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PUBLIC MEETING

before

ASSEMBLY INDEPENDENT AND REGIONAL AUTHORITIES COMMITTEE

**(Considering the State Commission of Investigation's Report on
the regulation of horse racing in New Jersey)**

November 10, 1986
Room 341
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

- Assemblyman William "Pat" Schuber, Chairman
- Assemblyman Guy F. Muziani, Vice Chairman
- Assemblywoman Marion Crecco
- Assemblyman Jose O. Arango
- Assemblyman Paul DiGaetano
- Assemblyman Dennis L. Riley
- Assemblyman Jimmy Zangari

ALSO PRESENT:

Edward P. Westreich
Office of Legislative Services
Aide, Assembly Independent and
Regional Authorities Committee

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Chairman
GUY F. MUZIANI
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MEMORANDUM

October 28, 1986

TO: MEMBERS OF THE ASSEMBLY INDEPENDENT AND REGIONAL
AUTHORITIES COMMITTEE

FROM: ASSEMBLYMAN WILLIAM P. SCHUBER, CHAIRMAN

SUBJECT: COMMITTEE MEETING - MONDAY, NOVEMBER 10, 1986

(Address comments and questions to Edward Westreich, Committee
Aide.)

The Assembly Independent and Regional Authorities Committee will meet on Monday, November 10, 1986 at 9:30 a.m. in Room 341, State House Annex, Trenton, to consider the State Commission of Investigation's report on the regulation of horse racing in New Jersey. The State Commission of Investigation and the New Jersey Racing Commission have been requested to appear at the meeting to testify concerning the report.

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New Jersey Racing Commission
Department of Law and Public Safety

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Letter, with attachment, addressed
to Assemblyman William P. Schuber
from Bruce H. Garland

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ASSEMBLYMAN WILLIAM "PAT" SCHUBER (Chairman): We are going to call this meeting to order. This is the regularly scheduled meeting of the Assembly Independent and Regional Authorities Committee. Today's Committee meeting will be solely charged with a review of the racing industry and, in particular, will take as our touchstone for that review, or overview, the recent State Commission of Investigation report on the industry and the Racing Commission.

As you know, this Committee is charged with the duty to oversee the numerous State independent authorities. While we have looked at some of them -- in particular the Turnpike, the Parkway, the Casino Control Commission, and boxing -- the race track industry and the Commission have recently been in the papers, and I don't think it is any secret among all of us the fact that the racing industry, as a whole, is ailing -- I guess to put it mildly -- both in this State and probably in other states.

So, using the SCI's Report as a kind of jumping off spot, we just want to take a look, as an overview, of the problems which confront the industry at the present time, and the relationship of those problems and their effect, if any, on the State of New Jersey.

So, with that, our testimony today will be from Mr. Bruce Harland, who is the Executive Director of the New Jersey Racing Commission. We will also be hearing from Mr. James Morley, who is the Executive Director of the State Commission of Investigation.

Joining me on the Committee, from right to left, are: Assemblyman Arango, Assemblyman DiGaetano, Vice Chairman Assemblyman Muziani, who is just coming in, and Assemblyman Riley here on my left.

So, without further ado-- Mr. Garland, will you please join us up here?

B R U C E H. G A R L A N D: Thank you, Mr. Chairman. I have a brief statement.

ASSEMBLYMAN SCHUBER: Please.

MR. GARLAND: I would like to thank you and the other Committee members for the opportunity to appear before you, and for the opportunity to read this brief prepared statement.

The Racing Commission finds itself in substantial agreement with the State Commission of Investigation in a number of different areas. We hope the Report will be helpful.

All the recommendations contained in the Report are being carefully considered. Some are already in the process of being implemented, while some have actually been in operation for some period of time. Other recommendations need further study to determine whether or not they are practical and/or economically feasible.

Many important regulatory reforms have been enacted in the last few years. Many of these did not require any additional appropriations; for example, our Drug Testing Program and the legislation enabling the Racing Commission to appoint all the racing officials. However, a number of the SCI recommendations coincide with Racing Commission initiatives, and some of these would require additional appropriations; for example, our computerization program and the increased fiscal auditing capabilities. In fact, Assembly Bill 3163, a supplemental appropriations bill, has been introduced which, if passed, would enable the Commission to institute a number of the recommendations that the Commission has already decided are necessary.

During the process, the Racing Commission looks forward to working closely with the industry and the Legislature, as it has in the past on such items as State-appointed officials and legislation directed at improving the economic well-being of the industry. Despite the pessimistic outlook for the industry expressed on the last page of the SCI Report, we believe that with cooperation and hard work New Jersey will maintain its present status as the third largest racing State in the nation.

Thank you.

ASSEMBLYMAN SCHUBER: Mr. Garland, we appreciate your joining us here today to help us in the review of this issue. In particular, I would like to address some questions to you with regard to the SCI Report, if I might, number one; and number two, maybe we can get into some discussion on the industry as a whole beyond the scope of the Report itself.

Could you be a little bit more specific for the Committee members as to what steps— You know, the SCI, of course, in its Report, made a number of recommendations. Could you be a little bit more specific for the Committee members as to what exactly the Racing Commission is doing today, or has done in the past, to meet the recommendations that the SCI made? If there are some which you do not agree with, could you let us know what those are, too?

MR. GARLAND: Sure. Specifically, some of the more important ones-- In the past, the Commission has developed what many believe — and what I believe — to be the most effective and best and comprehensive Drug Testing Program in the nation. Our Human Testing Program is the first one to ever withstand a Federal Court of Appeals challenge. It is presently on appeal to the Supreme Court. At the time it was instituted in New Jersey, it was unique in the nation. It has been adopted by many other racing states.

Our Horse Drug Testing Program has undergone, in the last three years, a total revamping, from regulations through the building of labs at the various facilities to installation of the state-of-the-art equipment we presently have. We do pre- and post-race drug testing. I submitted, prior to appearing here, a letter to each of the Committee members which outlines that Program in a little bit more detail.

We have also — through legislation — received the ability to appoint all the racing officials at the tracks -- the key racing officials. In addition, we have instituted a

number of other regulatory reforms in the areas of clocking and horse thefts, and we have instituted official training programs.

Of the specific recommendations in the Report that we are in the process of implementing, one of the most important ones, I think, is the auditing of the horsemen's organizations. It is a very important area; it is something we have been working on for a period of time in cooperation with the horsemen's organizations and the Attorney General's office. The present status of that is that draft guidelines have been prepared, and I anticipate they will start the Office of Administrative Law rule-making process, probably within the next month or so. Once they start that process, as you know, it takes approximately 90 days to complete. So I would think we are relatively close in that area.

We agree, certainly, with the SCI's recommendations concerning computerization. In fact, since 1980, we have been attempting to develop a computerization program. For Fiscal Year 1987, we have received a substantial portion of funding for that program.

ASSEMBLYMAN SCHUBER: What is the status of it now?

MR. GARLAND: The status of it now is, we are on a temporary hold because the Attorney General's office has appointed a task force to look at outside vendors -- computer vendors. We are waiting for that task force to complete its review. It is anticipated that the task force will recommend three to five vendors, with which we can then begin negotiations to determine who could best meet our needs.

We also anticipate, though, that we might need some slight additional funding in that area, to put other areas of the Racing Commission on the computer. In other words, the total funding for the computerized licensing program-- We have enough funding for that right now. It is estimated we will need approximately an additional \$100,000 to put the rest of the Racing Commission on-line with the computer.

In addition, we definitely agree that we need increased fiscal auditing capabilities. Right now, the Racing Commission has two people who have any accounting background whatsoever. One of those people is one of my Assistant Directors, who has a number of other functions within the Commission. So, I have one person, really, who I can use to conduct any type of auditing kind of activities. We need more people in those areas. We agree that with the horsemen's groups' auditing situation, we need people with accounting backgrounds for those areas, especially, we need the ability to look at a track's conditions. A good example right now is Garden State Park. We would also like to have verifiers for our simulcasting operations. Right now we do approximately 700 simulcasting nights a year, and we have to make do with part-time verifiers, really, who rotate around to the tracks.

In addition, the supervisor of mutuels process-- If we can get auditor accountant positions, we will be able to use those people in the supervisor of mutuels positions.

So, those are a number of areas that we are already working on. They tie into the SCI's recommendations. Some of the other areas you asked about, ones that don't look particularly good right now-- One of those areas -- and I don't think it is a major area in the Report -- is the log tape retention area. The Report recommends that log tapes be retained for a period of five years. Right now, all the tapes are retained for six months. These are mutuel tellers' log tapes.

As far as I am aware, and I have been with the Commission for over three years, the State Police have never asked to look at a log tape beyond the ~~six~~-month retention time. In addition, each of the log tapes costs approximately \$15. To store them for one year, just in tapes, without talking about a place to store them or anything else, would cost over two and a half million dollars. My present budget

for the Commission is less than that amount, so that would be an extreme financial burden.

In addition, the log tapes have to be stored in a controlled environment. They can't have any-- The atmosphere has to be just right; the temperature has to be just right. To store these tapes in tape form would require a warehouse, at unknown additional expense.

ASSEMBLYMAN SCHUBER: What is kept on the log tapes?

MR. GARLAND: The log tapes are the record of each day's transactions on each teller's mutuel machine. To take those and translate them to hard copy -- to paper copy -- would require approximately 15 minutes for each machine. We just ran the figures for the Meadowlands. Just the Meadowlands alone -- the Meadowlands has over 300 tellers-- It would require more than a day's operation to do one day's hard copy. In fact, it would take almost three days to do one day's hard copy. So, the hard copy is not the answer either. In other words, I think in that particular instance, it has now been shown that there is a specific need for the log tapes yet.

Again, I don't think that is a major part of the Report, certainly. There are a number of other areas in the Report that we are certainly going to continue to look at; they deserve further study. I don't think we have come to any conclusions on them yet.

ASSEMBLYMAN SCHUBER: Are there any other places-- I know we have spoken, and that the Commissioners have not necessarily met on all of this yet, but what about the issue of the ethics -- the things that deal with the Commission itself -- the Ethics Code issue, the issue of the free passes, and things along those lines?

MR. GARLAND: With regard, specifically, to the Ethics Code, I don't think any of the Commissioners -- and, again, I have not discussed this directly with them -- would have any objection to putting the language in. It is my position,

however, that the present Ethics Code, which has been approved by the Ethics Committee, is acceptable in that area, and certainly one of the portions — I believe it is paragraph 7 — substantially addresses that issue. So I would think that that part of it is already met. However, I am perfectly agreeable to sitting down with representatives of the Ethics Committee to try to improve that language, although, as I said, the ethics portion — our code — is approved. We have not heard otherwise from anyone involved with ethics concerning that.

ASSEMBLYMAN SCHUBER: What about the ban on wagering by the Commissioners?

MR. GARLAND: The ban on wagering by the Commissioners is something I really have not had a chance to discuss with any of the Commissioners. I can only tell you this: I have not heard that-- I don't know of any problems associated with it. I am not familiar with all the Commissioners' testimony before the SCI on the issue. I know there are paragraphs in the Report which quote some of the Commissioners--

ASSEMBLYMAN SCHUBER: Yes.

MR. GARLAND: --as indicating that it is--

ASSEMBLYMAN SCHUBER: They feel uncomfortable with it.

MR. GARLAND: They feel uncomfortable with it. But that is something we have not had an opportunity to address yet.

ASSEMBLYMAN SCHUBER: What about the free passes?

MR. GARLAND: Again, that is something we haven't addressed. I don't know of any problems with the free passes. In fact, I am not aware of any-- I know there is an indication in there that one of the witnesses-- There was some information about passes being sold. I don't think there is any allegation or information that any of the Commissioners had anything to do with anything like that.

ASSEMBLYMAN SCHUBER: I didn't see any tie-in with that in the Report. I have never heard of them being sold. In fact, one of the Commissioners says it is a burden distributing them.

Are these issues that you are going to take up -- that the Racing Commission will take up at its meeting?

MR. GARLAND: Absolutely.

ASSEMBLYMAN SCHUBER: We would like to see the Racing Commission's position on some of these things as they go along.

What about the stable gate security? That was something that became a big item in some of the newspaper articles. What is the story with that?

MR. GARLAND: Well, the Report basically indicates two stable gate problems; one at Garden State Park, one at the Meadowlands. At Garden State Park, I can tell you the situation is this: The building is inside the stable gate, but it is right inside the stable gate. There was a building on the outside of the stable gate, but that building was not sufficient for what we needed. The building inside the stable gate houses the State Police and the other people who the license people deal with on a regular basis. It is larger. We are able to control our files better in there. It is just a more suitable place to handle that.

But, what they do with the gate is, they take some additional precautions. If you are asking me is it an ideal situation, I don't think it is. Is it an adequate and acceptable situation? I think it is. When a vehicle comes in, if someone is not licensed and doesn't have the photo identification, the vehicle is pulled over to the side and the people are taken to the building where they have business. They cannot retrieve the vehicle until they have concluded the business.

You have to understand that in this backstretch area, there are a number of investigative and/or security type personnel. First of all, the State Police have a race track unit at each of the tracks. They are present on the backstretch. Each of the tracks has its own Security Department, so they have people present on the backstretch.

Each track also contracts outside with a security department, and they have people in the backstretch. For the thoroughbred industry, there is something called the TRPB. They have agents on the backstretch. Then, we have our own Security Department — very small — but we also have our own people back there, people such as the stewards and our licensing people. So, there is already a very definite presence on the backstretch at the tracks.

With regard to the Meadowlands situation, the Meadowlands is not quite as good a situation as Garden State Park. Again, it is not an ideal situation, certainly. At the Meadowlands, the licensing office is a substantial distance behind the stable gate. What the Meadowlands has done is improve the gate security area. There is a very small building next to the gate at the Meadowlands. They have improved the gate, first of all, by having the guards in a booth at the gate, rather than in a booth on the side. The gate is in the center.

Each vehicle is stopped. If the people are not licensed there, they are asked to wait in another building on the side. This is an attempt to keep people from just moving around in the backstretch. If they need to be licensed, or if they are applying for employment at the Meadowlands or with one of the trainers or owners in the backstretch, their particular purpose is stated at that point, and they are dealt with from that. Again, not an ideal situation, but not an extreme security risk either.

ASSEMBLYMAN SCHUBER: What about the issue of the monitoring of the horses themselves for drug intake or in the case of a fatality? I know the SCI recommended more stringent procedures with regard to, I guess, the drug testing on horses for illegal intake. I think they also wanted more stringent procedures for horses when you do a necropsy.

MR. GARLAND; That is similar to an autopsy. With regard to the testing, as I stated before, we do everything possible in testing. We do more than any other state in the nation. We have pre-race tests on all competing horses, harness and thoroughbred. We take post-race tests. If any horse finishes in the money -- first, second, or third -- we take special tests. We take tests from horses that have beaten favorites. We do everything possible in that area. Incidentally, these tests are conducted by State Police chemists, many of whom are nationally recognized experts. These are done in state-of-the-art labs with state-of-the-art equipment. One of our newest pieces of equipment is a radio immune assay test, which we use to test for some of the more exotic -- what are known as the exotic drugs.

Most of our post-race positives in 1985-- I believe I indicated to the Committee members that we had nine post-race positives. Most of those positives were for a drug called Butazolidin, which is an analgesic equivalent to aspirin. It was in very small levels. One thing you might be aware of is, we don't allow any drug in a horse. Anything foreign to his system, other than a drug called Lasix, is considered to be a positive, and a violation of our rules, for which penalties range generally from 30 days to a year or more suspension, depending on the drug and the circumstances involved.

New York racing claims to be totally drug free; however, their testing programs have a tolerance level. In our testing program, where there might be a trace amount, say, of Butazolidin or something like that, that is considered a violation of our rules, whereas in New York, the level that would be a positive for us may not be called a positive. We think our program is as tough, if not tougher than the New York program.

ASSEMBLYMAN SCHUBER: Obviously, our concern here -- not only with this industry, but with the others we have looked

at, in particular the casinos and boxing — has been, number one, to ensure the integrity of both of those industries, as well as this one, and number two, to ensure also the integrity of the regulatory processes that the State has established to overview those industries.

With regard to racing, of course, while the State's direct revenue is probably small, the fact of the matter is that all of our race tracks have, obviously, a local connection to the economies of counties and communities. Anything that affects them adversely is obviously going to adversely affect those communities economically.

The next question, therefore — probably more disturbing from the point of view of the Meadowlands, which has usually been an economic anchor for the rest of the complex — is, what is the problem with the industry at the present time? I mean, we all agree it is ailing. Let me put the question to you: What is the problem?

MR. GARLAND: I will answer the question directly, but I just want to say this brings up a good point that I am in agreement with in the SCI Report. It is contained in one of the last sentences in the Report, and that is, the Racing Commission and the racing industry used to be viewed as revenue producers. There was a time when the Racing Commission contributed close to \$40 million a year to the State's economy, at a time when \$40 million was a substantial portion of the economy of the State. That revenue has slipped to approximately \$7 million or so — \$7 or \$8 million. But, as you indicated, Mr. Chairman, that is direct income only. It does not take into account the indirect benefits. It is even more than just the localities and the counties where the particular tracks are located; it is the entire State.

There are horse farms throughout the entire State. There are well over 30,000 people who are licensed in the industry and, you know, there are thousands of other ancillary

positions -- people who do not really have connections to the track, who aren't licensed, but who have jobs related to racing. There are the Green Acres Programs; there are the tracks themselves and the various employment opportunities. So, it is an incredibly large indirect industry, rather than direct income.

But, what's ailing the industry? I don't have an answer for exactly what is ailing the industry. I can give you an idea.

ASSEMBLYMAN SCHUBER: Are we correct in saying that the industry is ailing?

MR. GARLAND: There is concern over the future of the industry, and I think there has been a general slide. I have to agree with you, yes, there are some ailing portions of the industry.

One of the things I can indicate to the Committee is that there is incredible competition for what has been described, I guess, as the "leisure dollar." Now, within that competition there is competition from other gambling interests. There is competition from the State Lottery; there is competition from the casinos; there is competition from other states' race tracks, as well as in-state competition between race tracks. The Commission attempts to avoid concurrent racing, especially within the same breed of horses; that is, harness and harness, and thoroughbred and thoroughbred. We attempt to create a year-round circuit.

I think the Commission has been very successful in that regard, but still there is competition. An example of the industry doing everything right, but yet having attendance and handle affected-- The Meadowlands was in a period of having one of their most successful thoroughbred meetings ever. They were up in handle; they were up in attendance. The Mets were successful in the play-offs and the World Series. That had a drastic impact on the handle and attendance at the

Meadowlands. That is an outside competitive factor over which the people at the Meadowlands, the Racing Commission, and the people in the State have little or no control. That is the kind of thing that can happen.

Another example is, say, Monmouth Park. Monmouth Park had a very good meeting last year, but they ran through a period of time during the middle of the summer where there were heavy rains and thunderstorms. So, weather is a variable over which no one has any control, that directly affects handle and attendance at the tracks. A better year with less rain, and Monmouth Park might have had its best season ever last year. I mean, they had a very good season as it was. But, things like that affect the industry and affect handle and attendance.

ASSEMBLYMAN SCHUBER: Well, I agree with that, but you would have to agree that there has been a general slide over the last several years in the health of the industry, which supersedes, or goes before the Mets and the weather, I would think. The question is, what is the problem there? What is the virus here, if there is one?

MR. GARLAND: No, I don't think there is a virus. I think it is just that the industry to date — and I would have to accept some of the blame for this, since I am on the Commission — has not really come up with a definite plan to attack this particular problem. I don't think that is something that is going to take much longer. In other words, there are various things in the works to address those kinds of problems. Each of the tracks, I know, are concerned about it, and the various horsemen's groups are very concerned about it. I think we are in the process now of getting together.

The questions the SCI raises in the last section of its Report are questions that need to be addressed by the industry. I don't have the answers. I hope the Commission and the other aspects of the industry, together with legislators and other officials in the State, can come up with some sort of a plan, but we don't have one right now.

ASSEMBLYMAN SCHUBER: Well, this is our concern, obviously. As you indicated, the industry just doesn't sit there in isolation by itself or falls and rises by itself. It has a ripple effect, obviously, on the State's economy, even if we don't derive direct revenues to as great an extent as we used to.

The question, therefore, is this — or the statement, therefore, is this: There seems to be no dispute over the fact that the industry has been on a downward trend in the last several years. Therefore, it behooves the industry and the Commission, working together, to see what they can do -- if there is a solution to it from therein -- to try to stabilize this.

I recognize there are a lot of variable factors there, but I think this is one of the things the Commission is going to have to consider one of its topmost priorities to address. It just can't be let slide, as the industry is sliding. Everybody is going to have to work on this.

Now, therefore, comes the question: What, if any, role can the Legislature play in this?

MR. GARLAND: I think there is a role for the Legislature at the very top level without any direct effect. It would be in helping the Commission to meet some of the recommendations in the SCI Report, mostly through auditing and fiscal capabilities. In addition -- certainly as leaders, not only in your local districts, but throughout the State -- members of the Legislature have always provided guidance and leadership to the racing industry. I know in the past, legislation concerning the economics--

ASSEMBLYMAN SCHUBER: I thought you were going to say we provided patrons to the tracks.

MR. GARLAND: Oh, no, no; I didn't say that.

The State's share of the revenue is down to one-half of 1%. That has all been through various pieces of legislation

in the past. The reduction in the State percentage has been divided amongst the horsemen, the tracks, and the breeding programs.

ASSEMBLYMAN SCHUBER: Right.

MR. GARLAND: Those breeding programs are starting to produce good results. The New Jersey Sire Stakes Program, which is under the Department of Agriculture -- the Racing Commission is really not that involved in this Program -- is one of the best in the nation, if not the best in the nation. In fact, I think it is the best in the nation, but I don't want to keep saying too often that we have the best in the nation and things. That is in very good shape. That produces the top harness horses, which stay in New Jersey and race at the Meadowlands. That produces the kind of handle and attendance that help the industry.

ASSEMBLYMAN SCHUBER: Let me ask you these two questions, and then I will see if any of the other Committee members have any questions. Let's look at two specifics: Number one, what was the experience with Monmouth Race Track this year? I know you said it was good. What has the State's experience been with it? Are you finding it successful?

MR. GARLAND: I would classify it successful; very successful. In fact, I think it can only become even more successful. I know there are ideas for Monmouth Park which took more than a few months to plan and to institute. I think Monmouth Park will have an incredibly successful year. Again, in addition to the weather, Monmouth Park is affected by an out-of-state track -- Philadelphia Park.

ASSEMBLYMAN SCHUBER: Right.

MR. GARLAND: I think that Monmouth Park is in a very good position.

ASSEMBLYMAN SCHUBER: So, you're optimistic about it?

MR. GARLAND: I am optimistic about Monmouth Park.

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ASSEMBLYMAN SCHUBER: Let's take a look down at the south end now. Let's look at Garden State Race Track in Cherry Hill.

MR. GARLAND: Garden State Race Track -- it's no secret -- has a problem with harness racing right now. They have asked the State for, and the Commission approved on Friday, a reduction in its harness season. They were scheduled to end on December 20; they are now going to end on December 6. In addition, they are going to reduce racing days from five to three for a two-week time period -- or a three-week time period actually -- from November 15 to December 6.

When I say that, I don't mean to imply that there is a particular problem with the way Garden State Park is operating or the way management is handling the harness races, or anything. I just think they have a limited market for harness racing there. I think they have done everything they can to stimulate that market, and it just hasn't been successful.

ASSEMBLYMAN SCHUBER: What about the thoroughbreds?

MR. GARLAND: The thoroughbreds-- I know that Garden State Park has plans -- and they can address this more directly than I -- to continue their thoroughbred meetings. Their thoroughbred meeting in comparison to the harness meeting is good. That is not to say it is a great moneymaker or anything else. In comparison to the harness, it was good. I know they have plans to continue that.

I can't think of any race track that has had more successful single races; for example, the Jersey Derby, and the kind of impact that has had nationally on racing. It threw the people in the Triple Crown races into a tizzy, and they have had to struggle to try and resurrect that Triple Crown approach. They have had two great Jersey Derby races down there, and that is a tribute to the track and to the people who are running it. They are putting on quality racing, and they are doing it in a nice facility. It is just a matter of getting more people to come out.

ASSEMBLYMAN SCHUBER: Certainly, some of the races that have been held down there have been very, very successful. A concern, of course, is that the facility itself may be a white elephant.

Well, I guess the issue is, is there anything that can be done to help the industry out down there?

MR. GARLAND: We have been working with them on a regular basis, trying to help them in some cost-saving measures. We have been working with them with the horsemen's groups. A good example is, the legislation for Garden State Park gives them rights in certain areas to come in and ask for reduced payments and things. One example is the Thoroughbred Breeding Program. To the extent that they can show financial hardship, they get a reduction in the Thoroughbred Breeding Fund. Last year, they showed that and received a substantial reduction, which directly affected the Thoroughbred Breeding Program. So, we had to come up with other money to fill that in. I anticipate a similar request this year.

ASSEMBLYMAN SCHUBER: Well, I would agree with you, but unfortunately I am not that optimistic after what I have been hearing and seeing in the paper.

Let me ask one last question, and that is simply this: What has been the experience with simulcasting? Has it been successful, or not?

MR. GARLAND: I think simulcasting has been very successful. In fact, we are utilizing the services of the Rutgers Inter-Functional Management Team to prepare an analysis of simulcasting for us as to how it can be used more successfully. In other words, this year the Commission has viewed almost in terms of an experimental year with simulcasting. The various tracks have applied back and forth with each other. I think they are feeling out which tracks -- when they are simulcasting -- affect your on-track handle and attendance, and which tracks do not affect on-track handle and

attendance. For example, is there an effect— If Garden State Park receives Atlantic City's simulcasting, does that affect Atlantic City's live track -- on-track handle and attendance? And, if so, to what extent, and how should that be taken into account in dividing up the simulcasting days?

I think we are going to have some good data on which to base our information.

ASSEMBLYMAN SCHUBER: We would be very much interested in that data. Obviously, this Committee, in prior times, worked on that simulcasting legislation.

My only final statement with regard to this is, I am concerned about the future of horse racing in the State, given the nature of its interdependence, to some extent, with the economy of our State, especially as it relates to the Meadowlands and the things that wish to be done there, and are being done there. When I read the story about the tenth anniversary, there was no question from its beginning to its end that the race track revenues have been kind of the anchor for the financial health of that whole thing.

My concern is -- and I think the Commission is going to have to address this on a master plan basis -- what, if anything, can be done by them working with the industry -- which kind of is a bit uncomfortable, too, because it is mainly regulatory -- to promote the health or, you know, do something to arrest the downward slide with regard to race track revenue here in the State. Certainly, you may be right when you say that there is a finite number of dollars out there for recreational purposes and you are now one of the competitors in a very, very saturated market in the Northeast. That may be one of the problems.

But, the fact is, I think you are going to have to address -- more than you have in the past -- that particular issue and get everybody to work together. We in the Legislature certainly have an ongoing duty to provide you

adequate funds for what you are doing, which is a continuing battle, which I will speak to Assemblyman Villane about.

There is no question, I think, from the reports I have seen and your testimony and the articles I have read, that in order to bring you into the standard of where you have to be today to meet the expansion of the industry-- So often we have found that departments do not keep up with that, whether it be the Athletic Commission or the Division of Motor Vehicles, or whatever the case may be. We find that we give you more duties, but we do not provide you the personnel and the moneys to go with the duties. So, I will speak to Assemblyman Villane on that. But, certainly, in some of the areas you have discussed, these are things that we have a part to play in. We will see what happens.

Do any of the members of the Committee have any questions for Mr. Garland?

ASSEMBLYMAN DiGAETANO: I do, Mr. Chairman.

ASSEMBLYMAN SCHUBER: Mr. DiGaetano.

ASSEMBLYMAN DiGAETANO: Are we finding that the decline at the tracks is strictly due to the attendance, or are we finding less wagering by those who attend, as well?

MR. GARLAND: I don't think there is as much of a drop-off in the amounts wagered, as there is in attendance. I think attendance is more of the decline.

ASSEMBLYMAN DiGAETANO: What about in the area of overhead and operating expenses? Are we seeing the tracks-- I happen to represent the Meadowlands district, and I know that the Meadowlands recently laid off 75 or 100 of their employees. The statement was made that, "Well, through the years, we kind of got fat, and we operated that way." Is that, in general, the trend? Have we seen that at other facilities?

MR. GARLAND: I think the costs associated with the track -- the fixed costs and things like that -- are increasing in greater proportion, obviously, than the handle and

New Jersey State Library

attendance, which are actually declining. So, they have been forced to make decisions. You characterize it as "fat." I am not sure I would characterize it as that. I am not that close to the actual operations of the Meadowlands. I do know that they have probably had to make some hard decisions on where they could cut fixed costs, and have probably decided to make some in those employment areas.

One thing that the Committee may or may not be aware of is, we already -- in addition to our budget from the State -- we already charge the tracks, and have the tracks pay for over two and a half million dollars worth of services which go right into the industry and the Commission. For example, the Testing Program. The Testing Programs are charged entirely to the tracks. They are administered by the Commission; they are under the Commission's control. We charge the tracks for those costs. And there are various other costs that we charge the tracks totaling, as I said, over two and a half million dollars a year, which is approximately what our regular budget is from the State. So we are passing costs off and, of course, the tracks are trying not to absorb any more costs.

ASSEMBLYMAN DiGAETANO: If I understood your statement correctly, you feel that certain tracks -- certain areas -- having a problem is due strictly to location and local competition, and not to any management problems at any of the facilities. Is that correct?

MR. GARLAND: That is a fair assessment, yes. I wouldn't say "strictly" limited to competition, but--

ASSEMBLYMAN DiGAETANO: Well, for the most part?

MR. GARLAND: Yes.

ASSEMBLYMAN DiGAETANO: Have you compared the State-run facilities with privately run facilities and, in doing that, are there any inherent problems or specific benefits as far as State-run facilities are concerned, as opposed to privately run facilities?

MR. GARLAND: There were more benefits a few years ago for State-run facilities certainly than there are at present. At one time, State-run facilities received substantial breaks on State takeout, which was then reflected in the State's share. However, that has been evened out over the last few years, and the tracks are in approximately the same position in that regard. So, had I been answering your question a couple of years ago, I would have said, yes, the Meadowlands certainly receives more favorable treatment than the private tracks, and that does cause some problems. But, right now — as I speak today — that disparity has been evened out, and the tracks are all now similar to the State-run in terms of what the takeouts are and everything.

ASSEMBLYMAN DiGAETANO: Does the Commission feel, in general, that public confidence is still the same as far as the racing cards are concerned, and the programs put on, or have you seen any decline— Have you perceived any decline in public confidence?

MR. GARLAND: I have not perceived any decline in public confidence. However, I would like people to know more about our Testing Programs and what they do. I would like them to know that we have State Police present at each of the tracks, and that we have State Police who actually do the drug testing. I receive complaints from individuals from the tracks. Those complaints are very, very small in number, surprisingly small. You know, when we check a complaint out, the person is always invited to come in and watch the race with the officials if he has some sort of question. I can only recall one person ever accepting that offer, and he left satisfied that our officials had made the correct decision in the matter.

ASSEMBLYMAN DiGAETANO: Are the numbers at the different facilities -- at the tracks-- Are they comparable? I mean, the percentages, the handle versus the card, and that

type-- I mean, in general, when you look at a ledger, a certain percentage of the take is operating expenses. Are the percentages the same for the facilities?

MR. GARLAND: I believe those are pretty constant in terms of percentages. Obviously, the Meadowlands handles much more than any of the other tracks.

ASSEMBLYMAN DiGAETANO: Well, that is what I'm saying. In other words, are the numbers basically equivalent per dollar handled or per employee?

MR. GARLAND: Per dollar, the numbers are basically equivalent. There are some differences, but per dollar they are basically equivalent. There is a great disparity, however, between the actual total dollar amounts as compared to percentages.

ASSEMBLYMAN DiGAETANO: Do you feel there is any area where the Commission is lacking in authority or enforcement powers? If there is such an area, do you feel that should, or could be addressed by legislation?

MR. GARLAND: Well, I think the legislation is very broad in those regards, especially the first section, which seems to even give the Commission powers beyond any enumerated in the statutes -- just very broad powers. I don't think there is anything specific the Commission needs in that regard. I think we certainly will do what the SCI suggested -- I mean, we do it even without the SCI suggesting it -- that is, maintain continuous contact with the Attorney General's office concerning exactly what our powers are and what our authority in certain areas is.

ASSEMBLYMAN DiGAETANO: One last point. Something I found rather interesting with this Report, as opposed to our boxing report, was that the boxing report had several individuals named throughout the report. It was remarkable as to the number of times a particular individual's name would come up. I did not notice that in this particular Report. Do

you have any feelings on that? Do you feel that individual names are just not popping up in those particular lights, or have they just been left out — do you feel they have been left out?

MR. GARLAND: I think there are two responses I would like to make. Number one, I like to think the Report is helpful to the Commission as well as recognizing that the Commission has done a good job in the areas. I know they used the word "adequate," rather than good, but I like to think that it is good. The second thing is, I think it embodies the philosophy of the Commission. We are not a Commission that does its work in the papers or in the public eye. We do a lot of our work in attempting to resolve problems before they get to that level. I mean, we try to work with the tracks and the horsemen's groups. The recent Garden State Park is a good example. We can't be effective in dealing with those groups if we are always in the papers or trying to maintain a public kind of image. Certainly, I don't think they had that in mind when they did the Report, but I think that ties into the philosophy of the Commission. We think we are effective in that role, and we would like to continue it.

ASSEMBLYMAN DiGAETANO: Thank you.

ASSEMBLYMAN SCHUBER: Mr. Riley?

ASSEMBLYMAN RILEY: Thank you, Mr. Chairman. As you may or may not know, Mr. Garland, I have some passing interest in this issue, not only as a person interested in breeders, etc., but as a sponsor of simulcasting in the Garden State bill.

I noticed you mentioned-- I presume it was just a passing remark, but I note you mentioned the Sires Stakes, which obviously I think is a phenomenal program, and I think we are the best in the country--

MR. GARLAND: No question about it; I agree.

ASSEMBLYMAN RILEY: The idea being to have the New Jersey bred stay in New Jersey. You said so that they can race

at the Meadowlands. Was that just a passing remark, or did you mean that maybe harness racing is a thing of the past as of December 6, in the southern part of the State?

MR. GARLAND: I don't think we will know that for the next couple of weeks. I know that Garden State Park is reviewing whether or not they will have a harness program. Some of the things I have seen in the paper have indicated that they are still reviewing that.

Right now, they have 1987 harness dates applied for with the Commission. The Commission is going to hold a meeting to consider a public hearing on those date applications on November 19. So, we are a little early. They still have some time to definitely say for sure. Right now, I am assuming that they are going to keep that application in.

ASSEMBLYMAN RILEY: What do you think the real problem is with Garden State harness racing? I mean, do you think it is Garden State's advertising? I mean, their advertising for harness racing is, I believe, done by the same agency as is used in the New York type of advertising, which Philadelphia people, very frankly, don't buy. Has anyone looked into maybe other types of recommendations for Garden State, rather than the high-g geared New York type of stuff, something more low-keyed, Eagle fan type -- not that type of stuff?

MR. GARLAND: Regarding the actual advertising, Assemblyman, I have to confess I-- You know, the Commission has not taken a role in advising tracks one way or the other on the kind of advertising they use. I could go a step further, I think, in that regard. I don't think the particular problem is necessarily the advertising.

ASSEMBLYMAN RILEY: It is a complex problem.

MR. GARLAND: It is a very complex problem.

ASSEMBLYMAN RILEY: Do you think the Commission should, in any way, try to-- Obviously, you are a regulatory body, but do you think the Commission should intervene in any

way? The State of New Jersey has a very substantial interest, obviously, in the process, forgetting about the \$40 million, and the fact that we are now down to a skeleton crew because a lot of people have been laid off already.

Do you think the Commission— Should it be either part of your job, or should we legislatively, or some other way, try to deal with the problems of the industry and the economic problems of the industry? Right now, doldrums would not even describe it. It would be closer to disaster. We have staved off Atlantic City by the simulcasting. What can we do to stave off disaster at Garden State?

You said how tremendously successful Monmouth Park was. I had a ringing in my ears, sort of, with regard to— Are you suggesting maybe down the road that the Commission could look into that, and possibly -- you are already shaking your head no; obviously, you know what I am going to say -- the end of Garden State as a private entrepreneurship may be in the offing, and that the Sports Authority is the more rightful heir, particularly if the \$40 million bond is defaulted?

Obviously, that is rather an all-encompassing question.

MR. GARLAND: That is a very broad question. I will try to answer as best I can. Number one, the Commission has taken a very active role in efforts to keep Garden State Park operating this year. As I said, we try not to have that role be a very public role, but we have taken very active measures, in cooperation with the Standardbred horsemen, as well as the track, and as well as with the other tracks in the State. The thoroughbred horsemen, even, have all made major efforts to try to help Garden State Park out in its immediate problem.

In terms of the economics, there is a very fine line, I think, between the Commission making business judgments for private tracks and/or State -- quasi-State tracks -- and regulating those tracks. I can't give you a definite answer on that one.

ASSEMBLYMAN RILEY: If the Commission sees-- I think the fact that it was over-built is self-evident, but if the Commission sees whatever the problem was -- whether Garden State was over-built, and maybe we didn't need the marble palace in this situation-- If the Commission sees that a track is no longer economically viable -- harness or thoroughbred-- Thoroughbred is losing money at Garden State as well, so it's not like what type of poison; it's how much of it can you digest.

They are taking a substantial digestion of poison with thoroughbred, and a tremendous digestion of poison with standardbred. At some point, is it the Commission-- Or, who says to the State, to the Legislature-- We've got a substantial interest in racing. We've got a substantial interest in jobs. Who is it who is going to say, before it becomes a disaster, "We recommend that we create a new Sports Authority, or do something along the lines of the Monmouth Park Baseball Bill"? Who do you see in the State who would make that recommendation, if anyone?

MR. GARLAND: I don't think there is any one organization that would make that recommendation. I think there are many. By the very fact that you are holding this hearing, you are obviously taking a step yourselves in attempting to find out what the state of the industry is. In particular, by your line of questioning with regard to Garden State Park itself, you are attempting to answer that very question.

I think the Commission has a role in that. I don't think the Commission's role is necessarily to recommend that the Sports Authority come down and take over control of Garden State Park. I wouldn't say that. I think that somewhere in-between those -- somewhere short of that-- The Commission, certainly, is doing everything it can. A substantial portion of my time, and the rest of the staff at the Commission's time,

is spent with Garden State Park, in attempting to help them in any way we can, without reducing, certainly, the integrity or confidence people can have in the races going on there.

ASSEMBLYMAN RILEY: Do you think Garden State is economically viable?

MR. GARLAND: I think, as it is presently constituted, their management team — their business team — feels it is economically viable. I would tend to agree with you that if you look back, with the advantage of what we know now — look back on what they were building, maybe they have built too nice a facility. Certainly we can say that now, having the ability to look back. At the time it was being built, people marveled at how nice it was. They certainly didn't think they were going to lose money when they built it.

ASSEMBLYMAN RILEY: But, at what point do you think— You are a lot more into racing; that is your primary responsibility. At what point do you think someone — whether it be a legislative someone or a regulatory someone — representing the interests of the people of the State of New Jersey has to take the step, before it becomes — before the skeleton crew makes it a skeleton? When do you think that would be, and who do you think that should be? Who should be that watchdog to take that step, if anyone?

MR. GARLAND: Well, I would like to think that if a step like that were ever taken, that it would involve the Commission to some extent, but I would also like to think that it wouldn't be a step that was just recognized by one individual unit or a group; rather a step recognized by everyone, so that there would be some unanimity and thought in that regard, that "Hey, now is the time. We have all reached that time." I think you, as a representative in that area, certainly would play a role in that.

I think that the management team at Garden State Park— Certainly, if they said, "Now is the time," I think we

would all agree, hey, you know, then there is no question. What you're asking is, suppose they never say that? At what point do we step in? I hate to not answer your question directly, but I think it is one of those answers where people will recognize it when it comes. I don't think it is at that time yet. The management team down there certainly is doing everything in their power to keep Garden State Park viable. I can't think of anything they are not doing that needs to be done, which would make a major difference, nor anything they have done that is incorrect, that would make a major difference. I think they are in a--

ASSEMBLYMAN SCHUBER: Once the structure was built--
You know, once the structure was built--

MR. GARLAND: Once it's built--

ASSEMBLYMAN SCHUBER: Exactly.

ASSEMBLYMAN RILEY: Thank you.

ASSEMBLYMAN SCHUBER: Thank you, Dennis. Mr. Muziani?

ASSEMBLYMAN MUZIANI: Mr. Garland, you made a statement that somewhat surprised me. I would think it is safe to say that the industry has had its problems, what, the past four years?

MR. GARLAND: No. The industry has been up and down. Different tracks have had very successful-- If you take just the last four years as a base, different tracks have had very successful seasons; other tracks have had unsuccessful seasons. We've had simulcasting come into being. We've had the Supreme Court say simulcasting needs a referendum, and you've had simulcasting come back into being.

ASSEMBLYMAN MUZIANI: The Chairman indicated to you that you have an ailing industry, and you agreed it is an ailing industry, didn't you?

MR. GARLAND: Yes.

ASSEMBLYMAN MUZIANI: Okay. So that means there are some problems. What I don't understand is, you come here today

and tell us that you don't have any solutions or any suggestions. Doesn't the Racing Commission have a responsibility?

MR. GARLAND: It certainly has responsibilities.

ASSEMBLYMAN MUZIANI: It would appear to me that they have been somewhat lackadaisical and complacent in addressing these problems. Otherwise, you would be here today making some specific suggestions to us as to what could be done. You said, "We don't know."

MR. GARLAND: Let me give you a good example of that, Assemblyman. When simulcasting came into being— The Commission played a major role in having simulcasting come into being. I know the Legislature certainly played a major role in the industry, and everybody came together and tried to get simulcasting. The Commission recognized that as one of the things the industry needed at the time.

When simulcasting was found by the Supreme Court to be unconstitutional and needed a referendum, the Commission took immediate steps to try to get the industry together to organize an effort to support simulcasting. At that time, we were advised that we couldn't use any public moneys or time to support simulcasting, but yet simulcasting was something that the Commission recognized that the industry needed, and it wanted to promote the industry through trying to get simulcasting passed. But, we were cut off in that regard.

I think now the climate is that the Commission has this promotion kind of responsibility and duty. We have several things planned to try to do that. There are no easy answers to any of this. You have to understand that the tracks have very well-paid, high-quality individuals who are operating these tracks, who are looking for those answers also, as well as the horsemen's group, which has quality representation, lawyers, leaders. Everyone is looking for answers; nobody has an answer. Other states have similar problems, and no one has

come up and said, "Here is the blueprint to come out of this problem."

I am not sure-- I certainly accept some of the responsibility for that, but I am not sure there is just a definite plan that everyone can say is going to be successful.

ASSEMBLYMAN SCHUBER: That's what we're saying, I think, Bruce. In the end, I think, given the nature of the fact that we all recognize that there is a problem now-- We recognize that. Now the question is, we have to work or devote our attention to the preparation of an overall plan, and review, study, and plan for the purpose of arresting that.

MR. GARLAND: I definitely agree.

ASSEMBLYMAN SCHUBER: That has to be a major focus.

MR. GARLAND: I am not disagreeing with you, Assemblyman. I agree that we have that responsibility. I think we are addressing it to the extent that you're saying it hasn't been addressed previously. Certainly that is something that I take responsibility for.

ASSEMBLYMAN MUZIANI: Well, you indicate in your letter that the impact of the casinos, the Lottery, and possibly the leisure dollar being available in other regards, would be one of the reasons for your problem. And, yet, you just now said that they are having difficulties in other states which don't have casino gambling, possibly don't even have a lottery. You're saying they're having problems there, too.

MR. GARLAND: Some other states are having problems, yes, sir.

ASSEMBLYMAN MUZIANI: Yeah, but they don't have the casinos to compete with, or lotteries to compete with.

MR. GARLAND: Which makes New Jersey's problem even more substantial in some areas than in others.

ASSEMBLYMAN MUZIANI: I would think so.

MR. GARLAND: Also, New Jersey has achieved the status of the third largest racing State in the United States. Despite this kind of definition--

ASSEMBLYMAN MUZIANI: Yeah, overall.

MR. GARLAND: —New Jersey has come from below third to third. I mean, it has risen, as other states have come down. So, relatively speaking, New Jersey is doing — in comparison to other racing states — well. I mean, it is not doing-- Again, it is not an ideal situation. I don't know what to tell you, but relative to other states, New Jersey is now the third, behind only California and New York: Certainly, those two states have tremendous programs, and I think people should recognize New Jersey's program as being substantial.

ASSEMBLYMAN SCHUBER: I think New Jersey's program has been innovative over the time period. I would agree with that. I think we have moved — as you say — into the third slot on that thing. Our concern, of course, is that it maintains itself. As the State of New Jersey tends to go more and more into service industries and, you know, we rely more on these types of activities for the purpose of supporting our economy, the least little problem in one of them causes a major ripple effect, as we said before.

ASSEMBLYWOMAN CRECCO: I would like to ask a question.

ASSEMBLYMAN SCHUBER: Yes, Assemblywoman.

ASSEMBLYWOMAN CRECCO: Mr. Garland, does the Commission have some sort of a plan -- a broad plan, a start -- insofar as resolving these problems? Have you started--

MR. GARLAND: A broad plan?

ASSEMBLYWOMAN CRECCO: Yeah. You know, sort of just as you do in business.

MR. GARLAND: A broad plan, yes; an absolute plan, no.

ASSEMBLYWOMAN CRECCO: You have that all down?

MR. GARLAND: No. What we have as a broad plan are— We do utilize, and will continue to utilize the Rutgers management teams to do studies for the industry. We are in the process of assembling what we hope will be a gathering of all the representatives and people in the industry, to come out

with at least a starting point toward an initiative or an agenda or a plan to pursue. We are going to try to have everyone in the industry behind that, and move toward goals. That is in the process now of just taking shape. We have people who we want to be involved in that program. We know who those people are. They have all indicated a willingness to be involved. We are going to try to add some people to that, hopefully some legislators who may want to be involved in the program also. We would like to pursue that.

ASSEMBLYWOMAN CRECCO: Thank you. I think that is probably one of the first best steps. Thank you.

ASSEMBLYMAN SCHUBER: Thank you, Assemblywoman Crecco. Mr. Zangari?

ASSEMBLYMAN ZANGARI: Thank you, Mr. Chairman. Has the Commission studied the possibility of hooking up cable subscribers, allowing them to bet?

MR. GARLAND: No. That is something we are studying right now. I don't think any conclusions have been drawn on that yet. We have the experience right now and the ability to watch what happens in Pennsylvania. Pennsylvania has something known as "phone betting." What they have found -- and what I think we can draw a conclusion from -- is that if you do have phone betting, if you have it tied into a cable network, you will be more successful than if you just have phone betting and don't have it tied into a cable network.

What they found in Pennsylvania is that the costs of such a program are very high. I don't think they have drawn any conclusions as to what effect it has on live handle and attendance -- on track handle and attendance. You know, a dollar bet, even in simulcasting, nowhere approaches a dollar bet of a person actually attending a live track.

So, I think that all of those things would have to be looked at. In addition, they have done some things over there to try to make it work; allowing, for example, establishments

like bars or restaurants or things — allowing people to set up accounts and take wagers, and then show the races on cable TV there. That is something I would certainly like to look at more closely before saying I would support a program like that.

ASSEMBLYMAN ZANGARI: You made a statement earlier on the conditions at Monmouth. You said they had a successful season, and only because of the tremendous rains they had was the last season a handle off. I would think just the opposite; that if it rained during the day and people were not able to go to the shore, that the handle would be much more at the track, rather than saying, you know, that they didn't come to the track because it rained. Well, they can't go to the shore in the rain. They are down there for a vacation, so it would seem to me that they would go to the track.

MR. GARLAND: You are right to a certain extent, Assemblyman. The weather does affect it. However, rain is at one extreme, and brilliant sunlight and beautiful non-humid weather is at the other extreme. I think the ideal weather for Monmouth Park is not rain, but not a beautiful seashore day either. Something that rain does that directly affects wagering— A very specific example would be: Monmouth Park has a beautiful turf course, and the conditions of races are drawn specifically to utilize that turf course. In periods of rain or wet weather, the turf course can't be used. They have to switch that to the dirt. One of the problems is, members of the public who maybe handicapped a race for the turf, when a thunderstorm comes up and now the race is moved to the dirt— Maybe he wouldn't have handicapped the race in the same way had he known it was going to be on the dirt.

So, what the Commission has done this year, in cooperation with the tracks, in fact, is allow the person a refund in those situations. That reduces the handle, but yet it is fair to the person who has made the wager. It hurts the track, but it is something that definitely affects the wager.

Another example is, with rain, you sometimes have shorter fields, and with shorter fields you have lower-- You lessen the number of betting interests in a race, and when you do that, you lessen the amount of money bet on the race.

ASSEMBLYMAN ZANGARI: I look at the attendance at Aqueduct, and they will get 10,000 and wager almost \$3 million. We get 15,000 or 16,000 at the Meadowlands, and they will wager a million eight or a million nine. We have been discussing compulsive gambling here for a little while. Maybe that is working. It is the objective -- of the Committee anyway -- to cut down on the amount of people who gamble. Maybe the people are a little bit smarter than we give them credit for. Rather than going to the track and losing their money, they are putting their money into their homes.

So, if this is the case, that people are more learned today that you can't beat the races, and they are not going, why should we spend our money -- taxpayers' dollars -- to promote people going to the track to lose their money? That part bothers me.

MR. GARLAND: I am familiar with the Committee's efforts with regard to compulsive gamblers, but I didn't understand the Committee's efforts in that regard to necessarily be directed at keeping people from going to the track who are not necessarily compulsive gamblers. With regard to the number of compulsive gamblers, I don't have statistics on that. Remember, we had a very similar conversation when I testified here on that compulsive gamblers bill. I don't know the extent of the problem, if there is a problem. I do know that the industry has attempted to assist compulsive gamblers in the past, and that the Committee has, in fact, sponsored legislation -- released legislation which addresses that issue.

ASSEMBLYMAN ZANGARI: But you can't become a compulsive gambler unless you gamble. So, you know, when you're gambling-- The guy who goes to the track, or the guy

who goes to A.C., or the guy who plays the Lottery— These are the only people who are going to become compulsive gamblers. If they have learned a lesson and they are not going to the track, they are not going to A.C., they are not playing the Lottery— These people are not going to become compulsive gamblers. Naturally, the State and the entities that are in the gambling business are going to be losers — okay? — and yet, you know, here we are trying to entice them by promotional gimmicks to go and lose their money. To me, I don't see the rationale there.

ASSEMBLYMAN RILEY: Oh, I'll bet you there is no effect.

ASSEMBLYMAN SCHUBER: Let me give you my dark side speech now. The fact of the matter is, this Committee takes no stand either for or against the public gambling. That decision was made by the voters of this State years ago. Rather, what we are trying to do here— We have established — by legislation — a Commission that will look into the whole aspect of what the relationship of the State to gambling revenue is. Okay?

We are not here to make any moralistic judgments with regard to that. What we are here to do is to ensure the integrity of the regulatory process of those gambling enterprises the State has authorized one way or the other, from which we now derive revenue upon which our public policy now depends for the implementation of certain good programs. Not only that, but to ensure the relative health of the industry, and the fact that the public does not get gouged at these particular activities. I mean, those are really the areas I see, all in the name of the public good of the State. That is where I see us going. Until somehow or other we reach some other consensus that we shouldn't have this at all, you know, that is where I see us going on this thing.

That is why I raised the question with you -- and I think Mr. Muziani raised the question with you -- that now that we have this particular industry here -- and it is an industry that goes back centuries -- the fact of the matter is, it should be conducted as best as possible under the circumstances we find ourselves in, given the nature of the fact that we anchor part of our economy on it, rightfully or wrongly.

ASSEMBLYMAN MUZIANI: Mr. Chairman, may I ask one more question, please?

ASSEMBLYMAN SCHUBER: Just one.

ASSEMBLYMAN MUZIANI: Just one question: Does the Racing Commission direct outside auditors to audit the tracks' records?

MR. GARLAND: We don't direct the outside auditors. We have a yearly-- Legislation has required that there be a yearly audit done of the tracks, and we require it. We receive those from certified public accounting firms, yes.

ASSEMBLYMAN MUZIANI: Public accounting firms?

MR. GARLAND: Right. Once a year we receive those. I would like to make a pitch again. That is an area-- I have two people who do accounting work -- who are capable of doing accounting work for the Commission. I think that is an area where we definitely could use some assistance to beef that area up. There is no question about that.

ASSEMBLYMAN MUZIANI: That should have been one of your recommendations today.

ASSEMBLYMAN SCHUBER: Go ahead, Mr. DiGaetano.

ASSEMBLYMAN DIGAETANO: That is what I was asking you before, when I asked if you were lacking in either authority or enforcement powers.

MR. GARLAND: Oh, I'm sorry. I sent a letter to the Committee where I indicated I thought that was a specific area. I didn't mean to exclude that, no. I apologize.

ASSEMBLYMAN SCHUBER: Mr. Garland, we appreciate your being with us. I think we find this topic very interesting, and certainly it has ramifications on the economic health of our State. It is something we want to keep a close watch on. We would implore the Racing Commission to please keep us apprised of its efforts in these areas: Number one, with regard to its response to the SIC Report, which we want to see, and number two, its efforts with regard to what it intends to do, in essence, to stabilize the industry, if that is possible.

We appreciate your being with us, and we appreciate your cooperation. Thank you.

MR. GARLAND: Thank you. I appreciate the opportunity. Thanks, gentlemen.

ASSEMBLYMAN SCHUBER: Now we are going to hear from Mr. James Morley, Executive Director of the State Commission of Investigation, who we hope has the answer to the question which hangs over us: What is wrong with the industry in the State of New Jersey today?

J A M E S J. M O R L E Y: Mr. Chairman, I don't have a prepared statement, but I would like to preface any discussion we have with an echo to a theme that you and Mr. Garland struck earlier on. The investigation that we conducted of the activities of the Racing Commission, I think, was unusual in its process and in its outcome. Unlike many other situations in which we make an inquiry into the operations of a State agency, or a State regulatory body, we did not find the resistance or the tendency to suggest that nothing was awry to protect the agency's past practices against any kind of attack, as the agency might perceive it.

In this particular instance, the Racing Commission was extremely forthcoming -- the members of the Commission and the members of the Commission staff -- in confessing to the problem areas that the Commission perceived, and in opening up to our suggestions for possible remedies. So, we found the unusual

situation at the end where much of what we otherwise would have recommended, perhaps with another tone, we could hold up as evidence of the good faith of the Racing Commission in its desire to make efforts to correct the problems.

The theme that has been struck here today -- which I want to echo -- is that the good faith efforts of the Racing Commission to make reforms, many of which we recommended during the investigation and which the Racing Commission picked up on, can be fulfilled only if the Racing Commission has the money to do it. There are cases where reforms -- systemic reforms -- can be made in the operations of a State agency, simply by changing attitude or by changing focus or by moving resources around.

That is not the case with much of what we recommend for the Racing Commission. There are needs for personnel; there are needs for hardware, in order for the Racing Commission to do what it wants to do, and what we would urge it to do. Assembly Bill 3163, of which you, Mr. Chairman, are a cosponsor, is an important step in that direction. It gives the Racing Commission three hundred and some thousand dollars to pick up on the reforms that it has proposed, and that we support. I know that is not the issue here today in the Committee, but I think it is important that the Commission of Investigation go on record as urging that the Assembly move that bill and give the Racing Commission the ammunition it needs to go forward.

ASSEMBLYMAN SCHUBER: Well, it is a continuing concern of mine. It just doesn't lie with this in particular. As we said before, we find that as our regulatory bodies-- You know, these industries that are regulatory bodies are supposed to regulate, expand, grow, or modernize. Sometimes our regulatory bodies don't necessarily do so. It is not a passing of judgment on them. Many times they are making these recommendations, and we just haven't picked up on them to the

point of giving them the funding to adequately do the job, whether it is this, or boxing, or DMV, or whatever the case might be.

MR. MORLEY: Right. That is the extent of what I wanted to say prior to answering any questions about our Report.

ASSEMBLYMAN SCHUBER: Mr. Morley, let me ask you this, because this Report was kind of different than most of the others I am used to seeing, from the SCI particularly. This Report was initiated, as I understand it, by a request from the Attorney General. Is that correct?

MR. MORLEY: That is correct. In 1983, Attorney General Kimmelman, who had similarly asked the Commission to scrutinize the operations of the State Athletic Commission with respect to the regulation of boxing in the State, also suggested that -- or asked -- that the Commission make an inquiry into the activities of the State Racing Commission.

I don't want to mislead the Committee. That request was made in 1983 -- in the spring of 1983 -- and the wheels did begin to turn at the Commission with respect to that investigation. It is not accurate to say that there was a full-scale investigation where we had regular resources dedicated to that investigation to the exclusion of other things. There were many other activities going on at the same time in the Commission and, like any other agency, you have to prioritize your responsibilities versus your resources.

As we got into racing and other investigations, as I have already alluded to we found that we had a cooperative agency on the other side. A lot of what we were doing at that time was engaging in discussions with the Racing Commission, and talking about what problems the Racing Commission itself perceived and how those things might be addressed. I think the goal of then Attorney General Kimmelman in having someone look at the Racing Commission was being served during the process of the investigation. A lot was accomplished then that might

otherwise, under other circumstances, have been left to the end of the investigation to be resolved or addressed.

ASSEMBLYMAN SCHUBER: What was the Attorney General's exact charge to the SCI with regard to this?

MR. MORLEY: The Attorney General's request, which was made to my predecessor in the course of a discussion of other matters, was that perhaps it was time for someone to take a look at the regulatory system -- the racing regulatory system -- to see if it was something that needed attention, and whether it was an area where meaningful recommendations for reform could be made. That was about the time when, as I recall, Garden State was gearing up. It was at a time when there was talk about a possible transfer of ownership of Monmouth Park. And, also, it came following the unfortunate early conclusion of a major investigation conducted by the State Police with regard to the integrity of racing.

ASSEMBLYMAN SCHUBER: At the time you undertook this, there really was not necessarily a problem that was perceived, was there? It was just rather an ongoing-- It was a request of the Attorney General to find out if there was any need, while we were looking at other commissions along these lines. Would that be fair to say?

MR. MORLEY: Yes. I think there are certain similarities between the initiation of this investigation and the initiation of the boxing investigation. In both cases, entities within the Department of Law and Public Safety had made investigations, and the racing investigation resulted in indictments for race fixing. The investigation of boxing by the Department never even reached the Grand Jury, but in both cases there was a resolution of the Department's investigations without a public airing of what might be the systemic problems with the regulatory system. I think in both cases, the Attorney General wanted that looked at by an agency which is charged with that kind of responsibility.

ASSEMBLYMAN SCHUBER: Let me ask you this: One thing that bothered me about the Report, if I might— When I read the Report on the Division of Motor Vehicles, and I read the Report on the Athletic Commission, especially the last report you did on boxing, which was very extensive, you know, there were a number of witnesses who were brought before the Commission. Their testimony was extracted and their names were given in the Report, and you were able to follow along, basically almost — in the case of boxing, anyway — a story line that went from beginning to end and highlighted the recommendations that you made — which we just recently passed out of the Assembly — but I didn't find that in this Racing Commission Report. There were one or two witnesses listed, but there were "Witnesses" and then kind of a summary of what they said, but I had no way of judging really what they said, who they were, or what their relationship to the industry or the Commission was, to kind of buttress the Report you were making.

MR. MORLEY: The difference in the resolution — the conclusion of the investigation in this kind of a report is a product of the difference in the process. The Commission did not feel, given the fact that a lot of what we had recommended during the investigation and would highlight in the Report — because a lot of that had already been picked up on by the Racing Commission. It would have been an unnecessary effort to go into the kind of detail which the Commission often does when it has a resistant focus of its investigation, as we did, to some extent, in DMV, and certainly with boxing, where there was resistance all along.

So, it was simply a judgment that to devote further staff resources to put together a 200- or 300-page Report to recommend things that had already been agreed to in principle by the Racing Commission, just wasn't wise. Because the format of the Report is different, there is very limited direct quotation of question and answer in Executive Session. That is

only because we felt that would unnecessarily extend the length of a Report which, as I've said, had a different purpose. This Report, or this letter, really signaled the end of an investigation and a -cooperative effort with the Racing Commission.

ASSEMBLYMAN SCHUBER: Then it is fair to say that the Racing Commission was very cooperative and positive in its response?

MR. MORLEY: No doubt about it.

ASSEMBLYMAN SCHUBER: In looking at the recommendations you have made in the Report, are there any you find-- Priority-wise, which do you think are the most important ones which should be, or have been acted upon at the present time?

MR. MORLEY: Well, I think in the area of inspections -- inspections of horse farms -- and in the area of licensing. I think there are certain parallels between the result of this investigation and, again, the boxing investigation. I think the parallels arise from the factors that you identify, Mr. Chairman, that it is a regulatory system which has been outgrown by the industry that it seeks to regulate. In a simpler time, licensing of horsemen, and licensing of participants in the boxing industry, was an easier process. The business of racing has become so big; the business of boxing has become so big, that the Commissions' processes and procedures have been outgrown. In the area of licensing, they have become outgrown, and in the area of inspections.

I think probably the primary theme that we want to strike in this Report is that there has to be a more aggressive understanding of the Racing Commission's regulatory role. And, in order to do that, there has to be a greater effort put into licensing and inspections -- things which the Racing Commission recognizes.

There has been some mention here about what is the role of the Racing Commission, vis-a-vis making racing profitable. That is a serious question in our Commission's mind. I hate to keep trying to parallel, but it is a very meaningful one. That was a concern we had in boxing. Our concern is whether a regulatory body which is charged with ensuring that an industry maintains its integrity, especially and even more so in racing than in boxing, because it is one in which the State has made, at least the implicit guarantee that this is an honest business. The races are run fairly; the horses are not drugged; the races are not fixed. That implicit guarantee arises out of the fact that the State has sanctioned wagering in that business. That is not the case, of course, in boxing.

In order to fulfill that guarantee, there has to be an aggressive regulatory system and, although certainly the regulatory system should not be malignant towards the economic interests of the industry, it is not too far that you have to go, before you have crossed the line, and you have to breach your regulatory responsibility. Because when you have to compromise a regulation for the sake of economic advantage in the industry, then I think a regulatory system has lost its credibility, and the State has failed to fulfill its promise.

ASSEMBLYMAN SCHUBER: I agree. It is a fascinating question, however. I would like to see one of the Rutgers professors pick it up. There is an interesting book out now on the regulatory process involving the casinos. Of course, in regulatory processes, the classic discussion with that is that the regulatory agency becomes almost a client of the industry which it is supposed to regulate.

The question you raised, which is an interesting one in a particular case like this, as to what extent do you pass off on the regulatory procedures and then go to promoting the industry as a whole— Obviously, it is not the normal charge

for any regulatory body; in fact, it is the antithesis of any regulatory body. The question now is, in certain industries, are regulatory bodies having to fulfill that proposition at the same time because nobody else will? I don't know the answer to that. I certainly don't want to see it, quite frankly, given the nature of what you just said, but the fact of the matter is, it is an interesting hybrid situation that hasn't existed before.

MR. MORLEY: Right, and it's a dilemma I guess this Committee has to grapple with, especially because you've got an industry which is obviously -- from everything that anybody in the papers says -- is on the decline.

ASSEMBLYMAN SCHUBER: In theory, I guess the fact would be we would hope that these industries would prosper because they are regulated properly. I am not sure that always happens, quite frankly, but the fact of the matter is, that is the theory behind it. I think the question is: Is there a median ground whereby this particular industry can be regulated properly without the norm being crossed, without the rules of propriety being crossed, and at the same time input can be given, given the expertise that is available, to at least make the industry, you know, economically viable?

That is the kind of curious balance I guess we are trying to strike here. Whether it can be done, I really don't know. But, it would certainly be an interesting departure for regulatory bodies -- or an interesting sideline to regulatory bodies, I guess, for those people who are interested in these types of things.

Let me ask you this: With regard to the Racing Commission itself, what additional powers do you think they should have, if any, to handle some of these situations, or do they have sufficient powers now?

MR. MORLEY: I don't think we identified any area where the Racing Commission is clearly lacking authority. I

think we found that the problem in authority arises out of the Commission's willingness to aggressively assert its authority. The security issue, I think, is the best one to illustrate that problem. The former Executive Director of the Racing Commission, Mr. Handel, told us that when Garden State was being built, the Racing Commission went down and said, "We want the gate configuration to be done differently from how it is planned." According to Mr. Handel's testimony, Garden State simply said, "We are not going to do it that way."

Now, the Racing Commission obviously made a judgment at that point. Again, it may arise out of the dilemma with respect to, where does regulation end and where does helping in running a profitable business begin? In effect, Garden State told the Racing Commission to take a walk. The Racing Commission obviously has the authority, at least as we read the statute, to say to Garden State, "Well, you can put your building anywhere you want, but you are going to have to use that facility for something other than horse racing. You just won't get a license."

I think the situation has to be the same with respect to the Meadowlands. Apparently, the Meadowlands has, for a long time, used certain language in the Sports Authority legislation to argue the position that the Racing Commission has less authority -- less power -- with respect to the Meadowlands track than it has with tracks at other locations. There is language in the Sports Authority statute that exempts the facilities run by the Sports Authority from certain kinds of State, county, and municipal regulation.

It is our view that that language, however, was not intended to give the Meadowlands track any advantages with respect to complying with reasonable requirements of the Racing Commission. And, we think that the failing on the part of the Racing Commission in that regard was in its failure to confront the issue, and to say to the Attorney General, in whose

Department the Racing Commission is located, and who is also a member of the Sports Authority, "We want this issue decided." There seemed to be too much willingness to simply withdraw from the confrontation.

ASSEMBLYMAN SCHUBER: Well, that was the theme of part of your Report. I think you recommended that in cases like that -- given the fact that the statute may not necessarily be that clear in this area; that it may need further clarification-- I think you recommended, as an alternative, that a permit to operate a track be revoked in these kinds of situations.

MR. MORLEY: What I said before was, if the Racing Commission feels strongly enough about something to go down to a track and say, "We think that the integrity of racing is threatened by the fact that you have a lack of security at the gates here. People can get in and tamper with horses, tamper with the jockeys, and whatnot--" If because of those concerns the Racing Commission feels that the essential integrity of the sport is threatened, it should certainly not let racing take place at that facility. If that means not granting a license, as in the case of Garden State, or threatening the license, as in the case of the Meadowlands track, that is what has to be done.

In our view, the security is a significant issue. Now, I suppose reasonable commissions could disagree. The Racing Commission could say, "We simply meant that it would be nicer or better if the gate configuration were different," but that is not the way it was presented to us by Mr. Handel. It was presented to us as he thought it was a problem.

ASSEMBLYMAN SCHUBER: There is a question, and I don't get the full flavor out of the Report: How serious was the security issue?

MR. MORLEY: Well, the security issue--

ASSEMBLYMAN SCHUBER: The witnesses are not spelled out here. This is the one area I looked at.

MR. MORLEY: I don't want to offer the record. It is at this part — like all of our investigations — a sealed record. But, if the Committee wants to pursue it, you know, we can talk— The Commission can discuss possibilities. There are always concerns about some witnesses to whom we have guaranteed anonymity at our proceedings. I don't know if that is the case with regard to this.

We thought that security was a significant issue. We had the Executive Director of the Racing Commission tell us it was a problem. We sent people down to test the security systems. Our investigators could go down and simply ride pass the gate by waving at the security guard. That was at a time when we were told that even though the gate configuration was not that which the Racing Commission wanted, there were other safeguards in place that made up for the difference. We found that that was not the case. It was possible for virtually anybody to get into the backstretch area, where they could get at horses, where they had access to the jockeys.

ASSEMBLYMAN SCHUBER: Did you have a sizable number of incidents reported where this had led to a problem?

MR. MORLEY: It is impossible to tell when that has led to a problem. Obviously, I think the--

ASSEMBLYMAN SCHUBER: You're saying there is a possibility that there could be a problem?

MR. MORLEY: Yes, there is the possibility. If anybody can get into the backstretch area, and that was our conclusion because, in spite of what we were being told at the time, the security procedures were not sufficient to keep people off the track area-- There were several instances at both Garden State and the Meadowlands where our people went down and simply drove on, with a perfunctory wave at the security guard. They had access to anything they wanted.

Obviously, although "Operation Glue" met an early conclusion, there are possibilities for race fixing and for tampering of horses which exist.

ASSEMBLYMAN SCHUBER: Okay. Your concern then was the possibility, but I didn't notice any incidents reported in the Report that indicated that as a result of this these things had happened.

MR. MORLEY: No, but we think it is our responsibility to say, "Here is a situation which invites a problem," and we noted it. We have suggested what we think has to be done.

ASSEMBLYMAN SCHUBER: I want to make that clear, because some of the interpretations in the Report that I read didn't quite leave it at that.

MR. MORLEY: Well, no, we didn't say that, and we didn't intend to leave that impression.

ASSEMBLYMAN SCHUBER: Okay. Does that include the fact that your Report did not indicate any infiltration, as we found in boxing — any attempt by organized crime to get involved with regard to taking advantage of these types of lack security, as you said?

MR. MORLEY: If we had seen that possibility, we certainly would have said something about it.

ASSEMBLYMAN SCHUBER: I don't find it in the Report.

MR. MORLEY: It's not in the Report, no.

ASSEMBLYMAN SCHUBER: Let me pose one more question, and then I will see if any of the other members have any questions. I have two questions. In your Report, you posed a question, "Does the public believe that racing in this State can be trusted?" Now, I don't know the answer to that question, and I don't know why the question was posed. Was that because of the lack of attendance, or something else you saw in your Report that we haven't seen?

MR. MORLEY: No, I am not suggesting that the public doesn't trust it. What I meant to say-- What I meant by what

I said was, the State has made an implicit guarantee that racing is a sport which is entirely aboveboard, in which no fixing occurs, or at least to the extent possible for government to ensure, and that the public has a right to expect that. I don't know if the public has gotten to the point, or if there has been enough said -- by us or by anybody else, by what the indictments have to say to the extent that they can be believed in Operation Glue-- I don't know if enough has been said that the public's confidence has been seriously eroded and, if it has, I don't know whether that is the reason why the betting handle has gone down.

ASSEMBLYMAN SCHUBER: I took it a different way. I mean, certain questions expect certain answers. Or, certain questions, the way they are phrased, give you a certain connotation with regard to the industry. I found that one because I didn't-- Not knowing which way the public may view this at all, you know, it kind of left me hanging to the extent that maybe you had found something that we haven't seen yet.

MR. MORLEY: No, no. I've seen that in various places, and I don't understand it. The Commission has never taken something of note that it found, involving corruption or criminality or other wrongdoing, and for some reason put it away. Certainly, it would have been a much more spectacular public presentation to put in evidence of those kinds of things if we had found them. I don't know anybody -- and I am not suggesting, because I know you say you have seen these questions raised-- I don't know why anybody would imagine we would want to hide something we had found. We didn't find anything.

ASSEMBLYMAN SCHUBER: No, I understand that. I figured if you had found anything, it would be in the Report. We didn't find it there. That is why I assumed there had not been evidence along these lines.

MR. MORLEY: We have commented on everything we found which needed to be commented on. Certainly, if we had found those kinds of things -- those kinds of nefarious things -- we would have commented on them. We didn't find them.

We didn't go out and try to recreate Operation Glue--

ASSEMBLYMAN SCHUBER: Right.

MR. MORLEY: --even taking the objectionable aspects of that aside. We did not intend to do that. We didn't go into this investigation to find out if there is race fixing. Operation Glue made a statement, to some degree, on whether race fixing happens. We will never know whether those specific instances did. Certainly, I think we can walk away from Operation Glue with the feeling that the climate exists for race fixing to occur. We make comments in areas where we believe remedies can be undertaken to limit the opportunities for race fixing, if that does occur. But, we didn't try to go and find that out.

ASSEMBLYMAN SCHUBER: You see, this is the kind of thing that kind of left me off. Basically, you had made a series of recommendations which the Racing Commission has taken a very positive stand on, it would appear. Both of you appear to have worked together during the course of this investigation to make certain of those changes, and are continuing to do that now, from what Mr. Garland has testified, and I have no reason to doubt that. But, yet, the headlines I read of this Report led me to believe that this industry is one that is about to belly-up, for a number of different reasons. Of course, that is not your problem.

The fact of the matter is, it appears to me that you found certain possibilities here that might lead to future problems, more so than maybe one now. They are addressing some ways that they can, and some ways that they can't because they don't have enough money yet. That is our responsibility. I understand that.

Let me ask you the question then. From what you folks saw, is this industry ailing, number one; and number two, if it is, what do we do about it?

MR. MORLEY: Well, let me say that the most interesting thing about the headlines we saw was that most of the headlines addressed the last two or three paragraphs of the Report. I guess that was the most sensational part of it from the point of view of the headline writers.

We didn't intend, nor do we believe that it is the responsibility of the Commission of Investigation to look at the economic health of an industry. It is for us to say, "This is the way it should be regulated, because these are the promises that have been made." It is for the Legislature; it is for the Racing Commission to decide whether the degree of regulation we recommend will kill an industry, and then to decide whether saving the industry is more important than regulating it the way that we have recommended that it be regulated.

We made the comments at the end of our Report about the future of racing because we recognized that what we said could have an effect on the future of racing. We could not end the investigation without noting that people during the investigation, and events that occurred during the investigation, but not before the Commission, raised these issues, and that they are issues that have to be addressed in conjunction with the problem of addressing regulation. We noted those issues because we think they are important ones. We don't make any finding as to the economics of racing, nor do we suggest that we have any responsibility or any right to make that kind of an investigation.

ASSEMBLYMAN SCHUBER: Yeah, because, frankly, I don't think you do, number one; and number two, it would not be within the expertise of your agency to do that. I only raised the question with you, Jim, because of the fact that that last

paragraph led me to believe that you took testimony on this, and then kind of -- maybe you didn't get an answer out of all that you saw, so you left the questions hang. But, it would appear to be way beyond the purview of what you are supposed to be involved with.

As you aptly point out at the end, though, you know, the Legislature has established a Commission on this particular issue.

MR. MORLEY: We note them there at the end because they were issues raised. They are not issues that we intended-- They are not issues that we, in fact, explored, because they are just not issues that are within our jurisdiction and mandate.

ASSEMBLYMAN SCHUBER: Thank you. Mr. Muziani?

ASSEMBLYMAN MUZIANI: How often does the Racing Commission meet?

MR. MORLEY: There are four part-time Commissioners. Each Commissioner is probably in three days a month. It is part-time by statute.

ASSEMBLYMAN MUZIANI: Are they compensated?

MR. MORLEY: They are compensated, yes. The staff is a full-time staff of investigators, attorneys, accountants, and support personnel. It is a full-time staff.

ASSEMBLYMAN MUZIANI: Does your Report in any way indicate that there should be some restructuring of the Racing Commission to add to its effectiveness?

MR. MORLEY: No. We found no need for restructuring, as we did in boxing, where we felt there should be a whole scale restructuring, which this Committee and the Legislature followed up on. We found no need for a restructuring of the organization of the Racing Commission.

ASSEMBLYMAN MUZIANI: Do you feel there is a need for a full-time person to be with it all the time and really handle everything that is going on?

MR. MORLEY: No, because like our agency-- Although the Commissioners themselves -- the policymakers -- are part-time officials, Mr. Garland and his staff are full-time and, although there may be a need for additional personnel on the staff -- because it is an extremely small staff -- full-time oversight is being exercised by Mr. Garland and by the others on his staff.

ASSEMBLYMAN SCHUBER: Are there any other questions?

ASSEMBLYMAN ZANGARI: Yes. On page 6, under the reforms, it says: "Pari-mutuel computer log tapes, which are retained for only six months, should be preserved for five years." How long are the film tapes retained right now?

MR. MORLEY: I don't know.

ASSEMBLYMAN ZANGARI: For a year. Why shouldn't the tapes be held for five years, and only the log tapes that have a direct correlation between the two?

MR. MORLEY: Well, I don't think there is a direct correlation. I think there are different kinds of things you are looking at. The computer tapes we are talking about here are geared towards being-- They have a potential for being used in an embezzlement prosecution, where you wouldn't have any other evidence of wrongdoing. I am not suggesting that you shouldn't keep the film tapes longer. My own view, as a former prosecutor, is that you should make every effort to maintain whatever possible evidence exists during the period of the statute of limitations. But, I don't see that there is a correlation. I think the tapes would be useful in a fixing prosecution. The computer log tapes, on the other hand, would be used if there was embezzlement of other wrongdoing by the mutuel clerks.

ASSEMBLYMAN ZANGARI: Thank you.

ASSEMBLYMAN SCHUBER: Mr. Morley, thank you very, very much. We appreciate your being here with us today. We appreciate your cooperation, and your Report.

I would indicate to the public that there will be another meeting on this. It will be held sometime within the next month, I would think, at our next session, to take further testimony in this particular area, and to find out if there is any further role for the Legislature to play in this particular case -- other than the more obvious one, which is to take into account some of the recommendations here.

The Racing Commission requires more money, which we will have to talk to Assemblyman Villane about.

Thank you very, very much. This meeting is adjourned.

MR. MORLEY: Thank you, Mr. Chairman.

(MEETING CONCLUDED)

APPENDIX



State of New Jersey

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ATTORNEY GENERAL

November 3, 1986

William P. Schuber, Chairman
Assembly Independent and Regional
Authorities Committee
71 Park Street
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Ridgefield Park, NJ 07660

Dear Chairman Schuber:

Thank you for the opportunity to appear before your Committee to address some of the issues raised in the State Commission of Investigation report on the regulation of horse racing in New Jersey. I also appreciate the opportunity to briefly outline the Commission's position on the State Commission of Investigation report.

On the whole, the report recognizes the "many regulatory improvements the New Jersey Racing Commission both achieved and tried to achieve" in the last few years. Those years were filled with numerous changes as the industry reorganized to address the increased gambling competition from casinos and lottery, and the overall increase in competition for the leisure dollar. Some of the more obvious changes are the year-round racing facilities such as the Meadowlands and Garden State Park, increased racing dates, simulcasting and many other technological advances. To meet these changes the Racing Commission has attempted to reorganize. In the area of regulatory improvements, the Racing Commission has successfully adapted and the report recognizes the important progress made by the Commission.

A good example is our comprehensive drug testing program. This program is recognized as a model for other states and is the most comprehensive in the nation. The overall approach of our program is unique as are many of the individual components. For horses, we have totally redrafted our regulations, clarifying and strengthening them. Every horse, both thoroughbred and harness, that races in New Jersey receives a pre-race blood test prior to each start. If any foreign substance is detected, the horse is scratched before the public can wager any money on the horse. (In 1985 there were over 70,000 such tests and 187 horses were scratched.) In addition, any horse that finishes first, second, or third, any beaten favorite, claimed horse, or "special" receives a post-race urine test. (In

1985 there were over 42,000 such tests and only 9 positives.) The tests are conducted at laboratories located at each racetrack. No other state has facilities that even approach ours. The tests are conducted with equipment that is "state of the art" and they are conducted by State Police specialists, many of whom are nationally recognized experts. Finally, our program is connected to Cornell University Equine Testing Laboratory through a Quality Assurance Program that allows us to benefit from their research and expertise, while they check the quality of our work. No expense is spared to keep this program what it is recognized to be, and that is, the best in the nation. Although these facilities and tests are under our total control, the facilities and testing are paid for by the track associations.

Our human drug testing program was the first of its kind in the industry, and it is the only such program to be upheld by a Federal Court of Appeals. The goals of the program are safety, rehabilitation, and integrity while maintaining confidentiality. It should also be noted that every official, driver, and jockey must pass a breathalyzer test every day.

Addressing the State Commission of Investigation report directly, the Racing Commission is in the process of reviewing each of their recommendations. In fact, many of the recommendations are already in the process of being implemented, while some have been in existence for over a year. Other recommendations will require additional study to determine whether or not they are practical or economically feasible. Although many of the recent regulatory improvements were accomplished without additional appropriations, many of the State Commission of Investigation's recommendations, which the Racing Commission agrees are necessary, will require additional appropriations. For example, the Commission needs additional fiscal auditing capabilities. Assembly bill 3163, a supplemental appropriations bill (a copy of which is enclosed), has been introduced in the Legislature and addresses many of those needs. Passage of this bill would be sufficient to provide:

- a. Five (5) simulcasting verifier positions (a verifier checks the computer pay-outs, audits mutuel clerk windows, and audits cancellations.)
- b. Seven (7) auditor/accountants
 - Five (5) to serve as supervisor of mutuels (interpret rules and approve statutory distributions.)
 - Two (2) to perform audit functions in such areas as horsemen groups and track associations.
- c. One (1) accountant and two (2) investigators and related support personnel to perform increased investigatory functions.

Chairman William P. Schuber
November 3, 1986
Page Three

With these funds, at least six of the State Commission of Investigation's recommendations would be met.

In addition, the Racing Commission will again be requesting appropriations to complete a computerization program. We are pleased the 1987 budget request will include \$390,000 for this project, and we anticipate needing an additional \$100,000 before the project is completed. The fiscal auditing capability and computerization project are the two major areas for which the Racing Commission needs and seeks your assistance. Although this letter does not individually address each of the State Commission of Investigation's recommendations, I will be prepared to do so at the Committee hearing.

If you have any questions or require any specific statistics prior to the Committee meeting, please do not hesitate to contact me.

Sincerely,



Bruce H. Garland
Executive Director

gjt
Enclosure

c Guy F. Muziani, Vice-Chairman
Jose O. Arango, Committee Member
Marion Crecco, Committee Member
Paul DiGaetano, Committee Member
Dennis L. Riley, Committee Member
Jimmy Zangari, Committee Member
Edward Westreich, Committee Aide

ASSEMBLY, No. 3163

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 18, 1986

By Assemblymen ROCCO, SHUSTED and Schuber

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1987 and regulating the disbursement thereof," approved June 30, 1986 (P. L. 1986, c. 41).

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. In addition to the sums appropriated under P. L. 1986, c. 41,
2 there is appropriated out of the General Fund the following sum
3 for the purpose specified:

DIRECT STATE SERVICES

66 DEPARTMENT OF LAW AND PUBLIC SAFETY

10 Public Safety and Criminal Justice

13 Special Law Enforcement Activities

4 22-1410 Regulation of Racing Activities \$390,964

5 Special Purpose:

6 Regulation of Racing Activities (\$390,964)

1 2. This act shall take effect immediately.

STATEMENT

This bill appropriates \$390,964.00 to the N. J. Racing Commission for 24 positions. The positions are necessary to meet the increased activity in the racing industry due to the re-opening of the Garden State race track, the rebuilding of the Freehold race track, to staff a comprehensive drug testing program for personnel and to provide clerical support for track officials who were recently

converted to commission employees. Also, the simulcasting program is expected to produce 700 additional racing programs State-wide. As a result, the commission requires five additional inspector verifiers to perform vital audit functions.

Seven accountant/auditor positions are needed at each race track. This will enable the commission to exercise greater administrative and financial control at each live race meeting. Additional personnel also are needed to complement the track auditors and to staff the recently established Farm Inspection Bureau.

The addition of these positions will enable the commission to exercise greater administrative and fiscal control, thereby enhancing regulation of the industry and ensuring the integrity of horse racing in New Jersey.

LAW AND PUBLIC SAFETY—GENERAL

Appropriates \$390,964 to the Racing Commission for additional personnel.
