

**ORGANIZED CRIME IN SPORTS
(RACING)**

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**DEPOSITORY
HEARINGS**

BEFORE THE

SELECT COMMITTEE ON CRIME

HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

SECOND SESSION

**MAY 9-11, 15-18, 22-25, 30, 31; JUNE 1, 7, 13-15; JULY 18-20, 25-27, 1972
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(II)

CONTENTS

DATES HEARINGS HELD

1972:	Page
May 9.....	1
May 10.....	113
May 11.....	153
May 15.....	217
May 16.....	317
May 17.....	437
May 18.....	519
May 22.....	551
May 23.....	639
May 24.....	731
May 25.....	771
May 30.....	817
May 31.....	877
June 1.....	961
June 7.....	1017
June 13.....	1083
June 14.....	1193
June 15.....	1259
July 18.....	1409
July 19.....	1475
July 20.....	1561
July 25.....	1613
July 26.....	1729
July 27.....	1805

STATEMENTS BY WITNESSES

Angiulo, Gennaro, Nahant, Mass.....	1466
Balliro, J., counsel to Gennaro J. Angiulo.....	1466
Barboza, Joseph (the Baron), former organized crime enforcer.....	731
Baum, William, captain, intelligence division, New Jersey State Police.....	566
Bellanca, Peter, attorney for Zerilli interests in Frontier conspiracy.....	140
Berger, Norman M., counsel to Sammy Davis, Jr.....	552
Berube, Paul, special investigator, Thoroughbred Racing Protective Bureau (TRPB), Lake Success, N.Y.....	772
Bittman, William O., counsel to:	
Jacobs, Jeremy.....	1304
Jacobs, Max.....	1225, 1259
Bolles, Donald, investigative reporter, the Arizona Republic.....	317
Bonner, Walter J., counsel to:	
Bellanca, Peter.....	140
Polizzi, Michael.....	137
Brower, Harvey, counsel to Raymond Patriarca.....	1475
Burr, Charles, vice president, Emprise Corp., Buffalo, N.Y.....	1158
Burton, Charles, counsel to David Funk.....	437
Byrne, Bobby, horseracing specialist and fixer of races.....	1083
Cahn, William, district attorney, Nassau County, N.Y.....	1017
Caldwell, Frank J., Manhasset, Long Island, N.Y., former horse owner.....	1770
Caplan, Sue, counsel to:	
Cole, Fred.....	1713
Manzi, Anthony.....	1684
Menzella, Toni.....	1613
Presti, Robert.....	1639

	Page
Carson, Charles, former comptroller, Berkshire Downs Racetrack, Hancock, Mass.....	1437
Castucci, Richard, organized crime figure, State of Massachusetts.....	817, 877
Cataldo, Joseph, inmate, Federal Penitentiary, Lewisburg, Pa.....	630
Coble, J. Kermit, counsel to John G. Masoni.....	851
Cole, Fred, Long Island, N.Y., former horse owner.....	1713
Craner, Mitchell B., counsel to Joseph "Whitey" Danzo.....	501
Danzo, Joseph "Whitey," New Jersey organized crime figure.....	501
Dario, B. A., Rhode Island racetrack owner.....	1505
Davis, Sammy, Jr., entertainer, Hollywood, Calif.....	552
Decof, Leonard, counsel to B. A. Dario.....	1565
Doherty, John, lieutenant colonel, chief of detectives, Metropolitan Police Department, St. Louis, Mo.....	154
Fitzgerald, Gerald F., member Illinois State Racing Board.....	1836
Fleming, Paul D., executive secretary, Ohio State Racing Commission.....	1805
Floss, Walter J., Jr., member, Erie County (N.Y.) Legislature.....	1140
Foundas, Nicholas, counsel to Richard Castucci.....	877
Friedman, Saul, former president, Berkshire Downs, Hancock, Mass.....	1505
Funk, Bradley J., secretary-treasurer, Funks' Greyhound Racing Circuit, Inc., Ariz.....	393
Funk, David, owner of various horse and dog racing interests in Arizona.....	437
Garavaglia, Frank G., counsel to:	
Tocco, Jack W.....	119
Zerilli, Anthony.....	115
Giardano, Anthony, head, crime syndicate, St. Louis, Mo.....	184
Ginsberg, Charles, Jr., chairman, Ohio State Racing Commission.....	1805
Glick, Alvin M., counsel to Charles Burr.....	1158
Gold, Morris, South Fallsburg, N.Y., former racetrack concessionaire.....	724
Goldstein, David, attorney, New York, N.Y.....	613
Goodwin, Brian, Phoenix, Ariz., counsel representing Arizona racing interest jointly owned by Funk-Jacobs families.....	251, 299
Halpern, Ralph J., counsel to Ralph Wilson, Jr.....	1729
Halveland, Earl T., detective captain, commander, intelligence unit, Metropolitan Police Department, St. Louis, Mo.....	154
Hamma, Richard E., Holbrook, N.Y., owner of Punjab Stables.....	1797
Hanny, John R., III, member, Erie County (N.Y.) Legislature.....	1210
Hofmann, Lawrence N., captain, project director, Michigan Intelligence Network Team (MINT), Michigan Department of State Police.....	63, 88
Hollman, Daniel P., former chief, New York Strike Force on Organized Crime, U.S. Department of Justice.....	639, 685
Inglis, James, former racing commissioner, State of Michigan.....	79, 88
Israel, Richard, attorney general, State of Rhode Island.....	1003
Jacobs, Jeremy, president, Emprise Corp., Buffalo, N.Y.....	1304
Jacobs, Max, executive vice president, Emprise Corp., Buffalo, N.Y.....	1225, 1259
Johnson, George Harry, Phoenix, Ariz., an individual who investigated a U.S. Congressman on behalf of Arizona racing interest.....	217, 287
Josefsberg, Robert C., council to Salvatore Rizzo.....	1497
Kohn, Aaron, managing director, Metropolitan Crime Commission of New Orleans.....	880, 915
Leacy, Robert P., former counsel, Emprise Corp., Buffalo, N.Y.....	185
Levin, Morris J., counsel to Saul Friedman.....	1505
MacArthur, Alexander, chairman, Illinois Racing Board.....	519
Manzi, Anthony, Secaucus, N.J., former horse owner.....	1684
Marcello, Carlos, New Orleans, La., organized crime figure.....	961
Masoni, John G., part owner and president, Jefferson Downs Racetrack, La.....	851
Masoni, Robert, former Jefferson Downs (La.) stockholder.....	839
Menzella, Toni, Union City, N.J., former horse owner.....	1613
Mooers, Donald L., Washington, D.C., counsel representing Funk family racing interest in Arizona.....	393, 445
Napolitano, Robert, counsel to Raymond Patriarca.....	1475
Nilon, James, sports concessionaire, Chester, Pa.....	702
Nilon, John, sports concessionaire, Chester, Pa.....	702
Norris, Kenneth, sergeant, Organized Crime Section, Louisiana State Police.....	880, 915

	Page
Osman, Ira, State Auditor General, State of Arizona.....	348
Patriarca, Raymond, Providence, R.I., presently inmate, Atlanta (Ga.) Federal Penitentiary.....	1475
Piersante, Vincent, chief, Organized Crime Division, Attorney General's Office, Lansing, Mich.....	3, 88
Polizzi, Michael, director and stockholder, Hazel Park (Mich.) Racing Association.....	137
Presti, Robert, Fort Lee, N.J., former horse broker.....	1639, 1657
Price, Stewart, Governor's Council on Criminal Justice, State of Florida...	113
Ray, Dr. Richard, chemist, Ohio State University.....	1805
Rizzo, Salvatore, Miami Lakes, Fla., former president, Berkshire Downs Racetrack, Hancock, Mass.....	1497
Rudin, Milton A., counsel to Frank Sinatra.....	1410
Salerno, Ralph, consultant, New York State Off-Track Betting Corp. (OTB).....	1031
Samuels, Howard, chairman, New York State Off-Track Betting Corp. (OTB).....	1031
Shirley, Leo, racing commissioner, State of Michigan.....	79, 88, 128
Sims, Alan S., counsel to Robert Masoni.....	839
Smith, Lester, minority stockholder, Hazel Park (Mich.) Racing Asso- ciation.....	121
Smith, T. George, detective sergeant, Racetrack Squad Intelligence Divi- sion, New Jersey State Police.....	566
Sinatra, Frank, entertainer, Hollywood, Calif.....	1410
Stavola, Michael J., Red Bank, N.J., horse owner.....	592
Stenatto, Joseph, assistant district attorney, Rackets Bureau, Office of District Attorney, Nasseau County, N.Y.....	1017
Tharp, Dr. Vernon, associate dean, school of veterinary medicine, Ohio State University.....	1805
Tiernan, Hon. Robert O., a U.S. Representative from the State of Rhode Island.....	1003
Tocco, Jack W., executive vice president, Hazel Park (Mich.) Racing Association.....	119
Traynor, Raymond, chief investigator, U.S. Trotting Association (USTA). Columbus, Ohio.....	818, 833
Troy, Philip, representative of Emprise Corp. in Frontier Conspiracy.....	141
Walder, Justin P., counsel to Michael J. Stavola.....	592
Walker, J. Lloyd, engineer, Buffalo, N.Y.....	1193
Wasserman, Jack, counsel to Carlos Marcello.....	961
Wilson, Ralph, Jr., Buffalo, N.Y., horse owner.....	1729
Wolf, Norman J., member, Erie County (N.Y.) Legislature.....	1140
Zerilli, Anthony, president, Hazel Park (Mich.) Racing Association.....	115

MATERIAL RECEIVED FOR THE RECORD

Bittman, William O., counsel to Max and Jeremy Jacobs, memorandum summarizing Los Angeles conspiracy trial involving Emprise Corp.....	1291
Brock, James E., president, Thoroughbred Racing Associations, Lake Suc- cess, N.Y., prepared statement.....	809
Drayton, Spencer J., president, Thoroughbred Racing Protective Bureau (TRPB), Lake Success, N.Y., prepared statement.....	805
Goldstein, David, attorney, New York, N.Y., letter to the chairman (un- dated), re Canandaigua Race Track Investigation.....	627
Hollman, Daniel P., former chief, New York Strike Force on Organized Crime, U.S. Department of Justice, prepared statement.....	673
Jacobs, Jeremy, president, Emprise Corp., Buffalo, N.Y.:	
Affidavit from Millington Lockwood, chief accountant, Emprise Corp.....	1362
Letter dated May 23, 1972, from Burke Security concerning investi- gations conducted on behalf of Emprise.....	1363
Letter dated February 13, 1964, from Berry Beaman, Michigan racing Association.....	1365
commissioner, to Governor George Romney, re Hazel Park Racing for corrective measures regarding parimutual wagering.....	1398
Letter dated July 24, 1972, to Chairman Pepper, recommendations Numerous letters commending Emprise Corp.....	1317

	Page
Jacobs, Max, executive vice president, Emprise Corp., Buffalo, N.Y.:	
Letter dated July 18, 1972, to Mr. Keating, Member, Select Committee on Crime, re relationship between Emprise Corp. and River Downs Racetrack-----	1281
Memorandum dated June 24, 1970, by Brian Goodwin, re June 23, 1970, meeting with George Harry Johnson-----	1298
Letter dated June 29, 1972, from Brian Goodwin, re George Harry Johnson meeting, with enclosures-----	1300
Stockholders list of Cincinnati Royals basketball team-----	1285
Kohn, Aaron M., managing director, Metropolitan Crime Commission of New Orleans, Inc., prepared statement-----	937
Leacy, Robert P., former counsel, Emprise Corp., Buffalo, N.Y., letter to chief counsel Joseph A. Phillips dated May 30, 1972, with enclosures-----	193
Masoni, John G., part owner and president, Jefferson Downs (La.) Racetrack:	
Letter dated February 22, 1972, to L. A. Holland, chairman, Louisiana State Racing Commission, re stockholding of Robert J. Masoni-----	864
Letter dated March 2, 1972, to L. A. Holland, re stock holdings in Jefferson Downs Racetrack-----	863
Mooers, Donald L., Washington, D.C., counsel representing Funk family racing interest in Arizona:	
Excerpts from deposition of Bradley J. Funk given in the Superior Court of the State of Arizona in and for the County of Maricopa--	449
Letter dated Jan. 19, 1973, to Chairman Pepper, re testimony of George Harry Johnson-----	1852
Memorandum No. 1, re statements filed for year ended December 31, 1964, Lewis Steiger Co., Inc-----	496
Memorandum No. 2, re liquor license issued by the State of Arizona on February 27, 1962-----	497
Memorandum No. 3, re signature of "Samuel Steiger"-----	498
Memorandum No. 4, re relationship of Steiger and John K. Goodman--	498
Memorandum No. 5, re 1965 and 1966 statements of Lewis Steiger Co., Inc-----	499
Memorandum No. 6, re misrepresentation by Sam Steiger of personal ownership of corporate owned assets-----	500
Novak, Ben, affidavit dated July 11, 1972, attesting to his sole ownership of the Fontainebleau Hotel, Miami Beach, Fla-----	1410
Osman, Ira, State Auditor General, State of Arizona:	
Copy of agreements affecting voting rights of Funk Stock-----	364
Report entitled "Arizona Parimutuel Race Facilities, Financial Statements, June 30, August 31, and December 31, 1970-----	370
Report entitled "Arizona State Legislature and Certain Regulatory Commissions Recommendations Concerning Parimutuel Facilities," dated March 6, 1970-----	386
Phillips, Joseph A., chief counsel, Select Committee on Crime:	
Memorandum dated May 30, 1972, re conversations between Raymond Patriarca and Henry Tamello overheard by electronic device-----	818
Memorandum dated July 17, 1972, re summary of conversations between Raymond Patriarca and associates concerning various aspects of Berkshire Downs Racetrack (obtained by electronic device)-----	1563
Piersante, Vincent, letter dated December 12, 1963, from Detroit Police Commissioner George Edwards to Berry Beaman, Michigan State Racing Commissioner, re Hazel Park Racing Association (with enclosures) --	14
Samuels, Howard, chairman, New York State Off-Track Betting Corp., memorandum re parimutuel wagering in interstate commerce, with attachments-----	1067
Steiger, Sam, a U.S. Representative from the State of Arizona and member, Select Committee on Crime, letters re Phoenix, Ariz., grand jury investigation of alleged wiretapping:	
Letter dated April 5, 1971, from Brian Goodwin to State Senator Delos Ellsworth, Phoenix, Ariz-----	279
Letter dated June 3, 1971, from Brian Goodwin to Joseph Corey, U.S. Department of Justice-----	280
Letter (undated) from Joseph Corey to Brian Goodwin-----	279

ORGANIZED CRIME IN SPORTS
(RACING)

WEDNESDAY, JUNE 7, 1972

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 11 a.m., in room 345, Cannon House Office Building, the Honorable Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Brasco, Mann, Murphy, Wiggins, Steiger, Winn, and Keating.

Also present: Joseph A. Phillips, chief counsel; Michael W. Blommer, associate chief counsel; Chris Nolde, associate counsel; and Andrew Radding, assistant counsel.

Chairman PEPPER. The committee will come to order, please.

I am sorry we are tardy in beginning our session this morning. The committee first met in executive session.

We had expected the appearance of Mr. Frank Sinatra as a witness before the committee tomorrow. We learned yesterday afternoon that Mr. Sinatra was in London and were told by his attorney that he would not be here tomorrow. The committee has authorized the issuance of a subpoena to Mr. Sinatra to appear before the committee at 10 a.m., July 18, and ordered the taking of whatever steps might be necessary to extend the reach of the subpoena abroad, as well as within the jurisdiction of the United States.

Mr. Counsel, will you call the first witness.

Mr. PHILLIPS. The first witness today, Mr. Chairman, is the distinguished district attorney from Nassau County, N.Y., Mr. William Cahn. I have known Mr. Cahn for a number of years.

Chairman PEPPER. Mr. Cahn, will you raise your right hand, please.

STATEMENT OF WILLIAM CAHN, DISTRICT ATTORNEY FOR NASSAU COUNTY, N.Y., AND PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION; ACCOMPANIED BY JOSEPH STENATTO, ASSISTANT DISTRICT ATTORNEY, RACKETS BUREAU

(Having been duly sworn by the chairman)

Chairman PEPPER. You may have a seat.

Counsel, will you inquire.

Mr. PHILLIPS. Mr. Chairman, Mr. Cahn is one of the outstanding prosecutors in New York State. He has a long history of credible ac-

complishments in the fight against organized crime. He is also president of the National District Attorneys Association and is a noted authority throughout the country on the subject we are inquiring into.

I think, Mr. Cahn, you have a statement.

Mr. CAHN. Yes; I do.

Mr. PHILLIPS. Will you proceed.

Chairman PEPPER. We are glad to have you, Mr. Cahn.

Mr. CAHN. Thank you, sir.

I am William Cahn, president of the National District Attorneys Association and for the past 10 years, district attorney of Nassau County, N.Y.

I would like to present to the committee Mr. Joseph Stenatto, the assistant district attorney in charge of my rackets bureau.

On behalf of our national association and, of course, on behalf of the people of Nassau County, I wish to thank the committee for giving me the opportunity to testify before this body concerning the influence of organized crime into national professional and collegiate sports.

Prior to my election as district attorney of Nassau County, I was assistant district attorney for 13 years, most of which was spent as the organizer and chief of the district attorney's rackets bureau which was responsible for the investigation and prosecution of all matters concerning syndicated organized crime.

For those of you gentlemen who are not completely familiar with the Metropolitan New York Area, perhaps I should give some background with respect to our county. Nassau County is a large, sprawling suburban area located on Long Island, just outside the limits of the city of New York. In the past 25 years, Nassau County, like many other suburban areas throughout the United States, experienced an unprecedented population explosion which brought the current census to approximately 1,500,000 people.

While our county was traditionally known as the bedroom of the city of New York, it has, within the past 10 years, experienced a massive commercial and light industrial expansion as well. During the 1950's several top figures involved in syndicated organized crime resided in Nassau County, but for the most part conducted their illegal activities within the city of New York. However, with the coming of the 1960's, and the tremendous population and industrial growth to which I have already alluded, several of these organized crime figures turned their attention to what they now considered a lucrative marketplace for their illicit enterprises. As a result, more and more members of the five major syndicated organized crime families of the metropolitan New York area began to take up residence within the county. Intelligence reports prepared by both the rackets bureau of my office and by the police department of the County of Nassau now show that there are approximately 175 members of syndicated organized crime now residing in our county.

Gentlemen, based upon my 22 years in law enforcement as a prosecutor, I say to you without any hesitation or mental reservation whatsoever, that the life's blood of syndicated organized crime is their sponsoring of and their involvement in illegal gambling. It comes as no surprise to anyone who has any experience whatsoever in law enforcement that syndicated organized crime realizes hundreds of millions of

dollars, perhaps billions, in income on a yearly basis as a result of illegal gambling. This vast financial enterprise enables those individuals who direct the syndicated organized crime structure to finance their various other illicit enterprises, such as trafficking in narcotics, corruption of police and other public officials, and, most recently, the infiltration into other legitimate businesses and professions.

Illegal gambling has now been coupled with another most successful moneymaking scheme, shylocking. This illegal enterprise has become as lucrative as the gambling operation itself.

There are those who believe that if syndicated organized crime were deprived of the profits of illegal gambling the power of the organization and its influence could not long endure. This is a most logical assumption. How this can be accomplished is indeed a most perplexing problem. Many espouse the cause of establishing and extending the coverage of State-managed or licensed betting systems to include bets on numbers, and all professional and collegiate sports, as well as horse-racing.

It is claimed that: one, it will contribute to the extirpation of organized crime by drying up the revenue sources vital to its operation; two, it will prevent the police corruption and official malfeasance which has flourished under covert private systems of wagering; three, it will provide government with needed financial resources and lighten the tax burden and, since people will gamble in any event, society might as well obtain some benefit from it; and four, it will make betting more accessible for those who enjoy it and thus add an element of pleasure and excitement to life; indeed it will give the economically depressed and downtrodden some hope of redemption from an existence that would otherwise be intolerable in its sense of hopelessness and irreversible defeat and even if such redemption never comes, the possibility of it will alleviate the grimness of the underprivileged condition.

I cannot subscribe to any of these spurious arguments. It is my belief, based upon my own experience, that the legalization of gambling on sporting events and the offtrack betting on horses will have little, if any, effect on syndicated organized crime. First, the large bettor and even the small bettor, to some extent, does not want government to know how much nor how often a bet is made.

Further, there is no question that substantial winnings at a government-sponsored betting parlor could not be concealed from the tax authorities. The better, with the clandestine bookmaker, does not have to concern himself with either of these problems.

Second, government could not possibly offer extra services and conveniences which the illegal bookmaker offers to his customer. Credit—and by the way, even if credit were offered by the government, their method of collection could not possibly be as successful and efficient as the method of organized crime. Going on, however, high-odds parlays, combination parlays, back-to-back bets, roundrobins, personal service, and many more. In my opinion, there is no question that government could not compete with the illegal gambler. I do confess that a certain amount of revenue could be available to governments at all levels, but as I see it, this revenue would come as an oppressive tax against the poor who can least afford to gamble. Legalized gambling

makes it more available to those people whom government seeks to support. I even doubt that the amount of revenue to be realized is well worth the effort on behalf of government.

The argument that all efforts to solve this problem in the past have failed, in my judgment, is without merit.

Vigorous law enforcement can contain and seriously weaken organized crime as is evidenced by the success of the law enforcement agencies within my own county. I would like to bring to your attention some of those successes. I wish to stress that in most of our organized crime gambling investigations there are indications that by far the vast majority of bets are accepted on sporting events rather than on horseracing.

In May of 1966 my office conducted a joint investigation along with the New York Police Department. After several months of investigation by the use of court-authorized wiretaps, informant information, and by constant surveillance, indictments were returned against 18 individuals who were involved in a \$40 million a year syndicated organized crime bookmaking operation.

The principal defendants in this case were important members of the organized crime family of the late Thomas Lucchese, also known as "Three Fingers Brown." The investigation showed an intricate network of bookmaking activity, which was first discovered by my office within the Nassau County limits, and from the use of court-authorized, court-controlled wiretaps was found to extend throughout the New York metropolitan area. This particular illegal gambling operation was almost exclusively involved in accepting bets and wagers on sporting events. As a matter of fact the entire investigation showed that the number of bets handled concerning offtrack bets on horseracing was negligible. The ring leader of this particular organized crime gambling syndicate was at the time perhaps the most important bookmaker within the New York metropolitan area, one Milton Wekar. Over the years Wekar was a close associate of top figures involved in syndicated organized crime and this particular investigation reaffirmed that close relationship.

Gentlemen, the Nassau County syndicated organized crime-sports gambling investigation which most concerns this committee, in my opinion, involved an international bookmaking layoff operation, which totaled a minimum of \$100 million a year, within our metropolitan area alone. This investigation involved, among others, individuals by the name of Gilbert Lee Beckley and another. Beckley, a long-time close associate of several top syndicated organized crime figures in this country, as many of you gentlemen are aware, has disappeared.

It is the opinion of many law enforcement agencies, including representatives of the Federal Bureau of Investigation, that Beckley was done away with by the top echelon of syndicated organized crime because of indications that Beckley might be cooperating with law enforcement agencies. Ironically, gentlemen, the Beckley investigation began when representatives of my office were made aware of certain rumors involving some members of a professional football team who were residing in an apartment house located within the confines of Nassau County. I want to emphasize that the rumors were later found to be baseless.

As a result of these rumors, surveillances were commenced of the apartment house in question, and from these surveillances it was determined that at least two known bookmakers were operating out of one of the apartments located in this building. There was no connection with the members of the professional football team residing in the apartment hotel. The fact that they were both there, I want to emphasize, was sheer coincidence. But based upon this information, my office obtained a court-authorized wiretap. After just a few days of the intercepting and recording of conversations had over this telephone located within Nassau County, we became aware that this particular bookmaking operation had roots not only in the metropolitan New York area, but in such other places as New Orleans, Miami, Las Vegas, Canada, and the west coast.

As I have already mentioned, the key figure in this organized crime operation was Gilbert Lee Beckley. As the investigation unfolded, both from court-authorized electronic surveillance, as well as informant information, it was learned that Beckley operated in this following manner, among others. And I would like to refer the committee to a chart I prepared.

Beckley had many, many clients who would give him money to bet for them, using his expertise and his knowledge. We had learned from our own investigation that there were at least 10 individuals who would give him approximately \$25,000 per week to bet, and he would take a percentage of the winnings. But he had his own method of operation, simply on the basis of an intricate informational system that he had throughout the country, a system designed to give him information about the conditions, the physical conditions of the players, on the various professional or collegiate teams involved in the games.

I point out later in my statement that the information could come from any source that was connected with professional or collegiate sports. It could be the janitor in the locker room, it could be a locker room attendant, it could even be a player himself. But Beckley would immediately get information, for which he paid handsomely, from these individuals about the conditions, the physical conditions, of certain players.

Now, let's for the sake of discussion say that football team A and football team B were playing on a particular Sunday. The Monday before the game the betting line would come out. Team B was favored by three points. And this is a very important part of the wagering system in professional and collegiate sports, not so much who is going to win or lose, but who is going to win by how many points.

Well, if team B is favored by three points, team B must win by at least four points if one bets on team B.

Beckley would take the money that was given to him by his clients—let's for the sake of discussion say it is \$250,000, \$25,000 from each of 10 clients. At that time, Monday morning, he knows that a key player on team A, the underdog, is severely injured and will not play in the game on Sunday. He also knows that if this were public knowledge, and if this were known to the men who make the odds, the point spread between team A and team B would be much larger.

Therefore, on Monday he informs his clients that he bet their money on team A with three points. He picked the underdog with the points.

Therefore, if team B loses, or wins by less than three points, Beckley's clients would win \$250,000, the 10 of them, and Beckley would get a percentage of that bet for his service.

However, he does not bet that money at that time. He only informs his clients that he bet the money at that time. By the end of the week the injury to the key player on team A becomes known, the odds immediately change; recognizing that the key player, whether it be a quarterback, a linebacker, or a guard, makes no difference, but the team now becomes more of a favorite.

The point spread, for the sake of discussion, goes to 10 points. So if an individual bets on team B, in order for that individual to win his bet, team B must win by at least 11 points.

That is when Beckley bets the \$250,000. The game is played. Now, on Sunday, if team B loses, or wins by less than three points, Beckley's clients win their bet, and Beckley collects a percentage of those winnings for his service. If, however, team B wins by between four and nine points, if team B wins by four, five, six, seven, eight, or nine points, Beckley's clients lose their bet.

But Beckley, having waited until the end of the week to actually place the bet, has 10 points. He wins \$250,000 without risking one single penny of his own money.

Beckley became, as a result of this kind of operation, an exceptionally wealthy man.

I should point out here that this investigation commenced at the close of the professional football season in 1966 and continued on throughout the football season of 1966-67, as well as the basketball season of 1966-67.

The investigation resulted in several arrests in February of 1967. Ultimately, as a result of this investigation, 22 individuals were indicted by the grand jury of Nassau County.

If I may digress for a moment, there has been severe criticism about the treatment of these individuals, once they are convicted. I must state that in many instances this criticism is justified. I refer to the sentencing, I refer to the pleas that are taken. But, gentlemen, we are in an era of legal change. Law enforcement does not know from one day to the next what power it has and what is going to be suppressed by the courts.

Recognizing that there may be problems in many areas, there are times when pleas are taken in order to have some hold over the defendants involved. The hold is possibly a plea to a lesser crime because we fear that some of the evidence that we received or some of the evidence we obtained will be suppressed.

We in Nassau County found ourselves in that position, too. Although we felt that our methods of operation were legal and constitutional because of court decisions, we were concerned that the information we obtained, in many of these cases as a result of wiretapping, would be suppressed. As a matter of fact, it was suppressed by a lower court and appellate court. As a result, we were forced to take pleas which I believe we would not ordinarily take. But rather than lose the defendants entirely, those pleas were taken.

I might say that thereafter our method was sustained by our State's highest court and the information that was previously suppressed

was later admitted into evidence, insofar as other cases are concerned, similar cases.

I wish we had had that information a little earlier, but these are the problems with which law enforcement is faced today.

Our evidence also disclosed that Beckley would not only bet money for his clients but in many instances, when his information was exceptionally good, he would bet his own money along the same lines as I have outlined above, waiting, or betting immediately, if an immediate bet was appropriate.

You might possibly ask: Well, what happens if something happens to a team member on team B, what would happen then? Beckley wouldn't have to worry, because in order to protect himself he would just bet the other way and he is covered. At no time would he be risking any substantial money.

Every bookmaker must protect himself. Every bookmaker works on a percentage. I think you gentlemen could well understand what would happen if \$500,000 were bet one way and that team won. It would completely ruin and wipe out a bookmaker for years and years to come.

To protect himself, a bookmaker lays off these bets with other bookmakers throughout the country. In that way he works on a percentage. He is guaranteed his winnings, no matter who wins.

The successful bookmaker operates in this particular manner.

If individuals bet with Beckley, for example, totaling \$500,000 in one certain way, Beckley would bet with other large bookmakers in a different way, which would insure Beckley winning a specific percentage of the money bet. Because of his own information about the condition of teams and team players, he has even greater insurance than one would ordinarily expect.

No one single bookmaker can afford to accept bets totaling several hundred thousands of dollars per week and, therefore, bookmakers are contacted throughout the entire country and these bets are laid off.

In order to cut down the risk of interstate detection, the well-known bookmaker would call a number within his own State and then the individual at that number would relay the call to other parts of the country. This was commonly referred to as a tie-in line. In a particular operation of another top bookmaker—whose name I don't mention now because his case is still pending in our jurisdiction—one of the tie-in lines was located on the campus of Louisiana State University. The university had nothing to do with the operation. The agent would receive the call from the bookmaker at a public phone booth on the campus at Louisiana State and would relay the call from another phone booth right next to it to Nassau County, or other areas throughout the country.

The apartment located within Nassau County, to which I previously referred, was the New York area location that Beckley would call. The bookmakers located within this apartment would record the bets and in turn would telephone several Metropolitan New York area bookmakers and further place Beckley bets with these bookmakers up to the amount that they could financially handle.

When Gilbert Lee Beckley and the several other defendants were ultimately arrested as a result of our investigation, a code book of

Beckley's was found containing the names of some of the most famous entertainment figures in the country, as well as several other important citizens.

I am certain that this committee realizes the importance of the information that Beckley and the other top bookmakers of the country received. It was a simple matter to convince those with knowledge who were approached that they were doing nothing wrong. They were convinced that there was no attempt whatsoever to influence the outcome of the game and, therefore, there was nothing illegal nor immoral about getting this kind of information. However, years ago we experienced the corruption of college basketball players with the seemingly innocent argument that we do not want to effect the outcome of the game, we only want to win by so many points. I am afraid that if we were to condone an unprecedented gambling climate in this country, by legalizing gambling, many more collegiate sportsmen would be taken in by this very tactful approach.

Therefore, gentlemen, if this House committee is concerned about organized crime infiltrating into sports, I applaud your concern. I urge you to continue this investigation.

Gentlemen, at this time I should like to testify concerning our experiences with attempts by various organized crime figures to infiltrate the sport of harness racing. Nassau County has within its borders a harness racing track known as Roosevelt Raceway. In mid-1966, based upon several rumors concerning alleged fixed races at Roosevelt Raceway, my office initiated an investigation of the underworld's attempt to fix a particular harness race which was run at Roosevelt Raceway on January 22, 1966. Our investigation disclosed evidence which tended to show that several harness racing drivers were involved in a conspiracy which was to permit one Robert Shuttleworth, a harness driver, to win this particular race; namely, the fourth race on January 22, 1966.

I would like to say that much of the information that we received that led our rackets bureau into this particular field came as a result of the great cooperation we received from the Kings County District Attorney's Office, under the then district attorney, Aaron Koota.

Buddy Gilmour, who was also driving in this particular race, was supposed to go along with the others and permit Shuttleworth to win. Gilmour did not, in fact, go along with the others and won the race that Shuttleworth was supposed to win. When questioned about these incidents by both the New York State Harness Racing Commission and the Nassau County grand jury, which was conducting this investigation, these key drivers gave conflicting testimony, for which they were ultimately indicted for perjury by the Nassau County grand jury. As a result of Gilmour's winning the race, it was determined during the course of the investigation that he was physically assaulted by a known member of syndicated organized crime operating within the confines of Nassau County; namely, one John Malizia. As a result of this particular incident, Malizia was indicted for the assault on Gilmour, and was convicted.

If this investigation proved nothing else, it indicated that a conspiracy to fix races among the drivers, themselves, would be impossible to prove without the testimony of the coconspirators.

I might also add that perhaps something could be accomplished in this particular area if the same system were adopted by the harness racing commission as is in effect in flat-track racing. That is, have a driver adviser, a trainer a trainer, and an owner an owner. This is true insofar as the flats are concerned. A driver cannot be an owner, an owner cannot be a trainer nor a driver, and so forth.

But in harness racing, all three can be combined, and I think this gives strength to the possibility of fixing harness racing races, because the men involved are concerned on all levels; whereas if they weren't, and there was an attempt by the drivers to fix the race, sooner or later an owner or a trainer would become concerned. I don't offer this as a panacea, but I think this is one step in which this type of operation could be limited.

Another investigation concerning attempts by members of syndicated organized crime to infiltrate the sport of harness racing can be illustrated by an investigation which came about as a result of a twin double racket, which was operating at Roosevelt Raceway. None other than Albert "the Blast" Gallo, now the sole surviving member of the infamous Gallo brothers, and one of his top lieutenants, "Butch" Musumeci, were arrested by members of the Nassau County Police Department assigned to my office for extorting protection money from petty criminals who were then operating the twin double racket. Our investigation disclosed that while these petty criminals were counterfeiting twin double tickets and were successful in cashing these tickets, they could not operate without the approval of Gallo and without paying a percentage of the money to the Gallo group.

Because of our experiences we are now continuously alert to further attempts by organized crime figures to influence in one way or another the outcome of harness racing at Roosevelt Raceway. I would like to emphasize that during every phase of our investigation and at the present time, we have enjoyed the full and complete cooperation of the ownership and management of Roosevelt Raceway.

They are as concerned as we are and stand ready to assist us in our every endeavor.

These betting empires have now been combined with shylocking operations of equal magnitude. The moneys realized by syndicated organized crime from gambling operations are put back on the streets in the form of loans.

Those unfortunate individuals who have bet on credit, and now need money to pay off those bets, the fact that the money may be bet at a legalized betting parlor is of no import, will borrow money in the hopes of regaining all that they lost.

The shylock is there ready, willing, and able to help him fulfill these idle dreams. Let me indicate to you how organized crime conducts its shylocking operations

The boss, the head of the organized crime unit, will lend out his money to the underboss at, perhaps, 1 percent per week interest. The underboss lends that same money out to the lieutenants within the family at maybe 1½-2 percent per week. And the soldiers now lend the money to the borrowers, all along the streets, at whatever interest they can get, whatever the traffic will bear. They pay the soldier, the soldier pays the lieutenant, the lieutenant pays the underboss, and the underboss pays the boss.

This is a tremendous empire that has come about over the years and is a fantastic source of revenue for the members of organized crime.

To give you an example of cases we specifically had in Nassau County. In one particular case, \$1,000 was borrowed. It was to be paid back in 30 payments of \$50 each—\$1,500 on a thousand dollar loan.

Now, in a second case, \$350 was borrowed. This was to be paid back in 11 payments of \$50 each, totaling \$550 on a \$350 loan.

This indicates to you gentlemen that there was no rule of thumb insofar as the method of borrowing, the amount that was borrowed, or the interest that was charged.

Loan 1: the amount borrowed was a thousand dollars, and the interest, or "vig" as it is called on the street, was \$500. That was 50 percent; 50 percent interest. The interest rate was 1.67 percent per week. Therefore, 87 percent yearly; 87 percent a year on a thousand dollar loan.

The second loan is even more incredible. The amount that was borrowed was \$350. The interest, or the "vig," was \$200. That is a 57-percent interest. The rate of interest, the 57 percent on 11 payments, amounted to 5.18 percent per week, which resulted in 269-percent interest on a yearly basis.

Now, this money, as our evidence indicates and as our investigations indicated, in a major part of the time was loaned to bettors, bettors of all kinds.

In this chart we show where a loan-sharking operation and a book-making operation were combined. They combined in using a pizza parlor as a front, a business front.

Now, with the loan-sharking money and with the shylocking money, other crimes were financed—narcotics, prostitution. This is an actual case that existed in Nassau County. There were other stores involved, stores that were used for services. These or other stores provided places where betting could take place or shylocking operations could take place. In return they received certain moneys from the shylock. Or they had to pay the same kind of interest that the individual paid. But this one operation extended to every facet of community life. Its corruptive influence was felt severely in Nassau County.

The combination of a bookmaking operation and a loan-sharking operation is quite the thing today, and from my own experience, I just do not believe that legalizing gambling is going to eradicate that from the scene. As a matter of fact, because of that shylocking operation, even if there is any loss to organized crime in the amount of revenue that they get by legalizing gambling—and possibly there might be—I don't think it is going to affect them. You can take a certain percentage of the profits away from General Motors, or any big business, and they are going to suffer because they have overhead to meet and they have certain obligations to meet. But this isn't quite so with organized crime.

But even if it were, they would more than make it up by their shylocking operation.

I recognize that the question of legalized gambling is a problem and is debatable today, and there are many, many who believe that this will be the answer. I cannot say that some of their arguments are not

without merit. I don't see it as a result of my own experience but, certainly, the fact that there is debate, that there is argument, indicates the importance of this committee's work. Information must be obtained in order to come to an intelligent decision. I think a great deal more research is required and I don't think we should rush willy-nilly into legalizing this type of operation without a proper foundation, based upon intelligent information.

Gentlemen, the experiences of law enforcement in Nassau County indicates that syndicated organized crime has exerted its corruptive influence in professional and collegiate sports. The extent of infiltration depends on the acquiescence of the individuals involved in sports to the overtures of organized crime figures.

The leaders of professional sports have recognized some of the problems and have done their utmost to correct weaknesses within their own systems which give benefit and comfort to syndicated crime figures. They have demanded that injuries be made public immediately. They have established security systems within their own organizations—I don't know how effective they are, I frankly doubt their effectiveness, because they could not afford the kind of security system that would be required, but at least they are trying—and have enacted strict rules of discipline where their personnel is concerned. With all of this, I don't think it is sufficient.

Professional and collegiate sports are a way of life in this country. It can and does have a healthy influence on your young men and women and provides wholesome entertainment for all of our citizens. Everything must be done to prevent the corrupting influence of crime to destroy it. Legalizing the most corruptive of all influences, in my judgment, is not the answer. Implementing the rules and disciplines of the sporting world can help. Statutes requiring the publishing of injuries or sicknesses should be enacted. Immediate publishing.

Statutes which prohibit the consorting with convicted bookmakers by anyone connected with the sporting world, directly or indirectly, should also be enacted. The Federal Government should also cooperate financially and with information and manpower, with local law enforcement agencies since these agencies are in the best position to deal with local crime.

Gentlemen, organized crime in the contemporary era has become a social problem of vast dimensions and overpowering urgency. It challenges the very foundation of organized society and raises the profound question of whether free government is competent to preserve itself against the pervasive challenge of sinister private power. With public support and with this committee's concern, law enforcement can succeed.

A short time ago, when the Federal Bureau of Investigation made public a wiretap conversation between Angelo "Gyp" De Carlo of New Jersey and one of his top lieutenants, it suggested opening gambling operations in Nassau County. De Carlo answered and I quote: "You guys are nuts. I would never go to Long Island for any amount of money. That's a bad county." With public concern, with a sincerity of purpose, and with total commitment, we can make this entire country a "bad" country for all criminal elements which seek to infect our young, corrupt our citizens, and destroy our democracy.

Thank you very much.

Chairman PEPPER. Mr. Cahn, we thank you very much. You seem to us a very fine example of a vigorous law enforcer that is a very wholesome element in our country. Your position in the National District Attorneys Association shows you have been recognized by your colleagues as making a great contribution toward law enforcement.

Mr. CAHN. Yes, sir.

Chairman PEPPER. Mr. Phillips will inquire.

Mr. PHILLIPS. One area I would like you to elaborate on, if you can, Mr. Cahn, is the area in which this information was funneled to Beckley. You say he paid off various people in various places. Could you tell us more about that?

Mr. CAHN. Beckley had key men in the key cities involving football, baseball, basketball, and key cities involving the teams that were most concerned with the betting. Either a player, or a locker room attendant.

To give one particular example, quite some years ago when Fran Tarkington was the quarterback of the Minnesota Vikings, the first time our evidence indicated one particular bettor, betting constantly, with or without the points, on Minnesota.

Suddenly, at the beginning of the week there was a switch after many, many weeks of constantly betting on Minnesota with or without the points. I want to make it understood, neither Fran Tarkington nor the Minnesota Vikings had anything to do with this. But at the end of the week it was learned that Fran Tarkington was injured and wasn't going to play that week. And the bettor had made another bet; he bet on the other team for the very first time.

We knew that he received that information right away. This is important to a top bookmaker. The average \$2 bettor, small bookmaker, is completely innocent and naive about these fine operations that the top men in the field recognize.

Now, this information is transferred to bookmakers throughout the entire country who work for a particular top bookmaker. This is important information and those in professional sports recognize it now, because they try to publish as quickly as possible information about the injuries to key players, as soon as it becomes known, to avoid the information going just to one particular source.

And, of course, they try to educate all of their personnel, directly or indirectly involved with the sport itself, to keep away from this kind of particular situation.

Chairman PEPPER. Mr. Brasco.

Mr. BRASCO. Just a quick question, Mr. Cahn. I am sorry I was late. I just flew in from New York.

But I listened with interest about your recommendation of legislation that would prohibit sports figures to associate with someone who is a bookmaker. I understand exactly what you are driving at. I suspect that in and of itself might be difficult to accomplish, by virtue of legal implications, but do you think it would be helpful if we passed a national statute which would prohibit anyone who is a participant in any sporting event in any way, from betting on that sporting event, or betting, period? It seems to me the contacts begin when a sports figure starts to bet.

Mr. CAHN. I think this is required by the sport, itself, now.

Mr. BRASCO. I don't believe it is a crime. I am talking about making it a crime.

Mr. CAHN. Yes. I think any implementation in that regard might help.

Let me say this: Because sports has that kind of position in our way of life here in this country, I think the players, themselves, must be like Caesar's wife, above reproach. Even the suspicion of corruption might tend to destroy that sport and I think that would be a rather sad commentary in this country. I think sports play a major part in our way of life and I think it should continue. I think it is wholesome, healthy entertainment.

The hero figures that come to the fore, insofar as our youngsters are concerned, also play an important part, and to have it destroyed by even the inference of criminality would be tragic.

So your suggestion, in my judgment, has merit.

Mr. BRASCO. Thank you.

Chairman PEPPER. Mr. Murphy.

Mr. MURPHY. Mr. Cahn, I was interested in your testimony regarding the reporting of injuries to key players. Is it not true that the trainer is the person who has sole responsibility to determine who plays on Sundays, as far as the team is concerned? Has the National Football League or American Football League taken any steps with regard to the issuance of these medical reports regarding key players?

Mr. CAHN. I have been told by the commissioners that they require—and I don't know how they are implementing this, Congressman—but that they do require immediate publishing of injuries to their players.

Mr. MURPHY. But the fact they publish an injury list does not determine whether or not a player will be playing. That does not necessarily determine whether or not a player will be ready to play by Sunday. In my estimation, a trainer has the full responsibility in deciding whether or not a player will participate in a game. Do you agree with this position?

Mr. CAHN. You may be correct, but I am certain that you have read in your daily newspapers a statement that so-and-so has been injured, he may or may not play this weekend. It is very difficult to tell at the end of one game whether an injured player is going to be able to play.

Mr. MURPHY. That is right. This would be important as far as a bet is concerned. I suggest that there really are only three people who have that knowledge: The player, the trainer, and the head coach. I am wondering if there are any guidelines set down by the commissioner's office in these sports regarding the issuing of this information?

Mr. CAHN. I don't know.

Chairman PEPPER. Mr. Steiger.

Mr. STEIGER. Yes. Mr. Chairman, thank you.

I want to thank you, Mr. Cahn, for what I think is an excellent statement.

One fast correction, at least as far as flat-racing nationally is concerned. Owner-trainer is a common practice in flat-racing. That does not mitigate the value of your statement, but I will just tell you that.

Mr. CAHN. I will accept that correction, sir. I believe I am correct, however, insofar as the State of New York is concerned. I am not sure, now.

Mr. STEIGER. You are not, sir, but that is OK. Again, it doesn't mitigate the value of what you have to say.

We have heard at least from one member of this committee, the apparently logical question asked several times—and I think you are competent to make a judgment on this question: Why isn't it better to have organized crime people involved in legitimate enterprises, even the ownership of racetracks? Why isn't that a better situation than having them out on the street, shylocking and conducting illegal gambling operations? I believe it was used as a rehabilitative type of thing. Would you care to comment on that?

Mr. CAHN. Rehabilitation?

Mr. STEIGER. Yes, sir.

Mr. CAHN. How is that possible when they haven't been habilitated yet?

Let me say this: I have seen the influence of organized crime in so-called legitimate business. One of the famous cases of it is "Three-Finger Brown's" interest in the dress business. He had, I think, six very successful dress factories.

Mr. STEIGER. He had a real feel for fabric, I understand?

Mr. CAHN. It was rather strange that he was the only one able to buck perhaps the strongest union in the United States, the ILGWU. None of his factories were unionized.

Do you know what kind of advantage that has, so far as the competition in the dress business is concerned? I am sure you do.

What I am saying is this, Congressman: It is the nature of the beast. They corrupt everything they touch.

Mr. STEIGER. No further questions.

Chairman PEPPER. Any other questions?

Mr. WINN. Yes. Just one question.

I want to commend you, Mr. Cahn, on a very fine presentation, your statistical and factual information. We have had a lot of discussion about the possibility of a Federal czar for horseracing. What would your opinion be on that subject, please?

Mr. CAHN. I haven't quite focused on that yet. As a local law enforcement officer and speaking on behalf of the national association in this regard, we would prefer to keep enforcement as much as possible on the local level, seeking the assistance of the Federal Government.

I do not wish to comment one way or the other, but I believe that a lot more thought should be given to that proposition before the step is taken. I would hesitate to give an endorsement to it. I would hesitate to withhold endorsement. I think that a Federal czar, or a national commissioner, has proved quite successful in the baseball, football, and basketball fields.

Mr. WINN. Those are not Federal czars.

Mr. CAHN. I understand. And putting Government in charge of those areas scares me a little bit at this particular time.

Mr. WINN. Thank you.

Chairman PEPPER. Mr. Wiggins.

Mr. WIGGINS. Have you observed a decline in illegal gambling activities in your county since offtrack betting became lawful?

Mr. CAHN. Well, we do not have offtrack betting in Nassau County as yet. Frankly, from the information I have gathered from law

enforcement agencies throughout the metropolitan area, we have seen no effect on organized crime.

Chairman PEPPER. Just one question, Mr. Cahn. Do you find at the present time, in your opinion, there is adequate cooperation in fighting organized crime among Federal, State, and local law enforcement agencies?

Mr. CAHN. Congressman Pepper, let me speak just for my county. Our relationship with the Federal agencies is above reproach. I couldn't ask for better relationship, especially in the area of narcotics, and with the Federal Bureau of Investigation.

I truthfully have heard complaints from other local law enforcement agencies about the kind of cooperation they receive, but mine is beyond criticism. I have had the greatest cooperation.

Chairman PEPPER. Mr. Cahn, we thank you very much for coming here today.

Mr. CAHN. Thank you, sir.

Chairman PEPPER. Mr. Counsel, would you call the next witness.

Mr. PHILLIPS. The next witness is Mr. Howard Samuels.

We have a quorum call. Perhaps it might be appropriate, Mr. Samuels, rather than interrupt your presentation, if we recessed for a short time.

Chairman PEPPER. Mr. Samuels, could you come back at 2 o'clock?

Mr. SAMUELS. Yes; I can.

Chairman PEPPER. The committee will recess until 2 o'clock.

(Thereupon, at 12:10 p.m. the committee was recessed, to reconvene at 2 p.m. this same day.)

AFTERNOON SESSION

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, will you call our first witness.

Mr. PHILLIPS. The next witness, Mr. Chairman, is Howard Samuels, who had a distinguished career in government and government service after a long and successful career in business.

Mr. Samuels is the first director of the Off-Track Betting Corp. of New York State, of which he is going to tell us about today.

Mr. Samuels, welcome.

Chairman PEPPER. Mr. Samuels, we have been swearing all of the witnesses. I am sure you won't mind.

STATEMENT OF HOWARD SAMUELS, CHAIRMAN, NEW YORK STATE OFF-TRACK BETTING CORP. (OTB); ACCOMPANIED BY RALPH SALERNO, CONSULTANT

(Having been duly sworn by the chairman)

Chairman PEPPER. Mr. Samuels, we appreciate your coming. We are sorry to have delayed you.

Counsel, will you now proceed.

Mr. PHILLIPS. Mr. Samuels, I believe you have prepared a statement. Would you please proceed with it, sir.

Mr. SAMUELS. Yes.

First, I am glad I saw District Attorney Cahn this morning, because I would have thought this was special treatment, of the largest bookie in the United States, before the committee.

I would like to make a couple of comments initially.

Mr. PHILLIPS. Is it your testimony that you are not the largest bookie, that Mr. Beckley is?

Mr. SAMUELS. No. Even compared to Beckley, I think we still are now the largest bookie in the United States. I would like to make it very clear, though, that I am the legal bookie.

I might say, it is particularly propitious for me to follow the district attorney from Nassau County's testimony, and I think you are going to hear, members of the committee, a businessman's approach to attacking the problem of organized crime, rather than the legalistic approach; I will cover the question of its morality that was presented by the district attorney from Nassau County.

In listening to Mr. Cahn I almost felt like I was hearing arguments against the repeal of prohibition.

I would like to present in the testimony today a strong conviction for a need of major change in national policy toward gambling, to get rid of the hypocrisy that exists in our society toward this basic issue.

It is my conviction that if we legalize what is already going on in our society—and when Mr. Cahn presented his chart and showed the profits of the bookmaker, he alluded to the fact that this all came from points in the newspaper. You wonder who lives in the real world, because in the real world, points in the newspaper are only odds in the newspaper.

In New York we even have odds on the baseball game in the newspaper. They are put there because people need them to bet, and mass numbers of people are betting, and what we have done by our hypocritical approach to sports betting is given an exclusive franchise to organized crime, to what is probably one of the fastest growing businesses in the United States.

So what we are going to present to you today are some experiences we have had at offtrack betting, and pleas for a new policy with some specifics involved in the new policy, and a conviction that if we legalize the gambling that is going on in this country, put it under government control and public corporations run like tough businesses, that we could do to organized crime's gambling business what the repeal of prohibition did to the bootlegger.

In addition to this, it is my conviction from the analysis we made and the success we had in New York, that this, in addition—and I think it is the second purpose for legalizing gambling that is going on—would provide revenue between \$2 billion and \$5 billion a year for State and local governments.

Ironically, when I ran and sought the Governorship in 1966, I opposed offtrack betting. I thought it was wrong for government to encourage and license gambling. I came to learn that I was wrong. In 1970 largely through the influence of Ralph Salerno, who is an associate of mine and on my staff at OTB, and who is one of the leading experts in this country on organized crime, I learned, as Mr. Cahn pointed out, the major income, 70 percent of organized crime's income, comes from illegal gambling. I learned that, despite our moral protestations,

most Americans gamble, will continue to do so, and that more laws, more police, more courts, will not change human nature. So I learned that if government is truly serious about combating organized crime, we must begin to compete. To do so, I concluded that government should legalize that gambling which is already being controlled by organized crime.

I differentiate that from new gambling which is solely created, like casinos and slot machines, purely for revenue purposes. I think the purpose of government operation in gambling must not be just for revenue by itself.

OTB is a governmental instrumentality of the State of New York, established pursuant to detailed provisions of State law to conduct, offtrack, a system of parimutuel wagering on horseraces. OTB as a public benefit corporation is, of course, also a nonprofit corporation. OTB was established for two essential purposes.

The first purpose is to increase State and local revenues from the conduct of State operated and licensed parimutuel wagering on horses, in that all of its revenues after expenses are earmarked for the use of State and local government.

The second purpose was to help combat organized crime.

I think probably the easiest way to visualize OTB is to understand it as an extension of the track. When OTB takes wagers on a horse-race at a track in New York State those wagers are transmitted by wire to the track where they are combined with the bets taken at the track on the particular race to arrive at one final set of parimutuelly determined odds on the race. OTB takes bets in two ways. We take bets either in person at one of our currently 79 branches—we opened our 80th branch this morning, actually, we will have 130 branches in the city of New York, and I have photographs of the branches so the committee might look at them. We also take telephone betting.

With telephone betting you deposit money with us, get a card that has your number on it, you call up, the operator answers the phone, you give her the number. She puts it in the computer and out of her computer comes a record of how much money you have. You make the bet, it is deducted from your account, and at the end of the race, if you win, it is automatically put back into your account.

We are not here to congratulate ourselves, but I do want to point out a few facts about OTB's extraordinary business success to date. OTB is one of the fastest growing corporations in the United States. It is rapidly becoming one of the largest corporations in the United States, now operating at an annual rate of approximately \$500 million. We have been in active operation, starting from scratch, since April 8, 1971. In the first full year of operation, our profit will be approximately \$15 million. In the next fiscal year, starting July 1, our profit should run somewhere between \$50 and \$58 million. Our handle for the next fiscal year of operation is budgeted at over \$700 million. We presently have an average daily handle of over \$1.5 million derived from an average daily number of bets approximating 426,000. We presently do a daily telephone betting business of more than \$50,000. OTB now has an average of 125,000 customers each day.

By the way, we have only been in business 14 months. Fourteen months ago we opened our first office. OTB's success in New York City

is particularly impressive, I think, when we consider that OTB was started without any capital. We opened for business, relying solely on a \$4.8 million loan from the city of New York.

In the first year of operation we repaid, out of our revenue, \$2.8 million of the \$4.8 million loan. In addition, we will have approximately \$15 million for dividends to the city and State by the end of this month.

I might add we run OTB like a tough business. The leadership of OTB, which now has over 2,000 employees, generally comes from specialties in American business, with experience, not only in the startup of businesses, but in tough business operations as well.

Our initial projection for fiscal year 1973, is that our corporation will do a gross handle of \$706 million, resulting in net revenues of \$54 million. If we got the cooperation of the racing industry, which has been very slow and difficult to come by, we probably could do \$800 million this year, and probably in another year would be operating at about \$1 billion in volume.

Now, with the betting we get today—and we are doing about a million-and-a-half dollars a day, which means we are handling in and out almost \$3 million of cash today and 500,000 separate transactions—you can imagine the business problem and the computer problem of handling and keeping track, and the security problems, of keeping track of every single dollar. We have today somewhere between 125,000 and 150,000 customers in our offices every day in the city of New York. That is almost triple the attendance at both tracks that run in the city of New York today.

Chairman PEPPER. How does the volume in dollars of the betting in the offtrack centers compare with that at the track?

Mr. SAMUELS. Well, ontrack volume in the city of New York, harness tracks and flat tracks, together, is \$1.4 billion. So every month, as we open up our offices, we are beginning to gain on them. I would point out, Mr. Chairman, that they have lost some business. I would be glad to answer some specific questions about that as we go along. Our success, I think, is particularly interesting because we started this without any capital.

We started this corporation with \$4.8 million worth of borrowed capital, and for those of you who are used to return on invested capital, when you start with \$4.8 million and make \$15 million net profit the first year, and \$50 million the second, it probably goes down in history as the biggest business success story of the year.

OTB, just as the tracks in New York State, retains 17 percent out of each bet placed with it. The operating costs of the corporation are first paid out of this retained percentage. I had hoped they would be down a little less than they are now. Next year they are budgeted to be about 8 percent, and at a billion dollars they would be probably 6 or 6½ percent. We operate within the personnel practices of the city of New York, which I don't have to point out to you are relatively expensive in terms of personnel costs.

We emulated in OTB in New York the Australian system. When I took over OTB, I sent the few members of the staff we first hired around the world to study the French system you mentioned, Mr. Pepper, and also Australia, and what was done in Japan and other

places. Eighty percent of our profit goes to the city and 20 percent of the profit goes to the State. I can assure you that in our operation we have tried to incorporate the most modern business techniques available.

Much of what we have had to do in startup, particularly in the computer area, has called for know-how of the most advanced state of the art and sometimes beyond.

We have a lot of things to learn. We have to learn an entirely new computer system, which has not always operated the way we hoped it would. We handle 500,000 transactions a day. It is probably one of the biggest online computer systems in the world, and we have had very little time to debug it, and computer systems very often require debugging.

Locations for OTB branch offices are selected almost entirely based on the consideration of their potential business value. New York City is very densely populated. In addition, during the week we get a great influx of commuter traffic. It is a complex problem to open offices in almost all areas of the city, but this is what we are doing.

I might say we open an office 17 weeks from the day we sign the lease, and do it within government procedures. Again trying to indicate to you that you can run a government corporation reasonably like a tough business.

As to our success in poorer areas, I can state that our few ghetto offices are at about breakeven or only slightly profitable. They clearly do not achieve the profitability level of our offices in higher income parts of the city. One customer study done for us by an independent marketing firm showed that OTB is primarily an activity of middle-income groups.

Gambling in poorer areas, as you probably are aware, is confined primarily to "numbers" activity. This type of gambling is tailored to these areas because to play the numbers requires bets which can be as small as 10 cents for a quarter. At this time we have not developed a marketing strategy acceptable to the State offtrack betting commission that will allow us to compete with the numbers business. I think that is possible, but I would much rather see us legalize the numbers in a public corporation.

OTB has instituted a far-reaching security operation, covering all aspects of its operation. I am amused when I hear that the commissioner of the National Football League spends a couple hundred thousand dollars for security all across the country. We spent a million dollars. That is our budget for security. You can't handle \$3 million of cash every day, keep track of it, all in small increments, without a very tough security system.

All employees hired for positions within the corporation which can in any way be thought of as sensitive are subject to an extensive personal background check. Every branch office is equipped with protection devices, both night and day. Access to the protected back-office areas of a branch is governed through bullet-resistant, electronically operated doors. In addition, we employ guards in some of our offices, and a roving field security staff throughout the system.

The central facilities of OTB are located at 1501 Broadway, in Times Square. At this location are housed our main computer complex, our telephone betting center and almost all of OTB central

departments. These facilities are supported by a 24-hour guard service with special augmentation given to the computer area by smoke detectors, perimeter alarms, electronic doors, and other devices.

In addition to the precautions taken against physical intrusion, the OTB computer system has been programed to prevent fraud in the course of wagering activities. A unique feature of our procedure is that every individual betting ticket receives a special code number designation.

If the ticket is presented for validation as a winner, the computer will determine whether the specific code number corresponds to a winning bet, regardless of almost any attempt that can be made to forge a ticket. Even if a forger should successfully alter the winning ticket so that both the code number and the betting information are both changed to correspond to an actual winning ticket, the computer will reject the code number if the same code numbered ticket had previously been presented for cashing.

We actually have better protection against forging tickets than at the tracks, themselves. If somebody did forge a ticket and the ticket had been paid off, they can only get that one number paid off. If it was paid off before, the computer would reject it. We could get forged on one particular ticket, and that is all.

The foregoing is but the briefest description of our business operation. In the materials we have given you, you will find far more detail on the points covered.

Now I would like to briefly go into the history of why OTB was created by the New York Legislature. OTB was created as a remedy to decades of experience of treating gambling as a crime. Ironically, about the only thing the traditional penal law approach to gambling has served to accomplish has been not to extinguish gambling, but to channel it underground into the hands of organized crime syndicates.

Organized crime has grown like a cancer in the last few decades, primarily because of the penal law approach to gambling. And I think probably the two greatest areas of organized crime's growth today are narcotics and sports betting. In both areas I think new policies are required.

As of 1967, when the President's Commission on Law Enforcement and Administration of Justice issued its "Task Force Report on Organized Crime," gambling income was thought to constitute about 70 percent of organized crime's total income. The task force report estimated that organized crime's annual gross revenue from gambling ran somewhere between \$20 and \$50 billion, with profits to organized crime of approximately \$7 billion a year.

Just think what \$7 billion a year in profits from gambling does to corrupt our police force, corrupt our politicians, provide capital for our narcotics, and now beginning to corrupt regular businesses.

There is no reason to believe that such illegal gambling revenues to organized crime have not substantially increased since 1967.

Today, in 1972, it is very probable that organized crime's income from the illegal sale of drugs is increasing more rapidly than its income from illegal gambling operations.

As I said to Mr. Phillips, I am on the mayor's narcotics council in the city of New York, and think, hopefully, sometime there will be some new national leadership in approaching drugs, as drugs are a

sickness and we must develop treatments for drugs. I would like sometime to present some ideas to the committee on this.

I think it is very reasonable to assume, although unfortunately none of us can document the activities and income of organized crime, that the tremendous and growing revenues of organized crime in the gambling field have enabled it to fund and stimulate its income in the drug area. This thought is borne out in the "Task Force Report on Organized Crime," where it is concluded that undoubtedly its illegal gambling income has enabled organized crime to fund its more insidious activities, such as drug peddling and loan sharking.

That is the difference of opinion I have with the district attorney for Nassau County, that you just can't let organized crime's income continue to grow the way it has because of its other effects on society.

The preceding discussion leads me to a fundamental inquiry, which I am certain is in your minds, as to the morality of gambling. I will begin by stating quite categorically that I do not consider gambling to be immoral. Gambling is one of the timeless pastimes of man. And to many it is a sport. The question of what is gambling and what is a sport is always very difficult to differentiate. We gamble in bingo. We gamble on horses. We gamble on poker. We gamble on the stockmarket. This is not to say that gambling does not lend itself to abuses. Of course it does. There have always been, and probably will always be, a small percentage of the population who will be unable to refrain from gambling to excess—many of whom are presently gambling illegal channels.

It is the same kind of philosophy we faced with the repeal of prohibition. I am sure that when we repealed prohibition the same kinds of problems related and the question in reality is whether society can set these moral standards for the individual or not.

We must always bear in mind, however, that this is an imperfect world, a world composed of individuals of wide-ranging faults. Today in the United States the simple facts are that people are gambling prolifically, because of the myopic attitude of Government they are doing it illegally, and they are doing it in the face of what are really rigid penal laws. And those penal laws are on the books of almost every State in the United States.

In addition, many Americans are increasingly traveling to foreign countries to spend their tourist dollars gambling. You just have to go to any country outside of America today and find that this has been a major attraction for the American tourist dollar.

People today do not view gambling as a matter of moral concern and I think you can understand that. Why should it be all right to bet at the track, play bingo at the church, buy a lottery ticket, and not be all right to gamble on the street corner? The whole moral hypocrisy of this question is no longer one that is really accepted by the public. They regard it primarily as a source of entertainment.

The people of New York City, in a referendum in 1963, voted 3 to 1 in favor of offtrack betting. Perhaps one of the reasons why New Yorkers, and probably the great majority of Americans today, view gambling as an entertainment is because of increasing affluence in this country.

In past time, when the standard of living was considerably lower, there was obviously more justification for being concerned about how

the average individual spent his money. In the past, it is true, that far fewer people could afford the luxury of gambling. In fact, almost all entertainment in the past was a luxury.

Today this is no longer so. I would illustrate this point by noting that a customer survey—and by the way, we are doing another one now—one done by the firm of Daniel Yankelovich, Inc., in September 1971, showed that wagering with OTB was largely a middle-income activity and that the people wagering with OTB were quite selective and moderate in their wagering.

Mr. PHILLIPS. Could I interrupt? You stated there are approximately 150,000 people coming in a day to bet; you also stated that in 1963, the New York City voters voted, three-to-one, in favor of legalized offtrack betting. From that, is shown that only a small portion of the people who voted for legalized offtrack betting are betting with you. Is that true?

Mr. SAMUELS. But I think those people recognized they had no right to dictate morality to other people.

Mr. PHILLIPS. You think it might have been selfishness on their part, to get some tax revenue?

Mr. SAMUELS. I think that is certainly part of what their ideas were.

I think, by the way, our 150,000 will probably go to 250,000 when all of the offices are open. And if we had television, and could approach numbers betting, where somebody could bet a dollar and see the race on television at night, it would be much higher. And since we only take 17 cents out of a dollar, it is relatively cheap entertainment. We might have half a million betting with us. The people betting with us are betting about \$10 a day, so that if we take 17 cents out of a dollar, they are losing, on the average, \$1.70 a day. What is entertainment and what is gambling? It is about the price of a drink today in the city of New York.

That, again, doesn't point out the fact that some people are going to be involved in excess gambling because of OTB, just as the repeal of prohibition meant that some people drank too much.

The results of the Yankelovich survey are consistent with an independent study prepared by another well-known organization, Cresap, McCormack, Paget, during the summer of 1971, indicating the poor aren't gambling with us. They are not gambling with OTB, they are playing the numbers business.

Based on both the Yankelovich study and the Cresap study, as well as on OTB's own operating data and experience, and its own surveys, OTB's real estate department selected further offtrack betting offices in central business districts, middle-income residential communities, and commercial areas.

From my view of the facts of gambling in the United States today, I would say that in those States where the traditional penal statutes against gambling remain on the books, that gambling in such States can only be classified as a victimless crime. Victimless because the vast preponderance of people wagering in such States can well afford to do so, and are doing so without harming themselves or their families in any way.

Additionally, the moral argument against wagering has been resolved for quite some time by legislators acting with the mandate of

the people who elect them to office. More than 30 States, embracing more than 80 percent of the population of the United States, now allow local parimutuel wagering on horseraces; more than \$5 billion per year are now being wagered in legal fashion by a constituency made up of millions of Americans.

Recognizing the basic fact that the people of this country intend to, and are intent upon, gambling, even in violation of the law and even with the consequence of aiding organized crime, we cannot be so foolhardy as to continue to make illegal something which people no longer consider to be immoral and illegal.

I believe it is more moral for Government to legalize gambling than it is to force people to gamble in the unregulated and ruthless domain of organized crime. What we should do, and what OTB is attempting to do in New York, is to recognize the dangers inherent in gambling and to attempt to bring gambling within the control of legalized governmental wagering systems where it can be carefully regulated and where the wagered dollar will ultimately be returned to the people, either in the profits of OTB or in winnings. When you really look at the facts, our operating costs will be about 7 cents on the dollar.

This is not to say that I don't expect the moral convictions of those who view gambling as an evil; I would be the last one to cast any aspersions upon such a time-honored belief. However, I believe legalized gambling is the lesser of the two evils.

I would also stress that the movement of the law from a prohibitory to a regulatory approach to gambling would in no way violate the firmly held beliefs of those who think that gambling is immoral. Such people would in no way be forced to gamble in violation of their principles. But such a movement of the law would do justice to the principles and freedom of those who are in favor of partaking of governmentally regulated systems of gambling.

Traditional law enforcement of the penal laws on gambling is resulting in increased waste of public funds and corruption in this country. To illustrate: in New York City alone in 1970 it cost in excess of \$7 million in police manpower costs—not counting the costs of equipment, court processing, and prosecution—to investigate gambling offenses. I might have said, if Congressman Waldie was here, that in Chicago last year there were 5,000 gambling arrests and one person went to jail.

In the State of New York in 1965 and 1966 we arrested 10,000 people for felonies in gambling—10,000 people in those 2 years—and one person went to State prison. The New York City Police Department categorized the results of this enforcement effort as "picayune," in as much as it was able to obtain from this effort only a few gambling convictions, and even fewer fines. The department said that these results were looked upon by the illegal gambling fraternity as a "minor license to engage in gambling." Those New York City figures are probably a fair reflection of gambling law enforcement costs on a nationwide basis.

On top of this, special hearings conducted in New York City last year by the Knapp commission revealed that bribery arising out of illegal gambling is one of the major causes of police corruption in New York. I have no doubt that this is probably true of most other jurisdictions in the United States as well.

I would like to touch on two other points. The first is the question of what effect OTB is having on organized crime. Before telling you what our research has shown on this question, allow me to put the question in a little better perspective.

The sport of horseracing constitutes, on the basis of the best police information we have available to us, only a minimal fraction of the bookmaking operations of the average bookmaker in New York; only about 10 to 15 percent of such business.

Therefore, no matter how effective our present OTB operation is, there is no way that we will, alone, be able to drive the bookie out of business. This is why we recommended, and in fact, the New York State Legislature adopted, a resolution this year which could in 2 years' time result in amending the New York constitution to allow the establishment of governmental wagering institutions to handle wagering on all sports and numbers. Sports and numbers are by far the largest income, from any studies that we can see, of organized crime's gambling business.

In addition, at the present time in the limited area of horseracing, where we can compete with the bookmakers, the bookie has two significant advantages over us. The first is that the bookie extends credit which we currently do not. It is my personal feeling that this is not a major disadvantage. The bookmaker doesn't take your credit very long.

The second is, and I will go into this again in a minute, that the illegal, clandestine operation of the bookie allows the customer who bets with him to avoid his Federal income tax obligations.

Despite these current handicaps, however, the limited information we have been able to gather reveals that we are hurting the bookie in the horseracing area. The September 1971 customer study done for us by Daniel Yankelovich, Inc., revealed that those customers now playing with OTB who prior to OTB had bet with bookies—approximately 40 percent of our customers—still continue to play with the bookie but have greatly reduced this activity from an average of 20 plays a month to 12 plays a month. This was done when our system was not very effective and we had long lines in our offices. As I mentioned, we are doing this study again.

Also, certain confidential information we have received has indicated that are hurting the bookmaker in the horseracing area of his business. This does not support what the district attorney from Nassau suggested today.

For example, these confidential sources indicate that we have cut into the street corner bookmakers business and have caused to close down many small bookmakers in New York City who were doing the bulk of their business on horses.

Additionally, although police officials are very reticent to go on public record on this question, many of them have indicated to me and my staff in private conversations that they think we are hurting the bookie very much in the area of horseracing.

New York City Chief of Detectives Albert Seedman recently testified that OTB was hurting the bookmakers.

I would like to report that in Australia, where offtrack betting is very effectively and efficiently operated, after 8 years, the Australians say there is almost no illegal horse bookmaking going on.

We can also use commonsense in helping us to come to the conclusion that we are hurting the horseracing business of illegal bookmakers. I assume that the vast majority of people in New York and the rest of the country want to be law abiding. Therefore, I assume that when we make legalized gambling institutions available to them they will use them and do less and less wagering, illegally, with bookies. Like offtrack betting, running numbers and running sports, they would much rather bet legally. This has been the experience abroad. Further, I doubt that most reasonable men will want to run the risk of participating in a crime, even if a few dollars could be saved by their so doing, which is doubtful. Ask yourselves what you would do and what those people you know would do. Additionally, when people play with legalized institutions they know they are going to get paid when they win and they know they will not be put in personal jeopardy if they lose. The same truths do not apply to playing with a bookie.

I think what I am really saying is the antithesis again of what the district attorney said today, but the district attorney doesn't realize you can run this like a business, with modern computer techniques, modern marketing, modern customer service techniques, and you just get the customer away from the bookmaker by providing this service in a better way and a legal way than the bookmaker does.

I would now briefly like to outline for you two proposals for amending Federal law which OTB is urging to help it complete more effectively with organized crime and to help it promote the sport of horseracing, which we would like to feel we are part of and have some major responsibility for its growing strength in this country.

The first of these is our proposal to amend the Internal Revenue Code to exclude from the gross income of taxpayers wagering gains made with governmental parimutuel wagering institutions, thus eliminating one of the two major advantages that bookies presently have over legal systems. We already tax them. We take 17 cents out of a dollar.

The proposal will have almost no effect on Federal income tax revenues, inasmuch as the Federal Government presently obtains but nominal revenues from wagering income sources. Such revenue is almost exclusively from taxpayers who have won in legalized parimutuel areas such as OTB and the tracks. The obvious reason for this is that OTB and the tracks report to the IRS taxpayer winnings of more than 299 to 1.

Illegal bookmakers make no attempt to report, and so gain a tremendous competitive advantage over legal institutions. And what the Federal Government is really doing, then, is giving the competitive advantage, no advantage really to the Federal Government, to illegal operations in competition with us, and that is something I think has to be corrected.

While the proposed change will cause no damage to Federal revenues, on the other hand, it will serve to greatly increase State and local parimutuel revenues at the expense of organized crime. Greater State and local revenues resulting from this change might well be viewed as an additional form of Federal revenue sharing and would certainly reduce the likelihood of increased State and local taxation.

Again, I want to point out to the committee that if the estimate of \$7 billion of net profit that organized crime makes on gambling is

right—and I don't think, whether it is \$5, \$7, or \$9 billion, obviously, we will ever know—it is not illogical if these were run by businesses, in a business way by government, that we could also make \$5, \$7, or \$9 billion, and instead of that money going to corrupt our society, it would go to relieve State and local governments.

OTB's second proposal is to amend 18 U.S.C. 1084 to allow governmental offtrack betting organizations to transmit bets and wagers in interstate commerce for the purpose of establishing combined pools with out-of-State tracks.

I view such an amendment to section 1084 as a mere technical amendment as it is consistent with, and, in fact, supplementary to the expressed legislative purpose of section 1084, which is to combat illegal gambling operations. OTB was not in existence when section 1084 was originally enacted. If it had been, there is no doubt in my mind that the proposed exception to the prohibition of the section would have been allowed.

The passage of this amendment to section 1084 will allow us to combine the bets OTB takes on out-of-State races with the bets taken at the out-of-State track involved. A combined pool means that all the bets taken offtrack are added to the bets taken ontrack on a particular race and go through the track totalizer to arrive at one payoff price. This is what OTB now does with tracks in New York State. In places like the Kentucky Derby, to place it in one pool would give us all a chance by Federal legislation to pay the tracks and the horsemen who put the show on in the area and strengthen the sport itself and the relationship between OTB and the sport itself.

Because section 1084 prohibits the transmission of bets in interstate commerce, OTB cannot presently combine its bets with those of an out-of-State track, transmitting them to the out-of-State track over interstate wires. This results in OTB having to make its own, separate parimutuel pools when it takes bets on out-of-State races.

This, in turn, means that there is inevitably some differential in final OTB odds and payoff prices on the race and the final track odds and prices. This odds differential is not usually of significant magnitude, but it would be preferable to eliminate it through an interface with the track. Additionally, if section 1084 were amended to allow the OTB and out-of-State track to interface, it would mean that OTB could properly compensate the out-of-State tracks for the services the track would perform in connection with the interface. From this compensation would also come revenue for the out-of-State horsemen and for the State or local treasuries of the other State.

This is a brief summary of our current Federal legislative proposals. In the materials we furnished you, you will find a more detailed explanation of the proposals along with a suggested draft of the technical legal amendments necessary to accomplish them.

(See material received for the record at the end of Mr. Samuels testimony.)

Mr. SAMUELS. I would like to answer specific questions that Mr. Phillips has given to me that he thought the committee would be interested in.

I would like to make brief comments on several more specific questions that we are often asked and that I thought would be of particular interest to this committee.

I just can't believe that the people who are fighting this want to live in the real world. I mean, the real world is a world in which, particularly with television, there has been a tremendous increase in betting on sports events.

Mr. PHILLIPS. You are aware, I take it, that the commissioners of major league baseball and the National Football League, and apparently other leagues, have strenuously opposed any expansion of legalized gambling on their sport? I think we have invited some of them to testify and we will hear from them later in our hearings. As I understand, their position is that betting on their particular sport would tend to ruin or corrupt that sport.

Mr. SAMUELS. Very simple. If they want to live in an unreal world where there is no betting going on, that is fine. But they have to explain to me why there are points and odds in newspapers. They just don't want to face the reality of what is going on.

I point out in my testimony that there is much greater chance for betting to corrupt sports in the hands of organized crime than there would be if it was in the hands of government.

You take a look at the examples that the district attorney had on his charts: Where a bookmaker has a chance to make \$250,000 one way and zero the other he has got \$250,000 to corrupt that game. What we want to do is to take that influence out and the way to do it is to let government, in a businesslike way, regulate that industry.

Mr. KEATING. Mr. Chairman.

Chairman PEPPER. Yes.

Mr. KEATING. I wonder if I could make just a brief comment?

Chairman PEPPER. Yes.

Mr. KEATING. I am rather new to horseracing, this investigation of crime, and offtrack betting. But I guess I would have to say that from Mr. Samuels' statement—and I know that he has worked very hard at this and very conscientiously—that I see a degree of rationalization that really bothers me.

I should say at the outset, I couldn't disagree with him more. If you followed the rationalization, he has, then why not legalize all drugs, prostitution, homosexuality?

It just really bothers me, the societal aspect, the real world comments, because we do have problems in our society and there is no question about it. But then, why not legalize all these things?

This, to me, goes to the heart of the problems that we have in society today, when we talk about "Let's live in the real world" and let's rationalize this and rationalize that. Then we will be legalizing everything.

Going into the legalization of gambling and the offtrack betting, and so on, I didn't have a fixed position, but I would like to say you persuaded me to the contrary so far.

I yield back the balance of my time, Mr. Chairman. I just felt constrained to make that comment.

Mr. SAMUELS. Congressman, could I answer that comment?

First of all, there is a very basic disagreement, Congressman, between you and myself, obviously, on the morality of leadership and government and what is moral and what is immoral. I am smoking a cigarette right now. The question of society dictating morality has

really led to a point where our police department spends most of its time attempting to enforce our morality and no time to enforce its laws.

I am certainly not for the legalization of drugs. I am on the mayor's narcotic council, but the attitude of this country toward drugs has done nothing but increase crime in our streets because we refuse to treat the drug addict as a sick individual. That does not mean you legalize it, but it does mean you take a different attitude toward the individual in terms of how you approach the problem.

If you think, Congressman, that society has a right—and maybe it does—to dictate that there be no gambling in this country then you have to go all of the way. You have to stop all of the gambling. If that is the right and morality of government, and I question that, you have to get rid of parimutuels, all kinds of gambling in the country. But if you take the position one kind is moral and the other kind is immoral, it is the kind of hypocrisy which exists in society which the public doesn't accept.

Mr. KEATING. I don't wish to engage in a debate on the subject, but I would say we are talking about a fundamental difference in the outlook of what government should do and should not do between us. And on the legalization of gambling, I can take it on a purely objective basis, but the societal aspect which you talk about, the rationalization really shakes me somewhat. I am sure that our outlook on all of these topics are quite distinct and quite varied.

I think we are getting off the subject, but I felt very compelled to make that comment, because I can see the natural and consequential extension of what we are talking about.

Mr. SAMUELS. Congressman, isn't it also the same kind of decision we had to make in the repeal of prohibition? Is it more moral for government to have a law that it cannot enforce and which people do not accept as basically moral, or should government have a law which a few people think is moral and dictate it to the rest of society?

We made that decision. There is always a battle. There are always losers. You can't deal with the frailties of the human being. I think government has the moral leadership responsibility but it doesn't have responsibility to dictate morals to society.

Mr. KEATING. How do you prevent that natural extension into the area of drugs, which you do, and are you making that distinction which you abhor?

Mr. SAMUELS. My feelings on drugs were not much different at one time than the President's report, which the President, himself, has negated. But, I serve where I've learned much. To treat addiction as we do, as a criminal question, actually forces crime on the addict instead of dealing with his basic problem by providing rehabilitation.

I am not, obviously, for legalizing heroin. I am not for legalizing any of those kinds of drugs, but I am for putting every drug addict under medical care and that is the approach I think society has to take, and begin to look at the causes that move people into it, whether it is smoking or whether it is drug addiction, and try to deal with those social causes.

But if you try to dictate it in the vacuum, you end up as we do in the city of New York, with 70 percent of our crime caused by drug addicts who are basically sick and whom we force into a life of crime by refusing to recognize the need to rehabilitate.

You can't put your head in the sand on this, Congressman.

Mr. KEATING. I don't think we have, and this committee has done a good job in the area of drugs, and several other committees that we are working with. We are talking about rehabilitation and medical treatment in a lot of areas, but there is obviously a very fundamental difference in approach to problems that you and I have. We would coincide in some areas on the treatment of addicts, and so on, which I feel very strongly about. Rehabilitation of prisoners, which I feel very strongly about. But I am convinced that there is a fundamental difference, which I think is raised clearly by your statement.

I don't think this debate will serve any useful purpose, but I can at least point it out, and then get back on the topic. If you want to pursue it, I would be happy to, but I felt compelled to make the comment I did.

Mr. SAMUELS. Let me just finish the statement which answers, at least, my views to the Congressman.

Our current penal laws and tax laws are making little dent in the profitability of these operations. The only way we are going to reduce and eliminate this illegal gambling activity on such great American sports as baseball, football, basketball, and hockey, is to establish governmental wagering institutions to handle and regulate betting on them. If you want to take for granted it is not going on, then you had better regulate points in newspapers and odds in newspapers. You can't have both. You can't have a whole industry which is promoting a good part of it and encouraging betting, and let the exclusive franchise for that betting sit with organized crime.

It seems to me that if we can successfully compete with and drive organized crime out of these areas of gambling, we can concern ourselves less with the possibility of these sports being infiltrated by organized crime.

If organized crime is making little money on the outcome of these sporting events, why should they be at all interested in affecting the outcome of them?

In my opinion, legalized gambling on sports will, at worst, only create another minor pressure which the participants in these events will grow to ignore. We should recognize the fact that the participants in sporting events today know that people throughout the country are presently betting heavily on the outcome of the games in which they are playing.

From my observance of these sports spectacles, I have not seen that this knowledge on the part of the players has in any way affected their performance. I would call attention, for example, to the jockey in the sport of horseracing. All the jockeys know, before the race is about to start, what people attending the race think of their chances of winning. Up-to-the-minute parimutuel odds are constantly flashed before the eyes of every person present at the racetrack.

With all this vigorous and out-in-the-open wagering I do not think that the performance of the jockeys has been seriously affected. Could the jockey's performance conceivably be better if the only betting on the race was done illegally?

I think we are talking about a fundamental, and I have to say, Congressman, if that is the view of the Congress and the President of the United States, then you can't have it both ways. We have to

rigorously enforce the whole odds question, the whole points question: But what you are doing today? You are encouraging all of it on one hand, and leaving organized crime as the only means through which people can bet.

I have been to dinner parties with distinguished members of business and other communities, where they have gotten up to see the football game in the evening, the results of the football game, and I am not at all sure their interest was not based on the fact they were betting on that sport, and the only place they could have bet was with organized crime.

MR. WINN. Mr. Chairman, may I ask a question there?

Chairman PEPPER. Yes.

MR. WINN. I am a former sports announcer, Mr. Samuels, and I disagree with you on that point. I think a lot of people get up in the middle of dinner to see the results of games. You know, there are still a lot of people that enjoy sport just for the sport. I don't believe that anywhere I recall in your testimony—we haven't let you finish yet—the fact that you have run any surveys to show how many people in this country like to watch sports just for the sport of it and have no intention of betting, whatsoever.

MR. SAMUELS. I think that is perfectly true.

MR. WINN. Do you have any facts?

MR. SAMUELS. The only fact I can give you, Congressman, if you study the gambling reports in the city of New York—

MR. WINN. I know, but New York is not the entire world.

MR. SAMUELS. I don't know—

MR. WINN. Some of you may think so, but it isn't.

MR. SAMUELS. Congressman Brasco, you want to answer that?

MR. WINN. I will take care of him later.

MR. SAMUELS. What goes on in all of our cities—and I have to say, the police enforcement people tell us, and this is a national committee, and if you had Mr. Carl Loeb down to talk to you, he would again indicate data they have from all over the country, indicating a great proliferation of sports betting. I don't care if it is New York, Chicago, or my own little home town of Canandaigua, N. Y.

I think this is growing, I think government task forces show it is growing, and I don't think we have any way of stopping it from growing. I therefore, feel, unless there are going to be other regulatory approaches government is going to have on sports—I still think the sport is better off and society is better off by regulating it and putting it under government control.

MR. WINN. What concerns me is that if we went along with your philosophy this committee might as well give up the 4 or 5 weeks we have already held hearings and let all of the bars down, let anybody do what they want to do.

MR. SAMUELS. No; you just take the leadership and change it.

MR. WINN. That is what we are trying to do.

MR. SAMUELS. I suggest to you, if you take the profits out of gambling and take the profits out of narcotics, not by legalizing it but by treating it medically, you would probably take 80 or 90 percent of its crime way. Maybe that is the businessman's approach.

Mr. WINN. We are not talking about narcotics. I don't know why we keep getting off on that, except there is a tie with the underworld, and I understand that.

We are talking about organized sports and I think you are completely off base when you don't realize the high percentage of people in this Nation—and I happen to be one—that can sit and look at the odds and the idea of betting never enters their minds.

Mr. SAMUELS. I perfectly accept that, but I also point out the growing number of people that look for the enjoyment of betting on that game. I think you have been at a dinner party, and I have, too, where we have all made little bets among ourselves on the outcome of the basketball game. Some people like to do it. Some people like to stay, with Mayor Lindsay, and watch the stockmarket all day, buy and sell. And that is a form of investment, but also a form of gambling. I think it is as American as apple pie.

Mr. WINN. You think gambling is?

Mr. SAMUELS. We play cards at night. When I go out and play poker, it may be for only \$4 or \$5, but it is part of the fun. There is a difference between what is gambling and what is entertainment. We treat the words synonymously. A lot of people look at this as entertainment.

Mr. WINN. I think there is a great deal of entertainment in sports and I think that is a good reason why we are getting more and more sports coverage on TV, but not for the betting. And that is why I completely disagree.

Mr. SAMUELS. I think, again, Congressman, I say if the reality is that betting is growing, I mean the task force reports, themselves, whether it is \$20 billion or \$50 billion, shown a growth of betting in illegal gambling that is going on in this country. You can just forget it and let it go away.

Mr. WINN. We are not trying to let it go away. You have said that several times. We have been sitting here for 5 weeks, trying to not let it get away from us.

Mr. SAMUELS. What I am trying to suggest to you and one thing I would hope you would be openminded in looking at and I understand it is a major departure in this country in policy, is the question of legalizing it. You only have two ways. Fight what is going on now—and I really think that is almost impossible to do, based on the reality of society—or you legalize what is going on. And I hate to go back to prohibition, but it is part of the same philosophy and the same moral argument this country took on the repeal of prohibition. We decided we couldn't enforce prohibition, people liked to drink socially, they like to gamble socially.

Mr. WINN. Yes, and they like to do a lot of things socially, too. I agree with the gentleman from Ohio, that I don't think this Nation, nor very many members of this panel, want to just let down all of the bars and legalize it, because some people think that is good for all of us and we ought to change the morals of this Nation. I disagree.

We should let him finish his statement.

Mr. SAMUELS. I just think, Congressman, I am not trying to change the morals of the Nation, I am trying to realize the morals—

Mr. WINN. It looks like one and the same to me.

Mr. BRASCO. Would the gentleman yield?

Mr. WINN. Certainly.

Mr. BRASCO. We are talking about morality in betting?

Mr. WINN. We were.

Mr. BRASCO. But I don't really think that the betting itself is immoral. It is when the contest, by virtue of the fact there is no adequate control over criminal influence, is not a fair contest that immorality enters the picture.

This has been the dilemma of this entire hearing, what do we do about gambling, which is apparently an opportunity for organized crime to make profits.

Do we recommend a greater measure of control or do we let it go uncontrolled with the full realization that people do bet and will bet or do we attempt to stop gambling everywhere, even at the tracks, in an effort to protect the public?

Mr. WINN. I have yet to hear Mr. Samuels' testimony, and as I say, we haven't allowed him to finish.

Anything that would take away from the points as far as offtrack betting, of controlling jockeys throwing races, or doping of horses, any of the things we have been talking about for 5 weeks.

Mr. SAMUELS. Let me finish and then we can get back to the discussion.

I wouldn't deny, however, that the further establishment of legal gambling institutions, institutions which will achieve their initial business success by taking business away from illegal gambling operators, might serve to stimulate to some extent the activity of wagering. There is probably little doubt but that the total consumption of alcohol in this country has increased since the demise of prohibition.

That, however, does not prove that the end of prohibition was a bad thing.

The thought to keep in mind, I think, when considering the further legalization of gambling is how it will affect the majority of people in this country. As I indicated before, such further legalization will be beneficial to the people because it will enable them to do legally what they are now doing illegally. It will end one hypocrisy. It will hurt organized crime. It will generate new revenues. It will reduce corruption. And further, our market studies have shown that the vast majority of people who do wager with OTS do so for entertainment, quite moderately, and certainly without the result of depleting themselves or their families. I think that really contains the philosophy which is a major difference, Mr. Pepper, between myself and some members of your committee.

Third, it is charged by some persons within the racing industry that OTB is a "parasite" living off the work of others. I would say that not only is OTB not a parasite living off the work of others, but that, to the contrary, the expansion of governmental offtrack betting institutions will in the long run serve to promote the sport of horseracing and to enrich both the tracks and horsemen of the country.

In New York OTB has been operable for only a little more than a year, and only in New York City. And don't forget, we have the only OTB operation in the country.

Obviously, with any new institution, there arise a number of problems. Our first year of operation indicated that the New York tracks

and horsemen with whom we were doing business were not being adequately compensated. Therefore, we immediately worked for a bill in conjunction with the tracks and horsemen, which was adopted by the New York Legislature, which substantially increased the compensation which we will pay to the tracks and the horsemen.

And I want you to know—I think you do, Congressman—we tried to do even more than the bill that finally came out.

Moreover, when more local communities in New York State have established offtrack betting systems, it is undoubtable that the combined ontrack, offtrack parimutuel revenues in New York will far exceed the parimutuel revenues of the tracks alone before the establishment of offtrack betting. The members of the committee may be aware of certain hostilities that the tracks and horsemen have expressed during the birth pains of OTB.

Let me express to the committee my belief that much of this hostility is often unfounded and has often been based on either ignorance or an erroneous concept of OTB. OTB was not created to impinge on the profitability of the tracks and the horsemen, but to the contrary, to increase such profitability.

Moreover, OTB was established for the broader purpose of combatting organized crime and increasing State and local revenues from parimutuel revenues.

OTB cannot exist at the expense of the tracks and the horsemen. It is implicit in the very name of our corporation that we must work co-operatively with the tracks and the horsemen. Without them, there could be no offtrack betting. OTB is a nonprofit public benefit corporation. We are not in competition with the tracks. If we have in the initial year of our operation, or if we should in the future, unintentionally do temporary harm to the tracks or horsemen, we stand ready, as we have already done, to make it up to them with increased compensation. When I mentioned earlier we have 125,000 people betting \$10 a day, you indicated that we either have some new customers or customers that are being taken away from the bookmaker himself.

I am confident, however, that our operation will, in the long run, serve to generate increased interest in the sport of horseracing. In fact, in order to help immediately increase public interest in horseracing, OTB is trying to reach agreement with the tracks in New York to televise some of their races. I think television can do for horseracing what it has done for baseball, football, basketball, and hockey in increasing public interest in these sports. But to do it for the sport, it has to be tied in with offtrack betting.

Consider the fact that the majority of our population works full time, 5 days a week, thereby preventing them from attending the tracks. If these people are now and increasingly in the future able to wager at local offtrack betting offices or via telephone betting, isn't it fair to assume that wagering in legal wagering institutions can do nothing but go up?

In total effect, then, I think that the growth of offtrack betting in conjunction with the televising of races, and with increased compensation to the tracks and horsemen, should silence any contentions that OTB is a parasite or is not cooperating with the tracks and horsemen.

As to the question of whether OTB is hurting and/or failing to cooperate with out-of-State tracks. I would make the following re-

marks: First of all, the only out-of-State tracks on whose races we have accepted bets on a regular basis have been the great tracks of Laurel, Bowie, and Pimlico all in Maryland. We took wagers on the races at those tracks with their full cooperation and we compensated them for the services they rendered us in connection with OTB wagering on their races. Of course, it would have been easier for us to take bets on these out-of-State races if section 1084, 18 U.S.C., discussed previously, was not on the books in a manner preventing us from combining our wagering pools with the ontrack pools at these Maryland tracks; we could have tied this into their computers and paid off at the same odds paid off at the tracks.

As to OTB's taking bets on special racing events such as the Kentucky Derby at Churchill Downs, we have often offered consideration in these situations in return for cooperation from the track in question, but the response from the tracks has, for the most part, been less than positive. In addition, these special racing events are usually ones of national importance and generally are held at tracks distant from New York. Because of their importance and status, there is no way our taking bets on them will in any way diminish their profitability. To the contrary, our taking bets on these races will only enhance the greatness of their tradition and their importance in people's eyes. We took bets on the Kentucky Derby this year and the attendance at the track was over 103,000, the largest crowd in history. On top of this, there was national television coverage of the event.

A fourth question I thought the committee might want me to address is who should run legalized gambling. My own preference in this regard would be to see such new forms of gambling conducted through a government-controlled public benefit corporation such as OTB. This form of operation provides the maximum amount of public scrutiny and control to an activity which has long been susceptible to grave abuses. Additionally, I don't see any reason for private individuals or groups to profit from the operations of a new gambling activity. I don't want to see us do nationally what has happened in Las Vegas and in England. I think that any revenues derived from this activity should ultimately be returned to the people. In addition, government-controlled public benefit corporations reduce the risk of infiltration by organized crime.

Another question that your committee is obviously concerned with is whether there should be Federal supervision of racing, or at least the licensing of it. I, frankly, do not know enough about other States, but it is my judgment that in New York State there is an extensive system which, if properly utilized, is sufficient to provide safeguards for the sport of racing.

Recently the Governor, and I think judiciously, has decided this all has to be looked at again and is appointing a commission to review the whole coordination between racing and offtrack betting.

New York tracks as well as OTB are carefully regulated in New York and employ rigid security measures to prevent illegal influences on their activities. I am not suggesting those could not be improved, but certainly there has been a concerted effort in the State of New York to do this.

In the materials I have given you, you will find a short summary of some of the security measures OTB employs to prevent infiltration by

organized crime and to prevent frauds against it generally by its customers and employees. Also included in the materials I have furnished you are copies of the New York enabling legislation which established and governs the conduct of offtrack betting in our State.

It should also be remembered that institutions are really only as good as the people who run them. No degree of complex legal regulation and no amount of the most up-to-date security measures can insure that some individual or individuals responsible for the operation of such institutions will not be bought off or otherwise succumb to human frailty. Even the most perfect security cannot totally eliminate every possible attempt to fix a race, recognizing the ingenuity of sophisticated criminals.

Lastly, I would like to touch on what OTB can mean to other States of the Union. Just as in New York, I think that the adoption of off-track betting by other States will help these States combat their organized crime problem; will result in greatly increased revenues to these States from parimutuel wagering; and will, in the process, greatly promote the sport of horseracing throughout the country.

The States that will in time adopt offtrack betting will have the benefit of learning from the mistakes that we in New York made in our first year of operation. And we have made them. You can't start a half-billion-dollar corporation in 14 months without making some mistakes. Just as in New York, where OTB must harmonize with and complement the New York ontrack program, so the racing programs of the various States, ontrack and offtrack, will have to harmonize with each other in order to achieve the national purposes of increasing the revenues of the States and of starting to move organized crime out of the horseracing business.

I would also like to point out and emphasize here that the ability of local and State OTB's to take bets on out-of-State races pursuant to cooperative agreement with out-of-State tracks is essential to the success of offtrack betting in the United States. Along those lines, I certainly would suggest this is a job for national standards and for some national kind of procedures. I am not talking about the Federal Government running these programs, but setting some procedures upon which States would work and cooperate with each other. Off-track betting in New York, as in any other State which will adopt it, must be a year-round business in order to accomplish its purposes of increasing State and local revenues and of combating organized crime. Bookmakers operate on a year-round basis and take bets on tracks all over the country. This is a fact of life. This is what we are up against.

I would like to take this opportunity to thank the members of the House Select Committee on Crime for inviting me to testify today. I would also like to once again urge this committee and the Congress to take the handcuffs off, to change the Federal laws to allow Government to effectively compete with organized crime. This Nation must consider legalizing that gambling now monopolized by organized crime. We must change our gambling tax laws. The most effective way to strike a blow at organized crime is to allow Government to compete by legalizing that gambling which currently exists.

I understand there is a philosophical question here. I have changed my views, as I mentioned earlier, since 1966. I think I would have

agreed in 1966 with some of the comments that were made by some of the Congressman here. I now have said the reality is that it is going on, and the most businesslike, cost-effective approach is to recognize that this hypocrisy only maintains organized crime in business.

I think in a businesslike way we can take it away from them. Thank you very much.

Chairman PEPPER. Mr. Samuels, we certainly are grateful to you for a very able and thoroughly prepared statement.

Mr. Steiger?

Mr. STEIGER. Yes. Thank you, Mr. Chairman.

Mr. Samuels, I think one disadvantage you have is that you try to distill in one statement what obviously has been a position arrived at over a long period of time involving, I am sure, some factors you were unable to compress in this time. But on the broad question of legalizing all sports gambling, I would assume that it is your belief that in the event that occurred, that a portion of this \$20 to \$50 billion would accrue to the governments who were running these sports, would throw influence there.

There would be a great deal of money bet legally on sports. Is that correct?

Mr. SAMUELS. That is correct.

Mr. STEIGER. Then, where you lose me, Mr. Samuels, is not in the morality of it, but in the very pragmatic situation in which it is now profitable for some people to fix the outcome of a sports event because they are betting on it.

In fact you, yourself, referred to the basic human frailties. No matter how rigorously we structure a piece of legislation or law there will be people who will attempt to break it.

Mr. SAMUELS. I think that is right.

Mr. STEIGER. Good. We cannot now control the tampering with the outcome of sporting events, all sporting events, racing as well as team events. Now, if you will, that the pot is even bigger and the demands of operation are not incumbent upon the gambler and the fixer now only has to go bet his money legally, which, of course, endows him with a new status, why wouldn't he have even greater incentive to fix the outcome of the sporting events?

Mr. SAMUELS. District Attorney Cahn's charts explained it better than I can ever explain it to you, but the fixing of a sport is less a problem of the person who is gambling on the sport than the person who takes the bets and puts the odds together and has the kind of profitability potential that District Attorney Cahn projected.

Don't forget, we in Government would run this on a parimutuel basis. We would have no incentive to fix the sport. The fixing of sports is more a risk by the person who is taking the massive number of bets and who holds the bag and who can see a huge profit because of the way bets have come in, than it is the individual bettor himself.

We are going to take him out of the business because we in Government are going to do the business. I contend there is less of a risk of corrupting sports under Government regulations and with Government being the banker than the present method upon which organized crime is the major banker.

Mr. STEIGER. Of course, you really don't mean that the bookmaker is going to profit out of fixing the game, because he is only going to

profit if he knows to what extent he is likely to know more about the outcome, whether it be through a fix or some special knowledge.

Mr. SAMUELS. Can I explain that to you? Let's take a game between the Jets and the Colts. Let's take for granted that the points are even, but the bookmaker sits and he has gotten \$250,000 on one team, and he has only got \$100,000 on another team. He has got a tremendous profit potential in fixing the sport. He has maybe \$150,000.

Mr. STEIGER. Now, Mr. Samuels, right there: What you are saying is the guy who is booking this action, the guy whose whole life has been mixed up with sports betting, and we know we are now in our third generation of that kind of person, we are going to put him out of business with legalized gambling. You don't think he is going to continue to gamble, even legally? You don't think he is going to continue to bet that kind of money on sporting events, and you don't think he is going to have the same knowledge to bet?

Mr. SAMUELS. Don't forget, he has to be a bettor. He bets with us. We take a percentage out of that.

Mr. STEIGER. Excuse me, sir. Right there is where I line up very solidly with Mr. Keating and Mr. Winn. Right there you see what we are saying—and we say this now in States already, I might add—is that it would be a terrible thing if somebody fixed a game to win a bet, but as long as the State gets a piece of the action it is better than letting organized crime run off with all of the gravy.

I have heard this if you will pardon me, Mr. Samuels—not in New York, but I have heard this with respect to many States with inadequate parimutuel laws, in which they say, "Well, we really don't care what happens at the races as long as the State gets a piece of the action." It is that posture that scares me.

Mr. SAMUELS. I really haven't explained this very well, then, Congressman, because the profitability of the bettor who is betting \$500 or \$1,000 on a game—

Mr. STEIGER. I am not talking about him. I am talking about the guy who is going to continue to bet \$100,000 on the game if he thinks he has enough edge. You know those kinds of people.

Mr. SAMUELS. First of all, part of what is done at tracks now, and part would have been done by us, we would know all of the people that bet that kind of money in the game.

Mr. STEIGER. Mr. Samuels; come on now, Mr. Samuels.

Mr. SAMUELS. If somebody came up with a hundred thousand dollars?

Mr. STEIGER. Nobody is going to come in with a hundred thousand dollars. Fifty guys are going to come in with \$2,000.

Mr. SAMUELS. First of all, not a lot of people are going to come into legalized gambling with that kind of money. They are going to have to explain where they got the \$100,000.

The second thing, that isn't where the majority of the money comes from. Don't forget, he has \$150,000 on one team and \$100,000 on another. It is a combination of \$500, or \$1,000, or \$2,000 bettors. It isn't his \$250,000 or \$100,000. So in reality, I don't think it is the individual gambler who is a real threat to sports. The threat to sports is the guy who is booking.

Mr. STEIGER. Who handles the action?

Mr. SAMUELS. Who handles the action.

Mr. STEIGER. I agree, under the present structure. You are saying if we modify that structure we do away with the guy who handles the action. You say you don't really think he is not going to continue to play. He is going to play under the new rules and what Mr. Brasco pointed out, very properly, the thing we are really concerned about, is they are going to tamper with the outcome of the game. That fear is still going to be a valid fear.

Mr. SAMUELS. But you see—

Mr. STEIGER. I will say only one thing, if I may, because your time is valuable.

I think your thinking on this matter is probably very advanced, and with all due respect to the political realities, at least outside of the confines of Manhattan Island, the political realities are that nobody is going to support legalized gambling, at least to my way of thinking, in the near future.

But I would like to get back to an extension of that, as far as off-track betting is concerned, in which your very responsible approach to plugging the racetracks into any action that is handled, and to permitting them to participate in the pool, is very practical and very sound, and one that might in some way tend to compensate for the recognized loss of attendance at the track.

You recognize the fear of the horsemen is that if offtrack betting becomes as successful as you envision it, on a national basis, we are going to need four racetracks in the country and 800 head of horses, and we can handle the whole thing. I don't happen to share the horsemen's fear at this point, only because I cannot imagine this country coordinating on anything in that efficient a manner.

But I will tell you that the experience that you have had with the horsemen and racetrack owners of this country, not only with New York but those you try to deal with, unfortunately, is a typical reaction of this very unique industry. We haven't seen it in the reaction of those people who are responsible for the security of racing. There is a willingness to be blinded to the realities of life as it is; there is a feeling that any criticism of racing reflects on the image of racing and the image of racing must be preserved, even if it is lousy. That is their kind of posture.

Now, the almost paranoid fear of offtrack betting that you met when you tried to deal with the horsemen, I suspect, has at last in part been overcome. Is that true?

Mr. SAMUELS. I think, generally, there is a new view permeating the horse industry that OTB properly run, with proper compensation to the tracks and horsemen, can be the salvation of the growth of the industry, rather than a negative. I think this is becoming more and more evident throughout the country. But just recently I offered Churchill Downs money for taking the Kentucky Derby. They were televising the race, we were going to take the bets anyway, I would have liked to be able to provide some funds for the pension funds, or something, and gotten some cooperation from the Kentucky Derby people themselves. They wouldn't even talk to me.

So they ran the race and instead of getting some money for pension funds, or the horsemen, or something else, which we think they deserve,

they didn't get anything at all and we made a lot of money on the Kentucky Derby.

Mr. STEIGER. What did you handle on the Kentucky Derby this year?

Mr. SAMUELS. About \$2½ million.

Mr. STEIGER. What if that had been run at Aqueduct, what would the takeout have been?

Mr. SAMUELS. They would have gotten, under the old law, 1½ percent. So they would have gotten \$30,000 or \$40,000.

Under the new law it will go up to 2 percent. They would have gotten \$48,000.

Mr. STEIGER. I gather, in your view, since you made mention in your statement, the legislature was not as generous with the tracks as you were. I gather you have met some legislative resistance to the view that the tracks and horsemen must be properly compensated?

Mr. SAMUELS. I think so. I think there is a lack of understanding, particularly in legislative bodies, across the country of the dire plight of horsemen in this country, and the fact that the industry—I can't say this about all of the tracks, because I saw the Yonkers track with a net worth of \$17 million sold for \$45 million. So I don't feel so sorry for some of the track owners.

But I do feel, in my study—and I am sure, Congressman, yours is the same—the plight of the horsemen in this country is a very bad one and there must be some way of increasing compensation to horsemen. I think the OTB office has potential.

Mr. STEIGER. You are aware, of course, in France, with the publicly owned racetracks, and more generous participation by those tracks in their offtrack betting, they have been able to develop what at least to the objective viewer, I guess you would have to say, is not only very good racing, not only of the largest pots in racing, larger average pots than we have, larger average purses than we have, but also much cleaner racing than we have.

Mr. SAMUELS. I think, Congressman, two things could be analyzed. You know, in Australia, the tracks are publicly owned. I would not be against the consideration whether tracks should be publicly owned or whether they should be privately owned. I think there is great advantage to public ownership if public ownership can be run in a business-like way. And sometimes I worry about that, the way we have run some public things in this country.

But on the other hand, I do think that if in the next couple of years, with cooperation between us and the industry and a little cooperation from the legislature, we can greatly increase the purses to horsemen, mainly through the benefit of OTB.

Mr. STEIGER. I have another question, and I think Mr. Salerno is competent to respond to it.

Mr. SAMUELS. Can I just answer one thing I don't think I answered very well for you?

The difference, really, between that bookmaker who has \$250,000 and \$100,000 is he has other people's money to pay off and to scourge the sport with. That is different from a bettor's money. It is much more massive than a bettor's money and has much more massive potential of profit. I again tell you my strong conviction is that the greatest threat

to sports in this country—and I agree with Mr. Winn, that it is a great thing that has happened to sports in this country through television, and the great interest in sports it has aroused—the greatest threats to professional sports are scandals.

The greatest potential of scandals, I think, comes from letting organized crime book the great growth of betting. And instead of Mr. Rozelle and Mr. Cahn attacking our program and putting it under the rug, without proper regulation of the industry and security of the industry, which just is not present, I don't even know if it is possible, I think they should be supporting this as a way to keep sports cleaner and to insure there will be—you can't ever be totally insured—less scandal potential; because government and government control will be the bookie and bookmaker, not organized crime.

Mr. STEIGER. Again, it is very difficult for me not to conceive of these same people, even using their own money—in fact, when they do use their own money that would compound the problem because then they would have to know the outcome of the game and they are capable of betting vast amounts of money and they are capable of attempting a vast fix.

Mr. SAMUELS. Still are capable. Don't forget, they won't have other people's moneys to do it with.

Mr. STEIGER. Sure. They have other people's money in the shylocking and narcotics.

Mr. SAMUELS. Still possible.

Mr. STEIGER. Do you want to swear Mr. Salerno, Mr. Chairman?

Mr. Salerno, I know I have told you privately, but I have never told you on the record, that it was the reading of your book that got me very interested in the whole picture or organized crime and its invasion into legitimate business.

I would ask if, in your continued interest in this matter of organized crime, you have been able to make a judgment as to whether one of the newer industries which has invited the invasion of organized crime is the ownership of racetracks and teams? By "teams," I am talking about all professional teams.

Mr. SALERNO. Well, I think, actually, with regard to racetracks, it has existed for some time, and I think we have of late been surfacing those hidden interests. I think we have found that people who do not appear on stockholders' lists, who do not appear as corporate officers, have in fact held proprietary interest in racetracks, and this has existed for quite some time, although we may not have been as aware of it as we have become lately.

Mr. STEIGER. How about teams?

Mr. SALERNO. I have not seen that with sports teams as much as I have seen it with racetracks.

Mr. STEIGER. I gather you share Mr. Samuels' enthusiasm for the potential of offtrack betting nationally?

Mr. SALERNO. Yes, sir; I do. And I think I would like to respectfully point out to Mr. Winn and to Mr. Keating, too, that most forms of legalized gambling which have taken place, particularly those in the most recent 5 years, State lotteries, offtrack betting in New York, and so on, from the point of view of what should tell the public or what the public should have, most of these have been subjected to public referendum.

So that what does come about is an expression directly by the people on a specific issue, as well as the fact the legislative action which is taken to submit this to the people is the legislative leaders responding to the electorate that they represent.

So I think we have in both of those forms, legislative action required and more particularly, when a referendum on a specific issue is placed before the people then we have a test of what it is the people want and what their moral position might be.

For example, in New Hampshire, when New Hampshire became the first State to try a State lottery, that was put to the people in a referendum. It was suggested that it should be reviewed after it had been in existence for some time, and that was built into the enabling legislation. The original vote in New Hampshire was approved by the people in that State by a vote of 3 to 1. When it was reviewed 2 years later, after experience to test and look at the referendum, it was approved by 5 to 1.

When they did it 2 years later, the people in New Hampshire approved by a vote of 7 to 1. It was felt at that time it would not be necessary to have another referendum unless someone specifically wanted to call it in the future.

I think that is the test of what the people in a given community or State would like to have.

Mr. STEIGER. You are aware, as Mr. Winn points out, there are States, for one reason or another, who have rejected parimutuel wagering even with great consistency. Usually, at the behest of the bookies, I might add, who fund the program to defeat the program of parimutuels.

Mr. SALERNO. I think you do find some rather strange people on the same side of the position. Some are very sincere in this opposition, and this might be a church group.

Mr. STEIGER. One point: In light of your interest in legislation, do you feel because we have come to sort of a general unspecified consensus that there has not been a good job done in the policing of racing in this country on a national basis? Obviously, there are some exceptions. One of the things we have discussed here on the committee is the possibility of a full disclosure of the ownership of racetracks requirement. Do you feel that would be useful as far as the States are concerned in at least keeping out undesirable owners?

Mr. SALERNO. Yes. I think the strongest regulation that could be made for disclosure should be employed. I think I have suggested before this committee and other committees of the Congress that the Federal Government might do that in other areas directly under its control.

Organized crime task forces of the Department of Justice have gone to different parts of the community to study organized crime and in many places they find the people they are expected to get evidence about and convict are contractors of the Government in one form or another. One gentleman in New York was at the same time listed by the Department of Justice as an important figure in organized crime and a contractor with the U.S. Post Office Department, where he had bribed an official so he could submit bids for 35 trucks when he never owned more than 22.

At the same time that gentleman was the beneficiary of a Small Business Administration loan.

So I think a full disclosure and comparison of the disclosures between agencies of government could be very helpful.

Mr. STEIGER. How about full disclosure in the area at least of the antitrust exempt sports: football and baseball? Do you feel a full disclosure of the ownership of those teams is a valid Federal involvement?

Mr. SALERNO. Yes, I think it is.

I think it would not impose any difficulty on the operation of the sport. I think they might welcome the increased confidence that certainly would come from such a regulation.

Mr. STEIGER. Then, the one other amendment that Mr. Samuels refers to is a simple one, and I suspect mechanically it would be: the amendment which would permit interstate wagering on offtrack betting. If protection is to be genuine, it would almost have to include the participation in the track pool of the moneys wagered; would it not? I am not worried about the benefits to the horsemen or the track. I am worried about manipulation by a horse paying 40 to 1 in New York, who is running in California at track odds of 8 to 5, or something.

Mr. SALERNO. That is specifically what Mr. Samuels hopes to achieve by allowing bets to be placed across State lines. You would have a single pool with a single payoff price on that particular bet.

Mr. STEIGER. Mr. Samuels, have you drafted any proposed specific language for that particular amendment?

Mr. SAMUELS. It is in your package:

(See material received for the record at the end of Mr. Samuels' testimony.)

Mr. STEIGER. Good. Fine.

I have no further questions.

Chairman PEPPER. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

I have three questions. One is on the subject of tax exemptions. Under public pressures, Congress and the Ways and Means Committee's desire to close the tax loopholes we have at the present time, I don't think that you are going to get much in the way of tax exemptions for legalized gambling, as far as credits. Would you explain your thinking on that?

Mr. SAMUELS. Let me explain the thinking on it.

At the present time, it is my understanding of the Federal tax laws that you are supposed to report at the end of the year what your winnings are and your losses are from gambling and if you have more winnings than losses, you are supposed to include it in your income.

This is just not done. The only revenues the Internal Revenue Department really gets are the revenues that come from wagers made at the track and offtrack betting, and we do fill out a tax form when the winnings on a \$2 bet are \$600 or more.

The reality is there is no major income to the Federal Government in this, but as we already tax at the local level, when you do that, what you do is encourage someone to bet with the illegal bookmaker because if he wins he knows he doesn't have to pay a tax.

If he wins a big bet with us, he knows he is going to be investigated by Internal Revenue. So the suggestion I have—this is really not a tax loophole because it is already taxed at the local level—what we in reality would be doing is taking the handcuffs off of us and eliminating the marketing advantage the bookmaker has over us, which is a tax advantage.

Mr. WINN. In either case, the Government is not going to come out ahead, except through the employees you are talking about.

Mr. SAMUELS. The Federal Government isn't. The State and local governments will come out ahead by an increase in parimutuel revenues, and society will come out ahead by the fact that the bookmakers, the illegal bookmakers, will have our stronger competition. One of the things District Attorney Cahn pointed out, he is going to be less able to compete with us because one of the advantages of competition is going to be lost. We are in a competition. We have a competitor. That competitor is illegal. We need all of the tools we can get to compete with him on an even basis, and then I think we can take the business away from him.

Mr. WINN. If you set up OTB on the Kentucky Derby, who would collect the tax revenue, Kentucky or New York?

Mr. SAMUELS. What we would do is pay the Kentucky Derby a percentage like we pay the tracks, or some kind of percentage, directly to them for the horsemen in putting the show on. When we take a bet on the Kentucky Derby in New York, the revenues would come back to New York. On the other hand, the same thing would happen in Kentucky. If Kentucky was taking a bet on a special race, like this Saturday we run the Belmont Stakes, which is a national televised race, if Kentucky took bets on that, they would pay the horsemen and the track for it, but the revenues would say in Kentucky.

So each State would have an opportunity to make revenues, using this principle.

Mr. WINN. You mean if you had an OTB setup in Kentucky and they bet on the Belmont, they would benefit from the tax revenues for the State of Kentucky?

Mr. SAMUELS. That is right.

Mr. WINN. And you would for the State of New York, for the bets you place?

Mr. SAMUELS. That is right.

Mr. WINN. Do you think that is possible for the bookies to lay off odds with OTB parlors at the present time?

Mr. SAMUELS. Yes; it is possible. We watch this very closely.

Mr. WINN. How do you control that?

Mr. SAMUELS. The first thing is, any time they lay off anything with us, we take 17 cents out of a dollar. So it is not economically very logical for them to lay off with us. We watch our bets, and we get very few large bets. Once in a while a \$500 or \$1,000 bet. We have a complete security division, as I mentioned earlier. That is one of the reasons Ralph Salerno is on my staff, because we are very sensitive to the security problem.

I can't promise you it doesn't happen, but the economics of it don't encourage it.

Mr. WINN. They are pretty smart guys. They are not going to put it all in one lump.

Mr. SAMUELS. We take 17 cents out of every buck they play.

Mr. WINN. I realize that, but I don't think it is going to slow them down.

Thank you, Mr. Chairman. That is all the questions I have.

Chairman PEPPER. Mr. Keating.

Mr. KEATING. I won't carry this on any further. We were speaking philosophically and I just found a thread of difference between us. I don't see any reason to renew the discussion because I think it is a philosophical one.

Mr. SAMUELS. Sure there is. And there is a lot to be said, Mr. Keating, on your side. I was on your side in this discussion for a long period of time. My views have changed. As Congressman Steiger mentioned, I may be ahead of my time, but if I am accused of being ahead of my time that is the kind of accusation I don't fear.

Mr. KEATING. I do not think anyone should, but I just hope you are not ahead of your time as it relates to the whole picture in society, what I was really talking about, I guess I find it difficult to accept the fact that if you can't stop it entirely, to zero degree, then legalize it. I sort of interpreted what you are saying in that regard, and I extended it, of course, to all other areas.

Mr. SAMUELS. Actually, it is increasing. I think that is the serious problem.

Mr. KEATING. So is the use of narcotics and these other things.

Mr. SAMUELS. Sometime, if the committee would allow me, I would be glad to come back and present some suggestion on the whole narcotics field.

Mr. KEATING. Well, in any event, I don't see any benefit to the committee. We have recognized our differences on that subject and I think I will yield back my time and permit someone else to question.

Chairman PEPPER. Mr. Samuels, we will see if we can't do that. We are very much interested in the subject of narcotics. We have been working on it very diligently. We will try to find appropriate time for you to give us some of your thinking.

Mr. SAMUELS. Let me say that I am committed to putting every addict under medical care. That is a relatively simple kind of discussion.

The question of how to develop medical care and in a cost-effective way for the Federal Government to get involved in medical care is something I would like to present to the committee.

Chairman PEPPER. I don't want to detain my colleague, Mr. Brasco, from questioning, but one reason I personally have been a little reluctant to advocate enforced rehabilitation or enforced treatment is because the methods of treatment that we have at the present time are relatively ineffective. Methadone is questioned very seriously by a great many people. Other methods of treatment are tried in different places with varying degrees of success. This committee recommended a few months ago an intensive research program, sponsored by the Federal Government, to try to develop a drug that would not have the defects of methadone, would not be addictive, would be a long-lasting drug, would not have injurious side effects or reactions upon the individual taking it, and that would be a relatively cheap drug to purchase.

Now, we got our amendment substantially into the bill providing for the Special Action Office for Drug Abuse Prevention and research is

going on now, as you know, to try to find that kind of a drug. If we could find that, then I certainly would have no hesitation in recommending that the Federal Government, so far as it can, and the States, provide legislation that would make being a drug addict, or heroin addict, an offense that would justify the apprehension of that person and his or her incarceration for treatment. Not for punishment, but for treatment.

They are the perpetrators of a large part of our crime as Mr. Salerno so well knows.

I know you have your problems in New York in trying to find the appropriate method by which you can best treat the numerous addicts you have now. Did you have in mind any particular type of treatment, or whatever is the best available?

Mr. SAMUELS. Congressman, I don't think the time is here for me to present the total program. It involves, really multimodality treatment, and we have to understand that. What concerns me in terms of this, is the suggestion that we are going to stop heroin from coming into the country when 20 pounds of heroin per day, worth \$200,000 in the black market, is all that is necessary to feed all of the addicts in the city of New York, and if we couldn't stop a case of whiskey from coming in during prohibition, we can't stop that.

This is a multimodality program. We presented part of it, which you might have read, which really in the end, what you have talked about is what we all hope for, is the drug, the one single-cure drug, that is going to be given to an addict.

Again, I would like the opportunity of presenting new proposals in detail at a later time.

I might say that this is something I have been studying now for 4 or 5 years. Unfortunately, I had the personal involvement of one of my children in drugs, and this brings it much closer to home. I feel very strongly about the need for new concepts in this.

We cannot wait very long. Mr. Pepper to solve this problem. It is the No. 1 factor in the decay of the city of New York, and I am sure of other urban areas. And while I hope that the magic drug will come, I would like to present to you in detail some suggested new national approaches.

Chairman PEPPER. We would welcome you. We will be in touch with you.

Mr. BRASCO.

Mr. BRASCO. I wanted to commend you for doing what I believe to be a very good job in a very difficult situation in terms of your authorship and operation of the off-track betting system in New York.

Let me say this: I don't believe Americans view betting as something immoral, and that is why I suspect they do it in great numbers. I am not suggesting every American bets, but, however, there are sufficient enough bettors to keep a large number of bookmakers in business. I think that unless we get to a broader spectrum of being able to take bets in every category where a bettor has an opportunity to bet, we will never really find out whether or not we can put the illegal bookmaker and organized crime in that particular sphere of endeavor out of business. I suspect from my own personal observation, if the bettor is betting with the bookmaker on sports other than racing, there is a kind of alliance there that would prevent him from going to OTB,

because he has got other kinds of sporting events that he can bet on. So, unless we broaden the spectrum of legal betting how much we can find out about what the true picture is.

While there is betting going on, Government ought to be involved in terms of number 1, setting down the strict regulations for the protection of the public; realizing some of that money that is going to be bet anyway, for some of the critical needs of our day.

Let me say this, though: While I find myself in agreement with you, one thing does disturb me. I am wondering whether or not, by virtue of some of the advertisements OTB has, we are not getting into an area of possibly drumming up business among new bettors, and one of the things I must confess bothers me is that advertisement that has the shopping list for a woman to do, the woman with the carriage, and it says "Don't forget to pick up the kids from school, don't forget to get groceries, and get hubby's shirt from the cleaners, and don't forget to visit offtrack betting."

I wonder whether or not we are really dealing in a situation of taking bets away from bookmakers, or developing a whole new group of bettors.

Mr. SAMUELS. I think it is perfectly understandable. I don't know how to run a business without promoting the business.

Mr. BRASCO. I know you are a good businessman.

Mr. SAMUELS. When the lottery started in New York, they said, "Put down a dollar and help education." They didn't sell lottery tickets. New Jersey learned from New York's mistakes and really began to promote it and made it easier for people to play their lottery. Later, New York went on to advertise, "Win a Million Dollars," and moved to weekly lottery drawings.

Unfortunately, there is no easy way to be in the business unless you go after it. There is a risk you bring a lot of new people into betting who wouldn't bet before, and some people will be betting their house money. I say, from the profile of our betting and the amount of money they are betting every day, this does not seem to be exorbitant in the city of New York.

The studies that were done in Australia—and I looked for them the other day but I couldn't find them—showed their analysis that the percentage of the gross expendable dollar that was going into the betting, after they legalized offtrack betting, and what they estimated was going on before, are not much different. I haven't seen any studies like this in England since they completely legalized betting altogether. I think there is a risk in this and I perfectly understand your concern.

But I do not know any other way to run a business, except to run it, compete, and organize it, and to develop marketing strategy for it.

We are trying to develop marketing strategies in OTB to compete with the numbers business because we don't have legalized numbers. We think if we had a dollar bet, for instance, and we could show that show on television somebody could bet a dollar who is betting a half a dollar or dollar with a numbers man, and have more money and get more earnings and see it on television, we would have to promote it in order to induce the people betting on numbers to bet with us. On the other hand, you get new bettors, and that is the risk we take.

Mr. BRASCO. Another advantage in betting with the bookmaker is the question of credit. Being a former prosecutor, we had some of

those cases of problems that developed when the debt is not paid on time, and obviously comes to your attention one way or another.

I am not terribly familiar with it. Is there a credit?

Mr. SAMUELS. We take no credit at all. We take a few counterfeit dollars (sic) but not any credit, and not many of those.

Mr. BRASCO. A while back we heard some testimony with respect to a racing event at Yonkers, I believe, in June of 1971, where there was what appeared to be from the betting patterns and statements that were made by individuals who did bet on the racing event, that the race in question was a "boat" race, a fixed race.

Let me ask you: One of the interesting things that happened at the track was that by virtue of the betting pattern they were able to disclose some things that had happened, because the betting was done at the track. If the betting wasn't done at the track and it was done strictly in an OTB office or several OTB offices, could we detect that kind of problem?

Mr. SAMUELS. No. We have less control of people who bet with us, and as somebody pointed out earlier, they could go to a variety of offices and bet small amounts and we would not know it.

Mr. BRASCO. With the hookup to the track and everything else, there is no way to combat that kind of situation?

Mr. SAMUELS. No. Let me make a couple of comments about that. I am very concerned about security at the tracks. It is my personal conviction that for every one race that is possibly fixed, there are hundreds of thousands that aren't, and the risk of fixed races are the same risk we had in American business that I have seen. The effective control of this has got to be constant surveillance. I think this is one of the things the Governor's commission in New York, where I think we have the best racing and the best surveillance in the country, still has to look at—greater surveillance in the industry.

We have made arrangements. For instance, if we went to television and promoted the superfecta at Roosevelt, Mr. George Levy, who heads Roosevelt, suggested to us, and we agreed, we would have our own surveillance people at Roosevelt. We think there should be more surveillance at the track and when we get a lot of public money and more OTB money, we think we have a responsibility to do that, and that is where we would try to be forceful.

People bet with us an hour before the race, and at the harness tracks they bet with us mostly during the day, so there is less possibility of intrigue involving OTB than there is at the track, itself.

Mr. BRASCO. Can a better bet any various combination of bets as they would at the track?

Mr. SAMUELS. Same combinations as at the track.

Mr. BRASCO. Let me say this in conclusion, Howard. Again, I agree with your statements. I think we are dealing with a situation where people will bet. I don't know whether or not offtrack betting, just as betting within the fence on the track, is going to solve all of the problems, but I do know that if we begin to look into the areas where organized crime operates—and that is betting on all major sports—if we put Government out there with stricter regulations and control. I think we will have an opportunity to be more effective.

I think when you look at it on balance, it is probably, as my colleagues on the committee said, going to be a difficult road to follow, but

I think it is one of the roads to follow if we want to try to find a solution to the dilemma we are in.

Mr. SAMUELS. Thank you. I might say in conclusion, Chairman Pepper, again my conviction is based on the assumption it will be run in a businesslike way and we have to be assured that is going to happen, that the legalization of sports and numbers and horse betting across the country, again I think in 5 years after it is in operation, would do to the organized gambling business what the repeal of prohibition did to the bootlegger.

I know this is a new road. I can't say for sure we can do the job. I just have to say what has been done to date, and much I have heard discussed is more of yesterday and more of the same.

I think the Federal Government at least ought to test this and attempt to move in a new direction to see if a new direction isn't the way to put organized crime out of business.

Chairman PEPPER. Mr. Samuels, we are very much indebted to you for giving us the benefit of your experience and advice in this matter. We consider the drug problem and organized crime problem as two of the most serious problems there are in this country. That is the reason we have been concerned very much about both of them.

I think serious consideration should be given to any proposal or authority that might tend to diminish the menace of organized crime in this country. We are glad to have had your views on legalized gambling because you are experimenting on a rather large scale to see how it works.

There is just one question I would like to ask, somewhat related to the question Mr. Brasco asked: Whether or not having your offtrack betting facilities increase the public participation in betting, or whether it does not increase the total public participation in betting, and does take away some betting that otherwise would go to the illegal bookies?

Mr. SAMUELS. Congressman, let me say two things: One is we have done one study, a scientific study done by Yankelovich. We are now in the process of hiring another marketing study scientifically done to analyze exactly what you are asking for.

I can say from the first study we would have to say we do have some new bettors and the people betting with us have increased the amount of betting that is probably going on in the city of New York.

We would also have to say that people are betting less with bookmakers today and more with us. So I think both answers, I would probably have to say, and these are visceral feelings and only a small study, and we will make available to this committee the study that is going to be done now and should be finished within 6 months. I would be very glad to send to you, Mr. Phillips, a copy of this report, so you could analyze both factors.

Chairman PEPPER. Weighing the two factors that you have described, does the diminution in the amount of money bet through the illegal bookies overbalance, in your opinion, in the public interest, the increased number of total bettors participating in betting?

Mr. SAMUELS. I honestly believe it does. Don't forget, the average bettor bets with us \$10 a day, not a hundred dollars a day, as they bet at the track. We take 17 cents out of a dollar. So we take \$1.17. So

that is the average a person will lose. The average bettor will lose \$1.17 with us.

Is that entertainment or gambling? What effect does it have on his family? It is not more than a couple of packs of cigarettes in New York.

It doesn't make it right, but if it is entertainment, if he enjoys figuring out what horses are going to run in the morning and looks for the results, that is one thing. If it takes bread off his table, that is another thing.

Again, I want to go back to the concept, I am not sure government can regulate this, can dictate morality to society in this particular area. Each individual, in the end, has to have the strength of his own conviction to do things in moderation, just as the basis of what happened with the repeal of prohibition. I think we would still have to look. Even though we have more drinkers and more alcoholics our society is better off with the repeal of prohibition than it was with prohibition.

Chairman PEPPER. In your opinion, how extensively is organized crime involved in bookmaking in the United States?

Mr. SAMUELS. Well, I can only read the same task force reports that I am sure you are familiar with. But as you pointed out, a lot of the ideas and concepts here have been attributed to by Ralph Salerno, who I consider one of the great experts on organized crime.

We have estimated—and again these are estimates and I have seen a dozen of them—that in the city of New York, the total illegal gambling business is a minimum of \$1 billion and probably \$2 billion a year.

And probably around the country, the figures that we have seen vary anywhere from \$20 to \$50 billion a year.

Chairman PEPPER. Mr. Salerno, what would be your answer to that?

Mr. SALERNO. The degree to which organized crime participates?

Chairman PEPPER. The question was: To what extent is organized crime involved in bookmaking in the United States?

Mr. SALERNO. I would say to a very large extent. They totally dominate the field of bookmaking. In New York City, the New York City Police Department takes the position there is no such thing as a 100-percent pure-independent bookmaker. That doesn't mean every bookmaker is in organized crime. Sometimes he is an independent, but he is expected to pay them for the right to breathe.

We have people in organized crime who will say: "I have 20 bookmakers on my payroll." Meaning they pay him simply for the right to stay in that business. So he is no longer independent of them. He may be part of organized crime, he may use organized crime for lay-off, but in New York City we feel the entire bookmaking business is dominated and controlled by organized crime.

Chairman PEPPER. Mr. Salerno, you appeared before this committee at some of our early hearings in 1969 and, of course, gave very valuable testimony in the field of organized crime. Since that time we have passed the Organized Crime Act in the Congress. Can you, at the present time, suggest any additional legislation or any additional executive answer that could be taken by the Congress or respectively by the Government of the United States, to attempt more effectively to curb organized crime?

Mr. SALERNO. Yes; I think some of the matters we have had under discussion here are the things I think could be done. I think the legislation that has been enacted has proven to be very effective. I think the law enforcement thrust is beginning to sow some favorable results. To my mind, that is increasing the cost of that illegal business of organized crime.

I would like to see that law enforcement effort paralleled with what Mr. Samuels has suggested here, increase the operating cost of that illegal business and take some of the customers away. If we do both—and I think we should try to do both—I think we will put them out of business. If we take the profit out of narcotics through treatment of the addict and at the same time maintain our law enforcement effort, by doing both, I think we will reduce the problem in a much sooner time period than would be the case if we used one or the other alone.

Chairman PEPPER. Any other questions?

Mr. BRASCO. Yes, Mr. Chairman.

One of the things that concerns me is we keep talking about organized crime's infiltration of legitimate business. I am wondering whether or not it is your experience that the business is really not legitimate to begin with.

I am not talking about a business that is run per se by organized crime, I am talking about people that will allow themselves to be used for a profit. I think we ought to understand that.

We had a situation where Dun & Bradstreet allowed a fraud to be perpetrated in great amounts of money only because they just did not check to see whether or not ratings they put out in their manual were true. And based on these reports, which were later proved to be false, the fraud was allowed to begin.

I am wondering whether or not you would come up with the same conclusion?

Mr. SALERNO. Yes, I would agree with you. The infiltration of legitimate business by organized crime is sometimes an invasion, sometimes at the acceptance of an invitation by a particular business or by an industry.

Mr. BRASCO. That is the point I make.

Mr. SALERNO. That invitation might be very direct or it might be very general, in laxity, which then becomes an invitation.

Chairman PEPPER. Mr. Winn, did you have another question?

Mr. WINN. One question to clarify it in my own mind.

The figures you referred to, where you say that approximately \$2 billion a year in New York City are run through bookies.

Mr. SAMUELS. Bookies and numbers.

Mr. WINN. Bookies and numbers. That is what I wanted to bring out, because I thought you included numbers in those total figures. Thank you.

Chairman PEPPER. Thank you, Mr. Samuels, for another magnificent contribution in the public interest. And also to you, Mr. Salerno, for the fine job you have done for a long time and the great help you have given us.

Mr. SAMUELS. Thank you for having me here.

(The following material, previously referred to, was received for the record from Mr. Samuels:)

MEMORANDUM IN SUPPORT OF AMENDMENT OF 18 U.S.C. 1084 TO PERMIT LEGAL PARIMUTUEL WAGERING ENTERPRISES TO TRANSMIT WAGERS IN INTERSTATE COMMERCE

The New York City Off-Track Betting Corp. (OTB) was established for two essential purposes. One was to increase State and local revenues needed for public benefit programs. The other was to make a substantial impact on illegal gambling revenues of organized crime. (See Book 65 McKinney's Unconsolidated Laws of New York, Part 2, Title 21, Articles V and VI, Section 8063.)

In order satisfactorily to accomplish these purposes, it is necessary that this corporation be able to enter into combined wagering pool arrangements with out-of-State tracks. In a combined pool, the bets taken by OTB would be added to the wagering pool at the out-of-State track in order to establish the odds on the horses. OTB presently has such combined pools with New York State tracks. The advantage of a combined pool over separate ontrack, offtrack pools is that there is no variance in the final odds on the horses entered in the race.

In the combined pool system, the wagers taken by the offtrack wagering enterprises are totaled through computer devices and relayed over "dedicated" telephone circuits to the track, where such wagers are entered into the track's wagering pool by the track's tote system. This transmission system is designed in such a way that any interference with the transmission circuits can be detected and any attempt to change the information being conveyed prevented.

Combined pools with out-of-State tracks will require OTM's transmitting the bets made with it to such tracks over a wire communication facility in interstate commerce. At present, it is unlawful under 18 U.S.C. 1084(a) for anyone to transmit bets or wagers over a wire communication facility in interstate commerce.

The purpose of this section as stated in the legislative history was as follows:

PURPOSE OF THE BILL

"The purpose of the bill is to assist the various States and the District of Columbia in the enforcement of their laws pertaining to gambling, bookmaking, and like offenses and to aid in the suppression of organized gambling activities by prohibiting the use of wire communication facilities which are or will be used for the transmission of bets or wagers and gambling information in interstate and foreign commerce." (1961 U.S.C., Cong. & Adm. Service, p. 2631.)

Section 1084 was aimed at illegal gambling activities. When section 1084 was originally enacted in 1961 there were no State authorized offtrack betting enterprises in the United States.

New York State believes, as expressed in its legislation, that OTB will aid in the suppression of unlawful organized gambling activities by providing the people of New York with the opportunity to wager in a legally regulated system. This position is in accord with the purposes of section 1084. OTB is a massive effort to suppress organized, gambling activities.

It is most likely that had an organization like OTB been in existence at the time of the original enactment of section 1084 that an exception would have been made to the section so as to allow a State-licensed parimutuel wagering enterprise to transmit wagers in interstate commerce in the context of combined pooling arrangements with out-of-State tracks.

There is no reason for not allowing the proposed amendment to section 1084. There is no way in which a combined pool can be of assistance to organized unlawful gambling activities.

Moreover, the basic legislative intent of section 1084 is clearly manifested in the exceptions presently contained in subsection (b) thereof.

Subsection (b) now reads as follows:

"(b) Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State

where betting on that sporting event or contest is legal into a State in which such betting is legal."

These exceptions at the time they were adopted comprised the only types of wagering information which could be transmitted across State line without contravening State laws on gambling. These exceptions were intended to permit the transmission of wagering information for legal purposes. The amendment proposed here would simply bring the exceptions granted by subsection (b) up to date.

The amendment proposed here would also be consistent with the provision in the Federal tax law which exempts State-licensed parimutuel enterprises from the payment of the Federal excise tax on gambling. (See 26 U.S.C. sec. 4402(a).)

The recommended amendment to section 1084 is set out below in the italicized portion of subsection (b):

(b) *Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of bets of wagers or the proceeds therefrom, or of information related to the placing or payment of such bets or wagers, by any parimutuel wagering enterprise licensed under State law, provided that such bets or wagers or proceeds therefrom or information are transmitted in connection with or as part of the operations of such enterprises.* Further, nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests or for assisting in the placing of bets or wagers on a sporting event or contest from a State where betting on that sporting event or contest is legal into a State in which such betting is legal.

MEMORANDUM IN SUPPORT OF CERTAIN AMENDMENTS TO TITLE 26 U.S.C. WHICH WOULD EXCLUDE FROM GROSS INCOME PARIMUTUEL WAGERING GAINS WHILE DISALLOWING THE DEDUCTIBILITY OF PARIMUTUEL WAGERING LOSSES

The New York City Off-Track Betting Corp. (hereinafter OTB) recommends that the Internal Revenue Code be amended to exclude from the gross income of taxpayers any gains from wagering transactions with parimutuel wagering enterprises licensed under State law. The amendment sought is attached as appendix A hereto.

The proposed amendment will serve the dual purpose of enhancing the net revenues which are paid into city and State treasuries from legal parimutuel wagering and of making a substantial impact on the enormous revenues that organized-crime derived from illegal gambling operations.

Illegal gambling operations are the main source of income of organized crime. The revenues that it derives from these operations are channelled into a vast array of socially crippling operations, including dope-peddling and loan sharking. Organized crime preys on the poor and the helpless through enticement, manipulation, and strong-arm techniques. It is imperative that these gambling revenues of organized crime be diverted to State and local treasuries where they can be used in programs which are beneficial to the community.

The Federal tax laws as they presently apply to gambling are a stimulus to illegal gambling operations and a deterrent to State regulated gambling programs.

Under section 61 of the Internal Revenue Code, 26 U.S.C., a taxpayer's gambling winnings, regardless of source, are required to be included in his gross income. The Revenue Code does allow a taxpayer to deduct his losses from wagering transactions, but only to the extent of his gains from such transactions (Section 165(d), 26 U.S.C.)

Although no precise figures are available, the Internal Revenue Service estimates that the income taxes collected annually on illegal gambling winnings are only a small fraction of what they should be. The gross revenue to organized crime each year from illegal gambling is estimated at \$20-\$50 billion as opposed to the \$1 billion revenue to legalized gambling interests. See 57 *Georgetown Law Journal*, p. 575 (F'69—"Federal Regulation of Gambling: Betting on a Long Shot"), citing for these figures the President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Organized Crime 3 (1967).

There is little doubt that bookmakers or others in the business of illegal gambling report but a fraction of the income they make from unlawful gambling. It

is equally doubtful whether anyone who wagers with those in the business of illegal gambling accurately reports his gambling winnings.

The burden, then, as far as the application of section 61 to gambling winnings is concerned, falls on those who wager with legalized gambling enterprises.

One of the provisions of the Internal Revenue Code which has been interpreted to ensure that there will be at least some reporting of gambling winnings is section 6041 of the Internal Revenue Code. The Internal Revenue Service has taken the position that all persons engaged in the business of accepting wagers who made payment in the course of such business to another person of more than \$600 fixed or determinable gain, profit or income in any taxable year must file an information return setting forth the amount of the gain and the name and address of the recipient of such payment.

Of course, OTB, just as the tracks where legal parimutuel bets are taken, complies with the regulations of the Internal Revenue Service relating to the information returns filed under section 6041. There are very few other information returns relating to gambling winnings filed under Section 6041.

In short, it is evident that the income tax laws as they apply to gambling winnings work to the detriment of those organizations legally established to conduct parimutuel wagering, as it is these organizations and the people who wager with them who will comply with these laws. The illegal criminal syndicates which obtain the vast bulk of their income from gambling do not comply with these laws. (See Federal Regulations of Gambling: "Betting on a Long Shot," 57 *Georgetown Law Journal*, p. 573.)

In addition to the Federal income tax provisions above mentioned which relate to gambling winnings, there are Federal excise tax provisions relating to wagering. Section 4401 of the Internal Revenue Code imposes an excise tax on wagers in the amount of 10 percent thereof. Every person engaged in the business of accepting wagers is liable for this tax on all wagers placed with him. Such person must also pay the \$50 per year occupational tax under section 4111 of the Code.

On this excise tax on wagering, however, there is an exemption on any wager placed with a parimutuel wagering enterprise licensed under State law. (See Section 4402 (a) of the Internal Revenue Code.)

In the legislative history to the exemption granted in section 4402 (a), it is stated:

"The bill provides specifically that the tax shall not apply with respect to wagers placed in parimutuel wagering enterprises licensed under State law. Such wagering is presently subject to substantial State and, in some instance, local taxation, and to superimpose a Federal tax upon these transactions would only serve to maintain the existing advantage which bookmakers enjoy over parimutuel betting by reason of their immunity from parimutuel taxes." (1951 U.S. Code, Cong. & Adm. Service, p. 1841.)

The change in the income tax law sought by OTB would complement the provision in the Federal excise tax law which exempts from the excise tax on wagering any wager placed with a parimutuel wagering enterprise.

It is hoped that the passage of this proposed amendment to the Internal Revenue Code will serve to encourage the people who now bet with illegal criminal syndicates to place their wagers with State-authorized parimutuel wagering enterprises.

The recommended amendment, we think, by encouraging a shift from illegal to legal gambling, will help boost State and local revenues in a manner somewhat like the operation of section 103 of the Internal Revenue Code. That section exempts from the gross income of the taxpayer "interest" received on obligations of the United States, States and political subdivisions thereof. The exclusion granted by section 103 was intended to permit State and local governments to obtain capital at a low rate of interest, which capital would be used in programs of public use and benefit. (*Fox v. United States*, 397 F. 2d, 119, 122 (1968).) Similarly, the interest on U.S. savings bonds, certificates of indebtedness of the United States, and Treasury bills are exempt from taxation by virtue of section 754 of Title 31, U.S.C.

It should be emphasized at this point that State-authorized parimutuel wagering was initiated to channel some of the money which is gambled each year in this country into socially useful programs. At this point in time, much more of this gambled money must be captured from illegal interests and diverted into State and local treasuries where it is badly needed to perform huge tasks of social reform and rehabilitation.

As to the effect of the proposed change on Federal tax revenues, it is maintained that such change will result in only a small loss in such revenues. The reason for this is that overall taxpayer losses from State-authorized parimutuel wagering transactions invariably far exceed the gains from such transactions. This is so because in parimutuel wagering the operator of the system is not involved in the wagering but simply keeps a certain "retained percentage" out of amounts going into the wagering pool.

In short, there are very few individual taxpayers who will show a gain from parimutuel wagering transactions during the course of a year. And most taxpayers will probably sustain net parimutuel wagering losses in most years. These excess parimutuel wagering losses, of course, constitute the revenue which is returned to the State and local governments after the expenses of operating the system are taken out.

The proposed amendment may raise the concern on the part of the tax enforcement officials, burdened with the task of tracing sources of taxpayer income, that taxpayers will attribute apparent underreporting of income to nontaxable parimutuel winnings. We think that the possibility of using the proposed exclusion for tax evasion purposes can be obviated by requiring strict reporting of parimutuel wagering gains and losses even though they will not be involved in the calculation of taxable income.

APPENDIX

ADD A NEW SECTION 125 TO 26 U.S.C.A.

Section 125. *Gains From Certain Wagering Transactions*

Gross income does not include gains from wagering transactions with any parimutuel wagering enterprise licensed under State law.

AMENDMENT TO SUBSECTION (D) OF SECTION 165

Section 165 (d). *Wagering Losses*

Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions. *Losses from wagering transactions with any parimutuel wagering enterprise licensed under State law shall not be allowed.*

NOTE.—As parimutuel wagering gains will be excluded from gross income by proposed section 125, it is to be expected that parimutuel wagering losses will accordingly be denied as a deductible item from adjusted gross income.

 QUESTIONS AND ANSWERS ON PROPOSED TAX CHANGE TO EXCLUDE LEGAL WAGERING GAINS FROM GROSS INCOME

QUESTION 1

How do the present tax laws aid organized crime and illegal bookmakers?

ANSWER

In practice, people who wager with illegal gambling operators do not report their gambling winnings. They know they can rely on the illegal operator not to divulge any information concerning their winnings and losses to the Federal tax authorities. Consequently, the only people who do report gambling winnings are those who wager in a legal system and are compelled to have information returns (forms 1099) filed on winnings over \$600.

QUESTION 2

Why isn't the present Federal excise tax on wagering law sufficient to eliminate illegal gambling?

ANSWER

The Federal excise tax on wagering law has proven to be an ineffective way to discourage illegal gambling operations. The Federal excise tax on wagering was intended to be prohibitive and drive illegal gambling operators out of busi-

ness. Because of the size of this wagering excise tax, 10 percent on the gross amount wagered, bookmakers have ignored reporting and paying the tax. There is no better proof of this statement than the fact that bookmakers are flourishing throughout the country in spite of the fact that the prohibitory, Federal wagering excise tax provisions are still on the books.

Obviously, a new approach is necessary. Illegal operators are simply not going to comply with laws which are intended to suppress them. What is necessary therefore is to encourage the betting public to bet with legal operators instead of illegal ones. The bettor, himself, then must be given an incentive to divert his wagering from illegal systems to legal ones. This incentive will, in our opinion, be provided by the proposed legislation.

QUESTION 3

How much income tax revenue does the Internal Revenue Service collect each year on gambling winnings?

ANSWER

The amount of income tax revenue collected each year by the IRS on gambling winning is so nominal that the Service does not even keep a separate record of such gambling revenue.

QUESTION 4

Why is the incentive contained in this proposal necessary? Isn't the mere availability of legal gambling institutions sufficient to make people leave bookmakers and organized crime operators?

ANSWER

People today do not view gambling as a serious moral issue. Consequently, they do not respect the laws which make gambling with bookmakers illegal. In addition, the person betting with the bookmaker takes no risk in New York; as in most other States, it is not a crime to place a bet with a bookmaker. It is only a crime for the bookmaker to accept bets. The illegal operator offers the bettor the advantage of being able to evade his taxes, which advantage unfortunately too many bettors are seeking out. This proposal is intended to remove the primary advantages that bettors gain by betting with illegal operators.

QUESTION 5

How do you know this proposal will have any major effect on encouraging people to bet with legal gambling institutions?

ANSWER

It is logical to assume that as this proposal will wipe out the main advantage that bettors obtain from betting illegally, i.e., the evasion of income taxes, that bettors will turn to legal gambling institutions where they will obtain a better return on their wagered dollar.

QUESTION 6

What is the estimate of how much increased State and local revenue will flow from the adoption of this proposal?

ANSWER

It is estimated that as much as \$30 million may inure to New York City alone immediately. When other States and localities have established legalized gambling systems for sports and numbers, the amount of revenue that will flow from this proposal could well exceed a billion dollars. Organized crime presently derives a minimum of \$20 billion a year in illegal gambling revenue. If legal gambling systems could capture, with the aid of this proposal, all of the moneys wagered each year outside legal systems, there is no doubt that States and localities would easily derive well in excess of a billion dollars a year in increased revenues.

QUESTION 7

Will this change in the tax laws effectuate a social policy as well as affect revenue?

ANSWER

Yes. Just as many tax laws have a social purpose in addition to raising revenue, this proposal is aimed at fighting organized crime. Precedents for this are exemptions for income of charitable organizations and income from Government bonds.

QUESTION 8

Isn't gambling a social evil that we want to discourage rather than encourage?

ANSWER

This proposal is not intended to encourage people to gamble. It is intended to encourage people who presently gamble illegally to instead gamble in legal systems.

QUESTION 9

Won't this be an encouragement to the poor to gamble and then to spend wastefully income they can ill afford to lose?

ANSWER

There is no reason to believe that this proposal will lead to an increase in gambling among the poor. The poor, just as the rich, already gamble heavily with illegal bookmakers and organized crime operators. This proposal will have the virtue of serving as an incentive to bettors, rich and poor alike, to gamble in legal systems rather than illegal ones. At the very minimum, the money that is bet by people, including the poor, in State-controlled systems, is returned to the people, primarily the poor, by Government through its public benefit programs.

It should also be pointed out that the present tax laws also discourage the wealthy from gambling legally. Consequently, the tremendous amount of money wagered by the wealthy with bookmakers is lost to the public systems which then have less money to turn back to the public through public benefit programs.

We would point out, moreover, that OTB marketing studies indicate that the advent of OTB has not served to encourage the poor to gamble. OTB has proven to be a preponderantly middle-income phenomenon.

QUESTION 10

Won't this proposal enable people to evade their taxes by attributing taxable income to nontaxable gambling income?

ANSWER

No. Under present law, legal operators would continue to report on form 1099's winnings in excess of \$600. In addition, each gambling taxpayer would be required to keep and produce records of his winnings and losses. Thus, in a tax evasion or net worth case, the taxpayer would be required to produce records to prove that his income was from gambling winnings.

QUESTION 11

Isn't it socially inequitable to give more favored treatment to those who realize income from gambling than to those who earn income or realize capital gains?

ANSWER

OTB's proposal does not give an advantage to income from gambling. Gambling winnings with legal entities, such as OTB, have already been "taxed" by the States and localities by the time these winnings become subject to State and Federal income taxes. The initial "tax" on the gambling winnings is the percentage amount retained by the legal gambling enterprise out of each dollar played with it. In the case of OTB, this initial "tax" amounts to 17 percent of each dollar played. The 17 percent amount retained by OTB goes into the State and city treasuries after operating expenses are taken out.

Therefore, legal gambling income by the time it becomes subject to Federal income tax has already been heavily taxed, a fact which does not hold true for capital gains or ordinary income. The Federal income tax on legal gambling income becomes then, in fact, a double taxation of this income.

Another reason why it is not inequitable to treat gambling income differently from capital gains or ordinary income is that the vast preponderance of gam-

bling winnings are in reality not reported. The amount of Federal income tax collected annually on all gambling winnings, parimutuel or otherwise, legal or illegal, is so small that the Internal Revenue Service does not even separately record the amount. The practical treatment of gambling income, therefore, presents a unique tax problem.

OTB is not asking for favored tax treatment for those who realize income from gambling. It is asking that the Congress deal with a social problem the solution of which may give the false appearance of favor or advantage. Viewing the proposal from the standpoint of the benefits which would accrue to all taxpayers from its adoption rather than from the standpoint of some apparent inequity should dispel any objections to the proposal.

STATE OF NEW YORK

10545

IN ASSEMBLY

February 22, 1972

Introduced by Mr. VAN COTT—(at request of the State Off-Track Parimutuel Betting Commission)—read once and referred to the Committee on Judiciary

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section nine of article one of the constitution, in relation to gambling activities authorized and prescribed by the legislature

Explanation—Matter in *italics* is new; matter in brackets [] is old law to be omitted

Section 1. Resolved (if the Senate concur). That section nine of article one of the constitution be amended to read as follows:

§ 9. 1. No law shall be passed abridging the rights of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; [except as hereinafter provided, no lottery or the sale of lottery tickets, pool selling, book-making, or any other kind of gambling, except] *nor shall gambling activities be hereafter authorized or allowed within the state, except: (a) gambling activities as may be prescribed by the legislature and operated by the state or a public benefit corporation created for the purpose of operating such activities; (b) lotteries operated by the state and the sale of lottery tickets in connection therewith as may be authorized and prescribed by the legislature, the net proceeds of which shall be applied exclusively to or in aid or support of education in this state as the legislature may prescribe [], and except []; and (c) parimutuel betting on horse races as may be prescribed by the legislature and from which the state shall derive a reasonable revenue for the support of government [], shall hereafter be authorized or allowed within this state []; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.*

2. Notwithstanding the foregoing provisions of this section, any city, town or village within the state may by an approving vote of the majority of the qualified electors in such municipality voting on a proposition therefor submitted at a general or special election authorize, subject to state legislative supervision and control, the conduct of specific games of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random. If authorized, such games shall be subject to the following restrictions, among others which may be prescribed by the legislature: only bona fide religious, charitable or nonprofit organizations of veterans, volunteer firemen and similar nonprofit organizations shall be permitted to conduct such games: the entire net proceeds of any game shall be exclusively devoted to the lawful purposes of such organization; no single prize shall exceed two hundred and fifty dollars; no series of prizes on any one occasion shall aggregate more than one thousand dollars; no person except a bona fide member of any such organization shall participate in the management or operation of such game; and no person shall receive any

remuneration for participating in the management or operation of any such game. The legislature shall pass appropriate laws to effectuate the purposes of this subdivision, ensure that such games are rigidly regulated to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and the diversion of funds from the purposes authorized hereunder and establish a method by which a municipality which has authorized such games may rescind or revoke such authorization. Unless permitted by the legislature, no municipality shall have the power to pass local laws or ordinances relating to such games. Nothing in this section shall prevent the legislature from passing laws more restrictive than any of the provisions of this section.

§ 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and in conformity with section one of article nineteen of the constitution, be published for three months previous to the time of such election.

LAWS OF NEW YORK.—BY AUTHORITY

CHAPTER 143

AN ACT to amend the pari-mutuel revenue law, in relation to off-track, pari-mutuel betting, and making an appropriation in relation thereto

Became a law April 22, 1970, with the approval of the Governor. Passed on message of necessity pursuant to article III, section 14 of the Constitution by a majority vote, three-fifths being present

EXPLANATION—Matter in *italics* is new; matter in brackets [] is old law to be omitted.

The people of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Chapter two hundred fifty-four of the laws of nineteen hundred forty, constituting the pari-mutuel revenue law is hereby amended by adding thereto a new article to be article five, to read as follows:

ARTICLE V

NEW YORK STATE OFF-TRACK PARI-MUTUEL BETTING LAW

- Section 65. *Short title.*
 66. *New York State off-track pari-mutuel betting commission.*
 67. *Off-track pari-mutuel betting.*
 68. *Participating municipalities.*
 69. *Administration and operation.*
 69-a. *Use of track facilities.*
 69-b. *Reimbursement on account of lost revenue.*
 69-c. *Disposition of off-track pari-mutuel betting pools; taxes; allocation of expenses.*
 69-d. *Off-track pari-mutuel expense and distribution fund.*
 69-e. *Prohibited acts where betting conducted.*
 69-f. *Inapplicability of laws governing betting at the track.*
 69-g. *Notification of results of races.*
 69-h. *Prohibitions as to minors.*
 69-i. *Prohibited acts of officers and employees of commission.*
 69-j. *Prohibition of acts impairing integrity of betting system.*
 69-k. *Court proceedings; preferences; venue.*
 69-l. *Separability.*

§ 65. *Short title. This act shall be known and may be cited as the "New York State off-track pari-mutuel betting law."*

§ 66. *New York state off-track pari-mutuel betting commission. There is hereby created within the department of state the New York state off-track pari-mutuel betting commission, which shall consist of a chairman and four other members, all of whom shall be citizens and residents of the state. No more than three of the five members shall belong to the same political party. The chairman shall be appointed by the governor, by and with the advice and consent of the senate, and shall hold office at the pleasure of the governor. The chairman shall*

devote his entire time to the duties of his office. The four other members of the commission shall be appointed by the governor, by and with the advice and consent of the senate, for four years, provided, however, that of the members of the commission first appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years, from April first, nineteen hundred seventy. Their successors shall be appointed for terms of four years. The chairman shall receive an annual salary within the amount appropriated therefor. The members of the commission shall receive actual and necessary expenses incurred by them in the performance of their duties under this article. The members of the commission, other than the chairman, shall receive a per diem allowance, to be fixed by the governor within the amount made available therefor by appropriation, for each day actually spent in the performance of their duties under this article. Vacancies in the commission, other than in the office of the chairman, occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments. Any member of the commission, other than the chairman, may, after notice and opportunity to be heard, be removed by the governor for neglect of duty or misfeasance in office, and such a member of the commission may be removed for other cause by the senate on the recommendation of the governor.

§ 67. Off-track pari-mutuel betting. 1. The commission is hereby authorized to establish and conduct systems of off-track pari-mutuel betting on horse races held within or without the state, pursuant to the provisions of this article. In the exercise of the powers vested in it by subdivision one of section nine article one of the constitution of the state, the legislature hereby prescribes that off-track pari-mutuel betting on horse races, conducted under the administration of the commission in the manner and subject to the conditions provided for in this article, shall be lawful, notwithstanding the provisions of any other law, general, special or local, including any law prohibiting or restricting lotteries, pool-selling or bookmaking or any other kind of gambling; it being the purpose of this article to derive from such betting, as authorized by this article, a reasonable revenue for the support of government, and to prevent and curb unlawful bookmaking and illegal wagering on horse races.

2. The commission shall adopt general rules and regulations, consistent with this article, establishing and governing the permitted method or methods of operation of the system of off-track pari-mutuel betting.

§ 68. Participating municipalities. 1. Off-track pari-mutuel betting shall be conducted only within a municipality or part thereof which becomes a "participating municipality" pursuant to this section.

2. The city of New York may be approved by the commission as a participating municipality upon application by the city and the commission shall act upon an application for approval within thirty days of submission.

3. Any other city having a population of more than one hundred twenty-five thousand may be approved by the commission as a participating municipality if such city, by local law subject to a referendum on petition pursuant to the municipal home rule law, has so requested and authorized the conduct of off-track pari-mutuel betting within such city.

4. That portion of any county, not wholly contained within a city and containing a city having a population of more than one hundred twenty-five thousand which is outside such city may be approved by the commission as a participating municipality if such county, by local law subject to a referendum on petition pursuant to the municipal home rule law solely in such portion of such county outside such city, has requested and authorized the conduct of off-track pari-mutuel betting within such portion of such county. For purposes of this subdivision, the number of signatures required on any petition seeking a referendum and the eligibility of signers of any such petition shall be based solely on that portion of such county outside of such city.

5. Any city having a population of less than one hundred twenty-five thousand and any county not wholly contained within a city and not containing a city having a population of more than one hundred twenty-five thousand may be approved by the commission as a participating municipality if such city or county, by local law subject to referendum on petition pursuant to the municipal home rule law, has requested and authorized the conduct of off-track pari-mutuel betting within such municipality, provided however that (i) the commission shall not approve an application by a city having a population of less than one hundred twenty-five

thousand prior to January one, nineteen hundred seventy-one, or if the county within which such city is contained is a participating municipality, and (ii) when the commission approves an application by a county within which a city having a population of less than one hundred twenty-five thousand is a participating municipality, such county shall thereafter become the participating municipality, but the commission shall not approve such an application unless due provision is made with respect to investments and obligations of the city made or incurred as a participating municipality.

6. No referendum on petition pursuant to this section shall be conducted on the same date as a general election or primary election.

7. A participating municipality may withdraw as such upon terms and conditions approved by the commission.

8. For the purposes of this section population shall be determined according to the federal census of nineteen hundred sixty.

§ 69. Administration and operation. 1. The commission may operate the system of off-track pari-mutuel betting, in any participating municipality, directly through its own employees and facilities.

2. The commission may, on application of a participating municipality, approve a plan of operation submitted by such municipality; pursuant to which such municipality shall itself operate in whole or in part the system of off-track pari-mutuel betting within such municipality (i) in compliance with this article and the rules and regulations of the commission, and (ii) subject to audit and supervision by the commission. When such plan of operation is approved by the commission, such municipality shall be authorized and empowered to operate such system. If a public benefit corporation is created to operate such system in a municipality, the commission may approve a plan of operation submitted jointly by the municipality and such public benefit corporation, and if so provided in the plan such public benefit corporation shall be authorized and empowered to operate such system. Two or more municipalities may submit a joint plan of operation and, if approved by the commission, jointly may operate the system of off-track pari-mutuel betting. Applications under section sixty-eight may be combined with and conditioned upon the approval of applications under this subdivision. Reference to the "commission" in sections sixty-nine-e through sixty-nine-j shall be deemed to include a participating municipality or public benefit corporation authorized to operate such system.

§ 69-a. Use of track facilities. 1. The commission may establish or approve as part of a municipality's plan an off-track pari-mutuel betting pool which combines best placed on and off the track on races at tracks in this state in a single pari-mutuel pool, and shall, in that event, adopt rules and regulations to assure the equalization of the disposition of the pari-mutuel pool.

2. (a) At the request of the commission, a track operator conducting a track in this state, shall, upon such terms and conditions as may be agreed upon by such operator and the commission provide appropriate space and/or facilities at its track whereby the commission may perform the functions hereinafter described with respect to the transmission and reception of bets and racing information. The operator shall be entitled to receive as compensation one per cent of the amount of such single pool bets placed off the track.

(b) In the event that the commission shall be unable to agree with such operator upon the space and/or facilities of such track to be provided to the commission by such operator, or the terms and conditions of the use and/or occupancy thereof by the commission, the state racing commission or the state harness racing commission (whichever has jurisdiction over the track in question) shall, upon application in writing made either by the commission or by such operator, determine the appropriate space and/or facilities to be provided to such commission and the terms and conditions of its use and/or occupancy by such commission exclusive of the consideration payable therefor to such operator.

(c) Upon the rendering of the determination of the state racing commission or the state harness racing commission, as the case may be, the commission shall be entitled to use and/or occupy immediately the space and/or facilities awarded by such racing commission, upon the terms and conditions prescribed by such racing commission, whether or not the consideration to be paid therefor by the commission has been agreed upon or determined as herein provided.

(d) In the event that just compensation of the operator for providing such space and facilities exceeds the compensation established by paragraph (a), such operator shall be entitled to recover such excess from the commission.

3. The commission, at each track in this state at which horse races are conducted upon which the commission accepts bets, may utilize the space and/or facilities made available therefor as provided in subdivision two of this section, so as to cause (a) the bets received by the commission on each race at such track to be transmitted to such track and incorporated in the appropriate parimutuel pools thereat as hereinafter provided, and (b) the transmission from such track to such of the offices, facilities or premises of the commission as it deems proper, of odds on horse, results of races, values of winning tickets and such other racing information as the commission may deem to be necessary, desirable or appropriate.

4. (a) Subject to the provisions of paragraph (e) of this subdivision, the commission shall cause all single pool bets on each horse race to be transmitted to each such track in such manner and at such times as to make possible the inclusion of such bets among the bets reflected in the pari-mutuel pools established at such track by the track operator for such race.

(b) Such operator shall cause all bets, received from the commission prior to the closing of each pool to which such bets relate, to be included among the bets reflected in such pool.

(c) Determination of the odds on horses and amounts due to winning bettors, whether their bets are placed at the track or with the commission, shall be made in the same manner as if the sums represented by such transmitted bets were actually included in each pool to which such transmitted bets relate.

(d) If any track operator shall refuse or fail to comply with the provisions of paragraphs (a) and (b) of this subdivision four, the commission shall be entitled to apply to the supreme court for an order or judgment directing such track operator to comply with such provisions, and upon a showing by the commission that such track operator has refused or failed to comply with such provisions, a permanent or temporary mandatory injunction or other appropriate order or judgment shall be granted without bond.

(e) Nothing contained in this subdivision four shall be construed as requiring the commission to pay or deliver to any track operator any sum received from any bettor by the commission as a wager or otherwise, but the net amount due from the commission to the operator (in the event that payments to winning bettors on the track exceed the portion of the pari mutuel pool attributable to bettors on the track) or that payments to winning bettors off the track exceed the portion of the pari-mutuel pool attributable to bettors off the track), as the case may be, shall be paid within seven days from the race.

5. Reference to the "commission" in subdivisions two, three and four shall mean a participating municipality or a public benefit corporation in the event that an approved plan of operation pursuant to section sixty-nine provides that such municipality or corporation may engage in a single pari-mutuel pool including bets placed on and off a track in this state.

6. The commission may authorize more than one such municipality or corporation to use space or facilities at the same track, and may make such provisions as to sharing of space, facilities, costs and pool adjustments among them as may be reasonable.

§ 69-b. Reimbursement on account of lost revenue. 1. (a) The commission shall adopt rules and regulations providing for the reimbursement of a track operator conducting a track in this state, a local government and the state on account of lost revenues from the operation of off-track pari-mutuel betting pursuant to this article.

(b) Reimbursement shall be made with respect to a track only if:

(i) the track is located within fifty miles of any part of a participating municipality, and

(ii) the track operator has, during the year for which reimbursement is requested, maintained a racing program at least equal in quality to its racing program during nineteen hundred sixty-nine. The quality of a racing program shall be measured by reference to such factors as the condition of physical facilities; purses and accommodations for racing participants; the quality of services including food, beverage and betting services; and such other factors as may be appropriate.

(c) The amount of reimbursement shall be calculated under the rules of the commission to be that amount necessary to guarantee:

(i) to the track operator, annual track admission revenues (after admission taxes) equal to ninety per cent of the average daily track admission revenues

during nineteen hundred sixty-nine times the number of days of racing in the reimbursement year up to the number in nineteen hundred sixty-nine.

(ii) to the track operator, annual pari-mutuel revenues retained by such operator (plus that portion of the compensation received pursuant to paragraph (a) of subdivision two of section sixty-nine-a which exceeds the costs of providing space and facilities pursuant to section sixty-nine-a) equal to ninety-five per cent of average daily pari-mutuel revenues during nineteen hundred sixty-nine times the number of days of racing in the reimbursement year up to the number in nineteen hundred sixty-nine.

(iii) to a local government, annual admission tax revenues equal to ninety-five per cent of average daily admission tax revenues during nineteen hundred sixty-nine, times the number of days of racing in the reimbursement year up to the number in nineteen hundred sixty-nine.

(iv) to the state, annual pari-mutuel tax revenues equal to one hundred per cent of such average daily revenues during nineteen hundred sixty-nine times the number of days of racing in the reimbursement year up to the number in nineteen hundred sixty-nine.

(d) Reimbursement shall be made only with respect to calendar years nineteen hundred seventy through nineteen hundred seventy-five.

(e) Any question arising under subparagraph (ii) of paragraph (b) of this subdivision shall be referred to the state racing commission or the state harness racing commission (whichever has jurisdiction over the track in question), which shall conduct an investigation and render a determination thereon. The determination of such racing commission or harness racing commission shall be determinative in a proceeding brought pursuant to article seventy-eight of the civil practice law and rules by any party affected.

(f) Amounts of reimbursement ordered by the commission with respect to a track shall be chargeable expense against each participating municipality any part of which is within fifty miles of such track. If there is more than one such participating municipality, the expense shall be allocated between them in accordance with their respective off-track betting volume during the year for which reimbursement is claimed.

2. The commission shall adopt rules and regulations providing for the reimbursement of the agriculture and New York state horse breeding development fund on account of lost revenues from the operation of off-track betting pursuant to this article. The amount of reimbursement shall be calculated under the rules of the commission to be that amount necessary to guarantee to the fund income pursuant to section fifty-five-c equal to such income received during nineteen hundred sixty-nine in each year through nineteen hundred seventy-five. Amounts of reimbursement pursuant to this subdivision shall be chargeable against participating municipalities in accordance with their respective off-track betting volume during the year for which reimbursement is claimed.

3. Applications for reimbursement shall be made to and determined by the commission. Applications shall be made on a calendar year basis within the first thirty days of the succeeding year. Amounts of reimbursement ordered by the commission shall be paid by the commission, except that reimbursement chargeable against a participating municipality which directly or through a public benefit corporation operates and administers the system of off-track pari-mutuel betting shall be paid by such municipality or public benefit corporation.

§ 69-c. Disposition of off-track pari-mutuel betting pools: taxes: allocation of expenses. 1. Except as provided in section sixty-nine-a all sums deposited in any off-track pari-mutuel pools shall be distributed to the holders of winning tickets therein less seventeen per cent on harness races and sixteen per cent on running races and steeplechases. The disposition of pari-mutuel breaks and uncashed tickets shall be made in accordance with the rules and regulations of the commission. Retained percentages in the case of off-track pari-mutuel betting operated by the commission shall be paid into the expense and distribution fund established by section sixty-nine-d.

2. There is hereby imposed a tax on one-half of one percent on all off-track pari-mutuel bets pursuant to this article. The amount of the tax shall be paid from the retained percentage by the commission and each participating municipality and public benefit corporation, and shall be paid to the state tax commission at a reasonable tax by the state, which tax is hereby levied.

3. All expenses of operation and administration of the system of off-track, pari-mutuel betting, other than the general overhead and supervision expenses

of the commission not allocable to such operation and administration, but including expenses (and reasonable reserves for expenses) incurred under sections sixty-nine-a and sixty-nine-b, shall be required by rules and regulations of the commission to be allocated separately to each participating municipality, whether or not such municipality itself administers and operates such system, but such separate allocation of expenses of operation and administration shall not preclude a pari-mutuel pool involving more than one participating municipality. General overhead and supervisory expenses of the commission shall be allocated and charged back to each participating municipality and public benefit corporation in accordance with its proportion of gross off-track, pari-mutuel betting revenue in the state, and payments due from a participating municipality or a public benefit corporation which itself administers and operates such system shall be paid into the fund established by section sixty-nine-d.

4. Such rules and regulations of the commission shall require a monthly accounting, before the fifteenth day of the succeeding month, with respect to the operations of the system of off-track pari-mutuel betting within each participating municipality during such month. Net revenues remaining after payment of all expenses including reimbursement shall be paid as follows:

(a) eighty per cent thereof to the participating municipality for its municipal purposes, and

(b) twenty per cent thereof into the general fund of the state treasury; provided that net revenues in any calendar year in excess of two hundred million dollars shall be paid as follows:

(a) fifty per cent thereof to the participating municipality for its municipal purposes, and

(b) fifty per cent thereof into the general fund of the state treasury.

For the purpose of this subdivision, the amount of taxes paid to the state pursuant to subdivision two shall be added to net revenues prior to the calculation of the distributable shares, and the amount distributable to the state shall be reduced by the amount of such taxes.

§ 69-d. Off track pari-mutuel expense and distribution fund.

1. There is hereby established in the custody of the state comptroller a special fund to be known as the off-track pari-mutuel expense and distribution fund.

2. Such fund shall consist of the amounts paid into the fund by the commissioner as provided in this article, and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

3. Amounts deposited in such fund shall first be applied to reimburse the state treasury for expenses of administration, and any remaining amounts shall, notwithstanding the provisions of any general or special law, be distributed in accordance with section sixty-nine-c.

4. All payments from the fund shall be made on the audit and warrant of the comptroller on vouchers approved by the commissioner of taxation and finance.

§ 69-e. Prohibited acts where betting conducted. 1. The commission shall not make any radio or television broadcast of any horse race available for view or hearing in the public area of any facility where bets may be placed, and shall not permit any such broadcast to be so made available in such area.

2. No person shall be permitted to bring into the public area of any such facility, or to keep there, any communications equipment designed for or capable of sending broadcasts or messages of any kind or to operate any receiving equipment therein.

3. (a) Persons under the influence of alcohol, bookmakers and disorderly persons shall not be admitted to or permitted to remain in any such facility, commission and no such person shall be permitted to place a bet directly or indirectly in any facility.

(b) The commission shall have the right to require patrons at facilities to produce proof of age and identity.

4. No food or drink or merchandise of any kind shall be sold or served in the public area of such facility nor shall any vending machine of any kind be placed in such facility, nor shall any person be permitted to consume food or drink in any such facility.

5. No book, publication, or printed or written material of any kind containing information of any nature pertaining to horse racing, including, but not limited to, details of races, tips or selections, shall be sold, given away or distributed in any such facility; provided that nothing herein contained shall prohibit the commission from providing or distributing such material, as in its judgment is nec-

essary or appropriate for the orderly conduct of off-track betting and the effectuation of the purposes of this article.

§ 69-f. In applicability of laws governing betting at the track. Notwithstanding any inconsistent provision of this chapter or of any other law, all moneys and all taxes received by the commission from bettors, track operators or otherwise pursuant to this article shall be paid, distributed and disposed of as prescribed by this article and shall not be subject to the provisions of sections nine, nine-a, forty-five or forty-five-a of this chapter. Notwithstanding any inconsistent provision of this article or of any other law, neither the commission nor any officer, employee or agency thereof, shall be required to pay or transmit any moneys to any track operator or to the state tax commission with respect to off-track betting, except as required by the provisions of this article.

§ 69-g. Notification of results of races. Immediately after the conclusion of any horse race conducted at any track in this state by any track operator, such operator, if the commission has so requested, shall notify the commission of the official results of the race. Such notification shall be given in such manner as the commission shall designate, and the commission shall pay the expense, if any, entailed in such notification.

§ 69-h. Prohibitions as to minors. No minor shall be permitted to be present in the premises of any office or to place a bet directly or indirectly at any such office.

§ 69-i. Prohibited acts of officers and employees of commission. It shall be unlawful for any officer or employee of the commission to place a bet directly or indirectly at any office or to receive any gratuity from any person who places a bet at any such office. Any violation of the provisions of this section shall constitute a misdemeanor.

§ 69-j. Prohibition of acts impairing integrity of betting system. Any person who, with intent to obtain, or enable himself or any other person to obtain, any payment by the commission to which he or such other person is not lawfully entitled under this article, or who, with intent to cause the commission to make any payment not lawfully due under this article, or with intent to defraud the commission, or any other person, shall alter, change or interfere with any equipment or device used in connection with off-track betting, or cause any false, inaccurate or unauthorized information, data, impulse or signal to be fed into, or transmitted over, or registered in or displayed upon such equipment or device shall be guilty of a class D felony.

§ 69-k. Court proceedings; preferences; venue. Any action or proceeding to which the commission or the people of the state of New York may be parties, in which any question arises as to the validity of this article or any plan approved hereunder, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the commission in any action or proceeding questioning the validity of this article in which it may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the commission is located.

§ 69-l. Separability. If any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. Section two of such law is hereby amended to read as follows:

§ 2. Pari-mutuel betting on horse races legalized. In the exercise of the authority vested in it by section nine of article one of the state constitution, as amended by vote of the people at the general election in November, nineteen hundred thirty-nine, the legislature hereby prescribes that pari-mutuel betting on horse races shall be lawful in this state if conducted in the manner and subject to the conditions and supervision provided by this act, notwithstanding the provisions of any other law, general, special or local, prohibiting or restricting lotteries, pool selling or bookmaking, or any other kind of gambling; it being the purpose of this act to derive from such betting as herein authorized a reasonable revenue for the support of government and to promote agriculture generally and the improvement of breeding of horses particularly in the state. Such pari-mutuel

betting shall only be conducted within the grounds or enclosure of a race track on races at such track and on such dates when racing at such track shall have been authorized pursuant to this act: *provided, however, that nothing in this law shall be deemed to prohibit off-track pari-mutuel betting in a municipality pursuant to article five of this chapter.*

§ 3. Section forty-five of such law, as last amended by chapter ninety-one of the laws of nineteen hundred sixty-eight, is hereby amended to read as follows:

§ 45. Disposition of pari-mutuel pools. Every association or corporation authorized under this act to conduct pari-mutuel betting at a harness horse race meeting on races run thereat shall distribute all sums deposited in any pari-mutuel pool to the holders of winning tickets therein provided such tickets be presented for payment before April first of the year following the year of their purchase, less ~~sixteen~~ *seventeen* per centum of the total deposits plus the breaks. The breaks are hereby defined as the odd cents over any multiple of ten calculated on the basis of one dollar and otherwise payable to a patron. Of the sum so retained an amount equal to five ~~and one-half~~ per centum of the amount of the total daily pool not exceeding ~~one hundred seventy-five thousand~~ *two hundred fifty thousand* dollars, seven and one-half per centum of the amount of the total daily pool in excess of ~~one hundred seventy-five thousand~~ *two hundred fifty thousand* dollars but not in excess of three hundred thousand dollars, eight and one-half per centum of the amount of the total daily pool in excess of three hundred thousand dollars but not in excess of four hundred thousand dollars, ~~nine~~ *ten* and one-half per centum of the amount of the total daily pool in excess of four hundred thousand dollars but not in excess of five hundred thousand dollars, ~~ten and one-half~~ *eleven and one-quarter* per centum of the amount of the total daily pool in excess of five hundred thousand dollars but not in excess of six hundred thousand dollars, ~~and~~ *eleven* and one-half per centum of the amount of the total daily pool in excess of six hundred thousand dollars *to seven hundred thousand dollars, eleven and three-quarters per centum of the amount of the total daily pool in excess of seven hundred thousand dollars but not in excess of eight hundred thousand dollars, twelve per centum of the amount of the total daily pool in excess of eight hundred thousand dollars but not in excess of nine hundred thousand dollars, twelve and one-quarter per centum of the amount of the total daily pool in excess of nine hundred thousand dollars but not in excess of one million dollars, and twelve and one-half per centum of the amount of the total daily pool in excess of one million dollars,* plus fifty per centum of the amount of the breaks shall be paid by such corporation or association to the state tax commission as a reasonable tax by the state for the privilege of conducting pari-mutuel betting on the races run at the harness horse race meetings held by such corporation or association, which tax is hereby levied, and the balance of the retained percentage of such pool and of the breaks may be held by such corporation or association for its own use and purposes, except that twenty-five per centum of the amount of the breaks shall be paid by such corporation or association to the agriculture and horse breeding development fund as provided in article three of this chapter to aid agriculture generally and improve the breeding of horses.

The payment of such state tax shall be made to the state tax commission at such regular intervals as the said tax commission may require, and shall be accompanied by a report under oath showing the total of all such contributions together with such other information as the said tax commission may require. A penalty of five per centum and interest at the rate of one per centum per month from the date the report is required to be filed to the date of payment of the tax shall be payable in case any tax imposed by this section is not paid when due. If the state tax commission determines that any moneys received under this section were paid in error, it may cause the same to be refunded without interest out of any moneys collected thereunder, provided an application therefor is filed with it within one year from the time the erroneous payment was made. Such taxes, interest and penalties when collected, after the deduction of refunds of taxes erroneously paid, shall be paid by the state tax commission into the general fund of the state treasury.

Except as otherwise provided in chapter one hundred forty-eight of the laws of nineteen hundred fifty-two, entitled "An act to enable certain counties and cities to impose a tax on admissions to harness horse race meetings and providing for the collection and administration of such tax," as amended, no county, city, town, village or other political subdivision of the state may impose, levy or

collect a tax on admission fees or tax on admission, on wagers made by patrons in the form of purchases of pari-mutuel tickets or upon such tickets, on pari-mutuel pools, on breaks, on dividends or payments made to winning bettors, or on that part of the pari-mutuel pools or breaks to be retained by harness horse racing corporations or associations under this section.

§ 4. The sum of one million dollars (\$1,000,000) or so much thereof as shall be necessary, is hereby appropriated as a first instance appropriation out of any moneys in the state treasury in the general fund to the credit of the state purposes fund, and not otherwise appropriated to the department of state for services and expenses of the state off-track pari-mutuel betting commission for the purposes of carrying out the provisions of this act. Such sum shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved by the chairman of the off-track pari-mutuel betting commission, or his duly designated representative in the manner provided by law.

No expenditure shall be made from this appropriation until a certificate of approval of availability shall have been issued by the director of the budget and filed with the state comptroller and a copy filed with the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

The director of the budget shall not issue any certificate of approval of availability until the New York state off-track parimutuel betting commission has entered into a written agreement with the director of the budget providing that such commission shall reimburse the state of New York in full for all moneys advanced by the state from its appropriation from the revenues of the commission or any other sources available to such commission not later than March thirty-first, nineteen hundred seventy-one.

§ 5. This act shall take effect immediately, except that section three shall take effect July first, nineteen hundred seventy.

STATE OF NEW YORK,
Department of State, ss:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

JOHN P. LOMENZO,
Secretary of State.

Chairman PEPPER. The committee will adjourn until 10 o'clock on the morning of June 13.

(Thereupon, at 4:30 p.m. the hearing was adjourned to reconvene on Tuesday, June 13, 1972, at 10 a.m.)

ORGANIZED CRIME IN SPORTS (RACING)

TUESDAY, JUNE 13, 1972

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 345, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Waldie, Mann, Murphy, Wiggins, Steiger, Winn, Sandman, and Keating.

Also present: Joseph A. Phillips, chief counsel; Michael W. Blommer, associate chief counsel; Chris Nolde, associate counsel; and Andrew Radding, assistant counsel.

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, will you call the first witness?

Mr. PHILLIPS. Mr. Bobby Byrne.

Chairman PEPPER. Will you stand and be sworn, please?

STATEMENT OF BOBBY BYRNE, HORSERACING SPECIALIST AND FIXER OF RACES

(Having been duly sworn by the chairman)

Chairman PEPPER. You may inquire, Mr. Phillips.

Mr. PHILLIPS. Mr. Byrne, in the last few years did you become interested in horses?

Mr. BYRNE. Yes.

Mr. PHILLIPS. Did you and others form a group in relation to fixing horseraces?

Mr. BYRNE. Yes.

Can you enumerate the various tracks where you and this group of individuals working with you did, in fact, fix races?

Mr. BYRNE. Well, just about every track on the east coast from Florida to Maine, and as far west as Illinois, and East St. Louis. They run in a circle. In the summertime, right now, they are in the New England area and New York, and this area here, and Maryland, and by the time the summer is over and you get into the real late fall, we would be going down south to Florida.

You just follow the circuit, you know, and you keep switching from track to track because you went in for a play, let's say for a week. You

spend a week or 2 weeks at one track and when you make a score you get out of there because you don't want to draw too much attention to yourself and the track's security, because they had to make on the cars and they knew some of the people I was working with. So you just keep transferring around throughout the country, actually, throughout the east coast. You try and keep one step ahead of them.

Mr. PHILLIPS. In other words, you and your group were able to fix races in practically every racetrack on the eastern seaboard; is that correct?

Mr. BYRNE. Yes, every major track. I mean, it had to be financially worthwhile for us to go there. Of course, there are times you have a couple of small tracks, you go there and make small money. If you happen to be in the neighborhood, let's stop and see what it's like, and you go and try and do something.

And you did, if you did; if you didn't, you didn't worry about it too much.

Mr. PHILLIPS. Essentially you were working the bigger more lucrative tracks?

Mr. BYRNE. Right.

Mr. PHILLIPS. Could you give us a list of the particular tracks, as best you can recall?

Mr. BYRNE. Scarborough Downs, Suffolk, Lincoln, Narragansett, Tropical, Hialeah, Dover, River Downs, Pocono Downs, Liberty Bell, Cahokia, Bowie, Churchill Downs, Fairmont Park—just about every major track on the east coast.

Mr. PHILLIPS. Garden State?

Mr. BYRNE. Aqueduct, Garden State, the others.

Mr. PHILLIPS. Pimlico?

Mr. BYRNE. Pimlico was another one. Bowie was another one. Shenandoah Downs was another one we went to. Just any one that is in that circuit that multiple wagering and good handles, and that is where you go. You take a track like Shenandoah Downs, River Downs, or Fairmount Park, the handle isn't as great as at your major tracks, but you have to go to take a little from these other tracks, you know. So it would be like a boxer. Let's keep in shape, you know.

Mr. KEATING. Mr. Phillips, what does he mean "keep them in shape"?

Mr. PHILLIPS. Would you explain?

Mr. KEATING. If you are referring to River Downs?

Mr. BYRNE. Let's put it, if you are a racetracker—and the first thing you do when you get up in the morning, the average person has a cup of coffee: If you are a guy like ourselves, the first thing you do is go out and get the Telegraph and see what horses, jockeys, and trainers are where. You have to keep up with what is going on, or else some trainer could be in one section of the country at one time and overnight, with the air travel today, they could be somewhere else. And they even fly horses today. So you have to keep going. Just keep reading up what is going on.

Mr. KEATING. Could I just ask one more question? I don't want to interrupt your line.

Since you mentioned River Downs, did you actually work in River Downs?

Mr. BYRNE. Yes.

Mr. KEATING. And fix races at River Downs?

Mr. BYRNE. Yes.

Mr. KEATING. About what year was this?

Mr. BYRNE. It must be about 1970.

Mr. KEATING. How many races do you recall that you could have fixed at River Downs? Was it one racing season, or more than that?

Mr. BYRNE. It was over a period of years, but I mean there was the races I was personally involved in at River Downs. Two of them were successful and the other wasn't.

Mr. KEATING. When you say "successful," you mean you were able to have the horse win that you wanted to win?

Mr. BYRNE. Right. Two of them we hit. The other one was just a swindle.

Mr. KEATING. What do you mean "a swindle"?

Mr. BYRNE. We take a sucker along and we do, we extract money from him and get him to bet. We tell him we own all of the horses in the race and we bet with his money. And if we win, we won the money. If we lost, we made excuses, and it didn't cost us nothing. So its no problem.

Mr. KEATING. I will yield back. I do want to get into this at some length on River Downs, but I appreciate your permitting me to interrupt.

Mr. PHILLIPS. Mr. Byrne, you were telling us something about the circuit. Could you tell us how this circuit works and how the horses proceed from one track to another throughout the country?

Most of us are familiar with it, but will you please describe it for the record.

Mr. BYRNE. I haven't been in the New England area for the last couple of months, but Suffolk Downs is operating around early—I think this year they operated early in the spring.

Well, Lincoln Downs in Rhode Island would close. Narragansett would close around January or February. They usually open up the season.

The horses from there would go to Suffolk Downs and then from there to Rockingham Park.

They keep good horses. Like you have good horses that come out of that circuit that are fairly good. They can make it to Aqueduct or Bowie, and they come down to Dover Downs. Now you are getting into the late fall, like real fall, and they start across down South here. And they come down.

By the time November and December arrive, December, actually and January, you get down to Tropical, Hialeah, and you get down in the height of the tourist season, plus the Super Bowl, which is always held, used to be—I guess this will be the first year coming up it won't be held in Florida. You get a lot of money floating around down there and their handles are great because they pool—they shoot for a good pool, like the perfecta pool, \$70,000, \$80,000, \$90,000.

Mr. PHILLIPS. Would you describe the procedure you utilize when you decide to pick a race, and how you carried it out?

Mr. BYRNE. Well, suppose we were to leave here right now, and I believe Belmont Park is open. I know, in fact, Belmont Park is open. Let's say Pimlico is open. I could go over there and within 10 days to

2 weeks, I could tie up a race. You give me 2 weeks. About 10 days to 2 weeks and I could tie up a race, a perfecta race.

What I do, like 3 days before—well, the tracks publish what you call a condition book for the whole meet. And they have for the date, they will have what they are going to run, a \$2,000 claimer, a fillies and mares race, a handicap, an allowance race, a starters handicap. They have what they call—just a schedule of what races they have up and coming. So now I have this book. I can go anywhere in the country and get this book from any major track.

And like 3 days before, we want to pull off a score, what we do is go up to the administration building, I walk in there, put on a pair of old clothes like I was a racetracker, and go up and get an overnight sheet.

An overnight sheet tells you—like say today is Tuesday. This overnight sheet would give you the horses that are going to be entered for Friday's running. I would have them 3 days in advance. And I pick the race. Preferably, what I am looking for is a multiple-wager race.

Mr. PHILLIPS. Why is this?

Mr. BYRNE. There is more money involved. The percentage of money is greater. The perfecta pools, I have taken them as high as \$90,000, and that is your aim, to get as much of that \$90,000 as you can.

Mr. PHILLIPS. When you fix a perfecta race, you have got to fix it in such a way you get the first two horses?

Mr. BYRNE. We have to pick the winner and the horse that comes in second, and all of the money is wagered on it. If you hold the winning combination, you collect your share of that combination.

Mr. PHILLIPS. So a perfecta bet is a bet in which you pick, for example, the No. 5 horse and the No. 8 horse.

Mr. BYRNE. Right. Nos. 5 and 8. And it comes in and pays \$100 and you get about \$300 or \$400. If you have 40 \$10 tickets, you are going to walk out with a good piece of it.

Mr. PHILLIPS. You look for that perfecta?

Mr. BYRNE. That is the main concern, with the perfecta race, with the multiple wager. Sometimes there is a situation arises where it is just a straight race, you know, it is a regular race. But you might be able to get down at the track and probably put a couple of thousand to win without hurting the odds. But now you call back home—and we called all of the bookmakers we knew, in which we knew a lot of them because we had done booking up there before, so we could make some money, but not enough. That would cover expenses, because our expenses were great. Unbelievable expenses.

Mr. PHILLIPS. We will get into that a little bit later. You did fix races where there wasn't a perfecta betting or pool?

Mr. BYRNE. Oh, yes.

Mr. PHILLIPS. But your real preference was a perfecta race?

Mr. BYRNE. Right.

Mr. PHILLIPS. How would you go about the technique you utilized to fix a perfecta race?

Mr. BYRNE. When we first started we had several techniques. We would get jockeys to hold, or we would have trainers. We owned horses under straws, what we call straws.

Mr. PHILLIPS. Excuse me. Would you explain to the committee what owning horses through straws means?

Mr. BYRNE. Well, see, you have a legitimate person, and I know you, and I say, "Look, I want you to fill out a form for me. I own a horse and I want to put him under your name. I actually control the horse and on paper he is under your name, and there is nothing no one can do about it."

Mr. PHILLIPS. "I am fronting for you in the ownership of the horse?"

Mr. BYRNE. Right.

Mr. PHILLIPS. How extensive did you find that practice to be?

Mr. BYRNE. Well, we did it this way here. We could hold our own horse. Say we had a horse entered in one of these races. Now, we would have a jockey, he would run—a jockey would do what we told him to do because if he didn't, he wouldn't ride no more. If he couldn't ride, he couldn't make no money. We get a jockey who had no money to start with or had a weakness, and we play on his weakness. We get him to hold, plus knock out another horse on the gate. We eliminate two horses.

Mr. PHILLIPS. Could I interrupt. You said if you have a jockey or he had some weakness. Would you explain what you mean by that?

Mr. BYRNE. Every human being in the world has a weakness, I don't care what it is. Someone has a weakness or vice, whether it is girls, money. It is usually one or the other.

Nine out of 10 times it is girls or money. If they wanted money, we would supply them with money. Some occasions, some like marihuana. If they like girls—and in cases some even like boys, anything.

Whatever they want we give them, just to hold that horse. Once we did that——

Mr. PHILLIPS. There is one question I asked you which I would like to ask again. I think you misunderstood my question. It concerns straws; that is, the ownership of horses through front men.

Mr. BYRNE. Right.

Mr. PHILLIPS. Could you tell me whether that is extensive, or is that an isolated instance?

Mr. BYRNE. You take everybody in this room, take that Naders Raiders there. They could spend 10 years and they would never find the true owners of 60 percent of the horses. In fact, we had one horse in our group like, say, I am involved with like 10 people, and to this day I don't know how owns the horse. I know whose name was on the paper. But I don't know who owned the horse.

We had arguments about bringing the horse in. It was unbelievable, the ownership of these horses.

Whoever produces the foal papers when they go to the track and enter the horse, there is no problem. As long as the person is licensed and he is an honest person, you have no problem. It is beyond your imagination how many straws there are in the country with horse-racing. I mean there are some legitimate people in racing, but very few.

Mr. PHILLIPS. Would you care to go on? I interrupted you when you were telling us you had jockeys and trainers that you could get to cooperate with your group. Tell us how that was done?

Mr. BYRNE. We had two particular trainers that we used. They would train our horses. And even in fact, one of the trainers we had listed—in fact, we used him for an ownership, too, because they own horses.

One trainer, in particular, he used to train quite a few horses at one time, some pretty good horses, and he lost them in a fire. So, naturally, this was his weakness right off the bat. He is trying to get on his feet again. This is his weakness. This is what he can do to make some money—train our horses and do what we tell you. He is going to do it.

Our other trainer has a license and he is just a \$100-a-day racetrack hustler. He is afraid to get his shoes dirty. He wouldn't even walk back in the stable area, he wants to play the part of the high roller in the clubhouse with all of the girls and stuff. But he needed us because he needed money to keep up this front.

So he would do what we tell him. We tell him to get the jockey to hold, and the jockey would hold. We tell him to use the syringe on the horse.

There are some angles to it. When we first started out, we would go to some trainers, you couldn't get to hold their horse for no amount of money. Some would drive them, other you couldn't.

So those that we couldn't, sometimes, as long as they weren't too legitimate a trainer, we would hit the horse with something and then say to them, "Look, claim the horse on them." Claim the horse through these trainers and he would lose the horse.

So we say to the guy afterwards,

Look, the next time play ball with us or we will claim all of your horses and hit all of your horses.

And they find a drug in the horse, that guy could lose his license in the whole State. So they more or less come down and play ball with us.

Except there are some that won't. Definitely won't.

Mr. PHILLIPS. There are some trainers around who you would not approach, or did not approach, because they had a reputation for integrity and honesty?

Mr. BYRNE. Right. And later on, as we got into it, we devised a system with the drugs to this day I don't think anybody has beaten. In fact, I know there are quite a few people in, let's say the "wise guy" element, that like to know how it works, because we have been so successful at it. It went to our head and that is why things really fell apart on us afterward.

Mr. PHILLIPS. You say initially, when you got involved in race fixing, you worked through jockeys and trainers?

Mr. BYRNE. Right.

Mr. PHILLIPS. And you worked with drugs?

Mr. BYRNE. Right.

Mr. PHILLIPS. There came a time when you determined that the best method of fixing these races was to tie them up through drugs.

Mr. BYRNE. Right. We come across a drug—and it happened we even had a conversation about it one night in the hotel. You know, who brought the drug along, and what happened was you would always be talking to people about horses to find out who has money, even if you could swindle a guy into betting for you, using his money.

And one time a guy, we got in a conversation with a guy that was shipping horses and we found out they used a certain drug to calm

horses down so they could put them in an airplane or travel them over the road.

So we had been experimenting with all kinds of drugs on one horse. The horse belongs at Harvard Medical School now, the poor thing.

Mr. PHILLIPS. This group, which was fixing races, was actually experimenting with a horse?

Mr. BYRNE. Right.

Mr. PHILLIPS. Using various drugs to see whether they could avoid detection?

Mr. BYRNE. Avoid detection, see if it would pick up the speed. Anyway, this horse has had everything from heroin to caffeine. I mean this.

Mr. PHILLIPS. What was the horse's name?

Mr. BYRNE. Robert Kope.

Mr. PHILLIPS. How do you spell that?

Mr. BYRNE. K-o-p-e.

Mr. PHILLIPS. You say this horse has received so many drugs he belongs at Harvard Medical School?

Mr. BYRNE. They should donate him to science, believe me. In fact, he tore up that track that we was talking about at River Downs. You ought to see this horse run. It is unbelievable. They ought to give him the "horse of the year" award.

Mr. PHILLIPS. Let me get back to the main line of my questions, and that is: You say that you did develop an approach for using drugs to fix races and you found that to be superior to using the trainers and the jockeys?

Mr. BYRNE. Right.

Mr. PHILLIPS. Exactly how would you utilize this drugging method?

Mr. BYRNE. If you use jockeys and trainers, and you are dealing with too many human elements, and everybody knows somebody, they would know bookmakers, they would call bookmakers and when they get overloaded they would put it through the windows and hurt your play.

We found out about this drug. We could use it, and I could administer this drug to a horse, and he would run but he wouldn't win.

I could take a wagon horse today, pulling a wagon, and administer this drug to this Riva Ridge and this wagon horse would beat Riva Ridge on any given day, with this drug. If I administer this drug to Riva Ridge.

We hit, knock out the favorites. And plus knockout, like say you had 10 horses in a race, it is usually an ideal situation. It is better if you have eight, but if you have 10 horses in the field of a perfect race, what we try to do, what we would do, we forward them alive. Why we would do this? Because what we do now is try to hit six of these horses with a drug, try to hit six of them right off the bat.

If you couldn't get to all six, which is very rare we didn't, we would have, we would get to a jockey to hold the horse, plus bump a horse out. But toward the end and we were just using the drug and it was working beautiful.

So we had four live ones.

Mr. PHILLIPS. You say of the 10-horse race, you would knock six out?

Mr. BYRNE. Right.

Mr. PHILLIPS. Mainly, toward the end of this activity, by drugs?

Mr. BYRNE. By drugs.

Mr. PHILLIPS. Prior to that you would use the jockey and trainer, and mix that along with the drug?

Mr. BYRNE. Right.

Mr. PHILLIPS. You felt you did not want to continue using jockeys and trainers because they brought a human element into it, and they got a cut of the pie. They would be betting and knocking down your pool.

Mr. BYRNE. Right. In fact, one day they did knock down the pool on us. We collected \$36,000 and the guy we were involved with, his group collected \$40,000 and we did all of the work. That is an example of why we wanted to deal with no human element.

Mr. PHILLIPS. It was better to deal with the horses directly?

Mr. BYRNE. Oh, yes. They do what they are supposed to.

Mr. PHILLIPS. You say you knocked six horses out. How would you go about knocking the six horses out?

Mr. BYRNE. Well, see, I can get into any track in this country, back side of any track. I don't care what security they have or what they haven't, I can get in there. And nine out of 10 times I walk right through the gate, right past the guard. If I don't have a pass, if I can't get access to a pass, just go where all jockeys and trainers stay.

Some of them were from out of State. They have to stay somewhere. You go to the nearest trailer court, go to the nearest bar and restaurant in that area, and they all have stickers on their car. So what I would do is take some water and vinegar, peel the sticker off, and put it on a car I had gotten in that area. I would get a car in that area so we wouldn't have to use our own, because security knew our cars.

I put it on and I drive right through the gate and no one would question you, the guy would wave you right on.

Here is where our trainers were important. That is why it is important to know who is at what track. I would have this overnight sheet, but that only tells you who the horses are that are going to be entered and the trainer. It didn't tell you what barn or what stall that this particular horse would be in for this race. If you had a guy backside, like we had trainers—look, find out some kids, grooms, find out where such a horse is, by barn, stall 36, or something. So now you have all of the barns and stall numbers. Now you go in.

And if you had the trainer's okay to hit the horse, and depending on the track, like in Lincoln Downs we used the trainer's permission, because we had the guy's spitbox tied up, so we let him use the spitbox later on and he let us hit his horse.

Mr. PHILLIPS. For the record, explain what the spitbox is and how you tie it up?

Mr. BYRNE. The spitbox? After a horserace, and—now, I am probably a little behind on it now, I have been out of business for the last 6 or 7 months. But they used to only check the winners of the race, the urine analysis. And no matter what drug you used on a horse, it always seems to show up in urine.

So we had control of this box. So we would tell this guy, "Now, look, if you let us hit your horse, we are going to let you use the box."

So if he wanted to administer a drug, what we called a "bute"—the name is about that long (indicating), I can't even pronounce it. All horses have sore knees and sore ankles, real sore. And if you give them "bute," it is like—it is like giving a cortisone shot, he can run and he doesn't hurt. His bones don't rub together.

So if he uses this, it will show up in the urine test. So if you let him use the box—we had the guy that went around collecting the samples. He put a switch on it, taped the name on the wrong sample. And he used the box and there would be no problem.

So now, by letting him use that box, he let us hit his horse. I go in the stall and administer the drug to his horse and that is how we get to the six horses, five or six horses, whatever the case may be.

Mr. PHILLIPS. How did you actually hit him, with a hypodermic needle?

Mr. BYRNE. Right. In the neck. You could hit him in three places. You could hit him in the neck, or breast, or rump. But the most effective place to hit him is right in the neck, because it travels, it travels faster. This particular drug we use, it travels, it hits them faster. For the first half-hour it is noticeable that the drug is in there because the horse is standing there like he is drunk. After that it wears off and he is kind of dopey.

But it hits his brain and his heart. It flows through the blood stream fast; whereas the other places it takes a little bit longer. It is effective, but not as good as in the neck. The neck is the best place to hit him with it.

Depending on the circumstances at the time, you might—like depending on the race and the time you get to this horse, how many cc.'s of this drug you would use. Like, say, the best time to hit, say it is like a race is going to come off after 4:30 or 5 o'clock. The ideal time to hit a horse with 5 cc.'s of this drug is between 8 and 10 o'clock. And by the time he goes to race, he can go to his post position and no one will notice nothing. You couldn't detect it without a test on him. You could surmise.

They run out a few trainers that are pretty sharp, but they would have a hard time. There are certain things they look for, but if you hit it right and enough dosage, they will never detect it. And they don't check the losers. That is why people think we were hitting favorites. I mean hitting the horse to win. But what we were doing was hitting them to stop them.

We didn't want them to win and they never check the ones who lose the race. They only check the winners. And if any two combinations of our four come across, they take a urine test, and it would stand up in a court of law. I mean there is nothing in there.

Mr. PHILLIPS. How did this drug come to your attention? You said something about an airplane flight.

Mr. BYRNE. Yes. They transport horses—and a horse hasn't got a brain, really. Everything about a horse is instinct and they are nervous animals. So when you take them over a road—even for a human being to travel in a car and an airplane, it is a pretty tiresome, uncomfortable deal. So you can imagine a horse, they get nervous or fidgety. This guy was using this drug to calm them down in the travel, and that is how we experimented with this particular horse, Robert Kope, and found it worked wonders.

He would run but he wouldn't go anywhere. That is how we come across the drug and really used it to our advantage.

Mr. PHILLIPS. In other words, this drug was used by some people just to tranquilize horses?

Mr. BYRNE. For transportation.

Mr. PHILLIPS. Either by van or plane.

Mr. BYRNE. It is a depressant, is actually what it is. It calms them down, relaxes them. And some horses, you have some horses, they will let you do anything to them. And you have other horses, they will try to kill you. They will actually try to bite you, jump you. They will do anything to you. You administer the drug to them. You take the wildest horse in the world and you calm him right down. I don't care what you do to them. It will calm them right down.

It is like putting a baby to sleep with a bottle or pacifier. That is how good it is.

Mr. PHILLIPS. It substantially affects his running speed?

Mr. BYRNE. Yes, it does. He will go through the motion. See, a horse can cover his own length in one-fifth of a second. And the horse travels, let's say, the average thoroughbred travels 40 miles an hour. Let's say 38 to 43 miles an hour, depending on his condition.

Now, this horse will go through this motion, but his time is going to increase. And he is going to be traveling like probably 33 miles an hour.

Seconds are a vital thing in horseracing, so he will go through the motions, but he just is not going to win. I don't care what anybody says, he is not going to win.

Mr. PHILLIPS. In all of these situations where you actually hit the horse, the horse ran out of the money?

Mr. BYRNE. Definitely, out of the money.

Mr. PHILLIPS. In every case?

Mr. BYRNE. It was working so good that we have like our four live ones, and we would stand on the backstretch at different tracks, or at the top of the stretch, and we used to bet among ourselves who was going to buy the beer and lunch and how the four live ones were going to finish, and we have the winning tickets in our pocket.

But it was a joke. I say "No. 4 is going to be first." "No, No. 7," you know. We would make a little game about it. We saw all of these suckers at the racetrack, 13,000 of them, not knowing, just hoping their horse will come in a late surge, and the horse looked like he ran a 5-mile marathon, he just couldn't go anywhere. He just couldn't go anywhere.

Mr. PHILLIPS. You say you hit a given race with 10 horses?

Mr. BYRNE. Right.

Mr. PHILLIPS. You practice and you thought a desirable practice, was to hit six and keep four live ones?

Mr. BYRNE. Right.

Mr. PHILLIPS. Why did you not just hit eight and leave two live ones?

Mr. BYRNE. Well, when you are dealing with the human element, you always have an unforeseen thing happening. A horse could fall down, they could click heels, a horse could bump. There was an incident happened in Rhode Island. The track security was wise. They were wise to what was going on, but they didn't know who it was or how we were doing it. I was the only party that was unknown. My

face and name wasn't known to anybody at these tracks, but the people I worked with were well-known and their cars were.

What would happen is we would get the—let's say the one horse we hit, let's say, one time. He was so bad—I don't know how you explain it. We had, like I think it was, I think we left three open this day, at Lincoln Downs. I am positive it was three horses open.

So what they did, the TRA went to the stewards and they told them, "We know these guys are around, they are in town." So what the stewards did, they watched the race real close and they use the least bit of excuse, you know, and they watched it. What happened was, one of the horses coming out of the—not three live ones, excuse me. We only had two live ones. And this other horse was running, and that two come in, one-two, in that order.

And there was \$50,000 in this pool. What happened was the stewards reviewed the films and they used the least excuse to take the results down, and which they did. They subsequently took down the horse we had finish first and put another horse up. Our horse that come in second, tied with the third horse we didn't hit. So that killed our perfecta ticket. They couldn't prove that we hit it. They ran a test afterward through one of the laboratories and they found out, they checked all of the horses, and they were right, our horses did have the drug. But they couldn't scratch him because there was no reason. The reason they took it down, you have film patrols at racetracks and they used—I found out the horses bumped, and they used that for an excuse, because a steward has a lot of authority at a racetrack.

He only has to answer to, like a racing commission, and he can suspend a jockey, he can tie up the purse. In this case they took the horse down that finished first and placed him third or fourth, I believe. I forget exactly. Subsequently we didn't collect our money. So that is why we leave four horses open for this particular matter.

Now, any one of these two of these four come in, we are going to collect, and if they take down any two of them, or any unforeseen element happens—remember, you are dealing with the human element and you are dealing with an animal that hasn't much of a brain. He is instinct. If they do get off to a poor start, or stumbles, or falls, or loses the jockey, you still have three horses alive. Or you have two alive.

If they take down the top and put up the third or fourth, we are still in the money because we have the combination.

You might say, "Gee, that's an added expense." But it is like—you have a safety, you know. It would be like going into a fire and besides the hose, carry a fire extinguisher, too. You have a little reserve there. It only costs you like probably an extra \$400 or \$500 but it is well worth it in the end. I seen it in some cases.

One case, it made a difference between \$16,000 and nothing. And that other incident I just explained, it was \$50,000, and it was a day we needed the money. We were broke and they took it down.

That is why you have to definitely leave four.

Mr. PHILLIPS. In a 10-horse race you leave four, and an eight-horse race you leave four or three?

Mr. BYRNE. We leave three. Our practice is to leave three in an eight-horse field; because if—I am trying to think of a race. I can think of a million of them. There was one race in particular, in fact

all of them, but this one race in particular. If you reviewed the films of it, it is like two separate races. Did you ever see a group of jet fighters take off? They take off simultaneously, so many seconds behind the other. This was like two separate races in one. Our group that we wanted to win were running up front, and the other group that were all doped up, were running by themselves, and here they come. And you got a guaranteed winner there, you know.

Mr. PHILLIPS. In any event, you say the practice was to leave four or three, depending on the number of horses in the race?

Mr. BYRNE. Right.

Mr. PHILLIPS. And in those races, did you go through the trainers or did you sneak it?

Mr. BYRNE. Sometimes—well, here's an incident now. We have eight horses in a field. I can go into this race now because the case is over with. I believe it was eight horses this particular day.

Two of the trainers we knew real well, had done business with them before. So everybody that knows us, all of the bookmakers, figure we are going to use our horses to win. The name of the horses was Willston Kid and Hasty Niece. So what we would do, everybody, the public would say, "Hey, the guys down here, their horses are registered." Some of the guys knew our horses. They figured they were going to win.

They put money on our horses. And what we would do was stop our own horses through these trainers. They would tell us where other horses were that we had to get to, and we go along and hit them with the needle and no one would ever know the difference. So we would beat the bookmakers, plus we beat the track and the public.

It is beyond people's imagination how bad it is. I wouldn't go to the track today if there was one horse running—with my own money. I might go with somebody else's, but I wouldn't use my own. No way.

Mr. STEIGER. That is right. You couldn't get in.

Mr. PHILLIPS. You say there is an hour—the amount of this drug and a certain time that it has to take effect?

Mr. BYRNE. Right.

Mr. PHILLIPS. Tell us about the drug and the conditions for using it.

Mr. BYRNE. See, the name of the drug is Acepromazine (phonetic). It works so many cc.'s per hour. Let's take a horse. Let's take a horse, Riva Ridge, everybody knows today because of the newspapers on him. If I was to administer the drug to that horse, when that horse is a young horse and has got the guts to run like it does, it can run a half-mile and a mile-and-a-half like it did the other day, I would have to hit that horse, I would have to give that horse 5 cc.'s between 8 and 10 o'clock in the morning.

If I had—in this particular case, with this horse, I definitely have to sneak him, because I doubt if that trainer is going to let me hit his horse for a couple hundred dollars. It is a horse worth probably a million dollars today, and he needs me like a hole in the head.

What I would do is sneak it light. A racetrack doesn't come alive until 4 or 5 o'clock in the morning. That is when they wake the horses and feed them. And it is busy. You get in the track at 3 o'clock in the morning. All you have to watch for is some retired guy on pension,

security. He can hardly walk, let alone run. So if he sees me, I have the advantage.

I know where he is, he doesn't know where I am. I go in the stall and hit that horse and at 3 o'clock in the morning or 4 o'clock or 5 o'clock in the morning, depending, I would give him 8 to 9 cc.'s. And why it is so much with that particular horse? Because he is a good horse, he has good bloodlines and everything. If he was just a run-of-the-mill \$1,200, \$2,000 claiming horse, I would only give him like 7 cc.'s, and 4 o'clock in the afternoon he is still not going to run.

So it depends. Your timing depends on the class of the horse. And which you get in New England, and like specially in New England, you ought to put them all on the farm and let the little kids have them because they are not worth 2 cents. They are poor quality horses. Once in a while you might get one good one that comes out of New England that could race in the big circuit. But those horses, you give them 5 to 7 cc.'s, and believe me, they just couldn't run. Poor quality.

We had one horse we took to Florida—to tell you how erratic these animals are. We had the horse, for the first three-quarters of a mile, this horse wouldn't run. You could beat him, you could put speed in him, anything. "Bute." The first three-quarters he would not run. But after that he would get up his stamina and want to run for the next 2 miles. He would set all kinds of records. What we had to do was devise a scheme to get a drug, before we get into the depressant or bute on them, we had to devise a scheme for timing for this horse. And we were doing it.

Someone says, "Look, instead of letting this horse win, why don't we knock him out of the box? Here we don't have to worry about sneaking him, let's give him the depressant and see how it works."

We gave him a depressant and believe me, we went down there 2 years ago January, it was around January—

Mr. PHILLIPS. Was this Hialeah?

Mr. BYRNE. Tropical Park. And we ran the horse and we held him. We had the jockey to hold him, but we still had to administer this drug to him because he was a strong animal. You have a 1,200-pound animal carrying an 80-pound kid on his back. We used the drug. Gave him 6 cc.'s of Acepromazine so he wouldn't win, would give a bad showing to the betting public.

We sent him off at \$200-some-odd to one, and he came in like next to last.

About 2 weeks later we ran the horse back, and we were going to win with the horse. We were using him in one of the combinations. But what happened was the race that we wanted to get him in was full and they wouldn't let us.

What happened, really, the track security knew we were down there. So what we did, we used him, plus we knocked out about four others and subsequently we won the race. And everybody, to this day, the track security, thinks we lost all of our money. But we didn't.

It was 2 days before the Super Bowl and at Tropical Park.

Mr. PHILLIPS. Could you tell us approximately how many horses your group had during this 2- or 3-year period?

Mr. BYRNE. About a dozen horses all told. About eight—sometimes we had five, six, but we had about a dozen; 10 or 12 horses, plus two of these trainers. We had access to any horse that was stabled at

Suffolk Downs. As long as it wasn't to certain trainers in particular at Suffolk Downs, in that area.

We couldn't get to their horses no way. They were between their dogs and their guards, and everything else. They wouldn't let us down. They didn't need us because they had a lot of money and a lot of horses. They were in it for business. In fact, they have about the only two in New England, at Suffolk and in Rhode Island, that I know of, that are legit.

All of the rest, you know, everybody is out for that check you don't have to declare on your income tax, let me tell you.

So if they want to race, let's say, see they get a purse for \$800 or \$900. Now \$800 or \$900 is not a lot of money, because if you have five or six horses, you have to feed them, plus feed yourself, your stable hands.

So they are always looking for guys like us. Like one particular day—I can't go into too much detail because there is a case going on, on it—I gave some trainers some money and one trainer, he says to me—this particular one had all of the trainers' okay.

I said to this one guy, "I am so-and-so; so-and-so sent me." Where is the money? I gave him the money. He said, "I will go in with the stablehand." The horse was right next to his tackroom, where all of his equipment is.

So I sent him into the stall with the syringe. I had five cc.'s of the stuff in there.

I am watching him because you have to watch out. They are just as thieving as you are. He might use his horse and we think it's dead. So I am watching him and he squirted it on the ground, and wiped a little on the horse's neck and said, "See, I got it."

I said, "OK, don't worry about it."

I always carried like two or three extra syringes for little jerks like him. He was bigger than I was.

What I did was walk around the stall with him, the hold, what they called "under the shed," and like I am pretending I am going to buy the horse.

He was worried about security. While I am looking at the horse, he was walking on the one side and I was walking on the one side and I was walking on the other, and I stuck another needle in the other side, and to this day he is wondering why his horse didn't win the race. "He was running with the dead group. What happened? I didn't put the stuff in."

Then he said to me—don't forget, he was begging us to use his horse. I said, "Don't worry about it. Here's your money, your couple hundred bucks."

He said, "You are going to come back and give me the combinations to play, to bet?"

I said, "Sure; don't worry about it."

I saw him a couple of hours after the race. He says to me, "What happened?" He says, "You didn't come and give me the list of the horses to bet."

I said, "Gee, the kid didn't come down? I sent the guy down to see all of you guys to give you the winning combination."

He said, "No, look, the perfecta paid \$149." Tears are coming to his eyes. He has got \$200 he is itching to bet on a sure thing.

I said, "I'll make it up to you, don't worry about it."

Actually, you don't want to tell him the winning combination. There's \$200 more that would go in the window and be less money out of the pool you will get; because your aim is to get as much of that pool as you could possibly get.

MR. PHILLIPS. In other words, getting back to the main line, after you hit the six horses, you have four live horses left in this hypothetical race?

MR. BYRNE. Right.

MR. PHILLIPS. That is, if it is a 10-horse race.

MR. BYRNE. Right.

MR. PHILLIPS. Then you bet combinations?

MR. BYRNE. Right.

MR. PHILLIPS. Explain the betting, for the record.

MR. BYRNE. I guess everybody is pretty familiar with the handicappers in the newspapers, how the horses, they have like the list. Let's say the seventh race at \$2,000 claiming. There is perfecta wagering on this race. We have 10 horses, now. So you would have like a favorite, 6 to 5, 2 to 1 shot, a 3 to 1 shot. Let's say a 4 to 1, 5 to 1, 6 to 1, go right down the line; 7 to 1, 8 to 1, 9 to 1, and a 10 to 1. There is your 10 horses.

Now, if I was to tie up this particular race, right off the bat I have got to get the three top favorites out of the race. The 6 to 5, 2 to 1, and 3 to 1. I definitely have to get them out of the race.

MR. PHILLIPS. Why?

MR. BYRNE. Because if any one of those horses come in first, the perfecta is only going to pay like \$34 or \$40. That is not worth it, you know. So we go in there. The thing is, we size up the situation: Is it financially worth our while and financially worth it, is the risk worth it, to tie up this race. What kind of pool will they have.

If there is a big pool in there, OK; let's go ahead.

So I get in back here. I knock off them top three. I am definitely going to knock out my 9 to 1 and my 10 to 1 shot. And the reason I am going to knock them out, because usually they are in bad shape. They are just used in the race. The trainer is putting them into the race because he is eligible to give them a race. They are preparing them for another race. He is out of condition, and that would be—now I have my elimination in my field.

I definitely got to knock them out. Now I have one, two, three, four, five horses left. Out of that five I would like to get to that 4 to 1 shot, or the 5 to 1, or the 6 to 1. It is not always possible, but, well, when you got the drug and you sneak it. I get the 4 to 1 shot. I have a 5 to 1, 6 to 1, 7 to 1, 8 to 1.

I have four live horses here. If any one of these horses come in, the least it is going to pay, if it goes off according to the betting odds, because the public does—because they bet according to chalk, not only the favorites. If the morning line is 5 to 1, by the time the last list goes up on the board, it will stay, maybe change a dollar or \$2 either way, but basically the same.

So my winning horse is going to pay a minimum of \$12, that is to win. That is the 5-to-1 shot. The highest payoff would be \$18 on my 8-to-1 shot.

I like to see my 8-to-1 and 7-to-1 shots come in on my perfecta because that would give me a payoff of about—I can walk out of here with about a \$300 to \$400 perfecta on a \$2 ticket. For every \$2 I put up, I am going to get at least \$200 back.

Say we are going to bet the race. All right. What we would do is we would get like 40 tickets on our 8-to-1 and 7-to-1 combination. And we would get 40 tickets on the 8 to 1, and the 6 to 1, using the longest shots on the board. You buy the smallest number of combinations in \$10 perfecta tickets. The reason you do it with the smaller number, you buy 40 tickets, or 30, depending on what kind of money you are going to put through the window.

What the favorite, what we would call the favorite would be that 5-to-1 shot. We probably load out 60 tickets, 60 combinations. So if the 5 to 1 comes in, and we had like 60 some \$10 tickets on it, we would get the great amount of the pool that way. And if we had 40 on the two longer shots, we could still take the greater majority of the pool.

So either way there is a little—just because you hit them this here way, you get access to the majority of that pool.

Let's take a \$70,000 pool. You would get like—we could realize \$50 out of a \$70,000 pool. What would happen is we could take \$50,000 out of the \$70,000, and that would leave \$20,000 more, plus or minus. And what we would do is 15 percent of that, \$10,000 more of that would go to John Doe, to the honest citizen. He goes in there and picks the thing by luck. He is going to take \$10,000. So we got rid of \$60,000. The other \$10,000 is going to be taken away by little old ladies that play their house number, birthday combination, and never fail; the stumblebum drunk at the bar, he will walk away with the other \$10,000. And that is basically how you cut up the \$70,000. That is how you realize \$50,000 out of the \$70,000.

Mr. PHILLIPS. You say you could realize that and did realize that out of a number of these races?

Mr. BYRNE. Yes.

Mr. PHILLIPS. Very, very high scores: \$10,000, \$30,000. Is that correct?

Mr. BYRNE. Sometimes things didn't work out like they should, like one time at Rockingham Park we walked out with \$4,400, \$4,000, something like that. But you figure our overhead, like here we live in this area of Boston and Rockingham Park is like 15 minutes away, we could go up there and tieup a race through a couple of local phone calls and we have a trainer up there and our expense is nothing.

Plus, remember, we are never betting with our own money. We would never bet with our own money. So if we lost, say something did happen, like when we first started out, we didn't lose nothing. We didn't lose a dime.

Mr. PHILLIPS. Tell us how you worked that.

Mr. BYRNE. There is an incident one time I was sitting in a bar where we hung around at. A couple of my buddies were out of town. So we got a phone call that a kid wanted to get down on a certain horse, get it with the bookmaker.

What happened, there was so much action by the time I got the call, they got hold of me, in fact they had to call my house and subsequently my wife had to chase me down to bet a certain horse.

Another buddy of ours we used, he was trying to get me to get some money down, he wanted to dump \$400 or \$500 on a horse.

I called a couple of bookmakers I knew and they wouldn't take any more bets on the race. I live on the city line, like Cambridge and Somerville would be like walking from here to the desk up there, and I took them to a couple of other bookmakers and they wouldn't take it.

Meanwhile, they had a hippie kid with him and he had on like a leather jacket, and I started to tell him, "Gee, I have access to a lot of leather," you know. I didn't, but I knew where there was some I was going to subsequently sell to them. I said, "I have a buddy of mine who owns a leather factory, I will take him to you."

I went to meet the guy. He said, "Guys have been robbing my joint, breaking in." I said, "Look, I know all of the thieves in the neighborhood. I will straighten it out. I won't get the stuff back, but I will tell them to lay off."

He said, "I would appreciate it."

Two weeks later the kid gives me a call. I am buying a few beers and he says, "What is the story on the leather? I could use some." I said, "I am busy now. I bought a couple of horses."

I said, "I have a better thing going." Remember, this kid, when I went in there, real hippie-type kid. I said, "This kid has some money."

I told him, "Some friends of mine and me, we have the horse racing. We fix a little race." I said, "Are you interested?" He said, "Geez, I am always interested in making money." We went down, myself and another buddy of mine went down to see him and told him like we owned horses under different names and we drug them and we control the race.

And so the kid turned to us and said, "If you control the race, what do you need me for?" We said, "We got all of our money tied up in horseflesh and by the time this is all"—and we don't have money left, we probably had about 400 bucks to bet. "We could scrape it together, but we will cut it up and let you handle the money." The kid was interested.

So he said, "How much should I bring?"

We started him off small. We had him bring \$1,000. We took him down there, bet the perfect race. I took him down. I got him at the track and wining and dining him all day. We got to the track, he put the money through the window and makes off the list, we are going to get 60 tickets on this, 40 on that, and we are watching the race. I think about a thousand dollars to win, maybe a little more than that.

I let him hold on to the tickets. I let him cash it in. The guy counts out —\$10,040 is what it was, was the payoff. So the guy at the window gives him the \$10,040. The next thing I know, this guy is giving the guy behind the window a \$20 tip. I said, "Come on, get out of here."

I was mad. I didn't want to give away the \$10,000. I walked away. I said, "Hey, you let me hold the money. Someone will rap you over the head. No one will touch me." I am 160 pounds, 5'5" and I am going to defend this guy.

He gives me \$10,000. I go back. Plus the same guys, they had another sucker around. He put \$6,600 through the window. We end up making \$14,000 for the day.

We are sitting in the bar, getting ready to cut it up. We are trying to convince the guy, "Why don't you leave the money up. We are going to buy you a horse worth \$10,000. We can enter in some of the State races at Aqueduct and Bowie, which can win the purses of \$50,000, \$60,000. "Yes, yes, yes, just a fine job. Give me my initial money back."

Finally he said okay. "We have to get on the street and get some more money. Sit here and we will be right back." We just left him sitting there and took all of the money. What could he do? He couldn't go to the police. What is he going to say? He is part of a conspiracy to fix a sporting event. He can't do nothing.

And then it is an out and out swindle. He didn't see no horse being hit. There is nothing he can do, any police force in the country, they can't convict you. What are they going to do? That is how we worked the swindle.

MR. PHILLIPS. Did you do that on a number of occasions?

MR. BYRNE. Oh, yes. If I had a pocket full of money. Like I could have a pocket full of money but I wouldn't bet a dime on a horserace. But I would let someone come along. Just to keep, it would be like a boxer, he has to keep in shape, stay away from the girls and beer. You have to keep in shape. Spend theirs, don't spend ours. I like to gamble on anything. I wish I had 10 percent of the money I have had in the last 5 years. I would be a rich man today.

MR. PHILLIPS. On some of these scores, which amounted to \$30,000, \$50,000, how did your group divide it?

MR. BYRNE. What we would do, sometimes we would be so stingy and greedy, we wouldn't even pay our hotel bill. We would beat the hotel. We would have a stolen credit card. What we would do, if we did have to pay the hotel, let's say Rhode Island, for instance, where we stayed. We went to Rhode Island an awful lot. So we check in a hotel down there. So we had to pay that bill because we are known by the bartender and everybody, the maids. We would pay it.

So let's say we would get—one incident, I can't go into that one, but one incident, we collected, I think it was about \$17,000, \$16,000. Out of that we had a hotel bill and phone bill. Being there 2 days we could run up quite a tab. You would think we had a convention in there: Beer all over the place, our phone bill.

We pay off to the tune of probably 400 bucks, or so. We have to take care of a trainer, a couple of hundred here, and any expense, all expense money comes off the top, and we divide up the rest among four of us or five of us, depending on how many were with the group. Basically, when you come down to it, we made money. But at that time the money was rolling so fast and it seemed that a couple of thousand, \$3,000, \$4,000, or \$5,000 a week was no money at all to us. I was spending it as fast as I was making it.

It went in this pocket and it was just gone. We would always pay off the people we were supposed to pay, that we had to pay, that we had to use again. That money would definitely come off the top, because it would go back.

Remember, like I said, we had to; is it financially worth our while to use that guy again. Play up the advantage. Is he any use to us after this. If he wasn't, chase him. Don't even pay him. If he is of use to us, pay him, be good to the guy, wine him or dine him. If a guy

needs a television, we wouldn't go out and buy one. I would go in the B. & E. joint and steal one out.

That is how cheap we were with all of that money. Give him stuff like that.

Mr. PHILLIPS. You spent most of the money on high living?

Mr. BYRNE. High living.

Mr. PHILLIPS. Girls and drinks and——

Mr. BYRNE. Well, I got a wife back there. I don't want to face a shotgun. I would rather face——

Mr. PHILLIPS. The other men in the group?

Mr. BYRNE. I would rather face the greaseballs who are looking for me.

Mr. PHILLIPS. In any event, you also did some gambling; is that correct?

Mr. BYRNE. Right.

Mr. PHILLIPS. Was that on sports?

Mr. BYRNE. Sports. Hockey, football, baseball. I was a junkie gambler for football and hockey. A real junkie gambler. I would even swindle bookmakers. But if they were connected, I had to pay.

I used a lot of my money to help a lot of guys. I was a sucker. I couldn't see a guy spending a couple of months in jail for a lousy \$500 on a \$5,000 bond. You know, always help a guy out. It always seemed I was known for that, "Call Bob, he might have some money, he will bail you out." I was spending more time in the Charles Street Jail than I was in my own house, you know.

My money went so fast it was unbelievable. Remember, you go into a strange town, even though we were welcomed with open arms in some of these places, we still had to keep up a front to these people. No matter what. Because once they get an inkling you have no money, they are going to be suspicious of your operation. They are not going to come up with, you know, we want these people to come up with a couple thousand to put in the window. If they get that little doubt in their mind—to get a guy to spend \$2,000 of their life's savings, it is easy to convince them, but there is always that doubt there. And once that doubt is there, he is going to hedge on you.

So you go in the joint and live excessive sometimes. You drink the best, eat the best, you go to the best. Everything would be the best.

You go in a clothing store—you wouldn't be like a woman today, like today's shopping. My wife, she goes in the store, she is looking for the price, two for a dollar, or something. She said, "Gee, I remember the days we come in the door and it's give me this, give me that."

You had to put up a front. You had to wear good clothes. Everything had to be first class. If you had, let's say \$5,000, I would say \$1,500 of it, \$2,000, you would have to use for your image. Spending, you would never—it wasn't a thing, if you went with the potential suckers, the potential people you were going to extract money from, I would pay for the bill and everybody's hand seems to get stuck in their pockets. You have this bill on the table, no argument, and that would be it.

The next minute you have this guy's life's savings.

Mr. PHILLIPS. In relation to some of this money, was some of it paid to jockeys to hold horses?

Mr. BYRNE. Right. Some jockeys you can buy cheap and others, one guy in particular, he is expensive. Other jockeys will do it. Like one jockey we had, he had no qualms, he knew we would take care of him.

And if we made a score, and we were using the jockeys and trainers, we made a score, we would take care of him. He never had to worry about money. We didn't give him too much because the more you give them, the more they want. If you give them a couple hundred now, they want \$400 next time. So if he asked for \$200, you give him \$150.

Some other jockeys, you tell you are going to give them the winning combination. A couple of jockeys, they got a price, and they want their money up front. What I mean by "up front," they want their money first, before they go in the jockey room.

One guy in particular, he is a thousand-dollar guy. He wants his \$1,000 and you have to give it to him before noontime or else he is not going to do any business for you.

Mr. PHILLIPS. You also had a jockey who was setting up other jockeys?

Mr. BYRNE. Right. We had one jockey, we went to the jocks' room, we would give him like \$500 or \$600. Like we would know. We would say to him, "Now go see so and so," or this guy. I talked to him on the phone last night, show him the money. Say it was late, we would send him in. Go into the room and distribute the money.

So he would go in and say, "Here's a hundred, do me a favor, hold it." "I need the money, sure."

So he not only made money, but he has got the same thing coming from this kid. This jockey. "Look, I helped you out before, now do me a favor, will you?" And no questions are asked. No questions are asked. Once they are in the jocks' room, it doesn't do them any good to find out who's who, except in some cases there were some jockeys that get to their agents, that tell me know bookmakers. But by that time it is a little too late for them to get down any big money to speak of. We send the kid in and he would do what he is supposed to do.

If he got to him and we would try to sneak the horse—in one case we used to sit in the backstretch at Lincoln Downs and flash our headlights. Two flashes means the race is off, and one flash is hold the horse and bump another one that's on. If it was a last-minute situation, because there are always unforeseen elements involved, because you are dealing with a lot of human beings and you just never know what is going to happen.

Here's a case of a guy pulled a little switch on us. You go in the stall and hit a horse. This is the most important part of it. Once you hit a horse, like I would hit him, I would have to take the horse I hit and look for a distinguishing marking on him. No two thoroughbreds have identical markings. They might have some, but they stand out.

Among 10 horses they will stand out. So when they come from the paddock area, just before you put the money in the window, you look in the paddock area to make sure that was the horse you gave the drug to, because there are cases where, I guess, a trainer got wind I was going to hit his horse and he put him in another stall and he just put an old junkie horse in there and I hit the wrong horse.

If we don't do this system, we would have lost all of the money. We couldn't have collected nothing. As it was, the score came off, we made the money.

Mr. PHILLIPS. In that particular situation, were there times when you had to get the cooperation of grooms or people at the track?

Mr. BYRNE. Oh, yes. Grooms, you have grooms, stable kids, or anybody. This is why I was so successful at this. I could put on a pair of dungarees, a sweatshirt. I don't grow a heavy beard, but get stubble. Let my hair grow. Just wash the sleep out of your eyes and walk around the track and I fit right into the picture.

Remember, I know what security looks like. I know who they are but they don't know who I am. So these grooms and kids, they don't make any money. Some guys, give them \$5 a day, \$7 a day. So what do they do with their money, instead of putting food in their belly, either they buy marihuana—I have seen them bet through the windows thinking they have a sure thing and they would be betting cold. The kids never have any money. They are not educated kids. So if I went in there and flashed a roll of fifties and hundreds and twenties and I would say, "Hey," then pull out a \$20 bill and show them the needle. He say, "What do you want to do?" You show him that syringe, he knows what you want to do. "Pick out, show me where the horse is. Where is your boss today? When are you going to have the horse in?" Because sometimes there are cases when a horse might be on a farm and they don't ship him in until that morning.

It always seems he is the red hot favorite in some of these cases. It doesn't happen every day, but there are cases where it has happened to us. So what we do: "Tell us where he is going to be stalled. Can you hit him for us? Here is some money."

He will do anything for that money. One kid, he hadn't eaten for 3 days, this kid. He used to take care of a horse for us, at Narragansett, R.I. He hadn't eaten for 3 solid days. I had to bring him down some money so he could eat.

The minute I give him some money, this kid went out and said the kid back in there has got to eat. He got a couple of bags of marihuana. He didn't put a drop of food in his belly. These kids, they don't know any better. They could care less.

Mr. PHILLIPS. And they are easily accessible?

Mr. BYRNE. Unbelievable. They are easier than anybody.

Mr. PHILLIPS. Approximately how many horses have you hit over this 3-year period?

Mr. BYRNE. You should say how many I didn't hit.

Geez, 1 day alone I have hit up to a dozen horses, 16 horses. I couldn't even come close to a figure.

Mr. PHILLIPS. A tremendous amount?

Mr. BYRNE. It's too many. I couldn't even count them all. In fact, I forget half the names, you know, of some of these horses. I have hit horses at just about every major track, one way or another. And I am only one of one group.

Mr. PHILLIPS. There are other groups, as well, doing this?

Mr. BYRNE. You take at Suffolk Downs. When we were operating there was another group operating. Remember, too, you also have this other group operating. Of course, they were operating a little different

way. They were—I am not sure, but I am almost positive we were the only group that successfully got this drug down to a science, the way we were doing it. I mean, other people were using it but not like we were. But the other group was holding and pulling, and got the jockeys and trainers and they were going on, they were dealing with the human element.

In fact, one of the guys in this particular group worked for the owner of Suffolk Downs at the time. He was supposed to be like, you know, he is key man and all of this stuff.

So what this kid was doing, he would go around and tie up a race for him and his buddies. And they would tell the guy that owned the track about it and they would collect the money and no one would be the wiser.

But every so often they would feed him a race. Say, "Hey, look, we have this going."

And there is a guy who also owned the horses himself, you know. In fact, he raced under different colors. So, in a racetrack, let's take Suffolk Downs, period. At one time, the time I was arrested at the track, there was myself, our group, another group, plus you had the trainers and the jockeys. So you have four groups swindling the public every day.

The public don't stand a chance. There is no way. You take 2 out of 10 people walk out of a track a winner. Now, the thing about parimutuel betting is that the money is supposed to revert back to the people, and they take the taxes and the track and the overhead off the top. Well, you get 2 out of 10 people; you get the little old lady that gets a quarter, the drunk that gets a quarter, and you get the wise guy. So everybody is a loser, but the little old lady, the drunk, and the wise guy, because they don't know what is going on.

So the public is getting swindled every day. I see guys that went down there, didn't have groceries on the table, get down and bet the whole week's pay and didn't know what was going on. You will never in a hundred years clean it up. I don't care what you do. There's no way you can straighten it out. The public, it is amazing.

Here is how gullible the public is. We have this case, there is a case coming up this fall in Rhode Island. I can't go into much detail because I am going to be a witness in it. When that thing hit the front pages of the paper, there was 24 people indicted for fixing races. So the handle fell for the next couple of days, the public hears about fixing races. The handle and the betting and the attendance drops down a little bit, you know, for a couple of days. That's all. Then people are right back again shoving that money right through the window.

They are so gullible. They know it is crooked, they suspected it, and there are people that know definitely it is, and yet they come back everyday looking for more. They are a glutton for punishment. Let's face it. The American people are. We are noted for being the biggest suckers in the world, and other countries take our money and here I am, I take the American people's money because there's more of it. So it's the same way.

You will never clear it up in a million years. There is no way.

MR. PHILLIPS. Isn't it a fact you have heard the same group that was involved in these cases were right back fixing races while they are awaiting trial?

Mr. BYRNE. Yes. We were indicted in February, January, or February. And that very next week, back in the action, fixing races. In fact, they got in a scrape down there. I believe it was Bowie, this last meet at Bowie. I am almost positive. They were down here to set up the scores. Subsequently they got in an argument and ended up getting pinched. But we were out on bail and I got a phone call from one of the guys, he says, "Hey, keep your eyes open for suckers. We are not out of action, you know."

But a funny thing, you send all of these guys to jail, and you know, like I have been away before, but usually when the guy comes out of jail he likes to spend a couple of days with his wife and kids, and you go to a hotel with your wife and get a couple of bottles and you spend a couple of days. Go home with your family.

The first thing they do when they get out of the can is go to the nearest smoke shop and buy a racing form, a Telegraph. What's going on.

I was 17 years old, I will never forget it, walking right out of the commissioner's house at the Rhode Island House of Correction, and here I am doing a year in jail and I am calling horses out of the jail. That is how extensive it is.

Mr. PHILLIPS. Really?

Mr. BYRNE. Yes. It was unbelievable. I would get a job—there was two guys at work in the commissioner's house, and I used to take care of the commissioner's boat. So the kitchen is like separated, so you go in and have a cup of coffee or something. There are phones all around the house. Like anybody else, and I knew the guy, and I did favors for some guys, I got favors for them. One hand washes the other and we call in horses, selling it over the telephone and run cables out of there to a junk dealer, and using that money to bet horses with and using the commissioner's phone all of the time.

Mr. PHILLIPS. What was the maximum number of races you tied up in 1 day?

Mr. BYRNE. In 1 day? Four races in 1 day. A daily double and two perfectas.

Mr. PHILLIPS. I think you also told us previously, you mentioned to me in any event, in one 6-day period at Aqueduct and Pimlico the group hit over \$80,000.

Mr. BYRNE. Right. I got a kick out of it. I don't know who the guy was. He says, "Aqueduct, Saratoga, and Belmont we got such security that no one can fix the race." I am laying on the couch with a bottle of beer, and roll off the couch laughing.

I read it in the paper. I said, "I would like to meet this guy. Give me \$600 and 2 weeks, and I will make some money and we will see how good his security is, if he wants to put his job up against my drugs."

Here I know for a fact, you know, firsthand, personal knowledge of money that comes out of there in the 6-day period. We are talking \$80,000. And here is a guy saying it can't be done, you know. It is like they build safes and everything else. Anything man made, where there is the human element, they can beat it.

You take the average person in this room, at 4:30-5:00 o'clock they go home and have supper with their family; do whatever they do, go to bars. That is it for the day. They forget about what went on today, their job. The average American citizen forgets, and you people, you may relate a little bit to your job. Remember, these people, we stay up

all day long, argue all night long, all we talk about is horses, horses, scheming to steal, so that if we put the brains together, we form a corporation that would put General Motors to shame if we went legit. All them brains going down the drain.

Mr. PHILLIPS. Could you tell me about how many jockeys you have worked with through the years that your group has been operating? How many jockeys were involved?

Mr. BYRNE. At one particular meet alone we would have access to like a dozen jockeys. But we used two key ones. Two key jockeys, three key jockeys, and they would be buddy-buddy. There had to be phone numbers to their horses, where they were staying. Remember, them kids, some of them are making good money. But the average jockey, he doesn't make any money.

So a guy, like the same guys again—he has got a weakness for money. He wants to make money. He says, "Gee, look, these guys ride around in big cars, good clothes, living in the best. Here I am out among the horses all day long for a 10-percent piece of the purse, and probably a little workout in the morning. I have to get up early in the morning." You know, they say, "I have got to get with this, I want to go where the money is."

Everybody is in it for the money no matter what their trade. If you are a jockey, if you are a businessman, a factory worker, you are working to make money.

Mr. PHILLIPS. One last question: Name the tracks you thought were easiest to hit?

Mr. BYRNE. The easiest?

Mr. PHILLIPS. Yes.

Mr. BYRNE. The easiest were the two tracks in Rhode Island; River Downs; Lincoln; Narragansett. As I said, Scarborough, Dover. Dover Downs here in Delaware, Dover, Del., and River Downs and Lincoln Downs. Really, I did three "ice cream" tracks. Real ice cream tracks. It is unbelievable what you could do there.

Chairman PEPPER. Mr. Keating.

Mr. KEATING. Thank you, Mr. Chairman.

You just mentioned that River Downs was one of the easiest. What makes it easy?

Mr. BYRNE. It is so easy, too much access to the track. We have had—I don't think there is any case coming up involved in it, it is a matter of a race that we tied up and there was a photograph taken and everybody standing with the horse that won the race, and we have a couple of suckers along and everybody else. And here's the photograph right under all of this security. It is easy.

Mr. KEATING. Do you have easier access?

Mr. BYRNE. No problem.

Mr. KEATING. Are the grooms more available?

Mr. BYRNE. Grooms are more available.

Mr. KEATING. Trainers?

Mr. BYRNE. The trainers are more available.

Mr. KEATING. Jockeys?

Mr. BYRNE. Well, the jockeys, too. We had a little jockey down there. We shipped our own jockey in. But horses are too easy—I can get to them.

Mr. KEATING. Do you know if that situation prevails today?

MR. BYRNE. No; because they are in jail.

MR. KEATING. Pardon me?

MR. BYRNE. They are in jail and I am here.

MR. KEATING. You mentioned the last time you were there, I believe, was in 1970?

MR. BYRNE. This is 1972—I would say it was the last time that Robert Kope ran at that track.

MR. KEATING. Who is Robert Kope?

MR. BYRNE. He is a horse.

MR. KEATING. That is the one who should be in Harvard Medical School?

MR. BYRNE. He sure should be. He should get the Nation's highest award.

MR. KEATING. Did you administer the drug, yourself, to Robert Kope?

MR. BYRNE. No. Robert Kope we used to win the race.

MR. KEATING. The other horses were drugged?

MR. BYRNE. Were hit. If you ever see the photo of him coming down the stretch, he is winning by about nine lengths. It looked like he won it, he is over in the next city.

MR. KEATING. Do you remember how much you won that day on Robert Kope?

MR. BYRNE. I believe that day we took about \$22,000, \$23,000 out of there. I am not positive.

MR. KEATING. Was Robert Kope your horse?

MR. BYRNE. Right. And we had the jockey. See, it was a short race. See, River Downs is one of the tracks in the country that runs short races, and this horse was an ideal situation. He is another reason why we would travel from track to track.

You take a horse like Robert Kope, he could run for 3 to 5 furlongs beautiful, but after that he couldn't run. He would tire. So you get a situation here at River Downs, you can enter him in a fourth—I think it was 3½ or 4 furlong race—and he ate up the racetrack. So if you stop a couple of the favorites, you have a sure guaranteed winner.

MR. KEATING. Did you ever get involved with the management at any of the tracks?

MR. BYRNE. At any of the tracks? Just one track. Well, he actually isn't the management of the track. He was a State official. But it was only one track.

MR. KEATING. Do you deal with any State officials in Ohio?

MR. BYRNE. No.

MR. KEATING. Have you ever?

MR. BYRNE. No.

MR. KEATING. Have you dealt exclusively with the trainers and jockeys and grooms?

MR. BYRNE. Right.

MR. KEATING. And is that true at River Downs?

MR. BYRNE. Definitely true.

MR. KEATING. Do you remember any of the people you worked with down there?

MR. BYRNE. Yes; but I can't go into it so much because there is a couple of cases outstanding. Cases are coming up in the fall. I can't go into the names of them.

Mr. KEATING. Are you going to testify in those cases?

Mr. BYRNE. Yes, I am.

Mr. KEATING. In Ohio?

Mr. BYRNE. No; in Rhode Island.

Mr. KEATING. What about any one in River Downs?

Mr. BYRNE. Well, remember—

Mr. KEATING. They travel?

Mr. BYRNE. They travel, too.

Mr. KEATING. You are not incarcerated anywhere at this time, are you?

Mr. BYRNE. No.

Mr. KEATING. You are not destined to serve time anywhere?

Mr. BYRNE. No.

Mr. KEATING. All right. I would like to get back to River Downs. Do you remember the exact dates when Robert Kope ran?

Mr. BYRNE. I can get the dates. No problem in getting the dates. I don't have them on my mind offhand.

Mr. KEATING. You mentioned there were three races that you fixed at River Downs.

Mr. BYRNE. Right.

Mr. KEATING. And that would have been in the year 1970?

Mr. BYRNE. Right, 1970.

Mr. KEATING. And in the two where you were successful, was Robert Kope involved in both of those?

Mr. BYRNE. Robert Kope was involved in two of them, yes.

Mr. KEATING. Were those the ones you were successful on?

Mr. BYRNE. Right.

Mr. KEATING. And how many horses did you drug in those two races?

Mr. BYRNE. One race, three horses, and another race, four horses.

Mr. KEATING. And the one that you were unsuccessful, what happened?

Mr. BYRNE. We couldn't get certain horses, so it was a favorite we were trying to knock out. If we couldn't get to him, we would rather sacrifice and take the loss of our expenses instead of taking a chance.

Mr. KEATING. Now, did any of the trainers that will be tried in the fall work at River Downs at any point?

Mr. BYRNE. Yes. They didn't work—they had horses in there.

Mr. KEATING. I understand, they worked at the track on their own horses.

Mr. BYRNE. Right.

Mr. KEATING. I understand management is out of this.

Mr. BYRNE. Yes, the management is out.

Mr. KEATING. As far as River Downs is concerned?

Mr. BYRNE. Right.

Mr. KEATING. And these fellows worked a lot of different tracks?

Mr. BYRNE. Right.

Mr. KEATING. And it is through your association with them in the fixing of races that they are being tried in the fall; is that correct?

Mr. BYRNE. Right.

Mr. KEATING. In addition to those three races that you were directly involved in, was your group involved in other races? You said you traveled.

Mr. BYRNE. In other races at River Downs?

Mr. KEATING. Yes.

Mr. BYRNE. Yes.

Mr. KEATING. Did you administer the drugs, yourself?

Mr. BYRNE. Right.

Mr. KEATING. How many races would you say were involved?

Mr. BYRNE. Probably about six or seven.

Mr. KEATING. Was this all within this one period of time?

Mr. BYRNE. This was within a period of 1969 up to 1971.

Mr. KEATING. Are you aware of any races that were fixed at River Downs as recently as 1971?

Mr. BYRNE. No. Not that I was personally involved in. No.

Mr. KEATING. Are you aware, from your own knowledge, of any races that were fixed in River Downs in 1971?

Mr. BYRNE. I am not sure.

Mr. KEATING. Now, this group of four or five that worked together, do you work as a team at the racetrack?

Mr. BYRNE. Yes. Well, we wouldn't go to the racetrack. That is why we were so successful. I would be the only one that would go to the track. That is why we were so successful at this.

Mr. KEATING. The other fellows made the contacts?

Mr. BYRNE. Stayed at hotels in the area, you know, working from phones, working through people we knew. Like I say, we could go from city to city and be welcomed with open arms. We had an okay, as long as we didn't step on any toes.

Mr. KEATING. Who was the registered owner of Robert Kope?

Mr. BYRNE. The registered owner was Paul Stagliano.

Mr. KEATING. Where is Paul Stagliano now?

Mr. BYRNE. At some racetrack somewhere.

Mr. KEATING. Does he still have the horse?

Mr. BYRNE. No, I don't know what happened to the horse. I think he is drugged up somewhere, the poor thing.

Mr. KEATING. How many horses have you owned?

Mr. BYRNE. Have I owned?

Mr. KEATING. Or had a part of.

Mr. BYRNE. About 12 of these we had access to, that we owned under different names.

Mr. KEATING. How many different names did you have them registered under?

Mr. BYRNE. About five or six different guys.

Mr. KEATING. Have any of these fellows ever been indicted or had hearings as a result of having a horse in their name that they didn't own?

Mr. BYRNE. Do you mean have they appeared before here?

Mr. KEATING. No. Before any racing commission that you are aware of, in any State.

Mr. BYRNE. No.

Mr. KEATING. So that none—

Mr. BYRNE. No; I am almost positive no.

Mr. KEATING. None of them have been indicted?

Mr. BYRNE. Right.

Mr. KEATING. And you say this is an extremely common practice?

Mr. BYRNE. It is extensive. In fact, one of our owners, the Massachusetts State Police swore up and down it was a name we made up. First they thought it was the name of a horse, that we got it from the name of a horse, because they didn't believe a human being existed by this name. They couldn't find no such person. And the guy exists.

Mr. KEATING. Do you know if this exists in River Downs in Cincinnati?

Mr. BYRNE. This existed at every racetrack in the country. Owners through straws.

Mr. KEATING. Now, the one horserace you were unable to fix, were unsuccessful at River Downs, Robert Kope was not running in that race?

Mr. BYRNE. No.

Mr. KEATING. How many times would you say you visited River Downs?

Mr. BYRNE. About five times. Personally, myself, about five or six times.

Mr. KEATING. These three races you were involved in, they were on how many different days?

Mr. BYRNE. You are speaking a period of—one meet overlaps another. There was two at one meet. I think the year 1969—in fact I know 1969 is one of the years, that the meet in 1969 and the meet in 1970. I am almost positive. I would have to look it up, but it is not that hard to find out.

Mr. KEATING. Have you ever been barred from any track?

Mr. BYRNE. No. No one ever knew me. No one knew what I looked like or what my name was, or nothing. How could they bar me?

Mr. KEATING. It is a different situation today, I guess?

Mr. BYRNE. Right.

Mr. KEATING. Mr. Chairman, I yield back the balance of my time.

Chairman PEPPER. Mr. Steiger.

Mr. STEIGER. Thank you, Mr. Chairman.

Mr. Byrne, the fact of the matter is you haven't been to every racetrack in the country, have you?

Mr. BYRNE. Every racetrack, no.

Mr. STEIGER. You keep saying every racetrack is the same. So have you confined your activities to the east coast?

Mr. BYRNE. Well, I have been out as far as Illinois.

Mr. STEIGER. Illinois, Ohio.

Mr. BYRNE. Right.

Mr. STEIGER. Kentucky?

Mr. BYRNE. Right.

Mr. STEIGER. Do you know what the Thoroughbred Racing Protective Bureau is?

Mr. BYRNE. Yes.

Mr. STEIGER. Do you know beforehand whether a track is a member of the Thoroughbred Racing Protective Bureau?

Mr. BYRNE. Right.

Mr. STEIGER. Is it tougher to get into a TRPB protected track?

Mr. BYRNE. I don't care what kind of security you have at any track, I can get in there. I can get into that stable area one way or the other.

Mr. STEIGER. I wasn't thinking so much about access to the horses as I was about access to licensed personnel. Is it easier to find willing confederates among the licensed personnel, the grooms and trainers and the jockeys, and is it tougher at TRPB tracks?

Mr. BYRNE. It doesn't matter what group they belong to, they are human beings and they have a weakness.

Mr. STEIGER. All right.

You mentioned Acepromazine. How do you acquire the Acepromazine? Has it a trade name?

Mr. BYRNE. Acepromazine is the name of the drug.

Mr. STEIGER. Who manufactures it, do you know?

Mr. BYRNE. I couldn't tell you. I don't remember. But we had no problem getting hold of it.

Mr. STEIGER. How do you get it?

Mr. BYRNE. We had a vet. He was ruled off the track years ago. He owned a little horse shop down in Rhode Island.

Mr. STEIGER. What do you mean? A tack shop?

Mr. BYRNE. A tack shop and all of that stuff.

Mr. STEIGER. What is his name?

Mr. BYRNE. Doc Siegel.

Mr. STEIGER. And he is the sole source?

Mr. BYRNE. We were getting that source from him at first, yes.

Mr. STEIGER. You say at first. Where else did you get it from?

Mr. BYRNE. Well, some of it come from another party that one of the group I know, he knew a chemist, I think it was, that got him that. I don't know how they got it. But I used to get it from the other guy.

Mr. STEIGER. Was it Siegel who determined the dosage, or you did it by experiment?

Mr. BYRNE. We did it by experiment.

Mr. STEIGER. You mentioned you would adjust the dose according to the class of the horse. You didn't consider the weight of the horse at all?

Mr. BYRNE. No. Like I say, the class of a horse, see, horses are run by class. The better horse runs in a better race and so on down the line. It is pretty well in black and white for you, who's who. We are not talking like is this a thousand dollar horse or a \$2,000.

Mr. STEIGER. If you were going to hit five in a class, one weighed 1,200 pounds and one weighed 800 pounds, you would give them the same dosage?

Mr. BYRNE. Same dosage, 5 cubic centimeters.

Mr. STEIGER. Very scientific approach.

You never had any problem with acepromazine.

Mr. BYRNE. No problem at all.

Mr. STEIGER. No detection?

Mr. BYRNE. No detection. The only time we had to be careful—see, they only check the winners.

Mr. STEIGER. I understand that.

Mr. BYRNE. The only time you had to be careful in administering the drug, make sure no air got in the syringe. Otherwise you get a bubble on his neck the size of a golf ball or bigger.

Mr. STEIGER. By detection, I meant there were no visible symptoms such as excessive sleepiness?

Mr. BYRNE. Yes, there is. But only in the first half hour or so. The horse, he will stand in the stall——

Mr. STEIGER. I mean in the parade or paddock area.

Mr. BYRNE. Oh, no. No, there is no way you can detect it. You would have to be a real——

Mr. STEIGER. Geldings don't have a tendency to let their penis hang out as a result of this?

Mr. BYRNE. If you hit the horse with an overdose. You hit him—let's put it this way. Say a horse was to run at 4 o'clock and I was to hit this horse with 5 cubic centimeters at 12 or 1 o'clock. And they bring him up in the paddock area. His penis is going to hang out.

Mr. STEIGER. All right. So did that happen or did you know of a fix in which that happened?

Mr. BYRNE. Yes, that happened once.

Mr. STEIGER. Did they ever scratch the horse on that basis?

Mr. BYRNE. I don't believe the horse was scratched. I am almost sure.

Mr. STEIGER. The trainer of the horse didn't notice anything? Or was he in on the fix?

Mr. BYRNE. The trainer, we had the OK—I am not positive if we had the trainer's OK that day.

Mr. STEIGER. That is fine. All right, in your experience—prior to your finding of the drug—fixing a race you found to be relatively difficult. You mentioned the frailty of human beings.

Mr. BYRNE. Right.

Mr. STEIGER. As a practical matter, it is very hard to fix races without drugs; isn't it? There is always someone who doesn't get the word?

Mr. BYRNE. Is it difficult, you say?

Mr. STEIGER. Yes.

Mr. BYRNE. Well, let's put it this way: For someone like you it would be difficult. If you know one or two people, a trainer, jockey, or groom—let's forget the groom—and you are going to use the human element. If you know them and they work for you it is not hard. I mean there's problems, yes. But it is not that hard.

Mr. STEIGER. I am talking about the physical problems of fixing a horserace without drugs. Have you found it relatively difficult?

Mr. BYRNE. Oh, yes; because the jockey, they would just as soon—see, you use a jockey—let's say there is eight horses in a race and we have four jockeys. We have four horses held. What is to prevent those jockeys from not holding their four horses, you know, working among themselves to get at us? Because they have the protection of the track. I mean, you know, they have the protection of security and everything.

Mr. STEIGER. We heard testimony here, Mr. Byrne, that there were a series of ringers running in 42 races—very professional job. They took \$10,000 horses, took allowance horses, ran them at the bottom. They only won 14 of those 42 races. Wouldn't it indicate it is a little difficult under those conditions?

Mr. BYRNE. You are dealing with the human element.

Mr. STEIGER. You can't trust people?

Mr. BYRNE. That is right. That is why with the drug we were so successful.

Mr. STEIGER. So really, the indictment you have made of racing in general is one in which you are saying the public isn't getting a fair

shake because they really don't know all of the "Mickey Mouse" that is going on, yet, with the exception of drugs, the "Mickey Mouse" hasn't really ever worked even over the years. There would always be people who try.

Mr. BYRNE. Right. Everybody is trying different ways.

Mr. STEIGER. Excuse me, Mr. Byrne. In your experience—and this is important—would you ever mess around with a stake race, or a class race?

Mr. BYRNE. No.

Mr. STEIGER. Don't say "No," because I obviously want you to say that. Why not?

Mr. BYRNE. Because, financially, it isn't worth our while.

Mr. STEIGER. Explain that, please.

Mr. BYRNE. Well—

Mr. STEIGER. I realize because there is no Mickey Mouse betting, no exacta, no perfecta.

Mr. BYRNE. Right. So where's the advantage. There is a case now of—let's say we want to get to a certain trainer's horse and he won't play ball with us and we know, we have used him before, but this time he wants off of it. He has got a better horse, he has got the real favorite.

Just because he has the favorite doesn't mean he is going to win. But we—what we will do to him, we will even forget the race, forget all money. We will go in there and hit this horse with bute, or anything that will—

Mr. STEIGER. Excuse me. On the use of bute, you indicated a recognition that bute is nothing more than a pain reliever. You don't think bute is a stimulant of some kind, do you?

Mr. BYRNE. A little. It is not what you would really call a stimulant. It is on the stimulant side, but all it does is make a horse feel better. It is like, if you have a sore arm, and I give you cortisone, bute works the same way.

Mr. STEIGER. It works a good deal like aspirin?

Mr. BYRNE. Right.

Mr. STEIGER. I would like to analyze the kinds of races you try to fix. I think you made a good point on the exotic bets. Would you rather fix a race where there is a lot of speed, a short race, under 5 furlongs, or would you rather fix one with a lot of ground?

Mr. BYRNE. It doesn't matter, as long as there is money in that pool.

Mr. STEIGER. That is not a consideration as far as you are concerned?

Mr. BYRNE. No; it doesn't come into it at all.

Mr. STEIGER. Isn't it a fact if there was prerace testing on all horses, you guys would be out of business?

Mr. BYRNE. You would be definitely out of business as far as drugs.

Mr. STEIGER. So, really, concerning your statement that there is no way to clean it up, you are really referring to the innate greed of man?

Mr. BYRNE. The human element, right.

Mr. STEIGER. But as a practical matter, this one device that appears to be exceptionally successful, the administration of a depressant to horses that are not going to win, would be eliminated, because acepromazine will test, I gather?

Mr. BYRNE. Right.

Mr. STEIGER. I understand it tests in both spit and urine; is that correct?

Mr. BYRNE. Right.

Mr. STEIGER. So if we had prerace testing on all horses, you would have to find something else?

Mr. BYRNE. Right. You would eliminate all chemicals or drugs.

Mr. STEIGER. Now, I would like to ask you: Is it easier to operate in some States than in other States?

Mr. BYRNE. Oh, definitely.

Mr. STEIGER. What States are easier to operate in?

Mr. BYRNE. Rhode Island is easy.

Mr. STEIGER. Why is that?

Mr. BYRNE. There are more thieves down there.

Mr. STEIGER. You mean there are more people willing to cooperate with you?

Mr. BYRNE. Right.

Mr. STEIGER. You are talking again, only on the back side, or are you talking about officials? How about local law? Does that make a difference?

Mr. BYRNE. It doesn't matter. It is easier like, if we come into town, let's say I am going to Rhode Island. We go into this club, we got to the Vets Club there, a little bar and everything, where we operate out of when we are in town, or a hotel.

Where our cars were known, we would know people down there, and they would give us their cars to use for the day, so I could ride back and forth to the track.

Mr. STEIGER. I understand.

Mr. BYRNE. You have everything going for you.

Mr. STEIGER. It is a friendly atmosphere?

Mr. BYRNE. Right.

Mr. STEIGER. Is there any one track that you would rather not operate out of?

Mr. BYRNE. Is there one that I rather—

Mr. STEIGER. Is there one where they roust you, or it is tough to get around or they have better security? Don't tell me that Aqueduct is as easy to get into as Scarborough?

Mr. BYRNE. Oh, no.

Mr. STEIGER. All right. Are the bull rings generally easier to get into than the better tracks?

Mr. BYRNE. Oh, yes. There is no question of it. I would rather not go to any of the New York tracks.

Mr. STEIGER. Why is that? By New York tracks, you are talking about NYRA and Belmont?

Mr. BYRNE. Right.

Mr. STEIGER. How about Canandaigua, upstate New York, Finger Lakes?

Mr. BYRNE. No, never been there. You take a track like New York, you get a better class of horses and you have people that run, like at New York, and like I have been to Laurel, Hialeah is another one, I don't like. I don't like Hialeah at all.

Mr. STEIGER. It is the same people that run at Aqueduct and Belmont?

Mr. BYRNE. Right. You are dealing with that breed of people. They are in it purely for the sport and the prestige. No amount of money is going to sway them.

Mr. STEIGER. All right. So you have now narrowed your indictment down from all racing to cheap racing. Let's assume for the moment that the pots were big enough so a trainer could make a living even with a cheap horse, and he was required to pay his help a living wage.

Would that make it tougher to get to them, or do you still think you could be persuasive under those conditions?

Mr. BYRNE. With the difference in class, you mean?

Mr. STEIGER. No; I am talking about if the purses at the cheaper tracks were such that an owner and trainer could make a legitimate living.

Mr. BYRNE. Decent living?

Mr. STEIGER. Decent living; and he was required to pay his help a decent wage and the jockeys could have a decent wage.

Mr. BYRNE. Oh, yes. I don't say you would stop it, but you would stop a lot of it.

Mr. STEIGER. I understand you operate with four guys?

Mr. BYRNE. Well, mainly four, three or four guys; right.

Mr. STEIGER. If your outfit knew that what you were doing was a Federal crime—any of the things you have mentioned, either bribing a trainer, bribing licensed personnel, administering a drug, if you knew that was a Federal crime—would this inhibit your activities?

Mr. BYRNE. As it exists now, what we were doing, we were leery of violating certain Federal law that we were careful of. We tried to be very careful of, because once you get involved in a Federal law—let me explain something. After this indictment came down, no one minded going to the jail in Massachusetts on this charge.

Mr. STEIGER. Excuse me. I don't understand. What was the indictment for?

Mr. BYRNE. Conspiracy to fix a race.

Mr. STEIGER. At Suffolk?

Mr. BYRNE. Suffolk Downs, right. What happened in Massachusetts, the law only carries a sentence of 2 years in the house of correction. So you can get out on a parole up there like, as it was, I only got a year. You can get out in half your time or even less on a sheriff's parole, on half your time. No one minds going to jail for a year or 2 years. Making the kind of money we are making, what's a year? Sometimes you get arrested. It is part of the ball game.

Now, the only thing everybody was leery of, and why they don't care to, like me, any more because of this "The dominoes are starting to fall," because being implicated in other States and using the telephone to register bets, you know, and stuff like that.

Mr. STEIGER. And that is because that is a Federal violation, use of interstate phones?

Mr. BYRNE. Right. And now—another thing what happened like I said before, Rhode Island is an ice cream track. Of course, now it isn't for us, but when they found out what the sentence carries down there, the sentence in Rhode Island carries a 10-year sentence. And 10 years, you are like 35-40 years old, a 10-year sentence is a big chunk you are talking about, especially if you are out of State, for your chances for parole and stuff, knowing you are half a wise guy, are not too good.

Mr. STEIGER. So if the States had a statute that would impose a relatively significant penalty, but particularly if the Federal Government

had a statute that would cover these situations, you think it might at least inhibit it?

Mr. BYRNE. No question in my mind about it.

Mr. STEIGER. I have one more question, Mr. Byrne. The owner of Suffolk Downs you mentioned, involving his employees, was that Mr. Vet?

Mr. BYRNE. No; Mr. Edwards.

Mr. STEIGER. Was that Mr. Jim Edwards?

Mr. BYRNE. Yes.

Mr. STEIGER. Do you know if Mr. Edwards called his man off? I gather he, at least at one time, advised Mr. Edwards he had a good thing, and let him in on the bet. Is that correct?

Mr. BYRNE. Sure. Mr. Edwards also owns Audley Farms. He races under the stable name of Audley Farms and he does a little "Mickey Mousing" of his own. And he has had pieces of other tracks, Scarborough Downs—

Mr. STEIGER. Have you ever used any of Mr. Audley's horses?

Mr. BYRNE. I hit one of his horses, yes.

Mr. STEIGER. Do you know of your own knowledge how many strings of horses he has out around the country? How many horses would you say he has in action, at least when you were in action? How many horses did he have in action?

Mr. BYRNE. In Suffolk alone, there I knew he had about eight to 10 horses. All of his horses was always going off. A lot of times his horses were going off favorites and that is why he could get knocked out.

Mr. STEIGER. Would you do that in cooperation with his trainer?

Mr. BYRNE. Well—

Mr. STEIGER. Did you let him know when you were using his stock?

Mr. BYRNE. No.

Mr. STEIGER. You say he pulled his own "Mickey Mouse." What kind of "Mickey Mouse" was that?

Mr. BYRNE. He's got a guy working for him, to this day none of us knew what the hold was he had over Edwards.

Mr. STEIGER. Who had over Edwards, his help?

Mr. BYRNE. Yes.

Mr. STEIGER. Who was his help, in particular?

Mr. BYRNE. Pardon me?

Mr. STEIGER. Which man in particular had what you felt was a hold over Mr. Edwards?

Mr. BYRNE. Mustona.

Mr. STEIGER. Would you spell his name?

Mr. BYRNE. M-u-s-t-o-n-a.

Mr. STEIGER. Was he a trainer?

Mr. BYRNE. No.

Mr. STEIGER. Was he a hot walker?

Mr. BYRNE. He was just like—he was a thief.

Mr. STEIGER. But he took care of Mr. Edwards' horses?

Mr. BYRNE. He was more or less, let's put it this: This kid had free access to anywhere in that racetrack. Anywhere.

Mr. STEIGER. He was the right-hand guy?

Mr. BYRNE. He was one of Edwards' boys, you know.

Mr. STEIGER. Excuse me. At Suffolk, he didn't have to be licensed because he was working for the president?

Mr. BYRNE. He was working for the guy who owned the joint. Of course, the track security didn't like it, but it don't come out until later on, I guess.

Mr. STEIGER. It would have been very difficult for Mr. Edwards not to know Mr. Mustona was a thief; is that correct?

Mr. BYRNE. Of course, he knew he was a thief. No one could convince me otherwise.

Mr. STEIGER. I interrupted you. You started to tell us how Edwards pulled some "Mickey Mouse" with his own horses.

Mr. BYRNE. Let's take this kid that worked for him. Kid—he is older than I am.

He would say, "I am going to make sure"—look, there's a group of guys operating around here, fixing horses. I want to make sure they are not. What they would do, Mustona would fix a race, knocking out Edwards' horse. He would make a score, him and his buddies would make a score, and every so often fed Edwards a winner, keep him, pacify him. One hand washes the other.

The only thing, some of the guys in my group knew Mustona very personally, so subsequently we could do a little business together.

Mr. STEIGER. Did you ever operate with any people you know were in organized crime?

Mr. BYRNE. Can you be more specific? I understand what you are getting at.

Mr. STEIGER. Were there racetracks that you operated at in which you had to get a clearance before you could operate, from people who were members of organized crime?

Mr. BYRNE. No. Let's put it this way. We just didn't go into a town and start operating on the cold. Like if we went to—let's put it this way. How can I explain it?

We go into a track, we tie up a race. Now, the people I am involved with have very good connections.

Mr. STEIGER. Who have they got good connections with?

Mr. BYRNE. Angiulo and Baroni. They got these connections and they have some connections with people in New York.

Mr. STEIGER. Excuse me. Which people in New York?

Mr. BYRNE. I can't name them, because they are under the indictment.

Mr. STEIGER. Angiulo and Baroni, are they members of a known family of organized crime?

Mr. BYRNE. They run the city of Boston, but they have to answer to someone else.

Mr. STEIGER. Did they answer to Mr. Patriarca?

Mr. BYRNE. They answered to Raymond, right.

Mr. STEIGER. Did they do that to Mr. Tamello?

Mr. BYRNE. Tamello, yes.

Mr. STEIGER. Does Mr. Tamello have a responsibility in the Patriarca family for the sporting activities, or is he kind of a right-hand man for all activities?

Mr. BYRNE. He was more or less—he was like the go-between, let's say. I can't elaborate too much on the subject for firsthand knowledge, let's put it.

Mr. STEIGER. All right. And Angiulo, was he a paid member of Mr. Patriarca's family, to your knowledge?

Mr. BYRNE. Oh, yes.

Mr. STEIGER. So you had to clear with somebody?

Mr. BYRNE. What you would do, we would go in and, let's say we are going to tie up a race at Lincoln Downs, for instance. Just before—try to cut down to the last 15 minutes before the race could go off—we would call back to Boston to our connected bookmakers we knew and we would say—

Mr. STEIGER. Excuse me. By "connected" you mean the family relationship?

Mr. BYRNE. Right.

Mr. STEIGER. The Patriarca-controlled people?

Mr. BYRNE. Right. We called the Boston people and then call certain—I don't know who the guy is they called in Rhode Island. In other words, don't get hurt on this horse and dump the money somewhere else. We are truly independent.

The next phone call, we would bet with the independent.

Mr. STEIGER. Again, in your experience, was there anywhere you operated in the States you have mentioned where you did not have to get a clearance or okay from some organized crime family?

Mr. BYRNE. River Downs.

Mr. STEIGER. You did not have to?

Mr. BYRNE. Right.

Mr. STEIGER. You could go to—

Mr. BYRNE. You go to Scarborough, you can't bet. You can't bet River Downs or Scarborough with a bookmaker.

Mr. STEIGER. Why is that, if you know? Is it because it is so crooked the people don't want any action?

Mr. BYRNE. Right. You couldn't get down. In fact, we had an independent bookmaker, let's say early 1960's or middle 1960's, when Berkshire Downs was in operation. Well, a connected bookmaker, you couldn't get a result, no service, nor result with a bookmaker, and no one would take a bet off you. But we had one bookie, he would take the bet off us, but he got burned a couple of times and stopped it.

Mr. STEIGER. Yes. You mentioned Churchill Downs. Did you have to check with anybody?

Mr. BYRNE. As long as we called back to Boston.

Mr. STEIGER. In other words, actually, what you were concerned with was the connected bookies. You weren't concerned with the local turfs?

Mr. BYRNE. No.

Mr. STEIGER. Did you ever operate at Latonia or Hialeah?

Mr. BYRNE. No.

Mr. STEIGER. And the only ones you played in Florida were—

Mr. BYRNE. Hialeah and Tropical. I have been to another track down there but we didn't do nothing. It seemed to me every time the joint was changing names, you know. It was a small track. I don't remember, Florida Downs or Sunshine Park. It was so bad we didn't even want to go there.

Mr. STEIGER. But in your travels, did you ever hear of an outfit known as Sportservice, Emprise, or the Jacobs family?

Mr. BYRNE. Yes.

Mr. STEIGER. What did you hear about them?

Mr. BYRNE. I will tell you how we—when I got pinched, before I got pinched, what we were going to do was try and get me a job backside with a trainer under an assumed name and phony I.D.

Mr. STEIGER. So you could be licensed?

Mr. BYRNE. Right. Get a phony license. So now they checked out—it has a tendency to bounce back, and I think now at some tracks we are taking fingerprints, and we haven't been arrested before and my fingerprints are on record or something.

One guy come up with the suggestion, let's go up to work, get them to work on one of the concessions, you know. One guy gets involved, said no, because there's another group. He checked with someone, I don't know who he called. He called someone to check on it, and no, it would be no good, because that is another group all by itself. Stay away from it.

Mr. STEIGER. What concessionaire was that?

Mr. BYRNE. That would be Sportservice.

Mr. STEIGER. Do you remember what track you were going to do that at?

Mr. BYRNE. No. Honestly, no. We didn't go into too much detail about it.

Mr. STEIGER. The story was they already had some people working for them who were doing these kinds of things?

Mr. BYRNE. In other words, they got their own thing going, you guys got your own thing, keep them separate. Don't intermingle with them.

Mr. STEIGER. Did you ever hear of a relationship between Sport-service and the Patriarca family?

Mr. BYRNE. Not honestly, no.

Mr. STEIGER. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

I just want to continue along the line Mr. Steiger was pursuing. Mr. Byrne, you mentioned the fact that you were more careful, your group and the other groups were more leery, of Federal laws, or involvement with the Federal authorities. Was this because you felt that the Federal laws were tougher?

You mentioned Massachusetts and a 2-year term, and you mentioned Rhode Island where you could work out of the reformatory or the prison.

Mr. BYRNE. That prison was in Massachusetts you could work out of.

Mr. WINN. That prison was in Massachusetts. In your experience, did you find that you could buy off or do business, as you have said all morning, with the local establishment?

Mr. BYRNE. Let's put it this way. I have an extensive police record. I have done three terms in jail, and I think my last time in jail was in 1966. Since that time I have been arrested probably about four or five times for burglar tools and opening safes and B. & E. and I haven't done a day in jail.

Mr. WINN. Then you found it pretty convenient to do business with the local law enforcement officers?

Mr. BYRNE. Right.

Mr. WINN. This is exactly what several of our other witnesses have said. And along the same line, Mr. Steiger mentioned—and this is

one thing that this committee is considering—if we had a Federal racing commission, or a commission with Federal inspectors, and investigators whose job it was to enforce Federal laws under the leadership of a racing czar or just a Federal commission, would this be a detriment to your type of operation?

Mr. BYRNE. Definitely. If it was done right, it would be. It is like, today, you have all of this talk about legalizing gambling. The only way you are going to be successful at it—like you have several States that have lotteries. It is going to work, but people are still going to bet with the local bookmaker, and so forth and so on, because suppose the Government was to take over control of all tracks?

All right. And license it. And lease it out on a bid basis, no appointees, keep the politics out of it. Let the guy bid for it, check it to the guy, he is solely responsible, do away with these racing commissions.

You have to keep stewards because they are pretty tough guys. They don't care about nothing. They let you have what they have.

Mr. WINN. Some of them can be bought off, too. Can't you do business with some of them?

Mr. BYRNE. Let's put it this way, I never had the experience we had to.

Mr. WINN. You might try it if the pot was big enough, wouldn't you?

Mr. BYRNE. If I didn't come across this drug, I would have. I would have tried anything, you know. Take it way from them.

Mr. WINN. In other words, you are endorsing the idea of a Federal commission; do I understand you right?

Mr. BYRNE. No question in my mind.

Mr. WINN. You think it would be tougher?

Mr. BYRNE. No doubt about it. And I'll tell you, I would like to be hired for the job to see if we could get to fix a race. If we can't, then you know you are successful.

Mr. WINN. I tell you, with your background and your experience, you might be the type of man we want to hire, because you could save us a lot of time.

Mr. STEIGER. Oh, yes; a lot of time.

Mr. WINN. At least you would have the contacts.

How many groups like yours are operating all over the country? You, basically, are operating on the east coast.

Mr. BYRNE. Right. Let me put it this way: To be specific about a certain track, I know there is thievery going on there. It is the same case. You take a person, anyone here—take you, the average intelligent guy, 5 to 7 years to be able to really read and analyze a Telegraph or racing form. I mean to really read it. It would take you a minimum of that. Now, it would take you a lifetime to read the thievery and you still wouldn't have it all. Let's break it down just like that.

Mr. WINN. I am one of the few, according to the fellow from New York the other day, that still enjoys horseracing or all sports for the sport of it. What you said, basically, this a little while ago, too, that there are a great many people in the country, the consumer or player that go there, they really go to bet, but they also go for the sport of the thing.

Mr. BYRNE. Sure they do.

Mr. WINN. There is a great sport, there is a great feeling from watching eight of 10 horses get out there and run, supposedly what they think to be, at full speed. We now find out we have all different types of gears in those horses, depending on whether they have been drugged, or not.

Mr. BYRNE. There is no question of it. It is a heck of a sport. It is a beautiful sport. I don't know how familiar you are with horses.

Mr. WINN. Not very.

Mr. BYRNE. They are a beautiful animal just to even watch. People, there are people at racetracks that go to the racetrack that don't even bet. They just go to watch them.

Mr. WINN. That is true.

Mr. BYRNE. Take any racetrack in the country and I will pick out a half dozen a day. They just go to watch them. You get people in there, they bring down the sun chairs, their lunches, newspapers, they don't bet a dime. They pay their money, sit there, and just love to watch them.

Mr. WINN. We had one member of this committee say that maybe horseracing is so bad we ought to rule it all out, completely. Do you agree with that statement?

Mr. BYRNE. I do, yes.

Mr. WINN. That we should rule it out, or should we try to clean it up?

Mr. BYRNE. If you are going to clean it up, let me put it this way: If you are not going to a 100-percent job and follow it through, forget it. Just forget it. And the public, like I said before, is so gullible that they are not going to let you eliminate it, the betting process.

And then the States get involved. They realize how much tax dollars you are dealing in. These other States are getting wise to it. This additional money—you are talking about \$500 or \$600 million. You are talking big money. When you close down all tracks a couple of States are going to be in serious trouble.

Mr. WINN. I don't believe there are very many on the committee that would want to close down all of the tracks.

Mr. BYRNE. It wouldn't be fair to the average citizen, really.

Mr. WINN. Right.

Mr. BYRNE. And you put a lot of people out of work. But like I say, if the Government is going to step into the track, if they don't go into it with their eyes and ears open and forget these corporations and subsidies—like you take the Arsdén Corp.

Mr. WINN. What is that?

Mr. BYRNE. Arsdén. That owns Suffolk Downs. Let's take Jim Edwards.

Mr. WINN. That is Mr. Edwards' corporation?

Mr. BYRNE. Right. Here is a man that is supposed to have sold that track. It would take you the rest of a lifetime to convince me that man doesn't still own that track. The man that owns the track now. The racing secretary, is a man that was president or vice president of one of his corporations.

Mr. WINN. But you are talking about corporations and people that deal with State and local officials?

Mr. BYRNE. Right.

Mr. WINN. You are not talking about a controlled or an enforced racing situation in these United States, enforced by the Federal Government?

Mr. BYRNE. You would have to enforce it 100 percent, or else. Remember, it also takes just that one little quarter of a percent for a guy like myself to get in there and do something.

Mr. WINN. I realize that.

Mr. BYRNE. I can go into a track, you know, like you say I can't get into a building, I can't do this. There's a way. If there is a will, there is a way.

Mr. WINN. Any time you are dealing with human beings. But if they are faced with Federal laws and regulations and enforcement it could be a lot tougher than it is now.

Mr. BYRNE. There is no question of it.

Mr. WINN. Thank you, Mr. Byrne.

Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Mann.

Mr. MANN. Mr. Byrne, you mentioned that you try to operate on other people's money. I know you described a hippie, but what was the typical source of your money for placing the bets?

Mr. BYRNE. A typical source of our money: from professional people—doctors, lawyers. They have access to money they are trying to hide.

Mr. MANN. Who would make the contacts for those people?

Mr. BYRNE. Who would make them? Anybody, I would, they would. Anybody. On travel, remember, I said we live first class. You travel in airplanes.

Mr. MANN. But it would be members of this three- or four-man group of yours?

Mr. BYRNE. Right. No matter where we go, remember we are going first class. We are going in airplanes. And if you are in an airplane, the average man traveling is a businessman. So if you have a businessman, you have a professional man, and you get the conversation—I am in the horseracing business. So if the guy has one inkling about the sport, which the average male American does, he is interested in some form of sports, you are on your way to a potential sucker.

Mr. MANN. All right. And a large portion of those situations you would end up swindling the angel?

Mr. BYRNE. Definitely. No question of it.

Mr. MANN. Were there sources of funds that were more business-like, that required you to make a strict accounting?

Mr. BYRNE. I don't follow that question, sir.

Mr. MANN. Did you deal with anybody that had the capacity to require you to pay off?

Mr. BYRNE. You mean any of these people we are trying to swindle? Did they try to make us pay them off?

Mr. MANN. Did you get any money from organized crime sources that you felt you should account for?

Mr. BYRNE. We didn't have to account for a penny of it. We didn't get any money from other wise guys. This was our—you know—remember, you already got money. The theory is, don't use your own money. Why spend yours when you can spend someone else's.

Mr. MANN. You are saying you have no direct source of funds from otherwise—

Mr. BYRNE. Oh, yes; toward the end. When we got the drug down to a science, we did.

Mr. MANN. Where were you getting money?

Mr. BYRNE. A couple of fellows in New York.

Mr. MANN. Were they members of an organized crime family?

Mr. BYRNE. Yes.

Mr. MANN. Can you tell us what family it was?

Mr. BYRNE. Gambino.

Mr. MANN. All right. And you were sharing with the family then the winnings?

Mr. BYRNE. Toward the end, when we had this drug down to a science. Now we don't have to take the chance with suckers. We had some people who would back us financially and right off the top, they handled the money. There is no swindle involved here because you end up with a couple of air-conditions—holes in your head, you know.

What we would do, we would call them, set up a score, and they know our score was to come off. They would fly down, drive down, whatever it was, and there was our money. They would control the money, put the money through the windows themselves and take their expenses off the top and the rest would be divided evenly. It was working so smooth, you don't have to deal with jockeys, you don't have to deal with this guy, it is a process of elimination.

It is easy, like taking ice cream from a baby.

Mr. MANN. Did your financial connections with the Gambino family restrict you to any specific racetracks?

Mr. BYRNE. No. In fact, it helped us to a great advantage. Because we could go anywhere, and our expenses were covered. Like in one period of, let's say, 1 week, we covered, we only covered two tracks but we covered like five races. In a period of 1 week, to set up a score. And you know, go first class in the airplane, go into the hotel. No problem.

Mr. MANN. Did the Gambino family open up any other doors for you, such as giving you trainers or jockeys that they had?

Mr. BYRNE. Jockeys and horses.

Mr. MANN. That they already had some former relationship with?

Mr. BYRNE. Right.

Mr. MANN. Or relationships with other groups?

Mr. BYRNE. No. We had access to more horses, and a jockey, and some trainers.

Mr. MANN. What I am asking you is: Did they seem to have some other connection with the jockey that you had not set up?

Mr. BYRNE. Well, let's put it this way: We had our jockeys, they had theirs. We met theirs, they met ours.

See, our main goal was, toward the end of this thing, before the roof fell in, we would have our horses under different names, have jockeys that we could supply a race. We would own the whole race, every horse in the race would be ours. So instead of taking \$50,000, it was a \$70,000 pool. We were taking about every dime of that \$70,000. That was the set goal.

Now, not only that, now you can pick, you eliminate, here is a process you could eliminate probably your four horses. The one I told you

about, we kept four horses live. We have access to all eight or 10 horses, that we can whack all eight of them. We can take them any time in the morning, day or night, we want, and guarantee our combination to come in.

Mr. MANN. All right. You have referred to the fact other groups, similar to yours, existed. Were you aware that any of the other groups had a connection with another family that you ran into every now and then?

Mr. BYRNE. Not that I could prove, or nothing. All through conversation, that's all. No matter where we went, we were welcomed with open arms.

Like down here at Dover, Del., one day. And we got a call. "Interested in going to Florida? Ship a horse to Florida?" Had a guy here that called someone in Florida, said, "I have a couple of guys coming down from the East, take care of them." We went down and stayed at a guy's house and ate the best and everything, open arms. No matter what we said or did, that was law. This guy gave us his whole house to take over and took us wherever he was supposed to take us. The best clubs. Didn't have to spend no money. And then we looked at other possibilities down there and some insurance deals with the horses and stuff like that.

Mr. MANN. Did you find out that after you made the Gambino family connection that it improved your relationship with any track management?

Mr. BYRNE. No. All it did, it opened up like, let's say, where do we go from here, there aren't enough tracks. Let's branch out. Like me, I was supposed to go to California for a year with my family, move out there for a year and size up the situation at Santa Anita and Hollywood Park, and then over the border into Mexico, to see how things were. And they were going to come out for a couple of trips, because on the east coast where our cars were made and they were known, they were going to branch out and go out to California for a while.

And when it got warm there, go to Florida, come back East. It is a field day, it is an open field on the racetrack throughout the country.

Mr. MANN. Did you operate at Hazel Park or Jefferson Downs?

Mr. BYRNE. No; that was off limits.

Mr. MANN. Why?

Mr. BYRNE. I think we were at Fairmount Park at that time, and before we left for Fairmount Park, one of the fellows I was with made a call. We told him we were going out there, anybody out there we can see, or something. He said no, but stay out of Hazel Park. You know, we went down to Florida, same as going to Jefferson Downs, because these people have their own thing going out there and they don't want any outsiders.

There's enough tracks running of your own, stay away.

There was another track, too. I forget the name. Another major track in the Midwest we were supposed to stay out of. It is in the Chicago area.

Mr. MANN. You are telling us the word came through from the Gambino connection to leave these three tracks alone, Jefferson Downs, Hazel Park, and one other?

Mr. BYRNE. It was a combination of two connections, really. The people in New York and some people in Boston. Stay out of there. You know, you have enough tracks to operate in, stay out.

Mr. MANN. The people in Boston, who were they?

Mr. BYRNE. We got the word, the word actually come up through Patriarca to stay out of there. It was just an approximation, you call someone you knew and they would call someone else, and the word was to stay out.

Mr. MANN. So there apparently was cooperation? Coordination?

Mr. BYRNE. In other words, we don't come to your place, and don't come here. It is a mutual respect. No problems. It would be the same thing if we beat a bookmaker and he was connected, found out he was connected. One case in particular that one of the guys in my group was called in on, the Yoga, beat the guy for \$2,000 and he called in, and "You owe me \$2,000, and you beat my bookmaker, you are trying to beat me." "Gee, I didn't know he was your man."

"Well, he was." "Sorry, won't let it happen again." "What do you mean, you're sorry?" You know. Don't worry. It's a respect thing. I didn't mean it, I won't do it again. Because of your close relationship, if that were John Doe on the street that did that, they would probably still be looking for his body to this day.

Mr. MANN. When you speak of connected bookies, you are telling us that these bookies have some financial connection with either the Gambino or Patriarca families?

Mr. BYRNE. Yes.

Mr. MANN. And fence with you?

Mr. BYRNE. Right.

Mr. MANN. You made the statement that you did not think we could ever straighten out the gambling at racetracks. Of course, you base it primarily on human nature and not on the improved techniques for security which might happen. You also made reference to the fact you are heavily involved in other types of gambling, because of the extra money you had from time to time.

Mr. BYRNE. Right.

Mr. MANN. What spillover was there, what connections were there with your associates in the horseracing gambling business and the other sports?

Mr. BYRNE. Let's take an instance I know personally, where we had a hockey player. He is a good kid and everything else. All of his life he likes horses. He is a junkie gambler now. He is making big money in professional hockey. He ends up, he owns some thoroughbreds and he has been stabled, I believe—well, he had them running at Suffolk Downs at this particular time I am talking about.

Now, right off the bat, he doesn't realize it, but he is being used for a sucker because we would do the same thing to someone else. If you had money and I say to you, "Look, I know all about horses and why don't you buy it. You have some money and you are interested in horses but you don't know that much about them. You would love to become a horse owner. You become a horse owner, the next minute it gives me an authorization to enter the race I can stop. That is easy to be accessible to. Plus, you have got money. And if you have some money, we use your money to bet with."

This kid here, in fact it is a matter of public record through statements in the newspapers, he does bet horses bad, himself. He loses all the money he makes, and he makes good money. He bets them. Sometimes his horses win and sometimes they lose. Just keep feeding him

enough money and keep him interested. If his horse is losing all of the time, he says, "Hey, this is costing me money, forget it."

Just keep money to satisfy him. The next minute you get to know a bit about his personality, how he feels. Like he would be invited—like a friend of mine just opened up a barroom, "Why don't you and a couple of your guys come down for a few drinks? We are not going to use you for publicity purpose, invite a big crowd," that he has so and so. Just come down and help the guy along.

"Sure, I would be glad to."

Once he says, "Yes, I am going to come down," he is not coming alone and he will bring a couple of buddies. The first thing we do is get a half dozen girls, bring them in, a couple of flashy girls, and right off the bat the beer would start flowing free, the joint and the girls, and the next minute the kid has a game coming up in a few days and the betting money, there might be a two-point, 1½- or two-point favorite, and we know this guy is coming off a big drunk, he is going to be playing, his reflexes are going to be slower, it gives us an extra handicap.

You also find sports figures invited to these sort of things. They do it unknowingly. They don't know they are being used. Believe me, they don't even know they are being used and being taken to the cleaners every day. It is unbelievable.

Mr. MANN. Are there any cases of which you have direct knowledge, where an effort was made to corrupt or fix a sports event, other than a race?

Mr. BYRNE. Not that I could positively go into, no.

Mr. MANN. In your betting on professional football, basketball, or baseball, where did you get your edge? Where did you get your information?

Mr. BYRNE. From what I explained to you there about the hockey player.

See, these people, connected people, have a bunch of guys that go around, your team followers. You set up betting lines. The odds make you set up betting lines. Remember, a wise guy, now, he has some money, he has all of this money coming in from the bookie operation, this and that. No matter how much they get, they want more. Believe me, I was the same way. The more I had, the more I wanted. You follow the guys around and find their weakness, supply them with girls, joints, anything.

There is a weakness. It gives you the better advantage. Of course, some people do it more elaborate. Of course, I have no personal eye-witness dealings in it except my own with certain individuals in Boston.

Mr. MANN. All right, now, reference was made to improving the method at racetracks, such as a prerace testing for drugs. What recommendations do you have concerning the security at tracks that permit access to horses?

Mr. BYRNE. Let me put it this way here: There was a lot of publicity about building a receiving barn at Suffolk Downs. In other words, so many hours before the race, put them in this receiving barn with State officials to more or less watch them, so that no one would have access to him for drugs, or anything.

Right here at Dover, Del., Dover Downs, they have a receiving barn and I just walked in and knocked horses. So the receiving barn is not the answer.

They have a kid and a guy in at the office and the guy would pull in with his truck and say, "I am so and so, what stall am I assigned?"

They would put him in the stall. The owner, or kid, or family, the trainer, they go back and have coffee, and the kid goes back to the office. He had no one patrolling the receiving barn. I walked around for 4 hours and the first time I was ever there, no one ever bothered me. No one batted an eyelash at me. I walked around as free as I could be.

I went in the stall and hit one horse in particular. Three people were right there and didn't bat an eyelash. I had a brush and pail in my hand. They just figured I was the guy that was taking care of that horse.

So if you have a receiving barn, you have to have it like, I don't know if you ever seen them, in England they have a situation of a horseshoe-type stable. It is shaped just like the horseshoe, and the open part is the gate they have to come in. Of course, you are going to involve overhead here. You have to pay some people some money. But you put a horse in there, like I say, you put a horse in there 2 days before he is supposed to race. Of course, the horse has to still go on the track to be worked out. You have to keep your eyes open. It only takes like a matter of seconds to administer a drug. You take the litt (sic), the jockeys hide it in their belt, and before they weigh in after the race, they dump it at the stretch, at the turn, and it gets turned over all of the time. It is going to be a tough thing to really police it because you have too many human elements involved.

Mr. MANN. I believe that is all, Mr. Chairman.

Chairman PEPPER. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

You mentioned a certain track in Illinois that you were told to stay away from. Was it Maywood Park?

Mr. BYRNE. No.

Mr. MURPHY. Sportsman's Park?

Mr. BYRNE. Sportsman's Park, that's it.

Mr. MURPHY. Who told you to stay away?

Mr. BYRNE. Well, the same people in New York that we were doing business with and it comes out of our connections in Boston and Rhode Island to stay out of there.

Mr. MURPHY. Did you ever hear of a man by the name of Joe Baron or Joe Barboza?

Mr. BYRNE. Yes, I did.

Mr. MURPHY. He testified before this committee and he stated that there was a certain nightclub—you remember the name?

Mr. BYRNE. The Ebb Tide.

Mr. MURPHY. Where jockeys would frequent and they would get involved with debts and they were paying exorbitant interest.

Mr. BYRNE. They sure were.

Mr. MURPHY. They would threaten them with their lives and someone else would come in and play the good guy and pay off their debts and Barboza said, as far as he knew, these jockeys were in the guy's caravan and owed him a favor.

Mr. BYRNE. Right.

Mr. MURPHY. He didn't take any step further than that. Could you add to that, after the obligation?

Mr. BYRNE. He had to hold the horse. He was owed a favor now, and he had to, he was obligated to these people now to do him a favor.

Like I said, everybody has a weakness. If you have something they want, something you can supply them with, you have them in what we call our pocket. Our hip pocket. They do what we tell them.

Mr. MURPHY. This information came down to you from the Ebb Tide?

Mr. BYRNE. No; that was another group. See, that's like another group in itself. They work that way.

Of course, when this was taking place, this particular type of stuff was taking place, this was before the drugs got involved. I mean really involved. This is when everybody was using jockeys and they had control of a couple of brothers that were jockeys that really ran the New England circuit crazy. Plus another jockey. They had them pretty well in their hip pocket for themselves.

Mr. MURPHY. Did you have any information about basketball games that might have been fixed?

Mr. BYRNE. No; I was told when to bet certain games, though.

Mr. MURPHY. In the Boston area?

Mr. BYRNE. Well, not necessarily. The Celtics. I wouldn't bet the Celtics. None of us guys would bet on them.

Mr. MURPHY. Why?

Mr. BYRNE. We didn't trust them. We had word they were no good, they would win. We just didn't want nothing to do with them.

Mr. MURPHY. How about Cincinnati?

Mr. BYRNE. I can't go into too much detail but I will tell you what I know about it.

One night the Detroit Pistons were playing. And they were playing at the—I believe they were playing—I won't even go into who they were playing. This was like 2 weeks before even the game come up, and the guy says to us, he called a buddy of mine and says, "Look, do any of you guys need some money? Two weeks from now Detroit has a game coming up at home, get the 5½ points. Take the 5½ and bet Detroit."

Sure enough, Detroit wins beautiful. This is 2 weeks before the game even comes off.

Like I say, I was a heavy gambler, and ever since that time and a couple of instances, I wouldn't touch basketball with your money. You give the money to bet it and I would put it in my pocket and spend it on something else. I just wouldn't bet it.

Mr. MURPHY. How about professional football?

Mr. BYRNE. Nothing to my knowledge, except the gambling end of it. I shouldn't even go into the thing because I have no firsthand knowledge of it.

Mr. MURPHY. You described a certain racetrack in Delaware, Dover Downs I think the name of it was, as an ice cream thing. Would you elaborate on that?

I understand it means it was an easy track, but in what way was it an easy track? Were the people there all involved in fixing races or what?

Mr. BYRNE. We could go in there and have a jockey to point out horses to us, and we would go to the window, put the money through, and walk around to the other side in the collecting windows and wait for the race to be over and cash our tickets. That is what I mean by ice cream. That is how easy it was at that track. Just like Lincoln Downs, it was so easy.

Mr. MURPHY. Did you have any business with harness racing?

Mr. BYRNE. No, none whatsoever.

Mr. MURPHY. You mentioned the fact you would use sucker's money, so to speak, never use your own money.

Mr. BYRNE. Right.

Mr. MURPHY. Did any of the suckers ever get so infuriated that they would want to come back at you? And if so, would you have protection? Did you have musclemen around you that would protect you?

Mr. BYRNE. Well, we had one sucker that went to the police and there was nothing they could do about it. We had one guy, we took him for like \$18,000 and he never saw a profit or a dime. And what followed with that guy, his wife found out and she was going to the police. She knew a little too much so that we couldn't afford to, you know, press it, so why even go into it and threaten them because for every sucker you got, there are 10 more waiting in line. You don't have to threaten anybody.

In one incident a trainer threatened me. But what is the sense in him threatening me, because with my connections and everything else, I am going to come out the winner.

Mr. MURPHY. What do you mean "with your connections?" Whom do you have fronting for you?

Mr. BYRNE. The people who I am working with, plus who they know. This guy don't stand a chance.

Mr. MURPHY. You are talking about organized crime?

Mr. BYRNE. Right. We want to use his horse one day. I wanted to hit his horse and he wouldn't let me. I tried to offer him a couple hundred. I went on over, he had two grooms sitting outside the stall, and I offered the kid up to \$600 to go in and hit the horse. I think I just about had him. I would have been successful with the money, but the trainer started to come back and made a threat.

When I called one of the guys I was with, he made a threat to him, and nothing would ever come of it, because the word was getting around, he don't fool around, you are barking up the wrong alley.

He naturally mentioned to another trainer and the other trainer subsequently told him and he mentioned to a few friends of his, we don't want no part of it. Because he threatened to kill me with a knife and I grabbed a pitchfork at him. He doesn't stand a chance. They don't stand a chance.

Mr. MURPHY. Did you, or any member of your friends or group, ever use force to collect a debt?

Mr. BYRNE. Yes. Well, yes; we use force.

Mr. MURPHY. How much force?

Mr. BYRNE. Put a beating on a guy that he won't forget. Like he owed us some money.

Mr. MURPHY. You would do it personally, or have someone do it for you?

Mr. BYRNE. Depending on the circumstances. If it was enough money and the guy had a little bit of help behind him, I don't mean connected help, I mean he had a little bit of help, we would get an outsider. We would get an outsider, someone he didn't know.

In other cases we grab a guy, slap him around a bit, give him a few hits in the shin, make him walk funny for a couple of days. He would pick up.

One bookmaker in particular we took for about \$50,000. He thought he was going to get away without paying us and he mentioned he was connected and all of this. We jumped in the car without a song and gave him a phone, go ahead and call your connection. We threatened to kill him if he didn't come up with the money. He came up with the money. He came up with \$35,000 and wanted us to let him off the hook for the balance, which if we let him off the hook for the balance—at the time we didn't need it—but if we let him off the hook, we became the suckers.

I believe we gave him 12 hours to get the money. I think we even gave him less than that. We got the balance of the money with no problem. We know he had a couple of calls to find out and he found out, he had better pay him or else you're in trouble. It is the same thing if we rush in an independent bookmaker. Which one guy it happened to recently, before all of this I mentioned, up to even 5 months ago.

We took him for a lot of money. Mushed his agents. We are paying—

Mr. MURPHY. Mush?

Mr. BYRNE. Right. And we were mushing his bookies and we were hitting him. We were calling in sport bets, horse bets, just gambling with the guy, and if you get in the hole, you are supposed to settle up on Tuesday. So we were in the hole for a couple of grand apiece, wouldn't pay him. What can we do?

The guy he works for is a nonconnected guy. He has to buy his muscle.

Mr. MURPHY. How could they buy the muscle, through the family?

Mr. BYRNE. Right.

Mr. MURPHY. What type of money would they pay for the privilege?

Mr. BYRNE. It would depend on the circumstances. I mean, if you are talking thousands of dollars. But it depends on the circumstances that would warrant it, you know.

Like one incident, it would be \$2,000, but he would get beat for his \$2,000.

Here is a case, a guy went to complain to Baroni one day and said, "Geez, these guys are doing a terrible thing. They are beating me for all of my money, they are mushing my bookmakers, they are beating me at both ends."

He says, "I want something done about it." So naturally he will extract like five grand for them. All right, I will take care of them.

The next minute we get the word, lay off the guy for a while, you have enough money out of him. Lay off him for a while.

Mr. MURPHY. Would you have to pay money to operate this way?

Mr. BYRNE. No. Remember, we are making the call, that last minute callback. Out of our respect. So there is the one hand washing the

other. In other words, all of his booking operations, say that we give him the live horses and the dead horses. The live horses he would take off the board and the dead horses he took all of the money and it would be 100-percent profit. He knows they are dead. It is a sure winner. He knows it is a sure loser.

Mr. MURPHY. Was it incumbent upon you or your group when you went into new areas to pay for protection in those areas?

Mr. BYRNE. No; we didn't have to.

Mr. MURPHY. Would you call ahead?

Mr. BYRNE. Just call ahead. Someone knows someone. It is like a string of command. You want to go here, call ahead. How do you know this, where can we go?

Mr. MURPHY. Why would they be so tolerant of you and your group and take an independent bookie and use muscle on him? Why did they let you operate with a free hand?

Mr. BYRNE. Because, remember, we are paying them back out of respect. We are giving them firsthand information. We are giving them the best information in the world. Remember, you know how much money a bookmaker makes. Say they got on the street taking bets for that race and the six horses are dead. He realizes they are dead, all of that money, no chance of anybody winning, and he has bookies working 50-50, giving him 25 percent. That is all going in his pocket. That is an awful lot of money. By you utilizing that respect, the doors are always open to you.

Remember, these guys worked with them. They had a booking business of their own. I booked for years.

Mr. MURPHY. Would you say that in every section of the country in which you have had experience placing these bets, there is always some family or some type of organized crime involved there, that you would check with before you go in?

Mr. BYRNE. Oh, yes; you wouldn't go in blind. You wouldn't leave yourself open. You could cause unnecessary trouble and that is what, you know, that is where the respect comes in again. Respect what I am doing and we will respect you. Don't step on our toes, and so forth.

If we go into a town, we know they know we are there. As long as we don't bother their operation, or something, they let us operate.

Mr. MURPHY. How long have you been operating?

Mr. BYRNE. About 3 years, in full force.

Mr. MURPHY. In all of that time, did you ever go to the premises of a racetrack and have some security guard come up to you and say "We don't want your type around here, get out of here?"

Mr. BYRNE. No, because they didn't know me. See, I would be the only guy to be going into the track backside, plus going into the windows. And they never knew. They knew horses were being drugged, a stimulant and depressant, but they didn't know who was doing it. They knew the people I worked for had a hand in it, but they couldn't—like we were never seen together.

We go into this bar near the track, where you hang around at. I sit a couple of seats away at the bar, and there would be no connection between us. So that they wouldn't know who to look for or what to look for. I know them and they don't know me.

You have a big advantage there, and that is why it is so successful.

Mr. MURPHY. Have you ever shot any horses in the Illinois area, the Chicago area?

Mr. BYRNE. No. Just the Fairmount Park.

Mr. MURPHY. That is all the questions I have.

Chairman PEPPER. Mr. Nolde.

Mr. NOLDE. Mr. Byrne, regarding the Ebb Tide where Mr. Barboza used to beat up jockeys, who owned the Ebb Tide?

Mr. BYRNE. My personal knowledge, I don't know. I don't know who owned it.

Mr. NOLDE. Was Mr. Castucci connected with it?

Mr. BYRNE. He operated out of it. He had a piece of it, but my personal knowledge of it, I don't know.

Mr. NOLDE. Did you know Mr. Castucci?

Mr. BYRNE. Yes.

Mr. NOLDE. What does he do?

Mr. BYRNE. He is a bookmaker and a thief.

Mr. NOLDE. Does he have a criminal record for bookmaking?

Mr. BYRNE. Is he a convicted bookmaker, do you mean?

Mr. NOLDE. Yes.

Mr. BYRNE. I think he has taken two pictures for bookmaking. I am almost positive he has.

Mr. NOLDE. Mr. Castucci appeared here as a witness 2 weeks ago. Do you know whether he owns any horses through fronts?

Mr. BYRNE. I understand he owned one horse. I don't have personal knowledge of who the horse was. I don't know. But he is one of the guys we beat for a lot of money. He was not used to us.

Mr. NOLDE. Was he connected?

Mr. BYRNE. He is and he isn't. He is a type of guy—let's put it this way: He is an independent yet he is connected, but what his connection is, they are solely after his money. It is just the money involved. It is not, you know, a buddy-buddy friendship stuff. He couldn't go into one of the guy's houses and break bread with him.

Mr. NOLDE. Did you spend any time at the Ebb Tide?

Mr. BYRNE. I have been there; yes.

Mr. NOLDE. Were jockeys and other sports figures frequently there?

Mr. BYRNE. At the time I was involved going into the Ebb Tide, I have only been in there like maybe three or four times. It was to settle up scores with some safes in the area, some people down there had sent me down there to see. In fact, that is where I met Barboza. And I went in there. There was jockeys in there at the time, all hanging around with the girls. It was a pretty swinging place there for that type of guys, if you like that stuff.

Mr. NOLDE. You mentioned earlier that the straw ownership, through fronts, is very extensive, perhaps reaching as high as 60 percent. Are there substantial numbers of organized crime figures, criminals and others, who would be denied ownership were their true identity known?

Mr. BYRNE. Let me put it this way: The people that, my personal knowledge, these two people we worked with in New York, one guy owned. I think at the time like he had control of nine horses, and what he would do is ship them under different trainers' names. The same procedure we were doing. In fact, he used one of the trainers we had in our pocket down at Rhode Island to race.

So I know that horses are not under their true ownership. There is no doubt in my mind.

Let's put it this way: To prove it, let's say you get some guy to go out there and start fooling around with one of them horses. You find out how fast, you wouldn't be fooling with them without someone's permission. Then you find out how well connected that horse is with an owner.

Mr. NOLDE. Right. You mentioned at any given meet you had perhaps, as many as 10 to 12 jockeys working for you to fix races—using two key jockeys.

Mr. BYRNE. Right.

Mr. NOLDE. Who would those two key jockeys in the New England area be?

Mr. BYRNE. These two: one was Norman Mercier and the other was George Leone.

Mr. NOLDE. Who is Norman Mercier?

Mr. BYRNE. He is a jockey and he is in charge of the—like the jockeys guild of jockeys in the New England area. And he happens to be the thousand-dollar guy. You would have to pay him a thousand dollars up front.

Mr. NOLDE. "Up front," meaning you have to pay him in advance.

Mr. BYRNE. Before the race, or he would do no business. That was it. He had a strict rule, a thousand dollars or no business.

The other kid was \$100, \$50, just give him enough to exist and keep him. Of course, Christmas time, throw him extra money and stuff like that.

Mr. NOLDE. You never had any luck operating at Atlantic City Race-track, did you?

Mr. BYRNE. That's true. I was never able to operate out of Atlantic City.

Mr. NOLDE. Thank you. No further questions, Mr. Chairman.

Chairman PEPPER. Mr. Sandman.

Mr. SANDMAN. I think we have covered the whole waterfront. I was interested in my own State.

Did you do any operating in New Jersey?

Mr. BYRNE. Yes; Garden State.

Mr. SANDMAN. What year?

Mr. BYRNE. 1969 and 1970.

Mr. SANDMAN. On how many occasions?

Mr. BYRNE. My personal involvement? Two occasions.

Mr. SANDMAN. Were they big races?

Mr. BYRNE. Perfecta races, yes. Big pools.

Mr. SANDMAN. What were they?

Mr. BYRNE. Good-sized pools.

Mr. SANDMAN. They weren't any stake races, or anything like that?

Mr. BYRNE. No.

Mr. SANDMAN. In comparison with other States you have been to, did you have more or less difficulty in New Jersey? Was it one of the "ice cream" deals you talked about?

Mr. BYRNE. It was mediocre. It wasn't the hardest and it wasn't the easiest. I would classify it as mediocre. You could operate there with no problem. And it wasn't the easiest, but there was more money there than at some of the other tracks.

Mr. SANDMAN. One last question. The jockeys that you worked with, were they big name jockeys?

Mr. BYRNE. Well, one of them, he is big name on the New England circuit, let's put it that way. And the rest are all of the smaller type. You know, you couldn't get to them—like guys like Kid Laucirica, forget it, he needs me like a hole in the head, you know.

Mr. SANDMAN. In other words, the only ones you can reach are those that are not known; is that so?

Mr. BYRNE. Get the ones with the weakness, have no money, stuff like that.

Mr. SANDMAN. They are all kids that don't make a whole lot of money?

Mr. BYRNE. That is right.

Mr. SANDMAN. Once a fellow gets into the big circuit where he is known nationally, you can't reach him?

Mr. BYRNE. There is no advantage to him to operate with you because, remember, a lot of these big name jockeys are under contract. They get good points, they get 10 percent of the big purses. They are making a good year's pay. You get these other guys that are riding for, like a hundred dollars a day. To a jockey isn't a lot of money. It is not a lot of money. You figure for his expenses—

Mr. SANDMAN. The two occasions you had in New Jersey, did you succeed?

Mr. BYRNE. Succeeded in one; didn't succeed in the other.

Mr. SANDMAN. How did you do that?

Mr. BYRNE. How did we do it? With drugs. We used acepromazine.

Mr. SANDMAN. Since you have covered this, I won't ask any more questions. Thank you.

Chairman PEPPER. Mr. Steiger, another question?

Mr. STEIGER. Just one.

Mr. BYRNE, you mentioned that you got the word to lay off Hazel Park and Jefferson Downs.

Mr. BYRNE. And the Fairgrounds.

Mr. STEIGER. And the Fairgrounds?

Mr. BYRNE. Right.

Mr. STEIGER. In New Orleans?

Mr. BYRNE. Not the Fairgrounds. What is the one?

Mr. STEIGER. Sportsman's Park?

Mr. BYRNE. Sportsman's Park.

Mr. STEIGER. All right. Was that the same word that you got when they told you not to try and get hired by Sportservice?

Mr. BYRNE. I couldn't say for sure.

Mr. STEIGER. Did you directly get the word to lay off Hazel Park? Did you make the phone call and tell them, or did two other people?

Mr. BYRNE. Right.

Mr. STEIGER. Did you know if he talked to the same guy when he mentioned the Sportservice, about being hired by Sportservice?

Mr. BYRNE. I couldn't be sure.

Mr. STEIGER. Thank you, Mr. Chairman.

Chairman PEPPER. Mr. Byrne, you mentioned your experience with Hialeah in Florida. What has been your experience with Tropical Park and Gulfstream?

Mr. BYRNE. Tropical Park, we tied up a race down there. One race we ran a horse, we had a horse run down there for two races, and I don't like Florida at all for operating out of. Of course, the Tropical Park was pretty easy because we had our trainer down there and I had access to the stable area. It is one of the tougher tracks to sneak a horse in the country. I would say that Hialeah was the toughest of them all because of the security. But I was successful at it, but I would rather not do it.

So we made some money down there. We got out of there. One time we didn't get money, we get out and tried to pull a swindle off and we get out of there.

Chairman PEPPER. How about Gulfstream?

Mr. BYRNE. I was over to Gulfstream once, but nothing successful over there. Nothing successful at all over there.

Chairman PEPPER. Tell us, by way of summary, how extensively is organized crime involved in horseracing in the United States, in your opinion?

Mr. BYRNE. Let's put it this way here: I have been sitting in the bar back room in Boston and got calls there as far as Miami to bet horses. In other words, it would be appreciation for what we had given some other guys to bet when we operate out of New York, the same in New Jersey we had calls from. I am not talking about like you go to the tracks and you always meet some guy that will say, "Hey, I got a hot tip." This here is a race that is sewn up and we have no problem. We get all of these calls from all of these people.

Chairman PEPPER. Is it your answer that organized crime is rather extensively involved in racing in different parts of the country?

Mr. BYRNE. No question about it.

Chairman PEPPER. Different groups operate in different areas, generally?

Mr. BYRNE. You might have two or three groups working at one track. There is a lot of money involved there. I mean, you figure that the greatest percentage of that money is returned to the betting public. And like I say, the wise guys, they are going to take out most of that money. Except for what the little old lady bets, and the drunk. They are going to take out the money.

Chairman PEPPER. Do the organized crime groups divide up the country, some take some areas and others take others?

Mr. BYRNE. Let's put it this way: Certain areas you can't go into. I mean we can't go into.

Chairman PEPPER. Why is that?

Mr. BYRNE. Because they have a thing going there. You guys got enough tracks out your way, stick to them. We don't go there. It is a respect. No hard feelings, or warnings, or threats. No problem. We don't go in and ask them what you are doing and they don't ask us what we are doing. Because there is enough money involved that it is cut up every way. So each group has, you know, financially the same. It comes out with different people and they operate different tracks.

We may be down, like here in the Maryland area, Delaware area, some other guys from the South might be up in the Northeast area. Remember, horses are shipped from all over the country. So that ac-

tually, pinpoint anybody with ownership in one, by the time they pay to go and check everybody out, the owners and everything, they will go crazy.

If I am a trainer, registered trainer in Massachusetts, I can race my horse at Hialeah. If I am registered in the State of Florida, I can race it at Suffolk Downs. It works the same way, mutual agreement.

Chairman PEPPER. Did the organized crime groups generally know where the other groups were?

Mr. BYRNE. This is the purpose of reading that Telegraph. You find out where the thieving is going on, what horses and what trainers are where. So if certain trainers are in certain areas, you know certain moneymen are in these certain areas. That is how you find out.

Or through calling. You call around, you guys got something going on down there. I could probably be of help to you, something like that. They have it pretty well wrapped up.

Chairman PEPPER. You said that after you fixed certain races you called Boston and New York. I believe you said you called New York?

Mr. BYRNE. Right.

Chairman PEPPER. You wanted to be sure the New York people were not adversely affected by what you did, that they were informed?

Mr. BYRNE. Right. As long as they didn't get hurt financially.

See, we are not obligated to anybody as long—if we are using their money, now we are obligated. But out of respect, out of association with them, and doing favors and working for them, don't hurt them financially, help them financially. Then if we need a favor, say one of their straws owns a horse, if we want to use that horse.

Chairman PEPPER. When you gave them that information and kept them from losing money, did you share any of their winnings?

Mr. BYRNE. No; their winnings are their winnings, and our winnings are ours.

Chairman PEPPER. You only laid the predicate for future favor.

Mr. BYRNE. Right. Let's say we beat, like I said before, we beat one of their bookmakers. "Gee, I didn't know the guy worked for you." They get a little mad. "Gee, you guys should have checked. Your check other things, why didn't you check on that? Don't let it happen again."

Chairman PEPPER. How extensively is organized crime involved in bookmaking and horseracing?

Mr. BYRNE. They control it.

Chairman PEPPER. They control it?

Mr. BYRNE. They control it 100 percent.

Chairman PEPPER. One other question. Have you noticed that any of the strike forces or task forces set up by the Federal Government, or in the case of New York, the strike force set up by the Federal, State, and local authorities, have had any success in trying to keep organized crime out of the racing industry?

Mr. BYRNE. I know personally in New York that our two connections in New York will not operate in the State of New York because there is too much heat on up there.

Chairman PEPPER. So this task force is keeping organized crime out of horseracing in New York?

Mr. BYRNE. Yes. There is probably cases going on, I don't know. But the two people in New York we were working with won't go up there.

Chairman PEPPER. So it would seem to follow the same kind of task force could do good in another area.

Mr. BYRNE. Right. No question of it. Like I say, you get that overnight sheet, and you analyze it just like a psychiatrist. Where is the financial gain? You have to eliminate the risk. It is like being a burglar. I would rob a store, or a safe, or a house. I wouldn't take any risk. My biggest risk involved is getting into a place and getting out. It is the same way operating in the track.

Is it financially worth our while. What are the consequences if we get caught, what are your chances of getting caught, and you break it down. And in New York right now, the situation right now, it is not financially advisable to go up and fix a race.

Chairman PEPPER. You said your wife was here. I don't know whether you have children, or not. But you are a citizen, you were born in America?

Mr. BYRNE. Yes, I was.

Chairman PEPPER. You are a citizen of this country. Does it frighten you, now that you know what you know about the existence of organized crime in this country—the extent of it, and the potential of it, to harm innocent people?

Mr. BYRNE. Well, let me put it this way: The average American citizen today doesn't. It is beyond their imagination to realize how extensive they are. I was discussing with my wife, I said, "Gee, I ought to write a book," I says, but she said, "Who would believe it?"

The American people are so gullible that they will never believe it. Organized crime is another country in itself. You have communism, you have organized crime, and you have a democracy. And organized crime is another nation all in itself. Believe me. That is how extensive it is.

Chairman PEPPER. Would it be your summary that organized crime is a great menace in this country?

Mr. BYRNE. There is no question about it in my mind, at all.

Chairman PEPPER. Mr. Murphy, did you have another question?

Mr. MURPHY. Yes.

You mentioned earlier in your testimony that you had shot up horses at Fairmont racetrack in East St. Louis?

Mr. BYRNE. Yes.

Mr. MURPHY. How many times?

Mr. BYRNE. Well, I tied up one race there. We were there for a 2-week period, about 10 days or a 2-week period.

Mr. MURPHY. In that whole time, you tied up one race?

Mr. BYRNE. Right.

Mr. MURPHY. Did you have the cooperation of a jockey or trainer?

Mr. BYRNE. We had a little cooperation from a jockey.

Mr. MURPHY. How did you come on to this particular jockey?

Mr. BYRNE. Through our association with knowing other people and their jockey knew some jockey that was racing up there. And so and so sent me and we have this jockey back home, his phone number, wherever he is, and if the kid doubted, call California. He talked to him on the phone. Said they can help you make money. Help him out if you can.

Mr. MURPHY. How many horses did you shoot up?

Mr. BYRNE. Three. I think it was three. I am positive it was three.

Mr. MURPHY. How many were in the race?

Mr. BYRNE. Eight horses in the race. It was three that were hit and it was one held and one knocked out.

Mr. MURPHY. That was the only time you were at Fairmount?

Mr. BYRNE. Right.

Mr. MURPHY. How much money do you think was in that pool; do you remember?

Mr. BYRNE. It wasn't a lot of money. They don't have a big handle there. We made small money there. But it covers our expenses of nosing around the country. In other words, we are looking for greener pastures, what we call virgin country, to our drug situation, and that happened to be one that didn't have it.

So we went out there to see how it was. The money wasn't enough to make it worthwhile to stay there, but while we were there, let's pay for our expenses and make a few dollars.

Mr. MURPHY. How is the security at that track, if any?

Mr. BYRNE. No problem. It didn't have any problem. It is not the easiest, but it is not the hardest.

Mr. MURPHY. Who would the family be out there that would control that area?

Mr. BYRNE. Who would control it? I don't know who would control it. As long as we made our call back to Boston, make sure we are not stepping on no toes, we were all set.

Mr. MURPHY. That is all.

Chairman PEPPER. Mr. Keating, another question?

Mr. KEATING. Just a couple of questions.

Earlier I asked about this horse named Robert Kope and you had indicated that he ran at River Downs on two occasions and you were successful in fixing the race on those two occasions.

Mr. BYRNE. He ran several times there, but I am talking about successful times that I know of.

Mr. KEATING. Two successful times. You indicated also you could arrive at the specific dates. Can you work that out in your mind now, about when that would have been?

Mr. BYRNE. They are out of business, but I think I may even have a copy of it at home, of the Telegraph. And the dates that were involved, a specific race, and everything.

Mr. KEATING. I would really like to see something like that or get it, if you feel you could get it to this committee. We tried to do a fairly quick check up what that date might be, and haven't been able to come across a horse named—

Mr. BYRNE. You haven't been able to come across a horse of that nature?

Mr. KEATING. Right, that ran at River Downs.

Mr. BYRNE. He ran.

Mr. KEATING. He ran at River Downs.

Mr. BYRNE. Believe me he ran.

Mr. KEATING. More than one meet?

Mr. BYRNE. Yes. The people to contact, to verify he ran, call—I know a person that knows him very well, who knows he ran there. Vince Murphy.

Mr. KEATING. That is a name from the Thoroughbred Racing Association?

Mr. BYRNE. Right. He knows the horse very well.

Mr. KEATING. And he would know he ran in Cincinnati?

Mr. BYRNE. Right. I think he has the dates. He has all of the dates with the horses we used, pinpointed down. Because I had to go over it with him previously and I spent some extensive time with him to pinpoint the dates.

Mr. KEATING. I think you indicated this horse was in the name of Peter Stagliano?

Mr. BYRNE. Paul.

Mr. KEATING. Paul Stagliano. Is he the one suspended in 1970 at Rhode Island?

Mr. BYRNE. Right.

Mr. KEATING. Now, if he were suspended in Rhode Island, could he run Robert Kope at River Downs?

Mr. BYRNE. That suspension is only for that State.

Mr. KEATING. Don't they honor those from other States?

Mr. BYRNE. They do honor them, but see, you are dealing with two types—the suspension doesn't mean nothing. It is under advisement. His license is suspended. He is under a suspension for that particular track. He hasn't lost his license completely, so he can still race, you know. He just is barred from that particular track, really.

Mr. KEATING. Where can we locate Vince Murphy?

Mr. BYRNE. Right now, in New England. What is open now—they are out of Suffolk Downs. The main office is in New York.

Mr. KEATING. What is his position with TRA?

Mr. BYRNE. He is in charge of the New England racetrack.

Mr. KEATING. Security?

Mr. BYRNE. Right, except for Suffolk Downs that they don't have a contract with no more.

Mr. KEATING. Robert Kope ran there for more than one meet and on more than two occasions?

Mr. BYRNE. Yes. Two occasions I know.

Mr. KEATING. I understand it is K-o-p-e?

Mr. BYRNE. Right.

Mr. KEATING. This was the one you doctored the most; is that correct?

Mr. BYRNE. That is right, used our experiments.

Mr. KEATING. We will try to track it down, then.

I yield.

Mr. BYRNE. It was in the month of May he ran.

Chairman PEPPER. Mr. Byrne, I cannot commend your past and things you have done. I imagine now you perhaps regret you ever got in it. I do commend you for coming before this committee and giving the information that you have given. We hope it will be helpful in trying to break up the menace of organized crime in this country.

We thank you very much for coming.

The committee will recess until 2:30 this afternoon.

(Thereupon, at 1:20 p.m., the hearing was recessed, to reconvene at 2:30 p.m. this same day.)

AFTERNOON SESSION

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, will you call the next witness.

Mr. PHILLIPS. The next witness will be Mr. Walter Floss. I think it might be appropriate to have Mr. Norman J. Wolf and Mr. Floss testify together.

Chairman PEPPER. Will Mr. Floss and Mr. Wolf come to the witness table.

**STATEMENTS OF WALTER J. FLOSS, JR., AND NORMAN J. WOLF,
MEMBERS, ERIE COUNTY (N.Y.) LEGISLATURE**

(Having been duly sworn by the chairman)

Chairman PEPPER. You may inquire, Mr. Counsel.

Mr. PHILLIPS. Mr. Floss and Mr. Wolf, the committee has asked you to come here essentially to tell us about a franchise application made on behalf of the Buffalo community to obtain both football and baseball in that particular area.

In relation to trying to obtain those sporting facilities in Buffalo, a stadium was contemplated as part of these particular plans. In relation to the stadium, it developed that a number of the county legislators were indicted and convicted in relation to the activity and we will hear more evidence about that now.

If you would give us some of the background of how this entire issue developed and provide us with the basic knowledge of the sequence of events, then the evidence which will follow will be more meaningful.

Chairman PEPPER. Would the gentlemen give us some background about themselves.

You are members of the legislature now. Which body of the legislature?

Mr. FLOSS. We are with the Erie County legislature. We took office January 19, 1968.

Chairman PEPPER. In the State legislature?

Mr. FLOSS. This is the Erie County legislature. There was a new form of government came out at that time.

Mr. PHILLIPS. That is a unicameral body?

Mr. FLOSS. Yes.

Mr. PHILLIPS. And you are called county legislators; correct?

Mr. FLOSS. Right.

Mr. PHILLIPS. Will you tell us what particular district you come from, Mr. Floss?

Mr. FLOSS. The 16th district, a suburban area of the county.

Mr. PHILLIPS. Mr. Wolf, what area do you come from?

Mr. WOLF. The 17th, which is an adjoining suburban district comprising six rural and suburban towns.

Chairman PEPPER. Are you a member of a county legislature as well?

Mr. WOLF. Yes, I am, sir.

Mr. PHILLIPS. Could you tell us how the dome stadium came to the attention of the county legislature?

Mr. FLOSS. I will start off.

The idea of a stadium in the Erie County area commenced before Mr. Wolf and I took office, by the old board of supervisors. They were our predecessors. It was a joint venture with the Buffalo Cham-

ber of Commerce; that is, a study on a stadium. The first few months that we were in office, there were discussions, but nothing very serious.

But then in May, we were sort of panicked into the idea that there was an opportunity for Buffalo to receive a major league baseball franchise, and the best way to insure this would be to build a dome stadium.

Up to that time, they were talking about a multiuse stadium, a bowl with an L-shape, back to back, you know, all purpose.

In a matter of a short time, the public in general seemed to think well of the idea; both major newspapers there pushed the thing, and we felt we just couldn't lose the opportunity of receiving a major league franchise.

And the legislature: There being 20 members, 19 voted in favor.

Mr. PHILLIPS. Nineteen members of the legislature voted in favor of having a dome stadium?

Mr. FLOSS. Of a \$50 million bond issue to construct a dome stadium somewhere within Erie County.

Mr. PHILLIPS. After the legislature voted for the bond issue, what happened next in this procedure of selecting a site for the dome stadium?

Mr. FLOSS. Well, we had an impasse there for a great length of time. There were those legislators who felt it should be in the urban area, right within the heart of the city, and there were those of us out in the suburbs that felt it should be built where there was more room for parking, and better access, similar to the Houston site.

This waged back and forth for many months, some of us coming up with various sites. Not the Lancaster site, it wasn't thought of at that time. I particularly championed for one near the airport, figuring there was a lot of room, good roads, and the airport would have provided transportation as well.

Those in the city felt that it would do something for the blighted area, that it would have torn down. Both sides had valid arguments at the time.

Mr. PHILLIPS. What happened, as a result of these arguments; did anything take place? Was any decision arrived at in relation to whether it should be in the suburbs or in the city?

Mr. FLOSS. No. Actually we never got to the point of a decision during that period of impasse until the Kenford offer, and then it was a site no one had ever really studied or thought of.

This then made the site, of course, then crystallized. It was the Kenford proposition to utilize their land, that they had acquired sufficient land to bring about a great deal of peripheral development, and it was on this premise that we had to now forget any different site, but had to go on whether or not we wanted to build a dome stadium under this total proposition.

Mr. PHILLIPS. What was that total proposition?

Mr. FLOSS. The propositions change a little bit as they go along. You had the chronological order here, but basically it is that the county would build a stadium in the heart of the property that Kenford had acquired and that Kenford would lease that stadium from the county and they, in turn, would build in the area hotels, restaurants, and other things that would complement the stadium.

I might just interject, this is the first time that a site was selected, that that community in which it was selected was in favor of it. All of the other sites we had chosen outside of the city, the particular community wanted no part of a stadium itself. But the town of Lancaster did in fact, and still does, want that dome stadium with the Kenford plan of millions of dollars of peripheral development, which would have broadened their tax base.

Mr. PHILLIPS. What was the view of the legislature in relation to the Kenford proposal?

Mr. FLOSS. Well, finally—and I will have to just look here and see what the date was—this was on June 18 of 1969. The Kenford proposal came about in December 1968, so after 6 months, the legislature adopted, 19 to 0—because one legislator was away—to go ahead with the program under the outline that I am sure you have some documents on.

In other words, there would be a lease with certain basic things contained therein, or if we could not negotiate a lease, then the predetermined management fee was set up. And as I say, this was a unanimous agreement of 19 of the 20 legislators.

Mr. PHILLIPS. Did that program then carry on to a successful conclusion?

Mr. FLOSS. No, it did not. That was the beginning of problems. We were aware there were pressures occurring at all times, so that one, the press, all of a sudden switched, and we had two major papers and you wouldn't believe you were reading the same procedure of the legislature that day. They were both on opposite ends.

Mr. PHILLIPS. I have heard that from a Government official who worked up there. He said he had attended one or more of these meetings, and he said you couldn't, by reading the press, know that one paper had covered it properly, or the other paper had not, because they were so divergent in the coverage of the same particular meeting. Is that your opinion?

Mr. FLOSS. They were at 180 degrees of each other throughout, for a long period of time.

Mr. PHILLIPS. Did one of those newspapers have an interest in this particular location?

Mr. FLOSS. I wouldn't say either paper had an interest in the Kenford location, or Lancaster location.

Mr. PHILLIPS. Well, one of them was affected financially by locating this particular stadium at Lancaster?

Mr. FLOSS. Possibly adversely.

Mr. PHILLIPS. How was that?

Mr. FLOSS. One paper has a community television franchise for the entire city of Buffalo. They also have a license to originate broadcasts. It is conceivable if a stadium would have been built in Buffalo, it could have been a grand studio. It certainly would have been to their benefit, since they had the franchise already tied up.

But out in Lancaster, it was an unknown who would have the franchise there, so I would say, and I always speculated, this was why they pressured against and tried to form public opinion against building out in that suburban site.

Mr. PHILLIPS. Did there come a time when Sportservice was mentioned in relation to the Lancaster site?

Mr. FLOSS. At a meeting—there were a number of people, I can remember some, not all.

Mr. PHILLIPS. Tell us who was at the meeting.

Mr. FLOSS. Those that I can remember. I do remember of the legislators, I am sure that our majority leader was there, Mr. Miller; our chairman, Mr. Carlson; I know Mr. Doring was there; and myself. There may have been others, I am not certain.

I do know there was Mr. Boyd Weiss, construction union; Mr. Jan Pierce, communications workers; Mr. Cottrell was there. I am not sure if Mr. Walker was or was not. He usually attended the meetings such as that.

But at that time Mr. Cottrell made a statement—and I am not sure, maybe the executive was there, but at least it was stated that through the executive a bid had been made that if Sportservice were to be allowed in the dome, in other words, if Cottrell would negotiate the concessions and give up the concessions to Sportservice, that the necessary votes would come about to approve the lease.

And this, of course, is what we were fighting about every month. Every time the Kenford would come up to a certain agreement, and the executive would agree that this was now a good lease, then certain legislators would vote against it, even though it exceeded the basic rules or basic agreement they had in fact voted on in the first instance.

Mr. PHILLIPS. So that some of the legislators who were required to approve this lease voted against the lease, even though it exceeded the minimum requirements that they had originally requested; is that correct?

Mr. FLOSS. That is correct.

Mr. PHILLIPS. And some of those legislators have been indicted; is that correct?

Mr. FLOSS. That is correct.

Mr. PHILLIPS. And convicted?

Mr. FLOSS. Correct.

Mr. WALDIE. Indicted and convicted for what?

Mr. FLOSS. Well, I only know what I read of the case.

Mr. Wolf is an attorney, I am not, but I assume that they were either convicted for taking bribes or attempting to, or asked for bribe money. This I am not sure.

Mr. WOLF. I think they were convicted of a Federal law involving conspiracy to solicit bribes, if I am not mistaken.

Mr. WALDIE. Was the conviction for soliciting of bribes by these legislators?

Mr. WOLF. I don't think the actual conviction was based on soliciting, but on the premise of conspiracy.

Mr. WALDIE. Conspiracy to solicit bribes from whom?

Mr. WOLF. I don't think this has ever been established.

Mr. WALDIE. Was the implication that counsel left by the questioning, that Sportservice was the one that was offering the bribe, true?

Mr. WOLF. I did not attend the trial, nor has that implication appeared in any of our local papers.

Mr. WALDIE. Let me ask either of you: Is that the implication you sought to leave with the committee, that Sportservice was involved in this conspiracy to solicit a bribe with these legislators?

Mr. FLOSS. No, I think there is a two-pronged thing here: I think we suspected, at least when told by Mr. Cottrell, that Sportservice wanted concessions because he—or Cottrell wouldn't get the votes. We then established in our thinking that Sportservice was able to control votes, to vote in opposition to the stadium.

Now, Ludera and Pordum voted in opposition to the stadium, along with nine other legislators. Then, at certain points—and this is what I found through the trial—they asked for or solicited bribes from the architect in order that first, they would vote for the preliminary drawings, which was part of the lease agreement, the preliminary drawings would be accepted, and I do know it got rather bitter after the many long hours of debate, you know you were 100 percent in your logic and then you would find these votes going the other way.

Mr. WALDIE. I may be anticipating something, but there was a question asked of you, and the response that someone attributed to Sportservice the ability to control votes as to where this stadium was to be located. The next line of questioning dealt with the fact that legislators who voted in accordance with the ability of Sportservice to control votes, were indicted and convicted for solicitation of bribes.

Was there a connection between the solicitation and conviction of bribes, and the activities of Sportservice?

Mr. FLOSS. No, I was trying to draw this. I think that these two fellows were a part of those controlled by Sportservice, if we are to assume what Mr. Cottrell said was true. Then on three times they voted in step with the side voting for the stadium. These were times Mr. Walker said he had to pay them. In other words, to vote in favor of the stadium. I think they were working two ways. This was my conclusion. What they were convicted for, then, was the times that they voted in favor of the stadium.

Mr. PHILLIPS. Just the point I was moving up to when Congressman Waldie asked you these questions.

In the course of the conviction of Pordum and Ludera, testimony was adduced from Walker, and Walker said, essentially, that Sportservice was putting up \$250,000; didn't he?

Mr. FLOSS. We heard this rumor that—we heard this—they had \$250,000 out. In other words, to control votes.

Mr. PHILLIPS. Pordum and Ludera told that to Walker; is that correct?

Mr. FLOSS. I never attended the trial or any part of it, but all I am saying to Mr. Waldie's questioning is that their actual conviction was the times they were paid to vote for the stadium, at the same time possibly having been paid by Sportservice to vote against the stadium. They broke the tie each time.

Mr. WALDIE. Just a minute. When you say at the same time possibly having been paid by Sportservice to vote against the stadium, that is a very strong accusation to make against Sportservice. Are you at this point making the accusation that Sportservice bribed legislators to vote against the stadium?

Mr. FLOSS. I stated earlier I was told this at a meeting.

Mr. WALDIE. By whom?

Mr. FLOSS. By Mr. Cottrell.

Mr. WALDIE. And it is on the basis of that conversation that it is your opinion that Sportservice in fact bribed legislators to vote against the stadium?

Mr. FLOSS. It was only a personal conviction, when 19 legislators voted to do something and then 11 of those fell off and voted against it.

Mr. WALDIE. Is that your conclusion, that Sportservice bribed legislators to vote against that stadium?

Mr. FLOSS. It was a conclusion.

Mr. WOLF. If I may, Mr. Phillips. I just want to say in response to the Congressman's questions before, that I, myself, have never heard, nor have any substantiation for the statement that Sportservice may have been involved in the bribery case. The first time I heard of this situation in terms of what you just mentioned, was earlier today when I heard a portion of the transcript read. It certainly was not covered, to the best of my knowledge, in the Buffalo papers.

Nor did I ever attend that trial.

Mr. PHILLIPS. You had an opportunity today to read the transcript of Mr. Walker's testimony: is that correct?

Mr. WOLF. No, just a short portion was read to me, and that is the first time I ever heard of such a thing.

Mr. PHILLIPS. You said that the fact that testimony was adduced at the trial was never reported in the Buffalo press?

Mr. WOLF. To the best of my knowledge. You might laugh at me, but I get only one of the two Buffalo papers, because the accuracy of the other leaves me a little upset at time. So no, in the one I get, it did not appear.

Mr. PHILLIPS. Mr. Steiger would like to know which newspaper you read?

Mr. WOLF. The Buffalo Evening News.

Mr. PHILLIPS. So it came to you as a revelation that Mr. Walker did in fact testify about the \$250,000 from Sportservice?

Mr. WOLF. It came to me as a surprise, because I would have assumed that some local action would have been initiated if, in fact, that statement was made under testimony and under oath.

Mr. PHILLIPS. And to your knowledge, no such action has taken place?

Mr. WOLF. To my knowledge, nothing has taken place.

Mr. FLOSS. They did follow through, after the Federal grand jury, the county started a grand jury investigation, but I never attended and I don't know any results. The only results were some more architects were indicted.

Mr. STEIGER. Mr. Floss, you weren't aware of the possibility of Emprise paying off any of your colleagues? Were you aware of any other pressure from Emprise or Sportservice? Were you aware of their interest? As a member of the legislature, were you aware of them pressuring any of your colleagues?

Mr. FLOSS. No, sir. Only after being told specifically by Mr. Cottrell, at this time you begin to make things fall into pieces and why votes were made in certain ways, and you draw conclusions.

Mr. STEIGER. So the conclusions you arrived at were arrived at after the fact? You were never approached?

Mr. FLOSS. No, sir.

Mr. STEIGER. Under normal lobbying bases?

Mr. FLOSS. No, sir.

Mr. STEIGER. How about the other gentleman?

Mr. WOLF. No, sir. If the dome stadium was constructed, it would have benefited my legislative district. It would have been in the heart

of my legislative district. And if I may just digress for a minute and say this, that I still think the majority of the people in Erie County would have wanted a dome stadium, privately operated stadium with a substantial peripheral development in the neighborhood of \$200 to \$300 million, which would have gone on our tax rolls.

If you view this as 5 years of legislative debate, the rise of a dome stadium, the demise of a dome stadium, and the rise of a stadium which can be equaled by about 180 other communities in the United States, you have got to scratch your head and say either, like the old Pennsylvania Dutch, too soon smart or too late smart, too soon or too late smart, because this stadium, the dome stadium, extremely beneficial to our community in all ways, shapes, and manners.

Mr. STEIGER. Were either of you gentlemen aware that Emprise, since they apparently couldn't get written in as a concessionaire, was opposed to the dome stadium? Were you aware of opposition?

Mr. FLOSS. Only by the statement made by Mr. Cottrell at a meeting I attended.

Mr. STEIGER. That is the only time you were aware of it? You never heard any of your legislators referring to it?

Mr. FLOSS. Heard rumors all of the time.

Mr. STEIGER. That is what I meant.

Mr. FLOSS. There were rumors.

Mr. STEIGER. You know of Mr. Abgott?

Mr. FLOSS. There was an Abbott and an Abgott. Both of them were legislators. I know both of them.

Mr. STEIGER. One is a printer?

Mr. FLOSS. That is Mr. Abgott.

Mr. STEIGER. Did he ever make you aware of Emprise's position?

Mr. FLOSS. No.

Mr. STEIGER. You weren't aware he knew what Emprise's position was in this?

Mr. FLOSS. No, sir. Let me say, just so we are clear, he at one time introduced a resolution lauding Emprise or Sportservice. That came to my committee. and I had it received and filed.

Mr. STEIGER. But he never made you aware of what Emprise's position was with regard to the dome stadium?

Mr. FLOSS. No, not directly. In fact, not too many people talked to Mr. Wolf and I. We were pretty stubborn.

Mr. STEIGER. Why don't they talk to you?

Mr. FLOSS. They know we don't change our minds.

Mr. STEIGER. You don't read the right paper; right?

Mr. FLOSS. We don't change our mind.

Mr. WOLF. Representing the district where the dome stadium would have been constructed, and Mr. Floss being adjoining, we, throughout the 5-year period, have been steadfast in our support for the dome stadium.

As a result, I think if there was any attempt to lobby, et cetera, that people would avoid us like the plague because they would know darned well that we would.

Mr. PHILLIPS. One of the things I am particularly interested in: Pordum and Ludera, they were both county legislators; correct?

Mr. FLOSS. Correct.

Mr. PHILLIPS. And they were indicted by the Federal Government, not by the local authorities; is that correct?

Mr. FLOSS. Right.

Mr. PHILLIPS. Do you know how that investigation came about?

Mr. FLOSS. Yes. I believe I do. I understand, at least it was told to me by Mr. Cottrell, or Mr. Hussack, one or the other, that when Mr. Walker went to them to solicit funds, because he felt that he only had a certain amount to gain in the architectural fees, that the Kenford Co. certainly had a great deal more that they should share in these bribes. It was at that time this Mr. Cottrell said they had Walker go to the authorities and make the statement, and this started the investigation.

Mr. PHILLIPS. In other words, Mr. Cottrell reported this to the Federal Bureau of Investigation and an investigation was started?

Mr. FLOSS. This is what I was told. I have been under that impression since then.

Mr. PHILLIPS. At some stage, Mr. Pordum and Mr. Ludera were indicted by a U.S. jury in that district; is that correct?

Mr. FLOSS. Right.

Mr. PHILLIPS. Now, after they were indicted, and I guess the indictment on its face said they were taking money in relation to the dome stadium, action in relation to the dome stadium; is that correct?

Mr. FLOSS. Maybe Mr. Wolf would know. There were several charges and I think they were only convicted on one of them.

Mr. WOLF. Maybe I am wrong on this, but it is my understanding that corroboration was not necessary for the conspiracy charge under the Federal law. And that although there were a number of articles in the indictment, the only one that they were in fact convicted of was the conspiracy aspect of the Federal law, accepting or giving bribes, conspiracy to accept or give bribes, or something like that.

Mr. PHILLIPS. Well, in any event, it was in relation to some facet of the dome stadium; is that correct?

Mr. FLOSS. Yes.

Mr. WALDIE. At this point I think we ought to have the indictment put in the record. I don't know what they are talking about and the witness doesn't know what they are talking about.

Mr. PHILLIPS. The witness scheduled is late.

Mr. WALDIE. Will the indictment be placed in the record and the conviction?

Mr. PHILLIPS. The conviction was for Federal crime and they were sentenced and are in jail now.

Mr. WALDIE. What Federal crime?

Mr. PHILLIPS. I don't know. Conspiracy in aid of racketeering.

Mr. WALDIE. As a minimum, we ought to have an indictment and conviction as part of our record before we speculate to the extent who was involved. I gather the premise we are making here was Sport-service was somehow or other involved.

Chairman PEPPER. I am sorry, we have to go to the floor and vote, and we will take a short recess.

(A brief recess was taken.)

Chairman PEPPER. The committee will come to order, please.

Mr. Counsel, would you care to go ahead.

Mr. PHILLIPS. I believe when we were interrupted, you were being asked questions about this development of the dome stadium and subsequent events which took place at the legislature. And I was asking you essentially, after the indictment of Pordum and Ludera, did they continue to serve on the legislature and vote in relation to the dome stadium issue?

Mr. FLOSS. Yes, they did. I understand there was some technicality that they could hold office until they were sentenced. And, of course, that followed after the conviction. They did serve on the board until the day that they were actually sentenced.

And in that intervening time between the conviction and the day of sentencing, they did vote on the stadium's demise.

Mr. PHILLIPS. Were the votes that close, where those two votes were significant?

Mr. FLOSS. Yes.

Mr. PHILLIPS. In other words, if those two men hadn't voted, the votes would have turned out the opposite way?

Mr. FLOSS. There wouldn't have been a prevailing site, because the rules of the legislature, there must be 11 votes for something. If they no longer held their seats, we still have had nine in favor. It was just that they voted against it. But if they had been replaced, we might have had two votes for it.

Mr. WOLF. To emphasize what Mr. Floss has said, after the demise of the dome stadium, the Erie County Legislature voted to bond the county to the extent of approximately \$23.5 million for the construction of an open stadium. Our rules require a two-thirds vote for bonded indebtedness.

And to the best of my recollection, without those two votes, there would not have been a two-thirds vote. The demise was predicated on the acceptance of the alternative, which was a \$23.5 million open stadium.

Mr. PHILLIPS. I see. So that these votes, after the indictment, were critical to at least the demise of the stadium?

Mr. WOLF. Yes.

Mr. PHILLIPS. Was any issue made of the fact that these men were voting on a subject about which at least they were charged with having received bribes?

Mr. WOLF. We asked bond counsel for clarification and although it may be peculiar, in the State of New York an individual who holds public office is still entitled to vote, even after conviction, during the period of time when he could appeal, up to the period of time he is sentenced for the crime he has committed.

Mr. PHILLIPS. What troubles me is he is allowed to vote on a subject matter about which his propriety is questioned.

Mr. WOLF. It bothered us, Mr. Phillips.

Mr. FLOSS. We argued against, it fell on deaf ears.

Mr. WALDIE. May I interrupt. Lest you be concerned you are unique, we permit members to vote in the Congress of the United States after indictment and conviction, and after sentencing. So we probably would be ill grace to criticize you overtly much for that result.

Mr. PHILLIPS. The point I wanted to make. they were voting about the very issue about which there was some allegation they had taken

money, which it would seem to me, at the very minimum, conduct would require on their part to abstain—the very minimum of conscientiousness of public opinion and responsibility would require they abstain—from voting in relation to a matter which they particularly had accepted money.

Mr. WOLF. Here you are drawing a distinction, justifiably, between an ethical and moral situation versus what their legal rights were. They elected to exercise their legal rights, as our bond counsel advised, and vote.

Mr. PHILLIPS. I think you told us essentially that the labor unions somehow were involved in this venture to obtain a dome stadium?

Mr. WOLF. We had a unique experience. Now, recalling back, the legislature of the county of Erie voted 19 to 0 to enter into an agreement with a private company for the construction of a dome stadium and a lease to that private corporation, providing that corporation proceeded with a peripheral development in the neighborhood of \$200 to \$300 million.

Now, the county, again remembering that we have a two-thirds vote requirement for bonded indebtedness but only a majority to pass on, say, a lease, had at an earlier instance when the carrot of a major league football franchise was in front of us, adopted a \$50 million bond resolution, two-thirds vote.

Thereafter, the county, 19 to 0, legislature approved the Kenford concept and thereafter we hired an architect and proceeded with specs, et cetera, put this out to bid.

Now, when we put it out to bid, it came in very, very substantially above the projected \$50 million figure. Primarily because one contractor—and we break our contracts down to general, heating, et cetera—the general contractor came in 100 percent over the budgeted figure, the architect said the general contract should come in for about \$17 million, it came in about 34 million, which threw this thing into a tizzy.

Now, then, organized labor within our community, the construction trades people, plus the major contractors within our community, offered to the county, if given the opportunity and if the county legislature would indicate its basic approval, to joint venture this at a figure which would, if be no profit, would be a minimum profit.

In other words, as a public service to a community, organized labor would go in and lay 800 bricks a day instead of 400 bricks, et cetera. And they were convinced they could build this stadium within the budgeted \$50 million figure. But they were never given the opportunity.

This is a unique offer, I am sure you gentlemen realize, from labor and management to a community. But they were never given that opportunity to complete that offer because the majority, although that same majority, 19 to 0 had voted in favor of the concept, a majority would not accept a continuation of the dome stadium concept.

Mr. PHILLIPS. Did there come a time when a man by the name of Wilson, who owns a team in that area, played a part in this situation?

Mr. WOLF. Well, somewhere along the line it became obvious to the community that the football franchise would not continue in our county using a WPA-project stadium, which was rather dilapidated.

As a matter of fact, it had coverage in Sports Illustrated, but that is something else. And Wilson contended that the league requirements necessitated the construction of a new stadium, I believe with a minimum capacity of 55,000 seats.

As a result of this, it certainly played a part in our stadium dilemma, forcing, I am sure, many people to vote for the open stadium which we now have under construction in Orchard Park, on the premise that if the county did not build a new stadium, then Mr. Wilson wouldn't continue retaining his franchise in our area.

Mr. FLOSS. I would like to go further, because you are asking a question of what influenced. At the time we were trying to get everything pulled together and trying to build this dome, Ralph Wilson was making statements that he would not play in the dome stadium because he would not deal with another businessman as such. That he only would deal with the municipality and if the county did not build the stadium and run it themselves, he was going to move to Seattle or some other place. This was constantly cropping up in the papers to put pressure on the legislators.

Again, this helped those fellows and sustained those men who were voting now against the dome stadium, because they had, you know, a good public opinion here, that we are going to lose the Buffalo Bills if we proceeded under the Kenford program. And it was Ralph Wilson who used this leverage of rattling the chain—"I am going to leave."

Mr. PHILLIPS. You say Mr. Wilson used his franchise to exert leverage on a legislature to vote in the way that he would profit by; is that correct?

Mr. FLOSS. He constantly kept that pressure up, yes.

Mr. PHILLIPS. Did you ultimately build another stadium in which he received some type of contract?

Mr. FLOSS. The other side, we might say, did finally vote to build an open stadium to his specifications, gave him 100-percent control throughout the year. And the lease agreement doesn't bring in half of what the Kenford program would have, to the county. We have far less to show for it.

Mr. PHILLIPS. You say the county did enter into a lease with Mr. Wilson and you say this lease was particularly beneficial to Mr. Wilson?

Mr. FLOSS. Absolutely.

Mr. PHILLIPS. Would you tell us the provisions you think were beneficial to Mr. Wilson?

Mr. FLOSS. No. 1, it is the first time we have ever seen a lease where the higher the volume, the least percentage. He starts at 8 percent and ultimately goes down to 2 percent. Whereas the Kenford was 14 percent, going up to 25 percent.

Mr. PHILLIPS. In other words, the lease you originally planned with the group that was going to build the stadium, the Kenford group, as you call it, started at 14 percent and would go up to 25 percent?

Mr. FLOSS. Escalated to 25 percent.

Mr. PHILLIPS. You say the Wilson contract starts at 8 percent and goes down to 2 percent.

Mr. FLOSS. Regressively.

Mr. PHILLIPS. What is the logic behind that? It doesn't seem too logical to me.

Mr. FLOSS. You asked if the lease was favorable to Mr. Wilson and I am explaining why it is. Why he was given that lease, Mr. Wolf and I cannot understand today, but it is like many other things we don't understand.

Mr. PHILLIPS. Were there any other provisions in that lease?

Mr. FLOSS. Yes. The county's share of the gate is only on the home games that the Buffalo Bills play in the stadium, there being just about 10 in the year. All other events that he promotes throughout the balance of the year, stock car races or whatever, the county does not share in the gate.

Mr. PHILLIPS. In other words, the county doesn't share in anything but the 10 home games of the Bills?

Mr. FLOSS. As far as the dates go; that is correct.

Mr. PHILLIPS. The stadium can be used 365 days during the year by Mr. Wilson for his own benefit and advantage?

Mr. FLOSS. That is correct.

Mr. PHILLIPS. How was he able to negotiate such favorable terms?

Mr. FLOSS. Again, we would like to know, too. We just don't understand. The very people that voted for that lease were the ones crying they were looking out for the taxpayer by voting against the Kenford lease. Which was far more favorable to the county.

Another thing in the lease, because the township, if they placed this new open stadium and did not want the stadium placed there, they threatened to put a head tax on it, admissions tax. So they made another concession to Mr. Wilson, that any tax by a local municipality that was imposed on admissions would be deducted from his percentage to the county.

Mr. WOLF. His rental.

Mr. PHILLIPS. In addition, the community was involved in the application for a baseball franchise. Could you tell us a little about that, please?

Mr. FLOSS. That is how the whole thing began.

Mr. PHILLIPS. And you never got the baseball franchise?

Mr. FLOSS. That is the one that went to Montreal.

Mr. PHILLIPS. Do you know whether or not Sportservice had any interest in the Montreal team?

Mr. FLOSS. I would have no knowledge. Actually, I am not a sportsman. I never follow it.

Mr. PHILLIPS. There came a time when the baseball authorities awarded a new franchise to Montreal and they didn't give it to Buffalo; is that correct?

Mr. WOLF. That is correct.

Mr. PHILLIPS. Who was promoting the baseball franchise for Buffalo, the Kenford group or somebody else?

Mr. FLOSS. That was Max & Sweetos.

Mr. WOLF. The Knox family of Buffalo, I believe, promoted primarily through their attorney, Mr. Sweetos. That goes right back, you are going back a complete circle, back to the origination of when we started to discuss a dome stadium. See, these people came to the county and said, Look, unless you pass a \$50 million bond resolution authorizing the construction of a dome stadium, we will never have a franchise for major league baseball in Erie County.

In other words, that was a prerequisite to us, or that group, going to the National League and attempting to secure a franchise.

Mr. PHILLIPS. Then you did attempt, apparently, to obtain a franchise?

Mr. WOLF. These individuals attempted to obtain a franchise and the county helped to the degree that the county passed a letter of intent and a bond resolution indicating that if a baseball franchise was awarded to the Buffalo group, placed in Buffalo, then we would construct a dome stadium.

Mr. PHILLIPS. Let me just ask the final question. After all of this—and we only have covered a small portion of the difficulties that went back and forth as I know this has been a problem to you gentlemen for a number of years—there were a number of votes and a number of battles we have gotten into all of the details on, but would it be your view that a community like Buffalo would be advised to try to get in the stadium business or maybe do without a major league team?

Mr. FLOSS. The team, itself, isn't that important, but I think the concept in our particular geographic area was important. At the time I was chairman of the Industrial Development. We know our employment base has been decreasing in New York State because we just don't get back the money from the Federal Government we should, our share, I mean. We have to tax and we are taxing industry out.

I felt that here is a generator of new dollars, we are right on the Canadian border, and we have within 1-day travel of that area almost half of the Canadian population, and close to 40 percent of the United States population. This would have been a great generator of a new industry—tourism—and this is what I thought was so great about it. I thought the concept was good. Many of us worked hard to do it. But the team, itself, I didn't think was that important.

Mr. PHILLIPS. Do you think the distribution of franchises should be something that should be supervised or do you think the present method for awarding franchises is adequate to protect a community like yours?

Mr. FLOSS. I think the community should be protected because I can see that each time it would be prior to an election, the owners of these franchises put themselves in the position of, you know, announcing he is going to move, and so forth, to get better terms.

So I think it is a very dangerous thing where a man can control votes in this way, sway public opinion to his advantage and to the disadvantage of a fellow trying to do his job in an elective office.

Mr. PHILLIPS. Thank you.

Chairman PEPPER. Mr. Waldie.

Mr. WALDIE. Mr. Wolf, the scope of this inquiry is to determine the extent of infiltration of organized crime into the athletic world.

In all of the recitation that you have given the committee have you come across any intervention in these decisions on the part of organized crime?

Mr. WOLF. Not myself, and I know of no situation where it may have existed.

Mr. WALDIE. Mr. Floss, you mentioned in your view Sportservice had engaged in bribery of members of the legislature. That is correct, is it not?

Mr. FLOSS. I stated Mr. Cottrell said that he was actually confronted by Sportservice in that they wanted the franchise or they wouldn't get the votes. I knew the votes went the other way and I concluded this then was correct and this is why the voters started to vote against it.

Mr. WALDIE. But based upon that analysis, it is your conclusion that Sportservice engaged in bribing legislators?

Mr. FLOSS. It was a reasonable answer, in my thinking; yes.

Mr. WALDIE. Aside from that incident, are you aware in any of the stories that you have related to the committee of any intervention by organized crime in any of these activities?

Mr. FLOSS. No; not personally.

Mr. WALDIE. One final question: Who is Mr. Cottrell?

Mr. WOLF. Mr. Cottrell is the promoter of Kenford Co. that offered to construct the peripheral and to lease the dome stadium in the County of Erie. The alternative stadium to the one that was constructed.

Mr. WALDIE. Is that C-o-t-t-r-e-l-l?

Mr. WOLF. I believe that is correct.

Mr. WALDIE. And, Mr. Floss, it is your testimony that Mr. Cottrell told you that Sportservice had purchased votes in the legislature?

Mr. FLOSS. No; I think, to be exact, Mr. Cottrell said that the Sport-service controlled votes and that they would release those votes if they would be allowed to be the concessionaires in the dome stadium and that he needed the concessions himself to make payments to the county. And he said this offer came, actually, right through the executive of the county.

Mr. WALDIE. The offer from Sportservice?

Mr. FLOSS. Yes; you can call it an offer if you want to.

Mr. WALDIE. Who was the executive of the county?

Mr. FLOSS. John Tutuska was the executive at the time.

Mr. WALDIE. Would you spell that?

Mr. WOLF. T-u-t-u-s-k-a.

Mr. WALDIE. So that I understand that: It was Mr. Cottrell's recitation to you that Sportservice had made the offer that they would sway the votes necessary to pass the matter in the direction that they wanted it, if they got the concession. And that offer was made to Mr. Tutuska?

Mr. FLOSS. Through someone, either him or whoever was representing him at the meeting the day I said I recall certain names. There are others I do not.

Mr. WALDIE. Mr. Tutuska was not at this meeting?

Mr. FLOSS. Either he was or whoever was representing him. Mr. Boussard could have. Someone confirmed the fact, the statement Mr. Cottrell made. Whoever was there, either the executive himself or his representative confirmed in the presence of all of us the statement that Mr. Cottrell made.

Mr. WALDIE. I have no further questions, Mr. Chairman.

Chairman PEPPER. Mr. Wiggins.

Mr. WIGGINS. Mr. Chairman, my questions are only for the purpose of straightening out the cast of characters.

Who is Mr. Walker?

Mr. FLOSS. The engineer.

Mr. WOLF. Architect.

Mr. FLOSS. He is the engineer in joint venture with the architect. The county contracted with him to design and engineer the dome stadium.

Mr. WIGGINS. Am I correct in my understanding that Mr. Walker played a role in this bribery conviction?

Mr. FLOSS. According to his testimony, yes. But he received immunity because he became a State witness.

Mr. WIGGINS. Can you relate, if you know, the substance of his role in this bribery?

Mr. FLOSS. I didn't attend any of the trial.

Mr. WIGGINS. What is your understanding of it?

Mr. FLOSS. My understanding is that in order, you see, for the architects to receive fees, they have to progress at certain levels, and each level would require the legislature to accept the plan first and then first in the schematic, and then preliminary, and then the final. It is my understanding that, each time he required an approval, the two men who received bribes from him would vote in favor of the next step. And then they would go along for a few months and be voting in the negative, and then the next step, you see. This is my understanding of it.

In this way, of course, he would receive portions of his fee.

Mr. WIGGINS. Well, now, you actually got to the stage of paying an architect in the construction of a dome stadium?

Mr. FLOSS. Oh, sure; we have over \$2 million paid. We probably right now have expended \$5 million or more.

Mr. WIGGINS. On a dead horse?

Mr. FLOSS. On a dead horse, and they are building another one for \$23 million, open.

Mr. WIGGINS. I gather it would be in the financial interest of the architect and his engineer to see that their dome stadium was constructed?

Mr. FLOSS. Financial and the matter of prestige, too.

Mr. WIGGINS. And if the architect was involved in a bribe his motive would be to construct the stadium and be sure it be constructed?

Mr. FLOSS. That is correct.

Mr. WIGGINS. Is it your understanding, gentlemen, the money either was tendered or paid to these two legislators?

Mr. FLOSS. Pordum and Ludera.

Mr. WIGGINS. Is that correct?

Mr. FLOSS. Right.

Mr. WIGGINS. Now, they voted against the stadium, didn't they?

Mr. FLOSS. They were voting against the stadium consistently, except on these certain times they would throw their votes with the nine voting for the stadium. And then we accepted the schematic and then they would vote negative again on any other progress, until another period when they voted their two votes with the nine of us to again approve the preliminary plans, and then again the final plans, and then again the throwing out of the bids, the final phase.

So there were four times these fellows, these two particular men who were voting in the negative on all other matters, did vote in those four steps in favor. According to the trial these are the four times that they received payment.

Mr. WIGGINS. In summary, the votes of Mr. Ludera and Mr. Pordum were consistent with at least them accepting consideration for this legislative action?

Mr. FLOSS. Yes.

Mr. WIGGINS. Consistent with them taking a bribe; is that correct? Their votes were consistent with that?

Mr. FLOSS. Yes.

Mr. WIGGINS. Who is Mr. Abgott?

Mr. FLOSS. He is presently a legislator. He has been as long as Mr. Wolf and I.

Mr. WIGGINS. Was Mr. Walker the one who allegedly paid money, or offered the money to the two legislators?

Mr. FLOSS. I understand he is, yes.

Mr. WIGGINS. What is the connection, if any, so far as you know, between Sportservice and Walker?

Mr. FLOSS. I don't know of any. I don't personally know of any.

Mr. WIGGINS. I would gather that it was in the interest of Sport-service that a stadium be constructed and that they have some sort of a contractual arrangement to handle the concessions at the stadium. It would appear to me to be in their financial interest. Was there any agreement, of which you are aware, guaranteeing to Sportservice that they would become the concessionaires in the new dome stadium?

Mr. WOLF. To the contrary. It was obvious that the dome stadium, if built, would be operated by Mr. Cottrell and he would handle his own concession business. It was a closeout if the stadium was built, as far as any outside concessionaire.

Mr. WIGGINS. Well, the question occurs: Why was it so obvious that the developers of the stadium would handle their own concessions rather than to contract with an organization such as Sportservice?

Mr. WOLF. He made it quite clear that he planned to do it himself, and to do it through his own companies. He made it quite public and quite clear.

Mr. WIGGINS. Was that made known from the outset?

Mr. WOLF. That is the impression I had all the way through. This would be his total package.

Mr. WIGGINS. Mr. Floss, is that also your understanding, that from the outset the developers would handle their own concessions?

Mr. FLOSS. Well, it was my understanding that we were leasing this entire facility to the Kenford group, Mr. Cottrell, and what he did within it and how he managed it was up to him. And the day he made the statement of, you know, the reasons why we weren't getting the votes, he said, "I, in no way, would let them come in because I need all of the profit from all of the activities to pay the county what I have agreed to pay them."

Mr. WIGGINS. Well, now, that state of the record would suggest to me that it would not be in the interest of Sportservice to see that this deal went through, that perhaps an alternative deal would be in their interests, one in which they could participate. Do they participate in the one that you are now constructing?

Mr. FLOSS. Well, there is no concessionaire been agreed upon yet. In fact, we just started the construction 2 months ago. It is not expected to be built until 1975, so it is a little presumptive to talk about that right now.

Since we now have a construction strike back home, there is no work being done.

Mr. WIGGINS. The problem, and perhaps you can help me with it, I would like to get cleared up, if possible while I still have the microphone, is: There has been suggestion of some role played by Sport-service in all of this, and I got the feeling it is kind of a dirty role. That may be incorrect, but that is the impression I have received.

I do not understand from your testimony that Sportservice would profit from the events you described. Quite the contrary, they would be the loser; would they not?

Mr. FLOSS. Well, see, they have the concessions in the present football stadium. That is the only sport in Buffalo right now, the only major sport, other than hockey, which is much smaller. They have been drawing great crowds, 45,000-48,000. If the dome is built and Wilson moved out there, in spite of the fact he said he wouldn't, they would then lose the business they are presently conducting.

So when the dome met its demise, at least it saved the day for a while.

Mr. WIGGINS. Well, I guess the question for you to answer is: Do you have any evidence that Sportservice, or Emprise, or its agents, were in any way involved in the bribe transaction which you described?

Mr. WOLF. I have none.

Mr. WIGGINS. How about you, sir?

Mr. FLOSS. No.

Mr. WIGGINS. Thank you.

Chairman PEPPER. Mr. Steiger.

Mr. STEIGER. I just have one question for each of you gentlemen.

Did you ever get a campaign contribution from Sportservice, Emprise, or the Jacobses?

Mr. WOLF. No, sir.

Mr. FLOSS. No, sir.

Mr. STEIGER. Were you ever offered one?

Mr. WOLF. No, sir.

Mr. FLOSS. No, sir.

Mr. STEIGER. Thank you.

No further questions.

Chairman PEPPER. Mr. Winn.

Mr. WINN. Well, I would like to follow up on Mr. Wiggins' line of thinking, if I may.

I would like to ask you, on the present stadium, where the football team plays, who has the concessions for that stadium?

Mr. WOLF. The present stadium is the WPA-project building that is in the core of the city of Buffalo. That franchise, or concession business, I believe, is held by Sportservice.

Mr. WINN. Would there be the possibility of a carryover contract to the new dome stadium? We have heard testimony that Sportservice signs long-term contracts and this has been true from one example that I know, from the old Philadelphia A's to the then Kansas City A's, and then to the now Oakland A's.

Mr. FLOSS. Well, the present stadium is located within the city of Buffalo.

Mr. WINN. Who owns that?

Mr. FLOSS. The city owns that. The city contracts and the lease with Wilson has been on a year-to-year basis now.

Mr. WINN. Does the city also let the contract to the concessionaire?

Mr. FLOSS. Right.

Mr. WINN. Two separate contracts, or does Wilson let it?

Mr. FLOSS. I don't know that involvement, but the new county stadium, of course, would be under the county auspices and a new ball game.

Mr. WINN. Are there any of the same ownerships? If the city of Buffalo owns the present stadium, then it is possible that they entered into the contract with Sportservice; right? Or it is possible, because you don't know that Wilson sublet the concessions to Sportservice?

Mr. WOLF. Your question is interesting from that standpoint. I can't recollect what the county's lease arrangement is with Mr. Wilson on the concession, other than we share in some way the amount that the concessionaire pays.

Now, Mr. Wilson has a lease that I think is beautifully written from his vantage point, and I wouldn't be at all surprised if there was some type of built-in veto power—as example, the concession contract, but I am speculating—that would in one way or other require Wilson's approval on the concessions.

Mr. WINN. Wilson's approval on the concessions that he now controls or he is now working with; right?

Mr. WOLF. Well, what I am saying—maybe I—

Mr. WINN. I think I read you, because I think I know how this thing is going to work. I am speculating, too, but I think in your new dome stadium you are going to see Sportservice be the concessionaire, some way or the other. How they are going to do it, I don't know.

Mr. WOLF. Let me, if I may, straighten one thing out. The dome stadium is a defunct proposition which would have been privately managed, operated, et cetera. The dome stadium.

Mr. WINN. All right, who owns the dome stadium, the county?

Mr. WOLF. It is defunct. It never got built.

Mr. WINN. What are you building now?

Mr. WOLF. Open stadium.

Mr. FLOSS. And it is being leased to Mr. Wilson, lock, stock, and barrel.

Mr. WINN. There is still a good possibility Mr. Wilson could carry that same contract, same arrangements, over with Sportservice?

Mr. WOLF. There is a very good possibility.

Mr. WINN. That is what I am thinking.

One more question, if I may. Do you know of any financial participation in the Buffalo Bills and Mr. Wilson's enterprise there, any financial stockholdings by Sportservice in any way?

Mr. WOLF. No; I don't. But let me say this: I have asked time and time again when we were negotiating with Wilson, that he prove to us his net worth, because when you have a lease, the lease is only as good as the lessee, and that he prove to us who the major stockholders of his corporation were.

I never got support from a majority of my colleagues for that request.

Mr. WINN. He never did furnish that information to you?

Mr. WOLF. No, sir.

Mr. WINN. But have you heard of any rumors, or do you know of any information, where Sportservice is one of the stockholders in the Buffalo Bills, or in the Wilson enterprises?

Mr. FLOSS. I have heard it rumored.

Mr. WINN. I have heard rumors, too.

Thank you very much, Mr. Chairman.

Chairman PEPPER. Gentlemen, just two or three questions:

Now, both of you, are you presently a member of the legislature in your county?

Mr. WOLF. Yes, sir.

Mr. FLOSS. Yes, sir.

Chairman PEPPER. So you are pretty well familiar with the people in your area, I am sure.

Do you know, of your own personal knowledge, or is there what you would judge to be a substantial body of opinion in the Buffalo area, that Sportservice has any connection with any aspect of organized crime?

Mr. WOLF. Sir, the only implication where that has come into play is as of the time this committee started their current investigation and the reports of this committee's activities in our paper.

Chairman PEPPER. Something of the investigation and the hearings of this committee have been in your local paper?

Mr. WOLF. Yes, sir.

Chairman PEPPER. Where there were implications, you thought you observed in the newspapers. That is the only information you have on it.

Is that your answer, too, Mr. Floss?

Mr. FLOSS. Yes, sir.

Chairman PEPPER. One other question. What, in general, is the reputation of Sportservice in the Buffalo area? That is where the Jacoboses, who own Sportservice, live; isn't it?

Mr. WOLF. Shrewd, calculating.

Chairman PEPPER. I say, what is the reputation of Sportservice generally in Buffalo, in the Buffalo area?

Mr. WOLF. Shrewd, calculating businessmen, who never seems to make a bad deal for themselves.

Chairman PEPPER. What do you say, Mr. Floss?

Mr. FLOSS. Well, I never go to spectator sports. I fly my own plane, run my own boat, and hunt and fish, but I don't go and watch anybody else do things. All I have ever heard when some of these things are coming up, people have not always been satisfied with the prices, such as in the auditorium. The prices go sky high when they have control, you know. I have heard people disturbed about it.

Chairman PEPPER. Any other questions?

Well, gentlemen, we thank you very much for coming and giving us the information you have.

Will you call the next witness.

Mr. PHILLIPS. The next witness is Mr. Charles Burr.

Chairman PEPPER. Mr. Burr, will you come forward, please.

**STATEMENT OF CHARLES BURR, VICE PRESIDENT, EMPRISE CORP.,
BUFFALO, N.Y.; ACCOMPANIED BY ALVIN M. GLICK, COUNSEL**

Chairman PEPPER. Are you accompanied by your lawyer?

Mr. GLICK. Yes. I am Mr. Burr's attorney. My name is Alvin M. Glick, an attorney from Buffalo, a member of the law firm of Fal, Siemer, Glick, Tuppen & Maloney. Mr. Phillips has my card.

Chairman PEPPER. We are pleased to have you. Have you read the rules of the committee with reference to the role of counsel in these hearings?

Mr. GLICK. I have not, sir.

Chairman PEPPER. The gist of it is that counsels are welcome to advise their clients. They are free to give their clients any legal advice their clients may request of them. That is the role of the attorney in the hearing. If your client has any legal question to ask of you, you are, of course, at liberty to give him your advice.

Mr. GLICK. Thank you very much.

Chairman PEPPER. Go ahead, Mr. Phillips.

Mr. PHILLIPS. Mr. Burr, could you tell us when you first became associated with Emprise?

Mr. BURR. With the Emprise Corp., in November of 1970.

Mr. PHILLIPS. Could you tell us what you did prior to that?

Mr. BURR. How far back, sir?

Mr. PHILLIPS. Well, just immediately prior to that.

Mr. BURR. Prior to that I was with the Buffalo Sabers Hockey Club.

Mr. PHILLIPS. It is my understanding, Mr. Burr—correct me if I am wrong—that while you were on the payroll of Emprise, you were also on the payroll of the Buffalo hockey club; is that correct; that these jobs coexisted at the same time?

Mr. BURR. No. I was not actually—while I was on the payroll of the Buffalo Sabers, I did some consulting work for Emprise Corp. on a retaining basis.

Mr. PHILLIPS. Could you tell me when you first went to work with the Buffalo Sabers?

Mr. BURR. In March of 1970.

Mr. PHILLIPS. All right. Prior to March of 1970, could you tell me what you did?

Mr. BURR. Yes. I was associated with Buffalo Raceway, which is a subsidiary of Emprise Corp. I was a director of public relations for Buffalo Raceway.

Mr. PHILLIPS. So you worked for a subsidiary of Emprise prior to 1970?

Mr. BURR. Right. I worked for the track.

Mr. PHILLIPS. Could you tell us how long you had worked for that track?

Mr. BURR. I worked for the track since 1968.

Mr. PHILLIPS. And just briefly, was there a time when you worked for someone else other than Emprise?

Mr. BURR. During that period between 1968 and 1970?

Mr. PHILLIPS. No, prior to 1968.

Mr. BURR. Yes. I was in television sports, an announcer in Boston in 1967. I was the general manager of the Miami Dolphins in 1966. And from 1960 to 1966, I was the assistant general manager and director of public relations for the Buffalo Bills.

Mr. PHILLIPS. Who are the Buffalo Bills?

Mr. BURR. The Buffalo Bills are now members of the National Football League. When I worked with them they were members of the American Football League. Charter members. The league began playing in 1960. I went with the Bills immediately.

Mr. PHILLIPS. Can you tell me who owned the Bills at that time?

Mr. BURR. The Buffalo Bills were owned then, as they are now, by Ralph C. Wilson, Jr.

Mr. PHILLIPS. So Mr. Wilson has had the Bills since 1960?

Mr. BURR. Yes, sir.

Mr. PHILLIPS. And you went to work for him in 1960 and you stayed with the Bills until 1968?

Mr. BURR. No. I stayed with the Bills until February of 1966, when I accepted employment with the Miami Dolphins, a new franchise in the American Football League, as general manager of that team.

Mr. PHILLIPS. And then you left the Dolphins?

Mr. BURR. I left the Dolphins, because of a matter that is still in dispute, in 1967 and went back into media broadcasting with channel 7 in Boston, Mass., as sports director.

Mr. PHILLIPS. Now, you say there was some dispute about your leaving the Dolphins?

Mr. BURR. There was a dispute in the sense the owner and I did not get along.

Mr. PHILLIPS. Then you went to work for the Buffalo Raceway?

Mr. BURR. Yes, I did.

Mr. PHILLIPS. How did you come in contact with the Buffalo Raceway or with Emprise personnel?

Mr. BURR. Well, in 1967, while I was in Boston, in the vernacular, I flunked the battle of the ratings. And after 10 or 12 months, my show was taken from me because I just did not build ratings that compared favorably to the other two stations, and I was going to become a street reporter. I felt very strongly that this was not my particular cup of tea, and my family and myself had only been settled in Boston a year, and as long as I had lost the show, I wanted to go back to Buffalo, which was my home town.

At or about the same time I received a call from Mr. Stanley Phillips, who is a certified public accountant who, while not on the Emprise payroll, is associated with the racetrack interest. He said there was an opening at Buffalo Raceway as director of public relations.

Mr. PHILLIPS. Had you known Stanley Phillips prior to that time?

Mr. BURR. No. I had not known Stanley Phillips prior to that time.

Mr. PHILLIPS. So that was a bolt out of the blue, I guess?

Mr. BURR. In a sense it was to me, but I had been recommended by a third party to Mr. Phillips.

Mr. PHILLIPS. Who was that?

Mr. BURR. The third party would have been Jack Horigan, who is now the vice president in charge of public relations for the Buffalo Bills, and who actually took my job in 1966 when I went to Miami, or one of my jobs.

Mr. PHILLIPS. So when you left there, one of the fellows who stayed on behind, discussed you with Stanley Phillips and said you were a good man and you would be available, possibly?

Mr. BURR. He thought I might be available, yes. Because I think I had informed him that it looked like I was going to be out as sports director in Boston, and that I would certainly like to come back to Buffalo.

Mr. PHILLIPS. There came a time when you went back to Buffalo, and you got involved with the Buffalo Raceway. I think that is the first step; is that correct?

Mr. BURR. Yes, that way my return to Buffalo, my first employment there.

Mr. PHILLIPS. Who did you report to while you were at Buffalo Raceway?

Mr. BURR. I reported directly to the general manager of the track, Mr. Jack O'Keefe.

Mr. PHILLIPS. And did he report to Mr. Jacobs?

Mr. BURR. Well, at that time, Mr. Phillips, Mr. Lou Jacobs was still alive. I don't know whether Mr. O'Keefe reported to Mr. Jeremy Jacobs, or Mr. Lou Jacobs directly.

Mr. PHILLIPS. You had no knowledge of that and you really didn't work for them, you worked for Mr. O'Keefe?

Mr. BURR. I worked for Mr. O'Keefe. I worked at the racetrack; yes, sir.

Mr. PHILLIPS. You had no dealings with the top management of Emprise at all?

Mr. BURR. No.

Mr. PHILLIPS. Now did there come a time when you started to work for the Buffalo Sabers?

Mr. BURR. Yes, sir.

Mr. PHILLIPS. And what are the Buffalo Sabers?

Mr. BURR. The Buffalo Sabers are a hockey club and franchised in the National Hockey League. They are what we term in the trade an expansion club. They came into being in 1970.

Mr. PHILLIPS. Who owns the Buffalo Sabers?

Mr. BURR. The Buffalo Hockey Sabers are owned principally by Northrup and Seymour Knox. There are other minority stockholders within the organization.

Mr. PHILLIPS. How did you come to work for them?

Mr. BURR. Well, I had known Mr. Knox during my years with the Bills, and at the University of Buffalo. I had known Mr. Knox for a long period of time. Casually, not intimately. I believe he knew of my work.

He was looking for two things to start his franchise: A person who could handle press and public relations for him, and also one who had had administrative experience. And knowing the job was open, or that they would be looking for someone along those lines, I made application, and after a proper time of interviews and recommendations, I was hired to do the job.

Mr. PHILLIPS. And you left the Buffalo Raceway then?

Mr. BURR. I had not left the Buffalo Raceway until after I was hired by the Sabers.

Mr. PHILLIPS. You began full time with the Sabers?

Mr. BURR. With the Buffalo Sabers; yes, sir.

Mr. PHILLIPS. Then you started doing consulting work for Emprise, is that correct?

Mr. BURR. Well, yes, I think that is a fair statement.

Mr. PHILLIPS. Would you clarify it if I am not stating it properly?

Mr. BURR. I believe you are stating it properly, sir. While I was with Buffalo Raceway, just before I had accepted the job with the Sabers or before it had been offered to me, I was asked as perhaps the only available person, by Max Jacobs, to attend a hearing that was being held in, I believe in Albuquerque, N. Mex., concerning licensing of prospective owners of Rudioso Downs. Mr. Jacobs asked

me to more or less audit the hearings and report back to him what went on. And to that extent, while I was still with the track and before I had taken the job with the Sabers or reported for duty, I actually did do some work for Emprise Corp.

Mr. PHILLIPS. Were you paid directly for it, or they just paid you through the track?

Mr. BURR. I was paid through the track for that particular job.

Mr. PHILLIPS. Was that an additional payment or the same salary?

Mr. BURR. No, I was on the payroll.

Mr. PHILLIPS. You were on the payroll of the track?

Mr. BURR. Right. The track was not operating at the time, and life, I guess, was a little bit dull, and Max felt that I was available and could go, and I did.

Mr. PHILLIPS. You say you went to work for the Sabers, and I take it you were a full-time employee with the Sabers?

Mr. BURR. Yes, I was.

Mr. PHILLIPS. And then you say you did some consulting for Emprise?

Mr. BURR. Right, on a limited scale.

Mr. PHILLIPS. Would you tell us the extent of that consulting?

Mr. BURR. If memory serves me, my work with Emprise Corp. during the period of time I was with the Sabers was confined almost entirely to issuing statements to the press in rebuttal of statements that may have been made that were derogatory to Emprise Corp.

Mr. PHILLIPS. Where were you working at the time?

Mr. BURR. I was working out of the Buffalo Sabers' offices.

Mr. PHILLIPS. Were you carried as vice president of Emprise?

Mr. BURR. No, indeed; I wasn't.

Mr. PHILLIPS. Were you ever described as the vice president of Emprise?

Mr. BURR. You mean while I was with the Sabers?

Mr. PHILLIPS. At any time.

Mr. BURR. No, I don't believe so. I was not a vice president at that time.

Mr. PHILLIPS. Are you a vice president now?

Mr. BURR. I am a vice president of Emprise Corp. now; yes, sir.

Mr. PHILLIPS. Is that just for nominal purposes, or do you have any executive responsibility as vice president?

Mr. BURR. I have responsibilities in line with policy decisions; for public relations, essentially.

Mr. PHILLIPS. When did you become vice president?

Mr. BURR. November of 1970 is when I reported back to Emprise as a full-time employee. I did so with the title and responsibilities I now carry.

Mr. PHILLIPS. Did you terminate with the Sabers at that time?

Mr. BURR. Yes, I did.

Mr. PHILLIPS. November of 1970 is the starting date of your full-time employment with Emprise?

Mr. BURR. Emprise Corp.

Mr. PHILLIPS. And prior to that time, you say all you did for Emprise was to issue press releases; and you really did that while you were operating out of the Buffalo Sabers' office?

Mr. BURR. Yes, principally. I think that would be a fair statement, yes.

Mr. PHILLIPS. Were you paid for that, or was that just gratuitous?

Mr. BURR. I was paid.

Mr. PHILLIPS. How were you paid?

Mr. BURR. I was paid by the hour.

Mr. PHILLIPS. Were you paid by cash or check?

Mr. BURR. I was paid by check, I believe.

Mr. PHILLIPS. Who paid you the check?

Mr. BURR. Emprise Corp.

Mr. PHILLIPS. Who at Emprise?

Mr. BURR. I believe all of the Emprise checks were signed by Dorothy Bruckman.

Mr. PHILLIPS. Dorothy Bruckman actually gave you the check?

Mr. BURR. Yes; I believe so.

Mr. PHILLIPS. How much did you bill them per hour?

Mr. BURR. \$15 per hour.

Mr. PHILLIPS. Then there came a time when they decided they needed a vice president for public relations?

Mr. BURR. Well, actually, the decision had been made prior to that time. Coincidentally or not, at about the time I accepted the Buffalo Sabers job, Jerry Jacobs approached me and asked me whether I would be interested in coming to work for Emprise Corp. as a full-time employee—at the mother house, as we call it. Emprise, at the main office. And I said I would like very much to do so, but I am committed now to the Buffalo Sabers and I just cannot do it.

And we did discuss it and it was decided at that time that I could not accept the offer. Actually, it had not been an offer, it had been an inquiry by Jerry as to whether or not I would be interested. I told him yes, but I would be unable to take it.

Mr. PHILLIPS. Why were you unable to take it?

Mr. BURR. Because I had made a commitment to the Knoxes to take a job with the Buffalo Sabers.

Mr. PHILLIPS. Were the Knoxes aware you were doing the part-time work?

Mr. BURR. Yes, they were.

Mr. PHILLIPS. And they had no objection?

Mr. BURR. No; because they knew that when I left to go with the Sabers, there were certain areas that I still—they still realized that I was under obligation to Jerry to finish. We were under some attack at that time and there was no one else there to more or less handle the public relations aspects of the problems that were involved.

Mr. PHILLIPS. Did there come a time when you refused to answer questions put to you by the Buffalo grand jury?

Mr. BURR. No, sir. I answered every question fully.

Mr. PHILLIPS. Did you claim your privilege at any time during that proceeding?

Mr. BURR. Yes, I did.

Mr. PHILLIPS. Well, when I just asked you that question, were you trying to mislead me?

Mr. BURR. No, sir; I was not.

Mr. PHILLIPS. Did you refuse to answer questions put to you by the Buffalo Grand Jury and claimed the answers would tend to incriminate you? Is that correct?

Mr. BURR. That is true as far as you go.

Mr. PHILLIPS. Would you tell me about the events that led you up to believing that yours answers would incriminate you before the grand jury?

Mr. BURR. I never believed my answers would incriminate me, sir.

Mr. PHILLIPS. So when you said to the grand jury you thought your answers would tend to incriminate you, you were lying to the grand jury?

Mr. BURR. No, sir; I was not. I was advised by counsel to claim immunity the day before I went before the grand jury. Arrangements were made with the district attorney to grant me immunity the day before I went before the grand jury. The proviso was made should he not see fit to grant that immunity, I would testify.

Mr. PHILLIPS. That you would testify?

Mr. BURR. That I would testify.

Mr. PHILLIPS. You asked for the immunity but you were going to testify anyway?

Mr. BURR. Right.

Mr. PHILLIPS. Were you asked to sign a waiver of immunity?

Mr. BURR. I believe I was.

Mr. PHILLIPS. And you declined to do that?

Mr. BURR. I declined to do so.

Mr. PHILLIPS. And when you went to the grand jury, you refused to answer questions on the grounds they may tend to incriminate you; correct?

Mr. BURR. I refused to answer the questions because it had been previously agreed that was what I was to do. I would gain the immunity and then would testify. I also stated through my attorney that should they decline to grant me immunity I would also testify fully and truthfully.

Now, I am not an attorney. The reason this was done was because I had 1 day's notice, I did not even have an attorney. My attorney, Mr. Glick, who knew nothing of the background and knew not where this would lead, gave us his best advice and counsel that I should pursue this course, and he made the arrangements with Mr. Dillard.

Mr. PHILLIPS. Did you ask for an adjournment to consult with your attorney?

Mr. BURR. During the course of the proceedings, there was one question I believe I did not fully understand.

Mr. PHILLIPS. I am asking: Before you appeared, before you went into the grand jury—

Mr. BURR. No, sir.

Mr. PHILLIPS (continuing). Did you ask an adjournment so you could consult more fully with your attorney?

Mr. BURR. No, sir; I did not.

Mr. PHILLIPS. All right. Did there come a time when you were given some assignment by Jeremy Jacobs or anyone else at Emprise in relation to discussing the dome stadium with anyone?

Mr. BURR. No, sir.

Mr. PHILLIPS. You never had any such assignment?

Mr. BURR. No, sir.

Mr. PHILLIPS. Did you ever discuss the dome stadium and the Emprise interest in the dome stadium with Mr. Cottrell?

Mr. BURR. Yes, sir.

Mr. PHILLIPS. Did you do that on your own?

Mr. BURR. Yes, sir.

Mr. PHILLIPS. Were you vice president at the time?

Mr. BURR. No, sir.

Mr. PHILLIPS. What were you at the time?

Mr. BURR. I was employed by the Buffalo Sabers Hockey Club.

Mr. PHILLIPS. And you took this on your own, I take it? You just spontaneously went to Mr. Cottrell about the Emprise interest; is that correct?

Mr. BURR. No, sir; I did not.

Mr. PHILLIPS. What did you do?

Mr. BURR. Mr. Phillips, I did not even know Mr. Cottrell at the time. I was approached by Mr. Jack Guthrie. Mr. Jack Guthrie had been, while in Buffalo, a friend of mine. He was also a vice president of an advertising agency which represented at the time Kenford Corp.

He was very interested, as I was, personally, in seeing that a dome stadium would be erected. I was always an advocate of a dome stadium, personally, and have been and still am, under the right circumstances, as a matter of fact.

Mr. Guthrie asked me—or he didn't ask me—he stated to me it would be a good idea if Eddie Cottrell and Jerry Jacobs could get together and he said:

“If you can get Jerry to agree to a meeting, I can get Eddie Cottrell.”

I said, “Okay, I will try.”

Mr. PHILLIPS. Did you go to Mr. Jacobs?

Mr. BURR. Yes, sir; I did.

Mr. PHILLIPS. What did you say to Mr. Jacobs?

Mr. BURR. I said, “Eddie Cottrell would like to meet with you.”

Mr. PHILLIPS. What did Mr. Jacobs say?

Mr. BURR. He said, “If he would like to meet with me, I would be happy to meet with him.”

Mr. PHILLIPS. What did you do then?

Mr. BURR. I reported back to Mr. Guthrie that such a meeting could be arranged.

Mr. PHILLIPS. And did Mr. Jacobs and Mr. Cottrell meet?

Mr. BURR. To the best of my knowledge, they did. Although I don't know the date of the meeting, and I don't know to what purpose or where it was held.

Mr. PHILLIPS. Did you ever meet with Mr. Cottrell?

Mr. BURR. Did I ever meet with him, prearranged?

Mr. PHILLIPS. Yes.

Mr. BURR. I think on one occasion, at the request of Mr. Guthrie, I did meet with Mr. Cottrell and Mr. Guthrie, in a prearranged meeting of short duration.

Mr. PHILLIPS. What were you doing there? Were you there on behalf of Emprise?

Mr. BURR. No, sir; I have never been——

Mr. PHILLIPS. Did you ever ask Mr. Cottrell to go along and give Emprise the concessions at the stadium?

Mr. BURR. No, sir; I never asked Mr. Cottrell to do that.

Mr. PHILLIPS. You know, Mr. Burr, that your conversation was recorded. I don't want to mislead you, I don't want you to commit

perjury or have any problems. You know when Mr. Cottrell spoke to you, your conversation was recorded by agents of the FBI, in cooperation with Mr. Cottrell. We are here to get candid and frank answers. We are not here to have witnesses before the committee get themselves in criminal difficulties. Do you understand that?

Mr. BURR. I have testified before the Buffalo, or the holdover grand jury of Erie County, to the effect, to the very best of my knowledge, I have never said to Mr. Cottrell in any capacity with Sportservice or individually, that "You had better give Sportservice the concessions."

Now, during the course of our conversation, of meetings that were not prearranged, it is very possible—and I said this to District Attorney Dillon, it was my understanding in setting up this meeting that Cottrell needed financial help. And that is why they came to me, because they knew I had worked and had done some work with Jerry and I had a personal acquaintance with him.

During the course of one or more of the conversations it may very well have come up. I may very well have said, as I testified before the grand jury, "If you expect some help from Jerry, certainly he is going to expect that he is going to get consideration for the concessions."

But at no time—and if this is a tape, I would suggest it be played—at no time did I ever, as has been reported to me, state to Mr. Cottrell or to anyone else that, "If Sportservice doesn't get the concession, there will be no dome, because we have the votes to kill it."

Mr. WALDIE. May I interrupt a moment?

Could counsel describe the circumstances under which the conversation was recorded, who asked it be recorded?

Mr. BURR. If you are addressing me, I can't hear you.

Mr. WALDIE. No, I am not addressing you. I am addressing the Chair.

Can counsel describe the circumstances under which the conversation was recorded; why the Federal Bureau of Investigation was involved in it; what the transactions were the FBI was interested in, in this conversation?

Mr. PHILLIPS. Certainly. It is my understanding from talking to the witnesses, Congressman Waldie, that a prior statement was made to Mr. Cottrell, in the nature of what he thought was a threat, that if he did not go along with Sportservice as his concessionaire, that this venture would be killed, that Sportservice had the votes to kill it.

That he became concerned about this and the other conversations with a man by the name of Walker, that bribes were being paid to legislators in the Buffalo Legislature, that all of these activities were criminal in their nature.

Mr. Cottrell went to the U.S. attorney's office, advised them of the nature of the facts, and so forth, and an investigation was conducted in relation to the matter, and ultimately certain indictments did come down as a result of that.

As a result of that, Mr. Cottrell worked with the FBI in recording the conversation he had with Mr. Burr. The FBI has made the transcript available to us.

Mr. WALDIE. Will Mr. Cottrell be before the committee?

Mr. PHILLIPS. Yes. Mr. Cottrell was scheduled to be here today but he is ill with a throat infection. He is at the doctor's today, trying to see if he can get relief that will enable him to be here tomorrow.

Mr. WALDIE. No further questions.

Mr. GLICK. Mr. Chairman, may I ask a question?

Chairman PEPPER. Yes.

Mr. GLICK. May I ask Mr. Phillips if he has personally heard this alleged tape? I realize it is little unorthodox for me to ask you a question.

Mr. PHILLIPS. No, I haven't heard the tape. I have a transcript.

Mr. GLICK. You read a transcript of the alleged tape?

Mr. PHILLIPS. Yes.

Chairman PEPPER. Would you go ahead with your questions.

Mr. PHILLIPS. I yield to Mr. Steiger at this time.

Mr. STEIGER. Thank you, Mr. Chairman.

Mr. Chairman, I think at this time I would move that the transcript referred to and described by counsel be placed in the record, since I am going to refer to it.

Mr. WALDIE. Mr. Chairman, I would suggest that you go ahead and refer to it, but before acting on that request, I have only scanned it, and there are names mentioned in it on an off-the-cuff manner that seem to me to require some consideration as to whether we want to bring them into this inquiry, where it does not seem to have any relevance to the issue.

Mr. STEIGER. I recognize the concern of the gentleman. As far as I am concerned, the gentleman may review the manner with the stipulation that any extraneous names be removed. I would trust the gentleman's judgment in that manner, with that stipulation.

Chairman PEPPER. I suggest, if the gentleman from Arizona would be agreeable, that as Mr. Waldie suggests, go ahead and make any reference you want and we defer the actual submission of the document in the record. We may be having a meeting about another matter and we can discuss this.

Mr. STEIGER. Fine. I don't want to belabor the committee. I think the great bulk of this is pertinent. I recognize that there are some things which are not pertinent. I would say at the time of our meeting, if we could remove those things—

Chairman PEPPER. All right.

Mr. STEIGER. Fine.

Mr. BURR, the conversation we are talking about was alleged to have occurred at the Round Table Restaurant in Buffalo, N. Y., on October 22. Were you ever in the Round Table Restaurant?

Mr. BURR. Yes, sir; I have been.

Mr. STEIGER. Do you think you were there on October 22, 1970, with Mr. Cottrell? Do you recall?

Mr. BURR. It is possible; yes, sir, Congressman.

Mr. STEIGER. OK. You did mention that you had a previous meeting with Mr. Cottrell in the presence of another gentleman. This is not that meeting. In order to refresh your memory: apparently you are at the restaurant with Mr. Cottrell and there are some people who do come up and just greet you, but there was nobody apparently in attendance other than yourself and Mr. Cottrell. Does that refresh your memory?

Mr. BURR. I don't believe in all of my meetings that were not pre-arranged, the chance meetings, that we were ever alone for any length of time. I can recall Mr. Guthrie being with us, and other people,

the names of whom escape me at the moment. But we never met, with that one exception, under prearranged circumstances.

Mr. STEIGER. Well, of course. So what you are telling us, on the record and under oath, is that to the best of your knowledge, you didn't meet with anybody else, you didn't meet without somebody present, but you wouldn't be absolutely certain?

Mr. BURR. To the best of my knowledge, yes.

Mr. STEIGER. Incidentally, I share counsel's desire, I am not attempting to trap you.

Mr. BURR. I appreciate that.

Mr. STEIGER. I am not interested in that situation. You do have the transcript of the conversation that was supposed to have taken place?

Mr. GLICK. No; he does not, Congressman. We have never seen it, never heard of it until yesterday. May we have a copy of the transcript, Mr. Chairman?

Mr. STEIGER. I would defer to the Chair. I think since it is going in the record—

(Discussion off the record.)

Mr. STEIGER. Mr. Burr, while they are deliberating what to do with this I will continue.

In this conversation you are discussing the situation in the Erie County Legislature with regard to the dome stadium. In effect, what you are telling Mr. Cottrell is that you are not empowered to speak for Mr. Jacobs, that you cannot commit for Mr. Jacobs. In effect, what you are telling him, and he is telling you, is that he would prefer to deal with Max Jacobs, and you are telling him that you are sympathetic but you say that if there is going to be an arrangement made, it has to be made with Jerry because he has the authority.

Does that seem in line with the facts as you knew them at that time? Without asking you to recall the specifics of the conversation?

Mr. BURR. I do not recall ever having a conversation with Mr. Cottrell as to which of the individuals he would deal with, if he were to deal with Sportservice or Emprise.

Mr. STEIGER. You don't ever recall having that? Because we have here several pages of this testimony in which you discuss the relative ease of dealing with Max as opposed to dealing with Jerry. You don't recall that?

Mr. BURR. I don't recall it. I wouldn't necessarily rule it out, though.

Mr. STEIGER. But you agree, as a conclusion, it is easier to deal with Max than Jerry? Unless you care not to respond to that. Would you care to?

Mr. BURR. No, I don't think I would care to respond to that.

Mr. STEIGER. I must say, I agree with you in your decision not to respond.

Incidentally, isn't it true that your original employment, that you referred to, involved my testimony in New Mexico and your traveling with me back to Chicago? Was that part of your assignment?

Mr. BURR. Not to travel with you back to Chicago.

Mr. STEIGER. That was just a coincidence; right?

Mr. BURR. That was just a coincidence. I believe, if memory serves me, we met at the airport counter, both traveling on the same airplane.

Mr. STEIGER. As I recall, we ended up sitting side by side in the plane, with nobody else in that particular section of the aircraft.

Mr. BURR. That is correct.

Mr. STEIGER. It is a remarkable coincidence, looking back. We had a chance to have a warm and friendly conversation.

Mr. BURR. Yes, sir; we did.

Mr. STEIGER. You do good work, I will say that.

Chairman PEPPER. Excuse me.

In response to the request of counsel, we have always tried to protect people who might be mentioned in documents who are not in a position to respond. Unless there was to be such a detailed use of the transcript that your client would be at a disadvantage in responding, without having access to it, it is the disposition of the Chair at the present time, to hold that we would not grant your request to exhibit to you the document—that is, to place in your hands the transcript that we have—because we have not made it public, ourselves. It has only been the basis for investigation by the committee.

So I think whether we would wish to grant your request would depend upon the degree of detail which might be resorted to by any one of the committee who might be questioning your client about this.

Mr. GLICK. Thank you, Mr. Chairman. And I trust and I know the Chair recognizes the transcript of an alleged tape may in fact be a transcript of somebody else entirely, and not of Mr. Burr.

Chairman PEPPER. Yes. But we will proceed.

Mr. STEIGER. Thank you.

Mr. Burr, again, maybe to perhaps refresh your memory on this matter, this again is alleged to have taken place October 22, 1970. I believe from your previous responses to counsel, at that time you were employed in sort of a joint capacity.

Mr. BURR. Not in a joint capacity. I believe by this time I was no longer employed in any way, shape, or form, even on a consulting basis, by Emprise.

As a matter of cold fact, October 22, 1970, would have been right at the start of the Buffalo Sabers' first season and I, at that precise moment, was, in the vernacular, up to my ears in Buffalo Sabers-connected work.

Mr. STEIGER. With that in mind, I would ask you to recognize that in a response to Mr. Cottrell, in which he said, "He looked at us like we were out of our mind"—referring to Jerry Jacobs' response to an offer—and you said to him "He is paying me \$7,500 a year and I am not doing a——thing for him."

Mr. BURR. I beg your pardon? I said that to Mr. Cottrell?

Mr. STEIGER. Yes. It is alleged. The reason I mention this is because if it is factually incorrect you ever received \$7,500 from Mr. Jacobs for anything, why there is a good chance that some of this other information is incorrect. Do you recall at any time you received \$7,500 a year which you felt you were not earning?

Mr. BURR. No, sir.

Mr. STEIGER. I see. Well, then, you go on and describe an arrangement and——

Mr. WALDIE. Mr. Chairman?

Mr. STEIGER. May I go on?

Mr. WALDIE. I don't think you got a response to your question. You said, "Did you receive \$7,500 for which you did not render services?"

And you said, "No." Did you receive \$7,500?

Mr. BURR. No, sir. I never received \$7,500 in a lump sum from Mr. Jacobs, nor was I ever employed at a salary at any time by Emprise Corp. that approximated \$7,500 per year.

Mr. STEIGER. All right. I will go on.

And you described this arrangement to Mr. Cottrell in this fashion: "I got other things. My deal, in order for me to go, was for Seymour to keep me until such time as he had to relieve me. Jerry would pay half my salary. And he has offered me over and above what I was making when I was with Seymour."

I would assume, if this was correct, that was Seymour Knox.

And "Seymour would pick up the rest of it, and that salary was \$16,000 a year to go with Jerry. I am not doing anything for Jerry for the last"—and then it is indecipherable—"and he is paying me \$7,500 a year."

I would assume then the \$7,500 you refer to there is his share of the \$16,000 salary you were earning. Does that make sense?

Mr. BURR. You have made it more clear to me.

Under the arrangement that was ultimately made with the Buffalo Sabers and with Jerry Jacobs for me to go back to Emprise Corp. bear in mind Jerry had offered me considerably more money than I was making with the Sabers. I believe the salary figure quoted is a little bit inaccurate. But nevertheless, it is close enough. At that time it was arranged that I would stay with the Sabers until such time as we had secured a replacement that they considered adequate and had an opportunity to break him in.

And I, at the time, pointed out to Nordie Knox, while I was delighted to stay, I didn't feel I could afford, with two kids ready to go to college, one in and one ready to go, that I could afford to continue with the same salary the Sabers were paying me during that interim period.

So Nordie says, "OK, if Jerry will pay half of it, I will pay half of it."

So he, in effect, gave me a raise. But I am reluctant to state, but I must, that Jerry, while he agreed to it, I have yet to see any extra money from him.

Mr. STEIGER. I have no comment on that.

Now, Mr. Burr, the rest of this conversation was kind of an expression that if only Jerry and Mr. Cottrell could sit down as you and Mr. Cottrell were sitting down, possibly something could be worked out.

And you make several references in the course of that conversation to the stadium, what is going to happen to it, and then the conversation goes something like this—and I am going to read here verbatim to attempt to refresh your memory, just briefly:

I will go back up to where Cottrell is saying, he said:

Jerry was very close friends with Abgott, is that right?

Chuck. Yes.

Cottrell. So am I.

Jerry or you can produce any time. Right?

Chuck. We can produce him under the right circumstances. I'll tell you and I told you before that—

And then it is indecipherable. "I don't think anybody got to Al."

I am going to stop there and ask: I believe Mr. Abgott's name is "Al" or Alvin"?

Mr. BURR. Al Abgott.

Mr. STEIGER (reading):

I don't think anybody got to Al. I don't think Al, you know, could be bought off. I have known this guy. I could be wrong, in fact I have been wrong several times.

Ed. Do you think anybody is bought off here?

Chuck. I work closely with him. Jerry worked closely with him.

Ed. Do you think anybody has been bought off here?

Chuck. Bought off?

Ed. Who has been bought?

Chuck. I don't know, but I would guess that—

and it is indistinguishable

Which I guess can be very fortunate.

Ed. For whom?

All right. Does that help refresh your memory about this particular meeting, at all?

Mr. BURR. No, sir; not to any great degree at all.

Mr. STEIGER. All right. I am going to refer to another specific area of the conversation that I think is germane. And I am quoting Chuck in that matter, I am reading:

They told us that the concessions were making money.

They are talking about the concessions in Houston.

I don't know. All I know is under the right circumstances, I'll bet everything I got Jerry would be interested.

If something came up, Jerry is willing to put up \$12 million in capital for the building of this (off-color expression). The legislature ought to take a long, hard look at it. Get a lot of people off the hook.

Then we go down here and Mr. Cottrell says:

Let's not ask, let's not ask them to put up the dough. Let's get back to putting up the vote.

And you say:

We can get the vote. I guarantee we will get you the vote if Jerry can go with the deal you guys make.

Again, Mr. Burr, did you ever make such a statement?

Mr. BURR. I don't recall that I ever made such a statement.

Mr. STEIGER. All right. Is it true that you thought Jerry could deliver the vote if the deal were right?

Mr. BURR. No, sir; I had no knowledge whether Mr. Jacobs could deliver the vote.

Mr. STEIGER. Do you think so now, in retrospect?

Mr. BURR. I have no opinion one way or another.

Mr. STEIGER. But you expressed an opinion here in October 1970. Have you forgotten that opinion?

Mr. BURR. I don't believe I expressed an opinion.

Mr. STEIGER. Are you telling us—

Mr. BURR. Mr. Steiger, what I am telling you is I have no recollection of what you are reading me from the transcript, at this moment.

Mr. STEIGER. You make reference in here to "the judge." There are a whole series of references to "the judge," the gist of which are "Jerry wants to squeeze the judge out."

The judge apparently has something to do with the dome stadium. Do you know who the judge could be?

Mr. BURR. I would suspect the reference there is being made to Judge Roy Hofheinz, the owner of the Houston dome stadium.

Mr. STEIGER. Again, as a result of this conversation, it becomes apparent Mr. Cottrell feels a very strong loyalty to the judge. Is that a reasonable proposition? Was he an employee of the judge?

Mr. BURR. Yes. I do not know whether or not he was an employee, or in any sense, perhaps—I don't believe he was an employee.

Mr. STEIGER. Would he have a reason to have a strong loyalty to the judge?

Mr. BURR. It is my understanding—well, I really can't say, because I have no firsthand knowledge whether he would have reason to have a strong loyalty to Judge Hofheinz or not.

Mr. STEIGER. All right. Anyway, the synthesis of the involvement of the judge continues.

This is quoting from Mr. Burr:

If you and the judge and Jerry could get together, Jerry doesn't want any publicity. He doesn't even want to have his name on the ownership.

Do you ever recall suggesting that kind of an arrangement?

Mr. BURR. No, sir. I don't believe that I did. Now, if I could qualify. From portions of this transcript, there was an area in there, in which it was stated, something to the effect that \$12 million was involved.

Mr. STEIGER. Excuse me. I will simply tell you that was your reference to the fact that Jerry was willing to put up \$12 million in cash to see the dome constructed.

Mr. BURR. I see. All right. I think that reference is in error. What the reference was to, and would have to be, was to my personal knowledge that Sportservice, years before, had advanced some \$12 million that guaranteed to St. Louis, that guaranteed the construction of Busch Stadium. These were advanced receipts guaranteed against concessions over, I believe, a 30-year period. That was what that reference may have been to, if indeed that is the transcript and an accurate one of the conversation I had with Cottrell.

Mr. STEIGER. So that you don't recall ever suggesting that everybody could stay in and Jerry could put up the money, as long as he got the concessions, and he didn't even have to have his name on the ownership? You don't recall making that suggestion?

Mr. BURR. Heavens no.

Mr. STEIGER. And that offends you, the idea you would make a suggestion like that?

Mr. BURR. I wouldn't have no authority to make the suggestion.

Mr. STEIGER. You make it clear, it is just a suggestion. You have no authority.

Mr. BURR. And I certainly never made any such suggestion.

Bear in mind that I never approached, in behalf of Jerry Jacobs or myself, Mr. Cottrell. I was approached through an agent of Mr. Cottrell's to arrange a meeting, if possible, between Jerry Jacobs and Mr. Cottrell.

Mr. STEIGER. You think this might have been that meeting?

Mr. BURR. I beg your pardon?

Mr. STEIGER. Do you think this transcript might have been the result of that meeting?

Mr. BURR. I have no idea. And I have very little, in fact no recollection of the particular meeting between Cottrell and I in question here, nor do I have any recollection of the testimony in the transcript as you have read it to me.

Mr. STEIGER. Let me ask you one more question about your conversation with Mr. Cottrell.

Following up the offer to have Jerry and the judge in and Mr. Cottrell in, and leaving Jerry anonymous, all he wants is to make sure he has got those concessions.

"Supposing you come in?" Mr. Cottrell tried to interrupt you and you say, "concessions" and the blank is another expressive adjective—"at a bid that is not competitive with ARA."

"Mr. Cottrell: No bid. We don't need a bid. He don't have to bid. We never had a bid."

And you say, "Tell me what you want from Jerry."

And he said, "All we ever talked about was being competitive. If he could be competitive. I mean, he knows the figures. His own concession man wrote them down. Jack Sander."

"Yes, I think it was Jack."

Do you recall that dialog at all?

Mr. BURR. No, sir; I can't honestly say I recall that dialog at all.

But certainly, I don't think I would have been out of line if I had said to Mr. Cottrell, as I am sure I said, if you wish to have Jerry Jacobs or Emprise to be involved in any way, shape, or form, in construction of the dome stadium, certainly he is going to seek the concessions.

I don't think that would be out of line, to begin with.

Mr. STEIGER. All right. Then you make a final, near final statement. Mr. Cottrell says: "If he is not involved in it, what is going to happen to it?" Referring to Mr. Jerry Jacobs.

And you said, "There won't be a dome. I don't think there will be a dome without Jerry Jacobs. I think Jerry Jacobs"—and again it becomes indecipherable—and you qualify it and say, "I could be wrong, 100 percent wrong." And then Frank comes up.

Mr. BURR. That was a personal opinion. And I do believe more than once I have said that to Cottrell, that there wouldn't be a dome unless somebody was going to come up with a financial proposition that would be acceptable to the legislature. Mr. Cottrell has yet to come up with an acceptable financial proposition.

Mr. STEIGER. I will repeat this because you indicate you might recall this part of the conversation, and I want the record to be accurate.

"There won't be a dome. I don't think there will be a dome without Jerry Jacobs." Not without the legislature. Do you equate in your mind Jerry Jacobs and the legislature?

Mr. BURR. No, because I was under the impression when I talked to Mr. Cottrell, he needed financial help.

Mr. STEIGER. All right.

Mr. BURR. And that financial help could conceivably have come, as it had in the past, from Sportservice Corp., in the form of loans or possibly in the form of guarantees against concession revenues.

Mr. STEIGER. And you don't have any recollection of the fact Mr. Cottrell made the point, very obviously, he didn't want money, he wanted two votes?

Mr. BURR. No, sir; we never discussed the legislature. As a matter of cold fact, while we were in this right now, as I testified before the Erie grand jury, I only know personally, one member of the legislature, and that is Mr. Abgott. I have never met anybody else.

Mr. STEIGER. And you don't know whether or not Mr. Jacobs knows any of the other members, or not?

Mr. BURR. I have no knowledge.

Mr. STEIGER. And you would not be in a position to recite that.

So what you are saying is that while you are not sure about the rest of this transcript, you know that part is inaccurate; is that correct?

Mr. BURR. I beg your pardon.

Mr. STEIGER. What you are telling this committee, on the record and under oath, is that while you don't recall the specifics of this, you know that that part of the transcript which I read to you, in which we talked about delivering the two votes, in which we don't want the money, we just want the votes, you know that was not accurate?

Mr. BURR. I know that is not accurate.

Mr. STEIGER. All right. The only thing you can remember then is that you didn't ever say that, and I assume you are saying that because you never said that in your whole life—that you could deliver the votes?

Mr. BURR. You lost me, Congressman. That I could deliver the votes?

Mr. STEIGER. Right.

Mr. BURR. I couldn't deliver a vote for a dogcatcher.

Mr. STEIGER. That Jerry Jacobs—

Mr. BURR. I don't know that Jerry Jacobs could deliver a vote for dogcatcher, either.

Mr. STEIGER. So you never told anybody he could deliver that vote?

Mr. BURR. No, sir.

Mr. STEIGER. I have one more question. You went to a television station. You, Mr. Burr, went to a television station in Buffalo, WGR, sometime in April of this year—I hope your memory is that good—and you talked to a man named Sid Hayman. Do you know Mr. Hayman?

Mr. BURR. Yes, sir; I do.

Mr. STEIGER. Who is Mr. Hayman?

Mr. BURR. He is the new director channel 2, WGR, Buffalo, N.Y.

Mr. STEIGER. You suggested to Mr. Hayman that they invite me to debate with an alleged member of the bar of Ohio, named Lindhorst, or Lindstrom, and Mr. Weiss on his station. Do you recall that conversation?

Mr. BURR. I do not recall whether I suggested that to him, or whether Mr. Hayman suggested it to me.

Mr. STEIGER. Do you recall a conversation in which the possibility was discussed?

Mr. BURR. Yes, sir.

Mr. STEIGER. Do you also recall Mr. Hayman thought it was a good idea, at any rate?

Mr. BURR. I believe he thought it was a fine idea.

Mr. STEIGER. You were aware he contacted me?

Mr. BURR. Yes, sir; I believe I am aware of it.

Mr. STEIGER. You are aware I agreed and the only stipulation I had was the Jacobses also appear. They could have as many lawyers as they

would like, but they both be present at that so-called confrontation? Do you recall that?

Mr. BURR. Yes; I believe I recall that, too.

Mr. STEIGER. Do you recall, after having discussed it with Mr. Jacobs, what you then told Mr. Hayman?

Mr. BURR. I believe I told Mr. Hayman that Mr. Jacobs would not appear.

Mr. STEIGER. What was Mr. Hayman's reaction?

Mr. BURR. He asked me why.

Mr. STEIGER. And what did you tell him?

Mr. BURR. I told him because the fulcrum of the whole situation had taken place in Cincinnati and Mr. Jacobs was of the opinion that since the original debate had been scheduled for Cincinnati between you and Mr. Lindhorst it should take place in Cincinnati with the original principles involved.

Mr. STEIGER. So when you offered, when you suggested, that it would be good for me to appear in Buffalo, you did so without the authority of Mr. Jacobs; is that correct?

Mr. BURR. I don't believe I suggested it would be good for you to appear in Buffalo. I agreed I would ask Mr. Jacobs, and from a public relations standpoint, I would certainly have no objections.

Mr. STEIGER. Did you hear Mr. Hayman tell me that in the event the Jacobses turned me down, he would consider that newsworthy, since they had made a great deal in Cincinnati, since you had put out some press releases alleging I hadn't shown up for Lindhorst?

Mr. BURR. He may very well have told me that.

Mr. GLICK. Excuse me, Mr. Chairman. Is this pertinent—

Mr. STEIGER. Yes, it is, as a matter of fact, Mr. Counsel.

Mr. GLICK (continuing). To the committee?

Chairman PEPPER. The rule of relevance is not strictly applied in these hearings. We are engaged in a general inquiry as to this subject of whether there is any organized crime in sports, particularly horse-racing. So the question will be permitted.

Mr. STEIGER. Mr. Burr, are you aware of the fact that Hayman not only never did make any announcement about the unwillingness of the Jacobses to appear, but expressed a great reluctance to the fact he would not be able to do that? Or great disappointment he would be unable to make the announcement because he felt it was newsworthy?

Mr. BURR. I am not even aware he didn't make such an announcement, to tell you the truth.

Mr. STEIGER. You are not aware he didn't make such an announcement. You would not have known if he made such an announcement?

Mr. BURR. Not Necessarily. I may not have been in town at the time.

Mr. STEIGER. As a public relations man, you were not advised as to what goes on, particularly between Emprise and Steiger?

Mr. BURR. Mr. Steiger, there are many things that transpire, as we operate in so many areas, that I am not aware of. I would assume perhaps I should be aware of anything that happens in our hometown, but I am not particularly aware of whether Mr. Hayman did make an announcement, air announcement, to the effect there would be no debate or whether he did not. In fact I am not even sure he made an announcement originally there may be debate.

Mr. STEIGER. To the contrary, you know he did not make an announcement there would be until he had had approval from the Jacobses isn't that so?

Mr. BURR. I would assume that. But I don't know it to be a fact.

Mr. STEIGER. My whole point is, at least Mr. Hayman feels that the station must in no way antagonize Emprise. And you, as the public relations arm of Emprise, I would assume would be in part responsible for making it clear to the station and the newspapers in that community what would happen to them in the event they publish anything, factual or not, that refers to Emprise; is that true?

Mr. BURR. If you are saying to me, Mr. Steiger, that the media in Buffalo, N.Y., are fearful of Emprise reprisals should they—

Mr. STEIGER. That is exactly what I am saying.

Mr. BURR (continuing). Publish anything detrimental. I must take issue with you. And on the subject of WGR, literally, over the past year and a half, we have been taken apart, our hair parted down to our elbows by editorial comment by that station. They have run them freely.

The Buffalo Evening News and the Buffalo Courier-Express have printed the news as it has happened without interference from us.

Mr. STEIGER. What would be the thrust of WGR's criticism of your operation over the past 18 months?

Mr. BURR. I think the thrust—I am really not prepared. I am not qualified to answer that now, because it has taken place over a period of time and it is not fresh in my memory.

Mr. STEIGER. Was it a series of complaints?

Mr. BURR. However, the gentleman in question is in this room today. You might want to ask him about it. He would be much better able.

Mr. STEIGER. You said you had recollection of being taken apart by WGR over an 18-month period?

Mr. BURR. Yes, but I can't give you specifically under what circumstances and what the subject matter was on a particular show.

Mr. STEIGER. Were they part of a conspiracy to destroy the reputation of Emprise?

Mr. BURR. Mr. Steiger, I have never stated there was a conspiracy to destroy Emprise's reputation.

Mr. STEIGER. You must be the only man on Emprise's staff who hasn't said that.

I have no further questions.

Chairman. PEPPER. Mr. Winn, do you have any questions?

Mr. WINN. Yes, Mr. Chairman.

Mr. BURR, I believe you said that you are a vice president of Emprise?

Mr. BURR. That is correct, sir.

Mr. WINN. And as a vice president of Emprise, do you hold any stock in Sportservice?

Mr. BURR. No, sir; I do not.

Mr. WINN. That is a separate entity?

Mr. BURR. I hold no stock in Emprise, Sportservice, or any subsidiary of Sportservice. I am what is known as a working vice president, by appointment, and not by reason of stockholding.

Mr. WINN. All right. Then, who owns the majority of the stock in Emprise?

Mr. BURR. All of the stock in Emprise is 100 percent owned by the Jacobs' family.

Mr. WINN. Who owns all of the stock in Sportservice?

Mr. BURR. Similarly, the Jacobs' family.

Mr. WINN. All right. Then you say that you worked for the Buffalo Bills and it is a little confusing to me, and I believe Mr. Steiger asked a question, but I would like to clarify it in my own mind, if I may, that you were on the payroll of the Buffalo Sabers hockey team.

Mr. BURR. Yes, sir.

Mr. WINN. But at the same time you became a consulting nonstock-holding vice president of Emprise?

Mr. BURR. No, sir. It is not quite that complicated. I had worked for the racetrack, Buffalo Raceway, from 1968 until 1970. Toward the end of my tenure at Buffalo Raceway, just as I was preparing to go with the Buffalo Sabers, but after I had announced my resignation at the raceway, Max Jacobs asked me if I would go to Albuquerque, N. Mex. and sort of audit a racing commission hearing there.

Mr. WINN. Audit one? Audit or monitor, just to listen and report back to him what took place in this hearing. He couldn't get the transcript of that?

Mr. BURR. Well the transcripts usually are delayed, and for reasons best known to him, he wanted an immediate report.

Mr. WINN. Did he ask you to personally contact anyone down there?

Mr. BURR. In Albuquerque?

Mr. WINN. Yes, at those hearings.

Mr. BURR. No; not that I recall. I don't recall I contacted anyone. I was accompanied—no, I went alone, but in Albuquerque Mr. Hayman from Phoenix, Ariz., a newspaper man, met me. He sat with me in the hearings.

Mr. WINN. Now, I would like for you to continue on the timing because it seems to me a little vague, whether there was an overlapping of the fact you were on the payroll of the Buffalo Sabers hockey team and at the same time an employee or a consultant for Emprise. Was there absolutely no overlapping; are you telling the committee that?

Mr. BURR. Yes, there was some overlapping.

Mr. WINN. So then you were on the payrolls of both organizations?

Mr. BURR. I suspect this to be true, yes. But with the full knowledge of my employers, the Buffalo Sabers. That was my main job. I was finishing up some work for Emprise Corp. that was to take, oh, perhaps 2 or 3 weeks, a month. I can't recall just exactly how long it would take. This was the start of some of the bad public relations and some of the bad press that accumulated as a result of the accusations and allegations being made against us at the time.

Mr. WINN. You told the committee that Mr. Ralph Wilson owns the Buffalo Bills, and I know that to be a fact. Do you know whether Emprise, as an organization, or the Jacobses as individuals, or any of their organization including Sportservice, own any of the stock in the Buffalo Bills?

Mr. BURR. To the best of my knowledge, Mr. Winn, no one with the exception of Ralph Wilson has a single iota of stock interest in the Buffalo Bills.

Mr. WINN. Do you know if Mr. Wilson has borrowed any money from the Jacobses or from Emprise, or from Sportservice?

Mr. BURR. To the very best of my knowledge, he has not.

Mr. WINN. He has not. All right. You said that you were a former television sportscaster, I believe.

Mr. BURR. Yes, sir.

Mr. WINN. What station were you on? Or channel?

Mr. BURR. My last employment as a television sportscaster was in Boston, Mass., channel 7, WNAC, the RKO general station.

Mr. WINN. Anywhere in your travels, or when you were acting as a vice president of Emprise, have you run across a Van Patrick?

Mr. BURR. No, I have not run across him face to face. I have talked with Van a couple of times on the phone.

Mr. WINN. Do you know Van Patrick?

Mr. BURR. Yes, I know Van. He at one time was a sports announcer in Buffalo.

Mr. WINN. In Buffalo?

Mr. BURR. In Buffalo, N. Y.

Mr. WINN. And he is now in Detroit? Right?

Mr. BURR. He is in Detroit; yes, sir.

Mr. WINN. Are you aware that some time in the last few years that Mr. Van Patrick, also a former sports announcer, went to bat, trying to secure favors for the Jacobses?

Mr. BURR. No, I am not aware of that.

Mr. WINN. You are not aware of that?

Mr. BURR. He is very friendly to the Jacobses.

Mr. WINN. But you don't know if he happens to be a consultant to the Jacobses in any way?

Mr. BURR. No, sir; I don't know that.

Mr. WINN. You don't know if the Jacobses pay him any amount of money from Emprise or any of their other organizations?

Mr. BURR. No, sir; I do not know that.

Mr. WINN. All right. Now, Emprise, as I understand it, is the owner of the former Cincinnati Royals?

Mr. BURR. No, sir; that is not true.

Mr. WINN. Emprise is not?

Mr. BURR. No, sir. Jerry Jacobs personally is the owner of the Royals.

Mr. WINN. They don't own that as a corporation?

Mr. BURR. Definitely not. No, sir.

Mr. WINN. So that is Jerry Jacobs alone, then; right?

Mr. BURR. Well, he is the principal stockholder. There are others.

Mr. WINN. Do you know who the other stockholders might be?

Mr. BURR. I know Max has some stock in it. I do not know who the others may be.

Mr. WINN. Do you know who operates that franchise?

Mr. BURR. Well, Max Jacobs is chairman of the board and is titular head of the Royals but the Royals are operated autonomously by Joe Atchinson, the general manager, and Bob Cousy, the coach.

Mr. WINN. There were a lot of people, according to press reports and that is all I have to go by, that they were pretty unhappy with the way Bob Cousy handled that basketball team when it was in Cincinnati. Have you read or heard of any of those reports?

Mr. BURR. I have read reports, but as in many cases when you have a losing team there is dissatisfaction expressed against the coach. Yes, I read that.

Mr. WINN. I am sure you are aware that that same team, the same franchise, and the same owners, are now moving from Cincinnati to Kansas City?

Mr. BURR. Yes, sir.

Mr. WINN. And that after same debate, Bob Cousey was reappointed on a 1-year contract as coach of the Cincinnati Royals now moved to Kansas City they are having a name contest, so I can't you the new name.

Mr. BURR. I believe it is the Kings, but I am not positive.

Mr. WINN. I believe that is the last I heard.

Let me ask you, do you know any of the stockholders of the new Kansas City Kings basketball team?

Mr. BURR. I believe the majority stockholder continues to be Mr. Jeremy Jacobs.

Mr. WINN. You think that is the sole ownership?

Mr. BURR. I believe Mr. Max Jacobs has some smaller number of shares. I do not know the other shareholders may be, who, if there are any, and I assume there may still be some. I don't know.

Mr. WINN. Do you know if there are any local stockholders in the Kansas City franchise that might have a part or a share of the Jacobs' holdings there?

Mr. BURR. Mr. Winn, I can't answer that. I am not that familiar with Kansas City Royals' operation. But when Mr. Jeremy Jacobs testifies, I am sure he can give you that information. I am unable to answer it.

Mr. WINN. Have you heard of the name Morris Shenker?

Mr. BURR. No, sir.

Mr. WINN. You have never heard of that name?

Mr. BURR. No, sir.

Mr. WINN. Mr. Chairman, I have no more questions. Thank you.

Chairman PEPPER. Mr. Waldie, any questions?

Mr. WALDIE. No.

Chairman PEPPER. Mr. Wiggins.

Mr. WIGGINS. Just a couple.

I have just consulted with my colleague, Mr. Steiger, with respect to the questions asked by him referring to the transcript. I got the impression from those questions that part of this transcript involved the statement that your employers might be able to deliver two votes and, if so, I would like, Mr. Chairman, to read the transcript in full in that respect, so that there be no misunderstanding as to what was said and what the responses were.

I am going to start at the top of page 8 of the transcript:

Chuck. All right. Don't you believe that anybody has been bought off?

Ed. Yes.

Chuck. I don't think Al was.

Ed. There is 10 jamming it up. Al's one of them.

Chuck. You need two votes, right?

Ed. I would say probably two, yeah.

Chuck. And if Al was one of them, if I could get you, Al, and Jerry together, and * * *

Then the balance of that sentence was apparently not decipherable.

That is the reference, Mr. Chairman, I have been able to find in this transcript with respect to two votes. And if so, I think in fairness to the witness, it should be clear there was no offer on your part in that transcript to deliver any votes.

That is consistent with your recollection of any conversation; is it not, sir?

Mr. BURR. Yes, sir; it is.

Mr. WIGGINS. Did the Jacobs brothers want this dome stadium or not?

Mr. BURR. I don't believe that I have ever asked Jerry or had any conversation with relation to his feelings about the dome. I don't think he cared particularly one way or another.

Mr. WIGGINS. Are you aware of any negotiations conducted by Emprise with the developers of the dome, with respect to the concessions, if it were built?

Mr. BURR. The only possibility would have been if there was a meeting, and I believe there was between Jerry and Ed Cottrell, that I may have helped to arrange. I know of no other negotiations prior to that meeting, if one had took place. Nor do I know of any other meetings except possibly one, that I have referred to.

Mr. WIGGINS. Do you know what occurred at that meeting?

Mr. BURR. No, sir; I do not. I was not privy to the meeting. I was not there nor did I even question Jerry Jacobs about the meeting.

Mr. WIGGINS. Are you aware that your employer, Emprise, offered to participate in the financing of the stadium?

Mr. BURR. Am I aware?

Mr. WIGGINS. Yes.

Mr. BURR. That such an offer was made by Emprise?

Mr. WIGGINS. Yes.

Mr. BURR. No, sir; I am not.

Mr. WIGGINS. You may have been in the audience at the time when two county legislators testified concerning a bribe and a conviction that resulted from that, in Erie County. Do you know anything about that?

Mr. BURR. No, sir. My only knowledge of that whole situation is from what I read in the papers.

Mr. WIGGINS. I wish our record to be complete with respect to any suggestion you or your employer could deliver any legislators, and I read you that portion of the transcript in which two votes were mentioned. Later on in the transcript, at page 11, there is another reference to votes, and I will read that into the record and ask you to comment on it.

Preceding this dialog there is some reference to putting up money, and then the following occurs:

Ed. Let's not ask him to put up the dough, let's get back to putting up the vote.

And the answer is not decipherable.

Ed. I mean ***."

The balance not decipherable.

Chuck. We can get the vote. I guarantee we will get you the vote if Jerry can go with the deal you guys made. Now, this, I don't—

Ed. Well, why can't he (undecipherable) ARA deal.

And the dialog proceeds without further reference to a vote. Do you have any recollection of that?

Mr. BURR. No, sir. I can't comment on that because I just have no recollection of it. And it is not clear in my own mind, the continuity

has been interrupted so many times. In fact, I have too little recollection of that. I have no recollection of that particular transcript. But there are portions in that transcript that I know I have discussed with Cottrell more than once, during the time we were running into one another.

Mr. WIGGINS. It would seem to me, sir, that if a person intends to record a conversation, it is not an accidental meeting. It is a staged meeting. It is an agreed, arranged meeting. Otherwise one would not carry a tape recorder of some sort on his person.

So if this tape has any credence at all, it would seem to me it would be an arranged meeting between you and Mr. Cottrell. Doesn't that make sense to you?

Mr. BURR. Ordinarily it would make sense, except that we have never had an arranged meeting, with one exception. It was not held at the Round Table, as a matter of fact. It was held in the Plaza Suite restaurant in the afternoon and Mr. Jack Guthrie, who called the meeting, or asked me to attend, was there with us.

There are several tapes supposedly made, none of which have ever been produced anywhere to the very best of my knowledge, and it would appear Mr. Cottrell just constantly carried that recorder around with him and recorded anything he thought might be to his advantage at one time or another. This is the only account I can give for it because we had no prearranged meetings at any time. At any time.

Mr. WALDIE. Would you yield to me?

Mr. WIGGINS. Yes, I yield.

Mr. BURR. Except that one.

Mr. WALDIE. I understood counsel to say that this recording and these tapes were FBI taken and arranged.

Mr. PHILLIPS. That is correct.

Mr. WALDIE. Do you know, if the meeting was casual as has been said, how was it arranged? Who carried the recording, do you know anything about it?

Mr. PHILLIPS. The recording device, as I understand it, was given to Mr. Cottrell by the FBI agents and the FBI agents covered the meeting. That is, they observed you with Mr. Cottrell at the meeting. That is my understanding of the facts that have been presented to me. It was a prearranged meeting, Mr. Burr.

Mr. BURR. At the Round Table restaurant? I beg to differ. There was never a prearranged meeting at the Round Table restaurant.

Mr. PHILLIPS. Mr. Burr, did you on that occasion or any occasion say in substance, "We can get the vote. I guarantee we will get the vote if Jerry can go with this deal"?

Did you say that, in substance, at any time?

Mr. BURR. No, sir. To the very best of my recollection, I did not say that.

Mr. PHILLIPS. You would recall that, wouldn't you?

Mr. BURR. I would like to think I would recall it. As I get older my memory—

Mr. PHILLIPS. You are telling a man who is involved in a \$50 million deal you can deliver the vote that is going to deliver the \$50 million deal. You would remember that, wouldn't you?

Mr. BURR. No, sir; you are not even quoting accurately. I am not even saying that, if what you say is true.

Mr. PHILLIPS. I am asking you, do you deny you said that, in substance? Quite frankly, Mr. Burr, denying things of this nature is grounds for perjury prosecution. I want you to be advised of that.

Mr. BURR. I understand.

Mr. PHILLIPS. The tape is here before us. I am reading it to you. I want you to fairly understand the question.

Mr. BURR. I understand.

Mr. PHILLIPS. The question is: Did you say, "We can get the vote"?

Mr. BURR. Sir, to the very best of my knowledge, if I said anything like that—I don't recall ever saying it—but if I—

Mr. PHILLIPS. Do you deny you said it?

Mr. BURR. Mr. Phillips, I am not going to get into an argument on semantics here.

Mr. PHILLIPS. It is not semantics. I would like to have an answer. Do you deny in fact you said that?

Mr. BURR. To the very best of my recollection, I do not recall saying it.

Mr. PHILLIPS. Do you have any trouble with your recollection?

Mr. BURR. Apparently.

Mr. PHILLIPS. You would remember that, wouldn't you?

Mr. BURR. Mr. Phillips, may I make a quick statement here?

Mr. PHILLIPS. Certainly.

Mr. BURR. Maybe we can clear the situation up to your satisfaction, if not exactly my own.

If there were at any time reference to votes in our conversation—and I am not denying that we talked about the fact that he didn't have enough votes, I don't recall any part of the conversation along those lines, but it is reasonable the subject did come up and it would have been in reference, at least on my part, to the fact if Jerry Jacobs were to put money, or to make a guarantee, this would make it much easier for the legislators who were opposed to a dome stadium because of the heavy cost, to perhaps switch their votes, or if not only Jerry Jacobs, anybody who would come forth with the money.

This was at a time when in discussions with Cottrell, I had been led to believe he needed capital in order to get this dome stadium off the ground.

Mr. PHILLIPS. What I am asking is did you say that you and Jerry Jacobs—when you say "we"—had the power to deliver the votes?

Mr. BURR. No, sir; I never said that. Because we never had the power to deliver the votes.

Mr. PHILLIPS. Do you know Al Abgott?

Mr. BURR. Yes, sir; I do.

Mr. PHILLIPS. Who is he?

Mr. BURR. Allen Abgott is a long-standing college friend of mine. I have known him for 25 years. He is in the printing business. He is also a county legislator.

Mr. PHILLIPS. A very good friend of yours; isn't that a fact?

Mr. BURR. A friend of long standing.

Mr. PHILLIPS. Is he also a friend of Jerry Jacobs?

Mr. BURR. To my knowledge, no. Not a personal friend in the sense that we refer to friendship.

Mr. PHILLIPS. Did you tell Mr. Cottrell that "We can deliver Abgott under certain circumstances," under the right circumstances?

Mr. BURR. I do not recall telling Mr. Cottrell that. But Mr. Abgott was concerned about the cost of the stadium and Mr. Cottrell's inability to spell out the proper financing techniques.

Mr. PHILLIPS. Had you talked to Abgott before you talked to Cottrell?

Mr. BURR. No, I don't believe I had.

Mr. PHILLIPS. Then how did you know his position before you talked to Cottrell?

Mr. BURR. Mr. Abgott? I didn't know Mr. Abgott's position.

Mr. PHILLIPS. You just told me Mr. Abgott was concerned about this.

Mr. BURR. Mr. Abgott's concern was well-established in the media.

Mr. PHILLIPS. So your only understanding of this good friend of yours, before you met with Cottrell was something you read in the newspapers; is that correct?

Mr. BURR. I think that would be a fair statement. I never talked to Al about it.

Mr. PHILLIPS. You never discussed the dome issue, which was an issue of major importance, with Mr. Abgott, your longtime friend, prior to meeting with Cottrell; is that correct?

Mr. BURR. I don't believe I ever discussed it with Mr. Abgott prior to meeting with Mr. Cottrell, although it is conceivable I could have. But my recollection is my discussions with Mr. Abgott followed my meeting with Mr. Cottrell.

Mr. PHILLIPS. Would you tell me this, Mr. Burr: Why did you say "We can produce him under the right circumstances" if you hadn't discussed it with him?

Mr. BURR. I don't know that I said it, to begin with.

Mr. PHILLIPS. Do you deny you said it?

Mr. BURR. I believe at this point I would deny it.

Mr. PHILLIPS. Deny you said it. The transcript made up by the FBI is a fabrication; is that correct?

Mr. BURR. I am not saying the transcript of the FBI—what I am saying, in essence, yes, I suppose I am saying it is a fabrication, because I don't recall the conversation to begin with.

Mr. WALDIE. We haven't even established the transcript was made by the FBI.

Mr. PHILLIPS. We have. We have been told and it has been delivered to us by the FBI.

Mr. BURR. It would seem to me, if there is such a tape, it should be played and we should hear the tape.

Mr. PHILLIPS. Mr. Burr, we probably could arrange for that if we had the time. But we are trying to get answers from you.

You are denying that you discussed votes at all; is that correct?

Mr. BURR. Yes.

Mr. PHILLIPS. You are denying you ever discussed votes at all?

Mr. BURR. I am denying that I ever said that I could deliver votes or that Jerry Jacobs could deliver votes. That I am denying.

Mr. PHILLIPS. So it is clear to say that when you said, "We can get the votes, I guarantee we will get you the votes if Jerry can go in this deal with you guys," that the transcript is incorrect?

Mr. BURR. I don't recall, to the best of my recollection ever having said that.

Mr. PHILLIPS. There is a difference between "I don't recall" and "I am denying it." For "I don't recall" you can't be prosecuted for perjury. If you deny, in fact, you said it, you can be prosecuted for perjury if the statement is false.

Mr. BURR. I am telling you to the best of my ability, Mr. Phillips, I don't recall I ever have said it. I can't make it any clearer than that.

Mr. PHILLIPS. I am asking you to be more particular. I am asking you to say that you deny that you made the statement at all.

It seems to me, Mr. Burr, that is something that would be in your recollection. You are talking about delivering legislative votes. Is that something you talk about every day?

Mr. BURR. No, sir; I am not talking about delivering legislative votes. I already stated I could not deliver legislative votes. I never made any effort to deliver legislative votes. I know only one legislator. That is Mr. Abgott, and I would tell you, if you would like to hear, how my conversation with Al Abgott originated and who originated it, and under what circumstances, and the county legislature will be more than happy to confirm this.

Mr. PHILLIPS. Mr. Burr, was it your understanding that if Mr. Jacobs did not get involved in this deal, if he was not given the concessions, not given the financial interest, that he was going to support the dome or oppose the dome?

Mr. BURR. I have no understanding one way or the other on it. My only personal thought was that if they needed money and they went to Jerry Jacobs and said, "Can we make the same sort of deal perhaps you made with St. Louis," then the guarantee might, that Jerry might be able to give them or would be willing to give them, might be the same—

Mr. PHILLIPS. Was it your understanding—

Mr. GLICK. Excuse me.

Mr. Chairman, Mr. Phillips isn't permitting the witness to complete his answers.

Chairman PEPPER. Had you finished your answer?

Mr. BURR. No, sir; I was trying to explain, in the back of my mind, when I was discussing this with Mr. Cottrell, because I had stated I was in agreement a dome should be built, I had no knowledge of Jerry's personal preference, to this day, but realizing an arrangement had been made with St. Louis that enabled the construction of Busch Stadium, it was not inconceivable to me a similar arrangement in Buffalo, N.Y., would expedite the building of a dome if Mr. Cottrell would like to pursue it that way.

Mr. PHILLIPS. Is it your testimony you had no prior knowledge Mr. Jacobs wanted to do that, that you did this on your own?

Mr. BURR. I talked with Mr. Cottrell on my own, yes.

Mr. PHILLIPS. That wasn't the question. The question was: Was it your statement you never discussed it previously with Jacobs before you discussed it with Mr. Cottrell?

Mr. BURR. No, sir.

Mr. PHILLIPS. You never knew that Jacobs wanted to get involved in this deal: that is your testimony?

Mr. BURR. No, sir; I never discussed it with Jerry Jacobs. But any man with commonsense, and I like to think perhaps I may have some

remaining—recognizes that Sportservice operates out of Buffalo, N. Y., and if a stadium of one sort or other was likely to be built, it would be reasonable to me that Jerry Jacobs and Sportservice, in their own hometown, would like to participate, or might like to participate especially since they have participated elsewhere.

Chairman PEPPER. Excuse me. Mr. Burr, was it your understanding that Mr. Jacobs made a condition of his helping to build or supporting the building of the dome, his receiving a concession in respect to the dome, for the sale of things that were sold on dome premises?

Mr. BURR. No, Mr. Pepper. I had no such understanding in my own mind. I did not know even if there had been negotiations involving Sportservice and Kenford

Chairman PEPPER. Did the following questions and answers take place in the conversation you have been referring to here:

“Ed”—meaning Mr. Cottrell—“Well, when it came”—this is page 6—“Well, when it came, when it comes down to it, all I know is he is supposed to be for it. And then secondly, in addition to being for it, he was, he wanted a concession contract.”—presumably you all were talking about Mr. Jacobs.

“Well, he could back away from the concession contract. There is no reason then why he shouldn’t be for it.”

And then the next appears, “Chuck”—referring to you, I presume—“Well, if he is not going to gain anything by it, why should he be for it?”

Now, on page 8 appears the following: This is Chuck, purports to be you, speaking to Mr. Cottrell—“But he is not going to help you if you can’t make an agreement on a concession deal. Why should he?”

“Ed: All right. But then, should he hurt it?”

Do you recall those questions and those answers?

Mr. BURR. No, sir; I don’t recall those questions and answers. But it is logical to assume, in my own mind, that if Mr. Cottrell was going to ask Mr. Jacobs for some help and was not prepared to negotiate a concession deal, it seems likely Mr. Jacobs would not want to participate with them. But I don’t recall we ever discussed that at any of the meetings, and I certainly don’t recall that part of the transcript.

Chairman PEPPER. Mr. Winn.

Mr. WINN. I just have two questions here. I am sorry, Mr. Chairman, I didn’t bring it up before.

But one of the previous witnesses from the legislature up there made the statement that they had asked Mr. Ralph Wilson to supply a list of the stockholders of the Buffalo Bills, and that they waited and waited. Were you here when that witness testified?

Mr. BURR. Yes; I was.

Mr. WINN. And we were led, at least I believe the committee was led, to believe that somewhere along the line Mr. Wilson either refused or did not see fit to submit a list of stockholders in the Buffalo Bills.

Did you gather that from the testimony?

Mr. BURR. I gather that from the testimony. I find it hard to believe.

Mr. WINN. You find it hard to believe?

Mr. BURR. Because I believe there are no stockholders with the Buffalo Bills, with the exception of Ralph Wilson.

Mr. WINN. If you believe that, why would Mr. Wilson not more than gallantly come forward and say, "I am the sole owner of the Buffalo Bills"?

Mr. BURR. Sir, I can't answer that. I wasn't there.

Mr. WINN. Then you dispute the thinking of the prior witness; right?

Mr. BURR. That there are other stockholders?

Mr. WINN. No; he didn't say there are other stockholders, I don't believe. He just said when they asked Mr. Wilson for a list of the stockholders, they couldn't get an answer from Mr. Wilson. And I can't understand why Mr. Wilson wouldn't make the statement that "I am the sole owner of the Buffalo Bills," if he really was.

Mr. BURR. From personal knowledge, I don't know he did refuse, only from what I heard of the testimony. I am really not qualified to comment on that.

Mr. WINN. Then you are in disagreement with the statement?

Mr. BURR. No, I am not in disagreement with it. I just don't know.

Mr. WINN. It is a little confusing to those of us up here.

Mr. BURR. I can understand that. If I may, the name of Al Abgott has been brought up many times here today. So there is no doubt in the committee's mind as to what his relationship was with me and is today, he is a good friend, and his relationship to me in relation to the dome stadium—and I do feel I would like to state very briefly—Mr. Abgott called me in his capacity as county legislator and wanted to know what my opinion would be as to the possibility of Jerry Jacobs participating in the construction of a stadium, similarly as Sport-service and L. M. Jacobs had participated in the St. Louis venture, Busch Stadium.

Mr. WINN. Were you on the Emprise payroll at that time?

Mr. BURR. No, sir.

Mr. WINN. Why would he call you, Mr. Burr?

Mr. BURR. I beg your pardon. I think this was when I was back with Emprise, after I had left the hockey club.

Mr. WINN. OK.

Mr. BURR. And he asked me at the time whether it was my opinion, or not, whether I thought Jerry might like to participate. I said I had no knowledge; and he said he was going to bring it up on the floor of the legislature, the possibility of going to Sportservice to get some sort of advance funding arrangement to arrange the start of a stadium.

Possibly, also, the legislature had investigated the Foxboro Stadium, home of the Boston Patriots, at some time, which I believe Schaefer Beer had contributed several million dollars in return for getting its name on the facade of the stadium, Schaefer's Stadium, and he wanted to know whether there was any possibility of similar arrangement or ultimate type of arrangement which would have enabled the county to gain front funds.

I said I did not know, but I thought that Jeremy Jacobs would be very pleased to talk about any possibility to the proper representatives of the legislature.

Al then reported back to the legislature, but to my knowledge nothing ever came of it. I do not know if anybody from the county legislature ever talked to Jerry about it.

Mr. WINN. He instigated the inquiry?

Mr. BURR. Yes; he instigated the inquiry.

Mr. WINN. He didn't know Jerry Jacobs?

Mr. BURR. I really can't confirm that he did not know him. I don't believe he knew Jerry well.

Mr. WINN. What would they call that stadium, "Sportservice Stadium" or "Jerry's Place"?

Mr. BURR. I don't know. The suggestions were never made to me what the possibilities might be.

Mr. PHILLIPS. May I ask when that conversation was, Mr. Burr?

Mr. BURR. Beg pardon?

Mr. PHILLIPS. When was that conversation you just described?

Mr. BURR. I can't recall the exact date, but I think it would be—

Mr. PHILLIPS. Was it before or after your meeting with Cottrell?

Mr. BURR. I think it would have been after.

Mr. PHILLIPS. It would be after?

Mr. WINN. In this transcript, on page 7, it refers to a "Paul." "When Paul was alive," and then they make a statement here, he said—this is Ed—he said, "Jerry was very close friends with Abgott, right?"

And you said, "Yes. So am I."

A few minutes ago you said you didn't know if Abgott knew Jerry Jacobs. And in this transcript you say, "Yes."

Mr. BURR. No, I don't mean to mislead you there. I am sure that Jerry Jacobs and Al Abgott are acquainted, but on a close personal relationship, such as I have enjoyed with Al for years, I do not believe they are acquainted on that basis.

Mr. WINN. OK. I don't know if you are trying to mislead us, but I think you have done a pretty good job.

Mr. WALDIE. Would you yield a moment?

Mr. WINN. I would be glad to.

Mr. WALDIE. On page 8 of the transcript there is other conversation that bears on that question. In the middle of the page there are two empty lines between Chuck and Ed, and Chuck responds, "No, he hasn't. He doesn't know Al Abgott from a bag of beans, personally."

"Ed. You told me he was very good friends."

"CHUCK. No, I didn't say that. I am very good friends with him, Al, all I do is call up Al and ask him for this and that and advice of counsel, not on legislative matters."

Does Al know Max?

Mr. BURR. Mr. Waldie, I honestly can't say whether Al and Max are acquainted at all.

Mr. WALDIE. Do you have any recollection of that conversation?

Mr. BURR. No, sir; I do not.

Mr. WALDIE. Excuse me, Mr. Winn.

Mr. WINN. I think that is a good point, Mr. Waldie. Let me follow with just another line of thinking here.

From the time that you fought the battle of the ratings on your TV show, I gather you feel you enjoyed a very fine reputation, even though your ratings were slipping; right?

Mr. BURR. It wasn't a question of them slipping. It was a question of never having been able to build them. But I think my reputation has been a good reputation throughout my life, yes.

Mr. WINN. How many sports broadcasters were there in competition with you for that rating? On sports alone?

Mr. BURR. In Boston?

Mr. WINN. Yes.

Mr. BURR. On television, three VH stations and two UF. I don't believe the UF carried live. I think it was just the three.

Mr. WINN. So there would be three of you?

Mr. BURR. Right.

Mr. WINN. After you were released from that job—and I don't mean to be personal, but you can answer it if you care to—could you tell the committee what type of a financial status that you were enjoying right after you lost your job?

Mr. BURR. Well, actually, I didn't lose the job: I just lost the show. I was going to be put in the category of a street reporter.

Mr. WINN. Street reporter?

Mr. BURR. Right: it would have cost me some income, but not appreciably. But I just felt it was something that sports was my life and my business and I just didn't feel I could do a competent job as a general street reporter.

Mr. WINN. From there you went to the Dolphins?

Mr. BURR. No, sir. Then I came to Buffalo and worked for the Buffalo Raceway.

Mr. WINN. Then you could have continued to make a living after you lost your TV job, as a street reporter?

Mr. BURR. Yes, sir.

Mr. WINN. At less money?

Mr. BURR. At somewhat less money; yes, sir.

Mr. WINN. But you were faced with the problem of sending a couple of children to college, as I remember your statement.

Mr. BURR. I did mention sending the kids to college, but that came at a later time, when I was with the Sabers.

The problem in Boston was I had lived all of my life in Buffalo and had worked in Buffalo all of my life, until I took the job, regretably, with the Miami Dolphins, as their first general administrative officer, general manager, as that franchise was getting started. I was hired because I had experience with absentee management and had administrative experience with the Buffalo Bills.

That did not work out. In the meantime I had moved my family to Florida and bought a home on the supposition I was going to remain the remainder of my life there in the Miami area.

When the job did not work out, I had not been there long enough to establish the proper credentials, apparently, so I could get employment at the same rate. So I had to look elsewhere. There were no other football jobs available to me down there, so I had to look elsewhere.

Coincidentally, I had hired in Miami a sports announcer from the Boston station to come to Miami to be our sports broadcaster, to broadcast our games. That left the opening in Boston and coincidentally, out of some 300 applicants—I knew there was an opening, I had some familiarity with the Boston area—I applied for the job and got it, through tapes.

And when I flunked the battle of the ratings, I had only been in Boston a short period of time, I did not want to stay in television

because of the uncertainty of the business—in other words, I had a 2-year contract in Boston with a 4-week cancellation clause is what it amounted to, and those are pretty much standard in the industry. I thought it would be best for my family and myself to reestablish our roots in Buffalo where I had grown up, where my family had lived most of its life, and settle down once and for all.

With four kids you can't truck them around the country forever. That is the reason I went back.

Mr. WINN. But you did, during this period of time, suffer some heavy financial expenditures then in moving your family down to Florida and then back up?

Mr. BURR. No, I was reimbursed for moving my family to Florida by the Miami Dolphins. They moved me down there. I had certain expenses still under litigation which I have never been reimbursed for by the Dolphins.

Mr. WINN. I am just wondering in my own mind if a fellow who has enjoyed a good reputation as a sportscaster and as we have heard other people discuss at these hearings, could be used or their reputations and their personalities be used by either the Jacobs, who are your employers, or by other individuals?

Mr. BURR. Are you asking me a hypothetical question: It is possible?

Mr. WINN. I am asking you a hypothetical question, but I am asking it directly of you. Do you think you might be one of those that has been used?

Mr. BURR. No, sir; I don't think so.

Mr. WINN. You don't think so. Then what you are saying is your operations with the Jacobses and acting as a vice president, although not a stockholder, that you are fully cognizant of what is involved in whatever you are doing?

Mr. BURR. Mr. Winn, I have the greatest respect and admiration for Jeremy and Max Jacobs and their whole family. I believe them to be people of unquestionable honesty and impeccable integrity. I feel that during the time I have worked for them they have never once indicated to me anything but what I feel them to be—completely honest.

Mr. WINN. Then you are aware and you still feel this way after the indictment in California. That does not alter that feeling in any way?

Mr. BURR. No, sir; it does not.

Mr. WINN. Would the fact that several States are now in process of holding up licenses that have been applied for or renegotiated licenses where applications have been made by the Jacobses are being held up, that wouldn't alter that opinion?

Mr. BURR. No, sir; it does not.

Mr. WINN. Thank you, Mr. Burr.

Chairman PEPPER. Mr. Radding has some questions.

Mr. RADDING. Briefly, you are the vice president in charge of public relations for Emprise; is that correct?

Mr. BURR. I am sometimes reluctant to state that I am responsible for public relations, in view of what has happened lately.

Mr. RADDING. We are going to go into some of the other aspects of your PR work tomorrow—I don't want to tax your memory—but about 5 weeks ago when these hearings began, did you employ an individual named James Butaka on your PR staff?

Mr. BURR. Yes, sir. I employed Mr. Bukata through Haskell Cohen.

Mr. RADDING. Did you request or ask Mr. Bukata to pass himself off as a member of the press at the hearings held in this room, and to sit at the press table and give out supposed information to other reporters in this room?

Mr. BURR. No, sir; I did not.

Mr. RADDING. Did he do that of his own volition?

Mr. BURR. Apparently he did, yes.

Mr. RADDING. He did. Now, is he still in your employ?

Mr. BURR. No, sir.

Mr. RADDING. Thank you.

Mr. PHILLIPS. Would you elaborate on that? You said you hired this man, he came here and identified himself to me as an investigator on behalf of Emprise. He later identified himself to Mr. Radding and Congressman Steiger as being a newspaper reporter, and he was here in this office, sitting at the newspaper desk, and doing things of that nature. How did he come to be here?

Mr. BURR. All right. Mr. Bukata is an employee of Publicity Enterprises of New York, which is operated by Haskell Cohen. When these hearings started, my responsibilities included coming down to Washington, and in the event it became necessary, to become introduced to members of the press, in case they wanted to talk to me or had questions they wanted to ask of me, as representative of Emprise Corp., or any of our people who may have been testifying. Although I know a lot of newspaper men around the country, I didn't know a soul from Washington, because when I was in the football business, they were in the other league, the name of which escapes me.

So I called Mr. Cohen to see whether or not he could come himself and introduce me to the members of the press. He said he couldn't but he would supply me with Jim Bukata, one of his associates, said Jim is familiar with the Washington scene. I said OK, send him down.

The only instructions I gave him, "Anybody you know, please introduce me to them," and he followed that faithfully. I did not realize that he was being more aggressive in pursuit of those duties than he was supposed to be.

Mr. PHILLIPS. Was he an investigator?

Mr. BURR. No, sir; he was not an investigator.

Mr. PHILLIPS. He lied to me.

Mr. BURR. If he told you he was an investigator, either there was a misunderstanding or an untruth.

Mr. PHILLIPS. He also lied when he said he was a newspaper man, when he told that to Mr. Steiger and Mr. Radding.

Mr. BURR. If he said that, he said it without authority, and obviously he was telling an untruth.

Mr. PHILLIPS. I don't know if you know it, Mr. Burr, but in Arizona the racing interests there hired an investigator, paid him a lot of money, and he did some untoward things. Some of this money was paid out of funds that were Emprise funds, or Emprise Corp., or at least in which they owned half interest. Now we have another purported investigator presenting himself here who is lying and misrepresenting himself. Is this a continuing type of conduct?

Mr. BURR. No, sir. And I sincerely apologize to the committee as a whole and to the individual members who may have been embarrassed.

by Mr. Bukata's enthusiasm for his job. He was down for one reason only, to introduce me to the members of the press. He had no licensing beyond that, to identify himself as anything, except as being a member temporarily, as a matter of fact, of the Emprise public relations staff.

Chairman PEPPER. Did you pay him, Mr. Burr?

Mr. BURR. I haven't paid him as yet, but I am expecting a bill momentarily from Haskell Cohen. Not from him directly. I haven't paid him and don't intend to. I will deal with Mr. Cohen.

Mr. WINN. Along that same line, having been in PR businesses all of these years. Mr. Burr, don't you know that any time, most any place, someone, particularly in this hearing, from Emprise could call a press conference if you wanted to talk to the press?

Mr. BURR. Yes.

Mr. WINN. You said his main mission was to get you acquainted with and introduce you to the press?

Mr. BURR. Right. In the event any member of the press wished to speak to a representative of Emprise Corp., then they would know who I was. And in the event we felt there was anything we should speak to the press about, then I would know to whom I was talking and under what circumstances.

Mr. WINN. Well, I would say if you wanted to make yourself available to the press, you could have called a press conference; and I think, being a vice president of Emprise, you would have had a pretty good crowd there.

Mr. BURR. I suspect so, but basically we really had no intention of calling press conferences. If targets of opportunity were to come up, we just wanted to be present. And believe me, gentlemen, Mr. Bukata's only function was, as I have stated, to introduce me to the press and to be generally helpful, sort of a leg man. I did ask him, too, to find out when and how quickly we could get transcripts of the testimony.

Mr. WINN. You wouldn't want to call this organized crime's infiltration of the press, then, would you?

Mr. BURR. Sir, Mr. Winn, you said that now, I didn't.

Chairman PEPPER. Thank you very much, Mr. Burr.

Mr. BURR. Thank you. Am I excused?

Chairman PEPPER. We will adjourn the meeting until 10 o'clock tomorrow morning.

Mr. GLICK. Is the witness excused, sir?

Chairman PEPPER. Mr. Steiger requests that you return tomorrow for possible further questioning. We will consider that in the morning. We adjourn until 10 o'clock in the morning.

(Thereupon, at 6 p.m., the hearing was adjourned, to reconvene tomorrow, Wednesday, June 14, 1972, at 10 a.m.)

ORGANIZED CRIME IN SPORTS

(RACING)

WEDNESDAY, JUNE 14, 1972

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON CRIME,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 p.m., in room 345, Cannon House Office Building, Hon. Claude Pepper (chairman) presiding.

Present: Representatives Pepper, Waldie, Mann, Murphy, Wiggins, Steiger, Winn, and Keating.

Also present: Joseph A. Phillips, chief counsel; Michael W. Blommer, associate chief counsel; and Andrew Radding, assistant counsel.

Mr. WALDIE (presiding). The committee will please come to order. Our first witness today will be Mr. J. Lloyd Walker, a Buffalo consulting engineer.

Mr. Walker, will you come forward, please.

STATEMENT OF J. LLOYD WALKER, ENGINEER, BUFFALO, N.Y.

(Having been duly sworn by Mr. Waldie)

Mr. WALDIE. Counsel, proceed.

Mr. PHILLIPS. Mr. Walker, could you tell us what your occupation is, and has been for the last few years?

Mr. WALKER. Yes. I am a consulting engineer, registered to provide professional engineering in the State of New York.

Mr. PHILLIPS. Did there come a time when you became interested in the dome stadium project in Buffalo, N.Y.?

Mr. WALKER. Yes.

Mr. PHILLIPS. Could you tell us about your involvement with that?

Mr. WALKER. Well, I was a member, full partner, of the firm of Turley, Stievater, Walker, Mauri & Associates, and we combined with two Houston architectural firms in soliciting the commission for designing the dome stadium in Erie County.

Mr. PHILLIPS. Did there come a time when you started work on that particular project?

Mr. WALKER. Yes, sir.

Mr. PHILLIPS. Did there also come a time when you met persons by the names of Pordum and Ludera?

Mr. WALKER. Yes.

Mr. PHILLIPS. Who were they?

Mr. WALKER. Fred Pordum and Frank Ludera were Erie County legislators.

Mr. PHILLIPS. Did they have something to do with the dome stadium?

Mr. WALKER. Well, they were naturally bona fide legislators and voted on all aspects of the stadium.

Mr. PHILLIPS. In other words, Mr. Pordum and Mr. Ludera were voting on the appropriations for the stadium—

Mr. WALKER. Yes, sir.

Mr. PHILLIPS (continuing). Bond issue, the lease, and various other aspects of the stadium project which came before the legislature; is that correct?

Mr. WALKER. Yes, sir.

Mr. PHILLIPS. Then, too, their vote had some influence in relation to this project; is that correct?

Mr. WALKER. Yes.

Mr. PHILLIPS. What was your business with them?

Mr. WALKER. Well, my business was to actually—in the design of the dome stadium—to associate with all of the legislators, and I associated with Pordum and Ludera.

Mr. PHILLIPS. Was your job to try to lobby this matter through the legislature?

Mr. WALKER. Well, you could call it that. I really was a member of the architectural and engineering team soliciting the design and we received the commission and naturally, I did lobbying of some sort. I was assigned as public relations man, and any news releases or any comments that came out of the legislature, I was responsible for.

Mr. PHILLIPS. Did there come a time when Mr. Ludera and Mr. Pordum discussed money with you; money for them?

Mr. WALKER. Yes, sir.

Mr. PHILLIPS. Would you tell us how that came about?

Mr. WALKER. Well, after one of the legislature meetings, at a time when more money had to be appropriated for the commencement of the working drawings, we had already had money appropriated for schematic designs and so forth, the usual protocol of architectural engineering work.

And then it came time to vote for an additional \$900,000 to progress the working drawings.

Mr. PHILLIPS. In other words, the legislature was going to vote an additional appropriation of \$900,000?

Mr. WALKER. Additional appropriations; yes, sir.

Mr. PHILLIPS. The \$900,000 was going to go to whom?

Mr. WALKER. Would go to our joint firms, our joint venture firms.

Mr. PHILLIPS. The firms who were doing the architectural-engineering work?

Mr. WALKER. Yes, sir.

Mr. PHILLIPS. They would receive this as fees for their particular work at that time, is that correct?

Mr. WALKER. That is right.

Mr. PHILLIPS. What did Mr. Ludera and Mr. Pordum have to say about these fees?

Mr. WALKER. Well, after one of the legislature meetings, where the additional fees were turned down, Mr. Pordum and Mr. Ludera invited me to the Statler Hilton Hotel in Buffalo, to the Beef and

Baron Room, and put the finger on me for some kind of an appropriation or donation, whatever you may call it, so that they could muster enough votes to pass the additional \$900,000.

We had considerable money invested in the design of the stadium and, as a matter of fact, we had overspent. It was an expensive job, we had professionals working throughout the country on the design of the stadium, and at that point in time, had they not voted for the additional \$900,000, we would have had to stop work entirely, stop all of the wheels from turning, and abandon the project until they did vote the \$900,000.

Mr. PHILLIPS. You mention the prior vote, of voting down the \$900,000. How did Mr. Pordum and Mr. Ludera vote on that?

Mr. WALKER. Yes; they claimed that they could not hold it up indefinitely, the appropriation of the \$900,000, if I didn't cooperate with them in money matters.

Mr. PHILLIPS. In fact, they put the arm on you, is that correct?

Mr. WALKER. What?

Mr. PHILLIPS. As they say in some underworld circles, "they put the arm on you."

Mr. WALKER. Yes.

Mr. PHILLIPS. They threatened you if you didn't come up with the money they wanted, you wouldn't get this \$900,000 appropriation. Is that correct?

Mr. WALKER. That is right.

Mr. PHILLIPS. And they weren't interested in the merits of the situation, they just wanted the money?

Mr. WALKER. Yes.

Mr. PHILLIPS. How much money did they ask for?

Mr. WALKER. That was a rather confusing item. Mr. Pordum came to my office on a weekend when no one else was there, and he and I more or less concurred on a \$10,000 gift to progress the voting for the additional \$900,000. And we left it on that note.

Then just prior to the legislative meeting, when they were going to vote on the \$900,000, even the prostadium people did not think they had enough votes to put through the \$900,000. So I had breakfast again at the Statler Hilton with Mr. Pordum, and he advised me that it was not just \$10,000, it was \$10,000 apiece for he and Frank Ludera.

Mr. PHILLIPS. Excuse me for interrupting you, Mr. Walker. But prior to that time, did they state to you they had other people in the legislature who were cooperating with them in this matter?

Mr. WALKER. Never.

Mr. PHILLIPS. They never said that, it was just the two of them?

Mr. WALKER. Just the two of them.

Mr. PHILLIPS. And you say they wanted \$10,000 apiece at this stage?

Mr. WALKER. Yes.

Mr. PHILLIPS. What happened thereafter?

Mr. WALKER. Well, I agreed to pay them the \$20,000, based upon a deal where I would pay them \$32,000 after they had voted for the \$900,000, and awarded 25 percent of the contract for the construction of the stadium. Then I was to pay them the other \$8,000, I believe when the entire stadium went ahead.

Mr. PHILLIPS. It came, then, to \$40,000?

Mr. WALKER. They came at me for \$40,000; yes.

Mr. PHILLIPS. In other words, it was the \$10,000 each originally, and as the step progressed, they decided they wanted \$40,000 in total to be given to them at various times during the project; is that correct?

Mr. WALKER. Yes.

Mr. PHILLIPS. Did you, in fact, give them any money?

Mr. WALKER. I did not at that time; no.

Mr. PHILLIPS. After the vote, did you give them money?

Mr. WALKER. Well, after the vote I told them that there was no way that I could get money out of three architectural firms without cosignatures. I couldn't do it on my own. They would have to wait for it and take it piecemeal.

Mr. PHILLIPS. What did they say to that?

Mr. WALKER. They said that was all right. But Mr. Pordum seemed to be the ringleader and dunned me continually for additional payments.

Mr. PHILLIPS. Did you in fact make payments?

Mr. WALKER. Yes; I did.

Mr. PHILLIPS. Can you tell us the total amount of the payments you made?

Mr. WALKER. The total amount, divided between the three firms that were involved in the stadium commission, I paid them was \$32,000.

Mr. PHILLIPS. You paid them \$32,000. Some of that money was given to Pordum and some to Ludera?

Mr. WALKER. Yes; I would deal with either one or the other, and they would transmit it to—they would split it up their own way.

Mr. PHILLIPS. Did you pay them the money in cash or by check?

Mr. WALKER. In cash.

Mr. PHILLIPS. Did there come a time, during these discussions with Pordum and Ludera, that you went to Texas?

Mr. WALKER. Yes; it was.

Mr. PHILLIPS. What caused you to go to Texas?

Mr. WALKER. Well, it was approximately the middle of July of 1970, and I was requested by Mr. Pordum or Ludera, that due to my connections with Mr. Hofheinz in Houston, Tex., that I arrange a meeting for them to be heard in Texas. It appears that the deal between Kenford Corp. and the Hofheinz interests in Texas, that two-thirds of the stadium arrangements would be handled by the Hofheinz interests and one-third by the Kenford interests.

They felt that they could possibly make a better lease deal with the Texas people being two-thirds owner. They said the project just couldn't go through at lease arrangements that were then being proposed by Kenford Corp.

Mr. PHILLIPS. This fellow Hofheinz you are talking about is he the one who built the dome stadium in Houston?

Mr. WALKER. The Houston Astrodome was built by Harris County, Tex., and Mr. Hofheinz received the award to operate the stadium.

Mr. PHILLIPS. While in Texas, did there come a time when you, Pordum, and Ludera had some discussion about the moneys that were due and owing to them in relation to the voting proposition?

Mr. WALKER. Yes, sir. We arranged the meeting in Texas and we met with Jack O'Connell and Fred Hofheinz, because at that time Mr. Roy Hofheinz had had a rather severe stroke, and an auditor, and a lawyer, I don't recall the names, and explained our case.

They said they would get back to us, or to Pordum and Ludera. We were waiting in the Astro World Hotel, in a suite, and Mr. Pordum had just received word from the Astrodome, either Jack O'Connell or Fred Hofheinz, that they didn't care to negotiate lease terms any further.

Mr. PHILLIPS. In other words, Pordum and Ludera were advised by the Texas interests that the Texas interests did not want to negotiate this lease any further?

Mr. WALKER. No; that Pordum and Ludera should go back to Buffalo and negotiate with the Kenford Corp.

At that time one particular incident took place where Mr. Pordum was stomping up and down in the sitting room of the suite, and said, "I don't know why I am bothering with you people or the Texas people, when I could get \$250,000 from Sportservice."

Mr. PHILLIPS. In other words, Mr. Pordum told you that all of this aggravation he was getting from the Kenford people, from you, and the Texas people, was really unnecessary because he could have gotten \$250,000 from Sportservice?

Mr. WALKER. That is right.

Mr. PHILLIPS. He said that to you while in Texas?

Mr. WALKER. He said that to me in Texas at the Astro World Hotel.

Mr. PHILLIPS. Did you ask him any further about what he meant by this payment of \$250,000?

Mr. WALKER. No. He clammed up immediately after he had made the statement.

Mr. PHILLIPS. He said that. He blurted it out in anger, I take it?

Mr. WALKER. He referred to what, please?

Mr. PHILLIPS. He seemed to blurt this statement out because he was annoyed you hadn't gone along with him?

Mr. WALKER. We had gone along with him, but Texas was not willing to discuss any lease terms in upping the annual rent and conditions for the lease of the stadium.

Mr. PHILLIPS. Now, subsequent to this matter, an investigation was conducted by the Federal Bureau of Investigation; is that correct?

Mr. WALKER. Yes; that was a very peculiar setup of circumstances. I first met the FBI in Victor Fuzak's office, the law firm who was representing Edward Cottrell. That seemed rather peculiar to me, that I should be interviewed by the FBI in a neutral office, rather than in their own.

Mr. PHILLIPS. In any event, at some stage you did cooperate with the FBI; is that correct?

Mr. WALKER. I did all of the way.

Mr. PHILLIPS. And you received immunity, I believe?

Mr. WALKER. Yes.

Mr. PHILLIPS. You testified against Mr. Pordum and Mr. Ludera at their trial in Buffalo?

Mr. WALKER. Yes, sir.

Mr. PHILLIPS. What happened to Mr. Pordum and Mr. Ludera, as a result of your testimony?

Mr. WALKER. They were convicted of soliciting bribes, not actually receiving them, but they were convicted by a Federal judge and sentenced to a 3-year term in Federal prison.

Mr. PHILLIPS. Do you know whether they have started their prison term at this stage?

Mr. WALKER. Yes, they have.

Mr. PHILLIPS. I have no other questions, Mr. Chairman.

Mr. WALDIE. Mr. Walker, are you a licensed architect?

Mr. WALKER. No, I am a licensed engineer. Our firm was classified as architects, engineers, and associates.

Mr. WALDIE. After participating, as you have literally done so, in a felony, offering a bribe to a legislator, has your license been sought to be revoked?

Mr. WALKER. No, sir. I did not offer the bribe.

Mr. WALDIE. You paid them a bribe, did you not?

Mr. WALKER. Yes, I did.

Mr. WALDIE. You committed a crime, did you not?

Mr. WALKER. I did.

Mr. WALDIE. Has any action been taken against your license by the State that has licensed you?

Mr. WALKER. No, sir.

Mr. WALDIE. Is a person who commits a felony permitted to be licensed in your State?

Mr. WALKER. Apparently, under the circumstances, the State University of New York has seen fit to take no action.

Mr. WALDIE. Do you know if a person who commits a felony is permitted to be licensed in the State of New York?

Mr. WALKER. I don't really know that.

Mr. PHILLIPS. Mr. Chairman, from my own experience, some people are and some people are not. It depends on the licensing agency, the facts, and circumstances in each case.

Mr. WALDIE. The facts and circumstances of this case are that the man has stood before this committee and confessed that he has committed a bribe, and that he offered money, he gave money to legislators, and solicited for a bribe, and that is a felony, as I understand the law.

The fact you were given immunity so you would testify against them does not in any way prevent that crime from being a felony.

Mr. WALKER. Well, I understood from the Federal court, or the Federal grand jury, that I was named as a coconspirator. Now, I was not named as a felon, or any other criminal——

Mr. WALDIE. You understand conspiracy is a felony, don't you?

Mr. WALKER. Well, I guess I should.

Mr. WALDIE. Let me ask you about the three architectural firms that were involved in this payoff to these legislators. How did you get the cash from your participating architectural firms that you delivered to the two legislators? Did you tell them for what purpose it was to be used?

Mr. WALKER. Yes, sir.

Mr. WALDIE. And they knew you were participating in a bribe?

Mr. WALKER. They did.

Mr. WALDIE. And were they named as coconspirators?

Mr. WALKER. That escapes my memory.

Mr. WALDIE. Why don't you, for this committee's records, give me the names of those three architectural firms that committed this felony?

Mr. WALKER. Yes. It was Wilson, Morris, Crane & Anderson, Architects.

Mr. WALDIE. Where do they practice?

Mr. WALKER. In Houston, Tex.

Mr. WALDIE. And who else?

Mr. WALKER. And Lloyd, Morgan & Jones, I believe. Morgan has passed away—it is probably Lloyd & Jones.

Mr. WALDIE. Where do they practice?

Mr. WALKER. In Houston, Tex.

Mr. WALDIE. Who else?

Mr. WALKER. That is all. And Turley, Stievater, Walker, Mauri & Associates Architects-Engineers.

Mr. WALDIE. Did your partners know you were participating in this bribe?

Mr. WALKER. Yes, they did.

Mr. WALDIE. And all of the partners in the three firms you mentioned knew the bribe was being offered these legislators?

Mr. WALKER. Well, my dealings were direct with Ralph Anderson, a member of the firm of Wilson, Morris, Crane & Anderson.

Mr. WALDIE. He knew fully, did he not?

Mr. WALKER. He knew fully and I explained it to him and I said, "Get the concurrence of your associates and we will go ahead. If you don't care to do it, we will toss the whole thing over."

Mr. WALDIE. And they cared to do it?

Mr. WALKER. Yes.

Mr. WALDIE. And the other firm, you made similar representations to them; they understood what they were doing?

Mr. WALKER. Yes.

Mr. WALDIE. Were they named as coconspirators?

Mr. WALKER. Well, I probably was remiss in not noting the newspaper articles or the outcome of the trials, but I was named as co-conspirator, I know that.

Mr. WALDIE. That is all you know at this point?

Mr. WALKER. Yes.

Mr. WALDIE. We asked that those documents be filed with this committee and I presume counsel has commenced efforts to do that.

If they were not named, I, for one, will be asking why they were not named.

(The documents referred to were retained in the committee files.)

Mr. WALKER. May I go a little further?

Mr. WALDIE. Yes, please do.

Mr. WALKER. The morning that I met Mr. Pordum in the Statler and agreed to the final amount, the pro stadium people who wanted to vote for the \$900,000 did not know that they had sufficient votes up to the time that Pordum walked over to the legislature that morning and then I followed him and at that point, Mr. Wolf said, "We have enough votes, go to my secretary and dictate a resolution so that we can appropriate the \$900,000."

So that proved that Pordum and Ludera had enough sway over the Democratic aisle to muster the necessary votes.

Mr. WALDIE. You mentioned that they were negotiating with Texas people—and I didn't get their names—for a lease on the dome stadium?

Mr. WALKER. Yes. They were negotiating with the—I will call it the Hofheinz interests.

Mr. WALDIE. How much were the Hofheinzes offering for that lease?

Mr. WALKER. They were very noncommittal.

Mr. WALDIE. What was the figure that was under negotiation?

Mr. WALKER. I believe the figure was somewhere in the neighborhood of \$750,000 a year rental on a lease option with several other things mixed in with it, minor items, such as repairs.

Mr. WALDIE. What was your understanding of Pordum's comment about Sportservice? What did the \$250,000 have reference to?

Mr. WALKER. It had reference, in my mind, that he could have scuttled the stadium entirely with his vote if he received the \$250,000.

Mr. WALDIE. Is that what he said?

Mr. WALKER. No.

Mr. WALDIE. You know the gentleman better than anyone in this room, you have had confidence in him and you entered into a bribery experience with him. Is Mr. Pordum the sort of a fellow you can believe?

Mr. WALKER. No, sir; because I had gone ahead and paid them the full \$32,000 and then at 4:30 in the morning legislature meeting, he picked the Kenford Corp. lease apart, item by item. I thought it was a very weak criticism of the lease.

Mr. WALDIE. What you are saying is he is an untrustworthy person?

Mr. WALKER. Yes. Well, the town, his constituents, represent Lackawanna, N.Y.—

Mr. WALDIE. But it is also fair to say he is a very greedy person, isn't it?

Mr. WALKER. Yes.

Mr. WALDIE. And if he could have gotten \$250,000 rather than \$32,000, why do you suppose he didn't take it?

Mr. WALKER. Well, I don't really know.

Mr. WALDIE. Mr. Winn, I think you are next.

Mr. WINN. I have no questions, Mr. Waldie.

Mr. WALDIE. Mr. Steiger.

Mr. STEIGER. Thank you, Mr. Waldie. I just have a few questions. I am interested in Mr. Waldie's line of questioning, also, Mr. Walker. How long have you done business in Buffalo?

Mr. WALKER. Thirty-three years.

Mr. STEIGER. Would it be a fair assessment to say that what was asked of you was not unusual in doing business in Buffalo; that the bribe solicitation was a relatively normal matter?

Mr. WALKER. Well, it was on very, very few occasions, and I always declined the offers. I have led an exemplary—

Mr. STEIGER. Excuse me. What you are saying is that it had happened before, but you had always rejected it.

Mr. WALKER. Right.

Mr. STEIGER. Well, again, I don't mean only in dealing with the legislature, I mean in dealing with the city government, with licensing officials.

Mr. WALKER. Yes, sir.

Mr. STEIGER. Is it normal to be asked for such things as campaign contributions, whatever clearly a quid pro quo for doing whatever it is, whatever kind of business you are doing with government in and around Buffalo and Erie County? In your 33 years, would you say the climate was such as not to make startling the Pordum-Ludera situation?

Mr. WALKER. Yes, sir. It was a natural course of action to support the party of your choice. And I made numerous donations to the Republican Party in Erie County for no promise of any return whatsoever.

Mr. STEIGER. I am not talking about that, if you really believe you weren't going to get any support. And I don't presume for a minute that the bribery is limited to one party or the other. I am asking if in the past, if you, or you know of any other business associates in Buffalo who, as a normal cost of doing business were expected to grant, to give politicians either money or some kind of favor, in order to achieve a contract or a license?

Mr. WALKER. Yes, sir. Without mentioning the entities, there were a number of school boards—it was a known fact—wanted reimbursement for granting of a contract.

Mr. STEIGER. That is the kind of thing I am talking about: Kickbacks on contracts and those kind of things.

Mr. WALKER. Yes.

Mr. STEIGER. So it was a fairly normal situation. When I say normal, I mean it was at least known in the business community; it that a fair statement?

Mr. WALKER. Yes.

Mr. STEIGER. The business community was aware of it?

Mr. WALKER. Yes, sir.

Mr. STEIGER. Was there any reference to it in the media of Buffalo, either the press, radio, or TV?

Mr. WALKER. No, this was all undercover.

Mr. STEIGER. In other words, it was concealed from the press, but known to the business community: is that correct?

Mr. WALKER. I would say yes. Generally it was known. There were certain people who participated continually on this type of a deal.

I turned down a \$2 million commission because they wanted a \$100,000 kickback.

Mr. STEIGER. This was a government agency that wanted a kickback, or somebody in a government agency?

Mr. WALKER. Yes, sir. If you call a school board.

Mr. STEIGER. Was this elected?

Mr. WALKER. Yes, elected school board.

Mr. STEIGER. A school board situation. Will you tell us what period of time you are talking about?

Mr. WALKER. I am talking about a period of time that—

Mr. STEIGER. On the \$2 million situation.

Mr. WALKER. Oh. That period of time was approximately 3 or 4 years ago.

Mr. STEIGER. And is there a unified school board in the Buffalo area. Are there school boards that represent many—

Mr. WALKER. These were school districts.

Mr. STEIGER. Do you recall which school board it was?

Mr. WALKER. Well, I do—

Mr. STEIGER. Would you care to share the knowledge with the committee?

Mr. WALKER. Well, I think that is rather an unfair question, inasmuch as there were so few district schools that I dealt with, that asked for that compensation.

Mr. STEIGER. Off the record for a minute.

(Discussion off the record.)

Mr. STEIGER. I would ask you then, Mr. Walker, who asked for the kickback and when did that occur?

Mr. WALKER. I can't tell you exactly when, but was——

Mr. STEIGER. Approximately will suffice.

Mr. WALKER. Approximately 2 or 3 years ago, 3 or 4, where I was invited by the school attorney to——

Mr. STEIGER. Who was the school attorney?

Mr. WALKER. I can't recall, but he said that I could have the commission for a \$2 million school if I made arrangements for a kickback. And the nature of the kickback was not that I would pay him cash, as such, but what we would do would be to leave out the flooring in a corridor and they would take bids separately later on and they would deal with the subcontractors. It did not exactly involve me. They said I would not be a bagman or a moneyman.

I wouldn't be involved in it at all. It was just leaving out necessary items in the school, and they would rebid those items separately and then go after the subcontractor for excessive bids and they would take the excess in the bid.

Mr. STEIGER. Let me understand this, Mr. Walker. What you were going to do in order to get the money was to leave the amount of the bid the same as if you had put the flooring in, or whatever it was you were going to leave out. This would leave a surplus in the construction costs which they were then going to rebid and they would pocket the surplus?

Mr. WALKER. Yes. I would not include it in my original bid, in my original plans, specifications, or otherwise. I would leave it out entirely, or put some substandard material in that would have to be rebid.

Mr. STEIGER. All right. Now, so it was the attorney who conveyed the board's wishes, or at least represented he was conveying the school board's wishes?

Mr. WALKER. Yes.

Mr. STEIGER. Let's try your memory again. Where did you meet with him? Was it in his office, at a restaurant, or in your office?

Mr. WALKER. At a restaurant.

Mr. STEIGER. Do you remember the name of the restaurant?

Mr. WALKER. Yes.

Mr. STEIGER. What was the name?

Mr. WALKER. Downtowner restaurant in Buffalo.

Mr. STEIGER. The Downtowner restaurant?

Mr. WALKER. Yes, sir.

Mr. STEIGER. All right. Now, is the attorney still practicing law? Do you still see him in Buffalo?

Mr. WALKER. Yes, sir. His name was Mr. Persons.

Mr. STEIGER. His name was Persons.

Mr. WALKER. Right.

Mr. STEIGER. Do you know what firm he was with?

Mr. WALKER. He was practicing on his own, representing the school board in bonding and acquisition of land, and things of that sort.

Mr. STEIGER. Which school board did he represent, Mr. Walker?

Mr. WALKER. Well, I say it with reticence because it was the Depew, N.Y., School Board.

Mr. STEIGER. Depew?

Mr. WALKER. Depew.

Mr. STEIGER. Did it ever occur to you, Mr. Walker, that even though you were not going to be identified as a bagman, that his suggestion was at best improper and obviously illegal?

Mr. WALKER. Yes. I explained that to him, said I would like the fresh air and sunshine more than behind the bars.

Mr. STEIGER. Did you consider reporting the matter to any of the Buffalo authorities?

Mr. WALKER. No, I did not. This conference was in confidence and I did not report it.

Mr. STEIGER. Did you not report it because you felt it would not do any good, or because it would jeopardize any future contracts you might have with this agency; or did you feel it was such a normal situation in Erie County and in Buffalo that there was no use in pursuing it?

Mr. WALKER. My exact thought at the time the offer was made was that it would blackball me from dealing with any of the other school boards that might be entertaining the same thought.

Mr. STEIGER. Mr. Walker, was the contract subsequently let, to your knowledge?

Mr. WALKER. Yes.

Mr. STEIGER. What firm was the successful bidder on the contract?

Mr. WALKER. You are asking some awfully pertinent questions and I am putting some men on the spot. And really, I believe that is beyond the scope of this testimony.

Mr. WALDIE. It isn't beyond the scope of the testimony and you answer the question, Mr. Walker.

Mr. WALKER. All right. Thank you, sir.

To the best of my recollection, Donald W. Love, architect, took the contract.

Mr. STEIGER. I am sorry. I didn't hear the name of the firm.

Mr. WALKER. Donald W. Love.

Mr. STEIGER. Do you know if Mr. Love complied with Mr. Persons' request as far as reimbursement to the school board and Mr. Persons'?

Mr. WALKER. I know of nothing further that happened.

Mr. STEIGER. Can you recall any other occasion in your doing business in Buffalo and Erie County that you encountered this kind of a situation?

Mr. WALKER. No, I don't. But the inferences were there.

Mr. STEIGER. You felt there were times, if you had seemed receptive, a specific offer might have been made; is that correct?

Mr. WALKER. Yes.

Mr. STEIGER. I have had the same feeling. I know what you mean.

I am going to briefly recite from the trial record of the *United States of America v. Pordum and Ludera*, where you testified.

Mr. WALDIE. While you are doing that, would you read codefendents into the record? Who are the list of codefendants in that case?

Mr. STEIGER. The entire list of defendants are Frederick Pordum and Frank Ludera.

Mr. WALDIE. No architectural firms mentioned?

Mr. STEIGER. No firms, no engineering firms nor attorneys.

Mr. WALDIE. All right.

Mr. STEIGER. On page 60—in order to refresh your memory, Mr. Walker, you apparently are reciting one of the instances in which there was an exchange of money that occurred in the Beef & Baron room. I will now recite the testimony.

The direct examination was by a Mr. Richards. I will now read the testimony commencing on page 60:

Question. Mr. Walker, where did you meet them?

Answer. I met them in front of the Beef & Baron room.

Question. What happened? Who said what, what happened?

Answer. What happened was I first went to the newsstand and bought a newspaper and put the package of money in the newspaper and then proceeded to the entrance of the Beef & Baron room.

Question. And who did you see there?

Answer. I met Mr. Pordum and Ludera, and myself.

Question. And what did you do?

Answer. We, I, passed the money to Mr. Ludera in his briefcase.

Question. How did you do that?

Answer. This is to the best of my recollection.

Question. How did you do that?

Answer. We just—there was another gentleman present—and a buffer was set up and the briefcase was opened. I slipped the money in it.

Question. Did you anybody say anything during all of this?

Answer. Very little. Small talk.

Question. How much money did you have with you at the time?

Then the judge interrupted you: "Just a moment. What was said, a buffer?"

And you responded, "There was another gentleman present."

The judge asked, "Who was that?" And you responded, "It was a Mr. Charles, I forget his last name now, possibly—" And the judge interrupted and said, "Do you say Pordum and Ludera were there?"

And you responded, "Yes." And the judge asked again, "In front of the Beef & Baron Room?"

You said, "Yes."

The judge asked: "Another man was there?" You said, "Yes."

The judge said: "Physically, something happened, apparently. What did happen?"

You said, "The money was passed to Mr. ——— in Mr. Ludera's briefcase while Mr. Pordum engaged the other gentleman in conversation, so that the other gentleman was unable to see the money passed."

"The Court: Was this brief—" Mr. Mahoney then interrupted, "May I have that stricken out if that is a conclusion on his part?"

Mr. STEIGER. Mr. Walker, that is the only reference to the gentleman's whose name you forgot. His name was Charles. Do you recall now what his last name was?

Mr. WALKER. He has an office in the Statler Hilton Hotel. He was a former research man for the Federal Government, and now he is in private research, I believe.

Mr. STEIGER. Private research?

Mr. WALKER. Yes. I don't know of what nature.

Mr. STEIGER. Is he a private detective, that sort of thing?

Mr. WALKER. Not really, no.

Mr. STEIGER. But he had an office in the Statler Hilton?

Mr. WALKER. Yes.

Mr. STEIGER. He works for himself? He doesn't work for anybody else?

Mr. WALKER. No. To the best of my knowledge.

Mr. STEIGER. Did you ask him to come in to act as a buffer?

Mr. WALKER. I did not.

Mr. STEIGER. Did Mr. Pordum or Mr. Ludera ask him to come in there?

Mr. WALKER. No, sir. He was a man that seemed to almost have a line, because he was present at two or three other meetings I had with Pordum and Ludera. And this was just by accident, apparently, because the FBI checked him out.

Mr. STEIGER. The FBI did check him out. Did he know what was happening?

Mr. WALKER. No.

Mr. STEIGER. He didn't know what was happening while he was acting as a buffer?

Mr. WALKER. No.

Mr. STEIGER. Not a very good private researcher, was he?

Mr. WALKER. I would say not.

Mr. STEIGER. I have no further questions, Mr. Chairman.

Mr. WALDIE. Mr. Winn, did you have anything further?

Mr. WINN. I didn't have any before, but some questions have come up now.

I would like to get back to the lawyer, to the attorney for the school board. His name was Persons?

Mr. WALKER. Yes, sir.

Mr. WINN. Could you give us the name of his law firm again, please?

Mr. WALKER. As far as I know, he was in private practice.

Mr. WINN. Was he a member of the New York Bar Association?

Mr. WALKER. He must have been.

Mr. WINN. I am sorry, I didn't hear you.

Mr. WALKER. He was.

Mr. WINN. Is he a member of the Erie County Bar Association?

Mr. WALKER. I could not tell you.

Mr. WINN. Do you think that he was?

Mr. WALKER. I would think he would be.

Mr. WINN. Do you know of any charges that have been made against Mr. Persons for this kind of action, in supposedly representing the school board?

Mr. WALKER. No, sir.

Mr. WINN. And you didn't feel that it was your duty in any way to blow the whistle on this man. This was done in confidence?

Mr. WALKER. No, I didn't feel it was necessary.

Mr. WINN. And you don't think that the parts that you would leave out of your specifications so they could be rebid would cost additional taxpayer money to the people in Erie County?

Mr. WALKER. Yes, sir.

Mr. WINN. Apparently you are a taxpayer in Erie County?

Mr. WALKER. Yes.

Mr. WINN. You hesitated. Maybe you are not a taxpayer in Erie County.

Mr. WALKER. Oh, yes; very definitely.

Mr. WINN. Usually people say "Yes" pretty fast. Go ahead. Excuse me.

Mr. WALKER. I did not realize it could have been Erie County money, but school boards set up their own budgets, their own tax rates.

Mr. WINN. Yes, but where do you think they get their money, besides from the taxpayers of the county?

Mr. WALKER. Well, they get the money from the taxpayer of their town.

Mr. WINN. Of the town. All right.

Mr. WALKER. Yes. And I am not a member of that town.

Mr. WINN. You live in the county but you don't live in Buffalo. So you didn't lose any sleep over the fact this was taxpayer money that was being offered as a kickback or a bribe?

Mr. WALKER. No, sir.

Mr. WINN. As an engineer, a licensed engineer, is it the usual procedure to define buildings and leave out part of the final product?

Mr. WALKER. Never. We are inclined to overdesign.

Mr. WINN. So you ought to get some Government business, then.

Mr. WALKER. I would hope to.

Mr. WINN. Well, I am concerned about the fact that a man like Mr. Persons—and possibly this committee or some committee might want to look into the operation of this lawyer—from a licensing standpoint, if nothing else, that he would be representing a school board, a unified school district as the Depew District, where he would try to get a behind-the-scenes agreement with an engineer or an architectural firm so that he could cover up kickbacks by the rebid procedure.

Mr. WALKER. Yes, sir.

Mr. WINN. But I am also very disappointed that someone in the Buffalo area, or in Erie County didn't have the guts to blow the whistle on a man like that. That is costing the taxpayer additional money because of this method of operation, which is dishonest, any way you look at it.

Mr. WALKER. Well, you as a Congressman, are not so naive as to know that this goes on all over the country.

Mr. WINN. Well, now, I am also a former contractor.

Mr. WALKER. Yes, sir.

Mr. WINN. And I know that our architects and contractors just don't play this way.

Mr. WALKER. Not as a usual—

Mr. WINN. And the quickest way they could go to the top of the list would be to blow the whistle on the guy and everybody could say, "We have an honest architect and honest contractor," and I think they would be much in demand.

Mr. WALDIE. If the gentleman would yield.

Another way it could be stopped, if the businessmen who are strangely immune from their participation in crimes of this nature were prosecuted. And I intend, at least as a member of the committee, to ask the prosecuting authorities why they left out the three architectural firms, including your own. I can understand why they would leave you out, to give you immunity, but I can't understand why

businessmen who are as culpable as the two legislators, strangely enough, were provided immunity by not even being prosecuted.

Were they given immunity, too? The three businessmen?

Mr. WALKER. The three other architectural firms?

Mr. WALDIE. Yes.

Mr. WALKER. Well, to the best of my knowledge, we came down to Washington and received immunity from the law department, or the Attorney General's Office.

Mr. WALDIE. We will ask some questions about that. It would have been interesting to give the legislators immunity and prosecute the architects.

Mr. WALKER. I don't believe the legislators received immunity.

Mr. WALDIE. They certainly didn't. They are in jail. But I am suggesting that in jail with them should have been the architects involved, if your story is correct.

Mr. WALKER. Well, you see why that came about——

Mr. WALDIE. I know why it came about, because you wanted the \$900,000 and you thought the \$32,000 was a pretty good investment.

Mr. WALKER. No; there was only one person received complete immunity from the Federal and county governments and that was me, because I was the only one that could tell the story. I did it too cute, I didn't have any witnesses, I had no way to prove that I gave these men the money, and they had to have a story from somewhere or other.

So, therefore, they granted me immunity. I would have taken the fifth amendment and answered no questions.

Mr. WALDIE. Well, you are certainly frank.

Mr. Winn?

Mr. WINN. I agree with the contention of my colleague from California, that it is just amazing. I think that the businessmen and those who knew of this method of operation——certainly the media——would be lambasting someone and calling for investigations.

Were they doing this?

Mr. WALKER. No, because it was——

Mr. WINN. Were there too many toes to be stepped on? Is that why this thing was brushed under the rug?

Mr. WALKER. It was too quiet.

Mr. WINN. Too quiet?

Mr. WALKER. To people like me who would not blow the whistle and the school board would deny the conversation in any event.

Mr. WINN. Well, you have such things as courts and sworn testimony.

Let me ask you: In your bids as an engineer, what do you build in as what you think should be your profit?

Mr. WIGGINS. What percentage?

Mr. WALKER. That is a nebulous sort of a question, because——

Mr. WINN. I mean in Buffalo.

Mr. WALKER. We charge, as our fee, strictly in accordance with the AIA Manual of Practice, and a fee is set. There is no bargaining for fees.

Mr. WINN. Yes; I understand this. I don't understand then, how you have additional moneys set aside for bargaining or for paying off lawyers or school boards, or legislators.

Mr. WALKER. Well, the fee in the larger type——

Mr. WINN. I don't believe that is covered in the AIA booklet anywhere.

Mr. WALKER. No.

Mr. WINN. I didn't think so.

Mr. WALKER. I was a contractor for 22 years, myself. I have only been involved in the design for the past 6 or 7 years.

Mr. WINN. Then you and I both know the AIA has guidelines on certain types of jobs, whether it is bid or negotiated. We know what we are talking about.

Mr. WALKER. Yes, sir.

Mr. WINN. But I don't understand then how any of the contractors, or architects, or engineers in Buffalo have this extra money that they can buy off people.

They are clobbering the taxpayer, aren't they? Somebody is getting clobbered and it is the taxpayers?

Mr. WALKER. That is true.

Mr. WINN. Have you ever been threatened?

Mr. WALKER. Yes; by Pordum and Ludera.

Mr. WINN. By whom?

Mr. WALKER. By Pordum and Ludera, or their cohorts.

Mr. WINN. Could you name some of their cohorts?

Mr. WALKER. No; I couldn't. I turned that over to the FBI, and they would not divulge the names of the cohorts.

Mr. WINN. You don't know the names of any of these cohorts?

Mr. WALKER. No. They came to the door one night and I wouldn't let them in and then they called back and threatened to put a deer slug through my head and my wife's.

(A brief recess was taken.)

Mr. WINN. All right. I asked you if you were threatened and you said yes. Could you give the committee the information and the details of that threat? Was it a physical threat?

Mr. WALKER. Yes, it was.

Mr. WINN. How did they do that?

Mr. WALKER. They did it by telephone. They came to the door and I had opened—

Mr. WINN. I am sorry. Who is they?

Mr. WALKER. Well, there were two questionable looking men, partial beards, and asked to step outside.

Mr. WINN. Had you ever seen these men before in your area?

Mr. WALKER. No, I hadn't.

Mr. STEIGER. Were they attorneys?

Mr. WALKER. No; not to my knowledge.

Mr. WINN. Would you go ahead and describe these men?

Mr. WALKER. One was tall and probably 6 feet, and the other was a shorter man.

Mr. WINN. Did they have guns?

Mr. WALKER. No. They didn't display them, if they did.

Mr. WINN. How did they threaten you?

Mr. WALKER. They wanted to talk to me about Pordum and Ludera and I didn't care to talk to them about it. I said that to them. I don't care—with the door chain on, and so on—I don't care to talk about Pordum and Ludera to them. And I immediately signaled my wife to call the sheriff, which she did, but the men had disappeared by the time the sheriff got there.

But while the deputy sheriff was still in the house a telephone call came through and they said my wife and I would not last the week out. We would have a deer slug through our heads.

Mr. WINN. Then the sheriff called on you and you made this report to him?

Mr. WALKER. He answered the telephone. I put him on in place of myself.

Mr. WINN. Oh, you put the sheriff on to talk to the person on the other end of the line that was threatening you?

Mr. WALKER. My son-in-law picked up the phone, and then he said, Wait a minute, I will let you talk to Mr. Walker.

Mr. WINN. And those two men, or whoever was making the call, thought they were talking to you; right?

Mr. WALKER. Yes.

Mr. WINN. I see. All right.

Then you say that you don't know who these men were. Did you ever hear who they were?

Mr. WALKER. No; I did not.

Mr. WINN. Was the telephone call traced by the sheriff or anything?

Mr. WALKER. I happened to pick up the license number. They backed into my driveway for a quick getaway. That is why I assumed that they had something in mind rather than a casual conversation.

Mr. WINN. This was just an assumption—but you were afraid?

Mr. WALKER. I was afraid.

Mr. WINN. And you didn't want to talk to these two gentlemen about the two gentlemen you referred to?

Mr. WALKER. No.

Mr. WINN. What did you do then? What did the sheriff do after you gave him the license number?

Mr. WALKER. I picked up the license number by going to another room and as they pulled out of the driveway, I picked up the license number and gave it to the sheriff's department and the FBI.

Mr. WINN. What happened then?

Mr. WALKER. The license number was checked out to the car owner, and no one ever told me who he was. Not the FBI or the sheriff.

Mr. WINN. And you weren't interested enough to find out who owned that car that threatened you and your wife?

Mr. WALKER. Well, I suppose the FBI and the sheriff figured I would go over and shoot the guy. I probably would.

Mr. WINN. That would have made an interesting situation.

Mr. WALKER. Would have been a nice grand jury report.

Mr. WINN. Yes. Well, the names of these men were never brought out in the court trial in any way be the sheriff, the FBI, or anyone else?

Mr. WALKER. No, sir. This was after the trial.

Mr. WINN. Did you ever hear from these men again?

Mr. WALKER. I may have. They called——

Mr. WINN. You may have? You don't know that it was these two men?

Mr. WALKER. I don't know.

Mr. WINN. But you heard from somebody?

Mr. WALKER. What I did was get continual ringing of my phone and no answer from the other end.

Mr. WINN. It was a harassment type of thing?

Mr. WALKER. Yes.

Mr. WINN. If this was after the court trial, what was the intention of harassment then?

Mr. WALKER. Well, probably the intention was to get me to change my testimony.

Mr. WINN. How could you do that?

Mr. WALKER. I couldn't do it.

Mr. WINN. It was already a matter of record, was it not?

Mr. WALKER. Yes, sir; and I had immunity that I had to tell the truth, the whole truth, and nothing but the truth.

Mr. WINN. And this was all presented in the press?

Mr. WALKER. Yes.

Mr. WINN. Do you think they had any other objective?

Mr. WALKER. Yes; probably to beat the devil out of me.

Mr. WINN. Beat the devil out of you?

Mr. WALKER. Yes.

Mr. WINN. But you might have been tough and killed them?

Mr. WALKER. Could have.

Shortly after that I installed a 30-30 rifle in my home and I would have blown their heads off if they had come back.

Mr. WINN. Mr. Walker, if you think something should be done about people that threaten or disagree and do not make deals with lawyers that want kickbacks from school boards, why don't you do it within the law? Why didn't you do it earlier is what I am trying to say. You did do it within the law later on.

Mr. WALKER. That was what was conveyed to me by the FBI, why I didn't blow the whistle on them.

Mr. WINN. That is what I am trying to find out.

Mr. WALKER. Mr. Cottrell blew the whistle, I didn't.

Mr. WINN. Mr. Chairman, I have no more questions.

Mr. WALDIE. Mr. Wiggins.

Mr. WIGGINS. No questions.

Mr. WALDIE. Mr. Mann.

Mr. MANN. No questions.

Mr. WALDIE. Mr. Keating.

Mr. KEATING. No questions.

Mr. WALDIE. Mr. Murphy.

Mr. MURPHY. No questions.

Mr. WALDIE. We thank you, Mr. Walker. No more questions.

The next witness is Mr. John R. Hanny III, Erie County legislator.

STATEMENT OF JOHN R. HANNY III, MEMBER, ERIE COUNTY (N.Y.) LEGISLATURE

(Having been duly sworn by Mr. Waldie)

Mr. WALDIE. Please be seated and give your full name, occupation, and address.

Mr. HANNY. My name is John R. Hanny III. I am an Erie County legislator. I represent the 14th district. My address is 96 Burroughs Drive, Snyder, N. Y., which is a suburb of Buffalo.

Mr. WALDIE. Thank you.

Mr. Phillips, please proceed.