that you are correct. It could well be  
9 more than \$30 million. It could well be in the \$40 million  
10 range.

11           REPRESENTATIVE WILLIAMS: I just want to get clear  
12 on the analysis that counsel used to come to the \$30 million-  
13 figure.

14           If I am correct, the feds and the states keep a  
15 record of some kind of the cigarettes that are manufactured  
16 and distributed. That is accurate, isn't that correct,  
17 generally accurate?

18           SECRETARY LOPUS: Yes.

19           REPRESENTATIVE WILLIAMS: We use a mechanism of  
20 averages or per capita in terms of actual smoking in the  
21 various states; is that generally correct?

22           SECRETARY LOPUS: Yes.

23           REPRESENTATIVE WILLIAMS: By using those two  
24 mechanisms, we come to a conclusion that people in various  
25 states should be smoking roughly a certain amount of

1 cigarettes?

2           SECRETARY LOPUS: We assume that they are smoking  
3 a certain number and work then with the deviation from  
4 that in recorded sales, tax-paid sales.

5           REPRESENTATIVE WILLIAMS: Thank you.

6           CHAIRMAN RHODES: Anyone else?

7           (No response.)

8           MR. REILLY: On the basis of those numbers, you  
9 derive a conservative estimate of a \$30-million-per-annum  
10 loss in tax revenues. Am I correct in understanding that the  
11 premise of this loss of tax revenues is that cigarettes  
12 which are distributed in other states, where there is a lower  
13 tax, find their way into Pennsylvania; that is, cigarettes  
14 which are manufactured -- sold in low-tax states, which  
15 usually tend to be tobacco-agricultural states, find their  
16 way into Pennsylvania. Is that correct?

17           SECRETARY LOPUS: Yes, to a far greater extent than  
18 those that are stamped in Pennsylvania find their way into  
19 other states.

20           MR. REILLY: I guess with the numbers you gave us,  
21 it might be worth someone's while to run a panel truck back  
22 and forth from Pennsylvania to New York or Massachusetts. I  
23 guess beyond that, we are not a very fertile bed as a source.

24           My understanding is that there are three basic ways in  
25 which what I will call "contraband" cigarettes come into

3 methods<sup>1</sup>

distribution in the Commonwealth. Those three ways being:  
smuggling, counterfeiting and hijacking. \*

I wonder if you could explain what is meant in  
your Department when you talk about smuggling cigarettes and  
smuggled cigarettes as opposed to counterfeited cigarettes  
and hijacked cigarettes.

Smuggling

SECRETARY LOPUS: I think that we are all familiar  
with the smuggling operation. Basically, what happens is  
that --

MR. REILLY: Rest assured that we are not all  
familiar with it.

SECRETARY LOPUS: Cigarettes are legally purchased  
in low-tax southern states -- for example: North Carolina, two  
cents; Virginia, two and one-half cents; Kentucky, at three cents  
per pack -- and they are transferred into Pennsylvania for  
resale.

Smuggled cigarettes, in all cases, then, will bear  
an out-of-state tax stamp.

MR. REILLY: This is the stamp of the state that  
the federal records and the state records will indicate  
they were smoked in; for example, one of these three  
southern states?

SECRETARY LOPUS: That is right.

MR. REILLY: Someone acquiring a pack of those  
cigarettes would know that they were smuggled by the fact



1 that there was an out-of-state tax stamp on those cigarettes  
2 or tax imprint on the cigarettes?

3 SECRETARY LOPUS: Well, not necessarily. I don't  
4 know the volume of cigarettes that would come in legally  
5 from just bringing in a carton of cigarettes or carrying  
6 some in.

7 MR. REILLY: What quantity of cigarettes may a  
8 person legally bring into the Commonwealth?

9 SECRETARY LOPUS: One may be in possession of one  
10 carton.

11 MR. REILLY: It might be conceivable that if  
12 Representative Rhodes were to hand me a pack of "Lucky Strikes"  
13 with a Kentucky tax stamp on it, that he has possessed that  
14 carton legally by bringing it in; but it would be more likely  
15 that it had come into his hands and mine through a smuggling?

16 SECRETARY LOPUS: Not necessarily; well, certainly  
17 not in Representative Rhodes' case. Because of the proximity  
18 to the border, I think that a lot of people would either buy  
19 a pack of cigarettes from a machine while they were there or  
20 take advantage of the opportunity to bring one carton in.

21 MR. REILLY: If I were to purchase a pack of cigarettes from  
22 a cigarette machine in this building, and discover that the pack of  
23 cigarettes bore a Kentucky tax stamp, would it be a safe  
24 assumption that that had come into the Commonwealth through  
25 the --

1 SECRETARY LOPUS: It would be a violation in any  
2 case. Yes, it would be a safe assumption.

3 MR. REILLY: That those have been smuggled, as you  
4 have used the term, into the Commonwealth?

5 SECRETARY LOPUS: Yes.

6 MR. REILLY: Another point that I think we should  
7 make, that there are, I believe, two different types of  
8 what we are referring to as "stamps." Some states actually  
9 use pieces of paper or things like postage stamps or often  
10 smaller than postage stamps on their cigarette packs; other  
11 states use imprints, the imprints being what we use here in  
12 Pennsylvania on the bottom of Pennsylvania packs of cigarettes.

13 I think we can continue to discuss this as "stamps,"  
14 with the understanding that we are discussing both types?

15 SECRETARY LOPUS: Yes.

16 MR. REILLY: Are you going to make a statement,  
17 Mr. Lopus?

18 SECRETARY LOPUS: No; you are correct.

19 MR. REILLY: A case of smuggling involves  
20 bringing into Pennsylvania, more than one carton per individual,  
21 cigarettes which bear a tax stamp from another jurisdiction,  
22 generally a low-tax southern jurisdiction; is that correct?

23 SECRETARY LOPUS: Yes. Again, there is the mis-  
24 conception that you may bring in one carton, suggesting that  
25 you can bring in one carton all day long, suggesting that

1 six people in the car could bring in six cartons all day long;  
2 but the violation is for possessing more than one carton.  
3 So that the second carton you brought in, if you have not  
4 disposed of the first carton, you would be in violation.

5 MR. REILLY: Does it make any difference that the  
6 seal is broken?

7 SECRETARY LOPUS: No.

8 MR. REILLY: You are cautioning members of the  
9 Committee and the Commonwealth generally that they are  
10 allowed to be in possession of a broken or unbroken sealed  
11 carton of out-of-state cigarettes; is that correct?

12 SECRETARY LOPUS: Yes, that is correct. Smuggling,  
13 we think, is the major problem. It is the one that I think  
14 is our greatest concern at the moment.

15 We do have a film --

16 MR. REILLY: I am aware that you do have that film,  
17 and I would like to look at that a little later, if we could.  
18 I would like to lay some more background before we look at  
19 your film.

20 SECRETARY LOPUS: Fine.

21 MR. REILLY: I guess that anyone could smuggle  
22 cigarettes; anyone who had access to those southern states  
23 could smuggle cigarettes. You could bring them back from  
24 vacation, You could run down in a panel truck. You could  
25 run down in an over-the-road 18-wheeler to bring back

1 smuggled cigarettes.

2           The problem in bringing them back to the Common-  
3 wealth would be distribution. If I were down there on  
4 vacation and brought them back, I guess that I could give  
5 them to my friends and neighbors.

6           Do we have any indications of how smuggled cigarettes  
7 are distributed, whether there is a formal process for the  
8 distribution of smuggled cigarettes? Are they sold by people  
9 at ball games; are they sold on street corners by people  
10 who call you aside?

11           SECRETARY LOPUS: It can happen in several ways.  
12 Someone may bring in a truckload for distribution for a  
13 few neighbors, relatives or friends.

14           It can be very organized, in that a trailer  
15 load can come in and be distributed to certain people having  
16 certain districts.

17           A van load could come in and be distributed by the  
18 driver or by someone else in a prearranged route, such as  
19 an apartment complex, a business such as a car agency or  
20 car dealership, or any type of business, for that matter, even  
21 a newspaper operation.

22           It could be that it would be generally known that  
23 a certain person will set up shop from the trunk of his car  
24 at a certain time each week.

25           It could be that they are distributed through

1 small grocery stores or other retail outlets where all of  
2 the purchasers are known to the owners, in most cases at  
3 least.

4 There are several means of doing it. There is  
5 evidence that, where it was well organized, the movements  
6 of, say, a large quantity are handled within a 24-hour period,  
7 and that they are in the distribution system within that time,  
8 and that the routes are kept according to a pretty rigid schedule.

9 As a matter of fact, we are able to even witness  
10 the distribution in certain instances where we are more  
11 interested in tying up the whole operation.

12 MR. REILLY: You make it sound as if the smuggled  
13 cigarette distribution network really parallels in its  
14 efficiency the legitimate cigarette distribution network  
15 or the bread or milk distribution network, with vans deliver-  
16 ing to stores and bars and car washes and car dealerships.

17 SECRETARY LOPUS: It is such a close parallel that  
18 in some cases they overlap. We do know of instances where  
19 bread trucks, milk trucks, delivery systems are used to  
20 deliver contraband cigarettes.

21 MR. REILLY: Is there an indication that in some  
22 of the urban population centers of the Commonwealth that this  
23 smuggled cigarette distribution network is well organized?

24 SECRETARY LOPUS: Yes, clearly.

25 MR. REILLY: In which population centers are those

1 indications present?

2 SECRETARY LOPUS: Certainly in Philadelphia; I  
3 think, probably, the best organized in Philadelphia. In terms  
4 of the volume --

5 MR. REILLY: I think that we will come later in  
6 our hearing to the problem of making that same predication  
7 in Pittsburgh.

8 How is it organized in Philadelphia, just generally?

9 SECRETARY LOPUS: I have described the different  
10 ways in which the smuggled cigarettes could be distributed.

11 MR. REILLY: Is that what you are telling us, that  
12 that whole system, the network that you have described, is,  
13 to your information, in operation in Philadelphia?

14 SECRETARY LOPUS: At least that system and  
15 probably many other methods that we are not aware of.

16 MR. REILLY: And this is the distribution of  
17 cigarettes which bear an out-of-state tax stamp; and those who  
18 buy those cigarettes, as anyone rationally would, from  
19 their milk dealer or their used-car lot or their bar, in  
20 buying those cigarettes, acquire them with a tax stamp from  
21 another state, indicating plainly that these cigarettts have  
22 come into the Commonwealth illegally?

23 SECRETARY LOPUS: Yes; and that is borne out by  
24 the cigarettés that we confiscate with tax stamps from other  
25 states.

1 MR. REILLY: What is the incentive for people to buy  
2 those; what incentive is there for me to buy my carton of  
3 "Lucky Strikes" from my milkman rather than buy it in a super-  
4 market?

5 SECRETARY LOPUS: Assuming a markup for everybody  
6 who has to handle -- in the first instance, the person  
7 who has to -- no.

8 MR. REILLY: Look at it from my point as a customer.

9 SECRETARY LOPUS: Yes.

10 MR. REILLY: What is it in for me, buying it from  
11 my milkman rather than from my Safeway?

12 SECRETARY LOPUS: I just want to point out the  
13 steps along the way.

14 MR. REILLY: Mr. Lopus, I hate to do this to you; but  
15 one of the rules is that you have to answer the question  
16 that you are asked when you are asked.

17 SECRETARY LOPUS: Okay. The incentive is probably  
18 \$1.00 a carton to you.

19 MR. REILLY: In other words, I save \$1.00 a carton  
20 in buying it from my car wash rather than buying them from  
21 my supermarket?

22 SECRETARY LOPUS: That would be, I would say, a  
23 normal transaction of saving?

24 MR. REILLY: On smuggled cigarettes; that is,  
25 on cigarettes that bear an out-of-state tax stamp?

1 SECRETARY LOPUS: That is right.

2 MR. REILLY: I think that we will see later on,  
3 when we talk about counterfeit cigarettes, that there is a  
4 little different distribution system.

5 SECRETARY LOPUS: Right.

6 Mr. Allphin suggested, in Philadelphia, the  
7 current price on the street is \$4.25 per carton.

8 MR. REILLY: Is this for smuggled cigarettes?

9 SECRETARY LOPUS: Yes.

10 MR. REILLY: What would be the comparable price  
11 in a supermarket for those cigarettes?

12 SECRETARY LOPUS: \$5.09 to \$5.20.

13 REPRESENTATIVE WHITE: Would you repeat the street  
14 rate for cigarettes in Philadelphia?

15 SECRETARY LOPUS: Approximately \$4.25 per carton.

16 MR. REILLY: It is suggested that some of our  
17 independent investigators have determined that even better  
18 deals are available.

19 I think that when we get to bootlegging, we will  
20 see that there are better profits available.

21 SECRETARY LOPUS: We don't question that at all.

22 MR. REILLY: I am sorry I cut you off. You were  
23 going to go through the profits. I think that you were  
24 starting into the profit picture.

25 SECRETARY LOPUS: Just very quickly, I think that



1 it is very evident that a number of people have to be involved,  
2 and that there are expenses involved that probably start  
3 at the point of distribution with the arrangements that have  
4 to be made.

5           When we do get into the film, we will show that  
6 quite often the distribution has to be made phoned to a  
7 fictitious name.

8           Of course, there is someone who will have to drive  
9 the cigarettes in. In many cases there will be a warehouse  
10 expense, even though they may only be warehoused overnight;  
11 then the distribution, and, in some cases, a markup for yet  
12 the final person who has to make distribution, unless that  
13 occurs through a store; then, some sort of profit for the  
14 store or retail outlet. It depends on the type of operation,  
15 but there are many people who have to feed from it.

16           MR. REILLY: Let us assume, for our current purposes,  
17 this \$4.25 figure is accurate, that is, the street cost of  
18 smuggled cigarettes in Philadelphia.

19           Were those cigarettes bought -- here we are  
20 assuming smuggled and not hijacked cigarettes. If those  
21 cigarettes were bought in the most common southern state for  
22 the purchase of cigarettes coming into this system, what  
23 would they have cost the individual who acquired them from a  
24 licensed cigarette distributor in that state?

25           SECRETARY LOPUS: Using North Carolina as an

1 example, it is \$3.25 per carton.

2

3 MR. REILLY: That is the wholesale rate for  
4 cigarettes? This is not the person who stops along the road  
5 at a mom and pop store and buys them; this is someone who  
6 deals with a cigarette wholesaler in North Carolina.

7 SECRETARY LOPUS: The feeling of the staff is that  
8 this would be for a quantity of, say, 500 to 1,000 cartons.

9 MR. REILLY: What would be the volume of that in  
10 terms of what would be required to transport it; could I  
11 transport that in a normal panel truck, 500 to 1,000 cartons  
12 of cigarettes?

13 SECRETARY LOPUS: That quantity, in the back seat  
14 of your car; a panel truck, up to 5,000 cartons.

15 MR. REILLY: That helps us to understand.

16 SECRETARY LOPUS: If you would like us to elaborate  
17 a little more: a camper, 2,500.

18 MR. REILLY: The back seat of my car?

19 SECRETARY LOPUS: 500 to 1,000, passenger car,  
20 back seat and trunk.

21 MR. REILLY: Back seat and trunk. That is 500 to  
22 1,000 cartons, depending on whether it is a Volkswagen or  
23 a Cadillac.

24 SECRETARY LOPUS: A camper, 2,500.

25 MR. REILLY: By a "camper," do we mean the

1 back-of-a-pickup camper or an enclosed camper?

2 SECRETARY LOPUS: The type that would attach to a  
3 pickup truck.

4 MR. REILLY: What is the volume; 2,500?

5 SECRETARY LOPUS: Yes. A panel or van, 5,000.

6 To draw some points out, we have had as many as  
7 1,600 in a car.

8 MR. REILLY: It was a Cadillac?

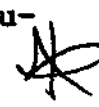
9 SECRETARY LOPUS: Mr. Molek points out: in that  
10 case, the back seat was removed and the bumper was dragging.

11 MR. REILLY: What about one of these over-the-road  
12 trailers?

13 SECRETARY LOPUS: A large-bodied truck without  
14 classifications to weight, maybe 24,000 cartons; a 35-foot  
15 trailer, 48,000; a 42-foot trailer, 60,000.

16 We are talking here in cartons, of course.

17 Cigarettes are packed 60 cartons to a case; so that would be  
18 1,000 cases in the case of the 42-foot trailer.

19 The common means of transporting from the manu-  
20 facturer is the 42-foot trailer. 

21 MR. REILLY: Is this common in both the licit and  
22 illicit trade, or is this in the illicit trade?

23 SECRETARY LOPUS: In legal trade, yes, it would be;  
24 and all means and any means in the illegal trade.

25 MR. REILLY: I am saying, the fact that "Lucky Strike" ships

1 to a legitimate distributor in 42-foot trailers is what we are  
2 also inferring that some of these smuggled cigarettes -- or a  
3 number of these smuggled cigarettes that move move in 42-foot  
4 trailers, which would suggest someone not coming back from  
5 vacation and deciding to cash in on their neighborhood  
6 milkman?

7 SECRETARY LOPUS: That is correct. We don't have  
8 percentages or numbers, but that is correct.

9 MR. REILLY: That \$3.25 carton of cigarettes; what  
10 would be the approximate profit that was made on that carton  
11 of cigarettes, selling it for \$4.25 in a major operation?

12 SECRETARY LOPUS: It is going to depend on the  
13 operation and, of course, the volume.

14 MR. REILLY: Let's say, the fellow with the 60,000-  
15 carton 42-foot trailer who then has an established network  
16 of bread trucks and car washes. and service stations and  
17 apartment buildings to feed it into.

18 What I am looking at: here I'am, as an entrepreneur, trying to  
19 to get into the cigarette smuggling business. If I decide to get into the  
20 cigarette smuggling business, I am'going to have to get enough  
21 cash to acquire my lease, rental, theft, whatever, a 24-  
22 foot trailer and a tractor to pull it. So, that is going to  
23 have to be a cost factor. I am going to have to raise an  
24 awful lot of money.

25 Are these transactions that normally take place

1 with these wholesale distributors down in North Carolina,  
2 are these normally done by check or credit card or anything  
3 like that?

4 SECRETARY LOPUS: Cash.

5 MR. REILLY: Cash transactions. That would take  
6 approximately \$200,000 to buy that 60,000 cartons of  
7 cigarettes; is that correct? Is my math correct; \$3.25 times  
8 60,000, \$195,000?

9 SECRETARY LOPUS: Yes.

10 MR. REILLY: So, I have to find a lot of money. You  
11 have told us that this trailer truckload of cigarettes can come  
12 into the City of Philadelphia and be in the hands of the ulti-  
13 mate consumer within 24 hours. I would like to know how much  
14 of a return-- if I have to borrow this money from the First  
15 Pennsylvania, how much of a return I can estimate on my money  
16 after my three-day investment.

17 SECRETARY LOPUS: I don't know if we can pin down  
18 the cost of doing business that closely for you. I can say  
19 to you that some of our informants have told us that they  
20 will be paid \$30,000 for a hijacked truck. Of course, then  
21 you would have the cost of the cigarettes as well as the  
22 tax avoidance. But that would just be their commission.

23 MR. REILLY: That's a nice word for it, the hijackers "commission"

24 SECRETARY LOPUS: The person who actually has  
25 to hijack the truck, drive it into Pennsylvania, and then,

1 presumably, leaves it at a warehouse.

2 MR. REILLY: Let's leave that for a minute, because  
3 we will discuss hijacking in some detail.

4 Are you saying that there is no way, at this point,  
5 for us to estimate what profit I can make? It costs me  
6 \$200,000 in cash for the cigarettes. I am going to have to  
7 lease that tractor-trailer, if I am smart; . I am not going to buy a  
8 tractor-trailer and take a chance on having it seized. So, I am going  
9 to end up with an investment of \$210,000, say, in that tractor-  
10 trailer, considering the cost and fees.

11 Now, that is the same tractor-trailer -- what profit  
12 could I anticipate?

13 SECRETARY LOPUS: Again, the gross profit in that  
14 situation is going to be \$60,000.

15 MR. REILLY: It is essentially a three-day operation?

16 SECRETARY LOPUS: Based on information that we have  
17 had from informants who have actually been in the business,  
18 their cut would be \$10,000. This is the person who has to  
19 make the haul and take the risk, although that may be a small  
20 risk, of being caught and bringing it into Pennsylvania and  
21 delivering it to a warehouse. Whether they subsequently  
22 get involved --

23 MR. REILLY: Of the \$60,000 potential profit, the  
24 first \$10,000 -- it is not a \$60,000 potential profit. Does  
25 that include the truck leasing?

1 SECRETARY LOPUS: No.

2 MR. REILLY: That is just the commission for  
3 the runner?

4 SECRETARY LOPUS: Yes.

5 MR. REILLY: Okay. So, we have got to lease the  
6 tractor; we have got to pay \$10,000 to this individual who  
7 runs down and brings back -- who has nothing of hazard other  
8 than the possibility of a jail term?

9 SECRETARY LOPUS: That is right.

10 MR. REILLY: Now, we are down to \$50,000 or \$45,000.

11 SECRETARY LOPUS: We really do not know the break-  
12 down of those costs. Using this as an example, the \$60,000  
13 gross profit, clearly, the cost of leasing a truck or owning  
14 a truck, the depreciation, whatever it is, is minimal; and,  
15 in terms of a \$60,000 gross profit, if we would even say, at  
16 the outside, that it is \$2,000 and that the smuggler gets  
17 \$10,000, then we would have \$48,000 to be distributed.

18 MR. REILLY: Then we have the cost of the middlemen,  
19 the people who run the gas stations and the bread trucks.  
20 Would you say that \$30,000 is a fair profit or would you say  
21 that is low, if you have got \$48,000 to play around with?

22 SECRETARY LOPUS: That may be a little on high  
23 side, in that the retailer has to have enough to make it worth  
24 his while.

25 MR. REILLY: \$20,000?

1           SECRETARY LOPUS: It is hard to pin this down. I  
2 know what you are trying to do, and I appreciate that. I  
3 would say that it has got to be \$20,000 to \$25,000 profit; 42-  
4 foot trailer, 60,000 cartons.

5           MR. REILLY: That would be, basically, on a three-  
6 day investment; for me to get the money from First Pennsylvania  
7 or, in the alternative, from a loan shark, to give me the money  
8 to operate this one-time down and back into an established  
9 distribution network?

10           SECRETARY LOPUS: Yes.

11           MR. REILLY: That is an example of what can be  
12 done with smuggling.

13           Now, the second common system, as I understand it,  
14 is what you would call "counterfeiting." I wonder if you  
15 could you explain "counterfeiting" to us, and explain what you mean  
16 by "counterfeiting."

17           CHAIRMAN RHODES: Could we stop a minute. I would  
18 like to acknowledge the presence of Stewart Greenleaf from  
19 Montgomery County.

20           Are there any questions from members of the Sub-  
21 committee on the issue of smuggling?

22           (No response.)

23           CHAIRMAN RHODES: I have one question, Mr.  
24 Secretary, which some of the non-voting members have put to  
25 me.



1           We were talking about the purchasing of 60,000  
2 cartons of cigarettes from a reputable distributor in North  
3 Carolina or one of the other southern states; is that correct?

4           SECRETARY LOPUS: Yes.

5           CHAIRMAN RHODES: When this fellow pulls up in  
6 an 18-wheeler and asks for 60,000 cartons of South Carolina  
7 cigarettes, isn't there any question raised by the distributor  
8 in South Carolina -- he has got Pennsylvania plates on his  
9 truck; isn't there any question raised as to what he is going  
10 to do with those 60,000 cartons?

11          SECRETARY LOPUS: It is prearranged. In many  
12 instances, they well know what it is going to be done.

13          CHAIRMAN RHODES: Are you saying that there is  
14 collusion on both ends?

15          SECRETARY LOPUS: Well, collusion -- the collusion  
16 may or may not be illegal. Some of this we will get into in  
17 the film.

18          CHAIRMAN RHODES: Thank you.

19          Representative Williams?

20          REPRESENTATIVE WILLIAMS: Mr. Secretary, I under-  
21 stand from the general comments that it is pretty profitable;  
22 the risk is not too high.

23                 I assume then that in terms of our ability to  
24 enforce this area, it is not very effective; is that correct?

25          SECRETARY LOPUS: Unfortunately, in this order,

1 yes, it is profitable; unfortunately, the risk is not very  
2 high; unfortunately, the penalties are not very high; and  
3 we have not been very effective.

4 REPRESENTATIVE WILLIAMS: I would like to ask,  
5 along those lines, very briefly, do we employ any agents, say,  
6 in the areas where they get the cigarettes, like in North  
7 Carolina, on that end?

8 SECRETARY LOPUS: Yes.

9 REPRESENTATIVE WILLIAMS: Finally, would you say  
10 that in addition to whatever else may be needed by way of  
11 legislation, that the physical ability to man the enforcement  
12 process needs to be substantially improved; aside from other  
13 measures that may be necessary, the manpower to enforce and  
14 police this area? Is that a significant area that needs  
15 improvement?

16 SECRETARY LOPUS: Yes.

17 CHAIRMAN RHODES: We are going to get into the  
18 enforcement a little bit later.

19 MR. REILLY: I wonder, at this point, Mr. Secretary,  
20 if you could go into and explain what you mean when you say  
21 "counterfeiting" as distinguished from "smuggling."

22 SECRETARY LOPUS: Now, let us talk about counter-  
23 feiting.

24 In the counterfeiting operation that we would have  
25 knowledge of or the typical and probably the most predominant

1 would involve the situation where the cigarettes were purchased  
2 in a low-tax state and the purchasers would pay that state's  
3 cigarette tax.

4 MR. REILLY: The reason for that would be that,  
5 were he not to do so, that distributor, who federal and  
6 state records indicate have "x" number of cartons of  
7 cigarettes, would have to pay the tax himself on it. He is  
8 responsible to pay the tax on every carton of cigarettes  
9 which is delivered to him for distribution.

10 SECRETARY LOPUS: But, for a premium, they will per-  
11 suade that wholesaler not to affix the stamp; so that the  
12 tax has been paid and the stamp has been affixed to a roll  
13 of toilet paper and is destroyed.

14 The unstamped cigarettes then could be trans-  
15 ported to Pennsylvania.

16 MR. REILLY: Okay. What we are talking about  
17 when we say "pays a premium," there is no theory here that  
18 someone is not committing a crime. This tends to move a  
19 little bit beyond the area of "It is not a crime in my state,  
20 so take it with you."

21 SECRETARY LOPUS: This goes beyond the area of  
22 "Well, I will just look the other way," or "I don't care  
23 where you are taking them." That is right.

24 MR. REILLY: The premium is really payment for  
25 part in a criminal conspiracy; is that a fair statement?

1 I would say that it is a bribe; it is a bribe for them to  
2 shirk their duty as a tax-stamping agent of the state in  
3 question.

4 SECRETARY LOPUS: Yes. Obviously, they are false-  
5 fying records in the process.

6 MR. REILLY: Is there any indication -- it is something  
7 that has been alluded to in a number of reports -- that perhaps some  
8 of these wholesale distributors in various southern states  
9 have come under the influence and have been acquired, at least  
10 in the sense of control, by organized crime in Pennsylvania and  
11 New Jersey?

12 SECRETARY LOPUS: We don't have any proof of that.

13 MR. REILLY: We would not anticipate requiring  
14 proof in Pennsylvania, would we?

15 SECRETARY LOPUS: We don't.

16 MR. REILLY: We would not be able to go through  
17 their corporate records?

18 SECRETARY LOPUS: No; that is right.

19 MR. REILLY: Have these allegations been reported,  
20 though, in national studies?

21 SECRETARY LOPUS: Yes.

22 MR. REILLY: This trailer-truck load -- this is the  
23 kind of operation, too that does not seem to lend itself,  
24 really, to the person bringing them back on the way from  
25 vacation; no one coming home from vacation would just be able

1 to pick up these unstamped cigarettts, would they? You can't  
2 drive into a mom and pop store and pick up 50 cartons of  
3 unstamped cigarettes:

4 SECRETARY LOPUS: There would be no percentage  
5 in doing it. In answer to your question, I assume that it  
6 could be done. I don't think that you just routinely --

7 MR. REILLY: Wouldn't you have to go through a  
8 wholesale distributor to get them? You could not go to  
9 a mom and pop store or retail outlet.

10 SECRETARY LOPUS: What I am saying is: I assume  
11 that someone on vacation could go to the wholesaler and  
12 somehow persuade him to pay the tax and get some unstamped  
13 cigarettes; but there really would not be any percentage in  
14 doing that, nor the volume.

15 MR. REILLY: These unstamped cigarettes are in  
16 a trailer truck heading back to Pennsylvania. What happens  
17 then?

18 SECRETARY LOPUS: If we run true to form, they  
19 cross the state line without any problems.

20 MR. REILLY: Having crossed a number of state  
21 lines without having any problems.

22 SECRETARY LOPUS: That is a very good point,  
23 Mr. Reilly, having crossed a number of state lines, because  
24 they are unstamped. At that point, who knows the destination --  
25 obviously, the driver -- but who knows the destination, whether

1 they are destined for some location within another state.

2 Our concern is those transported into Pennsylvania,  
3 where a counterfeit stamp is affixed. Then the cigarettes  
4 are sold through legitimate channels, with any of us possibly  
5 eventually consuming these through a vending machine or  
6 across the counter or in a supermarket or in carton sales or  
7 whatever.

8 MR. REILLY: What you are saying is: there would  
9 be no way for me, if I were, again -- if I were to go down  
10 and buy a pack of cigarettes out of a vending machine in this  
11 Capitol or from one of the refreshment stands in this  
12 Capitol, there would be no way for me, as ultimate consumer,  
13 to know that the cigarettes that I acquired, if they were  
14 counterfeited cigarettes, were contraband, had come through any  
15 way other than the normal channels of distribution?

16 SECRETARY LOPUS: Unless you are trained, that is  
17 correct.

18 MR. REILLY: By "trained," do you mean that I would  
19 be so expert as to be able to tell the difference in the  
20 smudged impression at the bottom of the package, the legitimate  
21 smudged impression from an illegitimate smudged impression?

22 SECRETARY LOPUS: Yes. So, the answer to your  
23 question is, essentially, there would be no way, as you  
24 stated it.

25 MR. REILLY: How difficult is it to counterfeit

1 that stamp on the bottom of the package of Pennsylvania  
2 cigarettes?

3 SECRETARY LOPUS: It is, unfortunately, not  
4 difficult. This is a Pitney-Bowes impression.

5 MR. REILLY: For the purposes of our understanding,  
6 Pitney-Bowes is one of the major national manufacturers and  
7 distributors of all types of stamping equipment, postage  
8 meters, and all manner of stamping equipment. They sell the  
9 kind of machines that are used by legitimate cigarette  
10 stamping companies, imprinters?

11 SECRETARY LOPUS: They are the exclusive distributor  
12 for Pennsylvania.

13 Since we do not have it with us, we would like to  
14 show you the counterfeit stamp as compared to a legitimate  
15 stamp.

16 MR. REILLY: When we talk about a "counterfeit"  
17 stamp, are we talking about someone acquiring an imprinting  
18 machine to do the volumes that we are talking about here, or  
19 could some do it just with a hand-stamp?

20 SECRETARY LOPUS: It could be done in either fashion.  
21 We will show you a hand-stamp.

22 MR. REILLY: How is it ordinarily done, from your  
23 informants and from your limited enforcement experience thus  
24 far?

25 SECRETARY LOPUS: Both ways.

1 MR. REILLY: The interesting thing about counter-  
2 feiting is that it does not require this whole intricate --  
3 there are two tremendous advantages to counterfeiting.

4 One thing, it does not require this intricate net-  
5 work of used car lots and car washes and milkmen to  
6 distribute them, but may be distributed through legitimate  
7 channels.

8 The other is -- am I correct in assuming, when I  
9 buy this package of counterfeited cigarettes, I pay the  
10 same thing I would for a normal pack of Pennsylvania cigarettes;  
11 there is no dollar discount on a carton?

12 SECRETARY LOPUS: That is correct.

13 MR. REILLY: So, of course, for me, as counter-  
14 feiter, there is a significant increase in the profitability  
15 in the counterfeiting as compared to smuggling?

16 SECRETARY LOPUS: That is right.

17 MR. REILLY: You talked about this premium, this  
18 bribe, that is paid to get the unstamped cigarettes. What  
19 is the magnitude of that bribe; how much do you pay?

20 One of the reports that you submitted cited \$10  
21 a case of 60 cartons.

22 SECRETARY LOPUS: That would be difficult for us  
23 to verify.

24 MR. REILLY: So, there is some premium there.  
25 Wouldn't it seem reasonable that someone who would engage in



1 this business would have some affiliation with an individual  
2 or group or corporation with access to legitimate channels  
3 of cigarette distribution?

4 SECRETARY LOPUS: Yes, we would draw that same  
5 conclusion.

6 MR. REILLY: In other words, it would be likely  
7 that the person would not waste these counterfeited cigarettes at  
8 gas stations and on milk trucks, but would rather have them  
9 distributed to supermarkets, mom and pop stores, vending  
10 machines?

11 SECRETARY LOPUS: Wherever, yes.

12 MR. REILLY: That would require some criminal  
13 conspiracy.

14 Wouldn't it be possible that the individual doing  
15 this might be the very same individual who controlled the  
16 other channels of distribution?

17 SECRETARY LOPUS: That is entirely possible.

18 MR. REILLY: The third method of problem distribution  
19 of contraband cigarettes you set out was "hijacking" I wonder  
20 if you could give us an explanation of what you consider  
21 as hijacking?

22 SECRETARY LOPUS: We don't know of any reliable  
23 statistics on hijacking. Obviously, what we are talking about  
24 here is the seizing of, normally, a tractor-trailer load of  
25 unstamped cigarettes; although they could be stamped as well.

1 Then, from that point, it is a smuggling operation.

2 MR. REILLY: If they are stamped. It is a  
3 counterfeiting operation if they are unstamped. Would that  
4 statement be correct?

5 SECRETARY LOPUS: Yes -- well, it is a smuggling  
6 in either case, and then culminating in a counterfeiting on  
7 top of the smuggling. So, if it has been unstamped, first we  
8 would have the hijacking, then the smuggling, then the  
9 counterfeiting operation; but, if they are stamped, then it  
10 would simply go through the other channels.

11 Of course, the profit on a hijacking is very high,  
12 because you don't have any cost of acquisition, plus you  
13 end up with quite a bit of rolling stock.

14 MR. REILLY: I think that you earlier quoted a  
15 figure for the going rate for a trailer truck that has been  
16 -- the hijacker's fee, the "commission," I think you called it --  
17 the commission for a hijacker for hijacking a 42-foot trailer  
18 load of cigarettes.

19 SECRETARY LOPUS: Based on information provided us  
20 by two informants. As a matter of fact, just for your interest  
21 -- the answer to your question is "yes;" but, for your interest,  
22 in one case the informant said it would depend on how much he  
23 was in hock as to whether he would wait for a hijacked load or  
24 make a couple of regular loads, which would only involve smuggling.

25 MR. REILLY: Would you quote that figure again?

1           SECRETARY LOPUS: \$30,000 is the price, the  
2 commission fee, quoted to us by two informants.

3           MR. REILLY: I have my 42-foot trailer of hijacked  
4 cigarettes; I am given \$30,000. Do I leave the tractor and  
5 trailer too, or do I just leave the trailer?

6           SECRETARY LOPUS: You leave everything.

7           MR. REILLY: Where does this hijacking ordinarily  
8 take place, within Pennsylvania or outside of Pennsylvania?

9           SECRETARY LOPUS: Ordinarily, I would say that would  
10 be outside of Pennsylvania.

11          MR. REILLY: Would you characterize, for example, if  
12 a large Pennsylvania market were awaiting the delivery of  
13 a trailer truckload from the legitimate Pennsylvania  
14 cigarette distributor and that trailer truckload of  
15 cigarettes were stolen, that would not be what you would  
16 characterize as a hijacking operation?

17          SECRETARY LOPUS: It could be a hijacking, yes.

18          MR. REILLY: And you would not include, for example,  
19 the theft, which we have from the preliminary review of police  
20 reports, that there are break-ins and theft of quantities --  
21 as part of routine burglaries, quantities of cigarettes  
22 stolen; would you characterize those a hijackings?

23          SECRETARY LOPUS: No.

24          MR. REILLY: Those are not hijackings, because it  
25 does not take place on the open road, and there is not the

1 loss of the trailer as well as the cigarettes?

2 SECRETARY LOPUS: Yes.

3 MR. REILLY: Is there a separate market for hijacked  
4 cigarettes, or do they, then, come into one of these normal  
5 markets, normal criminal markets?

6 SECRETARY LOPUS: Yes, depending on -- first of all,  
7 the one market I don't know if we would necessarily  
8 characterize as a criminal market, and that is the counter-  
9 feit market, where the purchase is unaware that he has pur-  
10 chased contraband cigarettes or illegally stamped cigarettes.

11 But, in either case, the two markets being -- of  
12 cigarettes bearing another state's stamp, whether that it is  
13 a legitimate stamp -- that may even be a counterfeit stamp  
14 from another state -- and the other market being the distribu-  
15 tion of unstamped cigarettes through a counterfeiting operation,  
16 and, quite possibly, through legitimate channels; so, the  
17 hijacked cigarettes, depending on whether they were stamped  
18 or unstamped, could come through either of those channels.

19 MR. REILLY: There has been a great deal of  
20 national effort focused on hijacking and cargo theft in recent  
21 years.

22 One of the indications is that there is collusion  
23 between someone at the shipper-distributor and the hijackers.  
24 Is there the same kind of indication in the cigarette  
25 hijacking area?

1 SECRETARY LOPUS: Yes, clearly.

2 MR. REILLY: It would be possible for me, for  
3 example, as a bootlegger, to say, "I want a trailer truckload of  
4 "Marlboros," for example. It might possible for the hijacker  
5 to hijack the order?

6 SECRETARY LOPUS: It depends on the knowledge of  
7 the system, the delivery system.

8 MR. REILLY: I mean "first-class hijackers" when  
9 I say that.

10 SECRETARY LOPUS: It might work the other way  
11 around, where a particular delivery, or system, or company  
12 may be vulnerable, and the word might go out that --

13 MR. REILLY: "Anytime you need, don't go down and  
14 buy them in North Carolina; when you need "X" cigarettes,  
15 we can always steal as many trailer truckloads as you need."

16 SECRETARY LOPUS: Yes, or the fact that, in a cer-  
17 tain situation, a certain route used, security may not be as  
18 good, or whatever, or a particular movement may be more  
19 vulnerable for a hijacking operation than possibly another  
20 movement, in which case the word would be out, and there might  
21 be, then a movement against them.

22 MR. REILLY: At what rate -- what is the Pennsylvania  
23 rate analogous to the \$3.25 North Carolina rate; what is the  
24 rate at which wholesale distributors in Pennsylvania sell  
25 wholesale quantities?

1           What I am trying to determine is: on my counter-  
2 feiting situation, if I bought these cigarettes for \$3.25 a  
3 carton, plus a premium to have them unstamped, and then I  
4 stamp them and put them into legitimate distribution, what  
5 my approximate profit range is, again, assuming I am selling  
6 to a wholesale distributor and not putting them into  
7 cigarette machines or the mom and pop stores or things like  
8 that.

9           SECRETARY LOPUS: The selling price for the  
10 manufacturers to the stamping agent would be \$2.87 and \$2.97  
11 a carton.

12           To that we would add -- aside from the commission,  
13 which I think you want to get into later, to that we would  
14 add the \$1.80 per carton for the tax.

15           MR. REILLY: And you would expect to make a fair  
16 profit in selling them to supermarkets?

17           SECRETARY LOPUS: Retailers can purchase from the  
18 wholesaler at a minimum of \$4.80 and \$4.90.

19           MR. REILLY: That gives me the number that I am  
20 looking for, the \$4.80 and \$4.90, because those are the  
21 figures of the cigarettes that I bought for \$3.25 plus a  
22 premium.

23           I can sell this, less the cost of bringing my  
24 trailer up, for \$4.80 or \$4.90 in the legitimate channels,  
25 providing I have someone that will falsify the records.

1           SECRETARY LOPUS: Mr. Reilly, I am sure that you  
2 are aware that the Unfair Cigarette Sales Act provides  
3 a minimum profit for the wholesaler and for the retailer.

4           MR. REILLY: A minimum profit?

5           SECRETARY LOPUS: As opposed to minimal.

6           MR. REILLY: So, we have seen now smuggling,  
7 counterfeiting, hijacking. My understanding is that there are  
8 a couple of other areas which are major problems in some  
9 states and which are minor problems in Pennsylvania.

10           Before we go into those, we ought to open it up  
11 to questions that focus on these three major areas.

12           CHAIRMAN RHODES: Are there questions from the  
13 Committee on these three methods of illicit cigarettes  
14 coming into the Commonwealth that the Secretary has discussed  
15 so far?

16           (No response.)

17           CHAIRMAN RHODES: If not, go ahead.

18           MR. REILLY: The other problem areas, as I under-  
19 stand them, are sales on military reservations and veterans  
20 hospitals and sales on Indian reservations.

21           Let's talk about those areas. Describe the  
22 potential problem with the military reservations, such as the  
23 PX's, the Navy yards.

24           SECRETARY LOPUS: I would like, with your approval,  
25 Mr. Molek to comment on this. I think it would save some

1 time.

2 WITNESS MOLEK: Concerning the military reserva-  
3 tions, there are no state cigarette taxes assessed on cigarettes  
4 which are sold to military personnel, or anyone who are  
5 privileged with some sort of purchase card to purchase on a  
6 military base.

7 That is, obviously, by federal law, and it is  
8 also included in the state law.

9 The question there is abuse of this privilege by  
10 purchasing for more than personal consumption. Also, there  
11 have been indications of people purchasing cigarettes from  
12 military bases and selling those cigarettes untaxed, which  
13 makes them contraband cigarettes outside of the military  
14 reservation.

15 MR. REILLY: Are there any stamps on those cigarettes  
16 sold on the military reservation?

17 WITNESS MOLEK: No, sir, not at all. I can't  
18 think of the exact wording on them, but it indicates a military  
19 sale.

20 MR. REILLY: How many cartons of those types of  
21 cigarettes would someone be allowed to have in their possession?

22 WITNESS MOLEK: On the military reservation, each  
23 base sets its own standard. There are varying degrees.

24 MR. REILLY: When I leave the Navy yard, how many  
25 cartons of cigarettes am I allowed to bring with me?



1                   WITNESS MOLEK: The same as anyone else. Tech-  
2 nically, when you leave that military reservation, you are  
3 allowed to possess only one.

4                   MR. REILLY: That is the maximum I am allowed to  
5 possess off that military base?

6                   WITNESS MOLEK: Yes, sir.

7                   MR. REILLY: I understand that there is also a  
8 problem in the veterans hospitals. Is that also correct?  
9 Because that qualifies the same way.

10                   SECRETARY LOPUS: We have some statistics. I would  
11 like Mr. Allphin to comment, in the interest of saving time.

12                   WITNESS ALLPHIN: The question on hospitals is  
13 that we have been trying to monitor the output of cigarettes  
14 from the VA hospitals not addressed to any abuse of the  
15 veterans' privileges, which is basically, I think, under the  
16 Veterans Administration Canteen Service, something like two  
17 packs per day can be sold to the patients.

18                   We have become somewhat alarmed by the manufacturers'  
19 reports to find out that tremendous volumes of cigarettes are  
20 being delivered to the various hospitals, which seem to  
21 be exorbitant in terms of the patient population.

22                   We have been working directly with the VA Canteen  
23 Service in Washington, and they have apparently tried to  
24 tighten their restrictions to limit the output.

25                   For instance, just as an example, one of our VA

1 hospitals in the state with 932 patients, the input of  
2 cigarettes from the manufacturers, tax free, was approximately  
3 100,000 cartons a year. We felt that that was a little --

4 MR. REILLY: Pardon me.

5 WITNESS ALLPHIN: 100,000 cartons a year to one  
6 hospital which has 932 patients.

7 MR. REILLY: Cigarette smoking must be hazardous  
8 to your health.

9 WITNESS ALLPHIN: So, with this information and  
10 with the Secretary's approval, we have been working with the  
11 Canteen Service in Washington of the Veterans Administration,  
12 pointing out that the privilege is being somewhat abused.

13 Thank you.

14 MR. REILLY: I think that is a fair statement.

15 What about Indian reservations; do we have any  
16 Indian reservation problems in Pennsylvania, or not until  
17 we announce that it is a potential problem here at the hearing?

18 SECRETARY LOPUS: There is some question as to  
19 whether we have Indian reservations; but it is not a problem.

20 MR. REILLY: So, that is not a problem here in  
21 Pennsylvania. In some of the western states, that is a very  
22 significant problem, where there are more frequent Indian  
23 reservations.

24 The next thing that we have scheduled to discuss,  
25 before we get into the details of enforcement, are techniques

1 used by smugglers to avoid detection and to minimize their  
2 losses.

3 I think that this might be an appropriate place to  
4 show your film

5 SECRETARY LOPUS: Fine. We have two of our  
6 agents here to narrate the film, and we prefer that they not  
7 be identified, or filmed, or photographed.

8 MR. REILLY: To avoid us having to go through  
9 bringing the agents in with bags on their heads and things,  
10 can we have a consenses here that we not photograph these  
11 two agents, because they work frequently under cover. Some  
12 of the work that was done in this film was done under cover.

13 CHAIRMAN RHODES: Is there anyone who objects to  
14 that understanding?

15 (No response.)

16 CHAIRMAN RHODES: We may proceed.

17 SECRETARY LOPUS: Just very quickly, the film will  
18 deal with an operation in Washington, D. C. As reported in  
19 the Gannett News Service, it is the Cochran operation. It  
20 involved 2 million cartons per year in Pennsylvania.

21 Our agents discovered Cochran Stamps for the  
22 District of Columbia, Virginia and Maryland.

23 MR. REILLY: Explain what the stamps are. We have  
24 not discussed that part of the distribution.

25 SECRETARY LOPUS: That is correct. They apply

1 these cigarette stamps, the tax indicia, for --

2 MR. REILLY: It is a common national practice to  
3 have individuals who have wholesale licenses on a contract  
4 basis affix these stamps or imprint at the bottom of the  
5 individual packs of cigarettes to indicate that the  
6 cigarette tax on that item has been paid. We do that in  
7 Pennsylvania. They do it in the District of Columbia.

8 Because of the unique geographic configuration of  
9 the District -- it is surrounded by Pennsylvania, Maryland,  
10 Virginia -- individuals down there can have Maryland, Virginia  
11 or D.C. stamps; is that correct? Someone located in the  
12 District of Columbia could be a licensed stamping agent for  
13 areas other than the District of Columbia; specifically, for  
14 Maryland and Virginia?

15 SECRETARY LOPUS: That is correct.

16 MR. REILLY: And that is part of the problem that  
17 has led us to where we are today.

18 SECRETARY LOPUS: In this particular case, the  
19 George W. Cochran Company, Inc., from Washington, D.C., was  
20 licensed for the District of Columbia, Virginia and Maryland.

21 Our agents discovered cigarettes in Philadelphia  
22 that bore this indicia from the other states. It was tied  
23 in to Cochran.

24 MR. REILLY: It is also the common practice, when  
25 affixing these stamps as contracted out, that there is some

1 indicator number, just as there is in Pennsylvania. If you  
2 look at the bottom of your Pennsylvania cigarette pack, you  
3 will see a number which identifies the stamp.

4 SECRETARY LOPUS: That is correct.

5 MR. REILLY: Were these what we call "smuggled"  
6 cigarettes in this Philadelphia smuggling distribution network?

7 SECRETARY LOPUS: Yes. Since we knew the identity  
8 of the stamper and the location of the stamper, we discussed  
9 with WHP-TV, which at that time indicated an interest in  
10 cigarette smuggling, setting up a camera crew in Washington,  
11 D.C. to actually film the loading of cigarettes which were  
12 presumably destined for an address in Virginia.

13 MR. REILLY: Prior to this agreement with the  
14 television people, I presume that you had done sufficient  
15 field work to determine these things were there and this  
16 was going on.

17 SECRETARY LOPUS: Oh, yes.

18 MR. REILLY: In doing that -- I believe that you  
19 earlier responded that we do send Pennsylvania tax agents  
20 out of the state?

21 SECRETARY LOPUS: We do. That is what happened  
22 here.

23 MR. REILLY: Did you do that because, in your  
24 judgement, it was better to attempt to cut off the source  
25 than to try to catch the milkman and the used car dealers

1 and the people who were selling the bootleg cigarettes at  
2 this end?

3           SECRETARY LOPUS: For two reasons: one, to work  
4 with other states in, hopefully, cutting off the source, and  
5 to also notify other states -- and we have done that quite  
6 frequently -- of a movement into their state that we are  
7 aware of; and, secondly, to at least be aware of movements  
8 into our state, so that we could pick them up.

9           Because of the volume that we suspected, we did send  
10 our agents into Washington, D.C. They were there for some  
11 time. They had the place under surveillance.

12           MR. REILLY: Were they there with the cooperation  
13 of the local authorities?

14           SECRETARY LOPUS: Eventually, yes; the Washington,  
15 D.C. Police Department.

16           We arranged with WHP-TV to have a filming of the  
17 operations on a day that we felt that there would be a movement  
18 into Pennsylvania. This will all be explained in the film.

19           But, to bring it home to Pennsylvania, the Gannett  
20 story, on December 21st, 1977, attributes the multi-state  
21 investigation that eventually led to Washington to our  
22 Department of Revenue.

23           We will comment later that this operation is now  
24 drying up. I think that Mr. Allphin had a report that police  
25 officers were actually closing the operation up -- there were-

1 taking the records from the operation, had subpoenaed the  
2 records, and were in the process of prosecuting them. We will  
3 make this story available to you as well.

4 (Agent narrating film.)

5 AGENT: This is Mr. George W. Cochran's alleyway,  
6 which is referred to as a "loading platform." This is where  
7 cigarettes were loaded into vehicles which you see in the  
8 picture. These vehicles belong to Mr. George W. Cochran.  
9 There are step vans and Econoline vans.

10 This part of the film was photographed from a  
11 location, which I shall refer to as the "hole," which overlooks  
12 Mr. Cochran's loading platform.

13 Mr. George W. Cochran is a wholesaler and a  
14 cigarette stamper in the District of Columbia. He stamps the  
15 cigarettes for the District of Columbia, the State of Maryland  
16 and the Commonwealth of Virginia.

17 Mr. Cochran does not stamp for the Commonwealth of  
18 Pennsylvania.

19 As the Secretary had previously stated, this D.C.  
20 operation was started in reference to a large quantity of  
21 Virginia-stamped cigarettes showing up in the Philadelphia  
22 area.

23 Here is one of Mr. Cochran's vehicles pulling out  
24 right now.

25 Through our constant surveillance, as there are

1 numerous vehicles pulling in and out, we had determined which  
2 vehicles of Mr. Cochran's take the bad loads and which  
3 are the good loads. When I say the "good loads," the good  
4 loads are the ones that he delivers to legitimate wholesalers  
5 and distributors within the State of Maryland, the Commonwealth  
6 of Virginia and the District of Columbia.

7 This is another one of Mr. Cochran's vehicles also  
8 on the move -- when I say a "bad load," a bad load is what  
9 we refer to as the load that is going to a smuggler.

10 MR. REILLY: How could you tell which was a good  
11 load and which was a bad load?

12 AGENT: Through constant surveillance.

13 MR. REILLY: Did you follow the individual loads?

14 AGENT: We followed the individual loads, which  
15 they took them to what we call an "off-load."

16 Very shortly in the film, if you keep your eye on  
17 the alleyway, you shall see these cigarettes being loaded into  
18 one of his vans. This will be the Econoline van. I believe  
19 in the photograph this is the one.

20 Through our constant surveillance of these vans --  
21 it took numerous trips by our agents to find out which ones  
22 were the good ones and which ones were the bad ones.

23 Through us following them to these different off-  
24 loads, we determined which vehicle was going to which off-load.

25 MR. REILLY: Were some of the off-loads legitimate?



1 AGENT: None of them.

2 MR. REILLY: When you say "off-load," is that a  
3 term that you use solely for the bad trips?

4 AGENT: For the bad trips.

5 MR. REILLY: You would not refer to a delivery  
6 to a normal, legitimate wholesaler along those lines?

7 AGENT: Correct. A legitimate load could be  
8 taken to such as a bar.

9 Here is where they are loading the bad load. The  
10 people that were in what I referred to as the "hole " were  
11 counting the number of half-cases as a person was putting them  
12 in. When I say "half-cases," that is 30 cartons per half case.

13 On the side of the cartons, which will be shown  
14 later on in the film, there is an insignia with an indelible  
15 marker. It is marked "VA." This certifies that these  
16 cigarettes were destined for the Commonwealth of Virginia;  
17 but as it ended up, they were going into the Philadelphia  
18 area.

19 This VA marker was put on by Mr. Cochran's workers.  
20 Mr. Cochran has a loading platform boss in back there. He is  
21 the one that supervises all these loadings.

22 Also on the cartons of the half-cases were Mr.  
23 Cochran's stencil, which were put on from the manufacturer  
24 when they were sent out.

25 This area is where the second part of the filming

1 was taken. This is where the off-load part took place. When  
2 I say "off-load ," that is where the cigarettes are taken to  
3 be shipped off to the smuggler.

4 This particular off-load was a body shop. This  
5 body shop is set up by the smuggler; Mr. Cochran did not set  
6 it up.

7 Very shortly you will be seeing a Pennsylvania  
8 vehicle pulling in.

9 There is Mr. Cochran's vehicle pulling up. He is  
10 going to back into this body shop. This location was also  
11 in the District of Columbia.

12 MR. REILLY: So, what we have is a reception facility  
13 which you call an off-load facility, operated by a Pennsylvania  
14 smuggler in the District of Columbia.

15 AGENT: He does not own this place, the person  
16 that is the smuggler. He makes arrangements with the person  
17 that owns the establishment, whatever it may be.

18 I would like to say that Mr. Cochran's vehicle was  
19 only in the off-load approximately four minutes. It is not  
20 very hard for him to make the drop and then pull out.

21 There you see Mr. Cochran's vehicle pulling away.  
22 Very shortly you are going to see the smuggler's vehicle pull  
23 out onto the highway.

24 There is the smuggler's vehicle.

25 There is another picture of the smuggler's vehicle.

1 It was a Pontiac, two-tone.

2 Now, this is where the arrest was made. The arrest  
3 was made in the State of Virginia -- excuse me, the State of  
4 Maryland. It was made by the Maryland tax agents. We  
5 assisted in the investigation. This arrest was made approxi-  
6 mately 10 miles from the alleged off-load.

7 MR. REILLY: What quantity of contraband cigarettes  
8 were seized.

9 AGENT: To my recollection, Mr. Reilly, I think  
10 there was 375 cartons. These were all located in the rear  
11 of the vehicle, the trunk area.

12 There you can see the cigarettes.

13 MR. REILLY: What quantity was moved to that off-  
14 load site?

15 AGENT: As I had originally stated, we had  
16 counted approximately 50 half-cases going into the van. That  
17 would symbolize approximately 1,500 cartons.

18 We are not certain all of them went in there; but  
19 375 of them went into this smuggler's vehicle.

20 MR. REILLY: Did the local authorities then go back  
21 and follow up at the off-load site and seize the remainder of  
22 the cigarettes?

23 AGENT: They were legal at the off-load site.

24 MR. REILLY: The off-load site was a legal place  
25 to have cigarettes; it was a licensed cigarette dealer?

1           AGENT:     By the time that we got back, Mr. Reilly,  
2 there were no more cigarettes at this off-load. We don't  
3 believe that he left any more there, because we feel that  
4 this was the particular day for this particular smuggler to  
5 make his load.

6           This smuggler was a known Philadelphia smuggler,  
7 and this was his second vehicle. One week previous to this,  
8 the Commonwealth of Pennsylvania seized one of this smuggler's  
9 vehicles.

10           This vehicle was seized by the State of Maryland.

11           Two weeks prior to this, Mr. Reilly, both of  
12 his vehicles were down there. One week later, he was seized  
13 in Philadelphia; and this is a seizure in the State of  
14 Maryland.

15           MR. REILLY: Thank you.

16           Is that the end?

17           SECRETARY LOPUS: Yes, that is it.

18           MR. REILLY: That was excellent.

19           SECRETARY LOPUS: Mr. Reilly, if I could --

20           MR. REILLY: You probably want to have your  
21 two agents leave the room at this point.

22           SECRETARY LOPUS: While they are here, we, ourselves,  
23 admit our own shortcomings, this Bureau -- and we will get  
24 into this later -- but, while they are here, this Bureau is  
25 held to ridicule and much criticism and rightfully so; but

1 it is not fair to some of the people that we have. We have  
2 some of the finest people in the Commonwealth of Pennsylvania  
3 working for this Bureau. Here are two examples. They well  
4 understand that we have to clean up our own house and that  
5 they are going to be subject to this type of criticism and what  
6 we have experienced in the last few weeks; but I am glad that  
7 we were able to have them here to narrate this for us. I can  
8 assure you that we do have some good people with us.

9 MR. REILLY: What we are discussing here are,  
10 generally, techniques used by smugglers to avoid detection.  
11 I wonder if you could explain some of the techniques used by  
12 the operation you have just shown us pictures of.

13 We have seen that they use a legitimate D.C.  
14 stamper and distributor with sites -- is this a case that  
15 should not be discussed?

16 SECRETARY LOPUS: No. I think -- we have not  
17 been discussing it; but, again, the Gannett news story goes  
18 into quite a bit of detail. But, going back to this particular  
19 instance, this particular case, I think that we mentioned,  
20 and, if not, I meant to mention, that this was the source, we  
21 feel, of 2 million cartons per year into Pennsylvania.

22 We arrived at that 2-million number through the  
23 cooperation of the State of Maryland and the District of  
24 Columbia by tracing the shipments such as this one, the  
25 375 cartons that were destined to seven fictitious addresses

1 in Virginia.

2 By being able to trace these, along with certain  
3 movements into Pennsylvania, and through subsequent sur-  
4 veillance, and by being able to actually trace telephone  
5 calls that placed the orders from Pennsylvania to Washington,  
6 D.C. that corresponded with the records of the Cochran  
7 Company of shipments to these same seven fictitious addresses  
8 in Virginia, we were able to reconstruct the whole thing.

9 MR. REILLY: The reason the fictitious addresses  
10 had to be used was Cochran's records for Virginia tax purposes  
11 and federal purposes had to indicate, as a wholesaler-  
12 distributor, he was selling them to some Virginia customer.

13 SECRETARY LOPUS: That is right.

14 MR. REILLY: Virginia, for these cigarettes.

15 SECRETARY LOPUS: Yes.

16 So, yes, in a long answer to your question, the  
17 off-loading was used here, the fictitious addresses used here;  
18 there are many, many tools.

19 MR. REILLY: When the individuals were apprehended  
20 were they carrying false identification, which, I am told is  
21 another commonly used technique?

22 SECRETARY LOPUS: Not in this instance.

23 MR. REILLY: What about the registration of the  
24 vehicles involved?

25 SECRETARY LOPUS: No; it was legitimate. Again,

1 that is a good point, the point being that, both in the case  
2 of operators licenses and registrations, our information,  
3 our actual experience is that it is possible to obtain  
4 counterfeited registration and operators licenses.

5 REPRESENTATIVE WILLIAMS: Can I ask a question  
6 on this?

7 In the states where things are operational, vis-a-  
8 vis Pennsylvania, wouldn't that be good if there was some  
9 kind of interstate strike force? Is there anything that  
10 exists like that?

11 SECRETARY LOPUS: Yes, there is. I think that we  
12 will be getting into that in quite a bit of detail later.

13 I think that the cooperation here with Maryland  
14 is a good example of that. Our agents, although they are  
15 not in the picture, for obvious reasons -- obviously, this  
16 whole operation was set up by Pennsylvania -- our agents were  
17 right there at the time of the arrest.

18 MR. REILLY: I think that we will discuss those  
19 techniques and the problems that they cause for you more when  
20 we talk about the possible legislative remedies.

21 Just to give us an overview, what are the legitimate  
22 channels for cigarette distribution in Pennsylvania; how can  
23 cigarettes be legitimately sold in Pennsylvania, just an over  
24 view, other than by bread trucks and used car lots and things  
25 like that?

1                   SECRETARY LOPUS: The channel itself, very quickly,  
2 would be from manufacturer, through the stamping agent, then  
3 either to the wholesaler --

4                   MR. REILLY: Isn't that frequently the same? Is  
5 there any stamping agent who is not also a wholesaler in  
6 Pennsylvania?

7                   SECRETARY LOPUS: No. There are wholesalers who  
8 contract with other stamping agents, yes.

9                   MR. REILLY: There is no stamping agent who is  
10 not a wholesaler?

11                   SECRETARY LOPUS: That is right.

12                   MR. REILLY: There is no requirement, to get a  
13 stamping permit, that you be a wholesaler, is there?

14                   SECRETARY LOPUS: The answer is "yes."

15                   MR. REILLY: The cigarettes come to these Pennsylvan  
16 wholesale-stamping agents directly from the manufacturers; is that  
17 correct?

18                   SECRETARY LOPUS: That is right.

19                   MR. REILLY: They are in an unstamped condition?

20                   SECRETARY LOPUS: That is right.

21                   MR. REILLY: What happens then?

22                   SECRETARY LOPUS: The manufacturer affixes the  
23 stamp -- I am sorry, they come from the manufacturer.

24 Obviously, the stamper affixes the stamp; then, in the role  
25 of wholesaler, he then distributes to retailers, of which there



1 are 30,000.

2 MR. REILLY: How many stamping agent facilities  
3 are there?

4 SECRETARY LOPUS: 250 stamping agents; there are  
5 876 wholesalers.

6 MR. REILLY: Those 250 are also stamping agents?

7 SECRETARY LOPUS: Correct.

8 MR. REILLY: Can these wholesalers -- all of these  
9 cigarettes in the hands of the wholesalers are now stamped  
10 by stamping agents, because they are the only ones authorized  
11 to stamp them; is that correct.

12 SECRETARY LOPUS: That is right.

13 MR. REILLY: Who may these wholesalers sell  
14 cigarettes to; how may they put them into commerce?

15 SECRETARY LOPUS: Through retailers and through  
16 vending machines.

17 MR. REILLY: You say that there is a licensing  
18 requirement for stamping agents; there is a licensing require-  
19 ment for wholesalers. Is there a licensing requirement for  
20 Pennsylvania cigarette retailers?

21 SECRETARY LOPUS: Yes. There are 30,000 retailers.

22 MR. REILLY: So, there are 30,000 licensed  
23 cigarette retailers in Pennsylvania, okay. Do we license  
24 individual vending machines, too?

25 SECRETARY LOPUS: Yes. There are 68,000 vending

1 machines licensed.

2 MR. REILLY: Do we license the companies too, or  
3 just the individual machines?

4 SECRETARY LOPUS: The companies are licensed,  
5 the distribution companies are licensed.

6 MR. REILLY: How many distribution companies are  
7 there?

8 SECRETARY LOPUS: Approximately 100. They could  
9 either be a wholesaler or a retailer -- a vending machine.

10 MR. REILLY: It would not be unusual for a company to  
11 be a wholesaler, stamper and vending machine -- retailer?

12  
13 Now, every one of these are licensed, and individual  
14 vending machines are licensed?

15 SECRETARY LOPUS: That is correct.

16 MR. REILLY: Is it a common practice for large,  
17 wholesale grocery chains to also be cigarette wholesalers,  
18 the major grocery chains in the state?

19 SECRETARY LOPUS: Yes.

20 MR. REILLY: If I have a bar, for example, and I  
21 want to have a cigarette machine, do I require an additional  
22 license in addition to the stamp, the license on the cigarette  
23 machine, just to have a cigarette machine for a gas station?

24 SECRETARY LOPUS: You receive a license for the  
25 location and a license for the machine.

1 MR. REILLY: So, I have to have two licenses; one to sell  
2 cigarettes at all, and then a special license on the machine  
3 which actually dispenses the cigarettes?

4 SECRETARY LOPUS: Per machine, yes.

5 Just a point of clarification: if you have just  
6 the one license, you would not have over-the-counter privileges;  
7 so. if you are going to retail, you would need a second  
8 license -- I mean, retail over the counter.

9 MR. REILLY: If I open a bar, and I decide that I  
10 want to sell some cigarettes over the bar, I want to sell some  
11 cigarettes out of the machine, I have to have a license to  
12 sell cigarettes over the bar, a license to have a machine to  
13 sell them out of a machine, and an individual license on the  
14 machine itself?

15 SECRETARY LOPUS: That is correct; for which there would be  
16 charges, the charge for the retail license -- I mean, for the over-the-  
17 counter sales, the charge for the machine and, with the charge  
18 for the machine, automatically comes a license for that parti-  
19 cular location.

20 MR. REILLY: Do I assume that your Department has  
21 the responsibility for supervising this entire licensing  
22 scheme?

23 SECRETARY LOPUS: Yes.

24 MR. REILLY: And for auditing the records that  
25 are maintained pursuant to the regulations promulgated by this  
licensing?

1           SECRETARY LOPUS: Yes.

2           MR. REILLY: You say that there are approximately  
3 100 vending machine companies in Pennsylvania. I wonder if  
4 you could make a list of those vending machine companies  
5 available -- the licensed vending machine companies available  
6 to the Subcommittee, please.

7           SECRETARY LOPUS: Mr. Reilly, we will have some  
8 difficulty with that, but we will do our best. It is not a  
9 question of time. It is a question of being able to pick out,  
10 to identify those that are involved as what we would both  
11 think of as "vending machine companies;" but, yes, we will do  
12 out best with that.

13           MR. REILLY: What I would like to do is I would  
14 like to have the list -- I presume that it would be easier for  
15 you to provide me the list of wholesalers and stamping agents.  
16 I would like to have those lists. I would like to know their  
17 exact volume. I would like to know what volume goes through  
18 those. I would like to have those volume figures for at  
19 least the past five years, so that the Committee can see any  
20 shifts in patterns or changes in the wholesale cigarette  
21 distribution and the volumes moving through the various  
22 vending machine companies and individual vending machines.

23           I am not asking you for a list of the location of all the  
24 68,000 vending machines in Pennsylvania, or of the 30,000 licensed  
25 cigarette retailers; but I think that the other things that

1 I would like you to ask you to provide for me, I will have one  
2 of our investigators come over and deal with your staff and  
3 get whatever information is possible in that regard.

4 SECRETARY LOPUS: Fine.

5 MR. REILLY: The next area I would like to explore  
6 is the possible use of vending machines as a market for contra-  
7 band cigarettes, let's say, for the counterfeited cigarettes. A

8 What would an average pack of cigarettes cost from  
9 a vending machine in Philadelphia?

10 SECRETARY LOPUS: 65 or 70 cents.

11 REPRESENTATIVE WILLIAMS: 70 cents, 75 cents.

12 MR. REILLY: So, it is 70 cents for a pack of  
13 cigarettes out of a vending machine. If that pack of cigarettes  
14 has a counterfeit Pennsylvania tax stamp on the bottom of it,  
15 it was bought for 32.5 cents a pack -- it could have been  
16 bought for 32.5 cents a pack down in North Carolina; if it  
17 is \$3.25 a carton, it is 32.5 cents a pack, right?

18 SECRETARY LOPUS: \$3.25 a carton, 32.5 cents a  
19 pack.

20 MR. REILLY: So, that same package of cigarettes can  
21 earn someone -- this theoretical person who is putting them  
22 into the legitimate channels can earn 70 cents out of the  
23 machine; a very interesting profit margin, potential profit  
24 margin.

25 It would appear that it would certainly be to the

1 advantage of anyone in the counterfeit cigarette distribution  
2 business to, if possible, acquire access to the cigarette  
3 machine vending outlet for these cigarettes, as it would also  
4 be for unstamped contraband cigarettes which are hijacked  
5 and then subsequently counterfeited.

6           It appears that the best place to sell cigarettes,  
7 in terms of the individual per pack, is in the vending machines;  
8 although, I am sure, with the volume of scale, the best place  
9 to sell them would be in a major food chain; with what you  
10 tell me, major food chains do their own cigarette stamping  
11 and distribution, rather than relying on others to do it for  
12 them.

13           SECRETARY LOPUS: Yes. The best place for counter-  
14 feited cigarettes would seem to be -- a major opportunity  
15 would exist for counterfeited cigarettes in a vending  
16 machine.

17           MR. REILLY: Have we ever had any indication of  
18 counterfeiting or smuggling activity by any of those major  
19 cigarette machines, or wholesale stampers, or major food chains?

20           SECRETARY LOPUS: No, not in the food chains.  
21 We are discussing the vending machines situation.

22           MR. REILLY: I just wanted to look at the analysis  
23 of that part of the market. I think, maybe, that will come  
24 out.

25           REPRESENTATIVE WILLIAMS: Mr. Secretary, you have

1 indicated that the Philadelphia area was the best organized.  
2 Would that apply to the vending operation also? When I say  
3 the "vending operation," I mean the opportunity for use of  
4 the vending machines illegally to process illegally obtained  
5 cigarettes.

6 SECRETARY LOPUS: In contraband --

7 REPRESENTATIVE WILLIAMS: Maybe I could put it  
8 another way. By saying that Philadelphia was the best organized  
9 in this illicit traffic, I would assume that they would be the  
10 most sophisticated in all areas of the operation; therefore,  
11 by logical conclusion, I would assume that the vending part of  
12 it also would be part of that.

13 Taking that assumption, if I am correct, do we have  
14 any idea that this activity is related to organized crime?

15 SECRETARY LOPUS: First of all, I agree with your  
16 assumption.

17 REPRESENTATIVE WILLIAMS: I keep waiting for the  
18 apple to drop. All of this is interesting. All of the  
19 individual entrepreneurs would have a good time with the  
20 profit; but I guess that the bite that I am waiting for is  
21 whether or not, in fact, it is related to any kind of organized  
22 criminal activity.

23 SECRETARY LOPUS: We would say that this is  
24 certainly of primary interest to organized crime. We suspect --  
25 beyond that, all we can tell you is what we suspect.

1 A MR. REILLY: Do you suspect the involvement of  
2 organized crime in the illicit distribution of contraband  
3 cigarettes, either smuggled or counterfeit stamped, in  
4 Pennsylvania?

5 SECRETARY LOPUS: Yes. If you narrow the question  
6 down to vending machines, then that is a little different  
7 story. That we are not sure of.

8 MR. REILLY: You are not as certain?

9 SECRETARY LOPUS: That is correct.

10 MR. REILLY: So far, the discussion has been theoretical.  
11 It would be a good place to have access to in an economic  
12 sense.

13 SECRETARY LOPUS: We agree with that.

14 REPRESENTATIVE WILLIAMS: The thing that troubles me  
15 is: we are talking about mom and pop cigarette smugglers, and  
16 \$30 million of tax money.

17 If organized crime is not into it and they get  
18 into it, then you are talking about maybe triple that.

19 I don't know whether you have, presently, the  
20 ability to have made that exhaustive determination, but I really  
21 just wanted to know, because that is the thrust of our  
22 investigation. Do you suspect that strongly, weakly or  
23 moderately, or you have not put it all together?

24 SECRETARY LOPUS: Or "none of the above"? Strongly,  
25 sir. The volume, though, we would be very uncertain about.



1 And, as to your comment about the volume -- should organized crime  
2 become more involved than they are now, if they are involved --

3 REPRESENTATIVE WILLIAMS: I think that is one of  
4 the things that we have to look at with regards to the tax  
5 dollar.

6 If, in fact, organized crime really gets into  
7 it as the prime area, we are probably talking about maybe a  
8 \$200-million loss.

9 SECRETARY LOPUS: The market is limited, though,  
10 in any case, no matter what the price; but I understand what  
11 you are saying.

12 CHAIRMAN RHODES: Following up that question,  
13 Mr. Secretary, since Representative Williams has touched on  
14 what is the primary focus of our investigation at this point,  
15 your suspicions about the activity of organized crime in  
16 the distribution of illicit cigarettes has to be based on  
17 something other than speculation. It has to be based on some  
18 information or some views held by your agents.

19 Can I ask you this question: do you have available  
20 to you sufficient powers to determine, clearly, for yourself  
21 and for the Commonwealth and for the Subcommittee whether or  
22 not organized crime has an involvement in this distribution  
23 business, this trafficking and distribution business?

24 SECRETARY LOPUS: We believe that organized crime  
25 is involved for several reasons; one, background reports

1 prepared by many other states, by our own, by new media, by  
2 investigative agencies; two, by statements made by informants,  
3 some of which we can rely on, some of which we must discard  
4 after investigation; three, by the active interest of those  
5 either known to be or suspected to be involved in other  
6 organized crime activities in the cigarette industry.

7 MR. REILLY: Will you explain what you mean by that?

8 SECRETARY LOPUS: We do not have information nor  
9 have we attempted to get information concerning manufacturers.  
10 So, I am making reference to the wholesale-distributors, the  
11 stamping agents, in other states and in Pennsylvania.

12 CHAIRMAN RHODES: Since some of this involves the  
13 purchasing or the leasing of legitimate vehicles from legitimate  
14 leasers, and involves the activity of companies that are filed  
15 with the Commonwealth or someplace, would your ability to  
16 determine the facts that lay behind these organizations  
17 and businesses and legitimate purchases and leasing be aided  
18 by the ability to subpoena the information?

19 SECRETARY LOPUS: We have access to considerable  
20 information ourselves, some of which we can share, some of  
21 which we cannot; but there are many impediments.

22 Subpoena power, for example, clearly would be an  
23 advantage.

24 CHAIRMAN RHODES: I am merely asking: is there  
25 information which you wish you could subpoena that you have not been

1 able to subpoena?

2 SECRETARY LOPUS: Yes.

3 CHAIRMAN RHODES: My second question is merely  
4 to clarify, for my information -- you said that you cannot  
5 make a determination about vending machine operators or  
6 companies in the vending machine business. Why did you make  
7 that statement; because you conducted an investigation and  
8 made the determination, or because you have not conducted the  
9 investigation and not made the determination, or because the  
10 investigation is ongoing and you are not ready to draw a  
11 conclusion?

12 SECRETARY LOPUS: There is an investigation ongoing.  
13 I should not say "investigation." We regularly buy from  
14 vending machines and check vending machines and monitor  
15 vending machines both to determine whether the cigarettes are  
16 properly stamped and to make sure that the machines are  
17 properly licensed.

18 CHAIRMAN RHODES: The question that Representative  
19 Williams has led into and has been on my mind also this  
20 morning, is whether or not vending machine organizations are,  
21 in some sense, controlled by organized crime. I thought that  
22 was the question that he put to you.

23 Your answer was that you cannot make that determina-  
24 tion.

25 SECRETARY LOPUS: We suspect that for the economic

1 reasons that Mr. Reilly has outlined that this would be a  
2 prime area, but limited to counterfeit cigarettes as opposed  
3 to those with tax paid in another state; because, clearly,  
4 a vending machine operator is not going to put smuggled  
5 cigarettes bearing another tax stamp or no tax stamp whatso-  
6 ever into his machines, because he is caught red-handed if we  
7 buy from that machine.

8           So that, I can only conclude that vending machines  
9 would be a lucrative outlet for counterfeited cigarettes and,  
10 as such, could be of great interest to organized crime.

11           CHAIRMAN RHODES: We are going to explore this  
12 subject in greater detail later on in the hearing today.  
13 The Committee will be very interested in hearing testimony in  
14 this area, because, of course, this is the focus of this  
15 inquiry by this Subcommittee.

16           We would like to break at this point, and we will  
17 resume the hearing at 1:30 with the question of enforcement  
18 as the first item before the Subcommittee, and we will be  
19 proceeding on with questions.

20           I would like at this point, because I was negligent  
21 in doing so at the outset of the hearing, to extend our  
22 thanks of the Subcommittee and the House of Representatives  
23 to the Supreme Court for making these facilities available to  
24 us.

25           We understand that it is a precedent or a new

1 gracious act by the Supreme Court. This Committee and I, as  
2 Chairman, would like to publicly thank the Supreme Court  
3 and Prothonotary and the Chief Court Administrator for making  
4 available the use of this room.

5 With that, we would like to now adjourn the hearing  
6 until 1:30.

7 (Whereupon, at 12:40 p.m., the hearing was  
8 adjourned, to reconvene at 1:30 p.m., this same day.)

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AFTERNOON SESSION

(1:55 p.m.)

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Whereupon,

- MILTON LOPUS
- DAVID MOLEK
- KAREN BALL
- ROBERT ALLPHIN
- DARLENE FRITZ
- STANLEY WEISS
- GEORGE PARR

having previously been duly sworn, testified further as follows:

CHAIRMAN RHODES: This hearing of the Judiciary Subcommittee on Crime and Corrections, pursuant to Resolution 109, now comes to order.

We will continue with the witness, Secretary Lopus, Secretary of Revenue of the Commonwealth of Pennsylvania, and his staff.

We will continue with the interrogation with our chief counsel, Michael Reilly.

MR. REILLY: Secretary Lopus, we spent most of the morning outlining the problem of cigarette smuggling in Pennsylvania.

A couple of the members asked questions that we requested they defer until we have an overview of the whole problem.

Now, I would like to ask you, as we get into the question of the enforcement efforts of the Commonwealth, would you give us an explanation of the structure and operations

1 of the Department of Revenue's Cigarette and Malt Beverage  
2 Tax Enforcement Unit, please?

3 CHAIRMAN RHODES: Before you answer that question,  
4 Secretary Lopus, I would like to acknowledge for the record  
5 the presence of Representative William Hutchinson of  
6 Schuylkill County.

7 SECRETARY LOPUS: Mr. Reilly and members of the  
8 committee, your question has to do with the structure of  
9 the Bureau itself.

10 MR. REILLY: Did I correctly state its title,  
11 or did I misstate the title? What is the correct title  
12 of that Bureau?

13 SECRETARY LOPUS: The Bureau of Cigarette and  
14 Beverage Taxes.

15 MR. REILLY: Malt Beverage Taxes?

16 SECRETARY LOPUS: Yes, sir.

17 Assuming that all of the positions were filled,  
18 the Bureau is headed up by a Director assisted by an  
19 Assistant Director with a Chief Counsel -- and I believe the  
20 committee understands the relationship of counsel to a  
21 department and the relationship of the counsel to the  
22 Department of Justice -- and the Chief Investigator and  
23 the Chief of Fields.

24 MR. REILLY: Pardon me?

25 SECRETARY LOPUS: Chief of Fields.

1 MR. REILLY: Is the Chief of Fields under the  
2 Chief Investigator?

3 SECRETARY LOPUS: A direct line under the Director.

4 MR. REILLY: The Chief of Fields, what does that  
5 person do?

6 SECRETARY LOPUS: He has supervision over the  
7 five field offices which are: Warren, Pittsburgh, Harrisburg,  
8 Wilkes-Barre and Philadelphia.

9 MR. REILLY: That is: Warren, Pittsburgh,  
10 Harrisburg, Wilkes-Barre and Philadelphia.

11 SECRETARY LOPUS: Then there is a supervisor in  
12 each malt beverage section and the cigarette tax section.

13 MR. REILLY: Two separate supervisors?

14 SECRETARY LOPUS: Yes.

15 MR. REILLY: Today we are concerning ourselves  
16 with the cigarette enforcement.

17 What kind of people are assigned to these offices  
18 other than the supervisors?

19 SECRETARY LOPUS: I am assuming you are referring  
20 to the field offices?

21 MR. REILLY: Yes.

22 SECRETARY LOPUS: In terms of investigative  
23 personnel, assuming the vacancies are filled, we have 3  
24 at Warren, 17 at Pittsburgh --

25 MR. REILLY: What do you call these investigators?



1 SECRETARY LOPUS: Special Investigators.

2 MR. REILLY: You have three Special Investigators --  
3 these are cigarette Special Investigators?

4 SECRETARY LOPUS: That is the classification that  
5 applies.

6 MR. REILLY: Do they also have responsibility  
7 for the malt beverage investigations?

8 SECRETARY LOPUS: Just mainly the cigarette  
9 operation; however, Mr. Molek will say 99 percent cigarette.

10 MR. REILLY: So you have three cigarette investi-  
11 gators and a cigarette supervisor at Warren?

12 SECRETARY LOPUS: The supervisor is classed as an  
13 investigator with a higher classification. So for investiga-  
14 tive personnel at Warren, we would say three, supported  
15 by one clerical person; but the numbers I have given you  
16 only refer to the investigative personnel.

17 MR. REILLY: How many do you have in Pittsburgh?

18 SECRETARY LOPUS: Seventeen.

19 MR. REILLY: Seventeen investigators, including  
20 supervisors?

21 SECRETARY LOPUS: Yes.

22 MR. REILLY: How about Harrisburg?

23 SECRETARY LOPUS: Nine.

24 MR. REILLY: Wilkes-Barre?

25 SECRETARY LOPUS: Three.

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1 MR. REILLY: Philadelphia?

2 SECRETARY LOPUS: Seventeen.

3 MR. REILLY: Do you also have an auditing component  
4 as part of this Bureau?

5 SECRETARY LOPUS: Yes; however, the auditing  
6 component has been "functionalized," meaning that it deals  
7 with other taxes.

8 MR. REILLY: Do they work out of the same field  
9 offices, or do they work Statewide, the auditors?

10 SECRETARY LOPUS: They don't work Statewide. They  
11 work out of the same region.

12 MR. REILLY: How many of these functionalized  
13 auditors do you have at each of those locations who are  
14 available to do work?

15 SECRETARY LOPUS: Thirteen Statewide, by office;  
16 three in Harrisburg; two, Wilkes-Barre; four, Philadelphia.

17 MR. REILLY: Two in Wilkes-Barre?

18 SECRETARY LOPUS: Yes.

19 MR. REILLY: Any in Warren, any in Pittsburgh?

20 SECRETARY LOPUS: Pittsburgh has four.

21 MR. REILLY: Any in Warren?

22 SECRETARY LOPUS: No.

23 MR. REILLY: What is the responsibility of these  
24 Special Investigators?

25 SECRETARY LOPUS: I will ask Mr. Molek to

1 describe the detailed duties.

2 WITNESS MOLEK: The Special Investigators are vested  
3 with police powers under the Pennsylvania Cigarette Tax Act.

4 Their job is to enforce that Act, dealing mainly  
5 with arrests pertaining to contraband cigarettes.

6 Along these lines, there are also technical  
7 violations, such things as license violations and sales  
8 under the minimum price; but very few Special Investigators  
9 deal in that area.

10 Their main primary function is as a police law  
11 enforcement officer dealing in contraband smuggling.

12 MR. REILLY: For example, if you have a variety  
13 of licensing schemes, would they be expected to spend a  
14 significant part of their time going around to see if every  
15 single vending machine had a tax stamp on it in every bar  
16 that sold cigarettes and every one of these corner  
17 groceries that sells cigarettes?

18 WITNESS MOLEK: No, sir; there are Field Investiga-  
19 tors in the Department of Revenue, not specifically in  
20 the Bureau.

21 There are a large number of Field Investigators  
22 whose responsibilities are to go around and make random  
23 checks. They have lists. They are the ones who look into  
24 the retail over-the-counter licenses and the vending machine  
25 licenses as such.

1 Special Investigators do get into the licensing  
2 area when we investigate licensees or applicants for new  
3 licenses and wholesalers or stamping agencies.

4 MR. REILLY: How many Field Investigators does  
5 the Department have?

6 WITNESS MOLEK: There were 20 Field Investigators  
7 who were specifically assigned to the Bureau who still do  
8 work in the Department of Revenue; however, there are a  
9 total of approximately 375 Field Investigators statewide in  
10 the Department of Revenue who are now being cross-trained  
11 in the cigarette area, so whose responsibility in some  
12 areas and eventually will be completely in checking these  
13 licenses.

14 MR. REILLY: What other duties do they have? What  
15 else do Field Investigators do?

16 WITNESS MOLEK: All tax areas, income taxes, sales  
17 taxes, corporate taxes, liquid and fuel taxes; most of  
18 their other work is more of tax collection.

19 The Bureau of Cigarette and Beverage Taxes is  
20 probably unique in that respect. When a Field Investigator  
21 does that type of work, he is not collecting taxes; he  
22 is enforcing the law.

23 MR. REILLY: Other than clerical employees, do  
24 we have any other major class of employees in this Bureau?

25 WITNESS MOLEK: No, sir.

1 MR. REILLY: How many Special Agents do we have --  
2 49, approximately; is that correct?

3 WITNESS MOLEK: Yes, sir.

4 MR. REILLY: You have got 49 Special Investigators  
5 who are police whose basic job is to stop cigarette  
6 smuggling and to follow up on it when it does occur and  
7 to do investigations of people who are being considered  
8 for licensing such as stamping licenses, wholesale  
9 distributing licenses and things like that.

10 WITNESS MOLEK: That is correct.

11 MR. REILLY: In addition, you have 13 auditors  
12 working statewide who spend some portion of their time  
13 working with these various reports that are required to be  
14 submitted?

15 WITNESS MOLEK: Yes, sir. These auditors are  
16 also in the functionalization process; therefore, there  
17 are other auditors from taxing areas who are being cross-  
18 trained, also, the same as the Field Investigators.

19 MR. REILLY: Would it be fair to say approximately  
20 the equivalent of 13 auditors working at all times in this  
21 area?

22 WITNESS MOLEK: Yes, sir, at least.

23 MR. REILLY: In addition, there are 20 Field  
24 Investigators who are also -- there is the equivalent  
25 of 20 Field Investigators at all times working in this area?

1 WITNESS MOLEK: At least; yes, sir, the minimum.

2 MR. REILLY: This gives us an overview of the  
3 structure.

4 Mr. Lopus, I would like to direct this next question  
5 to you.

6 Would you characterize for us, please, the condition  
7 of this Bureau when you assumed control of the Department  
8 of Revenue?

9 SECRETARY LOPUS: I would like to put it in per-  
10 spective by saying, in fairness to the Department, that  
11 when I assumed the control of the Department, I felt at that  
12 time that it was a good Department. I still think that it is.

13 I have said, and I continue to believe, that this  
14 particular Bureau was by far the worst Bureau in that  
15 Department and among the worst in State government.

16 Prior to going into this, I want to say that we  
17 do have many good people in that Bureau; but they all have been  
18 tarred with the same brush by association, and we are attempting  
19 to weed that out.

20 But, specifically, as far as this Bureau is concerned,  
21 what we found was: inaction; almost no supervision; terrible  
22 record keeping; very poor inventories -- and I am speaking  
23 now of inventories of confiscated goods -- no training  
24 programs; a demoralized personnel; a bureau, the subject  
25 or target of many, many allegations; underinvestigation by

1 other agencies; no confidence on the part of other law  
2 enforcement agencies, thereby eliminating the possibility of  
3 cooperation; no effective participation or cooperation with  
4 other states, which we feel is necessary.

5 We had found that some of our own people had  
6 been not only charged, but convicted; several others were  
7 under investigation.

8 There was no citizen participation. It is well  
9 known that the allegations concerned no-shows or people  
10 not working; political activities on our time; employees of  
11 the Bureau working on personal property of officials of  
12 the Bureau; records falsified.

13 We were highly suspect of having tipped off the  
14 targets of investigation; money missing; confiscated  
15 cigarettes and liquor missing; and many other similar allega-  
16 tions.

17 MR. REILLY: Let's start at the top.

18 When you say inactive --

19 SECRETARY LOPUS: Effectively inactive.

20 MR. REILLY: You inherited an inactive Bureau.

21 Tell me what you mean by that.

22 SECRETARY LOPUS: In that the people who were  
23 working -- I would say most of the people who were working  
24 and showing up, there were some ghosts, and they were  
25 mainly just going through the motions, the routine, following

1 through with the paperwork, as is involved in a bureaucracy,  
2 but really not active in seeking out a solution to the loss  
3 of revenue that we experienced from cigarette smuggling.

4 For the most part, as is the case with all of  
5 our testimony today, I am speaking about the cigarette part  
6 of the operation.

7 MR. REILLY: Our concern today is with the cigarette  
8 aspect; we are not concerned with the malt beverage.

9 SECRETARY LOPUS: In my opinion, the Bureau just  
10 existed; however, there were signs of increased enforcement  
11 activities.

12 In 1972 and in 1973, the number of arrests increased.  
13 The confiscations had increased. So I would term it as  
14 an inactive and a bad bureau.

15 What I mean to say is that there were efforts on  
16 the part of my predecessors, Mr. Kane, Mr. Yakowitz, Mr. Mowod  
17 and Mr. Seligman, to improve the operation.

18 MR. REILLY: Your second comment was: there was  
19 no supervision to speak of.

20 What do you mean by that? Weren't any of these  
21 jobs filled, these various supervisory positions?

22 SECRETARY LOPUS: Yes; but I think everyone would,  
23 more or less, go their own way unless there was kind of a  
24 major project or something that would create a lot of  
25 interest. People pretty much went their own way.



1           There was no active supervision to try to improve  
2 the operation or to try to outline a plan and implement a  
3 plan for improving the operation.

4           MR. REILLY: When you came in, you also mentioned  
5 you had a bad inventory situation of presumably confiscated  
6 materials.

7           What do you mean by that?

8           SECRETARY LOPUS: I mean that in many, many  
9 instances, the goods that were confiscated -- and they  
10 sometimes included liquor, which would then become our  
11 responsibility; not necessarily our mission in the first  
12 place -- the count would be vague or would refer to a number  
13 of cases without specific reference to the number of cartons  
14 or would be marked subject to a miscount or would not tie  
15 all the way through; for example, the count that might be  
16 made at the tailgate of a truck as opposed to those actually  
17 turned into the warehouse, excluding those marked up to be  
18 held for evidence.

19           In a representative sampling conducted in 1975 --  
20 we would like to come back to that and give you the results  
21 of a representative sampling conducted by the Department  
22 of Justice in 1975.

23           MR. REILLY: To cut through this a little, is  
24 what you are saying that it was as likely that the materials  
25 confiscated by the Bureau, because of the prevalent inventory

1 practices, found their way back to illicit channels or into  
2 the personal consumption of individuals with access to  
3 these confiscated materials, as to where they were supposed  
4 to go?

5           There is no way you can verify whether that happens  
6 or not under those practices?

7           SECRETARY LOPUS: Let me just say that I believe  
8 the confiscated cigarettes and liquor found its way into  
9 personal usage by employees of the Bureau.

10           It is impossible for me to know to what degree.

11           MR. REILLY: You discussed the training situation.

12           SECRETARY LOPUS: We are not aware of any training  
13 that went on.

14           MR. REILLY: There is something that you didn't  
15 discuss that I would like to turn to at this point, which,  
16 to me, seems like the natural question.

17           How are these people selected? We heard what they  
18 are; they are police officers with statewide jurisdiction,  
19 which, to some extent, exceeds that of the Pennsylvania  
20 State Police.

21           The Pennsylvania State Police have now been given  
22 the same authority as these individuals to stop cars and  
23 make searches, which, ordinarily, the Pennsylvania State  
24 Police would not have.

25           How are these people selected? What criteria

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1 do we have to bring people into the statewide police agency?

2 What did you find when you came in?

3 REPRESENTATIVE WILLIAMS: Are we talking about  
4 how the investigators are selected and not how the  
5 supervisors are selected?

6 MR. REILLY: If the supervisors are hired directly,  
7 if they are hired from the street, I would like to know that.  
8 If they promoted up -- my next question would be on  
9 promotion.

10 I would like to get into promotion and training.

11 SECRETARY LOPUS: Let me go back very briefly  
12 to the random sampling of inventory for confiscated cigarettes.

13 From the Department of Justice file, there were  
14 74 arrests. Fourteen were selected at random in the random  
15 sampling for inventory purposes. Shortages were revealed  
16 at 6 of the 14.

17 MR. REILLY: These were six that weren't sampled?

18 SECRETARY LOPUS: Fourteen were sampled out of  
19 74, selected at random, according to the report; and there  
20 were shortages in 6.

21 MR. REILLY: Who conducted that?

22 SECRETARY LOPUS: The Department of Justice,  
23 the Bureau of Investigation.

24 MR. REILLY: Did that occur statewide or was that  
25 in a specific office?

1           SECRETARY LOPUS: The basis of that was Lewistown.  
2 That means coming from all sources from all of the offices.  
3 It was the State headquarters.

4           MR. REILLY: Let's go back to my question again.  
5           How were the people who came into this Bureau,  
6 how were they selected to become these untrained statewide  
7 police officers?

8           SECRETARY LOPUS: If there was a vacancy, a  
9 referral was made from the Governor's personnel office. That  
10 was the manner in which all vacancies or new positions were  
11 filled.

12           We would then interview the person, and that  
13 was the extent of our involvement.

14           MR. REILLY: Could you reject individuals sent  
15 to you?

16           SECRETARY LOPUS: Yes.

17           MR. REILLY: Was it your practice to reject in-  
18 dividuals sent to you by the Governor's personnel office?

19           SECRETARY LOPUS: I really do not know that,  
20 but I have read of instances where people have been rejected  
21 by prior Secretaries; yes.

22           MR. REILLY: These are individuals sent over to be  
23 Special Investigators?

24           SECRETARY LOPUS: Yes.

25           MR. REILLY: Are these positions Civil Service

1 positions, or are these what are termed "patronage" positions?

2 SECRETARY LOPUS: These would be patronage;  
3 non-Civil Service.

4 MR. REILLY: Who in the Governor's peronnel office  
5 refers people over to your Bureau?

6 SECRETARY LOPUS: We receive an application as  
7 opposed to a referral by phone.

8 MR. REILLY: What was the channel through which  
9 these applications found their way into the Governor's  
10 personnel office?

11 Was this, perhaps, through the State Employment  
12 Security Bureau, or something like that?

13 SECRETARY LOPUS: I really don't know how they  
14 come by the applications. I would assume that it is from  
15 a number of sources.

16 I might say that we receive inquiries almost  
17 every day from people seeking employment. We refer them  
18 to the Governor's personnel office or to Civil Service,  
19 depending on the position.

20 MR. REILLY: Anyone seeking to be one of these  
21 statewide police special agents, you would send them to  
22 the Governor's personnel office?

23 SECRETARY LOPUS: Yes; the only exception to that  
24 policy would be with the handful of people in my office.  
25 If I were to replace someone or hire someone for my front

1 office, then I would seek them out and review them. Then  
2 I would take the initiative in processing that application  
3 through the Governor's personnel office.

4 MR. REILLY: What qualifications were required  
5 of these applicants by the Bureau?

6 SECRETARY LOPUS: There were no set qualifications.  
7 If the individual appeared to be trainable, based on the  
8 interview and based on the application, that was the extent  
9 of it.

10 MR. REILLY: So an individual who, prior to your  
11 assuming control, was thought to be trainable was brought in  
12 and not given any formal training?

13 I presume there must have been on-the-job training  
14 or some type of training along those lines. They were  
15 brought in without training, given the police power and  
16 authority throughout the Commonwealth of Pennsylvania?

17 SECRETARY LOPUS: In our interview, we would place  
18 weight on the actual experience --

19 MR. REILLY: I am asking you to comment on  
20 the status of the Department when you took control.

21 SECRETARY LOPUS: The status at the time I took  
22 over -- the practice continued until I reviewed everything  
23 and made certain changes.

24 So, at the time I took over, it was the practice --  
25 I assume it was a continuation of prior practice --

1 would interview and check the experience and try to determine  
2 whether the person was trainable.

3           Earlier, when I said there was no training program,  
4 I was referring to a formal training program that one might  
5 expect for a law enforcement officer.

6           MR. REILLY: Something analogous to what would  
7 meet the requirements of the minimum standards required of a  
8 police officer to work as a part-time police officer in a  
9 township.

10           He is required to undergo 12 weeks under the  
11 Pennsylvania statutes. Under the Standards of Training Act,  
12 he is required to have 12 weeks of training and successfully  
13 complete the training. There was nothing analogous.

14           SECRETARY LOPUS: That is right. They would have  
15 received on-the-job training, certainly, in the forums  
16 in how to carry out their duties; but there was no formal  
17 training program.

18           MR. REILLY: Were they armed?

19           SECRETARY LOPUS: In some instances, yes.

20           MR. REILLY: Were they all authorized to be armed?

21           SECRETARY LOPUS: Yes; and they were given  
22 instructions on the handling of arms and did spend time on  
23 the range.

24           They were supposed to receive fire arms training  
25 and practice on a yearly basis. Mr. Molek points out that it

1 frequently or usually was longer than that.

2 MR. REILLY: Who was to conduct this training?

3 SECRETARY LOPUS: It was on a hit and miss basis.

4 Some were instructors; some went on their own.

5 MR. REILLY: You stated when you assumed this  
6 control, you found that you had demoralized personnel.

7 Will you speak to that, please?

8 SECRETARY LOPUS: Several of their number had  
9 been accused, indicted or convicted. When this happens,  
10 frequently a person acting in this capacity can be framed  
11 or accused by the very people that he sets out to apprehend.

12 We have had that happen. I would like to give an  
13 example of that, Mr. Reilly, if I might.

14 MR. REILLY: If you have an example that occurred  
15 prior to your entering the Department.

16 SECRETARY LOPUS: Several of them were under a  
17 cloud of investigation at that time. I think -- and this  
18 is only a theory or conjecture at this point -- that they  
19 also could see for themselves that they were inept in what  
20 they were doing.

21 I think, for the most part, many of them would  
22 have liked to have been better trained and would have liked  
23 to have been better equipped to deal with the problem.

24 The adverse publicity is nothing new. I think  
25 there is more of it at the moment, but there was bad publicity



1 even back then. There were many, many factors that  
2 contributed, I think, to the very poor morale in the Bureau.

3 MR. REILLY: You stated there was no confidence  
4 by other law enforcement agencies in the Bureau.

5 SECRETARY LOPUS: I say that based on what other  
6 law enforcement agencies said to me since that time; yes,  
7 they would not share information.

8 MR. REILLY: When you say "law enforcement agencies,"  
9 what are we talking about here? Are we talking about the  
10 Capitol police or are we talking about the Federal Bureau  
11 of Investigation?

12 SECRETARY LOPUS: I am speaking of federal and  
13 local enforcement agencies.

14 MR. REILLY: What about the State? Do you feel  
15 the State Police had confidence in this agency at the time  
16 you inherited it?

17 SECRETARY LOPUS: I really don't know. We work  
18 closely with the State Police now. Neither Colonel Chilak  
19 or I were on board back then, so I don't know what the  
20 conditions were.

21 MR. REILLY: When you reviewed the records, did  
22 you find frequent collaboration between you and the State  
23 Police?

24 SECRETARY LOPUS: No, sir; but I cannot say that  
25 it was because they didn't have confidence. I just don't

1 know that.

2 MR. REILLY: I assume, then, since you didn't  
3 cite the Pennsylvania State Police, but you did cite other  
4 agencies, that some of these other agencies either formally  
5 or informally told you prior to your association that they  
6 had a lack of confidence in this Bureau; is that correct?

7 SECRETARY LOPUS: Yes; although they didn't just  
8 state it in those terms. They said that -- I mean they  
9 didn't relate it to my assumption of control. They simply  
10 said -- they would either decline or refuse to work with the  
11 Bureau because they had no confidence in it and they  
12 didn't have confidence in the personnel.

13 MR. REILLY: Did they cite examples of attempts  
14 to cooperate with the Bureau that were, should we say,  
15 blown because of the lack of confidence?

16 SECRETARY LOPUS: Yes; they did.

17 MR. REILLY: Did they share information with  
18 employèes of the Bureau, which then found its way into the  
19 wrong channels?

20 SECRETARY LOPUS: Yes.

21 MR. REILLY: How many agencies shared this kind  
22 of information, approximately? You are speaking of things  
23 you learned since you came in, what they told you about  
24 the conditions before you came in.

25 SECRETARY LOPUS: Obviously, I have mentioned

2  
1 the federal agencies; but, also, I would say, several  
2 local police. By local, I mean either a local police  
3 department or a county police department or sheriff's office.

4 MR. REILLY: You said another problem was that  
5 the Bureau was under investigation when you inherited it.

6 SECRETARY LOPUS: That is right. That investigation  
7 had been underway for some time.

8 MR. REILLY: Hasn't that investigation continued  
9 focusing on the Department, the Bureau? To your knowledge,  
10 are there not ongoing federal investigations concerning  
11 the activities?

12 SECRETARY LOPUS: Yes, clearly.

13 MR. REILLY: You said there was no effective  
14 cooperation with other law enforcement units. What did you  
15 mean? We have seen that many wouldn't cooperate with you,  
16 the Bureau, because of their prior experiences of having  
17 their information blown. Is this the kind of cooperation  
18 that you were asked about, where other states would work  
19 with this; the cooperation between other states?

20 SECRETARY LOPUS: There was cooperation and an  
21 effort to cooperate and work with other states. I don't  
22 think, based on my observations and what I have learned since,  
23 that they held us in very high regard. It wasn't a  
24 very effective effort.

25 MR. REILLY: You discussed, I think, before the

1 next point you raised, that you had employees that had been charged  
2 and others had been convicted. I guess that is a matter  
3 of public record.

4 SECRETARY LOPUS: Yes.

5 MR. REILLY: You said there was no citizen  
6 involvement. What did you mean by that?

7 SECRETARY LOPUS: I don't think the taxpayers  
8 really understood the problem. In some cases, it may be  
9 fortunate, because it would have presented an opportunity  
10 that may not have otherwise occurred.

11 I am not aware of any effort to really inform  
12 the public of the problem of the loss of revenue, of the  
13 threat that that constituted, in terms of making cash  
14 available to organized crime, the opportunity for organized  
15 crime to infiltrate. Since we didn't have any understanding,  
16 we didn't have any involvement or input.

17 MR. REILLY: You talked about no-shows. What  
18 do you mean about no-shows or ghosts?

19 SECRETARY LOPUS: There were people who, in some  
20 cases, informed me that their understanding was that they  
21 did not have to work or that they did not have to work  
22 full-time.

23 MR. REILLY: Approximately how many of those  
24 individuals were on the Bureau's payroll when you assumed  
25 control?

1           SECRETARY LOPUS: In this particular Bureau, of  
2 those who clearly indicated --

3           MR. REILLY: Let's divide it between those who  
4 were honest enough to tell you that was what was going on  
5 and those that you subsequently discovered by reviewing  
6 performance records.

7           How many were honest enough to come out and tell  
8 you?

9           SECRETARY LOPUS: I would say that half a dozen  
10 either directly told us that they didn't have to work or  
11 let it be known that they didn't have to work.

12           MR. REILLY: How many showed by their actions  
13 that they didn't think they had to work?

14           SECRETARY LOPUS: It would be very difficult  
15 for me to give you a number on that; because, at one point,  
16 I just realized that a great many people shared this same  
17 feeling.

18           We thought it necessary to come out with a statement  
19 that they do have to work all day every day. We don't know  
20 how many people went to work because of that.

21           We placed responsibility on the supervisory  
22 personnel for this.

23           MR. REILLY: When these people told you they didn't  
24 have to work, why did they say they didn't have to work?  
25 Was that because of their service to another organization

1 other than the Commonwealth, a political party?

2 SECRETARY LOPUS: Generally, for political reasons.

3 It was their impression that they did not have to work,

4 because they had been good political workers.

5 I would say in most cases, though, where that

6 happened, whether it was in this Bureau or any other bureau,

7 you would have people who would work part-time. They

8 might be working a few hours a week.

9 MR. REILLY: You mean you had some people who  
10 didn't work at all; you had some people who worked part-time,  
11 both groups saying, "I have done enough political work so  
12 that I am entitled not to have to come to work"?

13 SECRETARY LOPUS: Or, "I will give you a couple  
14 days a week." I might say that that extended across the  
15 board from -- if you will forgive me, Mr. Reilly -- attorneys  
16 all the way down to investigative personnel.

17 MR. REILLY: It would surprise me if it didn't  
18 go higher than that.

19 These individuals were being paid as if they were  
20 working full-time?

21 SECRETARY LOPUS: Yes.

22 MR. REILLY: What about these ghosts? Did you  
23 find any individuals on your payroll who never showed, and  
24 you were never able to verify they even existed?

25 SECRETARY LOPUS: We could verify their existence.

1 MR. REILLY: But their relationship with the  
2 Department?

3 SECRETARY LOPUS: We had some who showed up on  
4 payday. We had some who asked that their checks be mailed  
5 to them.

6 MR. REILLY: How many of these people were  
7 enforcement officers?

8 SECRETARY LOPUS: Mr. Reilly, I don't know that  
9 this is any more prevalent in Cigarette and Beverage than  
10 in other departments.

11 It certainly was not the rule.

12 MR. REILLY: It seems to be a strong minority  
13 position.

14 SECRETARY LOPUS: Yes.

15 MR. REILLY: What did you do about these people,  
16 the people you found had not been working for a considerable  
17 period of time because of their political activities?

18 SECRETARY LOPUS: A great many things, depending  
19 on what we could document and what we could prove.

20 MR. REILLY: What about the ones that said that,  
21 the ones who -- the six who came out and said that was why  
22 they weren't coming to work?

23 SECRETARY LOPUS: They were told that they would  
24 work and that they would be placed under direct supervision.  
25 The first time that they would not show up or they would

1 drift off from that, they would either be disciplined or  
2 dismissed.

3 CHAIRMAN RHODES: Mr. White.

4 REPRESENTATIVE WHITE: Mr. Secretary, did any  
5 of the individuals that you spoke with who stated that they  
6 would give you a couple of hours a week or were not  
7 supposed to be working— how did these employees get on the  
8 staff of your Bureau?

9 SECRETARY LOPUS: I would assume that they came  
10 through the regular channels. I should say to you that this  
11 had been the practice for many, many years and certainly  
12 predated the present Administration; not in Revenue, but  
13 the present Administration in Harrisburg.

14 REPRESENTATIVE WHITE: On whose authority were  
15 they making such a statement?

16 SECRETARY LOPUS: I really think that this kind of  
17 dates back, in that it was the practice. May I cite a couple  
18 of examples?

19 CHAIRMAN RHODES: Go right ahead; briefly.

20 SECRETARY LOPUS: I am personally aware of State  
21 employees -- we will go back to the 1960's, because I don't  
22 think it is fair to pin this to the Shapp Administration by  
23 any means -- State employees, Revenue employees, specifically,  
24 who might have been assigned a few cases a week, the  
25 equivalent of a couple of days a week of work,



1 Revenue employees who their own neighbors or minister didn't  
2 know they were employed by the Department of Revenue,  
3 for example, in inheritance tax.

4 This is relevant, I believe, because this was  
5 the general feeling of a lot of people.

6 CHAIRMAN RHODES: Is it any mystery that the  
7 Revenue Department has historically been a patronage  
8 department?

9 SECRETARY LOPUS: Certainly that was the case in  
10 the '60's and, I believe, in the 50's, at least back that  
11 far.

12 CHAIRMAN RHODES: Representative Williams,  
13 do you have a question?

14 REPRESENTATIVE WILLIAMS: The attitude that you  
15 indicate of the Department in this area, apparently, the  
16 attitude of not working, politics and criminality, also,  
17 what I am concerned about: you also indicated that was  
18 from lawyers all the way down.

19 I would assume the whole supervisory administration  
20 of that would be responsible for allowing that condition  
21 to exist.

22 My question is: I recollect a significant major  
23 and publicized prosecution on secret smuggling in Philadel-  
24 phia a few years back. That was handled or prosecuted by  
25 the State authorities, Justice or whatever, rather than to

1 have a local prosecution in that matter.

2 WITNESS MOLEK: Excuse me, sir. It could not have  
3 been prosecuted locally. I think that was a Special  
4 Prosecutor.

5 REPRESENTATIVE WILLIAMS: It was a prosecutor  
6 from the Department of Justice.

7 WITNESS MOLEK: Yes, sir; a Special Prosecutor  
8 from the Justice Department.

9 REPRESENTATIVE WILLIAMS: In other words, rather  
10 than have counsel in the Department --

11 WITNESS MOLEK: No, sir; counsel from the Depart-  
12 ment, such as myself, cannot prosecute a case in a county  
13 without district attorney approval of that county.

14 REPRESENTATIVE WILLIAMS: My concern is that the  
15 State --

16 WITNESS MOLEK: The Attorney General -- correct  
17 me if I am wrong -- I don't believe he can preempt --

18 REPRESENTATIVE WILLIAMS: I am not dealing with  
19 the question that you are. There was a desire for the State  
20 to prosecute the case. I guess they worked it out rather  
21 than to have a local prosecution indicating some lack of  
22 confidence. That was the understanding that I had.

23 My real question is -- that case handled by the  
24 State really resulted in acquittal -- the thing that  
25 troubles me is to listen to the general apathy, if not

1 criminality in this area, and then for the State to insist  
2 on prosecuting it and doing that all the way through, rather  
3 than having the locals do it to have that resolved.

4 I just sort of wonder whether or not you could  
5 advise us as to whether or not the whole State approach  
6 to such a prosecution was equally less vigorous or less viable  
7 as compared to the general attitude as to how they ran the  
8 whole Department.

9 REPRESENTATIVE WILLIAMS: Not the whole Department;  
10 the whole Bureau.

11 Let me put it this way. That same case resulted  
12 in a conviction in the federal court and did not in the  
13 local-state court handled by the State people as compared  
14 to the local people; the same situation, the same case.  
15 I was there.

16 I am just wondering whether or not all of the things  
17 that were available for the State to have may not have been  
18 available because of the general lax attitude and the  
19 political implications.

20 SECRETARY LOPUS: I have no knowledge of political  
21 considerations in decisions concerning prosecution. I have  
22 no information that I am aware of any laxness or any laxity  
23 on the part of the prosecutors.

24 My general impression would be that once they  
25 had that much information -- everybody wanted to build a

1 good record and they would go ahead with it. That was the  
2 impression that I had.

3 CHAIRMAN RHODES: I inadvertently cut off  
4 Representative White.

5 REPRESENTATIVE WHITE: I am finished.

6 REPRESENTATIVE WILLIAMS: I just want to finish  
7 this up.

8 Just for the record, I get the impression that  
9 laxness and all of that, in my observation of the trial  
10 in that case -- and I was there every day. I represented  
11 one of the defendants -- that it was poorly presented. There  
12 was an acquittal. The Judge who acquitted them was really,  
13 really criticized heavily.

14 Quite frankly, under our system, I think he had  
15 no other choice in terms of the evidence and all of that.  
16 I was disappointed as a citizen. The same goes with the  
17 case in the federal court. It was a conviction.

18 I guess my concern is: at that time, I suppose  
19 the general news media was not aware of the general  
20 conditions within the Department. with the people who had  
21 the responsibility. Even to prosecute, they have to  
22 prepare the case thoroughly.

23 I was just wondering whether that general laxness  
24 went even as far as when you had a case, that you wouldn't  
25 put all the effort or all the details forth?

1 I really say that with the backdrop of the fact  
2 that the State chose not to put it in the hands of the local  
3 prosecutor who had a pretty good prosecutorial reputation.

4 That is the question in my mind. Maybe you can't  
5 answer that. I think in the context which you mentioned  
6 this, I would have to say that, especially if the criticism  
7 thrown at the judge who handled the case, in my view, in terms  
8 of what was presented, depending if his criticism was  
9 correct.

10 SECRETARY LOPUS: May I point out that Mr. Molek  
11 has been in his present capacity for only a year-and-a-half,  
12 so he can't really speak to it either.

13 CHAIRMAN RHODES: Mr. Dumas.

14 REPRESENTATIVE DUMAS: Mr. Secretary, you pointed  
15 out that it was the practice of the employees when you came  
16 into the Department to work one day a week, even some no  
17 days a week.

18 You approached the situation. I am sure it  
19 wasn't accepted favorably. I am sure they resented it.  
20 Perhaps, they reported to somebody that they were being  
21 harassed.

22 What, if any, flak did you get from the Department  
23 or the Administration or somebody with authority?

24 SECRETARY LOPUS: First of all, I want to say to  
25 you, because my previous response was somewhat interrupted by

1 another question, that it was the practice of my predecessors,  
2 from the records available to me, to actually prosecute  
3 people that they could prove were not working full-time,  
4 in other words, thief of State services.

5 I think we stepped it up, but I did not want  
6 to suggest that my predecessors were turning their backs  
7 to this.

8 I think that we were coming into a new era and  
9 having new standards. Because in the 60's, we were talking  
10 about salaries of maybe \$3,000 for a position, and a person  
11 wouldn't have much visibility. Now, we are to the point  
12 where we are talking salaries of several thousand dollars.

13 As to the directive that people must work, without  
14 exception, this was supported by political leaders, certainly  
15 by the administration and by union leaders.

16 Any complaint that was ever registered, or any  
17 attempt, was always met with, "Well, I may have helped you  
18 to get this job, but you sure have to work." No one has  
19 ever said you don't have to work.

20 MR. REILLY: You said your predecessors prosecuted  
21 people who did not work.

22 SECRETARY LOPUS: Yes.

23 MR. REILLY: The only case I am aware of when  
24 your predecessors brought that kind of a prosecution was a  
25 case when the Auditor General called to the attention of

1 one of your predecessors a whole series of problems in the  
2 Pittsburgh field office.

3 As a result of that having been called to the  
4 attention of the predecessor, that predecessor then saw  
5 to the criminal prosecution of the two Auditor Generals  
6 for not having worked.

7 Are you aware of another prosecution in addition  
8 to that one?

9 SECRETARY LOPUS: We are aware of at least one  
10 other. Mrs. Fritz, who served under Secretary Mowod, but  
11 not under Secretaries Kane and Yakowitz -- she also served  
12 under Secretary Seligman -- is aware of certain disciplinary  
13 actions taken against people; not prosecutions.

14 CHAIRMAN RHODES: Insofar as you know, there were  
15 two prosecutions brought by previous Secretaries and their  
16 immediate predecessors under the action which you are  
17 suggesting, which is prosecution for theft of services?

18 SECRETARY LOPUS: Yes.

19 MR. REILLY: Were these others called to the  
20 attention of your Department by the Auditor General or  
21 some other outside agent?

22 SECRETARY LOPUS: In some instances, I am aware  
23 that did occur. In the others, I am not sure.

24 MR. REILLY: Were the other people who were  
25 prosecuted the informants?

1           SECRETARY LOPUS: The other case involving  
2 prosecution that I am aware of involved a person who was  
3 working our job, leaving early, working a second job and  
4 collecting unemployment all at the same time.

5           CHAIRMAN RHODES: Representative White has a  
6 question.

7           REPRESENTATIVE WHITE: Mr. Secretary, you say  
8 that it was no mystery that this was going on and your  
9 predecessors continued this practice.

10           The bottom line of my question is: how many  
11 of these persons who so stated that they were not required  
12 to work or not to show up to work or to work a minimal  
13 amount of time, how many of those persons were appointed  
14 to those positions prior to 1971?

15           SECRETARY LOPUS: That would be awful difficult  
16 for us to determine.

17           REPRESENTATIVE WHITE: Would you know how many  
18 were brought aboard after that date during the present  
19 Administration?

20           SECRETARY LOPUS: No; I don't know how I could  
21 give you the numbers on that, Representative White.

22           What I was saying was that it has been my observa-  
23 tion and it is my understanding that these practices did not  
24 change until, really, this Administration.

25           I attribute that, in part -- if you are interested



1 in my reason -- to the fact that the State employee had  
2 a much lower visibility when he was earning \$3,000 and,  
3 let's say, a school teacher might have been earning \$6,000  
4 than the State employee now who is earning \$12,000 and  
5 the school teacher is earning \$12,000.

6 I think now people see the State employee, and  
7 they expect him to work. As a result, the practice has  
8 gradually changed, new standards have come into existence.

9 Mr. Chairman, may I just add before Representative  
10 Hutchinson asks me a question, I would just like to add a  
11 further response to Representative Dumas.

12 He asked me: what were the employees' reactions?  
13 Well, obviously, those who had been riding the gravy train  
14 were not happy; but, generally, I want to reemphasize that  
15 our Department is a good department. It was a good department  
16 when I got there, and it has good people; there were good  
17 people there when I got there. Even some of the most  
18 political people are among the hardest working people that  
19 the Commonwealth has.

20 CHAIRMAN RHODES: That comment is well taken.

21 REPRESENTATIVE HUTCHINSON: Mr. Secretary, you  
22 had stated some time ago that there were a number of no-shows  
23 and people who didn't work or people who worked on political  
24 things rather than in the Department.

25 Directing your attention, first, to the

1 administration of your predecessors -- and I am referring  
2 particularly just to the Bureau now, the Bureau itself,  
3 not your Department -- do you have any records or any  
4 knowledge of any cases in which those persons were dismissed  
5 and, if so, how many were dismissed?

6 SECRETARY LOPUS: Mrs. Fritz is aware of one  
7 instance in which such a person was dismissed.

8 REPRESENTATIVE HUTCHINSON: I know Mr. Reilly is  
9 going to go into this also. Have there been any dismissals  
10 for this purpose, for this reason, since you have had control  
11 of the Department that you know of?

12 SECRETARY LOPUS: Yes.

13 REPRESENTATIVE HUTCHINSON: How many?

14 CHAIRMAN RHODES: I don't think I have sworn  
15 Mrs. Fritz.

16 SECRETARY LOPUS: Yes; she was sworn this morning.

17 REPRESENTATIVE HUTCHINSON: I am not pinning you  
18 exactly; however, I would like you or Mrs. Fritz, at some  
19 point, to review the records and make the precise information  
20 available.

21 SECRETARY LOPUS: We will furnish it by all means.

22 REPRESENTATIVE HUTCHINSON: Do you have an idea  
23 or estimate?

24 SECRETARY LOPUS: A quick estimate would be a  
25 dozen. Then, again, it would depend on the circumstances in

1 which we were able to document this.

2 In some instances, we simply threatened people  
3 with dismissal and they were transferred out. In other  
4 cases, we dismissed. In other cases, we would cut their  
5 pay. If the practice had been for years that someone might  
6 only work part-time, we grandfathered in some of those  
7 practices, especially with respect to the attorneys who  
8 were able to conduct their own practice and represent us  
9 as well. In those cases, we would cut their pay by 40 to  
10 60 percent, depending on our evaluation of what they were  
11 doing and whether they were going to work two days, two-and-  
12 a-half or three days.

13 REPRESENTATIVE HUTCHINSON: I would really like  
14 to see that information.

15 I have two other quick questions. Going back  
16 to a point you made earlier, you said there was a representa-  
17 tive sampling done in 1975 of 1974 arrests, 14 arrests.  
18 In six of those cases, shortages were shown of contraband  
19 material from the time it was picked up until it arrived  
20 at the warehouse or wherever it goes.

21 Do you have any information on the extent of  
22 those shortages in percentage terms or otherwise? How short  
23 were they?

24 SECRETARY LOPUS: We do have that information.  
25 There is a report on this that we would be glad to furnish

1 the committee.

2 REPRESENTATIVE HUTCHINSON: You can come back to  
3 that.

4 Finally, I have another question. With respect  
5 to any of those cases which showed shortages, was there  
6 any Departmental or Bureau investigation of the personnel  
7 involved? If so, was there any disciplinary action taken  
8 against those personnel?

9 SECRETARY LOPUS: We are not aware of any  
10 disciplinary action taken. We are not aware of any  
11 Departmental investigation.

12 This particular -- while we were aware of the  
13 shortcomings in the inventory practices, this particular  
14 report has only been in our possession for about two-and-one  
15 half weeks.

16 When it came into our possession, we launched  
17 our own investigation into the matter. We have now  
18 interrogated, I think, over 20 people. So we are in the  
19 midst of an investigation of this.

20 REPRESENTATIVE HUTCHINSON: But this report was  
21 done in 1975. Where was it?

22 SECRETARY LOPUS: We obtained the file from the  
23 Auditor General's office when it was brought to our  
24 attention. A few weeks ago --

25 REPRESENTATIVE HUTCHINSON: I am sorry. I thought

1 you testified that the survey was done by the Department  
2 of Justice.

3 SECRETARY LOPUS: Yes; but we obtained the file  
4 from the Auditor General's office.

5 Let me explain that. A few weeks ago, Mr. Carpenter  
6 of the Associated Press ran a series of articles on the  
7 cigarette smuggling problem.

8 From that series of articles and from subsequent  
9 publicity, we have had a number of people in touch with us  
10 to volunteer information.

11 One of these people advised us of the existence  
12 of a file in the Auditor General's office concerning an  
13 investigation that took place in late 1975 and early 1976.

14 Mr. Carpenter obtained that file, and we obtained  
15 it. In the file, there was an exchange of correspondence  
16 between the Auditor General and the Department of Justice  
17 in which the comment about the random sampling and the  
18 shortages was included.

19 Subsequent to that, we requested information and  
20 were furnished information from the Department of Justice  
21 that amplifies that same report and that same investigation.  
22 That was approximately two-and-one-half week ago.

23 REPRESENTATIVE HUTCHINSON: To the best of your  
24 knowledge, Justice never made this report available to you  
25 or your predecessors until you learned of it through

1 Mr. Carpenter's investigation and requested it; is that  
2 correct?

3 SECRETARY LOPUS: There is a letter to the  
4 Department concerning an investigation. This was all part  
5 of the Department of Justice's background investigation  
6 of Paul Landau, who had been nominated, appointed, whatever,  
7 to the Liquor Control Board.

8 Included in that was the investigation of certain  
9 allegations that got into shortages and many, many other  
10 areas.

11 REPRESENTATIVE HUTCHINSON: Are you saying that  
12 this random sampling and this study was done in connection  
13 with the investigation of Mr. Landau and his nomination?

14 SECRETARY LOPUS: Mr. Landau at one time was the  
15 Director of this Bureau. The Auditor General's file  
16 transmitted to the Department of Justice certain allegations  
17 received in an anonymous letter, as well as allegations  
18 made by staff employees of the Bureau of Cigarette and  
19 Beverage Tax to the Auditor General.

20 This, then, became the subject of an investigation  
21 by the Justice Department. It was referred by the  
22 Auditor General, Mr. Casey, to the Justice Department. It  
23 became the subject of their investigation.

24 MR. REILLY: Who was the Attorney General at that  
25 point in time?

1 SECRETARY LOPUS: Mr. Kane.

2 Whether these allegations directly involved  
3 Mr. Landau or whether they involved the operation of the  
4 Bureau under his direction, they were investigated and  
5 they were all part of this same investigation.

6 REPRESENTATIVE HUTCHINSON: But, in any event,  
7 you said there was a letter or something that came to your  
8 Department or to the Bureau.

9 SECRETARY LOPUS: A letter that came to the  
10 Bureau.

11 REPRESENTATIVE HUTCHINSON: When?

12 SECRETARY LOPUS: July 1, 1976.

13 I know that because that was the very day that  
14 I took office. It arrived and was disposed of before I got  
15 there.

16 REPRESENTATIVE HUTCHINSON: What do you mean  
17 "disposed of"?

18 SECRETARY LOPUS: I don't mean that it was  
19 destroyed. I mean that it arrived there and was logged in  
20 on July 1, 1976. The disciplinary action was taken prior  
21 to my arrival there.

22 REPRESENTATIVE HUTCHINSON: What disciplinary  
23 action?

24 SECRETARY LOPUS: I will get to that in a moment.  
25 The letter said that a background review of

1 Mr. Landau had been completed. In the process, two  
2 brothers, employees of the Department, had been found leaving  
3 the job early and would be charged with theft of services.

4 REPRESENTATIVE HUTCHINSON: We are drifting off,  
5 and I want to keep on the subject. I began with the  
6 subject of the shortages. That is what I am referring to  
7 now in the Justice Department investigation.

8 I asked you the question: whether or not any  
9 persons had been disciplined or discharged as a result of  
10 that investigation.

11 SECRETARY LOPUS: That is what I am answering.

12 REPRESENTATIVE HUTCHINSON: I thought you said,  
13 "No, none were."

14 SECRETARY LOPUS: Not for the shortages.

15 REPRESENTATIVE HUTCHINSON: But they were  
16 disciplined for --

17 SECRETARY LOPUS: Other reasons.

18 CHAIRMAN RHODES: Are they the same people?

19 REPRESENTATIVE HUTCHINSON: Are they the same  
20 group that you referred to before, because I had previously  
21 asked you about that?

22 SECRETARY LOPUS: Two, yes.

23 MR. REILLY: These were the two people that are  
24 referred to upon matters being called to the attention  
25 of the Auditor General and being brought to the attention



1 of the Attorney General.

2 CHAIRMAN RHODES: So you are saying the subjects  
3 of the information from the informants in this case are  
4 still under investigation by the Department.

5 Are they still in the Department?

6 SECRETARY LOPUS: I would really like to tie up  
7 some of the loose strings.

8 REPRESENTATIVE HUTCHINSON: I wanted to try to  
9 keep on the point with the questions in the area that I am  
10 interested in.

11 Did the Justice Department advise the Bureau  
12 of the discrepancies and the shortages in the contraband?  
13 Is the answer to that yes or no? You may explain your  
14 yes or no, if you wish.

15 SECRETARY LOPUS: The answer to that is no. You  
16 are asking me about the letter that passed from the Department  
17 of Justice concerning this investigation.

18 The Department of Justice advised the Department  
19 of Revenue that, in the course of a background investigation  
20 concerning Mr. Landau for his suitability to be appointed  
21 to the Liquor Control Board, that two persons were to be  
22 prosecuted for theft of services. We have discussed them  
23 before.

24 REPRESENTATIVE HUTCHINSON: The informants, yes.

25 SECRETARY LOPUS: Two other people -- it was

1 suggested that Miss McCann, who was supervisor of the  
2 Pittsburgh office, and a man named Kostek, an investigator  
3 in the Pittsburgh office, should also be dealt with admini-  
4 stratively for information turned up in the same investiga-  
5 tion.

6 REPRESENTATIVE HUTCHINSON: In the Landau investi-  
7 gation, you mean?

8 SECRETARY LOPUS: Yes.

9 Now, that letter was the only correspondence that  
10 we have of record on that investigation of which the discus-  
11 sion of the shortages was a part.

12 So that I was not even aware of that letter because  
13 it arrived; and the reprimands of Miss McCann and Mr. Kostek  
14 were handled before I got there, earlier in the day. I was  
15 sworn in in the afternoon.

16 I never saw that letter, and I was not aware of  
17 that file or anything from the Department of Justice until  
18 Mr. Carpenter called to our attention the existence of this  
19 file in the Auditor General's office.

20 We obtained it. Then, from that, we requested  
21 the file from the Department of Justice, which they promptly  
22 furnished to us. It was all part of that.

23 But the only thing that passed from Justice to us  
24 was the information on the two people, plus the other two,  
25 who were subsequently reprimanded.

1           REPRESENTATIVE HUTCHINSON: So Justice never  
2 furnished you anything directly with respect to its study  
3 of these discrepancies?

4           SECRETARY LOPUS: Not until we requested it a  
5 couple weeks ago.

6           REPRESENTATIVE HUTCHINSON: It was gratuitous and  
7 only through Mr. Carpenter that you came to know about this?

8           SECRETARY LOPUS: Yes.

9           REPRESENTATIVE HUTCHINSON: You are now looking  
10 into that in light of the file?

11           SECRETARY LOPUS: Yes; we are. The letter is in  
12 our file. It just was handled before I got there; but  
13 it did not deal with the elements of that investigation  
14 beyond the Turzaks, those being the two people who were  
15 dismissed for theft of services, and Miss McCann and  
16 Mr. Kostek.

17           REPRESENTATIVE HUTCHINSON: But there was never  
18 any prosecution, to your knowledge, instituted by the  
19 Justice Department with respect to the discrepancies in  
20 contraband? Do you know whether there was or not?

21           SECRETARY LOPUS: There is no indication and  
22 no record of any follow through on that. I have made that  
23 inquiry and have been told that there was none.

24           REPRESENTATIVE HUTCHINSON: You do have a log,  
25 I suppose, that shows who received that letter and the letter

1 that you referred to?

2 SECRETARY LOPUS: In fairness to my predecessor --

3 REPRESENTATIVE HUTCHINSON: He was leaving that  
4 day?

5 SECRETARY LOPUS: Yes; I was confirmed on the night  
6 of June 30th and sworn in the following afternoon. So that when  
7 Mr. Savard, from the Department of Justice, wrote that  
8 letter, he directed it to the Acting Secretary, Mr. Seligman,  
9 because it was dictated, or dated at least, on July 1st --  
10 received by us on July 1st.

11 I wasn't sworn in until the end of the afternoon,  
12 so I took no official actions that day. Our files indicate  
13 that it was handled on July 1st, before I arrived there,  
14 presumably, by Mr. Seligman.

15 REPRESENTATIVE HUTCHINSON: What do you mean by  
16 "handled"? What is done when something is handled?

17 SECRETARY LOPUS: Handled in that the notation was  
18 made on the letter that Mr. Kostek and Miss McCann were  
19 to be reprimanded, based on the letter that was furnished.

20 REPRESENTATIVE HUTCHINSON: Were they?

21 SECRETARY LOPUS: They were reprimanded subsequent-  
22 ly.

23 REPRESENTATIVE HUTCHINSON: A reprimand is a  
24 warning?

25 SECRETARY LOPUS: Yes; they were then reprimanded

1 by the Director, Mr. Wilt, subsequent to that, without my  
2 knowledge.

3 REPRESENTATIVE HUTCHINSON: You will determine  
4 and furnish to us the extent of the discrepancies that  
5 were shown in those six cases?

6 SECRETARY LOPUS: Yes; there is more information  
7 on that report. I read to you the summary. We will furnish  
8 that to your committee.

9 REPRESENTATIVE HUTCHINSON: Thank you very much.

10 CHAIRMAN RHODES: Can you supply us a copy of that  
11 letter?

12 SECRETARY LOPUS: Yes; I think you have the letter.  
13 If not, we will supply it.

14 CHAIRMAN RHODES: Representative Scirica would  
15 like to ask a question.

16 REPRESENTATIVE SCIRICA: I don't understand who  
17 had the responsibility for responding to this particular  
18 thing.

19 SECRETARY LOPUS: I don't think there was any  
20 response. It was just a letter saying; "Here is what we  
21 have done. We recommend to you that you may want to take  
22 administrative action against the other two employees."  
23 It was by way of saying, "We are closing our file, and we  
24 recommend to you that Mr. Kostek was guilty of theft of  
25 services;" but it was de minimis, in that Miss McCann was

1 guilty of having a State employee drive her mother back and  
2 forth to the doctor in a State car.

3 Those were the only charges contained in that  
4 letter. So that I would have concluded -- and I think  
5 that Mr. Seligman concluded -- that by dealing with that,  
6 although I would have dealt with it in a different manner,  
7 by dealing with those two and directing that the reprimands  
8 be prepared, that he was, in effect, responding to the letter.

9 REPRESENTATIVE SCIRICA: Then you are saying that  
10 it was Mr. Seligman who assumed the responsibility of  
11 responding to the letter. He was one who made whatever  
12 decision was made?

13 SECRETARY LOPUS: Yes; I never saw the letter.  
14 He would have continued in office until that afternoon.  
15 It was just a coincidence that that occurred on that day,  
16 but he continued in office until late that day.

17 CHAIRMAN RHODES: To further understand this  
18 subject, Mr. Secretary, is the gist of what you are saying  
19 that on the 1st of July, the letter that was transmitted  
20 from the Department of Justice to the Acting Secretary  
21 of Revenue, that did not contain the bulk of the Auditor  
22 General's report?

23 SECRETARY LOPUS: Neither the Auditor General's  
24 report nor the Department of Justice's report, because  
25 each had conducted an investigation and had shared the

1 results with the other.

2 CHAIRMAN RHODES: This may be rehashing information;  
3 but just to clarify this segment of our record, when did  
4 you receive the bulk or the total report, the Department  
5 of Justice report and the Auditor General's report?

6 SECRETARY LOPUS: About two-and-a-half weeks  
7 ago when we were aware of the existence of the Auditor  
8 General's report and obtained that.

9 We then asked the Department of Justice for their  
10 file, and they furnished it within a few minutes.

11 CHAIRMAN RHODES: What do you consider the most  
12 serious questions raised in the Auditor General's report  
13 that you received two weeks ago?

14 SECRETARY LOPUS: The questions involving shortages  
15 of confiscated goods; the questions involving State employees  
16 on State time working on Mr. Landau's home, Miss McCann's  
17 home -- Mr. Landau's home in Pittsburgh and Mr. Landau's  
18 home in Camp Hill; questions raised as to the handling  
19 of cash confiscated in a vending machine arrest; questions  
20 involving political contributions and solicitations from  
21 cigarette stamping agents; the cigarette stamping agents  
22 by our employees. There were others.

23 CHAIRMAN RHODES: Do you consider all those  
24 items more serious than the ones contained in the actual  
25 letter of transmittal that was submitted to you?

1 SECRETARY LOPUS: I am sorry?

2 CHAIRMAN RHODES: Do you consider that list that  
3 you just listed, that is contained in the Auditor General's  
4 report and the full Department of Justice Report, all those  
5 items, are they more serious than the actual recommendation  
6 for disciplinary actions that were contained in the letter  
7 of July 1, 1976?

8 SECRETARY LOPUS: Far more serious. I think  
9 in terms of Mr. Seligman, the only thing he had to deal with  
10 was the letter which said that Mr. Kostek was involved  
11 in theft of services, but it was de minimis, and Miss  
12 McCann was involved in sending a State employee to pick up  
13 her sick mother and take her to the doctor.

14 CHAIRMAN RHODES: I understand that.

15 SECRETARY LOPUS: Those were the only two things  
16 mentioned in the letter.

17 CHAIRMAN RHODES: Over whose signature was the  
18 letter of July 1st that you received from the Department  
19 of Justice?

20 SECRETARY LOPUS: We want to double-check that.  
21 We have it with us.

22 (Pause.)

23 REPRESENTATIVE WILLIAMS: Mr. Kane was the  
24 Attorney General at that time?

25 SECRETARY LOPUS: Yes.



1           SECRETARY LOPUS: I am going to say, Mr. Chairman,  
2 that that letter was signed by Mr. Robert Savard. I am  
3 quite confident of that; but we will correct the record,  
4 if I am wrong on that, so we can proceed.

5           CHAIRMAN RHODES: Your testimony at this point  
6 was that the letter was submitted over the name of  
7 Robert Savard, who, as I recall, was Director of the Bureau  
8 of Investigation for the Department of Justice?

9           SECRETARY LOPUS: Yes; to Mr. Seligman, as  
10 Acting Director, dated July 1st, with our incoming stamp  
11 of July 1st.

12          CHAIRMAN RHODES: Can we have a copy of that  
13 letter?

14          SECRETARY LOPUS: Yes.

15          CHAIRMAN RHODES: Are there further questions  
16 on this subject from the Subcommittee?

17                 (No response.)

18          CHAIRMAN RHODES: We have a number of other  
19 subjects, as you well know, Mr. Secretary, that we are going  
20 to get to; perhaps, not this afternoon.

21                 We have you on tomorrow morning. I felt it  
22 was proper, that we fully explore this matter today.

23                 I have a couple of questions based on what you  
24 said earlier on this testimony.

25                 You earlier said when you took over as Secretary

1 of Revenue, you discovered a lot of problems. One of the  
2 problems you mentioned, which is a very serious concern  
3 to me, is the suggestion that there was organized crime  
4 infiltration in your Bureau of Enforcement.

5 I wrote it down carefully. I think if we check  
6 the record it will say "organized crime infiltration."

7 Is that what you told us?

8 SECRETARY LOPUS: I don't recall saying anything  
9 that could have been construed as that.

10 CHAIRMAN RHODES: You don't recall saying that?

11 Maybe I wrote things down that I thought I heard.

12 I recall the testimony about leaks of information  
13 or exchanges of information or the loss of information.  
14 That is why law enforcement agencies had ceased to cooperate  
15 or work with the Bureau and the Department.

16 I thought I recalled your saying that you were  
17 concerned about the possibility of organized crime infil-  
18 tration in the Bureau itself.

19 If I am mistaken, I will be corrected.

20 SECRETARY LOPUS: No.

21 CHAIRMAN RHODES: Let me ask the question --  
22 and you are under oath -- when you took over as Secretary  
23 of Revenue, on July 1, 1976, after reviewing the situation  
24 of this particular Bureau, which is the subject of today's  
25 hearing, did you at all develop a suspicion that members of

1 that Bureau were in some way connected with organized crime?

2 SECRETARY LOPUS: You are asking my opinion?

3 CHAIRMAN RHODES: In your opinion as Secretary  
4 of the Department, which has this Bureau inside of it  
5 and which is charged with law enforcement. --

6 SECRETARY LOPUS: Yes; but I am only distinguishing  
7 between opinion and what I can prove. I am willing to  
8 offer my opinion. That would be that, yes; but, certainly,  
9 well after July 1st. I didn't dream that the problem  
10 existed then.

11 CHAIRMAN RHODES: Let me ask the question: during  
12 your term to date as the Secretary of the Department of  
13 Revenue of the Commonwealth of Pennsylvania, have you  
14 developed an opinion that members of the Bureau of Enforce-  
15 ment of Tobacco and Malt Beverage, which is a law enforce-  
16 ment agency of the Revenue Department, were connected with,  
17 working for, leaking information to or in some way involved  
18 with organized crime figures and systems in this  
19 Commonwealth?

20 SECRETARY LOPUS: I originally answered yes.  
21 You have broadened it somewhat.

22 CHAIRMAN RHODES: Try to broaden it.

23 SECRETARY LOPUS: Not necessarily in all the  
24 areas and in all the ways that you have mentioned.

25 But my opinion is, as I said before, yes.

1 CHAIRMAN RHODES: The answer is yes?

2 SECRETARY LOPUS: Yes; that was my previous  
3 answer.

4 CHAIRMAN RHODES: I know you are an honest and  
5 decent person, Mr. Secretary, because I have worked with  
6 you before on other matters; however, you are not Superman.

7 Do you think, in your opinion as Secretary of  
8 the Department of Revenue of the Commonwealth of Pennsyl-  
9 vania, that your opinion, whatever it is based on, about  
10 the connection of officials in the Bureau of Law Enforcement  
11 for Cigarettes and Malt Beverage, was a conclusion or  
12 an opinion that you arrived at that no previous Secretary  
13 could have arrived at with the same information available  
14 to them as was available to you?

15 I don't think you are Superman. Did you think  
16 it was miraculous that you developed this information and  
17 no previous Secretary developed this opinion?

18 SECRETARY LOPUS: As you know, I have no idea  
19 what their opinions might have been.

20 CHAIRMAN RHODES: I am not asking you that.

21 I am saying: was the information so buried,  
22 so difficult, so complicated, that there was no way any  
23 previous Secretary could have developed this opinion; or  
24 did you do it because you are somehow gifted?

25 SECRETARY LOPUS: To me, it was clear that my

1 predecessors, with the possible exception of Mr. Seligman,  
2 who was keeping house for just a couple months, were very  
3 concerned about the Bureau, about cigarette smuggling,  
4 about the loss of revenue and about the possible involvement  
5 of organized crime in cigarette activities.

6 CHAIRMAN RHODES: What is that opinion of your  
7 predecessors based on? I hope you won't say those two  
8 arrests or two charges.

9 SECRETARY LOPUS: I am giving you my impression.

10 CHAIRMAN RHODES: What is your impression based  
11 on about your predecessors?

12 SECRETARY LOPUS: I think it is based on the  
13 attention, the reports, the attention that they devoted,  
14 the reports, at least their announced intentions to try  
15 to spruce up enforcement.

16 That is only my impression.

17 CHAIRMAN RHODES: Let me ask it this way,  
18 Mr. Secretary.

19 Do you have full access to the records of the  
20 Office of the Secretary of Revenue for the immediate past?

21 SECRETARY LOPUS: I have full access to any  
22 records that we have.

23 CHAIRMAN RHODES: That you still have in the file?

24 SECRETARY LOPUS: Yes.

25 I don't know of any records that are missing.

1 I will put it that way.

2 CHAIRMAN RHODES: Have you made a review of the  
3 record of the Office of the Secretary in relation to the  
4 Bureau that we are examining this afternoon?

5 SECRETARY LOPUS: I have read everything that  
6 I am aware of that has to do with the Bureau, other than  
7 statistics; every report, everything that has to do with  
8 personnel, all the allegations, the grand jury presentment.  
9 I have read everything that I am aware of.

10 CHAIRMAN RHODES: Are you aware of any reports  
11 from agents of that Bureau or other employees of the  
12 Department of Revenue alleging some of the things that  
13 were contained in the Auditor General's report or the  
14 Department of Justice's report that you referred to  
15 previously a couple of minutes ago?

16 SECRETARY LOPUS: I am now.

17 CHAIRMAN RHODES: You are aware of internal  
18 reports generated within the Department of Revenue on these  
19 subjects?

20 SECRETARY LOPUS: Not within the Department  
21 of Revenue; no.

22 CHAIRMAN RHODES: Are you saying to us that you  
23 have no personal knowledge as Secretary of Revenue, today,  
24 that there were such reports generated within the  
25 Department of Revenue on these subjects or any other

1 subjects related to the questions or allegations you raised about  
2 the problems inside the Bureau previous to your assumption of office?

3 SECRETARY LOPUS: Yes; there is correspondence  
4 concerning other allegations, other problems. I am not  
5 aware of any correspondence concerning the investigation  
6 involving -- that we have described in the exchange or  
7 the discussion with Representative Hutchinson.

8 In that whole matter, I am not aware of any  
9 internal reports or memoranda on that subject.

10 CHAIRMAN RHODES: As Chairman of this committee --  
11 I don't know how the others feel -- but I would like very  
12 much to see copies of all those letters and reports  
13 alleging such behavior or wrongdoing within the Bureau  
14 previous to your administration and since your assumption  
15 of office.

16 SECRETARY LOPUS: Let me respond in this way:  
17 Our position will be that this committee is entitled to  
18 any information that we have, other than tax information.

19 I would respectfully suggest to you that  
20 certain other reports might be requested from the Department  
21 of Justice and the Auditor General's office.

22 On tax information, of course, we have to discuss  
23 confidentiality, if we should get into that.

24 Anything we have, you are entitled to. That is  
25 our position.

1 CHAIRMAN RHODES: Thank you, Mr. Secretary.  
2 Any further questions on this subject?  
3 Representative White.

4 REPRESENTATIVE WHITE: Mr. Secretary, can you  
5 cite a specific case where an investigation was hampered  
6 by a leak of information by a Bureau employee to someone  
7 under investigation or under surveillance who was suspected  
8 of being involved in cigarette smuggling or other illicit  
9 acts?

10 SECRETARY LOPUS: Is it appropriate to have  
11 sidebar with your counsel?

12 CHAIRMAN RHODES: Yes.

13 (Pause.)

14 CHAIRMAN RHODES: Mr. Secretary, I would like  
15 to clarify a question I asked you before about any records  
16 that indicate internal reports from the Department of  
17 Revenue to the Secretary in regard to wrongdoing and your  
18 collection of those records.

19 I would like to narrow my question to those  
20 investigations that are not part of ongoing investigations  
21 by the Department of Revenue.

22 Our counsel and your counsel can work out exactly  
23 what those are.

24 Following that, I would recognize Representative  
25 White.



1           REPRESENTATIVE WHITE: Mr. Secretary, I understand  
2 that there is an investigation presently going on in this  
3 particular matter.

4           In that regard, I will withdraw that question.

5           SECRETARY LOPUS: Thank you.

6           Mr. Chairman, if I might just finish up very  
7 briefly. We have located that letter.

8           I think in fairness to Secretary Seligman and the action  
9 that he took that day, if I could just read part of it --  
10 we will furnish the whole thing to you.

11           CHAIRMAN RHODES: Proceed.

12           SECRETARY LOPUS: This had to do with the Turzaks,  
13 Mr. Kostek and Miss McCann.

14           It relates the information that was developed  
15 during the investigation pertaining to the misuse of  
16 State employees and vehicles on the part of Marge McCann,  
17 supervisor.

18           It says, "She admitted utilizing a State vehicle  
19 by Investigator Elmer Dayton on several occasions to  
20 transfer her mother to medical appointments.

21           "In some cases, this was done during normal  
22 working hours; in others, it was done with a State car on  
23 State time.

24           "The Office of Criminal law has reviewed the  
25 aforementioned information, and a determination is made

1 that the de minimis nature of the infractions does not  
2 warrant criminal prosecution.

3 "This information is being furnished to you  
4 for whatever administrative action deemed necessary.

5 "In view of the opinion of Criminal law, no  
6 further investigation will be conducted into this matter.  
7 If additional information is requested, please feel free  
8 to contact me at the phone number."

9 So, clearly, I think that Mr. Seligman -- since  
10 they were saying it was de minimis, take whatever admini-  
11 strative action you feel appropriate -- he noted on our  
12 copy of this that reprimands were to be issued to the two  
13 people involved.

14 CHAIRMAN RHODES: Mr. Secretary, since you got  
15 the letter out, is there any change in your testimony as  
16 to who signed the letter?

17 SECRETARY LOPUS: No; it was Mr. Savard.

18 MR. REILLY: The next area that you discussed  
19 were the political activities that were taking place by  
20 your employees at the time you inherited your position,  
21 political activites on Commonwealth time.

22 Were these things like the situation which  
23 you discovered and subsequently corrected in the Media,  
24 Pennsylvania, Inheritance Tax Office?

25 It is my understanding that that was the situation,

2  
1 where the employees in that office were required to buy  
2 tickets to various political affairs and then were compen-  
3 sated for those tickets by falsifying their expense  
4 accounts. The money from the expense accounts was then  
5 used to reimburse them for the funds they had spent to  
6 buy the political tickets.

7 Is that a fair statement of the situation?

8 SECRETARY LOPUS: That was their testimony to us;  
9 yes.

10 MR. REILLY: You believed that testimony, did you  
11 not?

12 SECRETARY LOPUS: Yes; on that basis, they were  
13 disciplined. Their supervisor was fired.

14 The nature of the involvement in this Bureau --

15 MR. REILLY: That was not in this Bureau; it  
16 was in a separate bureau.

17 SECRETARY LOPUS: That was another bureau; yes.  
18 As far as we know, it was isolated to that particular  
19 county.

20 The allegations that were contained in the  
21 Pittsburgh report included that our employees were reprimanded if they failed to purchase tickets; that they were  
22 required to solicit contributions from cigarette stamping  
23 agencies.  
24

25 MR. REILLY: Pardon me?

1           SECRETARY LOPUS: First of all, they were  
2 issued reprimands if they didn't buy certain tickets.  
3 Secondly, they were required to solicit contributions from  
4 cigarette stamping agencies, wholesalers, vending machine  
5 distributors:

6           They were required to gather political information  
7 on State time, information at the Courthouse as to regis-  
8 trations.

9           MR. REILLY: What about the allegations that  
10 they maintain accurate files that had no investigative  
11 value and were purely for political purposes?

12           Did you find those were accurate representations?

13           SECRETARY LOPUS: That option wasn't open to us,  
14 because those allegations, in that particular instance,  
15 were made in either late '75 or early '76. That does  
16 not occur now, but we did not have the opportunity to verify  
17 or put that to rest.

18           MR. REILLY: You also mentioned personal work  
19 being done for individuals. Is this a situation that you  
20 found when you inherited the Bureau; the Bureau employees,  
21 on company time, were doing work for supervisors or other  
22 individuals?

23           Would discussion of this matter compromise an  
24 ongoing investigation?

25           SECRETARY LOPUS: It is my opinion that that,

1 in fact, did occur.

2 MR. REILLY: Things more serious than driving  
3 someone's sick mother to the hospital?

4 SECRETARY LOPUS: In my opinion, yes.

5 MR. REILLY: The next point that was of interest  
6 to me was when you inherited this Bureau, you found that  
7 records had been falsified.

8 What did you mean by that?

9 SECRETARY LOPUS: I think it was the practice  
10 in many areas to falsify time records. It is my opinion  
11 that people were ordered or directed to work on private  
12 property of officers of the Bureau and were instructed  
13 to take a vacation day and were told that they would be  
14 compensated later on. In the event that they were seen on  
15 that day, then it was clear that they had taken vacation  
16 time, and they would be compensated with time off at a  
17 later date when it could be covered over.

18 That is a falsification of records; because they  
19 would be logged out on that later date, when, actually,  
20 they would be at home taking a vacation day. They would  
21 be logged out as doing some other type of work.

22 I also believe that inventory records, those  
23 that were maintained, were without integrity and had been  
24 altered.

25 MR. REILLY: The thing I always wondered, you

1 talked about the precipitous rise in enforcement activities  
2 that occurred in 1972 and 1973.

3 A random check of a few of those by your staff,  
4 it is my understanding, has revealed that one of the prac-  
5 tices that has occurred during those years, in at least  
6 one of your field offices, was that if three of the  
7 special investigators would go out to lunch and discover  
8 while having lunch that the cigarette machine in the  
9 restaurant that they had visited did not have the one dollar  
10 licensing stamp on it, they would write up the type of  
11 slip, which really was not their responsibility to write  
12 up. It was another whole class of employees' jobs to  
13 write up.

14 They would write that up and come back and  
15 complete their daily activity reports, indicating they had  
16 made three arrests that day.

17 Is that a fair statement of what the prior  
18 reporting practice was in at least one of your field  
19 offices?

20 SECRETARY LOPUS: Yes; it is.

21 MR. REILLY: Which office was that?

22 SECRETARY LOPUS: The Pittsburgh office.

23 MR. REILLY: So it caused you and it causes us  
24 to put into question some of the statistics that would  
25 tend to indicate a significant increase in enforcement

1 activities in the years 1972 and 1973?

2 SECRETARY LOPUS: At least in that office.

3 MR. REILLY: Would it be possible for us to  
4 assign one of our staff people to work with your people  
5 to review those records to determine what the activity  
6 really had been?

7 SECRETARY LOPUS: Yes.

8 MR. REILLY: You talked, I think, already about  
9 the contraband problem, the problem you had with the  
10 confiscation of contraband; tip-offs to investigated  
11 subjects and organized crime. I think you already discussed  
12 that.

13 Now, it has taken you a while to get control,  
14 or to start to approach getting control of this Bureau, has  
15 it not?

16 SECRETARY LOPUS: Yes.

17 MR. REILLY: Do you in any way feel you are in  
18 control of the Bureau right now?

19 SECRETARY LOPUS: Yes. I am not satisfied with  
20 its operation, but I feel I am in control.

21 MR. REILLY: You feel you are finally in control?

22 SECRETARY LOPUS: Yes.

23 MR. REILLY: At what point do you feel you started  
24 to come into control?

25 SECRETARY LOPUS: I think when I retained

1 Mr. Allphin.

2 MR. REILLY: Which would have been?

3 SECRETARY LOPUS: In early 1977.

4 MR. REILLY: One of the things which was most  
5 shocking in our preliminary reports -- this is something  
6 that does not relate to your predecessors, but relates  
7 to the Department during the period when you were attempting  
8 to gain control -- is it true that that Pittsburgh field  
9 office of this Bureau, which we have described, has  
10 an annual budget of \$500,000 a year?

11 SECRETARY LOPUS: Yes; but that does include --

12 MR. REILLY: Malt Beverage?

13 SECRETARY LOPUS: It includes auditors and  
14 field inspectors. \$500,000, you are correct. The enforce-  
15 ment budget is \$300,000.

16 MR. REILLY: A \$300,000 budget last year in  
17 Pittsburgh and 17 full-time enforcement agents.

18 Is it true that that field office confiscated  
19 300 cartons of cigarettes?

20 SECRETARY LOPUS: Less than 400.

21 MR. REILLY: Is it also true that 275 of those  
22 cartons were confiscated as a result of a tip which was  
23 generated in your Harrisburg operation and given to them?  
24 They were told to go out and pick up the cigarettes in a  
25 specific location?



1 SECRETARY LOPUS: Yes.

2 MR. REILLY: How do you explain a \$300,000 budget  
3 and 17 full-time investigators? What did you realize?  
4 What was the value we got from those 450 cartons of  
5 cigarettes?

6 SECRETARY LOPUS: \$1.25 a carton.

7 MR. REILLY: Let's say \$600 maximum. The  
8 Commonwealth invested \$300,000-plus in an area in which  
9 we are having losses of \$30 million-plus. They achieved,  
10 as a result of the confiscation of 400 cartons of  
11 cigarettes, of which 275 came not through any independent  
12 investigation in that field office, but just by following  
13 up a tip that was developed here in Harrisburg, how can  
14 you justify that operation?

15 SECRETARY LOPUS: We can't as it existed. This  
16 was one of the reasons that we furloughed practically that  
17 entire operation this year during the budget crisis.

18 MR. REILLY: That was certainly a very valid  
19 tax saving, revenue saving.

20 Let's see. It cost \$300,000 to operate it.  
21 They brought back \$600 by selling the cigarettes, of which  
22 275 cartons of those were of the approximately 300.

23 So operating that Pittsburgh field office, in  
24 fairness, is a net loss to the Commonwealth of \$299,400.

25 SECRETARY LOPUS: Unless you consider that they

1 struck such fear in the hearts of would-be smugglers and  
2 could assign a value to that.

3 MR. REILLY: That is true. That is a very  
4 important point.

5 The first step you took was to furlough those  
6 people immediately when you had the opportunity and left  
7 them off as long as it was practical.

8 What have you done since then?

9 SECRETARY LOPUS: We have taken several steps.  
10 We have talked about some and taken others.

11 We have said that we are going to dismantle and  
12 reassemble the entire Bureau, including the Pittsburgh  
13 office, to provided a trained, professional investigative  
14 enforcement staff.

15 We have started to conduct our own administrative  
16 background check on all employees throughout the Department  
17 and prospective employees.

18 The employment application has a place for the  
19 applicant to indicate whether he or she will submit to an  
20 administrative background check.

21 We are exercising our option to conduct such a  
22 check.

23 MR. REILLY: Are you also exercising your option  
24 to conduct polygraph examinations?

25 SECRETARY LOPUS: No; although we are considering

1 that.

2 MR. REILLY: That option is also available to you,  
3 at least under the law— you may have a problem with your  
4 union contract — with regard to your investigation with the  
5 people in your field investigation positions.

6 SECRETARY LOPUS: We are demanding a great deal  
7 more of prospective employees than we have in the past.

8 We have established a code of conduct for all  
9 investigative employees.

10 We are providing training. Our first real training  
11 session was at the State Police Academy, in December, with  
12 the cooperation of the State Police.

13 MR. REILLY: Was this the training session at  
14 which you discharged an individual for playing cards with  
15 other trainees, the director playing cards with trainees?

16 SECRETARY LOPUS: Yes.

17 To give you an example, I think that a number  
18 of the people, most of the people, were in class and ready  
19 to go. It was the director who was playing cards. He  
20 wasn't playing solitaire, I will have to say.

21 But I did think that he had some responsibility  
22 for getting those people back in class in time, at least  
23 to set a better example.

24 I thought it was indicative of his whole attitude  
25 toward our efforts to improve that operation.

1 MR. REILLY: Who was that individual?

2 SECRETARY LOPUS: Richard Wilt.

3 CHAIRMAN RHODES: Before we get more into the  
4 training aspects of this, being a Pittsburgh representative,  
5 I am a little bit -- when I heard this report of the  
6 Pittsburgh office, I was a little bit shocked, as anybody  
7 would be.

8 It is funny in a way; but, then again, it is  
9 not very funny.

10 As I understand it, your testimony is that you  
11 discovered that in one year's operation of \$300,000 worth  
12 of State employees who were law enforcement agents, most  
13 of them, in the Pittsburgh office, they confiscated 400  
14 cartons of cigarettes with a revenue loss of around \$500  
15 to the Commonwealth.

16 SECRETARY LOPUS: Yes.

17 CHAIRMAN RHODES: You did a lot of things since  
18 you have discovered that horrendous situation in the  
19 Pittsburgh office.

20 What did you feel was the reason for this  
21 deplorable highly obvious situation in terms of efficiency  
22 and performance in the Pittsburgh district office?

23 How did you explain to yourself as to why this  
24 performance level was so meager?

25 SECRETARY LOPUS: I think it was for the variety

1 of reasons that we have touched on: the lack of training,  
2 the lack of motivation, the lack of supervision.

3 It just runs the gamut of everything that we  
4 have been discussing.

5 CHAIRMAN RHODES: You think it is a composite  
6 of all these things?

7 SECRETARY LOPUS: Yes.

8 CHAIRMAN RHODES: Do you think any of it involves  
9 collusion with the people that they were supposed to be  
10 enforcing against?

11 SECRETARY LOPUS: No; because, contrary to what  
12 I said a few minutes ago about striking fear in the hearts  
13 of those people, I don't think that our office represents  
14 much of a threat.

15 CHAIRMAN RHODES: There is no need for them to  
16 establish collusion; because there was so little enforcement,  
17 why waste money with a group that is really not giving you  
18 much trouble?

19 SECRETARY LOPUS: That is my opinion.

20 At the same time, I will have to say that there  
21 are some good people in the Pittsburgh operation. I didn't  
22 mean to poke fun at the entire group.

23 But there is no evidence that their inactivity  
24 is intentional or due to collusion; there is no evidence  
25 at the moment.

1           CHAIRMAN RHODES: I have been dying to ask this  
2 question. I hope I don't make any of my colleagues from  
3 my party upset when I ask this question.

4           It is in my mind when you described the  
5 Pittsburgh office, being somewhat aware of the political  
6 realities of Allegheny County, having lived side by side  
7 with them or whatever, how do you get away with moving on  
8 obviously powerfully connected people in that office?

9           SECRETARY LOPUS: I have had the complete backing  
10 of the Governor in anything that I have attempted to do since  
11 I took office.

12           He hasn't always agreed in some of the positions  
13 I may have taken, but he has given me his complete support.

14           CHAIRMAN RHODES: Have you felt any political  
15 pressure from the Allegheny County area as you have  
16 attempted to correct things, as you reported to us today?  
17 There seems to be pretty much a total collapse of the  
18 enforcement arm of the Bureau, at least in my area.

19           SECRETARY LOPUS: The only thing I have felt is  
20 the complete support of the Governor's office in what we  
21 have set out to do.

22           The message has been made clear to me: make  
23 sure of what you do and be on good solid ground, but that  
24 applies to everything else we do.

25           CHAIRMAN RHODES: So the Governor's unreserved

1 support of your activities has been your bulwark in the  
2 face of what you have been trying to do with the Department.

3 Basically, the Governor's unrelenting support  
4 of your position has been your bulwark against political  
5 pressure.

6 SECRETARY LOPUS: Yes; it is clearly that.

7 In addition to that, I think the publicity  
8 concerning this entire matter of the State affairs has  
9 aroused the public and aroused members of the General  
10 Assembly to the point that that certainly gives us a lot  
11 of support.

12 CHAIRMAN RHODES: Thank you.

13 Representative Williams.

14 REPRESENTATIVE WILLIAMS: Mr. Secretary, in terms  
15 of your restructuring the personnel for this job, I have  
16 some reservations and hesitations about even thinking about  
17 polygraphs.

18 I guess the backgrounds of people should certainly  
19 be checked out. I don't know to what extent you are going  
20 to carry it.

21 I would wonder about making sure that whatever  
22 it is or they are, in terms of qualities, capacities or  
23 situations of people who are going to do this job, actually  
24 is before you take steps to say that is correct.

25 In other words, I don't know whether it is the

1 human integrity of the people that makes this happen. I  
2 don't know whether it is a widespread thing for people who  
3 may work in that area. I don't know whether or not it  
4 comes from the top all the way down; that is, that the  
5 leadership and expectations of the Department or Bureau  
6 should set those standards and monitor them to make sure  
7 they get results, no matter what the human feelings may be.

8 I guess what I am really saying is -- I am asking  
9 a question that maybe you can answer.

10 Do you feel that the failings in what the  
11 enforcement personnel have not been doing is a result of a  
12 lack of integrity; or do you think it is a political box  
13 that the people have been in; or do you think it is a  
14 combination of a political box and a probable area for  
15 organized crime; or do you think that the person to run  
16 that Bureau from the top should set expected standards  
17 and then follow through and monitor it, that that would  
18 correct the situation?

19 If you can answer that question, then I would  
20 like to make an observation. I know it is tough, but I  
21 think it is important.

22 SECRETARY LOPUS: I think it may be a combination  
23 of factors. I think there should have been much more  
24 leadership from the top of that Bureau.

25 Now, you have asked me on several occasions my



1 opinion of what occurred before I got into the Department.

2 It would be very difficult -- it is very  
3 difficult for me to comment on that. It would be very  
4 unfair if I didn't comment that there is a question of  
5 priorities.

6 I know that Bob Kane, in 1971, had a very clear  
7 priority; and that was to implement the personal income  
8 tax after a false start of having one declared unconstitu-  
9 tional.

10 Not only that, he had to implement the Pennsyl-  
11 vania lottery and the property tax and rent rebate program.

12 I feel that these were very well done in a  
13 very short period of time and that these had the highest  
14 priority at that time.

15 So it would be awfully hard for me to go back and  
16 say, "Well, this should have had a higher priority. It  
17 should have had more of his attention at that time or of  
18 someone else."

19 I don't know how this situation emerged or  
20 developed to the point that it is today.

21 CHAIRMAN RHODES: Representative Williams.

22 REPRESENTATIVE WILLIAMS: One observation.

23 I think all employees of this Commonwealth or  
24 any other agency of government should be given some sort of  
25 fair and equal search, but I do not believe that people who

1 are employed should be subject to the polygraph.

2 I feel that strongly. I think there are other  
3 reasons and other standards to get the kind of personnel  
4 needed for the job.

5 In most cases, to me, that is the question of  
6 who is at the top or at the subtop. I just wanted to pass  
7 that on, because I don't think the polygraph would solve  
8 the problems in this area.

9 I don't know whether you lean one way or the other  
10 on it. The problem needs to be solved. I am just passing  
11 on the observation that sometimes we implement mechanical  
12 answers which won't necessarily solve human failings,  
13 but a system under which someone has to function in order to  
14 give us 80 percent efficiency.

15 SECRETARY LOPUS: Thank you for your observation.

16 We have discussed this at great length. We have  
17 not used it to date, nor have we ruled it out.

18 Thank you.

19 CHAIRMAN RHODES: Mr. Secretary, at this point,  
20 we are going to suspend the detailed interrogation on the  
21 number of subjects we discussed with you previous to the  
22 hearing.

23 We are going to pick this up tomorrow morning at  
24 10:00.

25 We have five minutes for any members of the

1 Subcommittee who has a general question on the hearing today,  
2 any question that has been left unanswered.

3 REPRESENTATIVE HUTCHINSON: I just want to know  
4 when you will make available to us -- could you do it  
5 tomorrow, late in the day, or anytime tomorrow -- the amount  
6 or the extent of the discrepancy between the tailgate  
7 inventories and the warehouse inventories?

8 SECRETARY LOPUS: Yes; to the extent that that is  
9 contained in the one report we are discussing, you will  
10 have that either this afternoon or first thing in the  
11 morning.

12 CHAIRMAN RHODES: Are there any general observations  
13 or questions by the members?

14 (No response.)

15 SECRETARY LOPUS: Mr. Chairman, I hope in the  
16 morning we may be permitted to continue to complete the  
17 list of changes that you had inquired about.

18 CHAIRMAN RHODES: Yes; we will pick up on the  
19 work that you have been doing in rennovating the Department.

20 We will pick up again in the House Majority Caucus  
21 Room at 10:00 tomorrow.

22 We would like again, at this juncture, to acknow-  
23 ledge and thank the Supreme Court Administrator and  
24 Prothonotary of the Supreme Court for making this very  
25 beautiful hearing room available to this Subcommittee for

1 our hearing today.

2 If there are no further questions or comments,  
3 this hearing stands adjourned until 10:00 tomorrow morning.

4 (Whereupon, at 4:00 p.m., the hearing was adjourned,  
5 to reconvene at 10:00 a.m., on Friday, January 27, 1978,  
6 in Harrisburg, Pennsylvania.)

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter,  
that the foregoing proceedings were taken stenographically  
by me and thereafter reduced to typewriting by me or  
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