THE CASE OF ENOCH L. JOHNSON

Johnson, Enoch L., defendant,

A COMPLETE REPORT OF

THE ATLANTIC CITY INVESTIGATION

CONDUCTED JOINTLY BY THE

TREASURY DEPARTMENT

And The

DEPARTMENT OF JUSTICE

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On August 1, 1941, in the United States District Court, Camden, New Jersey, Enoch L. ("Nucky") Johnson, political leader of Atlantic City, was sentenced to ten years imprisonment, fined $20,000, and ordered to pay the entire costs of the prosecution. United States Circuit Court Judge Albert B. Maris imposed this maximum sentence as a result of Johnson's conviction on charges of income tax evasion. Thus ended the career of one of the most notorious political "bosses" in the United States. As has happened in the cases of many other racketeers and corrupt politicians, Johnson met his Waterloo because of his failure to honestly account to the government for his income from illegal sources. This fact was established by a joint investigation conducted by the Intelligence and Income Tax Units of the Bureau of Internal Revenue, United States Treasury Department, and by the Tax Division of the Attorney General's Office, United States Department of Justice, after an inquiry which lasted for more than four and one half years.

Personal History and Political Career of Enoch L. Johnson

Johnson was 58 years old. He was born in Galloway Township, Atlantic County, New Jersey, in 1883, and was of Scotch and English parentage. His father, Smith Johnson, was a produce farmer with political inclinations, who became sheriff and finally acknowledged Republican leader of Atlantic County. Nucky was graduated from the Mays Landing High School (Mays Landing being the county seat of Atlantic County) and after graduation worked at odd jobs, including that of drug store clerk. When he was 19 years old his father, then sheriff, made him sheriff's clerk. From that day until his conviction he remained constantly on the county payroll and was actively engaged in the political operations of the Republican Party in Atlantic City, Atlantic County, and in the State of New Jersey generally.

When Johnson reached the age of 21 he became undersheriff of Atlantic County and in 1908, when he was 25, he ran for sheriff and was elected. The shrievalty of Atlantic County has long been the Johnson family's particular domain. Smith Johnson was sheriff for four terms (three years each) and undoubtedly would have served many more had not the law forbidden a sheriff to serve consecutive tenures. Nucky was sheriff only once, but his brother Alfred has held the office many

times and is sheriff today. The importance of the position is obvious - the sheriff is in charge of drawing the panels for all petit and grand juries in the county.

In 1911, while Nucky was sheriff, Woodrow Wilson, then Governor of New Jersey, decided that Atlantic County needed a house-cleaning. He assigned a special Supreme Court Justice to hear cases there and he ordered his Attorney General, Edmund Wilson, to institute a grand jury investigation. As a result, Louis Kuehnle, then Republican "boss", Nucky Johnson, and many others were indicted on various charges. Kuehnle was convicted on a charge of illegally receiving county contracts and was sentenced to State's prison. Johnson, however, was indicted only for illegally removing registration books and official election returns from the County Clerk's Office and on that charge he was acquitted. When the Governor's reform drive ended, it had merely succeeded in removing Kuehnle from power, and had established Nucky Johnson in his place. From that day until his recent conviction, Johnson was the recognized leader of the Republican Party in Atlantic County.

In 1914, the Atlantic County Board of Freeholders elected Nucky to the position of county treasurer and through all the years he retained this position which paid $6000 per annum. He never actually performed any of the duties of the position and it was well known that the county treasurer's office was merely used as Johnson's political headquarters. In 1916, Johnson expanded his political activities beyond the confines of his county. He managed the campaign of Walter E. Edge for Governor and when Edge was elected Johnson was rewarded by being named as clerk of the State Supreme Court for a five-year term. The salary for this position was also $6000 a year and Johnson drew it along with his county treasurer's salary.

The period from 1920 to 1930 saw Johnson at the peak of his career as a political leader. During that time not only was he the absolute boss of Atlantic City and Atlantic County but he was one of a triumvirate of Republican leaders that controlled the destinies of his party in the State. David Baird, leader of Camden County, Morgan Larson from north Jersey, and Enoch Johnson were the "powers that be" in the State of New Jersey. In 1928 he backed Larson for Governor and Hamilton F. Kean for United States Senator and both were elected. As the result of Johnson's extraordinarily large expenditures on Kean's behalf, he was investigated by a United States Senate Committee but no proof of corruption was obtained. Throughout this period Johnson had a hand in the

appointment of every State and Federal officeholder in New Jersey. Walter G. Winne, who defended him at his income tax evasion trial, was endorsed by Johnson for United States Attorney for the District of New Jersey back in those halcyon days and, of course, received the appointment.

The basis of Johnson's political power was due to the fact that he dominated Atlantic City. Atlantic County has a population of approximately 130,000; Atlantic City's population of 66,000 is more than half, and as the balance of the population is scattered in many small towns and villages, it is obvious that whoever could control Atlantic City could control the entire county. Of the 66,000 people in Atlantic City approximately 30,000 are Negroes and Johnson and his Republican organization always completely controlled the Negro vote. The strength of his organization lay in the activities of his Negro precinct captains on the north side of Atlantic City. Further, Atlantic City, which is principally a seashore resort catering to millions of visitors each year, always wanted and had a liberal policy of providing all kinds of entertainment for its patrons. This necessarily includes night clubs, drinking, gambling and other entertainment of a similar nature. These activities, of course, bring in many underworld characters and when necessity required it, Johnson could always count on a large number of gamblers, prostitutes and floaters to cast sufficient illegal votes for his candidates to supplement the Negro vote. In addition, Johnson, through his patronage powers, gained control of a sizeable block of votes made up of all county and city employees, their families and friends.

Johnson's control of the Atlantic County Republican organization was a one-man control. He personally dominated the entire machine. In every ward of Atlantic City and in every township throughout the county he maintained Enoch L. Johnson Booster Clubs. He personally distributed money to his political workers and personally made the appointments to political office, rather than the Republican County Committee or the other ordinary party organizations. The candidates for the Atlantic City Commission, for the County Board of Freeholders, for the State Senate, for the county judgeships, were all personally chosen by Johnson rather than by the Republican organization. Johnson so centered this power in his own hands that he became a virtual dictator and remained such for almost thirty years.

Of course, to maintain a political organization of this kind requires the spending of much money, - much more than could be obtained through voluntary contributions or through dues from Republican club members. Johnson compelled donations from the city and county employees to help maintain the organization but he mainly oiled the gears of his machine with funds obtained by grafting on the various rackets. During the Prohibition era, Atlantic City was overrun with speakeasies and Johnson's illegal income from bootleggers and speakeasy proprietors was enormous. Also during this period the graft on road contracts, building permits and construction work of all kinds was very substantial. With the advent of repeal and the depression, Johnson had to turn to other sources for his income. It was then that he began exacting tribute from the horse race betting rooms, houses of prostitution and the numbers game. Johnson openly flaunted his connection with the underworld rackets. A newspaper picture of him taken in 1929, showed him strolling along the Atlantic City boardwalk with the notorious Al Capone. He was a bosom friend of M. L. Annenberg and the two of them were frequently seen in various Atlantic City night clubs and gambling casinos.

Johnson is a heavy-set, bald-headed individual, standing over six feet in height. He became a widower when he was about 30 years of age and did not remarry until just recently. Throughout the intervening years, Nuck acquired a reputation as a "night-club playboy" and was known far and wide for his lavish expenditures. He had a succession of mistresses, most of whom were chorus girls or night-club entertainers and his gifts to them of jewelry and expensive fur coats were cause for newspaper comment.

Since 1935, Nucky has lived openly with an actress named Florence Osbeck. They resided in a Spanish-type stucco bungalow near the boardwalk in Atlantic City and also maintained a suite at the Ritz Carlton Hotel. The rentals for these two establishments ran about $5000 a year. In addition, mainly for "Flossie's" convenience, he maintained a New York apartment at 128 Central Park South, for which he paid $2,200 a year. Johnson's mode of life can best be illustrated by the following items which were established during the course of the investigation. Clothing bills for himself and Miss Osbeck averaged about $3000 a year. He bought nothing but tailor-made suits that cost $150 a suit. His food bills reached about $3000 a year, for his taste ran to lobsters, caviar and three-inch steaks. His liquor bill was approximately $4000 a year,

for champagne and 18-year old brandy were the only beverages he considered worthwhile. He maintained four 16-cylinder Cadillac cars which he kept in operation constantly for Miss Osbeck, himself and for the entertainment of his friends and constituents.

Johnson's personal entourage consisted of Louie Kessel, a former wrestler, who acted as his valet and bodyguard; two regular chauffeurs and three maids. He generally slept all day, had his breakfast at 4:00 in the afternoon; from then until 7:00 or 8:00 o'clock at night he transacted his political business, and from 10:00 o'clock on he could always be found in one or another of Atlantic City's night-clubs or gambling casinos. He was a very heavy drinker and was often seen in an intoxicated condition in public places.

On July 31, 1941, the evening before he was to be sentenced by Judge Maris, Nucky surprised everyone by marrying Flossie in a church ceremony that received almost as much newspaper publicity as had his income tax conviction. After the church services, a wedding celebration was held at Johnson's bungalow. Champagne and tabloid newspaper photographers were much in evidence at this party. Mr. Winne, Nuck's attorney, advised that the marriage had been entered into so that Flossie could visit Nuck while he was in prison. This affair was typical of Johnson's bizarre career and was carried out in his usual flamboyant manner.

Origin of the Investigation

Johnson never made any attempt to conceal his extravagant way of living, nor did he try very hard to conceal the corrupt practices of his political machine. In consequence, he has been the subject of repeated investigations by the Federal Government. During the Prohibition period, he was investigated a number of times by Prohibition Agents because of allegations that he had been collecting graft for using his influence to protect Volstead Act violators. Then, in 1928, and again in 1934, he was investigated by the Bureau of Internal Revenue because of numerous and continued allegations that he was evading his income taxes. Although additional taxes were assessed against him as a result of both these examinations, no criminal proceedings were instituted.

Finally, in 1936, because of a continuation of the complaints and because of information personally brought to the attention of Secretary of the Treasury Morgenthau, it was decided that the circumstances warranted further action. Therefore, in October 1936, Mr. Morgenthau directed the institution of a complete and thorough investigation of the Atlantic City situation with a view to either establishing the truth of these charges or determining whether they were in fact without foundation. Pursuant to these instructions, the Commissioner of Internal Revenue authorized a joint investigation by Special Agents of the Intelligence Unit and Revenue Agents of the Income Tax Unit. Elmer L. Irey, Chief of the Intelligence Unit, assigned Special Agent William E. Frank of the New York Division to the Investigation and on November 5, 1936, he proceeded to Atlantic City in company with Special Agent Edward A. Hill of the Philadelphia Division, whom he had selected to engage in the undertaking with him.

Preliminary Undercover Activities by the Treasury Agents

Because of the prior income tax investigations, Johnson had developed a technique for handling his financial affairs which made it impossible for the Treasury Agents to make a direct investigation of his tax liability. He kept no books or records, maintained no bank or brokerage accounts, and held no assets in his own name. He dealt almost exclusively in cash. Further, he filed timely returns each year which showed gross receipts of approximately $30,000. If his formerly non-taxable county treasurer's salary of $6,000 per annum were added to these gross receipts the total more than equalled any expenditures which could be traced to his account. The fact that Johnson was deliberately calculating how much he needed to "cover" his expenditures is indicated by the following. Each year just prior to the income tax filing date, Johnson, or some one of his representatives, made a practice of telephoning to various tradesmen to inquire as to how much his purchases had amounted to in the past year.

The gross receipts reported by Johnson contained items of commissions from the American Oil Company and the Mays Landing Record, a political newspaper, which were items that could be easily traced, while the balance was described by him as "other commissions" and neither he nor his secretary nor his accountant would disclose the source of these "commissions". Thus, Johnson had established himself in a position where the agents, of necessity, had to locate unreported

income in amounts substantially in excess of the $30,000 a year or else Johnson could always offset his unidentified "commissions" against any additional income charged to him. By using such a broad description as "other commissions", it was possible for Johnson, in the event that the agents did locate a small graft payment, to insist that it was included in the amount reported under this caption. After all, the word graft has a nasty ring to it and would not add dignity to a tax return and what nicer synonym for graft can be found than "commissions"?

The foregoing being apparent to the agents from a survey of Johnson's income tax returns, they decided that under the circumstances the only approach they could make was an undercover investigation of the various rackets which were alleged to be operating in Atlantic City with a view to determining the following:

1. Whether these rackets were operating profitably.

2. Whether they were paying graft in order to obtain protection from police molestation.

3. If they were, did Johnson have sufficient control of the law enforcement agencies to enable him to sell this "protection"?

During the period from November 5, 1936 to April 5, 1937, Special Agents Frank, Hill and Leo R. Marshall conducted an extensive undercover investigation of the criminal rackets in Atlantic City. Operating out of a furnished apartment and keeping their identities concealed, they located all gambling casinos, horse race betting rooms, "numbers" headquarters, houses of prostitution, and ascertained the names of their proprietors. By observation they determined the approximate number of employees engaged in these rackets, their methods of operation and estimated the probable gross receipts of the various establishments. By making bets in the horse rooms and by purchasing "numbers" slips they determined the odds paid and other technical details of the gambling games. Through informants and by contacting underworld characters, the agents learned the names of the "strong arm" men, the "contact" men and "head" men who were connected with each

criminal group. From this undercover investigation the Treasury Agents arrived at the following estimated figures:

	Number	Employees	Probable Gross Receipts
Horse Race Betting Rooms and Gambling Casinos -	25	500 to 700	$8,000,000
Houses of Prostitution -	8	100 to 300	500,000
Numbers Banks -	9	800 to 1,000	1,500,000

Further, the methods of operation of these rackets were absolutely "wide open". They made no attempt whatever to conceal their activities - the horse rooms were located on the principal business avenue of Atlantic City and their doors were open to whoever wanted to walk in; the houses of prostitution were segregated mainly in one ward of the city but they made no pretense of hiding the nature of their business; the "numbers" game was played everywhere as though it were not in violation of the New Jersey gambling statutes. It was difficult to find a store in which "numbers" were not written. Atlantic City is located on Absecon Island. It is approximately 8 miles in length and about ½ mile in width and, as previously mentioned, its permanent population is only 66,000. In a city so small in size and population, it is obvious that the police department could not help being cognizant of these violations of law. As a matter of fact, the investigation by the Treasury Agents disclosed that all the law enforcement agencies of Atlantic City and Atlantic County not only were well aware of these conditions but actively regulated, protected and at times even assisted these rackets.

The fact that the widespread gambling, vice and "numbers" rackets were operating with the knowledge and consent of the police was well known to the public and the agents had no difficulty in learning that it was "understood" that the racketeers were paying for this protection. The amounts, according to hearsay, were as follows:

Horse Rooms	- $160 a week
"Numbers" Banks	- $100 a week
Houses of Prostitution	- $ 50 a week in winter $100 a week in summer.

It was also "understood" by the public that none of this graft went to the police officials themselves. Everyone "knew" it went to "Nuck" Johnson.

The undercover investigation by the Treasury Agents also disclosed that Johnson absolutely controlled not only the law enforcement agencies of the city and county but also the magistrates' and higher courts. The Common Pleas Judges of the county were appointed by the Governor of the State but as Johnson had a hand in electing the governors, it was natural that only men approved by him were considered for the judgeships. The police recorder, the magistrates, and many of the police officials of Atlantic City were ward leaders and Johnson's political henchmen. The county prosecutor, the county detective staff and the sheriff's office of the county were completely dominated by Johnson (as before mentioned, Johnson's brother Al was usually sheriff). The police department of Atlantic City was not under Civil Service and every member of the force had received his appointment through Johnson's influence. No promotion from patrolman to sergeant, sergeant to lieutenant, and lieutenant to captain, was made without Johnson's recommendation, and the chief of police was always one of Johnson's close friends. The Treasury Agents found that Johnson actually treated the police department as his private police agency, using the radio cars for his own convenience and to further his political campaigns. Under all these circumstances the preliminary investigation clearly showed that not only were the rackets openly flourishing in Atlantic City and apparently paying for the privilege of operating, but that also Johnson through his control of the law enforcement agencies, was the one man who could compel these illegal businesses to pay for the protection that was afforded them. The "set up" appeared to be perfect for Johnson to receive the large income from graft, which all the complaints alleged he had.

While Agents Hill, Marshall and Frank were making the observations above detailed, Internal Revenue Agent Walter Doxon, Jr., of the local Atlantic City revenue office, was secretly cooperating with them by assembling the income tax returns of the various racketeers whom the other agents were inquiring about. Having in mind the figures of gross income approximated during the preliminary investigation, the special agents and Revenue Agent Doxon made a study of the returns in question and it clearly appeared to them that the incomes reported thereon were

not nearly as large as the volume of business indicated. In some instances no returns had been filed at all and in other cases not only the net amounts but the gross incomes reported were ridiculously small for the type of establishment. It appeared to the Treasury Agents that the investigation of the returns of all these racketeers would prove a fertile field for the uncovering of tax evasions and that if successful prosecutions could be had against the individuals involved it might serve as a means of compelling these individuals to disclose that they had in fact made graft payments to Johnson.

While the Treasury Agents were making this survey of the rackets they also checked the situation in respect to city and county contracts. Of course, during the depression construction work practically stopped and road building and contracts of a similar nature did not offer a very promising field for their investigative efforts. However, they did uncover rumors that Johnson in all years controlled the city contract for the disposal of garbage; that he likewise shared in whatever profits were derived from county road building and repairs, and that he had had an interest in the A. P. Miller Construction Company, which company had erected the new Pennsylvania-Reading railroad terminal station in Atlantic (at a cost of $2,400,000). This railroad job was actually the only sizeable construction work that had been undertaken in the city from 1930 to 1936. The agents determined that these particular items, at least, warranted some detailed investigation. The main consideration involved in undertaking investigation of all these racketeers and contractors was, of course, the idea that through such investigation it might be possible to trace graft payments to Johnson.

Plans for the Investigation and Problems Encountered

In April, 1937, the Treasury Agents began open and direct investigation of the Atlantic City situation. The question of assembling a staff of agents for the undertaking, the requirements for office space, clerical and stenographer help, were serious problems. The Post Office Building in Atlantic City is small and there was only one room (10 feet by 17 feet) available for use in the investigation. There were but two private office buildings in the city and neither had any suitable space for rent. As previously mentioned, Atlantic City is actually a small town. Because of the depression, its financial and business conditions were very bad and the prospects for large additional tax assessments did not seem favorable even though the rackets

were flourishing. This was so because although the aggregate figures of racket income were large it was divided and subdivided among many recipients. In view of all these circumstances it was decided to conduct the investigation on as small a scale and with as few agents as possible.

Only three Internal Revenue Agents, Walter Doxon, Jr., John F. Williams and Paul F. Snyder, were assigned and the Special Agents' squad consisted of William E. Frank, Edward A. Hill and John C. Cheasty throughout most of the investigation. Revenue Agent Snyder, during the course of the investigation, was transferred over to the Intelligence Unit as a Special Agent. One stenographer, Miss Helen R. Nolan, took care of all the clerical and stenographic work. With this staff the Treasury Agents commenced their general investigation. They planned to operate and direct their investigations into four major fields, as follows:

1 - City and County Contract Graft
2 - Vice Racket
3 - "Numbers" Racket
4 - Horse Race Betting and Gambling Racket.

While it was anticipated that because of bad business conditions in Atlantic City during the period covered by the investigation (1934 to 1936, inclusive) it would be difficult to develop tax evasion cases, it was not expected that the investigation would extend over any great period of time; however, as will appear in detail later in this report, the agents encountered difficulties and opposition which caused the inquiry to become a long drawn-out struggle and as time passed the agents extended their investigation to include the taxable years from 1937 to 1939.

The difficulties and opposition mentioned above may be described as follows:

1. The agents found that save for a few contractors and proprietors of large night clubs and gambling casinos, who had been previously examined by revenue agents, practically none of the parties involved kept any books or records worthy of the name. It was impossible to determine their income with any degree of accuracy and the agents were required to build up the tax liabilities from outside sources.

2. In 1929 Atlantic City had 14 banks - by 1935 only 4 remained and since that year 2 more have closed their doors. The banking situation really was very bad and, in consequence, very few of the taxpayers investigated had any bank accounts worth mentioning. During the investigation safe deposit boxes and tin boxes were far more common to the agents than were bank transcripts.

3. Johnson's domination of Atlantic City was so complete that the agents received practically no help or information from local sources. The honest businessmen, the newspapers, the hotel proprietors were afraid to even deal with the Government for fear of reprisals from the Johnson machine and Johnson's control of the police and county detectives enabled him to keep the Treasury Agents under surveillance to a greater degree than they were able to watch him.

4. All the individuals who were engaged in the rackets had been making so much "easy money" for such a long time that they were ready to endure intensive investigation, heavy tax assessments, civil penalties, and even criminal prosecution and imprisonment, rather than to disclose the inner workings of "the system", for they knew that unless they adhered to the underworld's code of silence they would be branded as "rats" and "squealors" and would be forcibly precluded from continuing in their lucrative enterprises. In other words, Johnson's control had meant such "good times" financially to the racketeers that they were ready to do anything to protect him - not because of loyalty to him personally - but because they wanted to insure the uninterrupted flow of illegal profits into their own pocketbooks.

5. Johnson's complete authority over a period of 30 years, and his apparent immunity from prior investigations, had convinced everybody in Atlantic City that he could "take care" of anything and everything. Throughout the investigation the Treasury Agents found the taxpayers, with whom they were dealing, maintaining silence to protect Johnson because they

felt certain that Johnson could "fix things up" for them. This state of mind went even further. The corruption of Johnson's machine induced many of the individuals under investigation to make false statements to the agents, and, as will subsequently appear, even to commit perjury, intimidate witnesses, tamper with juries and generally to obstruct justice in Federal proceedings just as they were accustomed to doing in the courts of New Jersey.

Because of these factors, the direct Treasury investigation extended from April 1937 to May 1939, at which time the inquiry became a joint undertaking in cooperation with the Tax Division of the Department of Justice. During the resultant trials and grand jury proceedings and up until the Johnson trial in July 1941, the agents were compelled to engage in further extensive investigational activities in order to assist in completely breaking the stubborn resistance of the racketeers. The results of the Treasury investigation along the four major lines indicated above will now be set forth in detail.

Investigation of Contract Graft

In April, 1937, the Treasury Agents began their direct investigation of those contractors which rumor had as paying graft to Johnson. These individuals were businessmen who kept books and records and maintained bank accounts, so the agents were able to make fairly rapid progress in their cases. By December, 1937, they had submitted reports recommending the criminal prosecution for tax evasion of 7 individuals and the assessment of approximately $125,000 in additional taxes and penalties. The trial in United States District Court of these cases and their final disposition will be covered later in this report.

In their preliminary survey the agents had ascertained that one John B. Tomlin, Republican leader of the 1st Ward in Atlantic City and for 20 years a political henchman of Johnson's, had a son, Morrell B. Tomlin, who was engaged in the road contracting business. They had also ascertained that John Tomlin was a Freeholder of Atlantic County and was serving as Chairman of the Board of Freeholders Road Committee. They made the Tomlins their first subjects of investigation.

It was found that Morrell Tomlin, each year from 1929 to 1935, had received a major portion of Atlantic County's road repair work and particularly in the year 1932 had received a very profitable contract from the State of New Jersey for the construction of a section of the Black Horse Pike, a main highway connecting Atlantic City and Camden. Although Morrell Tomlin kept books which were supposed to reflect his contracting operations, they were so carelessly and inadequately maintained that the agents decided to ignore them and to work from the taxpayer's bank accounts. This raised a new problem for the bank accounts from 1929 to 1932 were all in banks that were closed and in the process of liquidation. The investigators were forced to spend two hot months, June and July, in the basements of the closed banks putting the bank's records in order before they were able to locate Tomlin's ledger sheets and deposit tickets. The accounts, when assembled, showed total deposits from 1928 to 1935 of $1,654,590.27. In spite of these large financial transactions, Morrell Tomlin had never even bothered to file an income tax return.

The agents traced a substantial part of the road contract profits from the bank accounts of Morrell Tomlin to those of his father, the County Freeholder. John Tomlin had filed some tax returns which showed very nominal amounts of net income and upon which he had paid no tax; however, his bank accounts for the years 1930, 1931 and 1932 showed total deposits of $561,560.94. It is obvious that upon such circumstances the Treasury Agents were able to quickly establish proof of tax evasion and to develop evidence which warranted recommendations of criminal prosecution against both father and son.

Of course, with the political connection between "Nuck" Johnson and John Tomlin and the apparent monopoly that Morrell Tomlin had on Atlantic County road contracts, it appeared to the agents that in all likelihood much of the unreported profits had been passed along to Johnson by either John or Morrell Tomlin. However, in spite of the threat of criminal prosecution, neither Tomlin would admit to the payment of any graft to the "boss". The agents had no recourse, in view of the Tomlins' defiant attitude, but to recommend the institution of criminal tax proceedings against them and to hope that ultimately they might be forced to disclose the sharing of their profits with Johnson. Therefore, such recommendations were made and the cases were referred to the General Counsel's office of the Bureau of Internal Revenue for appropriate action.

The General Counsel's office quickly approved the agents' recommendations for prosecution and in turn transmitted the cases to the Department of Justice. There a hearing was offered to the Tomlins, which they accepted. They appeared in their oldest clothes, pleaded poverty (claimed they lost everything when the Atlantic City banks closed) and in general put on an "act" calculated to win sympathy to such an extent that they would not be prosecuted. Fortunately the Treasury Agents were present at the conference and they were able to offset the impression created by the Tomlins. For example, the father had worn a very wrinkled and threadbare suit which had caused the Department of Justice attorneys to comment on his poor appearance. The agents were able to produce a newspaper photograph published just a few days before, showing John Tomlin, in evening clothes, in attendance at a Republican party banquet. They also adduced proof that Tomlin still owned more than 30 pieces of valuable real estate and stocks and bonds valued at more than $30,000. The Department of Justice immediately forwarded the cases to the United States Attorney's office, Trenton, New Jersey, with a recommendation for criminal prosecution, and in March 1938, both Tomlins were indicted for tax evasion.

Another contract case investigated by the agents proved more productive insofar as it aided in tracing graft payments to Johnson. This was a case involving three garbage removal contractors who received the garbage contract from the city of Atlantic City during the fiscal years 1933-1934 and 1934-1935. The individuals involved were Charles L. Bader, brother of a former Mayor of Atlantic City; James J. Donahue, a Republican Ward Leader of Philadelphia, and court attache in the Supreme Court of Pennsylvania, and Edward S. Graham. The investigation by the Treasury Agents disclosed that not only had these three individuals, who operated under the name of Charles L. Bader & Company, evaded their own income taxes, but that they had conspired to defraud the United States of taxes. Further, during the examination, both Bader and Donahue admitted that they each had (in different years) paid $10,000 in cash as bribes to Johnson to enable their company to obtain the contract from the city. These payments to Johnson, although too small by themselves to establish a tax evasion case against him, nevertheless indicated to the agents that they were on the right trail. The criminal prosecution of Bader, Graham and Donahue for tax evasion and conspiracy was recommended by the special agents, which recommendation was subsequently approved by the General Counsel's office and the Tax Division. They were indicted on these charges by the United States Grand Jury at Trenton, New Jersey, on March 14, 1938.

This garbage removal contract case was one of the easiest for the agents to investigate for the taxpayers had books, records, bank accounts, and cancelled checks and the tax evasion appeared right in the books. Even the $10,000 graft payments to Johnson were obvious, for the bookkeeper, Bader's daughter, had carefully made the notations of Johnson's initials ("E.L.J.") on the check stubs which represented the withdrawals, although the checks themselves were payable to cash and had been cashed by either Bader or Donahue.

Further, Bader, Graham and Donahue had quarreled among themselves concerning the profits on the contracts and had gone into the Chancery Court of New Jersey in order to settle their differences. That court had ordered an accounting, which disclosed their profits, their failure to pay tax, and the details of the $10,000 bribes to Johnson. All the agents had to do was to examine the Chancery Court record, verify the financial details in the books of the Charles L. Bader Company and they had a ready-made tax case against Bader, Graham and Donahue and also proof that Johnson had improperly received $20,000 during the years 1933 and 1934. The corruption of justice in Atlantic City under Johnson's regime is well illustrated by this garbage situation. Here a Vice Chancellor of the New Jersey courts and reputable members of the New Jersey Bar, through a lawsuit with which they were concerned, were all apprised of a crime against the Federal Government (tax evasion) and of payments of graft to a county official, yet not one of them saw fit to report the violations to the proper authorities. Instead, these gentlemen, all friends of Nuck Johnson, quickly looked the other way and tried to forget the nasty incident until the Treasury Agents began asking embarrassing questions about the matter.

Still another contract investigation led to the discovery of a $28,000 graft payment to Johnson. This was in the case of A. P. Miller, Incorporated, and related to that company's erection of the $2,400,000 railroad terminal and station in Atlantic City. The agents, during their undercover investigation, had heard a number of rumors concerning Johnson's connection with the Miller corporation, particularly in respect to his having used his political influence to obtain the station contract for "Tony" Miller in 1933 at a time, during the depression, when all contractors were "hungry" for any work at all. The 1934 tax investigation of Johnson had delved into this railroad contract situation but, as the contract was not completed until 1935 (final payment of $105,000 not being made until June 1936) that inquiry had obviously been made too early. The Treasury Agents decided, therefore, to check again on this situation

and did so by undertaking examination of the Miller Company's 1935 and 1936 tax returns.

In examining the books of the Miller corporation, Agent Doxon discovered that for the year 1935, when the station was completed, the company had paid a $60,000 "legal fee" to one Joseph A. Corio. There were several things that excited his curiosity in respect to this alleged fee. First, the net profit on the entire contract amounted to approximately $240,000. The $60,000 "fee" was one-quarter of the entire profit, which seemed to him to be exorbitant. Second, the entries in regard to the $60,000 payment were not correctly recorded in the books and, as a matter of fact, only $1,150 in legal fees were deducted on the face of the corporation's return, while the $60,000 item, although deducted as an expense, was "buried" in the cost of the station contract. Finally, the checks in payment of the $60,000 had been cashed by Corio and not deposited in his bank account.

Inquiry by the agents disclosed that the recipient of this alleged fee, Joseph A. Corio, was a Common Pleas Judge of Atlantic County and a close friend and political henchman of Enoch Johnson. They immediately requisitioned Corio's 1935 income tax return and found that he had reported gross receipts of only $20,800 for that year. Obviously, he had not accounted for the full $60,000 payment. This situation indicated to the revenue agents that Corio had retained for himself only $20,000 of the $60,000 "fee" and they suspected that the remaining $40,000 had been passed along by him as graft to Johnson. Consequently, they immediately undertook investigation of Judge Corio with the particular purpose of ascertaining what disposition he had made of the remaining $40,000.

Judge Corio was interviewed in his chambers and although he doffed his judicial robes for the interview, he did not doff his judicial dignity. When the agents asked him why he had not reported the $60,000 "legal fee" on his return, he calmly replied that as he had expended some $40,000 of the amount in necessary business expenses, he had only reported the net amount of $20,000 on the return. When he was asked to explain the $40,000 "business expenses" he calmly enumerated expenses for rent, salaries, court costs, fees, and items of a similar nature, but when the agents asked for proof of these expenditures the judge flew into a rage and demanded to know what right the agents had to question his integrity and honesty. Although he had his check stubs and cancelled checks on

the desk before him, he refused to show them to the agents and told them that they were "exceeding their authority" and that he proposed "to do something" about their high-handed actions.

Corio had submitted to the agents an itemized list of the $40,000 in expenses that he claimed as an offset against the $60,000 fee, but as he had refused to permit examination of his cancelled checks, there appeared to be no way for them to verify these disbursements. However, Corio's anger at their polite inquiries convinced them that the $40,000 of expenses required further investigation. They visited his bank and found that that institution in 1935 had installed a recordak machine for photographing all checks deposited or withdrawn (it is the only bank in Atlantic City with such a system) and, therefore, it was possible for them to examine all of Corio's checks for that year simply by running off all the reels on the recordak machine. This was a laborious process and required the examination, in a dark room, of literally thousands of checks. The result was that the agents obtained conclusive proof that Corio had not expended any $40,000 in 1935 and they were specifically able to show that the Judge had deliberately made a false statement in respect to some $9,000 of expenses which he had claimed as "court costs" and "fees". These items were all clearly personal and household expenses.

When the Treasury Agents confronted Corio with this proof, his judicial dignity suddenly collapsed. He admitted that his explanations were "in error" and offered to pay any additional taxes and penalties that the agents wished to assess. He wanted "to settle the case" and "get it off his mind". The agents were adamant. They insisted on an explanation for the missing $40,000 and told the judge that unless it was forthcoming, they were going to recommend his criminal prosecution for tax evasion and for making a false statement. Judge Corio was unable to explain and the agents made their recommendations, not only against Corio but against Tony Miller and the A. P. Miller Corporation. They charged that $40,000 of the $60,000 "legal fee" was a fraudulent deduction on the part of the Miller Company and that Miller and Corio were involved in a tax conspiracy.

From October 1937 to May 1938, Judge Corio and, as was later learned, Nuck Johnson, did everything possible to settle Corio's tax difficulties and to prevent his prosecution. High-priced Washington counsel was retained,

hearings were obtained in the Department of Justice, an offer-in-compromise was submitted and a personal appeal was made to Acting Attorney General Robert H. Jackson. But in all the proceedings, Corio failed to explain what had become of the $40,000 and the Department of Justice, in the absence of such explanation, backed the Treasury Agents to the limit. Corio's prosecution was recommended to the United States Attorney for the District of New Jersey. Corio and Johnson then tried to exert political pressure against the United States Attorney's office. They sought delay in the presentation of the case to the Grand Jury and then finally sought to obtain permission for Corio to appear before the Grand Jury. It was all to no avail. On May 10, 1938, the United States Grand Jury at Trenton, New Jersey, indicted Judge Corio on charges of tax evasion and of making a false statement to the Treasury Agents. Corio then had a nervous breakdown and was in a sanatarium during most of the summer of 1938.

This tax evasion case against Corio was the first one of the Atlantic City cases to be moved for trial. Assistant United States Attorney William F. Smith fixed January 30, 1939 as the date for trial and early in January active preparations for trial were begun. Corio, with his back to the wall, retained new counsel. William E. Leahy of Washington, D. C., appeared on Corio's behalf and told United States Attorney Quinn that he had advised Corio to tell the truth. Corio made a statement, which constituted a full disclosure with respect to the $60,000 "legal fee". As long suspected, it proved not to be a legal fee at all but rather a distribution of profit on the station contract to Miller, Corio and to Nuck Johnson.

Corio's statement revealed that in 1933 Johnson had used his political influence to obtain the station contract for Miller and in return Miller had agreed to give Johnson three-fifths of the net profit after income taxes had been paid. Corio himself had a collateral agreement with Miller, whereby he was to share equally with Miller on the remaining, profit. The agreement between Johnson and Miller had been reduced to writing and signed, but Corio explained that this written agreement had been destroyed in 1935 when the three of them changed the plan of distributing the profits in order to evade taxes.

It seems that in September 1935, when the Miller Corporation received a first profit payment of $70,000 on the contract, Miller devised the scheme of paying $60,000 of it to Corio as a "legal fee" in order to enable the corporation to deduct that sum as an expense, and save the tax.

The original plan would have required the corporation to pay a tax on the profits before declaring dividends to Miller. The new arrangement called for Corio to report the $60,000 as a fee on his individual return and Miller gave him $13,200 with which to pay the tax on the $60,000. This left $46,800 to be divided among the three of them. Of this amount, Corio stated Miller took $9,400, he received $9,400 and he saw Miller give Nuck Johnson $28,000 in cash. The total tax saving on the corporation and Miller's individual return resulting from this scheme amounted to approximately $25,000.

Corio's cupidity caused this clever scheme of Miller's to fail, for instead of reporting the full $60,000 "fee" on his return as agreed, he took a chance by omitting it and appropriated the $13,200 in tax money to his own use. Of course, he contended that he did so because Miller had promised him a much larger settlement and when in 1936, before income tax time, he found that Miller was withholding payment, he decided to keep the $13,200 instead of applying it toward the tax payment. Corio's failure to report the $60,000 thus led to his own difficulties with the Treasury Agents, and ultimately involved Miller and Johnson.

Corio's statement, on January 24, 1939, to United States Attorney Quinn, of course, eliminated the need for trying the indictment against Corio which had been set for trial on January 30, as it then appeared that he had not received the $60,000, but that $28,000 of the amount had, in fact, been paid as graft to Johnson. This was a real "break" in the investigation and was information that the Treasury Agents had long been seeking. During January, February and March of 1939, they made a thorough investigation of Corio's statement to United States Attorney Quinn concerning the division of the $60,000 and found considerable evidence which appeared to corroborate Corio. They were unable to trace any other payments from the Miller corporation to Johnson although the agreement stated that Johnson was to receive three-fifths of the entire railroad station profit, which amounted to over $240,000. The $28,000 payment to Johnson, by itself, did not establish a tax evasion case against him individually, as he had reported a net loss of $56,000 on his 1935 return. Therefore, the agents on March 11, 1939 submitted a report in which they recommended a charge against Miller, Corio, Japhet Garwood (the company's accountant) and Johnson for conspiracy to evade the Miller

corporation's 1935 income taxes, which charge was based solely on the distribution of the $60,000 legal fee.

The Treasury Agents hoped that the filing of this conspiracy indictment against Miller, Corio, Garwood and Johnson would indicate to Johnson's henchmen and the other racketeers in Atlantic City, who were then under investigation, that Johnson was not invulnerable to Federal prosecution and that this would weaken the resistance which was strongly in evidence at that time. They also felt that the evidence, in any event, warranted such action and that if they were unable to develop a direct case against Johnson on his own tax liability by further investigation, the conspiracy charge by itself might be sufficient to bring him to justice.

Investigation of the Vice Racket

The preliminary survey by the Treasury Agents had revealed eight large houses of prostitution in operation in Atlantic City and doing a flourishing business. Inspection of the files of the Collector of Internal Revenue disclosed that the proprietors of these houses had either filed no returns at all or had reported insignificant amounts of net incomes. During their inquiry the agents also heard many rumors to the effect that the houses were paying graft in the amount of $50 a week each in winter and $100 a week each during the summer season; that Raymond R. Born, Republican Leader of the 3rd Ward of Atlantic City and Under-Sheriff of Atlantic County, was the "collector" of this graft and that he turned it over to Nuck Johnson. When the agents first contacted the "madames", with a view to checking their income tax liabilities, they found that none of them had kept any books or records reflecting their business income and few, if any, had maintained any bank accounts. Because of these circumstances, no further attempt was made to investigate them until the month of September, 1937. The occasion which enabled the Treasury Agents to again take up their inquiry into this racket was the raiding of all the houses on August 30, 1937 by Special Agents of the Federal Bureau of Investigation.

At about the time that the Treasury Agents had come to Atlantic City to start their income tax investigation of Johnson, the F.B.I. agents had likewise appeared on the scene because of complaints received by them to the effect that vice was rampant in Atlantic City, under the

protection of Johnson, and that women from New York, Pennsylvania, and other States were being transported there for purposes of prostitution. The F.B.I. agents simultaneously raided all of the houses, arrested the proprietors, inmates and customers; the total number of arrests was approximately 200. About 140 of the prostitutes were held as material witnesses and imprisoned in various county prisons throughout the State of New Jersey. They were taken from these prisons from time to time for appearance before the United States Grand Jury and, as a result of their testimony, all the madames and about 30 procurers were indicted for violations of the White Slave Act.

The Federal Grand Jury at the same time investigated the allegations that these houses had been paying weekly sums for protection and an individual named George Whitlock, a jitney inspector of Atlantic City, appeared before the grand jury and gave testimony to the effect that he had in fact made these weekly collections from the houses and had turned them over to Ray Born. Evidence was also adduced before the Grand Jury that one Leo Levy, a special investigator from the Mayor's office, and Louie Kessel, Johnson's bodyguard, had given permission to some of the houses to operate. Based on this testimony, the Grand Jury indicted Born, Levy, and Kessel for violations of the Mann Act on the theory that their activities had furthered the interstate transportation of the prostitutes. This theory was later considered unsound, so the United States Attorney's office decided not to move the indictments for trial, and they have been nolle prossed.

Although some 40 individuals (madames and procurers) were subsequently convicted in the United States District Court for Mann Act violations, the failure of the government to link Johnson with the racket or to proceed against his henchmen Born, Kessel and Levy on the indictments obtained against them convinced the Atlantic City underworld that even the Federal Authorities were powerless against "Nucky". The story spread that Johnson had "taken care" of Born and that Born's case had been " fixed". The United States Grand Jury did hand up a presentment strongly condemning vice conditions in Atlantic City and charging that the situation must have been known to the local law enforcement authorities. The Grand Jury also stated that it believed that bribery and grafting were responsible for the corrupt conditions and cited Whitlock's testimony as evidence that "protection" payments had been made.

Most of the proprietors of the houses, although convicted and imprisoned on vice charges, still clung to their code of silence and refused to discuss graft payments. The Treasury Agents decided to capitalize on the F.B.I. investigation and press on with the inquiry in the hope of tracing the graft payments from the madames to Born, and from Born to Johnson. Their theory was that if income tax prosecutions were added to the vice convictions, the madames might then reveal the truth as to the graft payments. Further, if the madames, by telling about the graft, would place Born in jeopardy, the agents hoped that he in turn would admit that he had merely acted as a "collector" for Johnson. Their problem was how to establish tax evasion on the part of the madames without books, records or bank accounts to work from and in a business where the customers could hardly be expected to be willing witnesses as to payments made.

The fact that the F.B.I. agents had arrested the inmates of the houses and were holding them as material witnesses gave the Treasury Agents their opportunity. They knew it was the established practice in Atlantic City for the madames and the prostitutes to share all cash receipts on a fifty-fifty basis. Before their arrest and incarceration, it was obvious that these prostitutes would have refused to testify as to their earnings; however, the agents thought that since they were already in prison, their attitude might be different. They proceeded to visit the various county jails where the women were being held and obtained from more than 130 of them affidavits as to their earnings, in 1935, 1936 and up until the time of the raids in 1937. The F. B. I. investigation had disclosed that the houses had been subject to medical inspection. Following this lead the Treasury Agents utilized the doctors' record of examinations and the laboratory record of blood tests to verify the number of inmates in the various houses for the years under examination. They also checked on laundry records which roughly reflected the volume of business that each house was doing.

Through these methods the Treasury Agents were able to establish definite figures for the gross business of each house. Then, after personal interviews with the madames and a discussion with them of their deductible expenses, the agents arrived at computations of net income which were so accurate that a number of the madames immediately conceded that the figures were correct.

On the basis of these findings, the assessment of additional taxes and penalties totaling approximately $27,000 and the criminal prosecution of 7 of the madames on tax evasion charges were recommended.

Although the tax evasions in these cases were small, and most of the madames had already been convicted of Mann Act violations, nevertheless, the Treasury Agents recommended prosecution in the hope that they would disclose the graft payments to Born. The agents also referred the Born case to Washington and recommended that it be the subject of simultaneous Grand Jury inquiry. They felt that it would take only a little further development of evidence before the Grand Jury to warrant a tax evasion indictment against Born.

For example, Whitlock, the jitney inspector, had already testified that from November 1936 to August 1937, he had collected weekly envelopes from the houses and turned them over to Born. He further stated that his predecessor had been one "Jimmy" McCullough. When the agents interrogated McCullough, he admitted collecting the envelopes from 1935 to the fall of 1936, but then told an incredible story of turning them over to some individual whom he did not know. The agents believed that if McCullough was subpoenaed before the Grand Jury and warned of perjury or possible contempt action, he would quickly reveal he also had transmitted the envelopes to Born. McCullough's testimony, added to that of Whitlock, and the corroborating testimony of the madames (if they would tell the truth as to the graft) would surely make a strong tax evasion case against Born.

In February 1938, the General Counsel's office approved the agents' recommendations and some time later the Tax Division referred the entire group of vice cases to the United States Attorney's office, Trenton, New Jersey, for presentation to the Grand Jury. The result of the grand jury proceedings and of the trials of Born, McCullough and two of the madames will be discussed later.

Investigation of Horse-Race Betting Rooms and Gambling Casinos

As previously mentioned, the agents found that the horse-race betting rooms were generally located on the main business streets of Atlantic City. Most of them had bars or cigar stores in front of the horse-room

proper, but admittance could be gained by anyone who cared to walk in. The rooms themselves varied from a few barn-like places with rows of crude benches to very luxuriously furnished establishments that resembled Wall Street brokerage offices. A number of the places operated on two floors - the street floor being cheaply furnished for use of the fifty-cent and dollar bettors, while the upstairs floor was lavishly equipped and usually reserved for women clients and for the 2, 5, and 10 dollar bettors. In some of these higher class rooms, during the course of an afternoon, the patrons were served with sandwiches and tea or coffee, without expense to them. The rooms held anywhere from 100 to 750 customers and spectators; they had blackboards to record the odds and the results of the races, and were equipped with loud speaker systems over which was given a description of the race as it was being run at the track. Part of each room was partitioned off for the employees and they dealt with the customers through betting windows and a cashier's window. One of the larger establishments had eight betting windows and three cashier's windows.

Practically all the horse-rooms had a large crap table somewhere in the room, where after the races were over the patrons would stop and "lose" whatever money they had "won" on the horses. Most of the rooms catered to bettors from Philadelphia and it was understood that the management of the rooms would pay railroad fare from and to that city, that is, if the bettor would produce for the inspection of the horse-room proprietor a half of a round-trip ticket showing that he had come over from Philadelphia to play, the cashiers in the horse-room would pay the full cash fare. Some of the rooms employed automobiles to bring the patrons over to their places, and in the railroad stations in Philadelphia the police of that city regularly arrested "touts" who were advertising various Atlantic City horse-rooms. All of the horse-rooms employed men to stand out in front of their establishments and these men were known as "doormen". Doubtless, at some time or other, their duties as doormen had been to see that no one gained entrance to the room except bettors and they had been charged with the responsibility of keeping out any detectives or plain clothes police who might raid the room; however, because of "wide-open" conditions under which the rooms were operating, these doormen had become nothing more than touts whose principal duty was to induce prospective clients to come into the room.

The Treasury Agents, on a number of occasions, used these employees (much to the doormen's embarrassment) to locate the proprietors of the room and then serve a revenue agent's summons or a Grand Jury subpoena on the proprietor. The doormen never once questioned who the agents were, but eagerly endeavored to establish the contact.

The gambling operations of these Atlantic City rooms were conducted as follows: They accepted bets on horses on all race tracks in the United States, Canada, Mexico and Cuba; the minimum bet accepted was fifty cents; however, most of the rooms had a dollar minimum and some of the rooms had a two-dollar limitation. The maximum bets accepted varied in the same manner. If the room had no maximum limit, they protected themselves either by limiting the odds that they would pay on bets over $50, or else they underwrote the larger bets with other gamblers from any town or any other cities. The agents found that the Atlantic City horse-room operators did a large "lay off" business with bookmakers in Wilmington, Philadelphia, Jersey City and New York. Practically all the rooms in Atlantic City paid "track prices", which meant that they gave the same odds as were paid at the race tracks themselves. This was indicative of the heavy volume of play which they received because a room could not afford to pay track prices unless it received a sufficient "spread" or distribution of play. A few of the smaller rooms limited their odds to 20, 8 and 4, which meant that they would pay only 20 to 1 on winners, 8 to 1 on second place, and 4 to 1 on third place.

The bets were accepted at the betting windows, the bettor putting up his cash and giving his initials. No receipts were given to the bettors, but the bets were recorded on large sheets. The race as run was described over the loud speaker system, which brought the news direct from the track through the facilities of the Nation-Wide News Service, Inc. Since Annenberg's imprisonment and the dissolution of the Nation-Wide News Company, the rooms have been receiving the news by means of short-wave radio sets. After the race, the winning bettors were immediately paid off in cash out of the same cash that had just been put up by the bettors. In addition to this cash, each room maintained a cash bank-roll, which varied from $500 to $10,000. The daily volume or "handle" or "take", as it was called, averaged from $500 a day in small rooms to $5,000 or $6,000 a day in the larger rooms.

The cashier of each room, usually the owner, or one of the partners, recorded the "ins" and "outs" or "wins" or "losses" on a master sheet or "main" sheet. The employees of the rooms who were known as "sheet-writers", "board-men", or "wire men" and "doormen", were paid off daily in cash, their salaries usually ranging from 5 to 8 dollars a day. The proprietor or partner in the room paid off the other expenses such as rent, electric light, telephone and "wire service", as the occasion arose; and the balance of the money went into the "bank-roll". The cash bank-roll was maintained at a fixed amount and the proprietors or partners drew down from or added to the bank-roll as their fortunes varied. As they drew profits, usually weekly, the profits went into a safe or safe deposit box.

From the foregoing description, it can be seen that the business of these horse-rooms was on a daily cash basis. The daily betting sheets were kept for only one or two days and then were destroyed. The short carry over was only to adjust disputes and accommodate "sleepers", which term implied a bettor who forgot to collect his bet immediately. The main sheets were generally destroyed at the end of the week when the bank-roll was adjusted and the proprietor then recorded the weekly profits in some other book, which book was usually destroyed at the end of the year. The crap games in the rooms were also conducted entirely on the cash basis and the employees on the tables, "stick men", "shills" and others were all paid off daily in cash.

The gambling casinos were generally connected with night-clubs which acted as "feeders" for the gambling rooms. For example, The 500 Club, the Paradise Cafe, the Club Harlem, Babette's, the Little Belmont, the Bath and Turf Club, the Cliquot Club, were all typical night-clubs with bar, restaurant and cabaret entertainment, but in back of each was a gambling room containing all forms of games, such as, roulette wheels, crap tables, poker and black-jack games, "bird cage", and in most instances horse-race betting as well. The night-clubs were well known and widely advertised establishments which employed high-priced orchestras and Broadway or Hollywood stars as entertainers. The proprietors of these places apparently cared little whether they made any profit on the "clubs" for they were primarily gamblers and relied on the cabarets solely to bring business to their gambling casinos.

The proprietors of the horse-rooms and gambling casinos were all under-world characters, many of them with police and prison records. Two of them had been tried on murder charges (Curry and Curcio); Stebbins, proprietor of Babette's, was recently shot in his own establishment; Clarence Williams, brother of Leroy Williams of the Club Harlem, was shot and killed during the investigation. Most of these operators used aliases or were known by nick-names. For example, Martin Michael was known as "Jack Southern", Michael Curcio was known as "Doc Cootch", Lou Khoury was known as "Lou Kid Curry", Frank Federici was known as "Al Wilson", and William Kanowitz was known as "Wall-paper Willie". In recent years many of these night-club proprietors and horse-room gamblers invaded the numbers racket and became numbers bankers as well. For example, Martin Michael of the Bath and Turf Club, Ralph Weloff of the Paradise Cafe, and Leroy Williams of the Club Harlem were all principals in the numbers racket investigation.

The Treasury Agents found that the horse-rooms in Atlantic City were apparently controlled and regulated by means of a monopoly of the track "information" or "Wire-service", as it was commonly called. Prior to July 1935, two individuals, John R. Hill and Sam Camarota, had been furnishing this information (which they obtained from the General News Bureau) to about 35 or 40 rooms. In April 1935, due to a newspaper "crusade" by the New York Journal, all the horse-rooms were closed and remained inactive until August, when they were told that they could re-open but that they had to "double-up"; there had been too many of them and they were attracting too much attention. Barney Marion, one of the horse-room proprietors, told the agents that he had been put out of business at that time because he refused to "double-up" with a racketeer named "Cappy" Hoffman. Another operator, Benjamin Rubenstein, stated that he had been compelled to form a partnership with "Jack Southern" in August 1935.

Hill, the wire-service man, told the agents that when the horse-rooms reopened, he attempted to resume supplying his customers with the information but was informed by the Nation-Wide News Service (which had taken over the General News Bureau) that he was no longer one of their agents. Hill demanded to know why he was being deprived of a livelihood but received no satisfaction from the new wire-service company. He investigated the circumstances and found that Nuck Johnson and Sam Camarota had gone to Chicago and there

made arrangements with James Ragen, Annenberg's general manager, for Camarota to have the sole agency in Atlantic City for the information. Hill protested to Johnson over his exclusion from this profitable business but was told "it had to be that way" and he was "taken care of" by Johnson by being given a good job in Stebbins' horse-room, the largest in Atlantic City.

The control of the wire-service was the best method of regulating the horse-rooms, for they could not operate without the prompt delivery of the track information. It was obvious that Johnson, by obtaining the monopoly for Camarota could completely supervise the rooms through Camarota. If he told Camarota "Don't serve that room", the room could not open. The Treasury Agents knew that the Nation-Wide News Company charged $40 a week to each horse-room for its service. During their undercover investigation, they had heard that the Atlantic City horse-rooms were paying Camarota $200 a week for the information. If this were so, the inference was obvious - Johnson was collecting $160 a week in graft from each horse-room through Sam Camarota.

In checking on the horse-rooms, the agents learned from Barney Marion that it was Sam Camarota who had forced him out of business in August 1935; on the sheet records of the Rubenstein-Southern horse-room, the revenue agents found a weekly expense item of $200, which neither partner would explain. The agents, week after week for many months, trailed Sam Camarota from his horse-room to Nuck Johnson's bungalow. The visits were regularly on Monday of each week. All these circumstances convinced the agents that they were on the right track. It seemed to them that the entire set-up indicated that the Atlantic City horse-rooms were paying Nuck Johnson $160 a week each in graft and that Sam Camarota was collecting this money for Johnson at the same time that he collected for the wire-service. The agents determined to investigate each and every horse-room for tax evasion, with the hope that if successful prosecutions could be obtained against the proprietors, graft dealings with Camarota and Johnson would be disclosed.

The undercover investigation of the horse-rooms conducted by the Treasury Agents had indicated the large volume of business that these rooms were doing. Inspection of the files of the Collector of Internal Revenue disclosed that a number of the proprietors had not filed any income tax returns at all, while most of them were reporting net incomes of less

than $5,000 a year. The returns generally showed no gross receipts, no itemized expenses, but just round net figures such as $3,000, $3,800, $5,000. This income was labeled "Commissions" on the returns and often bore the notation "estimated". It seemed obvious that these racketeers were making no real effort to file correct returns, but were merely reporting estimated amounts, which they hoped were sufficient to get them by.

At first glance the situation seemed favorable, but when the agents began their examinations, they found that only one or two of the rooms kept any records. These records were generally small books with an alleged record of net "Wins" and "Losses". Most of the operators had no records at all. Similarly, none of the horse-room men maintained any substantial bank accounts. The accounts found obviously did not reflect their gross receipts. Although these racketeers dressed well, drove expensive cars and apparently lived well, in most cases the agents were unable to find any assets in their names. Real estate, stocks, bonds, mortgages, savings bank accounts and assets of similar nature did not seem to appeal to them. The agents spent months searching for some trace of the financial transactions of this group of gamblers. They even circularized Philadelphia and New York banks looking for their accounts. So far as the agents could determine, they dealt in cash, paid their graft in cash, and kept their surplus in cash, probably in safe deposit boxes in fictitious names or located in other cities. Developing tax cases on the bank deposit or on a net worth basis under these circumstances was clearly impossible.

In a number of instances the agents attempted to conduct their investigation by subpoenaing the employees of the horse-rooms and compelling them as third parties to testify as to the gross receipts and net incomes of their employers. This proved unsatisfactory as not only were the employees reluctant and hostile witnesses, but it was very difficult to locate them for they used aliases, were known only by nicknames, and shifted around from city to city. Further, when located, they often proved valueless for they actually were unable to furnish any worthwhile information. The "sheet-writers" only kept sheets for their own particular window and often did not total their sheets. The "pay-offs" were usually made by the proprietor himself and he also kept the "main" sheet on which the total "ins" and "outs" were recorded. The agents found it impossible to build up any complete case in this manner.

To prove gross receipts or net income to these gamblers by recourse to the betting public was also impossible. The bettors made their bets in cash and were paid their winnings in cash. When they placed their bets, they received no receipt and only identified themselves to the sheet-writer by their initials. In most cases the horse-room proprietors and their employees did not themselves know the names of the bettors. Obviously, under these circumstances, it would have been most difficult for the agents to have located any sizeable number of the bettors and then, even if they had, they probably would have again been confronted by very recalcitrant witnesses.

Thus, the Treasury Agents found themselves in the position of either accepting the returns as filed or else of devising some other means of determining the correct net income of these gamblers. From their undercover activities, they had data as to the comparative size of the different rooms and had made estimates of the number of bettors frequenting each place. They also knew the odds paid, the limits on bets accepted, the number of employees in the various rooms. Also, the agents knew that in gambling, the payment of specified odds generally resulted in a definite percentage of profit to the "house". With this background, they decided to call in the various horse-room proprietors and endeavor to secure admissions which could be used against them in lieu of books, records, bank accounts, and the other ordinary means of establishing income.

Pursuant to this plan, the agents sent letters to the horse-room operators offering them hearings on their income tax liabilities. Practically all of them responded and when they appeared at the revenue office, the agents insisted that the hearings be formally conducted, under oath, and stenographically recorded. They thus obtained statements from most of the proprietors in which they made admissions as to their gross "take" or "handle". Further, they agreed that their businesses were conducted on a daily cash basis and they gave fairly reasonable estimates of their ordinary expenses such as rent, electric, telephone and supplies. Then the discussion was turned to odds paid and the percentage of profit ordinarily accruing on such odds. Most of them stated that on odds of "20, 8 and 4", they expected to realize a gross profit of 15% and on "track prices", a gross profit of 10%. However, when the agents attempted to apply these expected percentages of profit to their individual cases, they all claimed that due to some unusual circumstances they did not realize the ordinary amount of profit.

The Treasury Agents ignored these self-serving claims and using the proprietors' admissions as to gross receipts, set up gross profit figures on the usual percentage basis. Against these amounts they allowed deductions for rent, electric, telephone and all other legitimate business expenses in accordance with the taxpayers' own estimates. The resulting net incomes ranged from 4% to 6% of the gross receipts, which was approximately the percentage of net profit usually found in cases of this type. That these horse-room proprietors really expected to retain a definite percentage of profit in their handling of bets was shown by the fact that many of them in filing their income tax returns designated themselves as "commission agents".

The net incomes determined by the Treasury Agents on this percentage basis, in all instances, were very substantially in excess of the "estimated" figures that the horse-room men had reported on their returns. Accordingly, additional taxes and penalties (approximately $142,000) were recommended and jeopardy assessments were made against them because of the illegal nature of their business. An indication that these gamblers themselves believed that the agents' findings were correct may be presumed from the fact that 9 of these 20 cases have already been settled by payment of the full tax and penalties recommended, plus interest. However, the agents were unable to recommend any criminal prosecutions in these cases because the assessments were clearly based on arbitrary percentages of profit and it was felt that no jury would accept such percentages as proof "beyond a reasonable doubt."

Although the investigation of the horse-rooms ended fairly successfully from the tax viewpoint, it generally failed to attain its primary purpose of developing criminal tax evasion cases, the prosecution of which it was hoped would disclose whether there was payment of graft.

During the investigation all the operators were interrogated, under oath, by the agents as to graft payments and they almost unanimously denied paying "protection".

In one case only did the agents have some measure of success. Two of the operators, William Kanowitz and David Fischer, had maintained substantial bank accounts which they admitted represented their partnership net profits. Based on these bank accounts, the evidence of tax evasion on their part was so clear that the agents were able to recommend their prosecution and they were indicted on February 16, 1939. During the examination

Kanowitz and Fischer realized that they were in a serious predicament and in a futile attempt to avoid prosecution they admitted that they paid $200 for the wire-service. When it was pointed out to them that the Nation-Wide News Service only charged $40 a week for the information, they admitted that the balance of $160 a week was graft but they absolutely refused to disclose to whom it was paid.

These admissions by Kanowitz and Fischer definitely established that the agents were on the right track in this horse-room racket. In view of their inability to develop criminal cases against the other operators and in view of the failure of Kanowitz and Fischer to name the recipients of the graft payments, the Treasury Agents had no other recourse than to await developments with respect to their court proceedings. The agents hoped that if Kanowitz and Fischer were convicted, they then might disclose the name of the party to whom they were making the protection payments and that this disclosure might in turn induce the other horse-room proprietors to make similar admissions. The agents planned that if any real "break" was obtained through a successful prosecution of Kanowitz and Fischer, they would then suggest to the United States Attorney's office that a grand jury inquiry of the entire horse-room racket in Atlantic City be instituted. It was believed that if the nature of Kanowitz and Fischer's testimony were known to the other operators and those operators were strongly warned as to the consequences of perjury, the power of the Grand Jury would influence them to tell the truth. The developments with respect to the criminal proceedings against Kanowitz and Fischer and the subsequent Grand Jury inquiry directed at them and the other horse-room operators are discussed later.

Investigation of the Numbers Racket

The "numbers" game was the most widespread gambling racket in Atlantic City. In a city of 66,000 population and in a game where the average bets ranged from 5 to 10 cents, the tremendous volume of play is clearly indicated when it is stated that the daily "take" averaged between $5,000 and $6,000 a day ($1,500,000 to $2,000,000 a year). A further indication of the extent of this racket appears from the fact that out of approximately 1500 retail stores in the city, the Treasury Agents located more than 800 "writing" numbers.

As previously stated, the agents found that absolutely no pretense at concealment was made by the numbers operators and knowledge by the police of the law violations was obvious. For example, directly across from the Post Office Building, within the range of vision of the internal revenue office, is a small cigar store which the agent knew wrote number slips. At the time of day when the pickup man made his collections, the agents frequently watched the transaction from the window and on a number of occasions have seen him come out of the store with the slips in his hand and stand and talk to the policeman on the beat or with detectives who happened to be passing by. Inquiry by the agents also disclosed that over a period of years, the "backers" of the game had never been arrested nor had their headquarters ever been raided. Save for a few perfunctory arrests of writers each year, for purposes of "the record", these racketeers were practically immune from police molestation. Such a lucrative racket flourishing, under such complete protection, was a perfect "set-up" in which to look for graft payments and the agents determined to delve into it as deeply as they possibly could. As will appear later, it was the tracing of this graft that ultimately led to Johnson's conviction.

The difficulties that appeared in this "numbers" investigation were much the same as in the horse-race betting room inquiry. An examination of the files of the Collector of Internal Revenue for the district disclosed that a few of the "backers" had not filed tax returns at all, while most of them that had filed had reported very small amounts of net income. However, none of the operators kept any books or records and their bank accounts, if any, were merely small personal or household accounts. It was obviously impossible to establish the correct net incomes of these racketeers through ordinary tax examinations. The difference that appeared to the agents between the horse-room and this "numbers" inquiry was that whereas in the horse-room racket it was impossible to obtain any testimony from the bettors that would aid in establishing gross income, in the numbers racket the storekeepers who served as the writers of the bets might be in a position to supply data as to the gross "take" and could, through the power of internal revenue summonses, be compelled to furnish such information. Once the gross income of the operators was established, the agents felt that they could readily determine the other factors involved. Thus, the first problem that presented itself was the locating and obtaining of testimony from hundreds of numbers writers.

The agents realized that if they could ascertain the names of the various "pick-up men" that collected the numbers slips from the writers, these pick-up men could readily furnish the names and addresses of all the individuals they dealt with. By observations around the numbers headquarters, the agents obtained the automobile license numbers of about ten or twelve of these pick-up men and a check on these licenses at the New Jersey State Motor Vehicle Bureau gave them the names and addresses of the car owners. Revenue Agents' summonses were served on these pick-up men and they were compelled to testify, under oath, not only to the names and addresses of the numbers writers that they collected from, but they were also forced to disclose the names and addresses of other pick-up men.

Some of the pick-up men (whether truthfully or not could never be determined) claimed they did not know the names of their fellow employees; however, it was found that the numbers banks generally had an office manager or clerk who was familiar with all of the men connected with his particular organization and when these individuals were located, they usually gave the desired information. Of course, the agents were not able to locate all of the pick-up men. They were petty racketeers who hang around saloons and pool-rooms and often they were only known to their writers and associates by nick-names, such as "Lippy", "Whitey" and "Mush". The agents spent about a week searching for a pick-up man who apparently had signed his slips with the initials "B.B.". Then they learned that these initials stood for "Boogie Boo" and it developed that "Boogie Boo" was a colored fellow who had died only a few weeks before.

Most of the pick-up men, when subpoenaed to the revenue office, gave fairly accurate information as to the names of their writers and as to the amounts of their daily collections. It was found that the writers deducted their 25% commission from the amount of money they had collected on the bets that they had written and similarly the pick-up men deducted their commission of 7½% on their collection before turning in the net amount to the "bankers".

As the pick-up men, in most cases, were closely connected and very friendly with the "backers", no reliance was placed on their testimony as to daily collections and a check was made to determine whether they had made complete disclosures as to the names of their writers. The agents made an examination of the Atlantic City police

records for the years 1935, 1936 and 1937, and compared the names of those arrested for numbers violations with the names of those given by the pick-up men. Quite a few new names were uncovered by this method.

The agents also purchased a large map of Atlantic City and designated thereon by various colored dots the locations of the writers whose names had been learned. When the investigation was nearly completed, this map was used as a means for locating additional "stops", for by reference to the map one could readily see the areas and streets where no writers had been located. The agents then made a street to street survey of those areas and personally canvassed the stores that were operating there. A considerable number of writers were found by this system. Of course, the pick-up men claimed that they had "forgotten" the names of these additional writers.

The agents were unable to locate about 10% of the writers whose names had been given to them by the pick-up men. This was because the writers had died, left town, given up their business or otherwise severed their connection with the racket. Also, there were a small number whose names were never learned because they were of a transient type, such as bell-hops and waitresses who had been employed just for the summer season. The "hand-book" type of writer was also impossible to locate as they merely drifted around from horse-room to saloon to pool-room writing numbers as they went. Some of these hand-book writers were known to the pick-up men by names such as "Chink", "Legs" and "Frisco". In spite of these difficulties, the agents believe that they located at least 85% of all the numbers writers who operated in Atlantic City during the years 1935, 1936 and 1937. Eight hundred and thirty writers were located and interviewed.

These writers were usually small retail merchants (cigar stores, grocery stores, candy stores and the like). Most of them were ordinary tradesmen who, because of hard times and pressure of public demand, had affiliated themselves with a racket that they would have preferred to see wiped out. A grocery store proprietor told the agents that he refused to write numbers, but that when he saw his customers leaving him for a nearby grocery that did write, he changed his mind. Because the writers were ordinary citizens, not racketeers, the agents had little difficulty, once they had located them, in obtaining information from them. Their large number precluded the taking of statements from all of them, so the agents devised a form of

affidavit, which covered all the pertinent data needed. They had 1000 copies of this affidavit form mimeographed and in the case of each writer obtained his signature, under oath, on the form.

In locating and serving summons on these writers, Special Agent Cheasty did most of the work on the north side of the town, which is the colored section. The game is universally played by the colored population and Agent Cheasty was so frequently seen among them and was so friendly in his dealings with these people that they jokingly called him "the unofficial Mayor of the North Side". Near the end of the investigation, some of the writers came in to complain that they had not received their subpoena. They felt they had been slighted.

The testimony of these writers on the question of the gross "write", which constitutes the gross receipts in the numbers business, was definite and accurate. Most of them had been writing for years, their clients were steady customers and the play varied little from year to year. The only real fluctuations were between the winter and the summer seasons and as the average Atlantic City business man lives for the summer season, they could well remember the seasonal variations. When asked as to their daily write, the storekeepers invariably responded: "Oh, it averages about $3 to $4 a day in the winter, but it goes up to $5 and $6 a day in the summer". There were so many writers that the backers could not attempt to influence all of them to lie for them, so in the main the agents obtained very definite data as to the operator's gross receipts. Of course, there were 10% or 15% of the writers who were not located and some of the storekeepers may have understated their "write" because they were worried about their own tax liabilities; however, generally speaking, there was no question that the gross receipts of the bankers were fairly accurately established. With the items of commissions fixed at 25% for writers and 7½% for the pick-up men, the gross profit of the bankers was also a definite and easy calculation.

The two remaining items needed in order to arrive at net income were ordinary business expenses and the money paid out on losing bets or on the "hits" as they were called. The agents readily established the ordinary business expenses such as rent, electricity, telephone, office supplies, adding machines, tapes and similar items, by personal interviews with the bankers or with their office managers; however, on the question of the hits, the agents ran into their second major problem of the investigation.

In obtaining the affidavits from the writers, the agents had questioned them closely as to how much they paid out in losing bets. While it had been easy to ascertain the average daily "write", the agents encountered great difficulty in obtaining any definite information on the losses. The writers generally could recall the large "hits" for they were outstanding events, but the 1 cent, 2 cent, 5 cent "hits" appeared to be numerous and the storekeepers had only vague ideas as to how much they amounted to in any given period. Some of the writers refused to give any figures at all as to "hits", while others did the best they could to "estimate" the amounts paid out by them on the winning numbers. In many cases the "estimates" were really "guesses".

The agents had expected that, as in all games of chance where the odds are established in order to favor "the house", the backers would retain some definite percentage of profit as they were paying odds of 500 and 300 to 1 in a game where the chances were 1000 to 1 against the bettor. The bankers, when interviewed, of course claimed that they paid out anywhere from 50% to 60% of their "take" in losing bets. The percentages they admitted to were always enough to make their income tax returns come out just right. A mathematical computation on the 500 and 300 to 1 odds indicated that actually the backers should have only been paying out 46.4% for "hits". With this percentage in mind, the agents kept a careful record of all the hits testified to by the writers and their final calculation based on the testimony of over 800 writers showed that the percentage paid out amounted to only 35%.

This variation of 11% from the expected percentage was so large and made such a substantial difference in net income to the bankers that it disturbed the agents even though it was in the government's favor. It did not seem possible that so many people could be wilfully understating the losing bets particularly when it might be expected that they would favor the bankers, if anyone.

It seemed to the agents as though the writers, in the main, had testified truthfully, so they began an intensive inquiry to determine, if possible, the cause of the deviation. Revenue Agent Snyder particularly concentrated on this problem and found a number of factors that the agents thought might account for the difference.

The first factor considered was that the frequency with which a numbers "hit" might cause a fluctuation in the percentage of losses. There were only 313 playing days in a year, so with 1000 numbers to play, it took over three years for all possible numbers to appear. An analysis of numbers that actually hit in the period from January 1, 1935 to March 29, 1938 revealed that out of the 1000 numbers, 355 had not hit even once, while some numbers had hit twice and three times and one (412) had appeared five times during the period. In view of this finding, the agents felt that the law of frequency did not necessarily apply within the period of one taxable year.

Another factor considered was that due to the peculiar playing habits of the public, there might not be an even distribution of play within a given period as called for by the law of averages. The very fact that the bankers had reduced the odds on certain numbers to 300 to 1 indicated that those numbers were played more heavily than the others. The investigation showed that the colored bettors were very superstitious and played on "hunches" and "dreams". Dream books, which purport to interpret dreams in terms of numbers, have a wide sale on the north side of Atlantic City. Any number called to the attention of the players attracts a heavy play. For example, the revenue office was in Room 222 in the Post Office Building. During the investigation when the writers were being subpoenaed to that office, the number 222 was a favorite number. Since Johnson's conviction, the agents have received numerous inquiries as to what prison number he received at the Lewisburg Penitentiary - the bettors want to play that number or the various three digit combinations of it.

Another factor considered was the situation that the betting public has a habit of not playing numbers that have recently hit, although those digits frequently repeat within a one-year period; and lastly, consideration was given to the fact that in spite of the lowerodds on the 300 to 1 numbers, the players might still continue to favor those numbers to the possible extent that more of the bets were being paid off at 300 to 1 than at 500 to 1, which of course would mean the backers could be paying closer to 30% on "hits" than to the 50% which they claimed. Agent Snyder analyzed thousands of slips, prepared charts and graphs and studied every phase of the game with a view to finding some explanation for the 11% deviation in the hit percentage.

Finally, the agents sought expert mathematical advice on the problem. They consulted with a Dr. George Brown, a research physicist with the Radio Corporation of America at Camden, New Jersey. Dr. Brown is considered one of the best mathematicians in the United States. They also spent considerable time with Messrs. Reagh and Cocheau of the Division of Research and Statistics of the Treasury Department. Mr. Reagh and Mr. Cocheau are expert actuaries and they both studied the problem thoroughly. Dr. Brown, Mr. Reagh and Mr. Cocheau all agreed that with the volume of play that had been found in Atlantic City, with the prevailing odds of 500 and 300 to 1, and in spite of all the varying factors considered by the agents, the percentage of "hits" had to come to 46.4%. They would not concede a possibility of more than a 1% or 2% deviation in a year on the figures submitted to them. They only admitted one possibility that could account for an 11% variation - that the bankers were "fixing" the number and thus preventing the operation of the law of averages.

This started the agents off on a new search. At that time (Spring of 1938) District Attorney Thomas E. Dewey of New York City was engaged in an extensive investigation of the numbers racket as it related to the notorious "Dutch" Schultz, "Dixie" Davis, and the political leader "Jimmy" Hines. Dewey's investigators had uncovered evidence that the Schultz mob had been paying $10,000 a week to one Otto Berman, alias "Abadaba", whose duty it was to control the winning numbers at certain race tracks by bribery and at others by making heavy bets at the last moment and thus changing the totals on the pari-mutuel betting machines from whose totals the winning numbers are selected. The Treasury Agents studied this evidence and then tried to find a similar arrangement by the Atlantic City numbers bankers, but they were unable to find any indication that there was any "fixing" of the Atlantic City number, although the possibility remained that the local bankers might have profited to some extent by the New York "fixing".

After all this research and expert advice, the Treasury Agents decided to set up the net income of the backers on the basis of the sworn testimony of the 800 or more writers. They felt that the failure of the backers to keep books and records of their business justified them in using the best available evidence to otherwise determine net income and they also believed that the possiblity that the operators might be "fixing" the winning number justified them in using the 35% for hits instead of the 46.4% called for by

the mathematical odds. The gross receipts of the backers as shown by the writers' affidavits, less the 25% and 7½% commissions to writers and pick-up men, less the ordinary business expenses claimed by the operators, less the 35% for hits left net incomes which were far in excess of the amounts reported on the backers' returns. The discrepancies were so substantial that, conceding that the findings as to the gross receipts and hits were correct, there could be no question that the understatements of net income were due to fraudulent attempts to defeat and evade taxation. If the testimony of the 800 writers were believed, the numbers operators were clearly guilty of tax evasion.

A number of other factors also convinced the agents that they were justified in recommending the criminal prosecution of the Atlantic City numbers "barons". First, the writers, as previously mentioned, on whose testimony the agents were relying, were mostly honest storekeepers and tradesmen. It was felt that their affidavits were a sound basis upon which to predicate a claim for additional taxes. Secondly, the statements taken from the pick-up men as to their daily net collections checked closely with the figures given by the writers. Although these pick-up men could not be relied on to give the same testimony at a criminal trial and they were all hostile witnesses, nevertheless, their statements to some extent corroborated the writers.

Further, in the absence of books and records, the backers would have to rely on their own denials to dispute the testimony of the writers, and the agents felt that they would not make very credible witnesses in their own behalf. Most of them were lifelong racketeers who could not prove that they ever had done an honest day's work in their lives. A number of them were ex-convicts and all of them were then operating their numbers game in violation of the laws of the State of New Jersey. In a number of instances, the agents could prove that the backer had made personal expenditures far in excess of net income reported and in other instances they could prove false statements during the course of the investigation. Lastly, even if the mathematical percentage of 46.4% were accepted as being the true percentage of hits instead of the 35% testified to by the writers, the backers still had understated their net incomes by substantial amounts.

At this point, still another problem presented itself to the Treasury Agents. Their information had been and their investigation disclosed that the various backers had

been operating as a syndicate or combine from the middle of 1935 on. There follows a list of points which seemed to indicate that some sort of organization existed:

1. All of the backers paid the same odds of 500 to 1 and 300 to 1 on the winning numbers. They all admitted that these odds were established by common consent.

2. Cards listing the "cut numbers" (300 to 1) were printed by one printing establishment and these cards were distributed by all the bankers. They were called "Official Cut Number Card".

3. They all paid off on the same winning number as determined by the pari-mutuel payments on the first three races at a selected race track. They admitted that the system of using the first three races was established by common agreement. In other cities the numbers bankers used the third, fifth and seventh races.

4. They all used the same race tracks at the same time and admitted that this was done by agreement.

5. They all paid a standard 25% commission to writers - by agreement.

6. They all admitted that they had an agreement not to "steal" one another's writers or pick-up men and not to pay bonuses to obtain new stops.

7. For a two-year period they all apparently operated out of a common headquarters, the Belmont Hotel.

8. Instead of buying their numbers books direct from the Baltimore Sales Slip Company, they all purchased the books from a William Rubenstein, who had a single contract with that company.

9. The backers all employed one individual to go bail and pay fines when their writers were arrested. This individual, Patsy DiCanio, testified that he obtained money from any banker available and used it to take care of "pinches", no matter to what bank the writer belonged.

10. One of the backers, Isaac Washington, testified that he and his partner, Harold Scheper, were called the "outlaws" because they were not part of the "syndicate". He stated that they had tried to obtain membership in the combine but were refused.

All these circumstances indicated to the agents that some sort of an arrangement bound the backers together in a joint enterprise; however, when interviewed, they all claimed, under oath, that they were operating independently and they claimed that aside from a number of agreements for their mutual benefit, they had no interest in one another's business. For income tax purposes, it was necessary to prove that they used a common treasury and pooled profits and shared expenses in order to establish that they were operating as a syndicate and the agents were unable to obtain such evidence. They were compelled, therefore, to treat each of the banks (there were 9 of them) as independent organizations and as a result, in September 1938 they set up and recommended criminal prosecution in 14 separate tax evasion cases (involving $125,000 in additional taxes and penalties), although they felt that actually one conspiracy charge would have more properly covered the situation.

The agents were particularly desirous of obtaining successful prosecutions in this group of cases because all indications pointed to the fact that the numbers backers had been making substantial graft payments to Nuck Johnson and it was their hope that some individual among the 14 prosecuted might "break" and reveal the desired information. However, the difficulties that had beset the agents during the investigation continued when the cases reached the General Counsel's office in the Bureau of Internal Revenue. The attorneys there immediately recognized the essential weakness of all the cases, namely, that the writers were really without accurate knowledge as to the amount of hits paid out and that their "estimate" (showing 35%) were close to being "guesses". When the agents indicated the desirability of prosecution and pressed for action on the cases, the attorneys replied and properly so that "You cannot guess a man into jail". When the agents explained that even if the hits were computed on the basis of the 46.4% percentage, the additional taxes due would be substantial, the attorneys pointed out that such an arbitrary percentage method of determining net income hardly proved a case "beyond a reasonable doubt".

The deciding factor that finally released the cases for prosecution was that during one of several conferences that were held on them in Washington, William H. McReynolds, then Administrative Assistant to the Secretary of the Treasury, expressed the opinion that as all the taxpayers were racketeers and as it was known that they were actually guilty of tax evasion, he thought it advisable to prosecute them even though the evidence was not strong, for the backers themselves had deprived the government of the means of accurately determining net income because of their wilful failure to keep records. As will appear later, it was just on this point that United States District Judge John Boyd Avis, during the trials, ruled that the testimony of the writers was competent "for what it was worth", as it was the only testimony available due to the actions of the backers themselves.

That this was the proper approach to the problem and that the cases were stronger for practical purposes than they appeared to be legally is demonstrated by the fact that ultimately twelve of the fourteen backers either were convicted or pleaded guilty to tax evasion, while only one was acquitted - (one other backer died before the cases were presented to the Grand Jury). However, as will appear later, it was not these successful tax prosecutions alone that finally caused these numbers barons to "break" and disclose their payments for protection; it was their denial of the existence of the syndicate and the additional criminal charges resulting from their perjury on that subject that led in the end to the truth being uncovered and "Nuck" Johnson being convicted, so it was well that this group of "numbers" cases did reach the prosecution stage. They were referred to the United States Attorney's office, Trenton, New Jersey, in February 1939 and on March 14, 1939, thirteen of the backers were individually indicted for tax evasion.

Treasury Agents' Request for the Appointment of a Special Prosecutor

By April 1939, the agents had reached the stage in the investigation where they had completed their examination of a considerable number of contractors, horse-room operators, proprietors of houses of prostitution, and numbers backers. They had developed evidence which had been sufficient to obtain the indictment, on tax evasion

charges, of 21 individuals. Further, they had submitted reports recommending criminal prosecution in 9 other cases (8 in the vice racket and 1 on a contract case, the Miller-Corio-Johnson tax conspiracy) and were awaiting Grand Jury action on these cases.

There were 21 income tax indictments pending at that time, as follows:

Involving Contract Cases (6) -

Judge Joseph A. Corio
Morrell B. Tomlin
Charles L. Bader
Edward A. Graham
James J. Donahue
John F. Tomlin

Involving Horse Race Betting Rooms (2) -

William Kanowitz, alias "Willie Wallpaper"
David Fischer

Involving Numbers Racket (13) -

Benjamin Rubenstein
Austin Clark, alias "Dick Austin"
John F. Malia
Herndon Daniels
Leroy B. Williams
Joseph Friedman, alias "Zendel" Friedman
Isaac Washington
Harold Scheper
Benjamin Ravnisky, alias "Benny Ray"
James F. Towhey, alias James "Morton"
Martin Michael, alias "Jack Southern"
William Wolfson, alias "Wallpaper Willie"
Anthony L. Macrie, alias "Tony" Macrie

As the purpose of the investigation was to determine whether graft payments were made to Nuck Johnson or to his "collectors", the agents felt that immediate and vigorous legal action on the indictments was necessary as well as prompt action on the remaining cases that were awaiting presentation to the Grand Jury. Obviously, the Treasury investigation would be ineffectual unless the Department of Justice attorneys would carry the cases forward in the courts with the same primary objective in view.

Several considerations had presented themselves to the agents in connection with this situation. In the first place, such a group of cases, all inter-related and all pertaining to income taxes, really required a prosecutor who was an expert in the tax field and who could devote his entire time to the group with a view to using them for the purpose of tracing graft to Johnson. The handling of the cases as separate and routine criminal proceedings would have defeated the real purpose of the indictments. The agents knew from their contacts with the local United States Attorney's office at Trenton, New Jersey, that that office was actually undermanned and could not spare an attorney for special assignment to the Atlantic City cases. Assistant United States Attorney William F. Smith was an excellent trial attorney and had handled a number of income tax cases, but he was trying most of the criminal cases in the district and was also acting as Chief of the Criminal Division of the United States Attorney's office, with the responsibility for all the administrative duties of that office. He could not, under such circumstances, devote his entire time to the Atlantic City investigation.

Further, Nuck Johnson, a life-long politician, was relying on political influences to help him and his henchmen in their difficulties with the Federal Government. It was to be expected that he would use (and he did use) every political contact and friend that he possibly could. Therefore, with these considerations in mind, the agents, as early as October 21, 1937, submitted a confidential memorandum in which they suggested the advisability of the assignment of a special prosecutor to handle all the cases arising from the Atlantic City investigation.

During the spring of 1939, the political pressure exerted by Johnson became so apparent that the agents, on April 3, 1939, submitted a confidential report to Mr. Irey requesting the assignment of an attorney from the Attorney General's office to conduct the court proceedings connected with their cases. William H. McReynolds, then Assistant Secretary of the Treasury, and Edward Foley, Acting General Counsel of the Treasury, approved this request and soon thereafter the Treasury Department officially requested the Attorney General to make such an appointment. On April 27, 1939, Honorable Frank Murphy, then Attorney General of the United States, assigned Joseph W. Burns, Tax Division, Department of Justice, to the Atlantic City investigation and authorized his appointment as a Special

Assistant to the United States Attorney for the District of New Jersey. Attorney Burns arrived in Atlantic City shortly thereafter and from that time on was chief government counsel in all the Atlantic City cases and worked in closest cooperation with the Treasury Agents throughout the remainder of the investigation.

The First Indictment of Enoch L. Johnson

From the time that Joseph W. Burns was appointed special prosecutor, the investigation was carried on jointly by the Treasury Agents and the Department of Justice. The Treasury Agents had concluded that due to the entire absence of records which would show Johnson's income, and due to the allegations that his income consisted of cash derived from graft and protection paid by persons engaged in rackets, it was futile to attempt to ascertain his income by direct investigation. The agents had investigated the various sources of income from graft and protection and recommended prosecution which had resulted in the indictment of 21 persons. In spite of the fact that many of these persons had filed no income tax returns and could not hope to avoid being convicted, none of them entered a plea of guilty or made any offer to help the Government. During his long political reign in Atlantic City, Johnson had been able to give these people the protection that they paid for and they had not been disturbed in the operation of their illegal rackets. Johnson's success in protecting them from prosecution locally led these persons to believe that Johnson could protect them from Federal prosecution. Consequently, even after they were indicted they merely sat back and awaited the Government's next move, evidently assured that Johnson could take care of them through his connections.

When all efforts to prevent the indictment and later the trial of Judge Corio had failed, and his case was moved for trial in January, 1939, Corio finally "broke" and disclosed the payment of $28,000 in graft to Johnson in September, 1935. Unfortunately, this did not provide evidence of tax evasion against Johnson since he had a net loss on his 1935 return of approximately $56,000. However, the manner in which the $28,000 was paid to Johnson involved a scheme to evade a part of the Miller Corporation's taxes. The evidence of this scheme was strong against Corio, Anthony P. Miller and Japhet Garwood, the bookkeeper and accountant for Anthony P. Miller, Inc., but was weak against Johnson. There was independent evidence of the tax evasion scheme in so far as the corporation and its officers were concerned, but Johnson's connection with that scheme was based entirely upon the testimony of Corio, an accomplice.

At that stage of the investigation it was necessary to decide what the Government's next move would be. One course of action open was to start trying the 21 indictments which had already been filed and endeavor to obtain convictions, with the expectation that after being convicted these persons would at last be convinced that Johnson could not protect them, and therefore they would disclose the information with respect to payments of graft in the hope of lessening their own punishment. The other course of action was to show these persons that Johnson could not even prevent his own prosecution, let alone protect them. There was sufficient evidence that Johnson was involved in the scheme to evade the Miller Corporation's taxes to warrant his indictment. It was determined that the indictment of Johnson might have the psychological effect of causing other persons who had been indicted to plead guilty and come forward with evidence which would disclose graft payments. Accordingly, on May 10, 1939, an indictment was filed against Enoch L. Johnson, Joseph A. Corio, Anthony P. Miller, Japhet Garwood and Anthony P. Miller, Inc. for a conspiracy to evade the Miller Corporation's income taxes for the year 1935.

First Trials of Numbers Cases

Attorney General Murphy decided not to rely on a single course of action, but to pursue both courses of action at the same time. He directed Attorney Burns to move all 21 of the pending cases and try them as soon as possible. United States Attorney Quinn assigned Assistant United States Attorney William F. Smith to work with Mr. Burns in the trial of these cases.

Under the system prevailing in the District of New Jersey, all cases arising out of the southern part of the state are tried in Camden. It was believed that the trial of these cases in Camden might not be successful because Johnson's influence might extend to the juries there. However, the only judge who was available to try cases immediately was Judge John Boyd Avis at Camden, so the Government decided to take the risk of trying the cases there. Judge Avis cooperated completely with the Government and agreed to start the trial of cases on May 22, 1939. Some of the agents had returned to their posts of duty when their reports had been submitted, and they were now all recalled to Atlantic City. On May 16, 1939, active preparation of these cases for trial began in Atlantic City. The staff consisted of Special Agents William E. Frank, Paul F. Snyder, John C. Cheasty and Edward A. Hill, Revenue Agents Walter Doxon, Jr., and John F. Williams, Attorney Joseph W. Burns of the Tax Division, Department of Justice,

Assistant United States Attorney William F. Smith, and stenographers Jeanne Dauphers, and Caroline Crockett.

It was decided that the numbers group of cases should be tried first since they involved an illegal racket and would result in longer prison sentences if convictions were obtained. The case against Austin Clark, alias Dick Austin, was chosen as the first to be tried. It appeared to be the strongest case since he reported no income at all from the numbers game in 1935 and 1936, yet he reported $20,000 in 1937. This case also had an interesting angle since Clark had operated a numbers bank at Washington, D. C., during those same three years but had denied this to the agents. His indictment, therefore, included a count for making false statements and representations to Treasury Agents. Part of the proof which the Government intended to use to establish Clark's connection with the numbers bank at Washington, D. C., involved a hold-up and safe robbery, during the course of which a policeman was bound and gagged. At the trial this policeman was called by the Government as a witness and testified that in December, 1935, while he was investigating a complaint which had been reported to him, he went to a certain address in Washington and rang the doorbell. When the door was opened three men seized him by his coat lapels and pulled him into the hallway. He was bound and gagged, and while one of his assailants remained as a guard over him, he heard two explosions. The three men then threw the policeman down a flight of stairs into a dark cellar and left the premises. After he succeeded in freeing himself he called police headquarters and then went to a hospital himself for treatment. In investigating this robbery, the police ascertained that the safe which had been owned by Austin Clark had been robbed of $5,000. Clark gave them as a motive for the robbery the fact that he was an outsider "muscling in" on the numbers racket.

Preparation of this case for trial began on May 16 when the agents and attorneys started calling in and interviewing more than sixty witnesses. This sudden renewal of intensified activity by the agents caused quite a stir in Atlantic City. A squad of eight Deputy United States Marshals arrived from Trenton to serve subpoenas on more than 200 witnesses for the various trials that were scheduled.

This numbers racket trial was quite different from any other income tax trial. The defendant had no books or records, and all of the witnesses were violating the State law

and consequently were hostile. The agents had obtained affidavits from each of the "writers" who worked for Austin Clark, and had obtained from them their best recollection of the average amount of numbers written by them each day during 1935, 1936 and 1937. The ascertainment of this average amount written was not very difficult as the business of all these writers ran fairly constant. They received 25% commission on the amount they wrote, and a great many of them used that money for specific purposes, such as to pay certain bills or to pay the rent. Consequently, they were in a position to give a fairly definite recollection of the amount of business they had done. The numbers bank paid odds of 500 to 1 on some numbers, and 300 to 1 on other numbers when they won. There was no such constancy in winning as there was in writing of the numbers. Therefore, it was very difficult to establish how much each writer had paid out in winning bets. The writers were asked to give their highest estimate of the amount of hits paid out in each of the years. The revenue agents made computations based on the oral testimony of all these writers and arrived at figures which were to represent the gross amount of business done annually by the Austin Clark numbers bank and the amount paid out by him in winning bets.

Clark had several "pickup" men who went around to these various writers to collect the slips and money each day. They received 10% commission on the amount of money they collected. Since the amount of money collected was fairly constant and these pickup men made their living on these commissions, they had fairly good recollections of the average amount they had collected. The agents made computations based on the figures given by the pickup men and these figures checked very closely with the figures given by the writers. Austin Clark had been interviewed by the agents and had himself given estimates of the average amount of business done by his bank each day. He had also stated what the expenses were, but refused to make any statement with respect to the amount paid out in "hits" or bets. All this evidence was very unsatisfactory to present to a court and jury with a request that they find the defendant had received a certain amount of net income upon which he had attempted to evade the payment of taxes.

The defendant was not idle while all this questioning was going on. He ordered every one of the witnesses, who of course were his employees, to report to the office

of his attorney as soon as they had left the Post Office Building. Each of the witnesses was then questioned by the defendant's attorney regarding the statement he had made to the Government.

The trial of Austin Clark began on May 22 and ended on June 7 when he was convicted of evading his income taxes for 1935 and 1936, and also for making the false statements to the agents. The trial received tremendous publicity and it was well known that this was the first shot of the Government's efforts to break up Atlantic City rackets. Since Attorney Burns was assigned specially to prosecute these cases, he took the active part in the preparation and trial, with Assistant United States Attorney Smith aiding him. However, the attorneys decided that it would be good jury psychology for Mr. Smith to take an active part in the trial in order that the defense attorneys might not be able to comment on an attorney being sent from Washington by the Government to try a local boy. Mr. Burns made the opening statement to the jury and presented most of the Government's case, and then Mr. Smith cross-examined the defendant and made the summation. It was more appropriate to have Mr. Smith criticize the numbers racket since he was a New Jersey resident.

During the course of the trial legal difficulties were encountered which threatened for a time to cripple the Government's case. The writers would testify to their recollection of the amount of business written by them and the amount of hits paid out, then on cross-examination would waver so much from their direct testimony that there was little left. The defense contended (not without just cause) that the witnesses were "guessing" at the figures testified to and did not have any recollection. If this contention had been upheld, the Government's case would necessarily have been dismissed and probably would have ended the investigation then and there. However, Judge Avis refused to strike out this testimony and ruled that the weight to be given to the testimony was for the jury.

The next difficulty was in making a computation of the gross income, losses and expenses. The court refused to permit a revenue agent to testify as to his computation of the amount of business testified to by the various witnesses on the ground that they did not give specific amounts, and the court ruled that the jury would have to make a computation after weighing the testimony of each of the witnesses. The court stated that the revenue agent

should not be permitted to weigh each witness' testimony and make a computation based upon the varying figures given by those witnesses. This left the Government in the very precarious situation of having no specific evidence of the gross business, expenses or net income, and for proof of evasion dependent entirely upon evidence of personal expenditures which for the years 1935 and 1936 were far in excess of net income reported. Consequently, the Government could not offer any tax computation which might show the amount of tax which it claimed had been evaded.

In attempting to make a tax computation the Government counsel got involved in a situation which seemed likely to constitute reversible error. Not being able to have the revenue agent, who was on the witness stand, make computations based upon the testimony of all the witnesses who were employees of the defendant, Government counsel started to have the revenue agent make a computation based on admission of the defendant. When the defendant had been questioned by the agents, he had admitted that his gross business averaged about $400 a day and that he paid out certain commissions to the writers and pickup men and certain expenses for number books, adding machine tapes, rent, telephone, etc. He said that he did not know how much he paid out in hits. The revenue agent made computations, which were put on a black-board, of the annual gross receipts as admitted by the defendant, and deducted the commissions and known expenses. When the court would not permit the revenue agent to estimate the amount paid out in hits, the Government was left in a position of having figures which it knew did not constitute net income. A Treasury Department expert from the Actuarial Division was then called as a witness with a view to having him testify to the percentage that would be paid out for hits based on mathematical probabilities. A defense objection to this testimony was sustained by the court; therefore, there was nothing left to do but to have the agent make a computation of the tax that would be due on the income shown, which admittedly made no allowance for losses. Although this seemed wrong at the time, it later proved to be right since the court ruled that it was up to the defendant to claim and establish his deductions under the income tax law.

The dramatic quality of the testimony with reference to the safe robbery and the binding of the policeman in Washington was counterbalanced by the humorous testimony by some of the other witnesses. After defense counsel.

had practically negatived the testimony of some writers on cross-examination, they were surprised to come up against one storekeeper who had a ready answer for any question put to him regarding figures. Whereas most of the writers could give no definite figures of the amounts of hits paid out or the percentages, this witness had everything at his fingertips. In desperation, defense counsel finally asked him point blank how it happened that he was able to give such specific answers, and he answered with a smile that he was a "lover of mathematics" and had made a study of the numbers business. Then, for the first time the resemblance of the witness' bushy grey hair to that of Professor Einstein's was observed. Defense counsel asked no more questions.

Another writer had been prodded on cross-examination as to how he was so sure of certain figures that he had given. In his attempt to show what would legally be called his best recollection, he stated that he got the figures after "squeezing his brain out". An old pickup man who was called "Pop" had produced an adding machine tape which the Government had offered as an example of the type used by the pickup men. The defense tried to keep it out of evidence on the ground that there was no proof that it was made during the three years 1935, 1936 and 1937, but "Pop" answered that he knew it was made in June, 1935, because that was the last time that he picked up numbers. He said the the "law" was after him and he managed to get away without being caught, and he always kept that tape as a remembrance of the close call he had with the law.

The racket atmosphere was also present at the trial. At one time some of the Government witnesses suddenly seemed to be acting nervous on the witness stand, and just about to fall apart. One of the agents noticed that there were three well known Atlantic City "strong arm" men sitting in seats directly in front of the witnesses and staring at the witnesses. There was no doubt but that the witnesses were afraid something might happen to them. At the Government's request those strong arm men were ejected from the courtroom.

The case which went to the jury consisted entirely of oral evidence of about sixty witnesses, all of whom had mentioned varying figures in their testimony. The jury were supposed to weigh the testimony of the various witnesses, then make mental calculations similar to an accountant's balance sheet and arrive at a net income, compute the tax thereon, and decide whether the defendant

had attempted to evade that tax. When defense counsel pointed out the absolute impossibility of a jury's accomplishing this feat and therefore moved for a directed verdict, the court ruled that the difficulty was inherent in the case and that it was just as much a handicap to the Government as it was to the defendant. The court stated that since it was an illegal business, no books or records were kept, the Government was entitled to present whatever evidence it was able to procure, and, if it happened to be a weak case, it nevertheless was for the jury to decide. The court suggested that counsel for both sides could aid the jury by stating in their closing arguments what they believed the testimony showed. In that way, the attorneys for both sides were permitted to put before the jury the computations made by their own accountant - in the form of argument, rather than sworn testimony.

The correctness of the court's rulings appeared more clearly when the brief on appeal was prepared. The Circuit Court of Appeals for the Third Circuit affirmed the conviction, and a petition for a writ of certiorari to the Supreme Court was denied.

The Government believed that the conviction of Austin Clark would cause the twelve other numbers backers who had been indicted to capitulate. However, the resistance of the racketeers in Atlantic City had been underestimated and, as later developed, the fight had only begun. The attorneys and agents immediately began preparing other cases for trial. Benjamin Rubenstein and John F. Malia had been partners in a numbers bank and it was decided to try their cases next. They immediately started to obstruct the Government in the preparation of its case. Many of the witnesses who had been requested to come to the Post Office Building to be interviewed failed to appear. Revenue agent summonses were served upon some of the pickup men and, when they failed to appear, court orders were procured. At this point they decided to come in. The Rubenstein and Malia cases were listed for trial June 12 but there was a delay of one week, to June 19, due to an accident to the defendants' attorney. On June 16 Austin Clark was sentenced to three years in the penitentiary, $2,000 fine and the costs of prosecution.

When the trial calendar was called on May 22, James J. Donahue, and Edward S. Graham pleaded guilty. A third defendant, indicted jointly with them, Charles L. Bader, pleaded not guilty so sentences were indefinitely postponed.

During the week's delay on the Rubenstein and Malia cases, Donahue and Graham were questioned about the $10,000 graft that had been paid to Johnson in 1933 for getting them the garbage removal contract from the city of Atlantic City. William Kanowitz and David Fischer, horse race betting room operators, also pleaded guilty to charges of failure to file returns. On June 16 they were sentenced to four months in jail and fined $500 each. They were questioned about the payment of protection money and admitted that they paid $160 a week, but stated they did not know the name of the man to whom they gave the money. Since the Government could proceed no further along these lines, attention was again concentrated on the numbers cases.

On June 19, when the Malia case was called for trial, he pleaded guilty. His attorney also represented Joseph "Zendel" Friedman, William Wolfson, Benjamin Ravnisky and Anthony L. Macrie. He offered to plead all of them guilty if the sentences would not be more than six months, but Judge Avis indicated that they would all receive penitentiary sentences. The Rubenstein case went to trial and resulted in a conviction on June 30, 1939. On July 12 he was sentenced by Judge Avis to two and a half years in the penitentiary, $1,500 fine and the costs of prosecution. His partner, Malia, was sentenced to 15 months in the penitentiary and $1,000 fine. Rubenstein appealed his conviction, which was affirmed by the Circuit Court of Appeals for the Third Circuit, and petition for a writ of certiorari to the Supreme Court was denied.

Counsel for the remaining numbers backers offered to plead eight of them guilty if they would get only six months, but Judge Avis refused. After Rubenstein was convicted on June 30, the Government wanted to start another numbers case immediately as it was felt that two convictions would be enough to convince all the others that they should plead guilty. Judge Avis had agreed to sit until July 15, but unfortunately his wife became very ill and caused him to change his plans. This prevented the Government from capitalizing any further on the two convictions already obtained.

1939 Grand Jury Investigation at Newark

During the two and a half years of the investigation by the Treasury Agents, they had established $10,000 a year graft to Johnson (1933 and 1934) on the garbage contract and $28,000 in 1935 on the railroad station contract. However, Johnson had on his return in each of those years

sums of money designated as "other commissions", which were more than sufficient to include these items. Since he would never talk to the agents, they were not able to find out what was intended by Johnson to be included in this term "other commissions", and consequently they had no real evidence of unreported income. The only person to "break" under the pressure of court proceedings was Judge Corio and as just stated, his evidence did not help to make a case on Johnson individually. The hope of the agents that an indictment of Johnson would cause other persons to believe he could no longer protect them and cause them to tell the truth was not fulfilled. Although the City of Atlantic City was very much excited about the Miller-Corio-Johnson conspiracy indictment of May 10, 1939 and rumor had it that other persons under indictment would "break", apparently Johnson convinced them that all was not lost and the result was a stiffened resistance rather than a weakened one. The Government was not compelled to make a decision about trying the conspiracy indictment against Johnson since the attorney for Miller died and this necessarily postponed the trial at least until the fall.

The agents had also obtained admissions from the two horse-room operators, Kanowitz and Fischer, that they had paid $160 a week for protection. When the criminal calendar was called in United States District Court, Camden, New Jersey, on May 22, 1939, these two pleaded guilty and were given four-month jail sentences; however, they still insisted that they did not know the name of the man to whom they made these weekly payments. The penitentiary sentences imposed upon Austin Clark and Benjamin Rubenstein were substantial, but did not in any way weaken their resistance or the resistance of the remaining numbers bankers. They seemed perfectly willing to go to jail to protect Johnson, hoping by his influence to be paroled at an early date. It seemed to the attorneys and the agents that the only recourse left was to call before a grand jury all those defendants who had been convicted or pleaded guilty in an effort to force them to tell the truth about the payments of graft, or possibly make cases for contempt based on evasive answers. The power and authority of the grand jury was called upon to supplement the efforts of the attorneys and the investigators.

On July 19, 1939, there began a "John Doe" grand jury investigation, which it was hoped would ultimately develop evidence indicating whether an indictment should be returned

against Johnson for evasion of his individual income taxes. In addition, the attorneys decided to call other persons connected with the numbers racket, horse race betting rooms, houses of prostitution and contractors who had not been indicted. Since Special Agent Frank, who is also an attorney, had been in charge of the investigation since its inception and was familiar with many details which had never been included in any written report, the Attorney General appointed him as a Special Assistant to the United States Attorney in order that he might participate in the grand jury proceedings. The investigation by this grand jury continued until October 1939.

Shortly after the grand jury investigation was instituted, Judge Avis agreed to try one more short case for the Government and on July 24 the trial of Morrell B. Tomlin, the road contractor, began. He was convicted on July 27, but was not given any jail sentence, merely a fine of $3,500. The noteworthy thing about this trial was that, due to new evidence adduced in court pertaining to the duplication of certain items of income, it was found that the net income for the year 1935 was much less than charged in the indictment and that as a matter of fact, there was no tax due for that year. However, the evidence showed that Tomlin's gross income was substantially in excess of $5000 and as no return at all had been filed, the jury found him guilty on the charge of wilful failure to file a return. Thus, he was convicted of what really amounted to a technical violation for as previously stated, there was no tax due. This was the only case tried during the balance of 1939 which had been on the trial list called in May. A few numbers "barons" and two more contractors did plead guilty at different times during that period.

All the efforts of the attorneys and agents were then turned toward the grand jury investigation. It was decided to investigate all possible sources of income at the same time, hoping that there might be a "break" in at least one of them. At the first session of the "John Doe" investigation on July 18, 1939, witnesses were called in connection with the numbers racket, horse race betting rooms and garbage removal contracts.

William Kanowitz and David Fischer, horse room operators, were brought from the Mays Landing Jail to testify. They admitted having paid $160 a week for the privilege of operating free from police molestation during 1935, 1936 and 1937, but claimed that they had made their arrangements for protection through a person then dead and that they did not

know the names of the collectors to whom they had actually paid the money. Their answers appeared to the grand jury to be false and evasive and it was decided to study the transcript of their testimony to determine whether they should be cited for contempt of court. They were called again before the grand jury on August 9 and, after intensive cross-examination, finally stated that the protection money had been collected by two individuals whom they knew only as "Frank" and "Joe". The agents had information that Frank Molinara and Joe Camarota were employees of Samuel Camarota, who was reputed to be the collector of the horse-room graft. It seemed quite likely that Samuel Camarota did not go around to the horse-rooms himself but sent his employees. Therefore, Frank Molinara and Joe Camarota were brought into the grand jury room to confront Kanowitz and Fischer. No opportunity was given Fischer to talk to Kanowitz in between their appearances before the grand jury, yet both denied that Molinara and Camarota were the "Frank" and "Joe" who had collected from them.

The grand jury did not believe the testimony of Kanowitz and Fischer, and voted to make a presentment against them, citing them for contempt of court on the ground that they were making false and evasive answers which were obstructing the grand jury investigation. The grand jury appeared before United States District Judge Guy L. Fake who offered the defendants an opportunity to go back to the grand jury and purge themselves. Hearings on these citations were set for August 17. Molinara and Camarota were then called before the grand jury and admitted that they were employed by Samuel Camarota who also operated a horse-room. They stated that in addition to working in the horse-room, they did go around to other horse-rooms in Atlantic City making collections, but these collections were solely in connection with "lay-off" bets and not any graft. They specifically denied ever having been in the horse-room of Kanowitz and Fischer at any time and denied collecting any money from them, either lay-off bets or protection.

The institution of the contempt proceedings brought results, although not immediately. Fischer's wife was greatly disturbed at the prospect of her husband's receiving an additional jail sentence and said that she would do everything in her power to make him tell the truth. On August 15, the real reason why Kanowitz and Fischer were willing to suffer additional punishment rather than "talk" became known. A conversation with

Kanowitz and Fischer at the Mays Landing Jail revealed that they were actually operating their horse-room while serving their jail sentences, and that the manager of the horse-room visited them three or four times a week to report on the business and to receive instructions. This arrangement was easily made since Sheriff Al Johnson, who was in charge of the jail, was a brother of "Nucky" Johnson. It was obvious, therefore, that Johnson was making things as easy as possible for these Federal prisoners while they were in jail, and permitting them to keep their horse-room operating so there was no incentive for them to help the Government. Arrangements had also been made for them to have meals brought in from outside, so they were not even required to eat the prison fare. The Commissioner of Internal Revenue had levied jeopardy assessments and they paid over $10,000 in cash to the collector in full payment of taxes, penalties and interest. It seemed they would do anything rather than "squeal". Thereupon, it was arranged with the Director of Prisons to have Kanowitz and Fischer transferred to the Hudson County Jail in Jersey City, which prevented them from carrying on their business.

When Kanowitz and Fischer appeared at Newark on August 17 for the hearing on the contempt charge, they decided to tell the truth. The hearing was therefore postponed and stenographic statements were taken which they later signed. Their statements substantiated the information which the Treasury Agents had about the set-up of horse-room graft. Until the spring of 1935 wire service information had been distributed in Atlantic City by two persons, John R. Hill and Samuel Camarota. At that time, the General News Company had the service. In the spring of 1935 N. L. Annenberg took over the General News Company and formed a new company called the Nationwide News Service. Arrangements were made through Frank Ragen to give this wire service only to horse-rooms which had received permission from Johnson to operate. Hill was forced out of the business, and Camarota became the exclusive collector. Anyone who wished to operate a horse-room had to get the "okay" from Samuel Camarota. When permission was given, the Nationwide News Service would install a wire. The cost of the wire service was $40 a week, but each horse-room was compelled to pay $200 a week. Camarota collected this $200 a week from each of the horse-rooms, delivered $40 to the Nationwide News Service, and the remaining $160 to Johnson. Kanowitz and Fischer stated that when this change took place in 1935, they got the "okay" from Samuel Camarota for the wire service, and from that time on paid $200 a week which was collected by Frank Molinara and Joseph Camarota.

This was the first evidence that the Government had obtained of payments of protection money. The only other evidence up to this point had been in connection with contracts. It was believed that this constituted a real "break" in the investigation and that others now would be forced to follow suit. However, the tremendous resistance which had been offered by all the racketeers and contractors up to that time continued, and Johnson's power and political influence had a greater effect on the racketeers than the power of the United States grand jury. It now became perfectly clear that the opposition was well organized. It was not a case of individuals committing perjury, but the perjury was the result of a gigantic conspiracy and must have been planned by lawyers. Every day that the grand jury sat, a group of lawyers hung around in the corridor of the Post Office Building ready to step in and defend anyone who was either cited for contempt or indicted. There is no question but that these lawyers were engaged by the organization and were not representing individual defendants. One bondsman was always present, and always posted bond, no matter who was indicted.

George L. Goodman, the Atlantic City manager of the Nationwide News Service, was called before the grand jury. He falsely testified that he had no arrangement with Samuel Camarota and that his own employees collected from the horse-rooms, and not Frank Molinara and Joe Camarota. Goodman's employees falsely testified that they had collected the $40 a week from Kanowitz and Fischer, in spite of the fact that they were told that Kanowitz and Fischer had testified that they paid Molinara and Camarota. Johnson and his henchmen had no thought of surrendering, but made every effort to limit the "break" to the two men who had capitulated. They must have promised to take care of Molinara and Joe Camarota, as the latter two persisted in denying they had collected money from Kanowitz and Fischer even when confronted by Kanowitz and Fischer. While these proceedings were going on, many of the horse-room operators, numbers backers and contractors had been called before the grand jury and all denied paying any graft or protection. Even though word was spread around that Kanowitz and Fischer had "talked", the break did not widen and all the others held their ground.

It was apparent that some new steps had to be taken if the Government was to break through this organized opposition. The testimony of Kanowitz and Fischer was sufficient to indict Frank Molinara and Joseph Camarota

for perjury. However, such cases would necessarily be very weak since Kanowitz and Fischer would have to admit that they themselves had committed perjury when they denied that they paid Molinara and Camarota. Another handicap in the procedure by indictment was that there would be a long delay in getting the cases tried. While waiting for these cases to be tried, the grand jury could get no place. It was therefore decided to proceed against the Camarotas and Molinara by contempt citations.

When the petitions were filed, the attorney for Molinara and Joe Camarota asked the Government attorneys if they would consider the witnesses had purged themselves if they admitted they did collect "lay-off" bets from Kanowitz and Fischer. The Government attorneys stated that they would have to admit collecting $200 a week or the proceedings would continue. The defense attorney went over to a hotel to discuss the matter, then returned and stated that they would fight. The Government was surprised that they even took time to discuss the matter since such testimony from Molinara and Joe Camarota would necessarily force a plea of guilty from Samuel Camarota. The same group of attorneys represented all the rackets and probably decided to take a chance on Judge Fake's decision.

These hearings were held by Judge Fake on August 29 and the Government called Kanowitz and Fischer as witnesses. Another witness had been found who testified he saw Molinara and Camarota in the Kanowitz and Fischer horse-room, although they had both denied being in there. Although no defense was put in, Judge Fake found them not guilty of contempt, stating that he could not find beyond a reasonable doubt that their answers had been false. He also indicated that the Government could proceed against them by perjury if the grand jury saw fit to file an indictment.

This decision ended temporarily the Government's efforts to continue the pressure on recalcitrant witnesses and to force disclosures necessary to the success of the investigation. The grand jurors were disappointed with Judge Fake's decision and immediately voted indictments for perjury against Frank Molinara and Joseph Camarota. It was too late in the day to prepare and file the indictments, but something had to be done to counteract this set-back. There was jubilation among the racketeers waiting in the corridor to appear as witnesses when Judge Fake's decision was announced. This jubilation was short-lived. In order to serve notice upon the remaining witnesses, prospective defendants and the lawyers for the

organization that the Government had no intention of giving up the fight, complaints were immediately filed with the United States Commissioner, who had offices in the same building with the court. As the agents walked through the corridors to the Commissioner's office to get the complaints, the racketeers who stood lining the walls had broad smiles on their faces. But when the agents arrested Molinara and Camarota right in front of them and they were held in $10,000 bail each, the smiles disappeared. On September 12 the indictments for perjury were filed against both Molinara and Camarota.

When the contempt citations against Kanowitz and Fischer brought results, the Government also instituted contempt proceedings against another horse-room operator, Bernard Marion. He had told the agents in a written statement that he had paid $100 a week for wire information service up until 1935. This was known by the agents to include a certain amount for protection. When called before the grand jury Marion denied paying anything for protection, and denied making a number of the answers contained in the written statement. His hearing was scheduled for August 29, but he expressed a desire to change some of his answers so he was recalled before the grand jury. His new testimony was not considered satisfactory, and hearings were held from time to time before Judge Fake which resulted in Marion's acquittal on October 4.

The key witness in the investigation of the horse-room graft was Samuel Camarota. The agents and deputy marshals made several efforts to subpoena him but he could not be found. He finally appeared on September 12. He had conferred with his attorneys before appearing, and they accompanied him right up to the door of the grand jury room. He answered very few questions, refusing to answer most questions by claiming his constitutional privilege against self-incrimination. He was cited by the grand jury for contempt and was found guilty by Judge Fake on September 19. He was given an opportunity to purge himself but, upon his attorneys' advice, stood on his claim of privilege and was sentenced to six months in jail on September 26. He was the only witness up to that time who had claimed his privilege against self-incrimination, the others choosing simply to commit perjury.

The same attorneys who advised Sam Camarota were advising other horse-room operators. The attorneys appeared quite confident that their advice was right, and the witnesses adhered to that advice. The Samuel Camarota case was appealed to the Circuit Court of Appeals and the conviction was affirmed on April 9, 1940. A petition for a writ of certiorari to the Supreme Court was denied in October, 1940. The effect of these legal proceedings on the grand jury investigation is obvious. In September, 1939, in the midst of the investigation, Sam Camarota refused to answer questions - and it was over a year before the case had gone through the courts so that it was clearly established that he should have answered the questions. In the meantime, all the witnesses who were taking advice from Camarota's attorneys were guided by their opinion, and the Government got no evidence from them.

Sam Camarota denied collecting the protection money from any of the horse-rooms. Consideration was given to the possibility of charging him with failure to report the $160 a week received from Kanowitz and Fischer, but an examination of his income tax returns showed substantial sums reported. Camarota's refusal to answer questions or be interrogated by the agents made it impossible to determine what the income was which he did report, so this course of action was foreclosed.

At the same time that the grand jury was investigating the horse-rooms and the contempt proceedings just mentioned were in progress, the payment of graft by houses of prostitution was also being investigated. Following the FBI raids upon these houses in August, 1937, many indictments were filed under the Mann Act, and a conspiracy indictment was filed against Under-Sheriff Raymond R. Born and others. During the trial of one of the cases against an operator of a house, which took place early in 1938, George Whitlock had testified that he collected protection money from all the houses and gave the money to Born. The conspiracy charge against Born could not be sustained as there was no evidence to connect him with any interstate transportation, so the case was never moved to trial. The failure of the Government to move that case caused the rumor to circulate that things had been "fixed" for Born and that was why he was not tried. It was pointed out that while a lot of "madams" and "little fellows" had been prosecuted, the "big shot", Born, was still free. The racketeers assumed that the same influence which had prevented the trial of Born would keep them out of difficulties with the Federal Government. It was therefore decided to endeavor to make use of that evidence against Born on income tax charges.

On August 9, seven of the madams were questioned by the grand jury and five admitted paying graft for the privilege of operating during the years 1935, 1936 and 1937. Generally speaking, the amounts paid were $50 a week in the winter and $100 a week in the summer. Most of these madams had previously denied paying any protection money and their admissions before the grand jury seemed at first to indicate that they would now tell the truth. However, it soon became apparent that there was another conspiracy in progress because they all admitted certain facts and all denied certain others. Not one madam admitted having any connection at all with Born, and all denied having obtained permission from anyone for the privilege of operating. They all admitted paying the protection money, however, to George Whitlock, who had been a jitney inspector in Atlantic City and a member of Ray Born's political club. Whitlock stated that he became the collector in November, 1936, having taken over the job of James McCullough.

During the course of the investigation in 1937, Treasury Agents had questioned McCullough and he had admitted that his employer, Harry Slott, had collected the graft from houses of prostitution until he died in March, 1935, and that thereafter he had collected the envelopes. McCullough told the agents that he had turned the envelopes over to some unknown person and denied giving them to Ray Born. The testimony of these madams was designed to protect Born as far as possible. It was publicly known that Whitlock had told that he had collected the graft from November, 1936, until August, 1937. There was no way that Born could counteract that testimony other than by denial, so the madams were no doubt told they could admit giving the money to Whitlock during that period. Since McCullough was "standing up" and was not admitting he gave the money to Born, the madams were all told to deny having given McCullough any money. Two of the madams, Marie Kenny and May "Kitty" Harris, had made written statements to the FBI agents in 1937 in which they had stated that they paid money to McCullough and then to Whitlock, and they had made similar statements orally to the Treasury Agents. Before the grand jury they not only denied paying graft to McCullough, but denied having told the Treasury Agents and FBI agents that they had paid the graft.

In spite of the fact that Born had succeeded in limiting the evidence against him to one witness - Whitlock - the attorneys decided to press for an indictment. There was a little evidence of income above that reported for the year 1935, so an indictment was filed on August 9 charging Born with attempting to evade his income taxes for the years 1935, 1936 and 1937. McCullough was called before the grand jury with the expectation that he would tell at least as much as he had told the agents, namely, that he had collected the envelopes from the houses of prostitution and had turned them over to an unnamed man. It was expected that his answers with reference to turning the envelopes over to an unnamed man would serve as a basis for a contempt citation on the ground of evasiveness. The Government hoped that the dignity of the grand jury might even cause McCullough to tell the whole truth and name Born. However, proof of the conspiracy to suborn perjury in order to protect Born was even clearer now, as McCullough not only refused to name Born, but went back on the statement he had given the agents. He denied ever having collected envelopes from houses of prostitution or even telling the agents that he did so. McCullough was cited for contempt on August 9 at the same time that Kanowitz and Fischer were.

The hearing on McCullough's case did not come up until October 11 since it took up until that time to dispose of the citations against Molinara, Joe Camarota, Sam Camarota and Bernard Marion. The Government gave serious consideration to withdrawing the McCullough contempt petition in view of Judge Fake's action in the other cases. However, to withdraw would be interpreted by the opposition as a sign of weakness at a time when the Government had received several set-backs, so it was decided to go ahead. There were important differences between the McCullough case and the other cases. The charge against Molinara and Joe Camarota was essentially perjury and the Government's evidence was solely that of confessed perjurers. Under those circumstances it may be there was some basis for Judge Fake's refusal to find them guilty beyond a reasonable doubt. In the Bernard Marion case the witness had returned to the grand jury room and had endeavored to explain his previous answers, and also to explain the answers he had given to the Treasury Agents in the first instance. This presented a record which seemed clear enough to the Government attorneys, but apparently was not sufficient to convince Judge Fake.

The McCullough case seemed much stronger. The idea of receiving envelopes containing money from people he did not know and turning them over to another man he did not know seemed so preposterous that the court might very easily decide that the answers were evasive and in contempt of court. Further than that, there was evidence of two specific charges of perjury. McCullough had denied making the statement to the three Treasury agents. It seemed that the testimony of three responsible agents against that of McCullough would be sufficient to justify a decision in favor of the Government. The case was even stronger than that because McCullough denied before the grand jury having made statements to Assistant United States Attorney Smith. After hearing all the Government witnesses, McCullough moved to dismiss the petition without putting in any defense. Judge Fake reserved decision and held the matter until June, 1940, when he finally entered an order dismissing the petition.

When the Government failed to make headway by use of contempt citations, it was compelled to resort to the long procedure of indictment and trial. In September and October, indictments for perjury were filed against May "Kitty" Harris, Marie Kenny and John R. Hill. A novel legal problem was presented in connection with these cases. The real perjury which they committed was their denial of payments of protection money. However, the Government could not prove that they did pay the money so no charge of perjury could be predicated upon those answers, even though believed to be false. In looking around for some legal method to force these witnesses to tell the truth, it was noticed that certain of the elements of perjury were present in connection with the answers wherein the witnesses denied having made statements to the Government agents. The ordinary elements of perjury are (1) testimony under oath, (2) testimony to a material matter; (3) in a proceeding where an oath is authorized by law, (4) false answers, (5) known by the witness to be false, and (6) capable of being proven false by at least two witnesses. The situation presented by the denial of statements made to agents included all those elements, provided the answers could be considered material. Examination of the cases on perjury satisfied the attorneys that the answers were material on the question of credibility.

The Government had tried every means at its disposal to obtain the truth before the grand jury without resorting to further indictments. A great deal of perjury had been encountered during the numbers trials of Austin Clark and Benjamin Rubenstein. The system worked to the advantage of the persons under investigation so that the long drawn out proceedings from July to October were practically fruitless. Although the grand jury met at Newark, the witnesses had to come from Atlantic City, a distance of 125 miles by automobile and 140 miles by train. The grand jury sat only one or two days a week and on those days it was necessary for the Government staff and the witnesses to travel the same distance. Since the proceedings were being held during the summer time, Judge Fake was not always available to conduct contempt hearings. Something had to be done about the constant perjury or the investigation would immediately collapse. It was with this thought in mind that these various perjury indictments were filed, even though they were all considered weak. The attorneys anticipated that Judge Fake would probably dismiss the McCullough petition, so they prepared a perjury indictment against him even before the hearings were commenced. However, they did not want to file the indictment while the judge had the contempt petition under consideration, so it was not finally filed until January, 1941.

At each session of the grand jury, witnesses were called from various rackets. Starting in July, 1939, numbers barons who had pleaded guilty or had been convicted on income tax charges were called before the grand jury. Austin Clark, Benjamin Rubenstein, Anthony L. Macrie, Leonard Abrams and Ralph Weloff were all called before the grand jury. Three of these witnesses also operated horse rooms. Every one of them denied paying any protection. The attorneys concentrated particularly on Weloff since he was reputed to be the collector of the protection money from the numbers men for Johnson, a position similar to that held by Sam Camarota in connection with the horse rooms. He denied either paying protection or collecting protection money. The questioning of these numbers men was concerned not only with protection payments, but with whether they did not in fact operate as a syndicate rather than independent numbers "banks". They all denied that there was any numbers syndicate and claimed that their various numbers banks operated entirely independently of one another. This perjury by these numbers men, denying the existence of the syndicate, seemed quite unimportant at the time, but it ultimately "broke" the investigation and resulted in Johnson's conviction.

The perjury encountered among the racket men and women extended to what were believed to be "legitimate" contractors. It is safe to say that 80% to 90% of all the witnesses called before the Newark grand jury committed wanton perjury. No effort was made to make perjury cases in each instance where perjury was committed as the proceedings would have become interminable. Theodore Tobish, a Trenton contractor, who did road construction work in Atlantic County, testified that a certain item of $7,500, charged on the books as a payment to Morrell Tomlin, was actually retained by him. When first questioned by the agents about this item he said that he had actually made the payment to Tomlin, Morrell Tomlin, who was convicted in July, 1939, testified that he did not receive the money from Tobish, but that Tobish had asked him to put the item on his books and that he had refused. It is quite likely that this $7,500 went to Johnson.

The agents had heard many rumors that sub-contractors on the railroad station job had been forced to "kick back" either to Anthony P. Miller or to Johnson. Jean Peterson, a grandmother about 65 years old, was the nominal head of a small construction company. Her husband, James Peterson, was the building inspector of Atlantic City. When violations of the building code were charged by Peterson, the owners of the property frequently found it advantageous to use his wife's construction company for the repairs. Peterson Company did all the brick work on the railroad station, and its books showed receipts from the Miller Corporation of $65,000. However, the Miller Corporation's books showed payments of $70,000. The entire $65,000 had been paid to Peterson by means of credits with the bank, but the $5,000 was a check which Mrs. Peterson cashed. Mrs. Peterson told an incredible story as to the disposition of the cash and she would have been cited for contempt if the other proceedings had been successful.

The Newark grand jury investigation was begun with the hope that evidence of income tax violations would be obtained against Johnson or some of the collectors of the graft who might ultimately talk against Johnson. However, only one income tax indictment was procured, against Raymond R. Born. Instead of evidence of income tax evasion, the grand jury's investigation produced seven citations for contempt of court and five indictments for perjury.

Court Proceedings from September, 1939, to February, 1940

When Joseph W. Burns was appointed as Special Prosecutor to try the pending cases in May, 1939, the Government believed that successful prosecution of the first few cases would break the resistance encountered by the agents and end the investigation. After a few weeks of trials it became apparent that the investigation would take at least several months, and Mary Helen Geyer of the Tax Division was assigned as a stenographer. Special Agents Frank and Hill continued their investigation in conjunction with that of the grand jury. The tremendous amount of work required the assignment of an additional agent. Special Agent Paul F. Snyder, who had been engaged on the investigation as a revenue agent and who had recently been transferred to the Intelligence Unit, was recalled on August 19, 1939.

On August 3 plans for the investigation were discussed at Washington with Acting Chief Woolf of the Intelligence Unit, Mr. George Buswell and with Attorney General Murphy and Assistant Attorney General Clark. At that time it was decided to continue the grand jury investigation until September and if no further evidence were procured against Johnson individually, he should be tried on the conspiracy indictment with Miller and Corio.

While the results of the grand jury investigation were very discouraging, other matters caused the picture to change materially by September. In June, United States Attorney Quinn had obtained the assignment of Judge Philip Forman to try the conspiracy case against Johnson. The motion for a bill of particulars was heard in June and then adjourned until September. In September Judge Forman set November 20 as the date for trial, stating that he had to dispose of a civil calendar before he could begin the trial of any criminal cases. He did, however, continue to conduct hearings on the motion for a bill of particulars during September and October.

In view of the fact that Johnson could not be tried until November, a conference was held in Washington to determine the future course of the investigation. This was attended by Chief of the Intelligence Unit Elmer Irey, Chief Counsel Philip Wenchel, Attorney I. W. Carpenter, Special Agent Frank, Assistant Attorney General Clark, Assistant United States Attorney Smith, and Special Assistant United States Attorney Burns. The results of

the trials and grand jury investigation were discussed and the possibility of tracing the graft and protection money to Johnson. The question for decision was whether to stop further investigating and merely try the Johnson conspiracy indictment, or to keep on with the investigation in an effort to achieve its principal object. The difficulties in obtaining the necessary evidence were considered. It was realized that the main reason for the obstinacy of the witnesses was the fact that they did not wish to give up their livelihood. The numbers men, horse-room men and other gamblers had been making an easy living for years, with protection guaranteed and practically no risk. If out of town racketeers attempted to open up, Nucky Johnson ordered the police to drive them out. If the Government succeeded in putting Johnson in jail and an honest city government resulted, all these gamblers and racketeers would be out of business. Many respectable citizens of Atlantic City had commented favorably upon the Government's prosecution of the racketeers, and expressed the hope that the investigation would result in an honest government for Atlantic City. At the conference it was decided to continue with the investigation.

When the Treasury agents began the investigation early in 1937, they used a conference room belonging to the internal revenue office. During the trials in June, 1939, a staff of four special agents, two revenue agents, two attorneys and two stenographers was crowded into that office. These working conditions were impossible, and in September arrangements were made with the Postmaster to partition off part of another agency's office for the use of Mr. Burns and his staff.

Efforts were made to try the remaining numbers men and some of the perjury indictments before November 20 in the hope of procuring additional evidence against Johnson. It was difficult to get a judge to take the cases since there had been a vacant judgeship for about 18 months which required the three judges in the District to do the work of four. This resulted in all their calendars falling far behind. Judge Fake was requested to ask the assignment of a judge from outside the District, either to try the Atlantic City cases or to relieve Judge Avis so that he could try them. No action was taken on this request. Judge Avis, however, agreed to set aside two or three weeks for Atlantic City cases starting October 16, regardless of whether or not an additional judge came into the District. He also agreed to have a preliminary trial calendar on October 6 in order to decide what cases would be ready for trial on October 16.

At the call of the calendar new difficulties arose. The Government wished to try certain of the numbers cases, the case against Ray Born, and the perjury cases against Frank Molinara and Joe Camarota, before any of the others, as it was believed that convictions in those cases might help the main investigation. Unfortunately, the attorney for all of the defendants whom we wished to try had been directed by the judge of the State court to commence a long trial on October 16. That trial actually lasted until late in December and disrupted the entire calendar of Atlantic City cases. The attorney for Anthony P. Miller was also engaged in that trial so the trial of the Johnson conspiracy case was put off indefinitely. Hearings on the motion for a bill of particulars in that case were concluded in the middle of October.

The income tax case of John B. Tomlin, a contractor, and the perjury cases against Hill, Kenny and Harris were prepared for trial. On October 31, 1939, John B. Tomlin pleaded guilty and the Government began the perjury trial against John R. Hill. On November 2 Judge Avis directed a verdict of not guilty on the ground that the indictment did not charge the offense of perjury. At the time this indictment was filed, Attorney Burns had studied the proposition and concluded that the only element of the offense of perjury as to which there might be some question was the element of materiality. Judge Avis specifically held that the false answers were material, but concluded that perjury could not be predicated on a false denial of having made prior statements. Judge Avis erred (as the Supreme Court later held) due to his misinterpretation of certain cases which dealt with the question of evidence and not with the elements of the offense. However, there was nothing the Government could do about this error since the defendant, Hill, had already been placed in jeopardy.

It had been hoped that a conviction of Hill would cause him to testify about the arrangements which were made in 1935 when the agency for wire information service was taken away from him and given to Sam Camarota. This decision made it impossible to try the perjury cases against May Harris and Marie Kenny. It had been hoped that if they were convicted of perjury prior to the trial of Ray Born, they would testify against Born. Their testimony might also have forced McCullough to testify against Born. This decision, therefore, was a serious blow to the Government's efforts to stamp out perjury and arrive at the truth.

All practical advantage which had been expected from these perjury indictments was lost but the Government felt that the question of law involved was an important one and Judge Avis had announced a dangerous principle by holding that witnesses could deny under oath having made prior statements without being punished therefor. In order to obtain a ruling on this question, it was suggested to the attorneys for Harris and Kenny that they file motions to quash the indictments. They did so, and after the motions were granted the Government took a direct appeal to the Supreme Court. In December, 1940, the Supreme Court reversed the orders of Judge Avis and held that the indictments properly charged the offense of perjury.

Due to the unusual situation that the one attorney who represented most of the defendants was engaged in a long trial, the disposition of the Atlantic City cases was delayed until January, 1940. Early in November plans were discussed for continuing the investigation along other lines until the pending indictments could be tried. The Treasury agents had been unable to make any income tax cases against the horse-room operators since they kept no books or records and it was impossible to determine their income. In the case of the numbers operators, the agents had been able to make a computation of income because the writers were all permanently located and could be subpoenaed and questioned. There was no way, however, to contact the thousands of people who frequented the horse race betting rooms so the situation was a hopeless one.

The case against Kanowitz and Fischer was based solely upon their failure to file returns. They made the mistake of keeping bank accounts which established a comparatively large gross income. Practically none of the other horse room operators had any bank accounts. The agents studied the possibility of making cases against them for failing to keep proper records. They also considered the use of other criminal statutes. It was known that some of the horse-room operators leased their rooms under fictitious names and received mail under those names. A study was made of the possible use of Title 18, United States Criminal Code, Section 339, which seemed to make it an offense for anyone who carried on an unlawful business to receive mail in a fictitious name. This latter question was submitted to the Criminal Division of the Department of Justice and an opinion was rendered that the statute was not applicable to those cases.

From November 11 until the end of December, Mr. Burns was engaged almost exclusively in the preparation of briefs on the appeals of Austin Clark and Benjamin Rubenstein. Many difficulties had been encountered in the presentation of the evidence in those cases and it was felt that there was grave danger that the Circuit Court of Appeals might find the evidence was too speculative to warrant a jury's concluding that there had been unreported income and a tax due. From the time the indictments had been filed in those cases they had been considered by both the Treasury Department and the Department of Justice as unusual and without precedent. The Government had endeavored to capitalize on the convictions and the substantial jail sentences imposed by bringing Clark and Rubenstein before the grand jury, but to no avail. It therefore became very important to win the cases on appeal. Both cases were argued together in the Circuit Court on December 19. At that time Rubenstein had not yet filed his brief. It was served and filed upon the Government a few days after the argument and the Government's brief in the Rubenstein case was not served until January 2, 1940. The next day, January 3, the Circuit Court of Appeals affirmed both convictions in per curiam opinions.

The Government immediately attempted to take advantage of this victory to promptly dispose of the cases of the other numbers men, either by trial or plea. Judge Avis again agreed to try Atlantic City cases beginning January 8. He agreed to sit as long as necessary to clean up the entire calendar. Of the 13 numbers backers who had been indicted in March, 1939, two had been convicted and five had pleaded guilty. The six remaining to be tried were Joseph "Zendel" Friedman, Martin Michael, alias "Jack Southern", James F. Towhey, Leroy B. Williams, William Wolfson and Benjamin Ravnisky, alias "Benny Ray". Also listed for trial were the income tax case against Raymond R. Born and the perjury cases against Joe Camarota and Frank Molinara. The Government did not intend to try the perjury cases against Marie Kenny and May Harris as the decision of Judge Avis in the John R. Hill case was a precedent for the dismissal of those indictments. The preparation of the numbers cases for trial was an arduous task. The Austin Clark case had taken nearly three weeks and his numbers "bank" was comparatively small, about 60 writers. The Towhey bank had 150 writers and the bank operated by Williams and Friedman had approximately 300. It was necessary to interview all those witnesses and have them subpoenaed for the trials. This entailed working day and night without let-up.

On January 8 the case against Towhey was marked ready and he entered a plea of guilty. He wanted to enter his plea in chambers in order that the newspapers would not know about it as he did not want to hurt his partner, Jack Southern. Southern was reputed to be one of the collectors of the numbers graft for Nucky Johnson, so the Government objected to this procedure and required Towhey to enter his plea in open court. Towhey was later sentenced to nine months in jail, $1,000 fine and five years' probation. The Government realized that he was perfectly willing to serve that sentence and had no intention of testifying. He could have been a very important Government witness if he would have cooperated. He had stated that he operated his numbers bank independently of other numbers banks and without any partner during 1935 and 1936, but that he took Jack Southern in as a partner at the beginning of 1937. The Government had evidence which indicated that Southern had been his partner during 1935 and 1936 but he had not reported any income from numbers on his income tax returns. If Towhey had told the truth about their partnership, Southern could have been indicted for evading his 1935 and 1936 income taxes and would have had to plead guilty. As it was Southern was indicted only for evading his 1937 income taxes and the case was very weak. The Treasury agents had begun their investigation of the numbers racket early in 1938 so the numbers backers were aware of their danger when they filed their 1937 income tax returns. Accordingly, they all reported very substantial sums of income quite at variance with the amounts reported in previous years.

The attorney for Born, Camarota, Molinara and some of the other numbers backers had concluded the twelve-week trial which had delayed the investigation, so the Ray Born trial was begun on January 9. This was the most difficult trial of the investigation up to that date. At the time the indictment was filed in August, 1939, the Government had hoped to be able to get two of the madams, Harris and Kenny, and one of the collectors, McCullough, to tell the truth about the graft. Judge Fake's action in holding up the decision in the McCullough contempt case and Judge Avis' decision that the indictment against Hill (and necessarily those against Harris and Kenny) did not charge an offense, deprived the Government of the expected testimony.

The failure of the Government in the Harris, Kenny and McCullough proceedings was felt at the trial of Born. Six operators of houses of prostitution were called as witnesses and all except one recanted on their prior testimony before the grand jury. The Government was forced to claim surprise and cross-examine almost all of its own witnesses. One of the madams, Agnes Stein, denied having given any money to George Whitlock and denied having told the grand jury that she gave it to Whitlock. After the Born trial was over, she was cited for contempt, found guilty by Judge Avis, and sentenced to sixty days in jail. The Born case depended entirely on one witness, Whitlock, who testified he collected the protection money from November, 1936, until August, 1937. The case went to the jury on a taxable income of $400 in 1935 above exemptions and credits, and approximately $1,000 in 1936. The Government had failed entirely to connect Born with any protection money during 1935 and most of 1936. The one madam who did not recant her testimony stated that she delivered to Whitlock $50 a week in the winter months and $100 a week in the summer months. Whitlock had testified that the envelopes were always sealed and that on only one occasion did he find out that there was money in them. The case was so weak that the judge could not have been criticized if he had directed a verdict of not guilty; yet the jury convicted Born on all three counts in a little over two hours.

This conviction, coming so soon after the affirmance of the convictions of Clark and Rubenstein, revitalized the investigation. The delay of over two months in getting the cases to trial had led many of the racketeers to believe that the investigation had died down. Consequently, the conviction of Born was a shock to the gambling fraternity, especially since he had been represented by a very experienced and able attorney. This was the first case that had been tried during the investigation in which protection money had been mentioned, and it was brought right home to the former Under-Sheriff who was known to be very close to Nuck. This conviction served as notice to others similarly situated that the Government was not limiting its prosecutions to the so-called "small fry", but was reaching for the "higher-ups". It had been rumored that Born would not protect Johnson if he received a long jail sentence. On the day he was to be sentenced, his attorneys were prepared with a notice of appeal. Since the case had involved houses of prostitution, and Judge Avis had given stiff sentences to operators who had been tried on

Mann Act charges two years before, everyone expected Born to receive about five years. Therefore, it was a great disappointment when Judge Avis sentenced him to a year and a day. Born and his attorneys were so surprised and pleased that they did not file the notice of appeal, and he immediately began to serve his sentence. This ended any possibility of tracing about $25,000 a year in graft from the houses of prostitution to Johnson.

The Government prepared to push ahead and try the Joe Camarota perjury case on January 15. Again a delay was encountered when his attorney obtained a week's adjournment on the ground that a principal witness was ill. In order not to lose any time, the case against Leroy B. Williams, a numbers backer, was commenced on January 16. Government attorneys had hoped to avoid trying the Williams case since it would be necessary to call about 300 witnesses. It appeared, however, that he had no intention of pleading guilty at any time, in spite of the affirmances of the convictions in other cases, and the pleas of guilty by other backers.

Since it would have taken about six weeks to present the testimony of these three hundred witnesses, a stipulation was entered into with the defendant's attorneys accepting the computations that the revenue agents had made from the affidavits of those witnesses. Williams, a colored man, was represented by three attorneys, one of whom, Isaac Nutter, was also colored. None of the three attorneys had had much experience in Federal court and they were totally unfamiliar with the intricacies of income tax cases. This reacted against the Government. Even before the trial was concluded, Government attorneys sensed the very real possibility that the jury might lean toward the defendant simply because he was not being capably defended. The judge also tried to help the defendant in an effort to make up for his lack of proper representation.

Nutter's summation was the most unusual that had been heard in the District Court. All the charms and voodoos for which negroes are noted were brought into play. Nutter carried a rabbit's foot in his pocket throughout the trial and put his hand in his pocket to hold it several times during the summation. Once when he brought his fist down upon the jury rail to emphasize a point, his cuff links flew off and everyone thought he had dropped a pair of dice. After the case was over he admitted that when Attorney Smith had started his summation, he walked behind Smith and dropped salt to "hex"

him. During his own summation, Nutter avoided completely discussing the evidence of the case, but made an evangelistic appeal like a preacher at a revival meeting. It worked like a charm, for after deliberating nine hours the jury found the defendant not guilty, which was the first acquittal against the Government during the investigation. There was great jubilation in the negro section of Atlantic City that night.

The loss of this case, surprisingly enough, did not hurt the investigation at all as it was considered a "fluke" by the other numbers backers, and two of them, Ravinsky and Wolfson, pleaded guilty after the acquittal of Williams. In a quite unexpected way, the loss of this case became a benefit to the Government as the colored attorney, Isaac Nutter, did not receive the fee he had expected and turned against Williams and the other numbers backers. From that time on, Nutter became the most important factor in producing evidence to break up the numbers syndicate and to compel them to testify to the payment of protection money. He continued to give the Government information and to use his influence with witnesses to compel them to tell the truth right up until the time that Johnson was tried and convicted.

The perjury trial against Joe Camarota began on January 24. This case was considered even more difficult than the Ray Born case since the Government was depending upon the testimony of two confessed perjurers to convict the defendant of perjury. The jury could not have been blamed if they called it a "toss-up", and it was expecting a good deal even to wish for a conviction. The indictment had been filed in order to offset the detrimental effect of the acquittal by Judge Fake on a charge of contempt based on the very same evidence being presented to the jury. The filing of that indictment had not stopped others from committing perjury, so the Government was left with an experiment on its hands.

The agents had endeavored to obtain evidence to corroborate Kanowitz and Fischer and had found three witnesses. One was Nicholas Scarducio, himself a racketeer, but willing to help the Government because he had not been able to get into the horse-room racket himself. It was with reluctance that the Government used him, but his testimony was helpful and had been checked through independent sources and found to be

true. His criminal record looked bad in the FBI report, but not nearly so bad as defense counsel made it look. One of the charges against him was rape and he had tried to minimize the offense by claiming it was not really rape. In summation, defense counsel cleverly referred to Scarducio by saying, "Mr., what's his name, er, Seducio".

The second witness was William Sheppard, a colored man who had formerly been Johnson's chauffeur. The third was Harry Cunio, who operated the cigar counter which served as a "front" for the Kanowitz and Fischer horse-room. The defense lost no time in "reaching" Cunio and he changed his story on the witness stand; however, the jury found Camarota guilty after deliberating about an hour. This case was tried by Attorney Burns as Assistant United States Attorney Smith was no longer able to give any time to the investigation. His presence, however, was no longer needed as Attorney Burns had become well acquainted with the judge and court attaches and was no longer considered an "outsider". This conviction more than offset any possible ill effect that the acquittal of Leroy Williams might have had on the investigation.

The Government wished to press on immediately with the trial of the companion case against Frank Molinara. The defense attorney was quite chagrined by the loss of the Camarota case and used a ruse to obtain a week's adjournment before trying Molinara. He spent that week in Atlantic City and dug up enough witnesses to throw the balance in his favor, with the result that Molinara was acquitted. Camarota was sentenced to 15 months in the penitentiary. Although the sentences of Born and Camarota were too light to force them to tell the truth about the protection money, the Government was fortunate in getting convictions at all.

The disposition of the cases just mentioned left only four on the calendar: Joseph "Zeldel" Friedman and Martin Michael, alias Jack Southern, numbers cases, the Joseph A. Corio individual indictment, and the Miller-Corio-Johnson conspiracy indictment. The case against Michael was marked off the calendar since it was considered too weak to try. Since Friedman was Leroy Williams' partner the Government did not wish to try that so soon after Williams' acquittal. No further effort was made to try the Johnson conspiracy case.

1940 Grand Jury Investigation at Camden

On January 15, 1940, the Government began a new John Doe investigation before the grand jury at Camden. This was actually a continuation of the investigation which had been carried on by the Newark grand jury in 1939. When the Camden investigation began the Government was not certain just what could be accomplished there, but intended to call as witnesses any defendants who were convicted or pleaded guilty during January. The investigation thus begun with uncertainty of purpose turned out to be very fruitful.

Lawyer Isaac Nutter informed the agents and Mr. Burns in January that the numbers men did in fact operate as a syndicate. He said that from 1935 right up until 1940 the banks had all worked together at one headquarters and divided the profits equally among eight banks. At the outset of the investigation the agents had been informed that the numbers game was operated by a syndicate but they had not been able to prove it. They had interviewed about 14 numbers backers and about 80 pick-up men and everyone denied that there was a syndicate or combination of any kind, and they all claimed they worked for eight individual banks. Consequently, the agents set up individual income tax cases instead of one case against the syndicate.

Nutter stated that when the indictments were filed against the 13 numbers backers, he fought with them to admit that they operated as a syndicate. He said he advised them that if they continued to lie about it, the Government would find out sooner or later and they would have a second indictment against them. His advice was to admit the truth and be prosecuted only once. By their failure to take Nutter's advice they made themselves subject to one prosecution after another, as they committed perjury every time they testified about the numbers game. When Nutter argued a motion for a directed verdict at the conclusion of the Government's case against Leroy Williams, he contended that the theory of the Government's case was entirely wrong since it charged Williams with sharing in the profits of two numbers banks, whereas in fact the profits of those banks were pooled with six others and Williams' share was determined by the profits of eight banks and not two. He had tried to get Williams to admit this but Williams refused. After the Williams trial, Nutter cooperated actively with the Government.

At the Austin Clark trial Walter Greenidge testified that he was the manager of Clark's bank during the years 1935, 1936 and 1937 and had turned over the receipts from the numbers game to Clark daily. Nutter induced Greenidge to tell the truth. Herndon Daniels had pleaded guilty in October, 1939, and was sentenced to a year and a day. He was brought from Lewisburg on a writ of habeas corpus and told the whole story of the syndicate to the grand jury. Nutter advised the Government that Daniels would be a willing witness and would tell the truth. The Government then learned for the first time how the syndicate operated and why its existence had been concealed. Herndon Daniels was the first numbers backer to cooperate with the Government, and his testimony became the spearhead of the Government's attack. Greenidge, in acting as Clark's manager, had the status of a backer, so that in effect the Government had two numbers backers on its side.

The numbers syndicate was formed on July 2, 1935. There had been six numbers banks operating in the daytime and one during the night-time until the spring of that year. One bank had four partners, Ralph Weloff, Max Weloff, Dave Abrams and James Towhey. This bank split up and Towhey took Jack Southern in as his partner. A general competition then resulted, which culminated in all the numbers bankers meeting in Fitzgerald's Hall in Atlantic City. There it was decided to pool all the business of the eight banks and divide the profits equally, regardless of the size of the bank. Headquarters were set up in the Little Belmont Hotel, which was owned by Herndon Daniels. They decided to have four men run the business. Benny Rubenstein acted as general manager, Benny Ray as cashier, Jim Towhey as bookkeeper, and Leroy Williams assisted Towhey.

The seven banks which operated in the daytime each retained its former headquarters, but they were merely "drops". The pick-up men for each bank continued to collect the slips and money from their own writers or "stops" and brought them to the headquarters of their individual banks. Then a representative of each bank took all the slips and money of that bank to the general headquarters at the Little Belmont. With as many as 50,000 numbers slips being brought into the headquarters each day, an elaborate system was set up to handle them. The representatives of each bank put their slips in a tray marked with a letter to designate their bank. A group of clerks worked at a table

upon which were twelve adding machines. Rubenstein handed out the slips to the adding machine operators and, after the slips were tabulated, tapes were made for the pick-up men and finally a master tape was made by Towhey showing the daily collection of each bank. Towhey kept a sheet upon which he recorded for each day the collection, the amount of hits, and whether that bank won or lost. He also recorded on that sheet the daily expenses.

Benny Ray handled all the money for the syndicate. Each bank had a clerk designated to handle the money for it, and his duty was to collect the money from the various pick-up men belonging to this bank and turn it over to Ray. Ray then gave to each bank enough money to take care of its hits for the day. When the syndicate was formed, each of the banks put up $1,500 toward the bankroll, making $12,000 in all. All of the bankers went around to the headquarters on Saturday afternoons to find out whether or not there had been profits. The expression used by Towhey was that they had so much "pie" to cut. When this expression was brought out at the trial it seemed to be an apt term for racketeers to use in discussing the division of profits. The syndicate had been formed in order to end a price "war" among the numbers banks and stop "cut throat" competition which was causing all banks to lose money. With the formation of the syndicate an era of peace and "pie" began: as long as there were pieces of "pie" there was peace and as long as there was peace there were pieces of "pie". They always divided even amounts so if the profits were $4,400, they would split $4,000, giving each bank $500, and retaining the other $400 in the treasury. In this manner they gradually increased the bankroll to $32,000.

Daniels explained why they had concealed the existence of the syndicate from the Government. Before the syndicate was formed, some of the numbers backers had filed income tax returns and others had not. They continued their former practice during the first year the syndicate was in existence, then Daniels was advised by the accountant who prepared his income tax returns that he was not reporting his income properly since he was a member of a syndicate. Daniels took the matter up with other members of the syndicate and suggested they file a partnership return for the syndicate naming all the partners. Since some of the men had not filed returns and did not want to file any, they objected to this plan and the matter was dropped. The

next year when it came time to file income tax returns, Daniels' accountant again brought up the question and it was again discussed by the members of the syndicate. By this time some of them were afraid to file a syndicate return because it would disclose their past violations of the income tax law. Daniels insisted that they were wrong and stated that if he were ever asked about the syndicate, he was going to tell as he saw no reason why he should get into trouble for them.

When the agents began their investigation of the numbers racket early in 1938, the first backer questioned was Benjamin Rubenstein. At first he claimed that he was only a pick-up man, but he got into difficulty in trying to explain how he arrived at the income reported on his return and finally was forced to admit that he was a numbers backer and had a partner, John F. Malia. This spelled Malia's doom as he had not filed any return at all. Rubenstein told the agents that there was no syndicate and that all the banks operated independently. After Rubenstein left the Post Office Building, he went to the numbers headquarters and told the other backers what had happened. Accordingly, as each of them was called to the Post Office he adhered to Rubenstein's story and all denied the existence of the syndicate. This word was passed on to all the clerks and pick-up men so that, in effect, there was a gigantic conspiracy of about 100 persons, numbers backers, clerks, pick-up men and others to commit perjury, make false statements and representations to the Treasury agents, and to obstruct the course of the investigation.

The manner in which the organization worked offered another difficulty in the way of the agents' determining that there really was a syndicate. Before they formed the syndicate, each of the numbers banks had its own headquarters. After the syndicate was formed it maintained that headquarters and had its own pick-up men bring the slips and money there just as they always had. The backers did not let it become immediately known that they had pooled their business as they mistrusted each other and wanted to be in a position where each could control his own business if anything happened. Accordingly a great many of the workers really believed they worked for an individual bank instead of the syndicate.

The disclosure of the syndicate by Daniels and Greenidge opened wide avenues of approach for the Government. It was at first thought that the other backers

would give up after they learned of Daniels' disclosures. He stated to them quite frankly that he had told the whole story to the grand jury. Both Daniels and Nutter had told the Government that the $1,200 a week protection money was paid out for the syndicate by Ray and Rubenstein to Weloff, and then to Southern. At the time of these disclosures, in February, 1940, Ray was in jail serving a nine-month sentence, and Rubenstein had filed a petition for a writ of certiorari to the Supreme Court. Word had reached the agents from time to time that Rubenstein would "talk" rather than serve the sentence. It seemed an opportune time to call Rubenstein before the grand jury as there appeared to be little chance that his petition would be granted.

Rubenstein, Ray, Towhey and Wolfson were all called before the grand jury but refused to answer any questions on the ground that the answers would tend to incriminate them. They were all cited for contempt and hearings were held by Judge Avis. The witnesses claimed that the answers to the questions might tend to show a violation of the conspiracy or perjury statutes. There was no doubt that they were right legally. This was a practical situation where the Government was interested in the truth. Telling the truth at this stage necessarily involved the admission of prior lies. Efforts were made to convince them that they should tell the truth about the syndicate and the protection money, but to no avail. Judge Avis decided in favor of Rubenstein that he did not have to answer the questions, so the Government withdrew the other three petitions.

The Government staff studied the situation to determine the best way to take advantage of this new evidence. The evidence disclosed so many violations of the law by so many persons that a hundred individual indictments might have been filed. The problem was to select and prosecute those which would most materially assist the Government in securing the truth about the protection money. It was established that Rubenstein and Ray paid out the $1,200 a week. Both were serving jail sentences and both were refusing to cooperate. With the new evidence they could have been indicted for perjury before the grand jury, making false statements and representations to Treasury agents, conspiring to commit perjury, to obstruct the due administration of justice, and defraud the United States of income taxes.

There seemed to be no quick way of getting the desired results. If Ray and Rubenstein were indicted, they might stand trial, which meant that it would be several months before the cases would be reached. Even if they were convicted there was nothing to indicate that they would not remain adamant. If the effect of double punishment proved too much for them and they finally told the truth, they would testify they gave the protection money to Ralph Weloff and Jack Southern. That would mean new indictments against Weloff and Southern in an effort to get them to tell the truth. Jack Southern was already under indictment for evading his 1937 income taxes, but the case was so weak the Government hesitated to try it.

The plan of the investigation had been to secure through the prosecution of persons who paid graft to the collectors, evidence against the collectors. The next step was to trace the graft payments through the collectors to the ultimate recipient, who, the Government had been informed, was Johnson. Up to that time three collectors had been convicted, Ray Born, Joe Camarota and Sam Camarota. Born and Joe Camarota had gone to jail without talking, and Sam Camarota had appealed his sentence. Assuming the Government could obtain enough evidence to get convictions against Weloff and Southern, it was realized that they might appeal their convictions and then many more months would pass before any more results could possibly be obtained.

In view of this situation, the question was raised whether any more time should be expended in an effort to indict Johnson individually or whether the Government should proceed at once with the trial of Johnson on the conspiracy charge. During the hearings on the motion for a bill of particulars, Judge Forman appeared to be unsympathetic towards the Government's case. He ordered the Government to disclose practically its entire case in a bill of particulars and indicated that the Government's unwillingness to do so must be because it did not have much of a case. That case was no weaker in February, 1940, than it had been when the indictment was filed in May, 1939, but the fact remained that it was based entirely on the testimony of one man - Corio. Nor was it any weaker than the Ray Born and Joe Camarota cases, in both of which convictions had been obtained.

Certain psychological factors were present in the situation. The Government staff was reluctant to try such a person on quite a minor issue when they were so certain that he had committed more serious offenses. They were unwilling to admit that the United States Government was powerless to bring Johnson to justice for the crimes of which everyone believed him to be guilty. An incentive to continue the fight was the repeated expressions of gratitude by reputable citizens of Atlantic City to the Government for its efforts in trying to clean up the system of vice, graft and corruption which they felt had ruined their city.

On February 27, 1940, the problem was discussed at a conference in Washington attended by Messrs. Clark, Tweedy and Burns of the Department of Justice, and Messrs. Irey, Wcolf, Frank, Wenchel and Leming of the Treasury Department. It was stated that there had not been progress in obtaining direct evidence against Johnson since the previous conference in September, despite the Government's victories both in the trial court and on appeal. It appeared that Benjamin Rubenstein was the last hope of getting any evidence of protection payments to Johnson. It was believed that if the Supreme Court denied his petition for writ of certiorari he would prefer to talk rather than go to jail for two and a half years. It was agreed at the conference that the Government should make one more effort to obtain this evidence and to file additional indictments if necessary, based on the new evidence with respect to the numbers syndicate. If Rubenstein and Ray admitted giving the $1,200 a week protection money to Weloff and Southern, it was then planned to procure indictments against those two. It was thought that if this could be done at all, it would be done by June 1. The conferees agreed that the investigation should not be prolonged over the summer but that Johnson should be tried on the conspiracy indictment if a new one could not be obtained.

At this stage of the investigation the staff consisted of Special Agents Frank, Hill and Snyder, Revenue Agent Doxon, Special Assistant United States Attorney Burns, and stenographer Miss Geyer. Dozens of pick-up men and clerks were called before the grand jury and changed statements previously given or made disclosures of facts theretofore concealed, all of which tended to establish the syndicate and corroborate Daniels and Greenidge. At the beginning of March the staff began to make an analysis of all the

testimony and statements which had been taken. There were thousands of pages to read and analyze and it was necessary to obtain another stenographer to assist in this work. On March 11 Miss Josephine Garrison was sent to Atlantic City from the Treasury Department in Washington to work for about two weeks. The purpose of the analysis was to determine from the mass of testimony exactly what specific evidence existed to prove the syndicate, what evidence there was to connect any of the numbers backers with the syndicate, and to determine which of the numbers backers had committed perjury or made false statements. The staff worked day and night to complete this analysis in order to get an indictment as soon as possible. The analysis disclosed that perjury had been committed or false statements made by twelve of the numbers backers, either before grand juries or to the Treasury agents.

The Government had been unable to obtain evidence of income tax evasion against Ralph Weloff, but was now in a position to prove that he had committed perjury before the grand jury at Newark. Evidence was also available to show that Jack Southern had made false statements to the agents when he stated he was not in the numbers business in 1935 and 1936. Before the evidence had been analyzed the plan was to indict only Rubenstein and Ray in the hope that their conviction would cause them to testify against Weloff and Southern. It now appeared that there was sufficient evidence to indict Weloff and Southern in the first instance. The establishment of the charges against Weloff and Southern would require proof of the syndicate and of the conspiracy to commit perjury and make false statements. This same evidence connected eleven others with the conspiracy. It was therefore decided to file a general conspiracy indictment against 13 numbers backers. One of their employees who had proved particularly obstructive was included in the indictment, so the indictment as filed on March 28, 1940, named 14 defendants.

While the grand jury was making the investigation which resulted in the conspiracy indictment against members of the numbers syndicate, it was also investigating a conspiracy to operate an unregistered still in the Atlantic City Garbage Disposal Plant in 1937. When Edward S. Graham, the garbage contractor, pleaded guilty to the income tax evasion indictment against him, he told the agents that Johnson had received $10,000 graft in 1934 for helping him and his partner get the contract. He also stated that he had the

garbage contract again in 1937 with different partners, but that the terms of the contract with the city were on an entirely different basis than they had been in 1934 so that Johnson did not receive any graft. Graham did disclose, however, that an illicit still had been operated at the plant in 1937 "with Nucky's okay". The grand jury's investigation of this matter resulted in an indictment on April 16, which will be discussed later in this report.

Numbers Conspiracy Trials and Jury Tampering

One of the principal handicaps of the entire investigation had been the difficulty of getting the cases to trial. In ordinary investigations where a group of indictments was filed, the conviction of one or two defendants usually resulted in the rest pleading guilty. However, this was not an ordinary investigation and the defendants resisted obstinately. Judge Avis gave the Government all the time he could spare considering that he had to handle the routine criminal cases which came up for trial at Camden, and the work of the District was being done by three judges instead of four. To relieve this situation the judges of the Third Circuit Court of Appeals arranged to sit as District Judges in the District of New Jersey starting March 4, 1940, to try criminal cases. When the numbers conspiracy indictment was filed on March 28, Senior Circuit Judge John Biggs, Jr., was requested to try the case. He agreed to do so on April 29.

During the month between the time the indictment was filed and the trial, the agents set about to obtain independent proof of the existence of the syndicate to corroborate the testimony of Daniels and Greenidge. It was realized that the Government had only two witnesses to say there was a syndicate, against the fourteen defendants all of whom might testify there was not.

Through telephone company records the agents were able to establish the exact dates when the syndicate operated at various locations since the telephone service was transferred from one place to another. These records also disclosed that the application for service had been made in July, 1935, by Jack Southern, that the bills were paid by Benny Ray, and that complaints were to be made to Towhey. This established definitely that

Jack Southern was in the numbers business in 1935, and also showed that supposedly independent numbers banks were using the same telephone at the same headquarters. Burroughs Adding Machine Company employees disclosed that a service agreement had been signed by Towhey to repair all the adding machines used by all the banks at the Little Belmont, and that the bill was paid by Ray. The Protective Motor Service disclosed that the group of eight numbers banks used a single money bag, that every day an armored car carried this money bag from the headquarters of the syndicate to a bank where it was placed for safe keeping overnight. The bag was insured for $10,000 in the name of Leroy Williams, but the money was always put into the bag by Ray or Rubenstein. A parking lot man testified that Towhey arranged to have the automobiles of all the numbers office clerks parked with him for a weekly fee which was paid by Ray. It was learned that the syndicate purchased 250,000 numbers books a year, all of which were delivered to the syndicate headquarters and paid for by Ray. The numbers books purchased indicated the tremendous gross business done by this syndicate since these books contained 12,500,000 numbers slips.

When the trial began on April 29, the 14 defendants were represented by eight different attorneys. Difficulties were encountered right at the start of the trial. The Government had to use as witnesses employees of the defendants, who were naturally hostile. On direct examination most of them stuck to the story they had told the grand jury, but on cross-examination would answer "yes" to any leading question put to them, which practically negatived their direct testimony. The chief witness, Herndon Daniels, hedged on many questions and answered others in such an evasive manner that he left quite doubtful the principal issue of the equal division of profits. The Government unfortunately could do nothing about the situation. Legally, Daniels' testimony could have been impeached, but that would have destroyed the evidence he did give which was helpful. It was necessary, therefore, to get whatever benefit was possible from Daniels' testimony, and substantiate it by the circumstantial evidence from the telephone and other companies.

Seven of the defendants testified for the defense. In deciding which defendants should take the stand, the defense carefully avoided using those defendants whose perjury had been indisputably proved. Up until the time

of the indictment the numbers backers had always maintained that they operated their banks separately, but when the Government proved by their own employees that the banks all worked together at a central headquarters, they built up a defense which was designed to becloud the issue and confuse the jury. The indictment contained two counts, one charging a conspiracy to defraud the United States of income taxes by failing to file a syndicate return of income, and the second a conspiracy to suborn perjury, make false statements, and obstruct the due administration of justice. The defendants who took the stand frankly admitted everything that the Government had proven, except the one issue of the division of profits. They had induced Daniels to withhold that element in order that they might prove that their organization was not such a syndicate as required the filing of a syndicate return.

The testimony of those defendants who took the stand proved for the Government the perjury of several of those who did not take the stand, such as Benjamin Rubenstein and Austin Clark. When the case went to the jury on May 17, it seemed that the Government would win. However, the jury disagreed and was discharged on May 18. This stalemate upset the plans of the investigation. If Weloff and Southern had been convicted, the Government would have known then and there whether there was any hope of their telling about the protection money or whether it would be compelled to proceed with the Johnson conspiracy trial. The agents were dissatisfied with the result and were anxious to retry the case as soon as possible. Judge Biggs felt the same way about it and offered to try the case again starting July 8. Mr. Clark indicated that he preferred to try the Johnson conspiracy case in June. However, on May 23, Judge Forman advised that he would not try any more criminal cases during 1940. Since he had been assigned to try the Johnson case, it was apparent that this case could not go to trial unless some other judge agreed to take it. Plans were therefore made to proceed with the numbers conspiracy indictment.

An indication of why the jury disagreed appeared on June 5 when identical letters were received by Judge Biggs and Attorney Burns stating that an attorney for one of the defendants had bribed a juror. The agents endeavored to trace the writer of the letters but were unsuccessful. On June 15, Mr. Nutter advised that he had heard that four of the jurors had been bribed and paid $200 each. He stated that he had heard that one

of the defendants, Zendel Friedman, had taken the $2,000 from the numbers syndicate for that purpose. The agents were able to make only cursory investigations prior to the commencement of the retrial on July 8.

During the retrial the Government's case seemed to be much stronger than at the first trial, yet none of the defendants appeared the least bit worried. Only two defendants took the stand and it looked as though they were almost ready to concede the case. It was quite a shock to the Government and to Judge Biggs when the jury brought in a verdict of not guilty on July 23. This was more difficult to understand than the disagreement, and seemed to spell doom for the investigation.

In view of the disappointing results of the numbers conspiracy trials, the agents concentrated all their attention on the preparation of the Johnson conspiracy case for trial. All hope of getting evidence of graft payments from the numbers and horse-room rackets was abandoned. Judge Biggs could not understand how an honest jury could have acquitted upon the evidence presented. The agents were able to understand how the first jury disagreed if some of its members had been bribed, but it did not seem possible that the entire jury in the second trial could have been approached. Nevertheless, Judge Biggs requested the agents to make an investigation to determine whether there was anything wrong with that jury. The result was astonishing. It was definitely determined that one juror, Joseph Fuhrman, was a friend of two of the defense attorneys, L. Scott Cherchesky and Carl Kisselman. Almost single-handed, he had swung the jury in favor of the defendants and brought about their acquittal.

Since a preliminary investigation disclosed evidence of contempt of court and obstruction of the due administration of justice, the Intelligence Unit was requested by Assistant Attorney General Clark to investigate both juries. On September 10 Judge Biggs directed the Government to make a full investigation of both juries.

The agents concentrated first on the jury that tried the second case and made a report on September 25, which was submitted to Judge Biggs. They learned that Fuhrman had been acquainted with Cherchesky and Kisselman for several years. There was a group of attorneys who had lunch regularly at a drug store in Camden and played pool at the Walt Whitman Hotel. Fuhrman associated with

this group and had played pool with both of the attorneys. Fuhrman's brother was an attorney and occupied the same offices with Kisselman. When the jury was being picked, they had been asked if they knew any of the defense attorneys. At the time the question was asked, Fuhrman was not seated in the jury box, but when he did come to the jury box he did not make known his acquaintanceship with the attorneys, nor did Kisselman or Cherchesky make known their acquaintanceship with the juror.

The jurors informed the agents that the Government never had a chance for a conviction. Throughout the trial Fuhrman's attitude had been antagonistic to the Government. The very first day of the trial he started to work on other jurors. He told one or two that he did not think the Government had a case against the defendants and that he thought the case was weak. At various times during the trial he talked to almost all the jurors singly and stated his opinion about the evidence and the Government's case. His attitude disturbed the other jurors very much and created a very unpleasant atmosphere. Some of the jurors refused to talk to him about the case. He endeavored to take one or two of them out to lunch, and did treat the foreman. At one time during the trial, after Judge Biggs had criticized Lawyer Cherchesky, Fuhrman told the other jurors that the judge was too hard on Cherchesky. He finally disclosed to the jurors that he knew Cherchesky.

When the jury began its deliberations the first ballot was eight to three for conviction. (One juror had been excused by consent of both sides.) Fuhrman was a strong character, whereas most of the other jurors were weak. He tried to convince them that the Government did not want another disagreement and that he would never give in. He finally succeeded in getting them all to vote for an acquittal.

The failure of Kisselman to make known his acquaintanceship with Fuhrman appeared to be intentional. Kisselman had tried a case in the same court a few weeks earlier before a different judge and the Government was represented by another attorney. When Fuhrman came into the jury box at that time Kisselman informed the court that Fuhrman's brother was associated with him in the practice of law, whereupon the judge excused Fuhrman. It seemed strange that Kisselman had not made this fact known to Judge Biggs.

The Government recommended to Judge Biggs that Fuhrman be cited for contempt of court because of his failure to disclose his acquaintanceship with the attorneys, and his improper conduct as a juror. On October 18 Judge Biggs signed orders to show cause, not only for Fuhrman, but also for Kisselman and Cherchesky, why they should not be adjudged in contempt of court.

At the hearing on these petitions the court heard the very strange admissions by eight of the jurors that they had voted not guilty although they believed the defendants were guilty. As one woman juror expressed it, most of the jurors were inexperienced and were "like babes in the wood at night". Another juror admitted that he was ashamed of the verdict and stated that when he got home that night he told his wife that he felt like a whipped dog. Others admitted that they were derelict in their duty as it was getting late at night and they changed their votes in order to catch the last bus home. Fuhrman lived in Camden so it didn't make any difference to him how long he stayed. It was obvious that Fuhrman, from his experience and association with lawyers, had been able to swing these eight inexperienced jurors over to his side. Due to a long delay in the filing of briefs and the fact that additional contempt proceedings were begun in relation to the first trial, a decision was not rendered until February 19, 1941. At that time Judge Biggs found Kisselman and Cherchesky not guilty, stating that the numerous witnesses who had testified to their previous excellent reputations had prevented the court from finding them guilty beyond a reasonable doubt. However, he found juror Fuhrman guilty and sentenced him to five months in jail.

This bitter experience might have been obviated if the Government had been able to investigate the jury panel before the trial. Fuhrman was on the third panel of jurors which had been used by the Government during the investigation. The first panel tried the cases from May to October, 1939. Before the first case of that group was tried a complete check was made of more than 100 jurors on the panel. This was made by four special agents of the Federal Bureau of Investigation and took over a week. When the second group of cases were tried from January to May, 1940, a similar examination was made. The first two panels had been checked carefully because the Government intended to try the Johnson case. It was known that the Johnson case would not come up

before the third panel so this hard and detailed assignment was eliminated. If the same type of examination had been made of the third panel, it no doubt would have disclosed Fuhrman's connections and the incident probably never would have occurred.

With reference to the investigation of the jury at the first conspiracy trial the Government had the names of four jurors who were supposed to have received bribes. After intensive investigation the agents were not able to obtain any evidence of actual bribery, but did ascertain that two jurors had been approached. One juror, J. Hartley Bowen, admitted to the agents that during the course of the trial in May, 1940, he had been approached by two persons, Isador S. Worth, formerly an Assistant United States Attorney for the District of New Jersey and formerly the attorney for Martin Michael, alias Jack Southern, and Joseph E. Mears, Manager of the Walt Whitman Hotel in Camden.

The other juror, Mrs. Katherine Munter, at first denied having been approached and even committed perjury before the grand jury. However, she did tell one of the agents that a friend had told her that someone had stated he could have gotten Mrs. Munter $1,000 for voting not guilty if he had known how to approach her. She refused to give the name of her friend to the agents, stating that she did not wish to involve her in any trouble. Another juror informed the agent that Mrs. Munter had deliberately changed her story before the grand jury and had admitted to him that she had been approached. Finally she was brought to the Post Office Building in Atlantic City and interviewed. A dictaphone was set up in the agents' office and Mrs. Munter was permitted to sit there with this other juror alone. This juror, knowing that the agents were listening on the dictaphone, then drew from Mrs. Munter the story that she had been approached by her own brother-in-law. Mrs. Munter was then brought to Attorney Burns' office about four o'clock in the afternoon but she stuck to the false story which she had told the grand jury about a man approaching her who had since died. Knowing that she was lying, she was subjected to lengthy questioning in an effort to convince her that she should tell the truth.

Dinner hour approached and passed, yet she clung to her false story. Finally, about nine o'clock, after five hours of questioning, she broke down and admitted that she had been approached by her brother-in-law, and this

only after she had been told that the Government knew that the man who approached her was a relative. His actual statement to her had been that if he were on that Jury, he knew how he could get $1,000. She admitted that she interpreted this as a method of sounding her out to see if she would be disposed to accept a bribe. This matter did not seem strong enough to warrant prosecution and it was dropped. The other two jurors who had been named as recipients of bribes denied even being approached and the agents were unable to prove otherwise.

The testimony of Juror Bowen resulted in contempt proceedings against Worth, Mears and Jack Southern. The agents spent considerable time and made a very careful investigation. Elaborate plans were made to obtain evidence to corroborate Bowen. Through the system of coordinating the activities of various agencies of the Treasury Department, the Alcohol Tax Unit assigned two radio cars, a staff of agents and stenographers and dictaphone equipment. The Intelligence Unit also supplied additional agents, a stenographer and dictaphone equipment. Bowen cooperated fully with the agents and was anxious to satisfy them that he had not accepted any bribe. He permitted them to set up a dictaphone in his office. He called Mears to his office and there informed Mears that he had been called before the grand jury and asked about the approach. He told Mears that he had to tell the truth and had informed the grand jury that Mears had approached him. Mears became very excited and admitted the entire incident during the course of his conversation with Bowen. Later the agents talked to Mears and he denied having approached Bowen. When the agents convinced him that they really had the "goods" on him, he broke down and confessed. For a few days he was on the verge of a nervous breakdown and claimed that he would commit suicide. However, he had a change of heart and decided to take the consequences and cooperate with the agents. He told them that he had made the approach at the request of Jack Southern. The agents then set up dictaphone equipment in the Hotel Walt Whitman and Southern was induced by Mears to come there. The agents obtained enough evidence by this means to corroborate Mears.

The agents next investigated Bowen's statement that he had been approached by Worth. Bowen told the agents that during the trial he had lunch at a drug store in Camden and that Worth asked him to come to his office

which was a few doors away. In the office Worth told Bowen that with him on the jury they could make some easy money. Bowen inquired how, and Worth replied, by having the jury disagree. Bowen stated he was not interested in that kind of money. It seemed incredible that an attorney, especially one who had been Assistant United States Attorney for eight years prosecuting criminal cases, would make such an offer.

The agents again set up dictaphone equipment in Bowen's office for the purpose of overhearing a conversation between Bowen and Worth, but the plan did not succeed. Bowen informed Worth by telephone that he had been questioned before a grand jury about being approached while serving as a juror and had named Worth. Worth was so upset by this disclosure that Bowen easily convinced him that he should talk to the Government attorney and arranged for such a conversation in the United States Attorney's office in the Post Office Building in Camden. There in the presence of Attorney Burns, Special Agent Snyder and Bowen, Worth admitted that he had made the statement to Bowen about the easy money and causing the jury to disagree, but asserted that Bowen misunderstood his purpose. In his excited effort to convince them that there was nothing wrong, Worth made two inconsistent but equally incredible statements. He first stated that he had been "sore" at the defendants because he was fired by Jack Southern and he wanted to see them all go to jail. He claimed that he told Bowen that if it looked like there might be an acquittal he should hold out for a disagreement. Later on, during his rambling efforts to justify his approach to Bowen, he stated that he told Bowen they could make easy money and it was his idea that if Bowen would cause the jury to disagree the defendants would come to him and engage him as their attorney for the second trial. He said that he intended to split the fee with Bowen for bringing about the disagreement. The first explanation no doubt was made in the hope that it would be considered perfectly all right for anyone to try to help the Government by preventing an acquittal. When Worth saw that that explanation had not made a favorable impression, he then resorted to the ridiculous explanation that the Government should not mind trying a case twice so that he could make a fee out of the second trial.

Throughout the course of this investigation many other persons were interviewed and watched by the agents. Every appointment that was made between Bowen and any of the other persons was timed so that the radio cars could trail

these persons and find out where they went and whom they saw. It was tedious work, but quite profitable.

A full report was made to Judge Biggs who, on January 6, 1941, signed orders to show cause why Mears, Southern and Worth should not be adjudged guilty of contempt of court. On January 15 and 16 the Worth case was heard. On January 16 Mears pleaded guilty and testified at the hearing against Jack Southern. On February 19, Judge Biggs found Jack Southern guilty and sentenced him to 14 months. Mears was fined $1,000.

Due to delays in filing briefs a decision in the Worth case was not rendered for several weeks. In April the Supreme Court handed down a decision in the case of United States v. Nye which made doubtful the jurisdiction of the court to proceed by contempt in this type of case. That decision indicated that proceedings should always be by indictment where the conduct was made an offense by statute. After giving the matter due consideration, it was decided not to risk losing the cases upon appeal, so the Government consented to a dismissal of the Worth petition. Since the same ruling applied to Jack Southern, he was released from jail and the petition against him was dismissed. However, the grand jury filed indictments against both Worth and Southern charging them with endeavoring to influence a juror.

Nothing was lost by the unfortunate necessity of dismissing these proceedings as Southern pleaded guilty and was sentenced on May 28 to a year in jail. Since Worth had made admissions to Attorney Burns the latter was required to be a witness at the trial. The Government was represented by Earl C. Crouter, Attorney, Tax Division, Department of Justice, and Worth was convicted on June 26. The defendant was represented by William A. Gray, a Philadelphia attorney, who succeeded in limiting the Government's proof to the bare essentials of the offense. Worth's actions had been so incredible that it seemed Gray might well convince the jury that a former Assistant United States Attorney just would not do such a thing. Dozens of character witnesses were produced, including presidents of bar associations, state court judges, public officials and persons who were well known to the jurors. In spite of all this the defendant was convicted, and left without an exception upon which to base an appeal when the verdict was returned. Worth was sentenced by Judge Maris to pay a fine of $500 and was disbarred from practice before the Federal court for a period of six months.

These jury tampering cases brought out a peculiar human trait. During the first conspiracy trial Judge Biggs had instructed the jurors not to talk about the case and not to let anybody talk to them about it, and if anybody did talk to them they should immediately report it to the judge. In spite of the fact that Bowen and Munter later admitted they had been approached, they did not call this to the attention of the court. This characteristic went even further. After the jury had disagreed, the agents went around to various jurors and questioned them about the case. They were asked in general what they had discussed in the jury room and where the Government had failed to satisfy them. Although the agents talked to the jurors including Bowen and Munter, and were naturally looking for any indication that there had been anything wrong with the jury, not a word was said. When the agents finally decided, with Judge Biggs' permission, to make a formal investigation and they put Juror Bowen under oath, he finally told about the approach. He gave as his reason for not telling the story previously that he had resented the approach by both Mears and Worth and that they had both asked him to forget it. He felt that if he made known to the court the appriach he would naturally be causing them trouble and would receive a great amount of unwanted publicity. He claimed that he felt that his judgment would not be affected by the approaches and that his life would be more peaceful if he just kept it to himself.

The resume' of the jury tampering cases, set forth above, is concerned only with the actual cases which resulted from the investigation. It does not disclose that there were 14 jurors, including two alternates, on each of the juries, and that the agents took written statements from each of them. All of the jurors who sat on the first conspiracy case were called before the grand jury at Trenton in order to get their testimony on the record. To ascertain whether any of them might have received bribes, the agents checked the bank accounts of all the jurors and endeavored to ascertain whether they had recently purchased any automobiles or made other purchases which might indicate the sudden acquisition of money. During the course of their investigation the agents discovered that there had been an attempt to tamper with a jury unrelated to their investigation - one involving the smuggling of liquor, which was known as the Popocatapelt case. This evidence was turned over to the Alcohol Tax Unit which had charge of that case.

Still Conspiracy Case

The agents left no stone unturned in their efforts to trace graft payments to Johnson. When Edward S. Graham pleaded guilty to a violation of the income tax law, he gave the agents evidence that Nucky had given the "okay" for an illicit still which was operated in the Atlantic City Garbage Disposal Plant in 1937. Since this type of offense was not one which the Intelligence Unit agents were authorized to investigate, the Alcohol Tax Unit was requested to assign investigators to cooperate in accordance with the Treasury Department's policy of coordination. Special Investigators Frank S. Rogers and Bayard Vasey of the Alcohol Tax Unit were assigned to work with Special Agent Hill. They started with the information that the still had been operated by persons known only as "Bob" and "Mike". After several weeks of investigation they identified Bob as Herbert R. Short, alias Bob Gordon, and Mike as Michael Aluise, alias Mike Williams.

The investigators learned that in the spring of 1937 Short and Aluise had leased part of the garbage disposal plant and set up a still. John A. Graham had rented the plant from the city under a contract he had for the removal of garbage. He stated that he at first refused to permit Short and Aluise to come on the premises but that they assured him they had the "okay" from Nucky. Graham's partner, Harry Dilks, checked on this statement and went to Johnson's office in the Guarantee Trust Building. Johnson's secretary, Maie Paxson, told Dilks that Benjamin Perlstein, an attorney, had been up about Short and Aluise and that it was "okay". During the course of their investigation these agents found they were being obstructed by another attorney, Harry Paul.

It appeared that the still had been raided by agents of the State Alcohol Beverage Control Board in October, 1937, and that Graham and an employee named Myers had been arrested. Aluise arranged for Perlstein to represent them, and Perlstein told them not to talk. When the Federal investigation was under way early in 1940, Short and Aluise had several meetings with attorneys Perlstein and Paul, the purpose of which was to try to keep witnesses from identifying Short and Aluise. The evidence disclosed that attempts had been made to prevent three Government witnesses from identifying the photographs of these two men. One of the witnesses, Edward S. Graham, a man of about seventy years, was threatened

with bodily harm by Short. Although no evidence was obtained to connect Johnson with the venture, and the case was outside the original purview of the investigation, it was considered important enough to present to the grand jury.

On April 16 an indictment was filed charging Benjamin M. Perlstein, Harry Paul, Herbert R. Short and Michael Aluise with a conspiracy to operate an illicit still, to endeavor to influence witnesses before the grand jury, and to obstruct the due administration of justice. This case was tried on June 10, 1940, before Circuit Judge Herbert F. Goodrich, and resulted in a conviction on June 20. On July 19 Perlstein and Paul were each sentenced to a year and a day but sentence was suspended on Aluise. Short did not appear and became a fugitive from justice. After fleeing to Canada, he returned to the United States and was apprehended late in August. On September 12 he was sentenced to three years in the penitentiary.

Perlstein and Paul appealed their convictions to the Third Circuit Court of Appeals, which reversed the judgment on April 24, 1941. The majority opinion was written by Judge Maris and was concurred in by Judge Jones. Judge William Clark wrote a sharp dissent. The majority opinion indicated a belief that the injection of the name of Enoch L. Johnson into the case had prejudiced the defendants. The case was retried on June 2, 1941, by Judge Maris who was then sitting as a District Judge in order to dispose of the Atlantic City cases. The defendants were quite pleased to have Judge Maris preside at the trial since he had favored them in reversing their previous conviction. But the second trial again resulted in their conviction on June 6. On August 1 they were each sentenced again to a year and a day in the penitentiary.

At the second trial the Government called Herbert Short as a witness. He told the Government that when he and Aluise had planned to put the still in the garbage plant they went to Perlstein and asked him to get them permission. He stated that Perlstein later told them that Nucky Johnson had given them the "okay" and that they would have to pay $150 a week. Short stated that the still was raided after it had been operating only ten days so that no protection money was ever paid. Perlstein has consistently denied having anything to do with the still or Johnson, so the Government has been unable to connect him with this matter.

The Third Attack upon the Numbers Syndicate

In March, 1941, the Government had decided to try to convict all the numbers backers a second time to see if they would then tell the truth about the graft payments. Consequently, the staff felt very discouraged after the acquittal of the fourteen defendants in the numbers conspiracy trial in May. However, when it was discovered in September that the acquittal was due to jury-tampering, the staff determined to prosecute the numbers backers again before bringing the Johnson conspiracy case to trial. In drawing the conspiracy indictment the door purposely had been left open for further proceedings if they should become necessary. The indictment charged the defendants with a conspiracy to commit various substantive offenses, but did not charge them with committing those substantive offenses. The way was still open, therefore, to indict almost all the same defendants for the substantive offenses of committing perjury and suborning each other to commit perjury.

There was no legal problem involved in taking this action, but there was a question of policy. To indict and try certain of the defendants would mean the fourth time that they had been tried in a little over a year. In the case of Leroy Williams it would be the fourth trial in less than a year. When this matter was first given consideration in September, 1940, it was decided to withhold action until after the contempt proceedings had become public, thus disclosing to the public the fact that the numbers racketeers had cheated justice in the last two trials. The fact that the numbers racketeers would resort to jury tampering when they faced the possibility of additional punishment was some indication that they were not so willing to go to jail a second time to protect Johnson. There was no question but that the Government should prosecute them again in view of the obstructionist tactics they were using. Nevertheless, it was realized that public reaction was an important consideration and had been so favorable to the Government up to that time that any possible claim of persecution was to be avoided.

In November Assistant Attorney General Clark authorized the filing of indictments against the leaders of the numbers syndicate on substantive charges. At that time the first group of contempt hearings had been

held and it was expected that a decision would be rendered shortly. However, due to delays in the filing of briefs the cases were not decided until February. When the second group of contempt hearings was held on January 15, 1941, Joseph Mears pleaded guilty. The Government considered this sufficient proof to the public that the juries had been tampered with and justified proceeding immediately with the indictments without awaiting decisions in the other cases.

It was decided to concentrate upon certain of the numbers racketeers rather than try to convict them all. The four bosses of the syndicate were Rubenstein, Towhey, Ray and Williams, and they naturally would be the ones who would know most about the payment of the protection money. There were indications that the Government's case against these men for perjury would be much stronger than at the conspiracy trial. The Government had tried to create a split in the ranks of the numbers men and thought it had an opening wedge with Herndon Daniels. When Daniels, in effect, double-crossed the Government at the first conspiracy trial it looked as though the syndicate had succeeded in drawing him back to the fold. In January, 1941, a split again developed.

When the Government struck hard at the numbers racket in 1939 with indictments, trials and convictions, the numbers men realized that Daniels had been right when he advised them to report their income to the Federal Government as a syndicate. They knew they could not continue to conceal its existence, yet they could not admit it without confessing to numerous offenses. In an effort to get out of this dilemma they went through the motions of forming a numbers syndicate as of January 1, 1940. All the numbers backers who had either been sentenced or intended to plead guilty nominated a "front" man to represent his bank in the new syndicate. They openly admitted to the Government the existence of the syndicate, but claimed that it had just begun to operate in that form.

When Austin Clark and Benjamin Rubenstein went to jail about April 1, 1940, they were promised their share of the profits of the syndicate while they were in jail and assured that their business would be waiting for them when they came out. They had the utmost confidence in the influence of Johnson and other politicians to get them out on parole within a year.

At this point that human frailty, greed, intervened for the Government. During most of the year 1940 three of the four managers of the business, Towhey, Ray and Rubenstein, were in jail. Their "front" men were not as strong characters and the two who had never been brought to trial, Jack Southern and Zendel Friedman, seized the opportunity to take control of the organization. When Herndon Daniels went to jail he turned his share of the business over to Isaac Nicholson. When Southern and Friedman seized control of the organization late in 1940 they took away from Nicholson part of his share of the syndicate. This angered both Daniels and Nicholson and caused them to come into the Government office voluntarily and offer assistance. Daniels had been the one who told Lawyer Nutter that the jury had been tampered with in the first numbers conspiracy trial. Daniels now told the Government why he lied at that trial. He stated that he had every intention of telling the truth at the trial and sticking to the story he had told the grand jury, but that Weloff and Friedman had talked to him just before the trial began and tried to persuade him not to testify. When he told them that he had already testified before the grand jury and would have to repeat that story, Friedman threatened that he would never be able to do business in Atlantic City again if he was the cause of their going to jail. After the trial began, but before Daniels testified, he said that some of the backers told him that it would make no difference to them whether he testified or not. He said that to a racketeer that could mean only one thing - that the jury had been "fixed". In offering complete cooperation, Daniels indicated that Austin Clark's "front" man had been ousted from the syndicate entirely but he believed that Clark did not know this because he was in jail.

This new information made it advisable to change the plans. Apparently the thing that was holding Clark and Rubenstein back was the promise of an early parole and the belief that their business would still be there when they got out. It was decided to concentrate on Clark and Rubenstein before indicting any of the others. They were brought to Camden from the Lewisburg Penitentiary on January 29, 1941, and nearly five hours were spent in an effort to convince them of the wisdom of telling the truth. They had committed perjury before the grand jury at Newark in 1939 but had been acquitted with the others of a charge of conspiracy to commit perjury. They were now given an opportunity to purge themselves before the

grand jury or be indicted for perjury. Clark's manager, Walter Greenidge, and Isaac Washington, another colored numbers backer, also tried to convince him. They were told that the filing of the indictment would automatically bar their parole and they would be risking additional punishment. They remained silent so the indictment was filed. They were arraigned immediately before Judge Avis and pleaded not guilty. Clark then began to regret that he had not taken advantage of the opportunity to stop his own indictment. He and Nutter talked to Rubenstein and it appeared for a while that he might break, but he wanted to talk to Jack Southern first. Nothing further developed that day.

Two days later the deputy marshals took Clark and Rubenstein from the jail at Trenton, New Jersey, and started for Lewisburg at 7:30 a. m. Clark urged the deputy marshal to telephone Attorney Burns and say that he was willing to make a statement. The deputy marshal did so and Attorney Burns met Clark and Rubenstein at Camden. In the presence of his attorney, Nutter, Clark made a written statement telling all about the syndicate and as much as he knew about the payment of protection money, and admitting the perjury. He also claimed that he and the others had been suborned by Rubenstein. He said that he had decided to tell the truth right after he was indicted and that he had endeavored to convince Rubenstein in the jail. He said that Rubenstein appeared ready to tell about the protection money when, in some manner, Jack Southern got a message to Rubenstein to hold out for six weeks. This message immediately caused Rubenstein's attitude to change.

Clark repeated the story in front of Rubenstein, but Rubenstein remained adamant. He was told that his attitude could cause him nothing but trouble, that he was blindly protecting Jack Southern and Johnson and that he was being made the "goat". Rubenstein then said that with Clark's statement the Government could charge every defendant with perjury who had testified at the last two conspiracy trials. Rubenstein said that if those defendants knew about this and about Clark's statement, something would happen.

At Rubenstein's suggestion a telephone call was made to Atlantic City to try to get some of the numbers backers to come to Camden. Jack Southern, Zendel Friedman, Leroy Williams and Benny Ray arrived shortly thereafter. The folly of their position was then pointed out to them

and they were given an opportunity once more to tell the entire truth and clear up the situation. They were advised that every time one of them appeared before the grand jury and lied about the protection money it constituted another offense of perjury. They were told that their conduct necessarily would result in further prosecutions of them, all in the vain effort to withhold the truth.

The Government realized that these numbers backers had operated their illegal game in Atlantic City for many years under Johnson's protective wing. They had made the mistake of believing that Johnson's power and influence over the local agencies and courts extended to Federal agencies and courts. The Government was not interested in continuously prosecuting these underlings, but wished to get at the truth. They were told that the United States Government did not recognize the underworld code of silence, and could not be subservient to Nucky Johnson or any criminal or group of criminals in Atlantic City. Austin Clark repeated in front of all the numbers backers the statement he had given to the Government. They then adjourned to discuss the matter. Rubenstein came back and reported that it would take several days to get results.

A few days later Clark appeared before the grand jury and gave his story. The Government's case was now becoming stronger. It had two numbers backers on its side now, Clark and Daniels. It also learned for the first time that another numbers backer, Isaac Washington, had joined the syndicate in December 1939, and this made a third backer who was cooperating with the Government. From that time on, Austin Clark offered full cooperation. He advised that Rubenstein was afraid to talk in the Government offices as he thought there was a dictaphone in there. Therefore, Rubenstein was interviewed in the cell in the marshal's office. Rubenstein's attitude there was quite different. He stated that he was anxious to get paroled and did not want to stay in jail any longer but it was against his code to "talk". He frankly admitted that he did not want to be the first one to "break" but offered to help the Government break some of the other numbers backers. He suggested that some of the other numbers backers, such as Ray, Weloff and Towhey be indicted, one at a time, and tried, and after the trials he be permitted to talk to them. He was sure that one of them would break if convicted again as they did not want to go back to jail.

Once Austin Clark broke, the other witnesses who were already helping began to give more evidence. Daniels admitted that before the syndicate was formed, the numbers

banks were paying $125 a week protection to Ralph Weloff. Isaac Nicholson admitted that he worked for Weloff and went around collecting this protection money from some of the numbers banks. Daniels also admitted that after the Federal investigation became "hot", they decided to file partnership returns for each of the numbers banks and report on the return an amount of income which they thought would look all right to the Government. He disclosed that all of the partnership returns filed by the various numbers men for 1938 and 1939 were false. Daniels claimed that all of the numbers men who were not active were nevertheless getting some money from the numbers syndicate but that the purse strings were controlled by Jack Southern. Even Rubenstein indicated that the Government's job would be much easier if Southern and Friedman were out of the way.

Jim Towhey came to the Post Office Building on February 5 and stated that he did not care to go to jail any more and that he was tired of this thing dragging along for years. He said that he knew it was coming to a head and that he was glad. He said some of the other men were glad that things were finally coming to a head. He said that if they would all talk it over among themselves they might be able to bring influence on the right people. He was told that he would be indicted for perjury just as Clark and Rubenstein were unless he told the truth. He asked for time to talk to Weloff and it was granted as Weloff was in Florida.

When Weloff returned from Florida, he was called to the Government offices and the situation was outlined to him as was done with the others. Weloff immediately went to see Johnson and told him that he had been advised that he was liable to be taxed on that money which he had been bringing to Mr. Johnson. He also said that he was liable to be indicted for perjury and might get 15 years in jail. Johnson commented that that was a lot of time. Weloff told Johnson that Mayor Taggart had put him out of business, and Johnson replied that the Mayor had put him out of business, too. Upon getting no satisfaction from Johnson, Weloff went to talk to the other numbers backers. On February 11 at Camden, Rubenstein tried to persuade Weloff and Towhey to tell the story, and appeared to have Weloff ready when they adjourned for lunch. Jack Southern met Weloff outside the building and convinced him he should not talk. This left the Government no alternative but to file perjury indictments against Weloff and Towhey, which was done on February 13.

All efforts to induce these numbers backers to tell the truth rather than risk further punishment seemed to fail. None of them wanted to go to jail but none wanted to be the first to "squeal". All possible pressure was exerted upon these men by Johnson and his aides. When Rubenstein began to weaken after Austin Clark broke, his lawyer assured him that if he pleaded guilty he would not receive any additional punishment and that he would be paroled in May. He endeavored to plead guilty on February 7 before Judge Avis but the Government opposed this move. It was feared that if Rubenstein did not get additional punishment there would be no hope of convincing any of the others that they must tell the truth. Judge Avis refused to require the Government to move the case. In March Rubenstein brought on a motion for permission to plead guilty. The purpose of this unusual procedure where the defendant asked the court to sentence him was to show the other backers that they did not have to talk and that they could continue their resistance. When this motion came on before Judge Forman, the Government succeeded in having it adjourned so that it came up before Judge Avis on May 21. Attorney Burns presented a statement calling to the court's attention the unusual situation. Thereupon Judge Avis ordered a hearing at which testimony should be produced substantiating statements made by the Government.

On March 27 Judge Avis conducted the hearing at which Daniels, Clark, Greenidge and Washington all established the existence of the syndicate. Judge Avis then stated that after the indictment had been filed Rubenstein's attorney came to him and said he expected to plead Rubenstein guilty and felt that the sentence of two and a half years which Judge Avis had originally imposed upon Rubenstein was sufficient to cover the new charge. The judge said that at that time he thought the new charge was related to the original one, but that after hearing the Government's proofs he concluded that the new charge was entirely different and required additional punishment. He stated that he wished to withdraw the suggestion he had made to Rubenstein's attorney that he would impose a sentence that would be concurrent with the original sentence which Rubenstein was then serving. He offered Rubenstein an opportunity to withdraw his plea of guilty if he so desired. When Rubenstein decided to stand on the plea, Judge Avis sentenced him to an additional year in prison.

This incident proved conclusively how far the attorneys were going to keep these numbers men from testifying about the protection money. Rubenstein's attorney knew full well that the Government would recommend leniency if he told the truth, yet he went so far as to mislead the court as to the nature of the charge in the indictment in an effort to obtain that same leniency for Rubenstein so that he would remain silent.

The Government Requests an Outside Judge

All efforts to capitalize on the Austin Clark "break" without further indictments and trials failed. It was difficult to understand why these numbers men would let the grand jury indict them when they had the opportunity to prevent it. The resistance of these racketeers seemed almost incredible. From 1937 to 1939 the Treasury agents had endeavored without success to obtain evidence of protection payments. Their failure to obtain evidence of graft was due to the prevalent belief that Johnson's influence was great enough to prevent their prosecution. After 21 income tax indictments had been filed, the Treasury agents had gone as far as they could, and from that time on had to have the cooperation of the Department of Justice. The matter was too involved to be handled by the United States Attorney's office so the Treasury Department requested Attorney General Murphy to assign a special prosecutor. From May, 1939, until February, 1941, the Department of Justice used every means at its disposal to break this resistance. Eighteen of the 21 indictments were disposed of, and prison sentences up to three years were imposed. Almost continuous grand jury investigations were conducted, moving from Newark to Camden, then to Trenton and back again to Camden. Over 175 witnesses were called, some of whom testified a dozen times.

Neither the convictions, pleas of guilty, nor grand jury investigations produced any substantial results in so far as proof of graft payments was concerned. Almost without exception the witnesses committed wanton perjury with utter contempt for the power of the prosecutor, the grand jury and the court. Instead of obtaining evidence of receipt of graft or income tax violations by Johnson, the inquiry produced nine perjury indictments, two for obstruction of justice, and eleven citations for contempt of court for evasive answers, contumacious conduct and refusal to answer questions. The underworld of Atlantic City adhered to its code of silence, giving Johnson practically immunity from prosecution.

The extent of the organized effort to defeat the Government in attaining its objective is evident from a consideration of the testimony of approximately 2,000 witnesses who were interrogated during the investigation. If all the witnesses guilty of making false statements, perjury, conspiracy, subornation of perjury and obstruction of justice had been prosecuted for their offenses, hundreds would have been indicted and, upon the evidence in the Government's possession, conviction would have been certain. Almost every witness directly connected with the rackets would have been included, and many engaged in legitimate enterprises but deriving an income from racket sources would have been convicted of at least one offense.

The investigation clearly demonstrated the effect of widespread racketeering and political corruption upon the attitude of supposedly legitimate businessmen. Little cooperation was obtained from them, and, in the main, stubborn opposition bordering an open resentment and hostility was encountered. Much of this opposition was motivated by fear - fear of reprisals by the racketeers, fear of punishment - from political sources by methods which would appear legal on the surface, and fear of financial loss to the extent of destruction of their businesses, and even their opportunity to make a living. For many years rackets were the most lucrative and profitable enterprises in the community. For example, the numbers syndicate brought a net profit of $300,000 a year to its fourteen members, while million-dollar hotel establishments operated at a loss. This resulted in the racketeers in Atlantic City attaining a prestige not usually enjoyed elsewhere. It also changed the attitude of many otherwise honest individuals in that they condoned gambling, vice and corruption provided they obtained a direct or indirect financial benefit. This attitude was demonstrated time and again throughout the investigation by hotel operators, bankers and storekeepers and applied not only to the owners, but to employees who reflected the attitude of their employers. Despite this organized defiance and contempt by the racketeers and their employees, and the silent approval thereof by many so-called honest citizens, promiscuous indictments and prosecutions were avoided. Great restraint was exercised in avoiding prosecution of underlings, even though their crimes served to delay, frustrate and retard the accomplishment of the objective.

Many local persons expressed the opinion that the Federal Government could never convict Johnson. This attitude was shown during the preliminary investigation when there was widespread opinion that Johnson would not be indicted. When he was indicted in May, 1939, on a conspiracy charge, the opinion was expressed that he would never be tried, and, if tried, never convicted. These opinions, so generally expressed, indicated the belief in Johnson's power and influence, and that it extended to Federal government officials, the Federal courts, jails, parole boards, etc. Widespread corruption in Atlantic City had created the impression that corruption existed on a national scale and that there was no power great enough to break Johnson. This explained to a degree the willingness of witnesses to commit crimes and risk going to jail rather than tell the truth and implicate Johnson, fearing to invite retribution upon themselves and families.

At the request of a number of citizens in Atlantic City and believing that more than a mere local issue was involved, Secretary Morgenthau had initiated a thorough investigation into the deplorable conditions existing in that city. This investigation had focused public attention on a problem, the ramifications of which went far beyond the boundaries of one state. The issue was squarely drawn between the power of a local political boss, Enoch L. Johnson, and his racketeers, on the one hand, and the authority of the United States Government and Federal courts on the other. The racketeers, however, apparently had little fear even of the power of the Federal courts. When Austin Clark tried to persuade Rubenstein to tell the truth, the latter told him that he had been assured by his attorney that if he pleaded guilty he would not receive any additional punishment and would be paroled within a few months. In fact, Rubenstein attempted to plead guilty before Judge Avis on February 7. These men apparently believed that at the worst they would receive only minor sentences on conviction, hoping that their repeated appearances in the local courts as defendants would give them some basis for contending that they were being persecuted.

By February, 1941, the Government had arrived at the stage of the investigation where it had to strike a telling blow or admit failure. Everyone believed that at last the Government had the racketeers "on the run". It was believed and generally conceded that the racketeers

had reached the saturation point, and that the infliction of further punishment would break the case wide open. The racketeers themselves had told the Government agents and attorney that they would not go back to jail - yet they did not tell the truth. The reason was because they did not believe the Government really could put them in jail.

At this time there were five Federal District Judges in New Jersey, two having been appointed during the investigation. Judges Walker and Fake sat exclusively in Newark and accordingly were not available to try cases at Camden. As Judge Smith was disqualified because of his connection with the cases as United States Attorney, only Judge Avis and Forman were left to try the numerous cases which the Government was anxious to dispose of promptly.

The Government had eleven cases scheduled for trial on this final attack, and it was estimated that eleven weeks would be required to dispose of them. Judges Avis and Forman scheduled a criminal calendar from May 6 to June 30. This was not sufficient for the Government's calendar and it was most important that the schedule be completed before Summer. There was another serious impediment to the Government's plans. The Government wanted to try Zendel Friedman first, as he had a long criminal record and there was hope that he might receive a long sentence. That case would take at least two weeks sitting five days a week. But Judge Avis, who was to start the calendar on May 6, had only recently recovered from a heart attack, and could not stand the strain of a long trial. Furthermore, he usually tried cases only four days a week.

In view of this situation, Government counsel requested the judges of the Third Circuit Court of Appeals to assign a judge from outside the district to handle the pending cases. Senior Circuit Judge Biggs replied that, in view of the fact that there were then five District Judges in New Jersey whom he considered able to dispose of all pending cases, he should not assign an outside judge unless a request setting forth special circumstances was made by the Attorney General. Early in March a report on the special circumstances was submitted to the Treasury Department. Because of the very great interest which Secretary Morgenthau had shown in this situation since he initiated the investigations, Mr. Irey presented the complete picture to him as outlined in this report. The

Secretary was much concerned lest there might not be a successful culmination of the work which had been done by the field representatives over the past number of years. Accordingly, he personally requested Acting Attorney General Biddle to make an engagement for Mr. Irey to present the facts to him. This was done and Mr. Biddle readily agreed to the necessity for making this special request. He therefore telephoned Circuit Judge Biggs and made the request of him.

During the spring of 1940 (prior to this request) the Circuit Judges had come into the District of New Jersey to try criminal cases for several months in an effort to bring the docket up-to-date. When they ceased sitting as district judges there was still a great deal of work to be done. The court therefore arranged to have district judges from various districts throughout the United States come into New Jersey in the fall of 1940 to try criminal cases. Therefore, when the Government made the request for an outside judge in March, 1941, to try the Atlantic City cases, arrangements could not be made to secure a district Judge from some other district. In view of this fact and also in the light of the unusual importance of the cases and the uniqueness of the situation, the circuit judges agreed among themselves to rearrange their own schedules in order to spare one or two judges to try the cases.

The Final Attack

In the third attack against the numbers racket the combined efforts of the Treasury Department, the Department of Justice and the Courts finally succeeded. On May 1, 1941, Senior Circuit Judge Biggs began to try the pending cases. There were eleven cases listed for trial: (1) Joseph "Zendel" Friedman, income tax evasion, (2) Martin Michael, alias "Jack Southern", income tax evasion, (3) Martin Michael, perjury, (4) Ralph Weloff, perjury, (5) James F. Towhey, perjury, (6) May Harris, perjury, (7) Marie Kenny, perjury, (8) James J. McCullough, perjury, (9) Benjamin Ravnisky, alias "Benny Ray", perjury, (10) Joseph A. Corio, income tax evasion, and (11) Anthony P. Miller, Inc., Enoch L. Johnson, et als., income tax evasion and conspiracy.

The whole purpose of this trial calendar was to secure, through vigorous prosecution of the racketeers, the truth about the protection money. Rubenstein and Clark

had indicated that Friedman and Southern were two of the principal obstacles in the way of the Government's breaking Weloff and Towhey. The two cases against Southern were the weakest of all those on the list. The case against Friedman was strong so it was decided to try that case first. The Corio and Miller cases were put at the end of the list so that, if the Government did succeed in getting evidence against Johnson, a new indictment would be filed and that case would be put off the calendar. March, 1939, the Government acted upon the theory that Friedman was a partner with Leroy Williams and Herndon Daniels in the operation of a night bank which was not connected with any other banks. It would be necessary to call over 300 witnesses to prove the gross receipts, and even then there was very little evidence to connect Friedman with that bank. Rubenstein offered the Government very good suggestions, even though he himself refused to testify. He advised the Government to try the Friedman case first and have Austin Clark and Herndon Daniels testify to the exact amount of the profits of the syndicate as this would show the net profits received by Friedman. In this way the Government had direct evidence of the amount of net profits from the defendant's own partners. In view of this new evidence, a superseding indictment was filed which resulted in a very clear-cut and simple picture being presented to the jury in a comparatively short trial. The racketeers received notice of the firm attitude which the court intended to take in these cases when Judge Biggs remanded Friedman to jail pending sentence. This was the first time throughout the investigation that a defendant had not been at large on bail.

When Jack Southern had been sent to jail on February 19 by Judge Biggs after being convicted of contempt of court, the Government had succeeded in getting one of the obstacles out of the way. It was unfortunate that under the Nye decision Judge Biggs felt compelled to release him on writ of habeas corpus on April 28. On May 13, Judge Biggs dismissed the Southern contempt case at the same time that he dismissed the Worth case. The Government did not lose any time in counteracting this unavoidable setback, for the grand jury indicted them both on the same day for endeavoring to influence a juror. The most important action of the investigation up to that time took place on that same day when Judge Biggs sentenced Friedman to ten years in the penitentiary, fined him $20,000 and the costs of prosecution. Friedman had a long criminal record, including three prior convictions

and more than twenty arrests. His actions throughout the investigation, and even in court, had been so plainly contemptuous that the sentence was more than justified. It came as a bombshell to the racketeers as they feared it would be the yardstick by which they would be judged.

Circuit Judge Albert B. Maris was assigned to try the next case. On the next day, May 14, the Government began the perjury trial against James F. Towhey. A large part of the evidence in that case was the same as had been presented against Friedman. The manner in which Towhey's partners, Daniels, Clark and Washington, had testified in the Friedman case indicated definitely that the split among the numbers backers was irreparable. On May 19 Towhey was found guilty.

With a view to keeping up the pressure, the Government started the trial of Benjamin Ravnisky as soon as the jury had retired to deliberate its verdict in the Towhey case. It was hoped that with Towhey being convicted, Ray (Ravnisky) would immediately plead guilty. For some inexplicable reason, he continued to fight the case. The Government resorted to a seldom used procedure at that trial. It had won the Friedman and Towhey cases by calling witnesses whose testimony it was known would be helpful to the Government. The Government hoped that the remaining numbers men would plead guilty and not go to trial. It therefore requested the court to call as witnesses certain numbers backers who were not under indictment. The thought was that they would hesitate to lie again and lay themselves open to another charge of perjury, so they would be forced to either tell the truth or claim their privilege against self-incrimination. At the Government's request the court called Pasquale DiCanio and he decided to take no risks but to tell the truth. The defense was in no position to impeach his testimony and, as soon as he left the witness stand, Ray changed his plea to guilty.

This move was the final break in the investigation. Ray's attorney came to the Government office with five of the numbers backers - Ray, Rubenstein, Abrams, DiCanio and Towhey, and stated that the fight was over. The numbers men present then stated that they would like to have their sentences put over for another week in order to give them an opportunity to speak to certain people with the expectation that the entire matter would be settled once and for all. They stated that as soon as they had

talked to these other people they would come in and tell all about the protection money.

That same day there were other indications that the investigation was finally about to reach a successful conclusion. Jack Southern sent an attorney in to negotiate for pleas of guilty to the three indictments against him. The attorney spoke to Judge Maris in chambers and stated that he had advised Southern to plead guilty and that he believed that, in view of the pleas, a sentence of a year and a day should be sufficient. The court was informed that Rubenstein had been sentenced by Judge Avis to two and a half years on a plea of guilty. Judge Maris indicated that probably Southern should receive the same sentence as Rubenstein, and that he should also receive a year on the jury tampering indictment, making a sentence of three and a half years. Government counsel objected, stating that the sentence should be more severe. The court was advised that Southern had been given an opportunity to tell the truth the same as the others, and that he had consistently lied and refused to help the Government. It was pointed out that Southern was willing to go to jail provided the sentence was not too long, and would still refuse to tell the truth. Attorney Burns argued that the defendants were trying to play a game with the Government but that the Government would not play any games with the defendants, and that as far as the United States was concerned, it must have the truth and the whole truth, and would oppose any action by which a defendant could "take the rap", yet withhold evidence. The court agreed with the Government's position and refused to make any commitments.

When Southern was advised by his attorney that the sentence was likely to be a "stiff" one, he agreed with Towhey and Ray to arrange a meeting that night with Nucky Johnson. Southern failed to make the appointment but must have seen Johnson privately, for the next day he went into court and pleaded guilty to the three indictments. This action surprised Towhey and Ray as it had been their idea that all the numbers men would go to Johnson together and tell him that they could no longer protect him. There is no question but that Johnson must have promised Southern that he would take care of him after he got out of jail as he refused to make any statement to the Government.

On May 28 Judge Maris sentenced Southern to five years and fined him $3,000. He told Southern that the court would not entertain any application for reduction of that sentence unless it was concurred in by the Government. Judge Maris had indicated very plainly to Southern's attorney that these racketeers would just have to stop fighting the Government and would have to come in and tell the truth.

When Jack Southern pleaded guilty on May 22, that left only one more numbers case - Ralph Weloff. His attorney was engaged in another trial so the Government started on another group of cases. As stated above, perjury indictments had been filed against two operators of houses of prostitution during the grand jury investigation in 1939. An indictment was prepared against James McCullough but was not presented to a grand jury because of the pendency of the contempt proceedings. In January, 1941, the McCullough indictment was filed. Although no practical results were expected from convictions in these cases, they had to be disposed of so the trial of May Harris was begun on May 22. The defendant waived a jury and was tried by Judge Maris. The case ended at four o'clock and the judge immediately found her guilty. He told her attorney that she should tell the Government the truth if she expected any consideration from the court.

The next day, Friday, May 23, the Government started the trial against McCullough. He waived a jury and the case was tried by Judge Maris. On Saturday afternoon, when the staff was back in Atlantic City, Attorney Nutter stated that Harris had been induced to cooperate and was prepared to testify against McCullough. On Monday morning the defendant was scheduled to take the stand in his own defense. He had already called fifteen character witnesses who testified to his good reputation for truth and veracity. When his attorney learned that Harris was going to testify against McCullough, McCullough changed his plea to guilty.

A half hour later the Government started the trial against Marie Kenny before Judge Maris and a jury. This trial ended the next day. The jury deliberated for twelve hours and then disagreed at 11:30 p. m. The following morning the Government and the court were prepared to retry the case. May Harris again offered to cooperate and talked to Marie Kenny who then decided to plead guilty. While it

was quite unusual for a defendant to enter a plea of guilty less than twelve hours after a jury had disagreed in a case, it was no more unusual than a great many other things that had happened during the course of this investigation.

It was decided not to start another trial the next day because of the Memorial Day holiday weekend, but on Monday, June 2, the Government retried the case against Benjamin M. Perlstein and Harry Paul. This case ended with a conviction on June 6 after the jury had deliberated for 22 hours.

Thus ended a period of intense court activity during which the Government tried seven cases in about five weeks. Five of the cases resulted in convictions and the defendants changed their pleas to guilty in the other two.

The Trial of Enoch L. Johnson

May 26, 1941, was the memorable day when four and a half years of work by the Treasury Department, and more than two years' work by the Department of Justice showed definite signs of success. After working all day in Camden on the McCullough case, the staff returned to Atlantic City at night and took statements from Towhey and Ray. By this date the staff had been further reduced, since Special Agent Hill, a Naval reserve officer, had been called to active duty. Special Agents Frank and Snyder, Revenue Agent Doxon, Attorney Burns and stenographer Miss Geyer finally heard a witness tell where the graft payments had gone. At last the Government was in a position to trace these payments to their ultimate recipient, Johnson, and indict him for evasion of his individual income taxes. It was then learned that Weloff and Towhey had talked to Johnson for about two hours and had told him that they could go no further to protect him. They had told him that the Government had handed out jail sentences totalling 39 years, and that they were prepared to hand out 39 more if necessary to trace the protection money. This conversation took place before Jack Southern pleaded guilty and they pointed out to Johnson that Weloff was liable to 15 years in jail, Southern to eleven years, and that the Government was also going after Sam Camarota and Ray Born. Towhey told the agents that it had been their hope that Johnson would plead guilty so as to save men like Southern and

Camarota from going to jail in order to protect him. Towhey said that he had decided that he would be merely a fool if he took any more punishment to protect Johnson.

On May 28, the day that Jack Southern pleaded guilty, Weloff's attorney went to the Post Office Building and advised that Weloff was ready to talk. He did not want to be seen going to the Post Office Building, so Attorney Burns went with them in an automobile to the outskirts of Ventnor and they stood on the boardwalk for over an hour talking the matter over. Weloff told the entire story of his connections with the numbers game, the syndicate and Johnson. He asked that his indictment be nol-prossed, but was told that that was out of the question and on June 2, he would either have to go to trial or plead guilty. When the Weloff case was called on June 2, he entered a plea of guilty and made a statement to the agents.

Taking advantage of the few days between trials occasioned by the Memorial Day holiday, the staff considered plans for obtaining further evidence and preparing an indictment against Johnson. After Weloff and Towhey admitted they carried the protection money, every other member of the syndicate except Jack Southern told of everything they knew about it. The Government then had evidence that starting sometime in 1933 Weloff began to collect $125 a week from each of the numbers banks in Atlantic City which he took personally to Johnson. For a while he took $750 a week, then the amount was increased to $825 when a bank operating at night started to pay $75. When the syndicate was formed in July, 1935, it started to pay $1200 a week protection which it continued to do up until August 1940. A new Mayor, Thomas D. Taggart, Jr., had gone into office on July 1, 1940, and had taken over the police department. He immediately started to raid the horse-rooms and the numbers. The numbers syndicate stopped operating at that time and, of course, stopped paying for protection.

There were several different indictments which might have been filed. The simplest one was against Johnson alone for the years 1935, 1936 and 1937. It was also possible to join Johnson and Southern in a conspiracy indictment since it could be shown that Southern had received the protection money to take to Johnson during 1938, 1939 and 1940. With direct evidence that Johnson was receiving protection money from the numbers racket,

it was possible to prove by circumstantial evidence that he received protection money from the horse-rooms through Sam Camarota, and from the houses of prostitution through Ray Born. The Government had succeeded in tracing the protection money from the houses of prostitution to Born, and from some horse-rooms to Sam Camarota. Since there was proof that Johnson was receiving protection money from the numbers and he was the only one in a position to give the protection to the horse-rooms and houses of prostitution, the inference that he got protection money from those sources seemed reasonable.

The staff was now working under tremendous pressure. It desired to take advantage of the presence of Judge Maris whose firm attitude had caused the numbers racketeers finally to break. The Circuit Judges had insisted that all pending indictments must be tried immediately and that they would sit right into the summer if necessary to accomplish this object. The Government either had to obtain a new indictment against Johnson which it could try immediately, or it would be forced to try the Johnson conspiracy indictment. A question then arose as to which grand jury should be used to procure an indictment.

Terms of court are held in the District of New Jersey at Camden, Trenton and Newark. There was a conflict in opinion as to whether the term of court in one city automatically ended when a term of court began in another. The Assistant United States Attorney who had charge of the grand jury proceedings in the District had always been of the opinion that the December term of court in Camden ended in January when a new term of court began in Trenton. Accordingly, whenever the December grand jury at Camden had not finished its business by the end of January, he had made it a practice to procure an order of the court extending the term of the grand jury. This practice led many lawyers to believe that the term of the grand jury at Camden expired when a new grand jury was sworn in at Trenton in January. Judge Avis advised Attorney Burns that it was his opinion that the term of court at Camden was for one year, from December to December, and that the commencement of terms at Trenton and Newark had no effect on the Camden term. There were no published decisions covering this situation in the District of New Jersey.

The December, 1940, term of the grand jury at Camden had been used to obtain several of the indictments which had been tried, and had been conducting a John Doe investigation with Johnson as its principal objective. The Assistant United States Attorney had obtained an order in January extending the term of the Camden grand jury, but had not obtained a further order at the time the Newark term began in April. If his view of the law were correct, the Camden grand jury's term had expired in April and could not have been used to return any further indictments. This meant that the Government would have to travel 125 miles to Newark to present its evidence. It was decided that there would be a tremendous psychological advantage to continuing the investigation at Camden. The grand jury there was familiar with the case, the witnesses had been broken down in the court at Camden, and the atmosphere there was exactly right to push the case through to a final conclusion. With Judge Maris holding court, the witnesses were inclined to tell the truth to the grand jury and not risk any citation for contempt.

The Government wished to present this important evidence to the grand jury as soon as possible, yet Mr. Burns had to try the Perlstein and Paul case. Fortunately, Special Agent Frank had been appointed a Special Assistant to the United States Attorney and had appeared before the grand jury many times, so it was decided that he should present the evidence. By using the Camden grand jury Mr. Frank could consult with Mr. Burns during recesses at the trial. It was therefore decided that from every standpoint it was desirable to procure an indictment from the Camden grand jury as soon as possible. Once the indictment was filed, the Government could, if necessary, secure a superseding indictment.

Towhey and Weloff went before the grand jury on June 3 and other members of the syndicate followed them in rapid succession. Since all of the numbers men who had told about the protection money knew that they would be called "rats" by the gambling fraternity in Atlantic City they were anxious to get as many others to tell the story as they could in order to relieve themselves of the stigma. They sincerely endeavored to get Jack Southern to testify. He finally admitted that he did receive the protection money from the numbers syndicate, but denied that he gave it to Johnson. It was perfectly clear, both to the Government and to the numbers men, that

Southern had concocted some sort of story which he hoped would help himself but permit him to avoid testifying against Johnson. Southern seized upon the old ruse of "putting it on a dead man". Frank Ferretti, Chief Inspector of the Atlantic City police department, had died late in 1940 and he made an ideal person for Southern to say he had given the money to.

With the numbers men breaking, it was believed that the horse-rooms would follow suit. The agents endeavored to subpoena Sam Camarota but he could not be found. On June 6 a warrant was issued for him as a material witness. It was generally believed that he had skipped town and intended to stay away until after the Johnson trial. With the conclusion of the Perlstein and Paul trial, the Government was forced to make a quick decision. There were no other cases remaining to be tried except Isador Worth and the Johnson conspiracy case. Unless a new indictment was procured against Johnson immediately, the Government would have to proceed with the Johnson conspiracy indictment.

On Monday, June 9, the staff decided to file an indictment against Johnson charging him with attempting to evade his income taxes for the years 1935, 1936 and 1937. It was decided to limit the charge entirely to unreported income from numbers, and the $28,000 from the railroad contract in 1935. Johnson's returns reported "other commissions" of $23,000 for 1935, $30,000 for 1936 and $28,000 for 1937. The agents had never been able to ascertain the source of this income. The Government's evidence showed that Johnson received $46,000 in 1935, and $62,400 in each of the years 1936 and 1937 from numbers. There was no way of knowing whether Johnson might claim that the "other commissions" represented income from numbers. It was therefore decided to subpoena Johnson's secretary, Maie Paxson, his accountant, John M. Bewley, and Johnson himself before the grand jury the next morning. Special Agent Snyder waited outside Johnson's bungalow until one o'clock in the morning in order to serve him.

On June 10, Johnson appeared at the United States Attorney's office in Camden with three attorneys, John Rauffenbart, Frederic M. P. Pearse and Martin Bloom. They conferred with Government counsel, and then Johnson went before the grand jury. The precaution was taken of having the grand jury vote on the indictment before Johnson appeared so that there could be no question about

his testifying against himself. However, this contingency did not occur since Johnson refused to answer questions about the "other commissions" on the ground that the answers would tend to incriminate himself. Both Paxson and Bewley testified that they did not know from what source the other commissions came. The indictment against Johnson was then filed before Judge Avis.

The public reaction to the filing of the indictment was very gratifying. The staff hoped that with the filing of the indictment and the open acknowledgment by Weloff and Towhey that they had told about the protection money, Camarota and Born might decide to come in. However, that same resistance continued and the Government was limited to the proof which it had already obtained. The Government did not consider the case against Johnson to be particularly strong. The direct evidence of the receipt of unreported income was limited to three witnesses, Corio, Weloff and Towhey. Corio had to be considered as an accomplice and it was merely his word against Johnson's. There was also the possibility that Anthony P. Miller might testify for Johnson which would give the defense two witnesses to the Government's one. The defense had ample grounds to attack Weloff and Towhey since they were both convicted perjurers and were awaiting sentence. Johnson could easily contend that they were testifying against him solely for the purpose of avoiding punishment themselves. However, the new indictment was considerably stronger than the conspiracy indictment.

When Johnson was called upon to plead to the indictment on June 13, his attorney, Walter G. Winne, made a plea in abatement and motion to quash on the ground that the term of the grand jury had expired before the indictment was filed. The Government immediately offered to procure a new indictment in Newark without conceding that the law was as stated by the defense. Judge Maris accepted this practical solution and granted the motion. Upon the statement by the Government that a new indictment would be procured the following Tuesday, Judge Maris set Wednesday as the date for pleading. The quashing of the indictment was looked upon by the press as a great victory for Johnson, but it was no more than an idle gesture. Five days later he was back before the court on an indictment which differed from the first one by only two words. It is interesting to note that a few weeks later Judge Maris wrote an opinion denying a motion in arrest of judgment in

the Perlstein and Paul case in which he overruled his own decision on the Johnson indictment. With the consent of defense counsel, Judge Maris set July 14 as the date for trial.

The defense filed a demand for a bill of particulars which was heard on June 24. The Government felt that there was no need for concealing the facts since Johnson already knew what the case was about and who the witnesses were against him. Government counsel went to court prepared with an answer in which he not only stated what the items of unreported income were, but he gave the names of the witnesses who had so testified. The court accepted that as a complete answer and denied all other requests.

The Government heard many rumors as to what Johnson's defense would be. One was that he would admit receiving the money, but claim that he reported as other comissions all that he kept for himself and gave the rest to members of the police department who cooperated with him in giving the numbers syndicate protection. It did not seem likely that any policeman would take the witness stand and admit receiving such money, but so many other fantastic things had happened during the investigation that the agents called in former chiefs of police, members of the vice squad and others for questioning. Naturally, they all denied receiving such money. Another rumor was that Johnson would admit that he received the money, but that it was in his capacity as secretary of the Republican county committee - that he was solely an agent and had expended all of the money for political purposes. It was also learned that hundreds of people were being called up to Johnson's office in the Guarantee Trust Building and were being asked to sign receipts. It was being suggested to them that Johnson had given them certain sums of money for political purposes during 1935, 1936 and 1937. Word came back to the staff that Johnson had told some people that he had given them money but they had denied it and refused to sign any receipt. Such persons, however, were reluctant to admit these facts when questioned by the agents.

The agents issued summonses, under the internal revenue law, for some witnesses to appear at their office in order to check deductions claimed by Johnson. The defense endeavored to have these summonses quashed and obtained orders to show cause from Judge Avis on

July 2. On that day Attorney Burns was in Newark procuring a perjury indictment against Sam Camarota. In his desire to cooperate and to speed the proceedings as much as possible, Judge Maris went from Philadelphia to Newark to hear argument upon this motion. Defense attorneys claimed that they were being harassed in the preparation of their defense by the Government's action in summoning their witnesses. Government counsel contended that in the first place the defendant had no legal rights in connection with any summons issued by an internal revenue agent to any person other than himself. In the second place, the Government had no way of knowing that witnesses being summoned were defense witnesses. The court denied the motion to quash and the Government agreed not to have the internal revenue agents summon any witnesses who were to be called by the defense. The court directed the defense to give the Government a list of the witnesses they intended to call. This unusual order was agreed to by the defense and thus gave the Government an opportunity to learn in advance who the principal defense witnesses were to be.

The jury panel which had been drawn at the beginning of May ordinarily would have tried the Johnson case. The Treasury agents had made a careful check of those jurors and had ample information to guide the Government in selecting the jury at the Johnson trial. However, Judge Maris ordered a special venire drawn which meant that an entire new check would have to be made. The Federal Bureau of Investigation was requested to investigate the jury panel, as it had done on prior occasions, but reported it was unable to do so, with the result that the Treasury agents had to conduct it.

Special Agent Snyder started to make this investigation one week before the trial and uncovered evidence of a gigantic conspiracy to tamper with the Zendel Friedman jury. This new development was very disturbing. Prior to the Friedman trial in May, there had been citations for contempt against six persons for jury tampering, three of whom had been found guilty and two of whom had been sentenced to jail. The tremendous publicity attending these contempt cases seemed to be enough to stop all such conduct in the future. One of the persons convicted was Jack Southern, a partner of Friedman. Friedman himself was under suspicion but no evidence had been obtained against him. It was amazing, therefore, to learn that all the contempt actions and sentences had no deterrent effect whatever upon Friedman. With the Johnson case only one week off and insufficient time to make a proper check of the panel, the staff was greatly disturbed.

On Sunday, July 6, one of the jurors in the Friedman case made a statement that he had been offered a bribe by Zendel Friedman and one Barney Marion. Two days later Special Agent Snyder took a statement from a second juror on that case who admitted he had been offered a bribe. The following day Snyder found a third juror who had been offered a bribe and obtained a confession from the person who made the offer. These developments in the midst of the last week prior to the Johnson trial threw the office into a bedlam. It was difficult to concentrate on the preparation of a trial brief, to interview witnesses and to plan the course of the trial when new evidence was coming in every day of flagrant efforts to obstruct justice by jury tampering. If they had gone to such lengths to protect one numbers racketeer, to what lengths would they go to protect the "boss". The livelihood of every racketeer in Atlantic City was at stake in Johnson's trial. Even without Johnson's knowledge some of them might try to bribe jurors. There were a hundred persons who might do anything to keep Johnson from going to jail so that they could rely upon him to protect them in the operation of their own illegal enterprises.

On Wednesday, July 9, only five days before the trial was to begin, the staff decided that the sudden arrest of the defendants in this jury tampering conspiracy might frighten off any possible attempt to approach the Johnson jury. It was also believed that if any jurors had already been approached, the realization that the Government was hot on the trail would stop any improper action. United States Commissioner C. Bruce Surran issued warrants, and Deputy United State Marshals Seaman and Foley were called from Camden. With the aid of the deputy marshals, Special Agents Frank and Snyder arrested Barney Marion and one Elmer Craig, who worked as a part-time constable at Hammonton. Craig implicated Joseph Testa, a turnkey at the Mays Landing County Jail. Testa was on guard duty at the jail that night until midnight. A warrant was issued for him by the commissioner at 11:15 P. M., and he was arrested at the jail by Special Agent Frank and Deputy Seaman.

The newspapers did not know what case was involved in the jury tampering conspiracy and inferred that it was the Johnson case. The next day Johnson's attorneys, who were very much disturbed about the turn of events, requested Judge Maris to lock up the jury during the trial. They did not know that Government counsel had

already made a similar request. The Government was satisfied to have the defense make the request because it indicated that there would be no attempt to tamper with the jury. Their reason for making the request was because they feared that publicity which would accompany the trial might affect the jurors.

On Saturday, July 12, two days before the trial, the jury tampering came closer to Johnson. Testa signed a confession in which he admitted that Louis Kessel was the one who asked him to approach a juror. Kessel was Johnson's valet and bodyguard and had been for several years. He was arrested by Deputy Marshal Stanley Seaman at Johnson's bungalow in Johnson's presence. This action was an exciting prelude to the trial.

The trial of Enoch L. (Nucky) Johnson began on Monday, July 14, 1941, in the United States District Court at Camden, New Jersey, before Circuit Judge Albert B. Maris. The case had received so much attention from the press that special tables had to be erected in the courtroom to accommodate thirty reporters and admission passes were issued. The Government started the trial with great misgivings as to the outcome. The entire southern part of New Jersey from which the jury panel had been drawn was strongly Republican and it seemed impossible to pick a jury which would not lean toward Johnson. The process of selecting the jury took the entire first day of the trial. The judge examined each juror individually under oath. Since the court intended to keep the jury locked up for the duration of the trial, many suitable jurors were excused because their businesses would suffer during their absence.

When the challenging ended and the twelve jurors were sworn to try the case, an unusual incident occurred. The Government had considered challenging juror No. 12 because he was married to the former wife of a Government informer. Government counsel called this to the attention of the court and defense counsel but they declined to consent to excusing him. The Government at that point had one peremptory challenge left and decided not to use it. After the jury had been sworn, Mr. Rauffenbart, one of the defense attorneys, informed the court that he had suddenly remembered that the juror's wife had requested him to represent her in the divorce action against the Government informer. The Government counsel then claimed that if this fact

had been known he would have challenged that juror. It was then decided that the Government should be permitted to exercise the challenge and the juror was excused, even though he had been sworn. The entire panel of 54 jurors was exhausted by the time the two alternates had been chosen.

The next morning defense counsel claimed that juror No. 4 had expressed an opinion to another member of the panel that everyone in her community thought Johnson was guilty and that she thought he was, too. Thereupon the court excused juror No. 4 and substituted an alternate. This made the third time that a panel of twelve jurors was sworn before the case finally got under way. The jury that tried the case consisted of ten Republicans and two Democrats. Many of the Republicans were members of political clubs, four were county committeemen and two were office holders.

Having heard that Johnson intended to claim that he had expended for political purposes a large part of the money received from numbers, the agents decided to question as many persons as possible with reference to these alleged deductions. Five additional special agents of the Intelligence Unit had been sent to Atlantic City just before the trial to assist in checking the jury panel. There was very little time left for them to be used for that purpose but use was made of them to serve summonses and interview witnesses. One hundred and twenty-five persons were summoned to the Post Office Building in Atlantic City. The defense immediately endeavored to obstruct the agents in their investigation. They posted a man in the Post Office Building who knew most of the witnesses and he told them that they did not have to appear. When the agents noticed this they warned the individual that he was guilty of a criminal offense in obstructing the investigation of the Treasury Department. He claimed that he was acting under orders of defense counsel.

Government counsel informed Judge Maris of this incident and he ordered defense counsel to desist. When they accused the Government of trying to harass them in their defense, Judge Maris stated that it was the duty of persons who received revenue agent summonses to answer them and that the defense should not be concerned because all the witnesses had to do was to tell the truth. The judge said he did not see why the defense was objecting to witnesses' telling the Government the truth. The efforts of defense counsel to obstruct the agents, and their

anxiety with respect to the taking of statements from prospective defense witnesses by the Government indicated that Johnson did not have a legitimate defense.

Former Judge Corio was the principal witness in the first part of the Government's case. For years there had been rumors that Johnson was a silent partner in Anthony P. Miller, Inc., and used his political influence to obtain contracts for it. Now for the first time evidence which proved the truth of those rumors was produced in open court. Corio testified that he had been associated with Johnson politically for 25 years and that he was most active in connection with Italian-American Republican organizations. He stated that through Johnson's influence he became assemblyman, recorder and finally Common Pleas judge. In 1933 the State Public Utility Commission ordered the two railroads serving Atlantic City to consolidate, which was done under the name of Pennsylvania-Reading Seashore Lines, Inc. The order required the erection of a new union railroad station. Because of the depression every contractor in South Jersey was anxious to get that job. Anthony P. Miller was a competent engineer but was comparatively unknown. Being related to Miller by marriage, Corio agreed to get Johnson to use his political influence to obtain business for Miller in return for a share of the profits. Up until 1933 Johnson had been receiving 50% of the profits of the company. Corio requested Johnson to get the railroad station contract for Miller, and offered him the usual 50% of the profits.

Johnson was in a position to dictate who should receive the contract. Under a New Jersey statute the railroad was required to pay half the cost of construction and the State Utility Commission the other half. Harry Bacharach, the Mayor of Atlantic City, was also a public utility commissioner and had to take orders from Johnson. State legislation was required in connection with the project and the President of the Senate was from Atlantic County. Approval of the city commission had to be obtained in order to locate the railroad station and right of way at a certain point. Johnson dictated to the city commission. The railroad officials, being practical men, always endeavored to satisfy the local authorities and politicians, provided the work was done by a competent engineer. There was no question as to Miller's competency, so the setup for Johnson was perfect. There were many delays before the contract was

finally awarded. These caused Miller to become so nervous that he authorized Corio to increase Johnson's percentage to three-fifths of the profits and Miller finally received the contract.

The contract was on a fixed fee basis - also commonly called a cost plus contract. Under this arrangement Miller submitted bills each month and received from the railroad payment for the sums expended plus a small percentage of the profit to cover his overhead. The contract provided that the profits should be retained by the railroad until the completion of the entire job since there were clauses for penalties and awards. After the first month of work under the contract and Miller received his first check, Johnson asked for his share of the profits. When Miller tried to explain to him that Johnson could not get any of the profits until the entire job was completed, which would be at least a year, Johnson thought Miller was trying to double-cross him and became very angry. In January, 1934, Johnson insisted that a contract be drawn up providing for his share of the profits. Since Corio was close to Miller, Johnson decided to have his own attorney act for him and sent Judge Lindley Jeffers to Corio's office. There a contract was drawn up providing that Johnson would receive three-fifths of the profits from the railroad job. Miller was tax-conscious and insisted that the contract provide for the payment of taxes by the corporation on the entire profit from the job, that the corporation would then declare to Miller as sole stockholder all of the profits as dividends, that Miller should then report upon his own individual income tax returns these dividends, pay the taxes and surtaxes thereon, and after this was all done, Johnson would receive three-fifths of what remained. Johnson insisted that his name be kept off the books of the corporation as he did not want it known that he was participating in its profits.

Judge Jeffers knew that evidence of this graft contract was very dangerous and requested Corio's secretary to use a new stenographic notebook in taking the dictation about the contract and to destroy it after she had transcribed her notes. Fortunately for the Government, the girl did not appreciate the reason for this request and, since she had just started a new book she put in that same book Jeffers' dictation of the graft contract. This notebook arose to plague Johnson at the trial.

When the railroad station was finished in September, 1935, Miller was unable to obtain his entire profits due to accounting difficulties between the railroad company and the utility commission. He did succeed in getting an advance of $70,000. It was decided that $60,000 would be split up among Johnson, Corio and Miller. In accordance with the original contract, if the corporation reported the $60,000 as profits, paid the taxes, declared the balance to Miller, and then Miller paid the surtaxes, more than half of the money would have been used up in taxes due to the high surtaxes on Miller. Miller then devised a scheme to evade taxes on this item by having the corporation pay the $60,000 to Corio in the guise of a legal fee. This would enable the corporation to save approximately $11,000 in taxes, and the surtaxes on Corio were much less than on Miller. Miller had two checks drawn to Corio's order, each for $30,000, and the two went to a bank in Atlantic City where the checks were cashed. A computation was made of the amount of tax that would have to be paid by Corio on the $60,000, which amounted to $13,220. This left approximately $47,000 to split up. Miller gave Corio the $13,220 to pay the tax and approximately $9,000 as his share of the profits. They then went to Johnson's bungalow where Miller gave Johnson $28,000 in cash. In view of the change in plan Miller insisted that Johnson give him his copy of the contract. Miller then tore it up in small pieces and flushed it down the lavatory.

At the trial Johnson took the position that there was no such contract between Miller and himself and that he never received the $28,000. He felt safe in taking that position since he knew that only two copies of the contract had been made and that his had been destroyed. The other copy either was in Miller's possession or had been destroyed by Miller. Since Jeffers had no doubt told Johnson that he had requested Corio's secretary to destroy the notebook, Johnson figured that the Government had no copy of the contract. When the defense had demanded a bill of particulars, the Government filed an answer stating that it intended to prove that a contract had been signed by Miller and Johnson. The defense attorneys demanded that they be permitted to see the contract, but the court refused to grant the request. Defense counsel went to the Department of Justice in Washington and endeavored to learn there whether or not the Government really had the contract.

An indication of the falsity of the defense which Johnson presented in court is that his attorney offered in Washington to plead Johnson guilty if the Government would show him the contract. Johnson was not concerned with the facts - he was only worried about the evidence. If the Government had the contract, then he would admit it; if the Government did not have it he would deny it.

At the trial the defense was shocked when Corio testified that he had had his secretary make an exact copy of the signed contract contrary to the expressed wish of Miller that no copy be made. Of course, this did not have signatures on it and the defense would have liked to claim it was a concoction of Corio's, but the stenographic notebook had in it, interspersed among many other notes relating to entirely different matters, the exact wording of that contract.

When Johnson took the stand in his own defense he told a very strange story. He admitted that he had recommended Miller to the Chief engineer of the Pennsylvania Railroad, and that he had spoken in his behalf to others. He denied that he entered into any contract with Miller but admitted that one day Jeffers came to him and told him that Miller wanted to give him a share of the profits from the railroad station job, but that he said "that's out". He wanted the jury to believe that, although he had used his political influence in Miller's favor, he refused to accept payment for his services.

The second phase of the case dealt with the protection money from the numbers racket. The first witness for the Government was Ralph Weloff who had made the initial arrangement with Johnson. He testified in plain words that in 1933 he went to Johnson and told him that the numbers men wanted to pay him for the privilege of operating. Gambling is prohibited by the constitution of the State of New Jersey and there are on the books statutes making it a criminal offense to operate a lottery or numbers game or horse race betting room. Weloff testified that he told Johnson the numbers banks were willing to pay him $125 each per week to protect them from molestation by the police. For this sum, Johnson was also to protect the business of the numbers men from competition by persons from out of town. Weloff testified that if any numbers bank had too many arrests, they would complain to him and that he would pass on the complaint to Detective Ralph Gold, who was in charge of the Vice Squad. Gold would see that the arrests stopped.

Herndon Daniels testified that he began to operate a numbers bank at night in addition to the bank he was operating in the daytime. He was paying $125 a week protection for the day bank but nothing for the night. The police started to make arrests of Daniels' night workers so Daniels complained. Arrangements were then made through Gold to let the night bank pay $75 a week for protection.

In July, 1935, the numbers banks formed a syndicate. There had been seven banks operating in the daytime and one at night, and they pooled all their business and divided the profits equally among the eight banks. The syndicate wanted to have two men to take the money to Johnson in order that one might not get too strong, so they appointed James Towhey to alternate with Weloff in carrying the money to Johnson. Both of these men testified that they went to Johnson, told him about the organization of the syndicate, received his approval for it, and told him that, since they would be able to make more money running as an organization, they would be able to pay him more money. From that time on they paid Johnson $1,200 a week. Just prior to the formation of the syndicate the numbers banks had been competing with one another and the price war had been going on. Because of this, none of the banks were making any money and they stopped paying protection. As soon as they stopped paying protection the police started to make arrests. When the syndicate was formed in July, 1935, and they started to give Johnson $1,200 a week, the arrests ceased and there were no arrests from that time until near the end of 1937, as far as the numbers were concerned.

Weloff had other duties for the syndicate in addition to handling the protection money. He was the general contact man and took care of contributions to the police department, fire department and charitable institutions. About November 1, 1937, some of the numbers backers became dissatisfied with Weloff's handling of these matters, claiming that he gave away too much money. The organization voted to take the job away from Weloff and give it to Jack Southern. Weloff did not want to give up this contact with Johnson so he went to Johnson and told him about the change. Johnson told him to let it go at that as Weloff could always come to see him.

When Weloff and Towhey first told the agents about the protection money, they were not sure of the date when Southern had taken over. There had been some suggestion that the change had taken place in the spring of 1936. Prior to the filing of the indictment most of the numbers backers had gotten together to try to recall the date and it was definitely established to have taken place in the fall of 1937. The one who insisted more than any of the others that the date was November 1 was Jack Southern himself. While Southern admitted that he handled the protection money after November 1, 1937, he insisted that he never gave it to Johnson but gave it to Inspector Ferretti who is now dead. Since Southern stuck to that story, the Government did not indict Johnson for the years 1938, 1939 and 1940.

In preparation for trial Johnson probably conceived various defenses which might be used, none of which was based on fact, but designed to meet the Government's proof depending upon how much the Government succeeded in getting into evidence. Weloff, as the first Government witness from the numbers racket, was subjected to terrific cross-examination in an effort to establish that he carried the protection money to Johnson only until March, 1936. The Government called twelve numbers racketeers, all of whom testified about the protection money. After Weloff had concluded his testimony the defense tried with the next three or four witnesses to establish that Jack Southern had taken over handling the money in March, 1936. When the defense saw that they were not making any headway and Jack Southern himself admitted that he did not take over until November 1, 1937, they decided to admit receiving the protection money until the latter date.

Nothing could have shown more clearly that the defense was a pure concoction than this maneuver. If Johnson had succeeded in establishing that Southern took over in March, 1936, he then would have denied receiving it after that date. This would have required the dismissal of the third count in the indictment and weakened the second count almost to the point where it, too, might fall. The first count was weak anyway since the defendant had reported a net loss of $56,000 and the Government was able to establish only $18,000 income above the loss.

Failing to shake the testimony of the Government witnesses that Johnson actually received the money for the three years under the indictment, the defense then endeavored to show that they were not for protection but were really political contributions to Johnson for the benefit of the political organization. To counteract that defense the Government showed that in addition to the $1,200 weekly payment to Johnson for the specific purpose of protection, the numbers syndicate was asked by Johnson to contribute money to the political campaigns at every election - and these occurred once or twice every year. The numbers men testified that they did make political contributions to both the Democratic and Republican organizations.

The defense changed from day to day and Johnson was gradually forced to retreat from various positions which he had tried to establish. In his opening to the jury at the beginning of the presentation of the defense, Johnson's attorney, Mr. Winne, said Johnson would admit that he received the money from numbers and prove that he had used a large part of it "for the purpose for which it was given him", and that he had "appropriated" the balance to his own use. He said Johnson would show that he had reported on his income tax return as "other commissions" this balance. Winne told the jury that he would produce publishers of three small newspapers who would testify that they received money from Johnson for the purpose of making things easier for the numbers man and so that they would refrain from publicizing the game and thus injuring it. At the time Winne was making the statement, it did not seem possible that any newspaper publisher would openly admit in court that he accepted money in order to keep him from printing stories about violations of the law. It was not surprising, therefore, when those publishers took the stand, that they denied upon cross-examination receiving money for such purposes and denied knowing that any of the money they received was from the numbers syndicate. Their testimony, however, did show the corrupt political methods used by Johnson since they admitted that they received the money for the purpose of publicizing Johnson's personal political organization and that their editorial policy was favorable to Johnson's candidates.

The trial was one hard battle from start to finish. The first witness on the stand was from the office of the collector of internal revenue and merely introduced the returns into evidence. The second witness was Miss Paxson, Johnson's secretary, and the falsity of the defense appeared immediately. Miss Paxson had testified before the grand jury that she had nothing to do with the "other commissions" and did not know how it was computed. When questioned by the Government on direct examination she claimed that she had received some slips of paper from Johnson throughout the years in question which were given to the accountant, Mr. Bewley, at the end of the year, and that these slips, when totaled, constituted the amounts shown on the returns. The Government pleaded surprise and cross-examined her.

The perjury of the next witness, Bewley, was even more flagrant. Before the grand jury he had testified that the "other commissions" was a lump sum figure given to him orally by Johnson and that he did not have any break-down for the figure or any information as to the source of the income. When he testified at the trial that the "other commissions" were computed by him from slips submitted by Miss Paxson the Government again claimed surprise. The perjury committed by these two witnesses, employees of Johnson, at the very beginning of the case set the tempo for what followed. This immediately showed what tactics the defense would resort to.

When the defendant, Johnson, took the witness stand, the public was treated to a spectacle perhaps never before witnessed - a political boss openly admitting in court that he received payments from an illegal racket to use his political influence in their aid. Johnson admitted that the money was given to him in order to help him elect city commissioners and other officials who would follow his policy of liberality in permitting gamblers to operate. The Government had not only proven the link between crime and politics, but had forced the political boss to admit it. Although he admitted receiving every dollar of the money which Weloff and Towhey testified they gave to him, he conformed his own testimony to that of Jack Southern by denying he received any money from Southern. In only one essential point did Johnson's testimony differ from

that of Weloff and Towhey. He denied that it was given to him for the specific purpose of protecting them from molestation by the police.

The Government had produced William Sheppard, a colored chauffeur and bodyguard to Johnson during the years involved in the indictment. He had testified that the chief of police and members of the vice squad were frequent visitors to Johnson's bungalow and that "almost every cop in town" visited Johnson at some time. Johnson admitted that police officers did come to his bungalow but claimed that it was solely for political purposes and that he did not give them any orders to refrain from arresting the numbers men.

The political and moral philosophy of Johnson was demonstrated by his bland admission that he did not consider the numbers game illegal "unless they got caught". On cross-examination Government counsel took him over the story of his connection with the numbers racket year by year. He claimed on direct examination that when Weloff and Towhey stopped bringing the $1,200 a week to him about November 1, 1937, he did not receive it from Jack Southern or anyone else, thereafter. He further stated, in answer to questions by the court, that he made no inquiry to ascertain why they stopped bringing the money to him, although he had supported his political organization for five years entirely from this source. On cross-examination Johnson was asked if he received any money from the numbers game in 1938 and he said "yes". This answer caused consternation among defense counsel and they objected strenuously to the Government's asking any questions about the year 1938. When the court overruled their objections and stated that the Government was entitled to question Johnson about 1938 in order to attack his credibility, particularly with reference to his claim that he did not receive the money after November 1, 1937, the defense counsel made the very damaging admission that to answer such questions might incriminate Johnson. Thereupon, in reply to all questions with regard to 1938 Johnson claimed his privilege against self-incrimination.

The theory of the defense was that Johnson was in the business of politics. As a politician he maintained a personal organization which was used to elect public officials and the regular Republican organization was

considered merely supplementary to his own. Most political contributions were expected to come to the boss, rather than to the treasurer of the county committee. Defense counsel brazenly told the jury that Johnson needed "plenty of oil to run his political machine". Johnson contended that the numbers men gave him the $1,200 a week with the sole objective of helping him stay in power. Therefore, he claimed every dollar that he spent for the purpose of maintaining himself in power was a proper deduction from this income. He produced about 800 receipts which purported to have been signed during 1936 and 1937 varying in amount from $2.00 to $1,200. None of them stated from whom the money was received or for what purpose. Johnson testified that whenever anyone wanted five dollars from him to buy some coal or pay a doctor bill he would give it to them. Some of the receipts showed that they were from clergymen and in one instance Johnson paid for an orchestra at a New Year's party. He claimed all these expenses were proper deductions on his income tax return.

This line of defense was intended to influence as many of those Republican jurors as possible. Another effort along this same line was the calling as character witnesses of former Governor Harold G. Hoffman and former United States Senator David Baird. With the jury locked up for the duration of the trial it was only natural that word should leak out from time to time as to their attitude. The rumors were all unfavorable to the Government. Just before summations the foreman of the jury sent word to the judge through a bailiff that one of the woman jurors who was a county committee-woman and who was very active in Republican politics, had stated that she had received campaign contributions which she had not reported on her income tax return and indicated that she did not think Johnson should be held to account for what he received. The judge called this to the attention of counsel for both sides and stated that they should avoid any reference in summations which would indicate that they had received the information. Despite this direct warning from the court, Mr. Winne, in summing up for the defendant, looked right at that juror and said that he knew lots of political workers who received money to spend for the organization and that if Johnson could be convicted, anyone in a similar situation could be.

Government counsel and Judge Maris were so astounded when they heard this that they did not know what action to take and remained silent. However, when Mr. Winne finished his summation, he was called to the bench by Judge Maris and told that the court considered his remarks a breach of the confidence of the court, and so prejudicial to the Government that he would offer the Government a mistrial if it wished it. After consulting with the staff, Mr. Burns decided that having gone that far into the case and the Government's case having stood up so well, it was practically impossible for that jury to acquit Johnson. Accordingly, he declined the offer of a mistrial and prepared his own summation in a manner which designed to counteract that of Mr. Winne.

On Friday, July 25, 1941, at 12:10 p. m., the jury retired to consider their verdict. The Government had spent four and a half years to produce the evidence which was before that jury, yet no one on the staff was optimistic about the outcome. The staff prepared for a long vigil, expecting that the jury would probably argue for two days before they would either agree or decide to disagree. It was a pleasant surprise for the Government, therefore, when at 5:10 p.m. a deputy marshal announced that the jury had reached a verdict. The Government agents and attorneys knew from their experience that no jury could have disregarded the strong evidence presented by the Government and acquit the defendant in so short a time. The defense were unprepared for this speedy verdict and Johnson was not even in the courthouse. Only one of his staff of four attorneys was in the building. There was a very tense atmosphere in the courtroom while the jury sat in the box for about ten minutes awaiting Johnson's arrival. Surprising to say, the most anxious persons in the courtroom were the reporters for the afternoon newspapers who had a 5:30 deadline. Johnson accommodated them, however, by arriving at 5:20 so that they were able to get their story in the evening editions.

Even though the staff was confident that the verdict would be guilty, they were greatly relieved when the foreman stood up and drew from his pocket a piece of paper upon which had been written the verdict, for this could mean only one thing - a split verdict. Johnson may have derived some satisfaction from hearing the foreman say "not guilty" on Count One, but the announcement of "guilty" on Count Two spelled success for the Government. It made no difference then what the verdict was on the third count except that the announcement that Johnson was guilty on that, too, added to his punishment.

The verdict naturally created a sensation. The political boss who had exercised absolute power over thirty years had finally been convicted. To the citizens of Atlantic City, the State of New Jersey, and the country at large, came the satisfaction of knowing that the United States Government could deal with any law violator, no matter how powerful he might be.

Following the conviction many believed that Johnson would never really go to jail. It did not seem possible that the influence which he had exerted for thirty years would now fail him when he needed it most. But on August 1, 1941, when Judge Albert B. Maris sentenced Johnson to serve ten years in the penitentiary and to pay a fine of $20,000 and the costs of prosecution, the myth of Johnson's invincible power was ended for all time. This time the courts, too, acted firmly and Johnson found himself in jail that very night. The very careful manner in which Judge Maris had ruled on objections during the course of the trial made it impossible for the defendant to point out to the Circuit Court of Appeals any substantial question which would justify releasing him on bail pending appeal.

The impression that the long investigation made on Judge Maris is indicated by his statement when he sentenced Johnson, as follows:

> "What the Court has before it this morning is not the conduct of this defendant in public life, nor is it to consider the question as to whether gambling or other forms of illegal enterprises should be carried on in Atlantic City. He has been convicted by a jury of the charge of cheating and defrauding the United States of income taxes. That is the matter with which we are concerned here. It is a serious crime, and serious crimes are only too apparent to us these days when the need of the United States for revenue is so obvious.
>
> "In passing sentence on any defendant there is a discretion imposed in the trial judge. The statute, as in this case, normally provides for a maximum, and it is for the judge to decide within those limits what penalty should be imposed. In determining that it seems to me that it is necessary to consider any and all circumstances which may mitigate the crime, and any and all circumstances which may aggravate the crime.

"Now, in mitigation, it appears here that this defendant's activities have been helpful to many people. He has been very charitable and spent of his funds largely upon those who needed help, as well as in other ways. I am satisfied from the evidence and from the investigation that I have been able to make, that he has made large expenditures and helped many people. I am also satisfied that he has done that from selfish motives for the purpose of perpetuating his own political power, and that he has made those expenditures out of funds which personally were no sacrifice for him to pay.

"Now, on the other side of the picture, it seems to me there are at least three factors in aggravation which the Court ought to consider. This defendant is and for many years has been a leader in political life in his community. In our republic the people can only act through leaders, and if our republic is to function and democracy is to be preserved, those who aspire to leadership in public life to lead the people around, must and do assume certain responsibilities over and above that of the ordinary citizen. Certainly one of those responsibilities, the highest and strongest, is to be exemplary in the matter of obeying the law, and as I see it, this defendant had a particular responsibility, as perhaps the leading citizen in public life in his community, in being an example to those whom he was leading in regard to his obligations to the Federal Government. In that responsibility he has not been exemplary in obeying the laws. On the other hand, the jury has found, and I think quite properly, that he had set them an example of cheating and defrauding the Government, which is, to say the least, shocking.

"There is another circumstance I cannot overlook in aggravation, and that is that this defendant I am satisfied wilfully perjured himself on the witness stand in this court at his trial. Not only that, but he, during the period

of time that this matter has been under investigation, has, I am satisfied, to take the responsibility for having caused many other persons to commit perjury, perjury the only purpose of which was to protect this defendant from being detected in this crime. Some of those persons are now serving prison sentences for perjury, which had no other purpose than to protect this defendant".

The Friedman Jury Tampering Conspiracy

The conviction of "Nucky" Johnson did not end the investigation. There was no longer any doubt that Johnson had received graft payments from houses of prostitution through Ray Born, and from horse-race betting rooms through Samuel Camarota. However, their perjury had kept this evidence from the trial. Camatora had been indicted for perjury on July 2, 1941, at Newark, and was a fugitive from justice. The Government still had to deal with the perjury of Ray Born and the gigantic jury tampering conspiracy which had been discovered the week before the Johnson trial.

On August 6, 1941, Special Agents Frank and Snyder renewed the investigation of this jury tampering conspiracy. They had already arrested Joseph Testa, Bernard Marion, Elmer Craig, Louis Kessel and Abe Parzow. The agents felt that to follow the trail from each juror who had been approached through the various persons involved in each of the approaches would require the assistance of persons who would themselves ultimately be defendants. They knew it would be necessary to obtain confessions from some conspirators and induce them to cooperate in order to obtain evidence against or admissions of the others. They decided to try to arrange meetings between the jurors and the conspirators and used dictaphone equipment to record the conversations. Special Agent William Mellin, a technical expert of the New York Division, was assigned to install and operate this technical equipment. Special Agent Michael F. Malone was also assigned to assist in this investigation.

The agents had dropped the investigation prior to the Johnson trial, at the point where juror John Z. Campbell had made a statement admitting that one Russell Sturges had approached him. On August 6 Special Agent Synder interviewed Sturges and obtained a confession. He said that he had made the approach to Campbell over the telephone at the request of his friend, William G. Lodge. Lodge had later come to his house with three rough-looking men whose names he did not remember. The agents decided upon a plan which they hoped would enable them to trace this approach back to its original source. The inability of Sturges to identify the three men who had been with Lodge made the task difficult. Arrangements were made with Sturges to install a dictaphone in his house in order that the agents might overhear a conversation between Sturges and Lodge. The meeting was arranged for the night of September 3, 1941. The agents, located in the basement of Sturges' house with dictaphone equipment and recording apparatus, heard Lodge attempt to convince Sturges that he should deny to the agents that he was implicated and had telephoned to Campbell. Lodge suggested that if Sturges were questioned he should say that some unknown individuals had come to his house and asked permission to use the telephone but that he did not listen to the conversation. Two of the agents then left the listening posts and went into the house through the front door, acting as though they had never met Sturges before. After questioning both Sturges and Lodge, Lodge finally confessed. Lodge admitted that he had become involved in the conspiracy at the request of Max Glickman, but was unable to identify the other two men who had been with him. On September 4 the agents installed a dictaphone in Lodge's home and arrangements were made for Lodge to call Glickman over. Glickman arrived about midnight and had a long conversation with Lodge, during which he admitted his part in the conspiracy. The agents did not confront Glickman immediately but permitted him to leave Lodge's house and go to his own. The agents then called upon Glickman and confronted him with the facts. He broke down and confessed. He identified the two men who had been with him as Parzow and Charles Brecker. Glickman admitted that he had been approached in the first instance by Thomas J. Ritchie, a New Jersey State Trooper. A dictaphone was installed in Glickman's house and Ritchie was called over there, but due to certain mechanical difficulties and the fact that Glickman excitedly kept talking at the same time Ritchie did prevented the agents from getting any admissions. Brecker, a bail bondsman, declined to appear when requested by Glickman.

The successful efforts of the agents in obtaining confessions from some conspirators and getting them to testify against others, resulted in an indictment on October 15, 1941, of twelve persons in what was probably the largest jury tampering conspiracy on record in Federal Courts. The incredible extent of the conspiracy is indicated by a consideration of the station in life of the various conspirators. Joseph "Zendel" Friedman, the ring-leader, was trying to escape punishment for his own offenses of income tax evasion. He had a record of three convictions on charges of liquor law violations, stealing automobiles, and assault with a gun, and about twenty arrests in connection with the operation of houses of prostitution. His common-law wife was an operator of a house of prostitution. Abe Parzow had formerly been connected with the amusement field but was generally in the company of racketeers. Charles Brecker was a bail bondsman in Camden, New Jersey. Thomas J. Ritchie was a New Jersey State Trooper who had been a friend of Brecker. Max Glickman operated a small department store in Paulsboro, New Jersey and was a friend of Ritchie. William G. Lodge was a former deputy collector of Internal Revenue and at the time of his indictment was attached to the Motor Vehicle Tax Bureau of the State of New Jersey, and he was a friend of Glickman. Russell Sturges was an insurance and real estate man, and Sylvanus Doughty was Borough Clerk of Pitman. Salina A. Grant was Parzow's mother-in-law. Elmer J. Craig was a part-time constable in Hammonton, and Joseph Testa was turnkey at the Mays Landing Jail. Bernard Marion was a horse-room operator who had been acquitted of contempt of court in October, 1939.

This conspiracy to bribe and attempt to influence jurors and to obstruct the due administration of justice actually succeeded in approaching and offering bribes to four different jurors. The failure of this conspiracy to gain its objective was most fortunate for the Government. The Friedman case was at the head of the list of cases scheduled for trial in the Government's final effort to break the resistance of the racketeers who had persisted in their refusal to disclose the payments for protection. If this conspiracy had succeeded and Friedman had not been convicted, it is quite likely that the Government never would have obtained the evidence upon which Johnson was convicted.

The Friedman trial was scheduled to begin on April 28, 1941, but he obtained an adjournment until May 1. He was convicted on May 8. The efforts to influence the jury began prior to the trial and continued until the end. The facts relating to the efforts to bribe each of the jurors will be stated separately for purposes of clarity, although all covered the same period of time.

Approach to Juror William E. Chew

On April 24, 1941, Friedman obtained a list of the panel of jurors at Camden. He showed it to Parzow who noticed the name of William E. Chew on it. Parzow told Friedman that his mother-in-law knew some people by the name of Chew and that he might be the one. Friedman asked Parzow to try to influence Chew by telling him that Friedman was being persecuted and that some "niggers" were trying to railroad a white man. Friedman claimed that the colored members of the syndicate were trying to persecute him so as to steal his business.

Parzow stated that when he heard the story he said he would speak to his mother-in-law Mrs. Salina A. Grant. Parzow showed the list of the jury panel to his mother-in-law and asked her to tell Chew the story of the persecution. A day or two later (during the week prior to the commencement of the trial) Mrs. Grant did see Chew at his home in Pitman, New Jersey. She told him that she knew he was on the jury panel which surprised Chew, as there had been no publication made of the list. She asked him to be lenient because the colored men were trying to send the white man to jail. Chew replied that he might not even be chosen on the jury.

On May 7, another effort was made to reach Chew. Parzow saw Mrs. Grant in Vineland, New Jersey, and gave her $400 with instructions to go to Pitman and offer it to juror Chew. Parzow told Mrs. Grant that other members of the jury were being approached but he did not give any details. Mrs. Grant has stated that she realized she was doing something wrong and told this to Parzow but he told her not to worry. Mrs. Grant received the money from Parzow about 5 p. m. on May 7 and had a dinner to attend at 7 p. m. She endeavored to make excuses in order not to go through with the approach, but Parzow persisted.

Mrs. Grant went immediately to see Chew in Pitman. Mrs. Grant told Chew that she was interested in the case in which he was sitting and that she wanted to make it interesting for him. Chew walked out of the room stating that the Judge had instructed the jurors not to talk about the case. Mrs. Grant then told Chew's mother that she had $400 for Chew if he would say that Friedman was not guilty. She did not display the money but indicated that she had it in her pocketbook. Mrs. Grant then went back to Vineland and returned the money to Parzow.

Approach to Juror George Senn

The second juror who was approached prior to the trial was George Senn of Egg Harbor, New Jersey. Senn operated an appliance and contracting business and was president of the Egg Harbor City Trust Company. On Saturday, April 26, two days before the trial was scheduled to start, Friedman went to Bernard Marion, and asked him if he knew Senn. Having had business with Senn, Marion replied that he did know him. Friedman then asked Marion to take him to see Senn. That afternoon Marion went into Senn's place of business and told him that a friend of his, Joe Friedman, was expecting to go to trial on charges of income tax evasion, of which he was not guilty. Marion told Senn that Friedman was a small numbers operator in Atlantic City, that he had reported his correct income and paid proper taxes, but that he was being framed by a bunch of niggers and was being railroaded by the Government to force him to disclose payment of graft to Enoch L. Johnson. Senn told the Government he was incensed at this approach but did not indicate his feelings because he did not believe he would be chosen on the jury. After a conversation lasting about twenty minutes, Marion insisted on bringing Friedman into the office to introduce him to Senn. After Friedman came in Marion repeated in substance what he had previously said on behalf of Friedman. Senn told them that if he were drawn on the jury he would see that Friedman obtained justice.

After Senn was chosen as a juror on May 1, Marion visited him three or four times. Marion visited him again on Friday May 2, at which time he repeated the arguments he had previously made in Friedman's behalf. A few days later Marion called again and mentioned that

it would be worth Senn's while if he would do everything in his power to help Friedman. On May 6 at 7:30 a. m. (two days before the trial ended) Marion met Senn at Egg Harbor just before he left for Camden. Senn told Marion that it looked rather bad for Friedman. On his previous visits Marion had indicated the object was to bring about Friedman's acquittal but on this last occasion he said that he would be satisfied if they could get a disagreement. Marion then took from his pocket a roll of bills amounting to $500, which he offered to Senn. He had received this money from Friedman the night before. Senn told Marion that he should know him well enough to know that he could not be bought and that no amount of money could change his verdict or his vote in the case. Marion returned the money to Friedman and advised him that Senn would not accept it. He claimed that he was not to receive anything for his trouble but acted solely on a basis of friendship for Friedman.

Approach to Juror John Z. Campbell

As soon as the trial started on May 1, Parzow obtained the names of the 12 jurors who were chosen and marked them off on the list of the jury panel. On May 2, 1941, Friedman told Parzow that he wanted him to meet Brecker and try to "fix" the jury. Friedman told Parzow that Brecker was a fixer and that he did not trust him with any money; that he wanted Parzow to handle the money himself. Parzow then met Brecker for the first time in a saloon in Camden. Friedman had phoned Brecker and told him what Parzow was coming for. Parzow gave Brecker the list of jurors and told him that Friedman wanted him to handle the money. Brecker said he would try to make some contacts and would get in touch with Parzow.

On Saturday, May 3, 1941, Brecker called Thomas J. Ritchie, a detective of the New Jersey State Police, and arranged to meet him that night in Vineland. Parzow and Brecker went to Max Rosen's saloon in Vineland and then Ritchie arrived. Brecker conferred privately with Ritchie out of the presence of Parzow. Then Brecker introduced Parzow to Ritchie. Brecker was a professional bail bondsman and had known Ritchie for several years. Ritchie telephoned Max Glickman, who operated a small department store in Paulsboro, New Jersey. He was not

able to reach Glickman so he made arrangements to contact Brecker later.

After Brecker and Ritchie had left Vineland, Ritchie got in touch with Glickman and asked him if he knew this juror John Campbell in Camden. Glickman replied that he did not know him, but that William Lodge might. Ritchie asked Glickman to see if he could get in touch with somebody who did know Campbell to see if he would be willing to give Friedman a "break". Glickman telephoned William Lodge, but Lodge was away from home for the week-end. He then telephoned Sylvanus Doughty, who also happened to be out of town. About 11 p. m. Ritchie called Parzow in Atlantic City and arranged to meet him and Brecker Sunday night, May 4, at Vineland.

On the morning of May 4, 1941, Friedman and Brecker met at Parzow's home in Atlantic City and they told Friedman that they had already started on the scheme. Friedman gave Parzow $1,000 and told him to use it to bribe jurors. That night Brecker and Parzow met Ritchie in Vineland. They were together for approximately one and one-half hours from 8:30 to 10 p. m. During that time Ritchie made five or six telephone calls to Glickman. At first he was unable to reach Glickman as he had not returned home, but later he did get in touch with him. Ritchie told Glickman that he was sending the two men Brecker and Parzow over to see him and that "they were all right". As soon as Ritchie finished talking to Glickman, the latter called Lodge over to his store. Glickman asked Lodge if he knew Campbell. Lodge replied that he did not, but that Russell Sturges probably did. Glickman then told Lodge that he would like him to call Sturges and tell him to get in touch with Campbell who was a juror, and to see if Campbell would give Friedman a "break".

When Parzow and Brecker arrived they introduced themselves to Glickman and Glickman asked Parzow to give him the details. Parzow then told the story of the alleged persecution. He told Glickman and Lodge that Friedman was a small numbers writer whom the Government was trying to convict, and that a bunch of niggers were persecuting a white man. Parzow said that he would like to be in touch with the jurors so that he could talk to them personally. Glickman called Parzow to one side and asked him what there was in it. Parzow told him that there was money in it for everybody but that he wanted to get to the jurors first.

Lodge telephoned to Sturges from Glickman's store and asked him if he knew Campbell and Sturges replied that he did. Lodge asked him to call Campbell and ask him if he would be willing to give Friedman a break. Sturges stated that Lodge told him there would be $200 in it for Campbell, $100 for Lodge and $100 for Sturges. It was about midnight when Sturges telephoned to juror Campbell, got him out of bed and delivered Lodge's message. Campbell told Sturges that he had lived an honest life up until then, and he intended to keep on that way.

Brecker, Glickman, Parzow and Lodge drove over to Sturges' home to find out what he had been able to do with Campbell. Sturges told them that there was nothing doing. They all discussed the case and Parzow indicated his desire to try again to reach Campbell. They then mentioned the name of Eugene Temple, another of the jurors, but Sturges said there was no use trying to approach him as he was "straightlaced". While at Sturges' either Brecker or Parzow telephoned to Atlantic City and reported to Friedman the result of the evening's activities. When the group left Sturges' house, Glickman told Parzow that this wasn't the man he really intended to use, that the real man was out of town (no doubt referring to Doughty).

Having failed to reach Campbell through Sturges, another effort was made through Sylvanus Doughty, Borough Clerk of Glassboro. There was confusion in the statements of the defendants as to just when this approach took place. According to Parzow he and Brecker went to Glickman on Monday, May 5, but that it was a "wild goose chase" as Doughty had not yet returned. Parzow stated that the approach through Doughty was made on the night of May 7 after he had given his mother-in-law money to give to Chew. Leaving aside the date, all defendants agreed on the facts. After Doughty returned from his fishing trip in Virginia, Glickman got in touch with him and arranged a meeting at the Pitman Country Club. Glickman invited William Gravino, an attorney of Woodbury, New Jersey, to go along, Glickman told the agents the reason for this was that he did not know Doughty well enough to ask him to make the approach, but that he felt that having Gravino along would make Doughty more susceptible. Gravino, Parzow and Doughty met at the Pitman Country Club about 9 p. m. that night. After usual introductions they went outside whereupon

Parzow related to Doughty the same story about the alleged persecution. He took from his pocket $1,200 in cash which he displayed, and told Doughty that there was money in it from him. Doughty refused the money and said he would not go to the juror, but would go to the juror's brother, Joseph Campbell. The four men then left in two automobiles and went to the home of Joseph Campbell in Pitman, but he wasn't home. They then drove to Glassboro to see if Joe was with the juror. Joe wasn't there so Doughty and Gravino drove up to the gas station and bought $1 worth of gasoline. This was an excuse to engage juror Campbell in a conversation about the trial. Doughty stated that he asked Campbell how the case looked and he said he would not know how it looked until it was all over. Doughty then related to Campbell an experience of his own when he had served on a jury in which a jury was discharged because they had been unable to agree. Doughty admitted that he told this story to Campbell in an effort to influence him by showing how easy it was to get a jury to disagree. Doughty told the Government that when Parzow first spoke to him at the Country Club he said he would be satisfied if they could "merely hang the jury". Doughty said he refused to go to Campbell for that purpose but ultimately went to juror Campbell and did endeavor to influence him contrary to his own original intentions.

Gravino and Doughty left the gasoline station and met Parzow and Glickman in the other automobile. After reporting to Parzow the latter stated that it was too bad that a poor man like Campbell would pass up an opportunity to get some money. Some time during the evening Parzow told the group that his mother-in-law had attempted to reach juror Chew. Doughty told the Government that they also discussed the name of juror Eugene Temple, but nothing was done about that. After this group broke up Glickman and Parzow returned to Gravino's home where they played cards.

The next morning (May 8 according to Parzow) Doughty drove over to Joe Campbell's house at 7 a. m. and asked him what his brother's attitude was with regard to the case. Doughty stated that he told Joe Campbell that he had been asked to approach his brother for the purpose of influencing his vote, but that he was not going to do so. Joe Campbell replied that his brother would be fair as he had always been, and that it would not do any good to try to approach him. This was reported to Glickman who called Parzow at the Walt Whitman Hotel.

Approach to Juror Everett Gardiner

While Parzow was busy trying to reach jurors Campbell and Chew, Friedman tried to contact juror Everett Gardiner of Hammonton, New Jersey. Friedman went to Louis Kessel, a Deputy Sheriff of Atlantic City, who introduced him to Joseph Testa, a turnkey in the Mays Landing Jail. Kessel asked Testa if he knew Gardiner but Testa did not. After asking Testa on two occasions whether he knew Gardiner Kessel asked him if he knew anyone who knew Gardiner. Testa said that Elmer J. Craig might know him. At Kessel's request Testa telephoned to Craig at Hammonton and had Craig come to Mays Landing. At this point the statements of Craig and Testa are in direct conflict. Craig told the Government that he arrived at the Mays Landing Jail at 9:30 p. m. (probably May 6). He stated that Testa asked him if he would do him a favor by going to Everett Gardiner who was on the jury, and ask him to give Friedman a break. Craig had been employed occasionally at the Mays Landing Courthouse and stated that Testa promised to try to get him steady employment if he would do this favor for Friedman. Craig said that there were two individuals whose identity he did not know, wearing dark glasses and having their hats pulled down, sitting nearby apparently listening to the conversations. At the conclusion of the conversation, according to Craig, these two individuals left. Testa made a statement to the Government in which he claimed that when Craig came to the Mays Landing Jail he introduced him to Kessel and Kessel in turn introduced Craig to Friedman. Testa claimed that all of the conversations about approaching juror Gardiner was between Kessel, Friedman and Craig, and that he was merely the go-between.

Juror Gardiner stated that Craig approached him first on the morning of May 7 as he was about to take a train for Camden. Craig was sitting in an automobile and called Gardiner over to him. The substance of the conversation was that Craig offered him $300 to try to get the jury to disagree. The conversation lasted only a few minutes and Gardiner refused the offer. The following morning, May 8, Craig was again waiting at the railroad station and called Gardiner over. He asked Gardiner if he had thought it over and what he had decided. Gardiner said that he would not think of it, and that then Craig offered him $500 "if you will go along with me". Gardiner said that he did not want any money and quoted Criag as saying "Well, I thought you could use the money and it would be a good chance for you".

All of the ten defendants who had confessed to the agents pleaded guilty, so the only ones who went to trial were Ritchie and Brecker, and they were convicted on November 17, 1941. Nine of the defendants were sent to jail, the sentences ranging from fifteen months for Friedman down to three months for some of the lesser offenders. It was unfortunate that Mrs. Grant, a grandmother, should have to be stigmatized by a conviction for a felony which she had been induced to commit by her own son-in-law. However, she, Doughty and Sturges received suspended sentences.

When the jury tampering conspiracy indictment was filed, the Government also procured an indictment against Ray Born for perjury. Even though Johnson had been convicted, it did not seem right that Born should go unpunished when his perjury had prevented the Government from putting in evidence of additional income at the trial. However, Judge Avis did not agree with the Government's views on punishment and sentenced Born simply to pay a fine of $500 on November 7, 1941.

Personnel Data

Many details have necessarily been omitted from this review of the four and one-half year investigation. The work of some persons who have contributed long hours of labor has not been mentioned, but should not pass unnoticed. For example, the tremendous amount of secretarial work entailed by the investigation, and the fact that this burden was alternately shared by Miss Nolan and Miss Geyer almost exclusively had not been commented on. Helen Nolan, now Mrs. Edward J. Rosa, stenographer, Intelligence Unit, New York Division, joined the investigation in May 1937 and remained until the first phase was completed in December 1938. She attended to the secretarial needs of three special agents and three revenue agents, recorded innumerable official statements and prepared all the reports pertaining to the investigation. Thereafter, she was recalled during the trials and was a witness in several of them. She was also recalled for the Johnson trial and participated in the work in preparation and during its progress.

Mary Helen Geyer, stenographer, Tax Division, Department of Justice, Washington, D. C., joined the investigation in June 1939, shortly after Joseph W. Burns was assigned as special prosecutor. While her work was connected

principally with the legal phases of the investigation, such as indictments, trial briefs, appeal briefs, etc., the fact that the investigation was a joint one required her to take care of the stenographic work of the Treasury agents as well. She recorded innumerable statements, both for Attorney Burns and for the agents. When the staff worked day and night, she did also.

As previously stated, when the investigation began in November 1936, Special Agents Frank, Hill and Marshall worked undercover for several months and then came out into the open to begin direct investigation. As the investigation was concerned with rackets in the criminal underworld, the continuation of these undercover activities from time to time was necessary. The Alcohol Tax Unit assigned Special Investigators William A. Gould of Bangor, Maine, and Wilson H. Sullivan of Detroit, Michigan, who worked undercover in Atlantic City for over a year during 1937 and 1938. After those agents had left, additional undercover work was performed by Secret Service Operative Paul Paterni of New York, and Special Agent Michael F. Malone, Intelligence Unit, St. Paul, Minnesota. This occurred late in the year 1939 and both agents were required to live among underworld characters to obtain information. Since many of the defendants were colored, a colored Special Investigator, Emerson D. Fuller, Detroit, Michigan, Alcohol Tax Unit, was also assigned and operated undercover in the colored section of Atlantic City.

This report has indicated the work that the Treasury agents did in assisting government counsel in the preparation and trial of the many criminal cases that resulted from the investigation and also brought out that Special Agent Frank assisted in the Grand Jury proceedings as a Special Assistant to the United States Attorney; however, it should be noted that Attorney Burns, in addition to his many legal duties, actually participated in the investigational activities of the inquiry, worked with the special agents and revenue agents on purely investigational phases of the work and personally had secret "midnight meetings" with a particular individual who aided the government by furnishing much valuable information.

The amount of legal work involved in the last two years of the investigation should also be commented on. There was a total of 66 criminal proceedings (48 indictments and 18 contempt of court citations). These proceedings involved 21 actual trials and 12 contempt of court hearings. In addition, there were innumerable hearings on motions for bills of particulars, motions for new trials, for reduction of bail, and on motions to quash indictments. While this court work was in progress, there were also 33 grand jury sessions held and a total of 249 witnesses were interrogated before the various grand juries.

There also was a great deal of appellate court work. Nine cases arising from the Atlantic City investigation were appealed to the United States Circuit Court of Appeals, Third Circuit; in three cases the convictions were affirmed, two appeals were withdrawn, one conviction was reversed and a new trial ordered (which resulted in a conviction for the second time). Attorney Burns was chief Government counsel in all the trials (except the Worth case which, as previously mentioned, was tried by Attorney Crouter), in the hearings and grand jury proceedings, and he also prepared the briefs and argued all appeals before the United States Circuit Court. Four of the convictions, after affirmance by the Circuit Court, were appealed by the defendants to the United States Supreme Court, but in each case certiorari was denied. Motions to quash two indictments, which Judge Avis decided adversely to the Government, were appealed to the United States Supreme Court and that court reversed the judge and reinstated the indictments (subsequently convictions were obtained in both cases). Attorney Burns prepared the data used in these appeals to the Supreme Court as well as in the cases where certiorari was denied.

The question of morale is of basic importance in any investigation as long and difficult as the one which the staff had undertaken and carried through in Atlantic City. At various times during the investigation difficulties and set-backs were, of course, encountered which at the time seemed insurmountable. However, the staff was encouraged and sustained by the confidence in the ultimate success of their efforts shown by various groups in Atlantic City and by the grand jury, which at one time gave them a vote of confidence. It was common knowledge that Johnson received the graft payments, and the staff was determined that evidence of this should not be kept from the court by the

efforts of a group of wilful racketeers. Moreover, the staff received the whole-hearted support of the Chief of the Intelligence Unit, Mr. Irey, and of Assistant Attorney General Clark. It went even further; the Secretary of the Treasury, Mr. Morgenthau, and Attorneys General Murphy and Jackson and Acting Attorney General Biddle all closely followed the course of the investigation and fully backed the efforts of the staff to bring it to a successful conclusion.

During the course of the investigation the Treasury Agents made examinations of the income tax liability of 81 individuals, 18 partnerships and 8 corporations, a total of 107 separate examinations covering 279 tax years. These examinations included eight houses of prostitution, twenty-two horse race betting rooms, ten numbers banks, five night clubs, one bingo game, six contractors and fifteen public officials. Of the 279 tax years examined, the agents set up additional net income for 175 tax years, amounting to $3,407,270.78, against a total previously reported of only $531,590.16. The taxpayers involved originally paid only $25,099.65 in taxes. To date the agents have recommended for assessment additional taxes of $663,502.16, and penalties of $267,839.62, making total additional taxes and penalties in the sum of $931,341.78, and further recommendations are anticipated.

With the tracing of the graft payments to Johnson and his conviction and imprisonment, the object of the investigation was accomplished, but its effects have been far-reaching. The presence of the agents in Atlantic City and the fact that an investigation was being made became generally known in 1937 and produced an effect that was apparent in the office of the Collector of Internal Revenue, Camden, New Jersey, when income tax returns for the later years were examined. The racketeers filed returns reporting net income greatly in excess of amounts reported in previous years. More returns were filed and larger income reported than ever before in Atlantic County.

That the conviction of Johnson has made an indelible impression on the citizens of New Jersey and particularly Atlantic County is obvious from newspaper editorials and the comments of civic organizations. While most citizens have always recognized that the government is more powerful than any individual or group of individuals, this fact was apparently not accepted by Johnson, his henchmen, or the Atlantic City underworld. They know differently now. The persistence of the government staff has left a feeling of respect, and a favorable impression, in the minds of the taxpayers of the district. The authority and efficiency of the Treasury Department and of the Department of Justice will not be questioned in South Jersey for some years to come.

The disclosures by the investigation of jury tampering and the extent to which it was attempted have been a revelation to the Court. The weaknesses of the system in the manner of selecting jurors have been disclosed and presumably will be corrected. The absolute necessity of checking juries is now apparent to the United States Attorney for the New Jersey District and his assistants. The District and Circuit Court Judges have indicated their concern and instructions to recent juries have been far more emphatic than previously. No better illustration could be found than a recent Newark case involving the sheriff of Sussex County, New Jersey, on charges of operating an unregistered still. The case was to go to the jury on August 18 and when the jury was dismissed on August 15, Judge Herbert F. Goodrich, United States Circuit Court, Third Circuit, Philadelphia, who tried the case, said: "My telephone is listed in the Philadelphia directory and if anybody attempts to discuss this case with you over the weekend, I want you to reach me by phone immediately".

The principal effect of the investigation cannot be described in better terms than the words of the Secretary of the Treasury:

> " * * * The culmination of the Johnson case in a period of heavy armament expenditures, will, * * * cause the public generally to regard even more seriously than they have heretofore the offense of the individual who attempts to evade payment of his full share

of the cost of government. It is for that reason that * * * the successful prosecution of the charges in this indictment is an important contribution to national unity and good government. We have no time today for shirkers, and good citizens are likely to have little patience with those who want to share the privilege of citizenship without meeting the responsibilities that go with that privilege."

APPENDIX

Statistical Record of Cases

February, 1942.

Indictments for	Obtained	Disposed of	Remaining
Income Tax	22	21	1
Tax conspiracy	2	1	1
Perjury	14	13	1
Conspiracy to obstruct justice	2	2	
Jury tampering	8	8	
Total	48	45	3

Results of Indictments	Cases
Convictions	41
Acquittals	4

CONVICTIONS ON INDICTMENTS

INCOME TAX:

Contractors:

1. Charles L. Bader - three months, $1,000 fine.
2. Edward S. Graham - suspended sentence.
3. Morrell B. Tomlin - $3,500 fine and costs, plus probation.
4. John B. Tomlin - $2,500 fine and costs, plus probation.

Numbers Racket:

5. Austin Clark - 3 years, $2,000 fine and costs.
6. Herndon Daniels - one year and one day.
7. Joseph Friedman - ten years, $20,000 fine and costs.
8. Anthony L. Macrie - six months, $1,000 fine and costs.
9. John F. Malia - 15 months, $1,000 fine.
10. Martin Michael - one year and one day, $1,000 fine and costs.
11. Benjamin Ravnisky - nine months, $500 fine and costs.
12. Benjamin Rubenstein - 2½ years, $1,500 fine and costs.
13. Harold Scheper - four months, $500 fine.
14. James F. Towhey - nine months, $1,000 fine and costs.
15. Isaac Washington - four months, $500 fine and costs.
16. William Wolfson - six months, $300 fine and costs.

Horse Race Betting Rooms:

17. David Fischer - four months, $500 fine and costs.
18. William Kanowitz - four months, $500 fine and costs.

Vice Racket:

19. Raymond R. Born - one year and one day, $1,000 fine plus costs.

Politician:

20. Enoch L. Johnson - ten years, $20,000 fine plus costs.

TAX CONSPIRACY

Contractors:

1. Charles Bader - suspended sentence.
2. Edward S. Graham - suspended sentence.
3. James Donahue - suspended sentence.

PERJURY

Numbers Racket:

1. Austin Clark - suspended sentence.
   Benjamin Rubenstein - 2½ years.
2. Martin Michael - 3 years, $1,000 fine.
3. Benjamin Ravnisky - suspended sentence.
4. James F. Towhey - suspended sentence.
5. Ralph Weloff - suspended sentence.
6. Leroy Williams - one year and one day.

Horse Race Betting Rooms:

7. Joseph Camarota - 15 months, $500 fine.

Vice Racket:

8. Raymond R. Born - $500 fine, plus probation.
9. May Harris - suspended sentence.
10. Marie Kenny - suspended sentence.
11. James J. McCullough - one year and one day, $100 fine.

JURY TAMPERING

1. Martin Michael - one year, $1,000 fine.

2. Isador S. Worth - $500 fine.

3. W. Abe Parzow - nine months.
Joseph Friedman - fifteen months.
Bernard Marion - five months.
Elmer J. Craig - three months.
Joseph Testa - three months.
William G. Lodge - three months.
Max Glickman - six months.
Charles Brecker - eight months.
Thomas J. Ritchie - six months.
Salina A. Grant - suspended sentence.
Russell Sturges - $500 fine.
Sylvanus Doughty - $500 fine.

4. Elmer J. Craig
Joseph Testa
Joseph Friedman
) In cases 4 to 8 inclusive, all defendants were placed on probation, after serving sentences imposed in case 3.

5. Max Glickman
Charles Brecker
Thomas J. Ritchie
William G. Lodge
W. Abe Parzow
Joseph Friedman
W. Russell Sturges

6. Charles Brecker
Thomas J. Ritchie
Max Glickman
W. Abe Parzow
Joseph Friedman
Sylvanus Doughty

7. Salina A. Grant
W. Abe Parzow

8. Bernard Marion
Joseph Friedman

CONSPIRACY TO OBSTRUCT JUSTICE

1. Herbert R. Short - three years.
   Michael Aluise - suspended sentence.
   Benjamin M. Perlstein - one year and one day.
   Harry Paul - one year and one day.

ACQUITTED ON INDICTMENTS

INCOME TAX

Numbers Racket

1. Leroy B. Williams

PERJURY

Horse Race Betting Rooms

1. John R. Hill
2. Frank Molinara

CONSPIRACY TO OBSTRUCT JUSTICE

Numbers Syndicate (14 defendants)

The number of defendants in each indictment ranged from one to fourteen. Some of the individuals who were acquitted on one indictment were convicted or pleaded guilty to other indictments. A total of 43 individuals were convicted or pleaded guilty to one or more separate indictments.

In every case where sentences were suspended, except one (Michael Aluise), the defendants had assisted the Government.

The largest total jail sentences imposed were:

Joseph "Zendel" Friedman - 11 years and 3 months.
Enoch L. "Nucky" Johnson - ten years.
Martin Michael, alias Jack Southern - 5 years, 2 days.
Benjamin Rubenstein - 5 years.
Austin Clark - 3 years.

CONTEMPT OF COURT CITATIONS

For Refusal to Answer before Grand Jury	7
For False and Evasive Answers before Grand Jury	5
For Jury Tampering	6
	18

Convictions	4
Acquittals	7
Citations dismissed because witnesses purged themselves	2
Citations dismissed for lack of jurisdiction	2
Citations dismissed at request of U. S. Attorney	3
	18

Convictions

1. Samuel Camarota - 6 months
2. Agnes Stein - 2 months
3. Joseph Fuhrman - 5 months
4. Joseph E. Mears - $1,000 fine

Acquittals

1. Bernard Marion
2. Joseph Camarota
3. Frank Molinara
4. James J. McCullough
5. Benjamin Rubenstein
6. Karl Kisselman
7. L. Scott Cherchesky

Dismissed, witnesses purged themselves

1. William Kanowitz
2. David Fischer

Dismissed, lack of jurisdiction

1. Isador S. Worth
2. Martin Michael

Dismissed, request of U. S. Attorney

1. Benjamin Ravnisky
2. William Wolfson
3. James F. Towhey