



HOUSE OF REPRESENTATIVES

COMMONWEALTH OF PENNSYLVANIA

HARRISBURG

October 17, 1973

Honorable Israel Packel
Attorney General
Capital Annex - Old Museum Building
Harrisburg, Pennsylvania 17120

Dear General Packel:

As Chairman of the Special House Committee created under authority of Resolution 98, it is my desire to establish a sound working relationship with your Department. As a fact-finding body primarily responsible for fashioning remedial legislation, we may have need to transmit information to you which can only be handled by a prosecutive agency.

Though we are still in the preparatory stage of work, we have found one such matter which I feel should be brought to your attention now. It concerns published reports of serious irregularities in Westmoreland County on the part of agents of PennDOT. Leasing of equipment is involved.

On September 28, 1973, in the company of the committee General Counsel, Mr. Norman A. Krumenacker Jr., I conferred with a witness in Westmoreland County and the results of that conference have convinced me that unless the Department of Justice initiates a complete and thorough examination immediately that my committee will have no choice but to conduct a special investigation of its own of the matters developed by my conference of the 28th.

Because the Auditor General has been conducting an investigation of this matter for the past eight months, and because any irregularities would ultimately be brought to your attention for proper disposition, I feel that our committee should stand aside if we are reliably informed that the State Department of Justice will assume responsibility and act with dispatch.



HOUSE OF REPRESENTATIVES

COMMONWEALTH OF PENNSYLVANIA

HARRISBURG

Hon. Israel Packel:
October 17, 1973
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I would welcome the opportunity to discuss this matter with you at your earliest convenience.

Sincerely,

Patrick A. Gleason
Chairman

CC: Hon. Robert P. Casey
Hon. Harry Comer ✓

PAG/nlr

PATRICK A. GLEASON, MEMBER
636 MAIN STREET
JOHNSTOWN, PENNSYLVANIA 15901



COMMITTEES
GAME AND FISHERIES
MILITARY AND VETERANS AFFAIRS
STATE GOVERNMENT

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

July 19, 1974

Benjamin Lerner, Esquire
Deputy Attorney General
Chief, Office of Criminal Law
Office of the Attorney General
Harrisburg, Pennsylvania 17120

Dear Mr. Lerner:

This will supplement my letter to you of
July 18, 1974.

My Select Committee unanimously authorized me to request of you a copy of any investigation conducted by the Department of Justice for the years 1968 and 1969 into the operation of the Cambria County Maintenance Office of the Department of Justice for the years 1968 and 1969. We are informed that such a copy might be available to the Committee and it appears to involve improper leasing practices, kick backs and extortion.

As I indicated to you in my letter of July 18, 1974, we also wish to have similar reports as to all other maintenance districts in Pennsylvania from 1966 until the present time.

Thank you for your usual cooperation.

Very truly yours,

A handwritten signature in cursive script that reads "Patrick A. Gleason".

PATRICK A. GLEASON

PAG:ss

cc: Hon. Israel Packel
Attorney General

PATRICK A. GLEASON, MEMBER
636 MAIN STREET
JOHNSTOWN, PENNSYLVANIA 15901



COMMITTEES

GAME AND FISHERIES
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HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

July 18, 1974

Benjamin Lerner, Esquire
Deputy Attorney General
Chief, Office of Criminal Law
Office of the Attorney General
Harrisburg, Pennsylvania 17120

Dear Mr. Lerner:

I have been authorized by the Select Committee to Investigate State Contract Practices, to request of you copies of any and all investigations conducted by the Office of the Attorney General into allegations of criminal conduct in the Pennsylvania Department of Transportation by employees thereto since 1966 up until the present time.

Having been aware that you were responsible for the investigation into Westmoreland County, I believe that this letter should be directed to you rather than the Attorney General.

Should you have any questions regarding this matter, please get in contact with Mr. William Powell, Administrative Assistant to the Committee in Room 288 of the Senate. His telephone number is 7-5292.

Thank you very much.

Very truly yours,

A handwritten signature in cursive script that reads "Patrick A. Gleason".
PATRICK A. GLEASON

PAG:ss

cc: Hon. Israel Packel
Attorney General



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG
SELECT COMMITTEE ON STATE CONTRACT PRACTICES

July 3, 1974

Honorable Israel Packel
Attorney General
Commonwealth of Pennsylvania
Department of Justice Building
Capital Annex - Old Museum Building
Harrisburg, Pennsylvania 17120

Dear General Packel:

Your letter of July 2, 1974 has left me completely mystified.

I cannot fathom why you, the chief law enforcement officer of this Commonwealth, have chosen to pursue such an arrogant and evasive course of action in a matter of such critical importance. You stated that any dissatisfaction with the response of Deputy Attorney General Lerner should have been directed to him. You further stated that "it is for me and not thee to decide who should reply to letters addressed to this office."

I must remind you that all letters concerning the Westmoreland County investigation by this Committee and the obstructionist tactics employed by officials of AFSCME to thwart our investigation have been directed to you, the Attorney General of Pennsylvania, and not to your office. If Mr. Lerner's efforts in this matter were, as I feel, woefully lacking in initiative and professionalism, it is your responsibility, and not mine, to express appropriate dissatisfaction.

You are correct in stating that this committee "has its lawyers" and you are further correct in your assessment of the competence of our legal staff. You must realize, however, that any legal opinion expressed by our counsel is in no way a substitute for the legal opinion of the Attorney General of Pennsylvania --- an opinion that, sadly, has not been forthcoming.

It is not my desire to continue to engage in a series of communications with you, the net result to date of which has been totally fruitless. I must confess that your action, or lack thereof, has been totally consistent with your conduct since assuming the responsibilities of Attorney General.

I cite the following examples:

a. My letter dated October 17, 1973 in which I expressed the desire of this Committee to establish a working relationship with your office, indicating to you that our Committee might have need to transmit information to you which could only be handled by a prosecutive agency. In this letter, I apprised you of the deep concern of this Committee with regard to reports of serious irregularities in Westmoreland County on the part of officials of PennDOT, which irregularities were at that time surfacing due to an intensive investigation being conducted by the office of the Auditor General. I concluded my letter by advising you that due to this pending investigation, which would ultimately be referred to your office for appropriate prosecutive disposition, our Committee would stand aside in this matter if we were informed by you that the Department of Justice would assume responsibility and act with dispatch. You never answered this letter.

b. My letter dated December 13, 1973, addressed to Governor Milton J. Shapp, with copies delivered to your office and the office of the Auditor General in which I officially requested the Governor to hold the appointment of Egidio Cerilli in abeyance until Mr. Cerilli could be properly questioned concerning his conduct as Superintendent of the Westmoreland County highway district. Prior to this letter even you had publicly concluded that improper activities of PennDOT employees in Westmoreland County indicated "a pattern of gross mismanagement and a total failure of responsibility on the part of supervisory personnel" of that highway district. You had further stated that these improper activities "could not have occurred without the acquiescence, if not the active participation, of supervisory personnel." Despite this,

neither you nor Governor Shapp had the courtesy - or could it have been courage - to reply to my letter. The nomination of Mr. Cerilli was, of course, neither delayed nor withdrawn.

I should be shocked by such conduct on your part. However, the following further examples of your legal leadership have steeled me to such inaction:

1. Your abrupt decision to cancel public hearings by the Pennsylvania Crime Commission pursuant to its investigation of police corruption in Philadelphia. It is interesting to note that this sudden turnabout on your part came at a time when Governor Shapp was in the process of entering into a political reproachment with the mayor of Philadelphia. One must wonder, of course, if the timing of these two seemingly unrelated events was purely coincidental.

2. Your failure to take any action whatsoever pursuant to the discovery of the practice that various Representatives, Senators and other public officials have accepted gift liquor from distilleries doing business with this Commonwealth. This practice was conducted with the acquiescence and complicity of the Pennsylvania Liquor Control Board, in violation of various criminal statutes of the Commonwealth. Yet your only action in this regard was to fire Alexander Jaffurs, the man who brought this criminal activity to the attention of your office, the legislature and the public.

3. Your vacillation on deciding whether to honor the request of the now defunct Philadelphia Special Investigating Grand Jury to grant immunity to John Sills and compel his testimony. By the time you finally approved the immunity petition, the life of that grand jury was at an end and Mr. Sills' testimony was never received. Again, it may be purely coincidental that John Sills at that time was serving as patronage chief of the Philadelphia Democratic City Committee.

4. Your questionable conduct in dealing with the report of the House of Representatives Consumer Protection Committee's Subcommittee on Insurance. This report, as you undoubtedly recall, concluded that Frank Hilton, Secretary of Property and Supplies, had acted in violation of certain statutes of this Commonwealth, at a considerable expense to the state's taxpayers. A memorandum to you from a Deputy Attorney General in your office agreed with the findings of that subcommittee.

You, however, after privately meeting with Secretary Hilton, publicly advised that Mr. Hilton's conduct had been entirely proper.

5. Your obvious footdragging in deciding whether to supercede the new District Attorney of Philadelphia and convene a new investigating grand jury to continue the work of its predecessor. Faced with this dilemma you, in effect, requested the Supreme Court of Pennsylvania to issue a declaratory judgement. The net result of this has been utter legal chaos and a flourishing of complex litigation.

6. Finally, and specifically to the point of this letter, the half-hearted manner by which your office reluctantly joined forces with the Office of the Auditor General to investigate PennDOT corruption in Westmoreland County. A review of the investigative report compiled by investigators from your office reveals a glaring pattern of unfinished leads and failure to prosecute individuals participating in criminal activities, including malfeasance in office, fraud and extortion.

The list could go on indefinitely but I trust that the above examples will suffice to convey my feelings. It is abundantly obvious that your sole concern during your tenure as Attorney General has been to avoid any possible embarrassment to the incumbent Governor. Be assured that if in the future this Committee is in need of an official legal opinion or the aid of a legitimate prosecutive agency, it will not look to the office which you have so unashamedly disgraced and discredited.

Patrick A. Gleason
PAG

Patrick A. Gleason
Chairman

Enclosures
PAG/nlr

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120

ISRAEL PACKEL
ATTORNEY GENERAL

July 2, 1974

Honorable Patrick A. Gleason
House of Representatives
Commonwealth of Pennsylvania
Main Capitol Building
Harrisburg, Pennsylvania

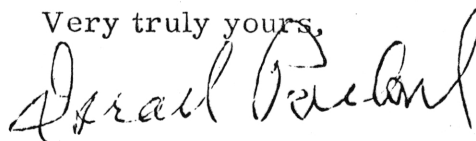
Dear Representative Gleason:

Dissatisfaction with the response of Deputy Attorney General Lerner should have been directed to him. He handled the problem when it was encountered by the Bureau of Investigations which was then under his charge. I should not have to tell you that it is for me and not thee to decide who should reply to letters addressed to this office.

Your Committee has its lawyers and I am sure that they have the competence to advise you as to what must be done with regard to uncooperative witnesses. I see no reason for me to respond "directly and personally" to the problem arising out of the statement of the union's representative that "it was the position of his law firm that no PennDOT employe should consent to an interview until the matters to be argued before the Commonwealth Court on July 3, 1974 were resolved." My opinion should not be sought for its potential impact upon a then pending judicial proceeding.

If you want further information as to the facts in Deputy Attorney General Lerner's letter, I suggest that you communicate directly with him because he knows the facts better than I do.

Very truly yours,



Israel Packel
Attorney General

IP jg

PATRICK A. GLEASON
CHAIRMAN



OFFICE OF SPECIAL COUNSEL

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG
SELECT COMMITTEE ON STATE CONTRACT PRACTICES

June 28, 1974

The Honorable Israel Packel
Attorney General of Pennsylvania
Main Capitol Annex
Harrisburg, Pennsylvania

Dear General Packel:

I respectfully refer your attention to a letter dated June 17, 1974 addressed to me from Benjamin Lerner, a Deputy Attorney General in your office. This letter from Mr. Lerner was in response to my letter to you of June 7, 1974.

As you recall, my letter apprised you of certain obstructionist activities on the part of officials of and counsel to, the American Federation of State, County and Municipal Employees.

I concluded my letter with three specific requests:

1. that you apprise me of your legal opinion concerning these matters.
2. that you advise me as to what steps your office took when the same Union activities surfaced a year ago.
3. that you advise me as to what specific steps your office plans to take to deal with this current matter.

Mr. Lerner's letter in no way dealt with my requests for your legal opinion or what action your office now intends to take to deal with this present matter. Mr. Lerner merely advised me that in June of 1973, at a time when the Pennsylvania Bureau of Investigation was attempting to complete its investigation in Westmoreland County, investigators of that Bureau encountered difficulty with State employees who were refusing to cooperate on the basis of Mr. Kirschner's letter of May 14, 1973. Mr. Lerner stated that, upon encountering such difficulties, he "spoke" to Mr. Kirschner and reminded him that your office had frequently cooperated with "the Unions" instituting investigations at the request of "Union members." Mr. Lerner further advised Mr. Kirschner that it was "our position that State employees had a duty to cooperate with the Department of Justice investigation." Mr. Lerner went on to state that after this conversation "we completed our investigation and found that we were able to secure cooperation from employees who had expressed reluctance to cooperate with us earlier."

The Honorable Israel Packel
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June 28, 1974

That is the sum and substance of Mr. Lerner's letter. It in no way answered the questions which I directed to you. It is inconceivable to me that, in the face of such Union activities obstructing an investigation of your office, the only action taken by your office was a conversation---it is unclear from Mr. Lerner's letter whether it was a personal interview or merely telephonic communication---reminding Mr. Kirschner that your office had previously cooperated with the "Union."

I fail to see how such previous cooperation by your office was in any way relevant during this discussion. It strikes me that if, in your opinion, Union activities were obstructing an official investigation, it was the responsibility of your office to clearly and officially apprise the appropriate Union officials of your legal opinion and your plan of action as to what steps would be taken by your office if such obstruction continued.

Mr. Lerner's statement that, subsequent to his conversation with Mr. Kirschner, investigators from your office were able to complete their interviews without further Union obstruction is clearly erroneous. A review of the investigative report of the joint investigation conducted by your office and the office of the Auditor General clearly indicates that a number of PennDOT employees, including at least four (4) PennDOT foremen were never interviewed because of the Union's position. In view of this, I fail to see how Mr. Lerner could state, as he did, that the Union problem was resolved.

I repeat my specific request that you, the Attorney General of Pennsylvania, and not a subordinate, convey to me at your earliest convenience the information which I requested in my previous letter to you.

I might note that investigators from this Committee are still encountering obstructionist activities on the part of the Union. One example will clearly illustrate my point. On June 25, 1974, two (2) staff investigators from this Committee attempted to interview several PennDOT employees. These employees advised that they were willing to be interviewed, but that because of Union instructions, a Union attorney would have to be present. These employees were advised that it was entirely appropriate for each of them to be represented by counsel during such an interview. Each employee was requested to immediately contact counsel and arrange for an interview at a time which would be mutually convenient for both the employee and his counsel.

On June 26, 1974, Thomas Nedley, a PennDOT employee and President of Local 2110, AFSCME, telephonically contacted Stephen F. Freind, Special Counsel to the Committee. Mr. Nedley advised that he had contacted the law firm of Markowitz and Kirschner and had been instructed by a representative of that firm that no member of that firm would at this time represent any PennDOT employee during an interview with staff investigators from this Committee. This representative stated to Mr. Nedley that it was the position of his law firm that no PennDOT employee should consent to an interview until the matters to be argued before the Commonwealth Court on July 3, 1974 were resolved. Mr. Nedley was advised that the matters to be litigated at that time were in no way relevant to a request for a voluntary interview; that such matters related only to

The Honorable Israel Packel

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June 28, 1974

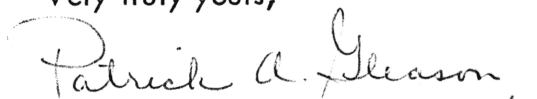
subpoenas issued by this Committee to four (4) PennDOT employees. Despite this explanation Mr. Nedley remained adamant in his position, concluding the conversation with the phrase, "I guess you guys will just have to issue another batch of subpoenas."

In addition to being clearly arrogant on its face, that statement invited a course of action which this Committee is reluctant to pursue. Our position is, and always has been, that, in the absence of circumstances which would be self-incriminating, PennDOT employees, whose salaries are paid by the taxpayers of this Commonwealth, have an affirmative duty to cooperate with this Committee.

Finally, I must express my dismay that you did not choose to respond directly to my original request, opting instead to have a subordinate reply. It strikes me that, in a matter of such far-reaching importance, you, the Attorney General of Pennsylvania, should personally state his legal position and his plans to deal with this matter.

I trust that you will see the merit of this Committee's position and respond directly and personally at your earliest possible convenience, but certainly no later than July 3, 1974.

Very truly yours,



Patrick A. Gleason, Chairman
House Select Committee on
State Contract Practices

PAG:SFF:bb

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
HARRISBURG, PA. 17120

ISRAEL PACKEL
ATTORNEY GENERAL

June 26, 1973

Honorable Patrick A. Gleason
House of Representatives
Commonwealth of Pennsylvania
Main Capitol Building
Harrisburg, Pennsylvania

Dear Mr. Gleason:

With respect to your letter of June 25, 1973, it was and is my understanding that properly secured bank loans in the regular course of business as authorized by the Banking Code do not constitute a loophole. The security of the candidate could have been sold in lieu of making a loan and there could be no question as to the use of the proceeds.

Incidentally, you may not be aware of the fact that the Federal Election Campaign Act of 1971 in its definition of "expenditure" refers to any loan but expressly has this exclusion:

"except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business."

Sincerely,


Israel Packel

IP jg

PATRICK A. GLEASON
CHAIRMAN



OFFICE OF SPECIAL COUNSEL

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG
SELECT COMMITTEE ON STATE CONTRACT PRACTICES

June 7, 1974

The Honorable Israel Packel
Attorney General of Pennsylvania
Main Capitol Annex
Harrisburg, Pennsylvania

RE: Westmoreland County Investigation

Dear General Packel:

As you are no doubt aware, the House Select Committee on State Contract Practices, which I chair, is currently conducting an extensive investigation into allegations of corrupt contract practices which have occurred in Westmoreland County. Specifically, these allegations deal with alleged improper and criminal activities on the part of various employees of the Pennsylvania Department of Transportation, Highway District 12-5, as well as individuals who lease equipment to the Commonwealth for highway maintenance use.

Many of these allegations were previously investigated in a joint effort by investigators of your office and the office of the Auditor General of Pennsylvania. As you no doubt recall, this joint venture began in approximately March of 1973 and was terminated in approximately December of that same year. At the conclusion of that investigation, the Auditor General suggested that the indictment of at least eight (8) individuals, including both PennDot employees and lessors of equipment, would be appropriate. Your office in turn recommended the indictment of two (2) individuals, Michael Gates, a PennDot foreman, and James L. Brown, a lessor of equipment to PennDot. This recommendation was specifically transmitted by your office to the office of the District Attorney of Westmoreland County. In addition, both your office and the office of the Auditor General recommended that a number of equipment lessors be sued by the Pennsylvania Department of Transportation in order to recover monies paid to them for services which were, in fact, not performed.

As you also no doubt recall, Auditor General Casey, by letter dated June 6, 1973, conveyed to you information which, in his opinion, was indicative of an organized effort to obstruct your joint investigation. Specifically, Mr. Casey referred to a letter, a copy of which he forwarded to you, dated May 14, 1973, from Attorney Richard Kirschner to Roy R. Wise, Council Representative, AFSCME, District 83. This letter from Mr. Kirschner, in summary, instructed Mr. Wise to in turn instruct all State employees within the various bargaining units of AFSCME to refuse "to provide any information of any nature whatever" to the investigators of your office and the office of the Auditor General.

Honorable Israel Packel

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June 7, 1974

Mr. Casey concluded this letter by requesting that you advise him "as to what steps, including the issuance of subpoenas, your office plans to take to correct this situation immediately."

On June 5, 1974, investigators of our Committee attempted to interview two (2) PennDot employees at District 12-5 Headquarters, Greensburg, Pennsylvania. It should be noted that one of the employees whom our investigators wished to interview had been previously interviewed by them on June 4, 1974. During the initial interview, this employee cooperated fully. The other PennDot employee had not yet been interviewed. Upon arriving at the highway headquarters, these investigators were met by one Thomas Nedley, President of Local 2110, AFSCME. Mr. Nedley is also a PennDot employee. Nedley advised our investigators that the two (2) employees in question would not consent to be interviewed. Nedley specifically stated that the "union" did not wish these interviews to take place. Nedley stated that he was advised of this directly by the union. When questioned further, Nedley admitted that union officials "all the way up to the top" had so instructed him. After further prodding, Nedley advised that Gerald W. McEntee, State President of AFSCME, and the aforementioned Roy Wise had conveyed these instructions.

On June 6, 1974, two (2) of our investigators traveled to the PennDot highway shanty in Adamsburg, Pennsylvania to reinterview two (2) PennDot employees. These employees had previously cooperated with, and given statements to, our investigators. Again, Mr. Nedley was present. Again, Mr. Nedley advised our investigators that the requested interviews would not be granted. On this occasion, however, Mr. Nedley showed to our investigators a copy of the aforementioned letter from Mr. Kirschner, citing this letter as justification for his refusal to permit the employees in question to be interviewed.

This Committee, in all its investigations, will zealously safeguard the constitutional rights of all individuals concerned. Without question, any individual interviewed by members or investigators of this Committee has the right to have an attorney present during such interview. It should be noted, however, that we will permit a union attorney to be present during such interviews only if that attorney, at that specific time, is representing the individual to be interviewed, with the best interest of that specific individual as his sole consideration. In this vein, it is our opinion that it would be entirely inappropriate to permit an attorney representing the union or a union official to be present during these interviews.'

From your past experience in this specific area, you are no doubt aware that the PennDot employees whom we desire to interview are to be interviewed as State employees, concerning the performance of their duties as State employees. I am sure that you share my opinion that, in the absence of circumstances which might tend to incriminate them, they, as State employees, have an affirmative duty to thoroughly cooperate in these matters.

Honorable Israel Packer
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June 7, 1974

I would appreciate, at your earliest possible convenience, your conveying to me your legal opinion concerning these matters. In addition, please advise me as to what action you took in dealing with this matter when it originally came to your attention in May of 1973. Finally, I wish to know what steps, if any, your office now intends to take to deal with this current matter.

Thank you in advance for your cooperation.

Very truly yours,

Patrick A. Gleason (b-)

Patrick A. Gleason, Chairman
House Select Committee on
State Contract Practices

PAG:bb

Cc: Auditor General Casey