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Writ of Error.

(Filed December 14, 1945.)

STATE OF NEW JERSEY, ss.

THE STATE OF NEW JERSEY, to THE CHIEF JUSTICE AND OTHER JUSTICES OF THE SUPREME COURT OF JUDICATURE OF THE STATE OF NEW JERSEY —GREETING:

(L. S.)

Because in the record and proceedings, and also in the rendition of judgment in our Supreme Court of Judicature before you, between the State of New Jersey, defendant in error, and Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, plaintiffs-in-error, affirming a judgment entered in the Court of Quarter Sessions in and for the County of Hudson, on conviction of the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis upon a certain indictment for making and taking what is commonly known as a book upon the running of horses, mares and geldings, as it is said, manifest error has intervened, to the great damage of the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, as from their complaint we have received information, we are willing, in this behalf, to correct the error, if any there shall be, in due manner. Therefore, that full and speedy justice be done to them, the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, we command you, if judgment be therein given, that you distinctly and openly send, under your seal, the record and proceedings aforesaid, with

all things touching and concerning the same, to the Judges of our Court of Errors and Appeals in the last resort in all causes, on the 2nd day of January next, together with this writ, that the record and proceedings aforesaid being inspected, we may cause further to be done therein, to correct that error, what of right, and according to the laws and customs of New Jersey, should be done.

WITNESS, HON. LUTHER A. CAMPBELL our Chancellor and President Judge of the Court of Errors and Appeals in the last resort in all causes, at Trenton, the 14th day of December, in the year of our Lord, one thousand nine hundred and forty-five.

JOSEPH A. BROPHY,
Joseph A. Brophy,
Clerk.

FREDERIC M. P. PEARSE,
JULIUS LICHTENSTEIN,
Attorneys for Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, Plaintiffs-in-Error.

Return to Writ of Error.

(Filed December 19, 1945.)

The answer of the Justices of the Supreme Court of the State of New Jersey within named. The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify to the Court of Errors and Appeals of said State in a certain schedule to this writ annexed, as within we are commanded.

THOMAS J. BROGAN,
Chief Justice.

Rule of Affirmance and Order of Remitttitur.

(Filed December 10, 1945.)

NEW JERSEY SUPREME COURT.

OCTOBER TERM—1945.

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Error to Hudson Quarter Sessions. Rule of Affirmance and Order of Remittitur.

This cause having been duly argued at the October Term, A. D. one thousand nine hundred and forty-five of this Court by Julius Lichtenstein and Frederic M. P. Pearse, Esqs., of counsel for the plaintiffs-in-error, and Walter D. Van Riper, Attorney General of the State of New Jersey and Acting Prosecutor of the Pleas of the County of Hudson, and James R. Giuliano, Deputy Attorney General and Acting Assistant Prosecutor of the Pleas of the County of Hudson, of counsel for the defendant-in-error, and the Court having considered the same, and finding no error in the record or proceedings in the Court of Quarter Sessions in and for the County of Hudson;

It is thereupon, on this 10th day of December, A. D. one thousand nine hundred and forty-five, ORDERED and ADJUDGED that the judgment of the

Rule of Affirmance and Order of Remittitur.

Court of Quarter Sessions in and for the County of Hudson, removed by writ of error in this cause, be affirmed with costs; and that the record be remitted to the Court of Quarter Sessions in and for the County of Hudson to be proceeded with in accordance with this judgment and the practice of said Court.

Entered Dec. 10, 1945

On motion of

WALTER D. VAN RIPER, (Sgd.)
Walter D. Van Riper,
Attorney General of the State of New Jersey and Acting Prosecutor of the Pleas of the County of Hudson, Attorney for Defendant-in-Error.

Opinion of Supreme Court.

(Filed December 6, 1945.)

NEW JERSEY SUPREME COURT.

No. 7. October Term, 1945.

State of New Jersey, Defendant-in-Error, *vs.* Frank Morano and Six Others, Plaintiffs-in-Error.	Error to Hudson Quarter Sessions. Before Brogan, Chief Justice, and Justices Parker and Oliphant.

Submitted at October Term, 1945: Decided

1. The word "bookmaking" normally connotes the making of a betting book.
2. An indictment charging that defendants did, at a named place in this State, "make and take what is commonly known as a book, upon the running of horses, mares and geldings" correctly charged the violation of our statute in that regard.
3. The place of commission of the crime is not where the "running" is done, but where the "book" is made.

For the plaintiffs-in-error, Frederic M. P. Pearse and Julius Lichtenstein.

For the State, Walter D. Van Riper, Attorney General, and James R. Giuliano and William P. Gannon, Deputy Attorneys General.

The opinion of the court was delivered by Parker, *J.*

The plaintiffs-in-error, seven in number, were convicted of a violation of the statute now to be

cited as R. S. 2:135-3, dating from 1894 (P. L. p. 155) and re-enacted with additions in the Crimes Act of 1898 (P. L. at p. 812) as Section 65. The present writ of error brings up that conviction.

The general story of the case is that a detail of State police raided a house in Hoboken, entered an upper room equipped with telegraphic and other appliances which were being operated by the defendants in connection with horseracing in progress elsewhere, arrested them and seized their various paraphernalia. Indictment and trial followed, the defendants offered no evidence and were convicted and sentenced. The present writ of error goes to that conviction.

The case is submitted on briefs without oral argument. There are six main heads in the brief, but as we view the matter they need not be treated *seriatim;* for with the exception of one or two matters of detail, the general discussion covers them all. The fundamental proposition of plaintiffs-in-error attacks the validity of the indictment, and several grounds are stated, viz: that (1) it fails generally to charge a crime; (2) that it fails to charge a crime under the statute; (3) fails to charge where the horseracing took place; and (4) generally fails to set out facts constituting violation of the statute with sufficient clearness.

1., 2. The indictment follows the language of the statute, and concludes by invoking it in the usual manner. 3. The main ground of attack seems to be the failure to charge where the horseracing took place; but the obvious and complete answer is that that is immaterial. It is not the racing of horses that the statute denounces, but it is the "making of a book" on such racing. The

charge is that defendants "made a book" in the City of Hoboken, on the result of races run or to be run elsewhere.

4. Failure to state the facts with sufficient clearness. The indictment follows the language of the statute, properly substituting "and" for "or", (the statute says "make *or* take"; the indictment says "make and take"), which is the proper and usual pleading in a criminal case.

It is argued that there was no evidence in definition of the words "making a book" or "bookmaking". No such evidence was required. We find the word adequately defined in the Webster International, ("specifically, the making of a betting book"). Certain New York cases are cited; but it is properly pointed out that the New York statute and code are different from ours. Our statute says (2:135-3) "or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this State, of any horse, mare or gelding" etc. The statutory language, not here quoted in full, is comprehensive; and as already pointed out, is faithfully followed in the indictment. The statute itself dates from 1898, and is in line with the amendment of paragraph 2, Section VII of Article IV of the constitution proposed by the legislature in May, 1897 (P. L. 1897 at p. 462) adopted at a special election September 28, 1897, and proclaimed by the governor October 26, 1897 (P. L. 1898 at p. 973). The language of that amendment reads in part "nor shall pool-selling, *bookmaking* or gambling of any kind be authorized or allowed within this State, nor shall any gambling device, practice or game of chance now prohibited by law be legalized, or the remedy, penalty, or punishment now provided therefor be in any way di-

minished." Applying the familiar maxim of "*noscitur a sociis*", the meaning of the word "bookmaking" seems clear, and requires no explanation or definition, or particulars in the language of the indictment. If defendants were entitled to particulars of the accusation, they could have applied to the court for a bill of particulars. *Bishop New Crim. Procedure,* Sec. 643; *State* v. *Hatfield,* 66 N. J. Law 443, affirmed, 66 Id. 350; *State* v. *Penn. R. R. Co.,* 84 Id. 550, 553. As regards the locality, within or without this State, where the "running of horses" etc. took place, that is clearly immaterial. The gist of the offense is bookmaking bets on such running, and it is the locality of the bookmaking that matters. If the horses ran in California, and the "bookmaking" took place in Hudson County, New Jersey, the statute was violated.

The foregoing considerations dispose, we think, of the challenges to (1) the admission of exhibits, (2) refusal to direct an acquittal, or (3) refusal to arrest the judgment. As to the charge, we consider that it was lucid and accurate. The brief asserts in general terms that there was error in refusing some eight requests to charge none of which is specifically treated or even reproduced in the brief; and, as already noted, there was no oral argument. It is elementary that a reviewing court is not required to search for error not pointed out at the argument or in the brief; *A. Makray, Inc.* v. *McCullough,* 103 N. J. Law 346; and the absence of any such specification may well justify the inference that counsel themselves discern no error.

Point IV in the brief relates to an individual defendant named Lewis, who was not present at the time of the raid. Lewis was shown to be, and

admitted that he was, in substance a permanent resident of the house on the fourth floor of which was the room containing many telephone and other appliances used in the "bookmaking" business, and that beside his bed in a second floor room was a table holding a telephone directly connected with the so-called "wire room", and in the "wire room" were found documents with his name therein. While it may be claimed that the evidence tending to connect him with the "bookmaking" was somewhat scanty, there was enough to require the submission thereof to the jury.

The fifth point, claiming error in the court's refusal to direct an acquittal of all the defendants, seems to be frivolous. There was proper proof that all, substantially in concert, were engaged in this illegal business. That was enough to bar a directed acquittal.

Lastly, there is a general claim of error in the receipt of testimony and admission of exhibits, amounting as claimed, to "manifest wrong and injury", in the language of the statute. Our examination fails to satisfy us of the commission of any such error.

The judgment of the Sessions under review is affirmed.

Assignment of Error.

(Filed December 28, 1945.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Writ of Error to the Supreme Court. Assignment of Error.

Afterwards, and within thirty days after the return of the writ of error issued in this cause, before the Judges of the Court of Errors and Appeals in the last resort in all causes of the State of New Jersey, come the said Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, plaintiffs-in-error, by Julius Lichtenstein and Frederic M. P. Pearse, their attorneys, and say there is manifest error in this, that the Supreme Court of Judicature of the State of New Jersey erred in affirming, instead of reversing, the judgment of the Court of Quarter Sessions in and for the County of Hudson.

Plaintiffs-in-error pray that the judgment of conviction may be reversed, set aside and held for nothing for the aforesaid reason.

JULIUS LICHTENSTEIN,
Julius Lichtenstein,

FREDERIC M. P. PEARSE,
Frederic M. P. Pearse,
Attorneys for and of Counsel with Plaintiffs-in-Error.

Joinder in Error.

Service of the within Assignment of Error is hereby acknowledged this 26th day of December, 1945.

WALTER D. VAN RIPER by W. P. G.,
Walter D. Van Riper,
Attorney General of New Jersey
and Acting Prosecutor of the Pleas
of the County of Hudson.

Joinder in Error.

(Filed December 31, 1945.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Writ of Error to the Supreme Court. Joinder in Error.

Thereupon the State of New Jersey, defendant-in-error, by Walter D. Van Riper, Attorney General of the State of New Jersey and Acting Prosecutor of the Pleas in and for the County of Hudson, its attorney, comes into court and says, that there is no error either in the record of proceedings aforesaid or in the giving of the judgment aforesaid. The State of New Jersey prays that

this court may examine the said record and proceedings, the matters assigned for error, and the judgment aforesaid, and that such judgment so given may be affirmed in all things.

WALTER D. VAN RIPER,
Walter D. Van Riper,
Attorney General of the State of New Jersey and Acting Prosecutor of the Pleas in and for the County of Hudson.

Service of the within Assignment of Error is hereby acknowledged this 27th day of December, 1945.

F. M. P. P.,
Frederic M. P. Pearse,
Attorney for and of Counsel with Plaintiffs-in-Error.

Writ of Error.

(Filed November 6th, 1944.)

STATE OF NEW JERSEY, ss.:

THE STATE OF NEW JERSEY, to HON. HORACE K. ROBERSON, Judge of the Court of Quarter Sessions in and for the County of Hudson—GREETING:

(Seal)

Because in the record and proceedings as also in the rendition of judgment on a certain indictment for making and taking what is commonly known as a book against Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, late of the City of Hoboken, in the County of Hudson and State of New Jersey, said indictment charging that the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis willfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, pro ut the First Count of the said indictment whereof, before you, the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis have been indicted and convicted by a certain jury of the County, taken between the State of New Jersey and the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, as it is said, manifest error has intervened, to the great damage of the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, as from their complaint we have received informa-

tion, we are willing, in this behalf, to correct the error, if any there shall be, in due manner. Therefore, that full and speedy justice be done to them, the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, we command you, if judgment be therein given, that you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching and concerning the same, including the entire record of the proceedings had upon the trial, to the Justices of our Supreme Court, on the 25th day of November, 1944, next, together with this Writ, that the record and proceedings aforesaid being inspected, we may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the State of New Jersey, should be done.

WITNESS, HON. THOMAS J. BROGAN, Chief Justice of the New Jersey Supreme Court of Judicature, at Trenton, this 6th day of November, in the year of our Lord, One Thousand Nine Hundred and Forty-four.

JAMES J. GARVIN,
Clerk.

FREDERIC M. P. PEARSE,
JULIUS LICHTENSTEIN,
Attorneys for Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis. Plaintiffs-in-Error.

Writ served in open court this 6th day of November, A. D. One Thousand Nine Hundred and Forty-four.

HORACE K. ROBERSON,
Judge of the Court of Quarter Sessions in and for the County of Hudson.

Return to Writ of Error.

(Filed December 12th, 1944.)

The answer of Horace K. Roberson, Esquire, Judge of the Court of Common Pleas, constituting the Court of Quarter Sessions holden in and for the County of Hudson, and William H. Gilfert. Clerk of said Court, and within named; the record and proceedings of the plaint whereof mention is within made, with all things touching and concerning the same, including the entire record of the proceedings had upon the trial, I send to the Justices of our Supreme Court of Judicature, at Trenton, N. J. at the day and year within contained as extended by our said Supreme Court in the schedule to this writ annexed, as within I am commanded.

HORACE K. ROBERSON,
Judge of the Court of Quarter Sessions in and for the County of Hudson.

Attest:

WILLIAM H. GILFERT,
Clerk.

(Seal)

Minutes.

STATE OF NEW JERSEY, HUDSON COUNTY, to wit: Be it remembered, that at a Court of Oyer and Terminer holden at Jersey City, in and for the said County of Hudson, on the First Tuesday of April in the year of our Lord one thousand nine hundred and Forty-four before Honorable Thomas J. Brogan, Chief Justice, one of the Justices of the Supreme Court of Judicature of the State of

New Jersey, and Honorable Paul J. Duffy, Honorable Horace K. Roberson, Honorable August Ziegner, Judges of the Court of Common Pleas in and for the said County of Hudson, according to the form of the Statute in such case made and provided, by the oaths of

1	George E. McMunn,		Foreman and
2	John E. Cassidy	13	Wallace J. Luke
3	Harry Cohn	14	Vincent P. O'Brien
4	Leo V. Connelly	15	Arthur F. O'Neill
5	Harold E. Dally	16	Frederick Ruff
6	William S. Dite	17	George J. Scheurle
7	Thomas P. Faccone	18	Vincent Telkowski
8	Julius Feingold	19	James W. Walsh
9	Joseph Imbelloni	20	Anthony Wojtanowski
10	William J. Kiely	21	Louis Zimmerman
11	Peter Koelsch	22	Cornelius J. Murphy
12	Mae W. Kramer	23	Mary I. Butler

good and lawful men and women of said County, duly empanelled, sworn and charged to inquire for the State in and for the body of the said County of Hudson, it is presented in manner and form following, that is to say, that the Bills following are true Bills.

GEORGE E. MCMUNN,
Foreman.

And the foregoing being presented to the said Court on the Twenty-second day of August, in the year of our Lord One Thousand Nine Hundred and Forty-four, with Bills of Indictment Nos. 191 to 199 inclusive, it is ordered by said Court that the said Bill of Indictment so as aforesaid included as Bill Number 197 for Bookmaking, as charged upon Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, James A. Lewis, Salvatore Urso, Anthony Montelione, and

Nicholas Basso, be handed to the Court of Quarter Sessions for trial and disposal according to law, and said Bill is in words as follows:

Indictment.

(Presented August 22nd, 1944.)

HUDSON OYER AND TERMINER.

APRIL TERM, A. D. 1944.

HUDSON COUNTY, to wit: The Grand Inquest of the State of New Jersey, in and for the body of the County of Hudson, upon their respective oath, PRESENT, That Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, and James A. Lewis, late of the City of Hoboken in the said County of Hudson, on the ninth day of June in the year of Our Lord one thousand nine hundred and forty-four with force and arms, at the City of Hoboken aforesaid, in the County aforesaid, and within the jurisdiction of this Court, willfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

SECOND COUNT.

And the Grand Inquest aforesaid, upon their oath aforesaid, do further PRESENT that the said Salvatore Urso, Anthony Montelione, and Nicholas Basso, on the ninth day of June in the year of our Lord one thousand nine hundred and forty-four, at the City of Hoboken aforesaid, in

the County of Hudson aforesaid, and within the jurisdiction of this Court, unlawfully did aid, abet and assist the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, and James A. Lewis, to make and take what is commonly known as a book, upon the running of horses, mares and geldings, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

WALTER D. VAN RIPER,
Acting Prosecutor of the Pleas
and Attorney General.

Endorsed Bill No. 197 Hudson Oyer and Terminer, Term of April, 1944. The State *vs.* Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, James A. Lewis, Salvatore Urso, Anthony Montelione, Nicholas Basso.

WALTER D. VAN RIPER,
Acting Prosecutor of Pleas, and
Attorney General.

A TRUE BILL.

GEORGE E. McMUNN,
Foreman.

PRESENTED Aug. 22, 1944, and handed down to the Court of Quarter Sessions.

WILLIAM H. GILFERT,
Clerk.

Minutes and Judgment.

(Judgment entered November 6th, 1944.)

And afterwards to wit: to wit on the Thirtieth day of August in the year of our Lord One thousand nine hundred and forty-four, at a Session of the Court of Quarter Sessions of the County of Hudson, aforesaid being now of the Term of April, One thousand nine hundred and forty-four, in and for said year, before the Honorable Paul J. Duffy, Judge of the Court of Common Pleas in and for the said County of Hudson, who doth constitute and hold the Court of Quarter Sessions, in and for the County of Hudson, here cometh the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, James A. Lewis, Salvatore Urso, Anthony Montelione, and Nicholas Basso, under the custody of their bondsman in whose custody they had before been committed for the cause aforesaid, who being brought herein in their proper person by the bail aforesaid, to whom they had been committed and having heard the indictment read and forthwith being demanded of and concerning the premises in the said indictment above specified and charged upon them, how they will acquit themselves thereof, they say they are not guilty thereof, and therefore for good and evil they put themselves upon the country, and Walter D. Van Riper Acting Prosecutor of the Pleas of said County who prosecutes for the State of New Jersey, in this behalf, doth the like.

On the 23rd day of October, 1944, all defendants and their counsel being present in Court, all defendants retract their pleas of Not Guilty and counsel for all defendants make a motion to quash this indictment and the Court reserves decision on the motion and pending Court's decision on the

motion, case is set down for trial for 10/30/44, and defendants are continued on bail pending decision on motion to quash indictment. Written Notice of Motion to quash indictment filed with indictment.

October 24, 1944, Court denies motion of defense counsel to quash this indictment. Judge Roberson's Memorandum filed with indictment.

October 30, 1944. Defendants, Urso, Montelione and Basso being charged they plead Not Guilty and on motion of Asst. Prosecutor, Giuliano, the Court grants a severance of trial to these three (3) defendants and they are continued on bail for trial.

October 30, 1944, defendants, Frank Marano, Mullins, Halpin, Marnell, Walter A. Lewis, Eugene V. Lewis, and James A. Lewis, being charged, all seven (7) Plead Not Guilty.

Therefore, let said indictment be continued until October 30th, 1944, and let a jury come before the Honorable Horace K. Roberson, Judge of the Court of Common Pleas in and for the County of Hudson, constituting and holding the Court of Quarter Sessions for said County, being now of the Term of September, One thousand nine hundred and forty-four, of twelve good and lawful men and women of this State and residents in the County of Hudson, over the age of twenty-one years and under the age of sixty-five years, by whom the truth of the matter may be better known, and who are not of kin to the said defendants, to recognize on their oath whether the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, and James A. Lewis, be guilty of Bookmaking as in the indictment aforesaid is charged against them, or not guilty thereof, be-

cause as well the said Walter D. Van Riper, Acting Prosecutor of the Pleas of the County of Hudson, aforesaid, who prosecutes for the State of New Jersey in this behalf, as in the said indictment have put themselves upon the same jury, and the same day is given to the parties aforesaid at the same time and place.

At which time that is to say on the Thirtieth day of October, in the year of our Lord One Thousand Nine Hundred and Forty-four, at Jersey City aforesaid in the County of Hudson aforesaid, before the Honorable Horace K. Roberson, Judge as aforesaid constituting and holding the Court of Quarter Sessions as aforesaid, here come as well the said Walter D. Van Riper, Acting Prosecutor of the Pleas aforesaid, who prosecutes as aforesaid, as well the said defendants under the custody of their bails aforesaid, and who being brought to the bar in their proper persons by said bails and the jurors of the jury by the Sheriff of the County of Hudson aforesaid, for the purpose, chosen, empanelled and returned to wit: Clarence Coggins, Hans Ahlers, Nicholas Lusich, Victor Brignoli, Alma Bentsen, Edward S. McKernan, Daniel Hussey, Fred Eilers, Karl Ege, Mrs. Susan Barrett, Walter Helmlinger, Henry Kornfeld, being called, come, who being chosen, tried and sworn to speak the truth and concerning the premises, and thereupon the trial of the said issue commenced before the said Court and Jury at which days the evidence of the parties is submitted and the Attorneys were heard thereupon and the said issue after a Charge from the Court was submitted to the said Jury in charge of the said Officers of the Court, being duly sworn for that purpose, were taken to a private room to consider of their verdict, and afterwards

to wit, on November 3rd, 1944, the last aforesaid at the City of Jersey City aforesaid, the said jury returned to the Court in charge of said Officers, sworn as aforesaid to keep them in charge and then and there in the presence of the said Walter D. Van Riper, Esquire, Acting Prosecutor of the Pleas as aforesaid and for the said defendants do say that the said defendants are Guilty of Book-making.

Whereupon all and singular the premises being seen and by the Court here fully understood the sentence of the Law is and is by the Court here considered and adjudged, that the said defendants, Frank Marano, Walter Laurence Mullins, Frank X. J. Marnell, and Walter A. Lewis, be and is hereby sentenced to be confined in State Prison at hard labor, for a maximum term of Three (3) years and a minimum term of One (1) years and thence until the costs of prosecuton are paid; and defendant, Vincent Paul Halpin, for a maximum term of Three (3) years and a minimum term of One and One half (1½) years and thence until the costs of prosecution are paid; and defendants, Eugene V. Lewis and James A. Lewis, for a maximum term of Five (5) years and a minimum term of Three (3) years and thence until the costs of prosecution are paid.

Judgment entered and signed this 6th day of November, A. D. 1944.

HORACE K. ROBERSON,
Judge of the Court of Quarter Sessions, in and for the County of Hudson.

Attest:

Motion to Quash Indictment.

(Filed October 23rd, 1944.)

HUDSON COUNTY COURT OF
QUARTER SESSIONS.

THE STATE *vs.* FRANK MARANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS, JAMES A. LEWIS, SALVATORE URSO, ANTHONY MONTELIONE and NICHOLAS BASSO.	Indictment No. 197. April Term 1944. Notice of Motion to Quash Indictment.

To Walter D. Van Riper,
Acting Prosecutor of the Pleas,
in and for the County of Hudson,
and Attorney General.

Sir:

TAKE NOTICE, that on Monday, the 23rd day of October, 1944, at the hour of ten o'clock in the forenoon of such day, or as soon thereafter as counsel can be heard, we shall move before the Honorable Horace K. Roberson a Judge of the Court of Quarter Sessions in and for the County of Hudson, at the Court House in the City of Jersey City, that the indictment in the above-stated cause be quashed and dismissed, for the following reasons, or some one of such reasons:

Motion to Quash Indictment.

As to the First Count.

1. The indictment fails to charge the commission of any crime by the defendants.

2. The indictment fails to charge a crime under R. S. 2:135-3.

3. The indictment fails to allege a material element of the offense created by the statute under which the indictment was drawn, in that: the indictment charges that the defendants "wilfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, * * *". The statutory language, so far as pertinent, is "any person who shall * * * make or take what is commonly known as a book, upon the running * * * , either within or without this State, of any horse, mare or gelding * * * shall be guilty of a misdemeanor * * * ." The indictment is defective in failing to charge the place, either within or without this State, where the alleged running took place, and whether such place was within or without this State.

4. The indictment is void because it charges that the defendants "did make and take what is commonly known as a book, upon the running of horses, mares and geldings," without setting forth the necessary facts constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the parties accused of the offenses with which they stand charged.

As to the Second Count.

1. The indictment fails to charge the commission of any crime by the defendants.

2. The indictment fails to charge a crime under R. S. 2:135-3.

3. The indictment fails to allege a material element of the offense created by the statute under which the indictment was drawn, in that: the indictment charges that the defendants "unlawfully did aid, abet and assist the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, to make and take what is commonly known as a book, upon the running of horses, mares and geldings * * *". The statutory language, so far as pertinent to this motion, is "Any person who shall * * * make or take what is commonly known as a book, upon the running * * * either within or without this State, of any horse, mare or gelding * * * or any person who shall aid, abet or assist in any such acts, shall be guilty of a misdemeanor." The indictment is defective in failing to charge the place, either within or without this State, where the alleged running took place, and whether such place was within or without this State.

4. The indictment is void because it charges that the defendants did "aid, abet and assist" certain persons "to make and take what is commonly known as a book, upon the running of horses, mares and geldings * * *," without setting forth the necessary facts constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to appraise the parties accused of the offense with which they stand charged.

5. The Second Count fails, in and by itself, to charge a crime against the persons accused

therein, in that the accused are named as "the said Salvatore Urso, Anthony Montelione and Nicholas Basso," although their names do not previously appear in the said Count; and in that the person named in the Count as having been aided, abetted and assisted by the accused are described as "the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis," whereas, such persons' names do not previously appear in said Count.

6. The said Second Count is vague and uncertain, and the defendants are not sufficiently appraised of what the Grand Jury found, or intended to find.

AS TO THE ENTIRE INDICTMENT.

1. There is a misjoiner of offenses in the indictment.

2. There is a misjoiner of parties defendant to the indictment, none of the accused in the Second Count being accused in the First Count.

3. Each Count alleges a separate and distinct offense, the First Count being against one group of defendants, who are not accused in the Second Count, and the Second Count being against another separate group of defendants, who are not accused in the First Count; and, therefore, there is a misjoinder of offenses in the indictment.

4. There is a misjoinder of the defendants named in the Second Count with the defendants named in the First Count of the said indictment,

making said indictment invalid and preventing the defendants from joining issue on said indictment and pleading thereto.

DATED: October 19th, 1944.

LICHTENSTEIN & ENGEL,
Attorneys for defendant James A. Lewis.

FREDERIC M. P. PEARSE,
Attorney for defendants Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis and Eugent V. Lewis.

DOMINICK J. MARRONE,
Attorney for defendants Anthony Montelione and Nicholas Basso.

DANIEL H. ROSEN,
Attorney of defendant Salvatore Urso.

Service of a copy of the within Notice of Motion to Quash Indictment is hereby acknowledged this 20th day of October, 1944.

WALTER D. VAN RIPER.

Filed Clerk's Office
Oct. 23, 1944,
Hudson County, N. J.
William H. Gilfert, Clerk.

Opinion on Motion to Quash Indictment.

(Filed October 25, 1944)

HUDSON COUNTY COURT OF
QUARTER SESSIONS.

THE STATE *vs.* FRANK MARANO, *et als.*, Defendants.	Indictment No. 197. April Term 1944. Opinion.

Jersey City, New Jersey,
October 24, 1944.

Before HON. HORACE K. ROBERSON, Judge.

Appearances:

JAMES GIULIANO, ESQ.,
Deputy Attorney General.

JULIUS LICHTENSTEIN, ESQ.,
Attorney for James A. Lewis.

FREDERIC M. P. PEARSE, ESQ.,
Attorney for James A. Lewis.

DOMINICK J. MARONE, ESQ.,
Attorney for Anthony Montelione and Nicholas Basso.

DANIEL H. ROSEN, ESQ.,
Attorney for Salvatore Urso.

The Court: In the matter of the indictment number 197, April Term, 1944, against these defendants, in which the attorneys for the respec-

tive defendants moved to quash the indictment, I have reached the following conclusions:

(1) The indictment containing the words of the statute alleges all the essential ingredients of the statutory offense. The essential fact was the making or taking of what is commonly known as a book, upon the running of horses, mares and geldings, regardless of where the running occurred; the words "within or without this state" mean anywhere and everywhere.

(2) The indictment containing the words of the statute is sufficient to apprise the defendants of the crime of which they are accused. It does contain facts to constitute the offense charged against the defendants.

(3) There is no fatal misjoinder in the indictment. R. S. 2:135-3 makes the person who makes or takes what is commonly known as a book upon the running of horses, mares and geldings, or any person who shall aid, abet or assist in any such acts guilty of a misdemeanor.

The latter person is not thereby accused of a separate and distinct substantive crime, but is accused of the same crime as the other principals.

See *Ruthenberg* v. *United States,* 245 U. S., 480; *State* vs. *Woodworth,* 121 N. J. L., 78.

In view of the foregoing the motion to quash is denied.

Filed Clerk's Office,
Oct. 25, 1944,
Hudson County, N. J.

Memorandum of Quarter Session Denying Certificate of Reasonable Doubt.

(Filed November 13th, 1944.)

HUDSON COUNTY COURT OF QUARTER SESSIONS.

STATE OF NEW JERSEY, *vs.* FRANK MARANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS, JAMES A. LEWIS,	Indictment No. 197. April Term 1944. On motion for Certificate of Reasonable Doubt. Memorandum.

For the motion, JULIUS LICHTENSTEIN and FREDERIC M. P. PEARSE.

For the State, WALTER D. VAN RIPER, Attorney General and Acting Prosecutor of the Pleas, by JAMES R. GIULIANO, Deputy Attorney General, and SIMON FISCH, Deputy Attorney General.

ROBERSON, *J.*

The defendants were convicted under R. S. 2:135-3 for having made and taken what is commonly known as a book upon the running, etc., of horses and were sentenced to state prison for a term of years. A writ of error was sued out and served in behalf of the defendants and a motion was made and argued for a certificate of reasonable doubt under R. S. 2-195-11 which provides in part as follows:

Memorandum of Quarter Session Denying Certificate of Reasonable Doubt.

"Pending the prosecution of a writ of error in a criminal case, the defendant shall not be admitted to bail unless, upon application for that purpose made either to the court in which the conviction was had or to any justice of the Supreme Court, he shall receive from that court or justice a certificate setting forth that there is reasonable doubt as to the validity of the conviction. Application may be made to the justice of the Supreme Court presiding in the county in which the conviction was had, notwithstanding an application has theretofore been made to and denied by the judge of the court in which the conviction was had; but, in such case, the application to the presiding justice of the Supreme Court shall state that a similar application has been made to the judge of the court in which the conviction was had and the reasons given by that judge for the denial of the application. Upon the allowance of such certificate it shall be the duty of the trial court to admit the defendant to reasonable bail."

The sole question to be considered upon this application is whether or not there is reasonable doubt in the mind of the trial judge as to the validity of the conviction.

I have considered the arguments presented by counsel for the defendants and I do not have reasonable doubt as to the validity of the conviction of the defendants. The motion, is therefore, denied.

Filed Clerk's Office,
Nov. 13, 1944.
Hudson County, N. J.

Petition for Certificate of Reasonable Doubt.

(Filed November 16th 1944.)

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, *vs.* FRANK MARANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Defendants.	Petition for Certificate of Reasonable Doubt.

To the Honorable Thomas J. Brogan, Chief Justice of the New Jersey Supreme Court:

The petition of Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, late of the City of Hoboken, County of Hudson and State of New Jersey, respectfully shows unto your Honor:

1. Your petitioners have been convicted in the Hudson County Court of Oyer and Terminer upon an indictment charging that they did on the 9th day of June 1944 wilfully and unlawfully make and take what is commonly known as a book upon the running of horses, mares and geldings contrary to the form of the statute in such case made and provided upon such conviction said Court has rendered judgment that your petitioners be confined to the New Jersey State Prison for the following terms as to each defendant:

Name	Term
Frank Marano	—One year to three years in States Prison.
Walter Laurence Mullins	—One year to three years in States Prison.
Vincent Paul Halpin	—One and one-half years to three years in States Prison.
Frank X. J. Marnell	—One year to three years in States Prison.
Walter A. Lewis	—One year to three years in States Prison.
Eugene V. Lewis	—Three years to five years in States Prison.
James A. Lewis	—Three years to five years in States Prison.

2. Your petitioners are now closely confined in custody in execution of the final judgment of said Court.

3. Your petitioners have sued out a writ of error from the New Jersey Supreme Court to the Hudson County Court of Oyer and Terminer, which writ has been served upon the latter Court.

4. Your petitioners believe that manifest error has been committed in the proceedings had against them to their great prejudice as follows:

(a) A motion was made on behalf of your petitioners to quash the indictment on the grounds that the indictment did not charge the crime alleged sufficiently to apprise the

defendants of the nature of the charge and because tracking the language of the statute alleged to have been violated failed to allege essential elements and did not therefore charge the commission of any offense against the State.

(b) At the end of the State's case counsel for petitioners made a motion to dismiss the indictment and to direct a verdict of acquittal on the ground that the indictment itself did not charge an offense against the State and that the proof offered by the State was not sufficient to sustain the charges set forth in the indictment because the State had failed to prove that the defendants had made and taken what is commonly known as a book on the running of horses, which motion was denied.

(c) After petitioners had rested, a motion was made by counsel for petitioners to direct the jury to bring in a verdict of acquittal on the same grounds on which the motion to dismiss the indictment was predicated. This motion was also denied.

(d) Your petitioners, through their counsel, duly requested the Court to charge the jury as to the correct definition of and what was meant by "making and taking of what is commonly known as a book on the running of horses" which the Court refused to do and erroneously charged the jury with respect to the same.

(e) The Court likewise refused to charge numerous other requests all of which were proper and necessary to fully inform the jury

on the law of the case and the obligations resting upon them before arriving at a verdict.

5. On behalf of your petitioners, their counsel Julius Lichtenstein and Frederic M. P. Pearse, have applied to the Honorable Horace K. Roberson, who presided and sentenced petitioners, for a certificate of reasonable doubt. The Honorable Horace K. Roberson denied your petitioners' application but gave no reason for his action.

6. Your petitioners therefore, under the statute in such case made and provided, renew their applications for the reasons aforesaid and pray that a certificate of reasonable doubt may be granted by your Honor for the reasons aforesaid, or one of them, and that they may be admitted to bail pending prosecution of their writ of error.

JULIUS LICHTENSTEIN,
FREDERIC M. P. PEARSE,
Attorneys for Petitioners.

Affidavit of Julius Lichtenstein and Frederic M. P. Pearse.

STATE OF NEW JERSEY, }
COUNTY OF HUDSON. } SS.:

JULIUS LICHTENSTEIN and FREDERIC M. P. PEARSE, of full age, being duly and severally sworn according to law, upon their respective oaths depose and say:

That they are the attorneys for the petitioners named in the foregoing petition and the matters and things set forth in the foregoing petition are true to the best of their knowledge and belief.

JULIUS LICHTENSTEIN,
FREDERIC M. P. PEARSE.

Sworn and subscribed to before me }
this 6th day of November, 1944. }

MARY F. JANITSCHEK,
Notary Public of New Jersey.

(Seal)

Filed Clerk's Office
November 16, 1944
Hudson County, N. J.
William H. Gilfert, Clerk.

Certificate of Reasonable Doubt.

(Filed November 16, 1944.)

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, *vs.* FRANK MARANO, WALTER PAUL ENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Defendants.	Certificate of Reasonable Doubt.

This matter being opened to the Court by Julius Lichtenstein and Frederic M. P. Pearse, attorneys for Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, in the presence of James R. Giuliano, Assistant to the Attorney General, attorney for the State of New Jersey, and the Court having considered the petition filed herein by the said defendants and having further considered the arguments of counsel, and being of the opinion that there exists a reasonable doubt concerning the validity of the conviction of the said defendants, and the offense with which they were convicted being a misdemeanor and not a capital offense, and the fact that a similar application has been made to the Judge of the Hudson County Court of Oyer and Terminer in which the conviction was had having been stated to me in the application for this certificate, together with the reasons given by the trial judge for the denial of the prior application,

Certificate of Reasonable Doubt.

I do, on this 14th day of November, 1944, hereby certify that there is a reasonable doubt as to the validity of the conviction of the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, the defendants herein;

And it further appearing that the said defendants have caused to be issued and served upon the Hudson County Court of Oyer and Terminer a writ of error from the New Jersey Supreme Court;

I do hereby order that pending the prosecution of the said writ of error the said Hudson County Court of Oyer and Terminer do forthwith admit the said Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis to bail in the same amount of bail respectively on which they were previously admitted for their appearance on the trial of said indictment.

THOMAS J. BROGAN,
Chief Justice.

Filed Clerk's Office
Nov. 16, 1944
Hudson County, N. J.
William H. Gilfert, Clerk.

Docket Entries.

STATE OF NEW JERSEY, }
COUNTY OF HUDSON. } ss.:

COURT OF QUARTER SESSIONS.

HOLDEN IN AND FOR SAID COUNTY.

THE STATE *vs.* FRANK MARANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS, JAMES A. LEWIS, SALVATORE URSO, ANTHONY MONTELIONE, NICHOLAS BASSO.	Sur Indictment No. 197. Term of April A.D. 1944 For Bookmaking.

Aug. 30/44.

Defendants Marano, Mullins and Halpin each being charged, all three (3) pleaded Not Guilty as charged, and they and their bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Aug. 30/44.

Defendants Marnell and Basso, each being charged, each pleaded Not Guilty as charged, and they and their bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Docket Entries.

Aug. 30/44.

Defendants Eugene V. Lewis and Walter A. Lewis, each being charged, each pleaded Not Guilty as charged and they and their bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Aug. 30/44.

Defendant James A. Lewis, being charged, pleaded Not Guilty as charged and he and his bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Aug. 30/44.

Defendant Urso, being charged, pleaded Not Guilty as charged and he and his bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Aug. 30/44.

Defendant Montelione being charged, pleaded Not Guilty as charged and he and his bail enter recognizance for trial.

For Bail see Ind. 196—April 1944.

JUDGE DUFFY.

Oct. 23/44.

All defendants and their Counsel being present in Court, all defendants retract their pleas of Not Guilty and Counsel for all defendants make a motion to quash this indictment and the Court reserves decision on the motion and pending Court's decision on the motion, case is set down for trial for 10/30/44. and defendants are continued on bail pending deci-

sion on motion to quash indictment. Written Notice of Motion to quash indictment filed with indictment.

JUDGE ROBERSON.

Oct. 24/44.

Court denies motion of defense Counsel to quash this indictment.

Judge Roberson's Memorandum filed with indictment.

JUDGE ROBERSON.

Oct. 30/44.

Defendants Urso, Montelione and Basso being charged they plead Not Guilty and on motion of Asst. Prosecutor Giuliano, the Court grants a severance of trial to these three (3) defendants and they are continued on bail for trial.

JUDGE ROBERSON.

Oct. 30/44.

Defendants Frank Marano, Mullins, Halpin, Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, being charged, all seven (7), plead Not Guilty and they are tried by jury and Court adjourns at 1:20 P. M. and Court Officers Healey, Schoenberg, Moore and Miss Filan, being sworn to attend them, the jury retires for lunch. The jury, in custody of Officers sworn to attend them, return to Court at 2:50 P. M. and after the jury is polled by the Court Clerk trial is resumed. Court adjourns at 4:30 P. M. and Court Attendants Healy, Schoenberg, Moore and Miss Filan, being sworn to attend them, the jury retires for the night to Hotel Plaza, Jersey City, and trial will be resumed 10/31/44.

JUDGE ROBERSON.

Docket Entries.

Oct. 31/44.

The jury in custody of Officers sworn to attend them, return to Court at 10:50 A. M. and after the jury is polled by the Court Clerk, trial is resumed. Court adjourns at 1 P. M. and Court Officers Healey, Malone, Ippolito and Miss Prior, being sworn to attend them, the jury retires for lunch.

Oct. 31/44.

The jury in custody of Officers sworn to attend them, return to Court at 2:20 P. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 4:15 P. M. and Court Officers Ippolito, Healey, Malone and Miss Prior, being sworn to attend them, the jury retires for the night to Hotel Plaza, Jersey City, and trial will be resumed 11/1/44.

JUDGE ROBERSON.

Nov. 1/44.

The jury, in custody of Officers sworn to attend them, return to Court at 10:15 A. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 12:55 P. M. and Court Officers Malone, Healey, Schoenberg and Miss Filan being sworn to attend them, the jury retires for lunch. The jury, in custody of Officers sworn to attend them, return to Court at 2:30 P. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 4:15 P. M. and Court Officers Moore, Healey, Schoenberg and Miss Filan, being sworn to attend them, the jury retires for the night to Hotel Plaza, Jersey City, and trial will be resumed 11/2/44.

JUDGE ROBERSON.

Docket Entries.

Nov. 2/44.

The jury, in custody of Officers sworn to attend them, return to Court at 10:15 A. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 1 P. M. and Court Officers Ippolito, Healey, Malone and Miss Prior, being sworn to attend them, the jury retires for lunch. The jury, in custody of Officers sworn to attend them, return to Court at 2:35 P. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 4:15 P. M. and Court Officers Ippolito, Healey, Malone and Miss Prior, being sworn to attend them, the jury retires for the night to Hotel Plaza, Jersey City, and trial will be resumed 11/3/44.

JUDGE ROBERSON.

Nov. 3/44.

The jury, in custody of Officers sworn to attend them, return to Court at 12:45 P. M. and after the jury is polled by the Court Clerk, trial is resumed, Court adjourns at 12:55 P. M. and Court Officers Schoenberg, Healey, Malone and Miss Prior, being sworn to attend them, the jury retires for lunch. The jury, in custody of Officers sworn to attend them, return to Court at 2:40 P. M. and after the jury is polled by the Court Clerk, trial is resumed. Evidence closed and the Court charged the jury. Court Attendants Healey, Schoenberg, Ippolito, Malone and Miss Filan, being sworn to attend them, the jury retires to consider its verdict. At 7:15 P. M. the jury announced they had agreed upon a verdict. At 7:45 P. M., the jury being polled by the Court Clerk, they all appear and answer and say

they find all seven (7) defendants Guilty as charged and so say they all and all seven (7) are remanded for sentence 11/6/44.

JUDGE ROBERSON.

Nov. 6/44.

Counsel for Defendants Marano, Mullins, Halpin, Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis make a motion in arrest of Judgment and the Court denies motion as to all seven (7) defendants and Defendants Marano, Mullins, Marnell and Walter A. Lewis, being placed to the bar, each is sentenced to State's Prison at Hard Labor, for a maximum term of Three (3) years and a minimum term of one (1) year and thence until the costs of prosecution are paid and Defendant Halpin, being placed to the bar, he is sentenced to State's Prison, at hard labor, for a maximum term of three (3) years and a minimum term of one and one-half (1½) years and thence until the costs of prosecution are paid, and Defendants Eugene V. Lewis and James A. Lewis, being placed to the bar, each is sentenced to State's Prison, at hard labor, for a maximum term of Five (5) years and a minimum term of Three (3) years and thence until the costs of prosecution are paid.

JUDGE ROBERSON.

Nov. 6/44.

Counsel for Defendants Marano, Mullins, Halpin, Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, make a motion for a certificate of Reasonable Doubt and the Court reserves decision on same.

JUDGE ROBERSON.

Docket Entries.

Nov. 6/44.

Writ of Error filed with this Indictment.

JUDGE ROBERSON.

Nov. 9/44.

Court denies motion of Defense Counsel for a certificate of Reasonable Doubt because the Court has no Reasonable Doubt as to the Validity of the Conviction of the seven (7) defendants, Marano, Mullins, Halpin, Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis.

JUDGE ROBERSON.

Nov. 13/44.

Judge Roberson's Memorandum filed with indictment.

JUDGE ROBERSON.

Nov. 15/44.

Petition and Certificate of Reasonable Doubt granted by Chief Justice Thos. J. Brogan, 11/14/44, filed today.

THOS. J. BROGAN, *C. J.*

Nov. 15/44.

Defendant James A. Lewis and his bail, Charles Serventi, enter into a recognizance in the sum of Twenty-five Thousand ($25,000.00) Dollars, each conditioned that Defendant will prosecute with effect a certain Writ of Error, sued out of New Jersey Supreme Court. Above bail taken upon the granting of a Certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Thos. J. Brogan.

THOS. J. BROGAN, *C. J.*

Docket Entries.

Nov. 15/44.

Defendant Eugene V. Lewis and his bail, Charles Serventi, enter into a recognizance in the sum of Twenty Thousand ($20,000.00) Dollars, each conditioned that Defendant will prosecute with effect a certain Writ of Error, sued out of New Jersey Supreme Court. Above bail taken upon the granting of a Certificate of Reasonable Doubt on Nov. 14/44, by Chief Justice Thos. J. Brogan.

THOS. J. BROGAN, *C. J.*

Nov. 15/44.

The Defendant Walter A. Lewis and his bail, Charles Serventi, enter into a recognizance in the sum of Twenty Thousand ($20,000.00) Dollars each, conditioned that defendant will prosecute with effect a certain Writ of Error, sued out of New Jersey Supreme Court. Above bail taken upon the granting of a Certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Brogan.

THOS. J. BROGAN, *C. J.*

Nov. 15/44.

The Defendant Frank X. J. Marnell and his bails, Raymond A. Lewis and Catherine R. Lewis and Bridget O'Leary, enter into a re cognizance in the sum of Five Thousand ($5,000.00) Dollars, each conditioned that De fendant will prosecute with effect a certain Writ of Error, sued out of New Jersey Su preme Court. Above bail taken upon the granting of a certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Brogan.

THOS. J. BROGAN, *C. J.*

Docket Entries.

Nov. 15/44.

The Defendant Frank Marano and his bails, Arthur C. Lewis and Edna M. Lewis and Betty M. Tighe, enter into a recognizance in the sum of Fifteen Thousand ($15,000.00) Dollars, each conditioned that Defendant will prosecute with effect a certain Writ of Error sued out of New Jersey Supreme Court. Above bail taken upon the granting of a certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Brogan.

THOS. J. BROGAN, *C. J.*

Nov. 15/44.

The Defendant Vincent P. Halpin and his bails, John L. Peluso and Charles J. Poggi and Vera Poggi, enter into a recognizance in the sum of Fifteen Thousand ($15,000) Dollars, each conditioned that Defendant will prosecute with effect a certain Writ of Error sued out of New Jersey Supreme Court. Above bail taken upon the granting of a Certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Brogan.

THOS. J. BROGAN, *C. J.*

Nov. 15/44.

The Defendant Walter L. Mullins and his bails, Vincent M. Cook and Charles J. Poggi and Vera Poggi, enter into a recognizance in the sum of Fifteen Thousand ($15,000.00) Dollars, each conditioned that Defendant will prosecute with effect a certain Writ of Error sued out of New Jersey Supreme Court. Above bail taken upon the granting of a Certificate of Reasonable Doubt on Nov. 14/44 by Chief Justice Brogan.

THOS. J. BROGAN, *C. J.*

Order Extending Return Day of Writ.

(Rule Entered November 24th, 1944.)

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MARANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Writ of Error to the Hudson County Court of Quarter Sessions. Order Extending Return Day.

This matter being opened to the court by Julius Lichtenstein, Esq., and Frederic M. P. Pearse, Esq., attorneys for the Plaintiffs-in-Error in the above cause, and it appearing to the court that a writ of error in the above cause, returnable November 25th, 1944, was issued, served and filed on November 6th, 1944, and it further appearing that, by reason of the voluminous record and proceedings at the trial of the Plaintiffs-in-Error in the Hudson County Court of Quarter Sessions, it is impracticable for the Plaintiffs-in-Error to procure a proper transcript and certification of the record and proceedings referred to in said writ and to return said writ to this court within the time limited in said writ;

And due application being made for this Order, and good cause being shown therefore;

Order Extending Return Day of Writ.

It is, on this 22nd day of November, 1944, Ordered, that the Plaintiffs-in-Error have until December 20th, 1944, within which to cause the return of said writ of error to be made as commanded by said writ, and the return day of said writ of error is hereby extended accordingly.

Thomas J. Brogan,
Chief Justice.

Rule actually entered the 24th
day of November, 1944.

On Motion of

Julius Lichtenstein and
Frederic M. P. Pearse,
Attorneys for Plaintiffs-in-Error.

Assignments of Error.

(Filed January 15, 1945.)

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Error. Assignments of Error.

Afterwards, to wit, and within thirty days of the return of the writ of error issued in this cause, come Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, by Julius Lichtenstein and Frederic M. P. Pearse, their respective attorneys, before the Justices of the Supreme Court of Judicature of the State of New Jersey, and say that in the record and proceedings aforesaid and also in the matters recited and contained in the bill of exceptions, and further, in the rendition and giving of judgment aforesaid, there is manifest error, in this respect, to wit:

1. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to charge the commission of any crime by the defendants or any of them.

Assignments of Error.

2. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to charge a crime under R. S. 2:135-3.

3. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to allege a material element of the offense created by the statute under which the indictment was drawn, in that: the indictment charges that the defendants "wilfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, * * *". The statutory language, so far as pertinent, is "Any person who shall * * * make or take what is commonly known as a book, upon the running * * *, either within or without this State, of any horse, mare or gelding * * * shall be guilty of a misdemeanor * * *." The indictment is defective in failing to charge the place, either within or without this State, where the alleged running took place, and whether such place was within or without this State.

4. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment is defective because it charges that the defendants "did make and take what is commonly known as a book, upon the running of horses, mares and geldings," without setting forth the necessary facts constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the parties accused of the offenses with which they stand charged.

5. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-4, not material or relevant to the issue or proof of the charge in the indictment.

6. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-5, not material or relevant to the issue or proof of the charge in the indictment.

7. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-6, not material or relevant to the issue or proof of the charge in the indictment.

8. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-7, not material or relevant to the issue or proof of the charge in the indictment.

9. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-13, not material or relevant to the issue or proof of the charge in the indictment.

10. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-14, not material or relevant to the issue or proof of the charge in the indictment.

11. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-15, not material or relevant to the issue or proof of the charge in the indictment.

12. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain books, marked Exhibit S-16A, B and C, not material or relevant to the issue or proof of the charge in the indictment.

13. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain newspaper, marked Exhibit S-17, not material or relevant to the issue or proof of the charge in the indictment.

14. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain newspaper, marked Exhibit S-18, not material or relevant to the issue or proof of the charge in the indictment.

15. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain paper called "National Racing Program", marked Exhibit S-19, not material or relevant to the issue or proof of the charge in the indictment.

16. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "Lawton Handicap", marked Exhibit S-20 A, B, C and D, not material or relevant to the issue or proof of the charge in the indictment.

17. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "Index to Entries", marked Exhibit S-21 A, B, C, D and E, not material or relevant to the issue or proof of the charge in the indictment.

18. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "results of races", marked Exhibit S-22, not material or relevant to the issue or proof of the charge in the indictment.

19. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "results of races", marked Exhibit S-23, not material or relevant to the issue or proof of the charge in the indictment.

20. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain carton containing pads and pencils, marked Exhibit S-24, not material or relevant to the issue or proof of the charge in the indictment.

21. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain pad with writing on it, marked Exhibit S-25, not material or relevant to the issue or proof of the charge in the indictment.

22. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain ash trays, marked Exhibit

S-26, not material or relevant to the issue or proof of the charge in the indictment.

23. Because the trial judge erred in admitting in evidence over the objection of counsel for the defendants, a certain envelope marked "James Lewis, Hoboken, N. J.", marked Exhibit S-27, not material or relevant to the issue or proof of the charge in the indictment.

24. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain cabinet, marked Exhibit S-28, not material or relevant to the issue or proof of the charge in the indictment.

25. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain letter, marked Exhibit S-29, not material or relevant to the issue or proof of the charge in the indictment.

26. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, four certain sheets of paper, marked Exhibit S-30, not material or relevant to the issue or proof of the charge in the indictment.

27. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain steel cabinet, marked Exhibit S-31, not material or relevant to the issue or proof of the charge in the indictment.

28. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, the contents of a carton, marked Ex-

hibit S-52, not material or relevant to the issue or proof of the charge in the indictment.

29. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a telephone directory, marked Exhibit S-51, not material or relevant to the issue or proof of the charge in the indictment.

30. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain book marked "parley pay-off", marked Exhibit S-50, not material or relevant to the issue or proof of the charge in the indictment.

31. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain moneys amounting to $450, marked Exhibit S-53, not material or relevant to the issue or proof of the charge in the indictment.

32. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-55, S-56, S-57 and S-58, not material or relevant to the issue or proof of the charge in the indictment.

33. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain slips of paper, marked Exhibit S-59, not material or relevant to the issue or proof of the charge in the indictment.

34. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain envelope, marked Exhibit

S-62, not material or relevant to the issue or proof of the charge in the indictment.

35. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain book called "parley pay-off", marked Exhibit S-63, not material or relevant to the issue or proof of the charge in the indictment.

36. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain publication, marked Exhibit S-64, not material or relevant to the issue or proof of the charge in the indictment.

37. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain newspapers, marked Exhibits S-65 and S-66, not material or relevant to the issue or proof of the charge in the indictment.

38. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain articles and papers, marked Exhibit S-68, not material or relevant to the issue or proof of the charge in the indictment.

39. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain printed matter, marked Exhibit S-69, not material or relevant to the issue or proof of the charge in the indictment.

40. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain bracelet, marked Exhibit

S-40, not material or relevant to the issue or proof of the charge in the indictment.

41. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain sum of money, marked Exhibit S-39, not material or relevant to the issue or proof of the charge in the indictment.

42. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a number of sheets of paper and envelopes, marked Exhibit S-78, not material or relevant to the issue or proof of the charge in the indictment.

43. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a pad of paper, marked Exhibit S-83, not material or relevant to the isue or proof of the charge in the indictment.

44. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain safe, marked Exhibit S-49, not material or relevant to the issue or proof of the charge in the indictment.

45. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-84, not material or relevant to the issue or proof of the charge in the indictment.

46. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Ex-

hibit S-85, not material or relevant to the issue or proof of the charge in the indictment.

47. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-86, not material or relevant to the issue or proof of the charge in the indictment.

48. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-87, not material or relevant to the issue or proof of the charge in the indictment.

49. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-88, not material or relevant to the issue or proof of the charge in the indictment.

50. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, an envelope containing certain papers, marked Exhibit S-49, not material or relevant to the issue or proof of the charge in the indictment.

51. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain government bonds, marked Exhibit S-89, not material or relevant to the issue or proof of the charge in the indictment.

52. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain letter, marked Exhibit S-90,

not material or relevant to the issue or proof of the charge in the indictment.

53. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain letter, marked Exhibit S-91, not material, or relevant to the issue or proof of the charge in the indictment.

54. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain negotiable instrument, marked Exhibit S-92, not material or relevant to the issue or proof of the charge in the indictment.

55. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain checks, marked Exhibit S-93 A and B, not material or relevant to the issue or proof of the charge in the indictment.

56. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain case or chest, marked Exhibit S-94, not material or relevant to the issue or proof of the charge in the indictment.

57. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain sum of money, marked Exhibit S-95, not material or relevant to the issue or proof of the charge in the indictment.

58. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain government bonds, marked Exhibit S-96, not material or relevant to the issue or proof of the charge in the indictment.

59. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain telephone instruments, marked Exhibit S-33 A, B, C and D, not material or relevant to the issue or proof of the charge in the indictment.

60. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain telephone instrument, marked Exhibit S-34, not material or relevant to the issue or proof of the charge in the indictment.

61. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What is a wire room?"

62. Because the trial judge erred in refusing to strike, on motion of counsel for the defendants, the answer of the State's witness Ralph Dowgan to the question asked by the Prosecutor "What is a wire room?", his answer being "A room which would be set up with a table, telephones, arranging to accept bets to carry on—".

63 Because the trial judge erred in refusing to allow the State's witness Ralph Dowgan to answer the question asked him on cross-examination by counsel for the defendants "Q. Have you ever made a book?"

64. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What are these sheets?" (referring to Exhibit S-13).

65. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "You say these are tracks, racing tracks?" (referring to Exhibit S-22).

66. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "And would you say that this room on the third floor of 1124 Garden Street was a fully equipped wire room?"

67. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What did he say?" (referring to a statement made by State Trooper Kerr who was present at the time of the arrest of the defendant Eugene Lewis).

68. Because the trial judge erred in refusing to strike the answer of the witness Walter Heckmann to the question asked by the Prosecutor over the objection of defendant's counsel "What was that statement?", his answer being "The statement made by Trooper Kerr: 'Here, Corporal, watch that man, he is hiding something.' "

69. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What did you ask him to do?" (referring to defendant Eugene Lewis).

Assignments of Error.

70. Because the trial judge erred in denying the motion made by counsel for the defendants to strike out the entire testimony given by the State's witness, Walter Heckmann, as being immaterial and irrelevant to the issue.

71. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following questions asked by the Prosecutor: "What are these slips?" (referring to Exhibit S-59).

72. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, on this slip here marked 'Frank Morano 4,2;' can you tell us what that means?" (referring to Exhibit S-59).

73. Because the trial judge erred in denying the motion of counsel for the defendants to strike the testimony of the State's witness, Walter Heckmann, with respect to his knowledge of the meaning of certain papers admitted in evidence, particularly Exhibit S-59.

74. Because the trial judge erred in denying the motion of counsel for the defendants to strike the testimony of the witnesses who testified for the State as to what took place in the so-called "wire room" at 1124 Garden Street, Hoboken, after the defendants were arrested.

75. Because the trial judge erred in refusing to strike that portion of the answer of the State's

witness, Walter Heckmann, wherein he characterized certain articles exhibited to him by the Prosecutor as "racing paraphernalia."

76. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "And do you recall what he said with reference to this money?" (referring to a statement made by defendant Eugene Lewis after his arrest).

77. Because the trial judge erred in allowing Walter Schindler, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "What did he say pertaining to this money?" (referring to a statement made by defendant Eugene Lewis after his arrest).

78. Because the trial judge erred in allowing Harry Imhoff, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "What were you given?"

79. The trial judge erred in denying the motion to strike the answer to the question asked of the witness Harry Imhoff by the prosecutor: "88 Hudson Street, P. L. 1695, what did you find?", his answer being: "I found nothing, but a package was handed to me with the telephone in it."

80. Because the trial judge erred in allowing Harry Imhoff, a witness called by the State, over the objection of counsel for the defendants, to

answer the following question asked by the prosecutor: "Did you receive anything that day?"

81. Because the trial judge erred in allowing Harry Imhoff, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Now what kind of a place is 126 River Street?"

82. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "I show you several sheets which are marked in evidence S-13 and I ask you if you can tell us what those sheets are?"

83. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Well, do you know what it is?" (referring to Exhibit S-22).

84. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Where you have the two dollars in the one column—in other words you have two dollars in the third column or a figure 2, rather, I should say. Can you tell us what that is?" (referring to Racing Charts).

85. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State,

over the objection of counsel for the defendants, to answer the following question asked by the prosecutor; referring to a certain "National Racing Program," Exhibit S-19: "What is it used for?"

86. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Is this sheet used in the taking and making of a book?" (referring to Exhibit S-19).

87. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Can it be used in the taking and making of a book?" (referring to Exhibit S-19).

88. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What information can that give to a bookmaking establishment"; "Q. What does it give?" (referring to Exhibit S-19).

89. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What are they used for?" (referring to sheets marked Exhibit S-13).

90. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants,

to answer the following question asked by the Prosecutor: "I show you several sheets, seventeen in number which are marked S-22 in evidence, and I ask you have you ever seen that type of sheet before, and if so, what they are?"

91. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I call your attention to this one over here, 'Five and a half furlongs.' What is that, if you know?" (referring to Exhibit S-22).

92. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Can you tell by looking at the column, please, whether or not that race was run?" (referring to Exhibit S-22).

93. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, what is this horse which is number nine, Fred Coty; there is a three-quarter circle around that horse?" (referring to Exhibit S-22).

94. Because the trial judge refused to strike the answer given by the witness James J. Mahoney, to the question asked by the Prosecutor: "That is the winner, you say. Now, over the horse's name, number 3, John's Bird, there is written in pencil a numeral 2; can you tell us

what that means?", his answer being "That is the horse that came in second."

95. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Under that same column, there is a name of a horse 'Victory Maid' with a pencil mark written over it, number 3; can you tell us what that number 3 is or what it indicates?" (referring to Exhibit S-22).

96. Because the trial judge erred in refusing to strike the answer to the preceding question, the answer being "That horse came in third."

97. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "On the bottom of that list of nine names of horses, or horses' names, there is three columns, in the first column there is 25.50, 9.70 and 6.50. Can you tell me please, what that indicates?" And the refusal of the trial judge to strike the following answer "That means that Fred Coty paid $25.50 to win, $9.70 for second, and $6.50 for third." (all referring to Exhibit S-22).

98. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Now, that column which you just referred to was 25.50, 9.70 and 6.50—under there

there are 5.20 and 4.40; can you tell us what that indicates'' (referring to Exhibit S-22).

99. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: ''Now, these two last figures that you have just given us, there is written after that $11.30. I ask you what that indicates?'' (referring to Exhibit S-22).

100. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: ''Now I show you 'Racing Form', Exhibit S-17 and I ask you to look at this and compare it with the two races that you have referred to, and please tell us, if you can, whether or not the names in this 'Daily Racing Form' appear in this sheet that you have just referred to?''

101. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: ''Now, will you now refer to the race at Suffolk Downs, and will you read that from page 16 of the Daily Racing Form?'' (referring to Exhibit S-17).

102. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: ''I show you S-21 in evidence, which purports to be 'Index to Entries'. Can you tell us what that is?''

103. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "I show you these slips and ask you whether or not these slips are used in connection with bookmaking?" (referring to Exhibit S-61).

104. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Now, Lieutenant, with what I have shown you here and from your experience and knowledge, and from what you see in this court room, this board marked S-12 in evidence, these telephones, these private telephones; can you tell us, in your opinion, what all this was being used for?" And the refusal of the trial judge to strike the answer of the witness to the above question as follows: "Typical bookmaking equipment."

105. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Now, Chief, I show you Exhibit S-13; can you tell us what those sheets are, yes or no?" Answer "Yes, sir." Question "Will you please tell us what they are?"

106. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "How are these bets made?" "How are they received, Chief?"

107. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "And I show you this first sheet, which has on the back, Adams Street, and there is a number one in the second column; can you tell me please what that is?" "What are they?" (referring to Exhibit S-22).

108. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "What is this sheet, do you know?" (referring to Exhibit S-22).

109. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "You say they are racing charts, what are they for?" (referring to Exhibit S-22).

110. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "I show you another sheet in Exhibit S-13 with two dollars in the second column, Fred Coty, 25.50 and can you tell us if that is the same situation?"

111. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the

prosecutor: "Now, Chief, these exhibits that I have shown you, together with all of this paraphernalia that you see before you, the table and the telephone and the radio and these boxes, can you tell us whether or not they are used in connection with bookmaking?"

112. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "Now, I show you again S-13 in evidence and ask you whether or not these sheets marked Exhibit S-13 are used in taking and making a book?"

113. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "And Chief, would you say or would you not say that these sheets, S-13, are used in taking and making a book?"

114. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "I show you these sheets S-22 in evidence and I ask you if these sheets are used in making and taking a book?"

115. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: "I show you this 'Racing Form'

marked S-17 and I ask you if this racing form is used in making and taking a book?''

116. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the prosecutor: ''I show you what purports to be 'Lawton Handicap' marked S-20 in evidence and I ask you if you know what that is?'' ''What is it?'' ''And is this used in taking and making bets?''

117. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''I show you, Chief, S-54 in evidence and I ask you if that sheet is used in taking and making a book?''

118. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''Now, I call your attention to a great number of pads here marked S-47 in evidence, one of which is in my hand and I ask you whether or not these pads are used in the making and taking of a book?''

119. Because the trial judge erred in refusing to strike the testimony of the witness Simon L. Fisch on the ground that it was incompetent, irrelevant and immaterial.

120. The trial judge erred in denying the motion made by defendants' counsel for the direc-

tion of a verdict of not guilty on the same grounds as the court's refusal to quash the indictment.

121. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to charge the commission of any crime by the defendants or any of them.

122. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to charge a crime under Revised Statutes 2:135-3.

123. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to allege a material element of an offense created by the statute under which the indictment was drawn, in that the indictment charges the defendants wilfully and unlawfully did make and take what is commonly known as a book upon the running of horses, mares and geldings. The statutory language, so far as pertains is: "Any person who shall make or take what is commonly known as a book upon the running, either within or without the state, of any horse, mare and gelding, shall be guilty of a misdemeanor.

124. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment is defective in failing to charge a place either within or without the state where the alleged running took place, and whether such place was within or without this state.

125. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment is defective in its charge that the defendant did make and take what is commonly known as a book upon the running of horses, mares and geldings, without setting forth the statutory fact constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the party accused of the offense with which he or they can charge.

126. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove the charge or crime set out in the indictment against the defendant or any of them.

127. The trial judge erred in denying the motion made by the defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, did make and take what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

128. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, either made or took what is commonly known as a book, as charged in the indictment.

129. The trial judge erred in denying the motion made by defendants' counsel for the direc-

tion of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, made or took, or made and took what is commonly known as a book upon the running of any horse, mare or gelding, either within or without the State, or in fact anywhere.

130. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to show that any horse, mare or gelding ever did run within or without the state or anywhere.

131. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any one of them, made and took a book, or made or took a book upon any horse, mare or gelding, which did in fact run either within or without the state.

132. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that no part of the evidence offered by the State, nor the whole thereof taken together, constitute the making or taking, or making and taking of what is commonly known as a book, as charged.

133. The trial judge erred in denying the motion made by defendants, counsel for the direction of a verdict of not guilty on the ground that if a book was in fact made and taken, as charged in the indictment, there is no proof as to which of the defendants made the same.

134. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the defendants are all charged as principals, and the evidence fails to show which are principals, and which, if any, aided, abetted or assisted, and it is impossible for the jury to find which of the defendants are principals and which are aiders, abettors and assisters.

135. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that from the evidence, the most that can be said of the defendants, other than Eugene Lewis, is that they aided, abetted or assisted in some part of the activities which took place on the premises referred to in the testimony; and as to them, there should be a direction of acquittal since they are not charged with aiding, abetting and assisting.

136. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of acquital at the end of the entire case, which motion was based upon the same grounds as the motion for acquittal made at the end of the State's case.

137. The trial judge erred in charging the jury in the following respects:

> "Now, the statute of the State of New Jersey, Revised Statutes, Article 2, 135-3, states as follows:
>
> " 'Any person who shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or

without this state, of any horse, mare or gelding * * * shall be guilty of a misdemeanor.'

"Now, that is what the statute says.

"In the absence of any court decision in this state defining the meaning of the word 'bookmaking' or 'making or taking books' I shall read to you what Webster's new international dictionary, second edition, says:

" 'Bookmaking: The making of a book of bets.'

"At another place: 'Make a book. To record bets in a book. To make a business of accepting bets, as on horse races.'

"And in another place, on the word 'book':

" 'A record of bets; especially a record of bets on horse races.'

"Now, it is called bookmaking because the bets are booked, or a record of them is kept in a book or on sheets of paper."

138. The trial judge erred in refusing to charge the jury at the request of defendants' counsel in the following manner:

11. Defendants request that the Court charge the jury as to what facts must be proved by the State to establish the defendants' guilt of the offense of making and taking what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

12. Defendants request that the Court charge the jury as to what is meant by the term "making and taking what is commonly known as a book upon the running of horses, mares and geldings," as charged in the indictment.

13. Defendants request the Court to instruct and charge the jury as to what constitutes the making of a book such as the defendants are charged in the indictment with making.

14. What is commonly known as a book upon the running of horses, mares and geldings is the making up of a written list of entries in a horse race or races, together with the odds at which the person who prepared the list is willing to accept bets in favor or against the success of such horses in the race or races.

If the State has failed to establish to your satisfaction, beyond a reasonable doubt, that such a "book" was prepared by the defendants, you must bring in a verdict of "not guilty."

15. The making or taking of a book, the offense with which the defendants are accused in the indictment, consists of the following elements:

First, the preparation of a written list of the entries in a horse race or races, and of the odds at which the person who prepared the list is willing to accept bets for or against the respective entries;

Second, the public offering to accept bets at the listed odds;

Third, the acceptance of bets at such odds from members of the public; and

Fourth, the written recording of such bets at such odds.

If the State has not established that the defendants did each and every one of the things just mentioned, to your satisfaction, beyond a reasonable doubt, it is your duty to bring in a verdict of "not guilty."

16. Unless the State has proved to your satisfaction, beyond a reasonable doubt, that the defendants accepted bets in accordance with a system of prepared odds, the State has not established that they made or took what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment, and you must bring in a verdict of "not guilty."

Even though you should be satisfied, beyond a reasonable doubt, that the defendants made and accepted bets with the public on the event of horse races, and recorded such bets, still, if it has not been proved to your satisfaction, beyond a reasonable doubt, that the bets so made were made in accordance with a system of odds prepared in advance, they are not guilty of the offense charged in the indictment, and you must acquit the defendants.

18. The defendants have been charged with having, on June 9th, 1944, made and taken what is commonly known as a book upon the running of horses, mares and geldings.

If the State has not proved to your satisfaction, beyond a reasonable doubt, that the defendants, on the day mentioned in the indictment, engaged in making and taking what is commonly known as a book, as it has been defined to you, even though it has proved that they engaged in a different type of betting,

the guilt of the defendants of the offense charged in the indictment has not been established, and you must bring in a verdict of "not guilty."

19. If the State has failed to prove that any horse, mare or gelding upon which the defendants may have made or taken a bet on the date charged in the indictment actually ran, you are instructed to bring in a verdict of "not guilty."

20. The defendants are all charged in the indictment as principals, with having made and taken a book upon the running of horses, mares and geldings.

If the State has established to your satisfaction, beyond a reasonable doubt, that certain of the defendants made and took such book, but has established, as to other defendants, that they only aided, abetted or assisted therein, you must acquit those other defendants.

22. Some evidence has been offered of statements made by some of the defendants while they were in custody, following their arrest. I charge that such statements, made at the time of arrest, to persons, in authority, are to be received with great caution, for besides the danger of misapprehension of the witness, or the misuse of words, or the failure of the party to express his own meaning, it should be recalled that the mind of the prisoner is often oppressed by the calamity of his situation, and that he is often influenced by motives of fear, or the hope of favorable treatment, and may thus be induced to make statements which he believes the prosecuting officials wish to hear.

23. I charge you that any evidence of statements alleged to have been made by any of the defendants while in custody, following their arrest, and not in the presence of their co-defendants, are to be considered, if at all, as evidence only against the defendant who made the statement. In no event may you consider such statement, even though implicating another defendant, as evidence against any other defendant; and if the guilt of such other defendant has not been established to your satisfaction, beyond a reasonable doubt, entirely apart from such statement, it is your duty to acquit him.

24. If you find from the proofs offered in this case that a book was made or taken, as the Court has defined it, at 1124 Garden Street, Hoboken but that any of the defendants on trial were mere employees or only casually assisting in the activities at 1124 Garden Street, Hoboken, on the day in question, then your verdict as to him or them must be not guilty.

139. The verdict is against the weight of the evidence.

140. The verdict is contrary to the evidence.

Plaintiffs-in-error pray that the judgments of conviction may be reversed, set aside and held for nothing, because of the aforesaid reasons.

JULIUS LICHTENSTEIN,
FREDERIC M. P. PEARSE,
Attorneys for and of Counsel
with Plaintiffs-in-Error.

Due and timely service is hereby acknowledged this 12th day of January, 1945.

WALTER D. VAN RIPER,
Attorney General and Acting
Prosecutor of the Pleas of Hudson County.

Specifications for Reversal.

(Filed January 15, 1945.)

NEW JERSEY SUPREME COURT.

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Error to Hudson County Court of Oyer and Terminer. Specifications for Reversal.

Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, plaintiffs-in-error, have elected to take up the entire record of the proceedings had upon the trial with their writ of error and hereby specify the causes in the record relied upon by them for relief and reversal as follows:

Specifications for Reversal.

1. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to charge the commission of any crime by the defendants or any of them.

2. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to charge a crime under R. S. 2:135-3.

3. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment fails to allege a material element of the offense created by the statute under which the indictment was drawn, in that: the indictment charges that the defendants "wilfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, * * *". The statutory language, so far as pertinent, is "Any person who shall * * * make or take what is commonly known as a book, upon the running * * *, either within or without this State, of any horse, mare or gelding * * * shall be guilty of a misdemeanor * * *." The indictment is defective in failing to charge the place, either within or without this State, where the alleged running took place, and whether such place was within or without this State.

4. The trial judge erred in denying the motion to quash the indictment addressed to the Court before the issue was joined, for the reason that the indictment is defective because it charges that the defendants "did make and take what is com-

monly known as a book, upon the running of horses, mares and geldings," without setting forth the necessary facts constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the parties accused of the offenses with which they stand charged.

5. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-4, not material or relevant to the issue or proof of the charge in the indictment.

6 Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-5, not material or relevant to the issue or proof of the charge in the indictment.,

7. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-6, not material or relevant to the issue or proof of the charge in the indictment.

8. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain photograph marked Exhibit S-7, not material or relevant to the issue or proof of the charge in the indictment.

9. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-13, not material or relevant to the issue or proof of the charge in the indictment.

Specifications for Reversal.

10. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-14, not material or relevant to the issue or proof of the charge in the indictment.

11. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain paper writings called "racing sheets", marked Exhibit S-15, not material or relevant to the issue or proof of the charge in the indictment.

12. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain books, marked Exhibit S-16A, B and C, not material or relevant to the issue or proof of the charge in the indictment.

13. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain newspaper, marked Exhibit S-17, not material or relevant to the issue or proof of the charge in the indictment.

14. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain newspaper, marked Exhibit S-18, not material or relevant to the issue or proof of the charge in the indictment.

15. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain paper called "National Racing Program", marked Exhibit S-19, not material or relevant to the issue or proof of the charge in the indictment.

Specifications for Reversal.

16. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "Lawton Handicap", marked Exhibit S-20 A, B, C and D, not material or relevant to the issue or proof of the charge in the indictment.

17. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "Index to Entries", marked Exhibit S-21 A, B, C, D and E, not material or relevant to the issue or proof of the charge in the indictment.

18. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "results of races", marked Exhibit S-22, not material or relevant to the issue or proof of the charge in the indictment.

19. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain papers called "results of races", marked Exhibit S-23, not material or relevant to the issue or proof of the charge in the indictment.

20. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain carton containing pads and pencils, marked Exhibit S-24, not material or relevant to the issue or proof of the charge in the indictment.

21. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain pad with writing on it,

marked Exhibit S-25, not material or relevant to the issue or proof of the charge in the indictment.

22. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain ash trays, marked Exhibit S-26, not material or relevant to the issue or proof of the charge in the indictment.

23. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain envelope marked "James Lewis, Hoboken, N. J.," marked Exhibit S-27, not material or relevant to the issue or proof of the charge in the indictment.

24. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain cabinet, marked Exhibit S-28, not material or relevant to the issue or proof of the charge in the indictment.

25. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain letter, marked Exhibit S-29, not material or relevant to the issue or proof of the charge in the indictment.

26. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, four certain sheets of paper, marked Exhibit S-30, not material or relevant to the issue or proof of the charge in the indictment.

27. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain steel cabinet, marked Ex-

hibit S-31, not material or relevant to the issue or proof of the charge in the indictment.

28. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, the contents of a carton, marked Exhibit S-52, not material or relevant to the issue or proof of the charge in the indictment.

29. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a telephone directory, marked Exhibit S-51, not material or relevant to the issue or proof of the charge in the indictment.

30. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain book marked "parlay pay-off," marked Exhibit S-50, not material or relevant to the issue or proof of the charge in the indictment.

31. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain moneys amounting to $450, marked Exhibit S-53, not material or relevant to the issue or proof of the charge in the indictment.

32. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibits S-55, S-56, S-57 and S-58, not material or relevant to the issue or proof of the charge in the indictment.

33. Because the trial judge erred in admitting in evidence, over the objection of counsel for the

defendants, certain slips of paper, marked Exhibit S-59, not material or relevant to the issue or proof of the charge in the indictment.

34. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain envelope, marked Exhibit S-62, not material or relevant to the issue or proof of the charge in the indictment.

35. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain book called "parlay pay-off," marked Exhibit S-63, not material or relevant to the issue or proof of the charge in the indictment.

36. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain publication, marked Exhibit S-64, not material or relevant to the issue or proof of the charge in the indictment.

37. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain newspapers, marked Exhibits S-65 and S-66, not material or relevant to the issue or proof of the charge in the indictment.

38. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain articles and papers, marked Exhibit S-68, not material or relevant to the issue or proof of the charge in the indictment.

39. Because the trial judge erred in admitting in evidence, over the objection of counsel for the

defendants, certain printed matter, marked Exhibit S-69, not material or relevant to the issue or proof of the charge in the indictment.

40. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain bracelet, marked Exhibit S-40, not material or relevant to the issue or proof of the charge in the indictment.

41. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain sum of money, marked Exhibit S-39, not material or relevant to the issue or proof of the charge in the indictment.

42. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a number of sheets of paper and envelopes, marked Exhibit S-78, not material or relevant to the issue or proof of the charge in the indictment.

43. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a pad of paper, marked Exhibit S-83, not material or relevant to the issue or proof of the charge in the indictment.

44. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain safe, marked Exhibit S-49, not material or relevant to the issue or proof of the charge in the indictment.

45. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Ex-

hibit S-84, not material or relevant to the issue or proof of the charge in the indictment.

46. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-85, not material or relevant to the issue or proof of the charge in the indictment.

47. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money marked Exhibit S-86, not material or relevant to the issue or proof of the charge in the indictment.

48. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-87, not material or relevant to the issue or proof of the charge in the indictment.

49. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain sums of money, marked Exhibit S-88, not material or relevant to the issue or proof of the charge in the indictment.

50. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, an envelope containing certain papers, marked Exhibit S-49, not material or relevant to the issue or proof of the charge in the indictment.

51. Because the trial judge erred in admitting in evidence over the objection of counsel for the defendants, certain government bonds, marked Exhibit S-89, not material or relevant, to the issue or proof of the charge in the indictment.

Specifications for Reversal.

52. Because the trial judge erred in admitting in evidence over the objection of counsel for the defendants, a certain letter, marked Exhibit S-90, not material or relevant to the issue or proof of the charge in the indictment.

53. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain letter, marked Exhibit S-91, not material or relevant to the issue or proof of the charge in the indictment.

54. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain negotiable instrument, marked Exhibit S-92, not material or relevant to the issue or proof of the charge in the indictment.

55. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain checks, marked Exhibit S-93 A and B, not material or relevant to the issue or proof of the charge in the indictment.

56. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain case or chest, marked Exhibit S-94, not material or relevant to the issue or proof of the charge in the indictment.

57. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain sum of money, marked Exhibit S-95, not material or relevant to the issue or proof of the charge in the indictment.

58. Because the trial judge erred in admitting in evidence, over the objection of counsel for the

defendants, certain government bonds, marked Exhibit S-96, not material or relevant to the issue or proof of the charge in the indictment.

59. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, certain telephone instruments, marked Exhibit S-33, A, B, C and D, not material or relevant to the issue or proof of the charge in the indictment.

60. Because the trial judge erred in admitting in evidence, over the objection of counsel for the defendants, a certain telephone instrument, marked Exhibit S-34, not material or relevant to the issue or proof of the charge in the indictment.

61. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What is a wire room?"

62. Because the trial judge erred in refusing to strike, on motion of counsel for the defendants, the answer of the State's witness Ralph Dowgan to the question asked by the Prosecutor "What is a wire room?", his answer being "A room which would be set up with a table, telephones, arranging to accept bets to carry on—".

63. Because the trial judge erred in refusing to allow the State's witness Ralph Dowgan to answer the question asked him on cross-examination by counsel for the defendants "Q. Have you ever made a book?"

Specifications for Reversal.

64. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What are these sheet?" (referring to Exhibit S-13).

65. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "You say these are tracks, racing tracks?" (referring to Exhibit S-22).

66. Because the trial judge erred in allowing Ralph Dowgan, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "And would you say that this room on the third floor of 1124 Garden Street was a fully equipped wire room?"

67. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What did he say?" (referring to a statement made by State Trooper Kerr who was present at the time of the arrest of the defendant Eugene Lewis).

68. Because the trial judge erred in refusing to strike the answer of the witness Walter Heckmann to the question asked by the Prosecutor over the objection of defendant's counsel "What was that statement?", his answer being "The statement made by Trooper Kerr: 'Here, Corporal, watch that man, he is hiding something.'"

New Jersey State Library

Specifications for Reversal.

69. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What did you ask him to do?" (referring to defendant Eugene Lewis).

70. Because the trial judge erred in denying the motion made by counsel for the defendants to strike out the entire testimony given by the State's witness, Walter Heckmann, as being immaterial and irrelevant to the issue.

71. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What are these slips?" (referring to Exhibit S-59).

72. Because the trial judge erred in allowing Walter Heckmann, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, on this slip here marked 'Frank Morano 4, 2;' can you tell us what that means?" (referring to Exhibit S-59).

73. Because the trial judge erred in denying the motion of counsel for the defendants to strike the testimony of the State's witness, Walter Heckmann, with respect to his knowledge of the meaning of certain papers admitted in evidence, particularly Exhibit S-59.

74. Because the trial judge erred in denying the motion of counsel for the defendants to strike the testimony of the witnesses who testified for

the State as to what took place in the so-called "wire-room" at 1124 Garden Street, Hoboken, after the defendants were arrested.

75. Because the trial judge erred in refusing to strike that portion of the answer of the State's witness, Walter Heckmann, wherein he characterized certain articles exhibited to him by the Prosecutor as "racing paraphernalia".

76. Because the trial judge erred in allowing Walter Heckman, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "And do you recall what he said with reference to this money?" (referring to a statement made by defendant Eugene Lewis after his arrest).

77. Because the trial judge erred in allowing Walter Schindler, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What did he say pertaining to this money?" (referring to a statement made by defendant made by defendant Eugene Lewis after his arrest).

78. Because the trial judge erred in allowing Harry Imhoff, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What were you given?"

79. The trial judge erred in denying the motion to strike the answer to the question asked of the witness Harry Imhoff by the Prosecutor: "88 Hudson Street, P. L. 1695, what did you find?",

his answer being "I found nothing, but a package was handed to me with the telephone in it."

80. Because the trial judge erred in allowing Harry Imhoff, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Did you receive anything that day?"

81. Because the trial judge erred in allowing Harry Inhoff, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now what kind of a place is 126 River Street?"

82. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I show you several sheets which are marked in evidence S-13 and I ask you if you can tell us what those sheets are?"

83. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Well, do you know what it is?" (referring to Exhibit S-22).

84. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Where you have the two dollars in the one column—in other words you have two dollars in the third column or a figure 2, rather, I

should say. Can you tell us what that is?'' (referring to Racing Charts).

85. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor; referring to a certain ''National Racing Program'', Exhibit S-19, ''What is it used for?''

86. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''Is this sheet used in the taking and making of a book?'' (referring to Exhibit S-19).

87. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''Can it be used in the taking and making of a book?'' (referring to Exhibit S-19).

88. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''What information can that give to a bookmaking establishment''; ''Q. What does it give?'' (referring to Exhibit S-19).

89. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: ''What are they used for?'' (referring to sheets marked Exhibit S-13).

Specifications for Reversal.

90. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I show you several sheets, seventeen in number which are marked S-22 in evidence, and I ask you have you ever seen that type of sheet before, and if so, what they are?"

91. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I call your attention to this one over here, 'Five and a half furlongs.' What is that, if you know?" (referring to Exhibit S-22).

92. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Can you tell by looking at the column, please, whether or not that race was run?" (referring to Exhibit S-22).

93. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, what is this horse which is number nine, Fred Coty; there is a three-quarter circle around that horse?" (referring to Exhibit S-22).

94. Because the trial judge refused to strike the answer given by the witness James J. Mahoney, to the question asked by the Prosecutor:

"That is the winner, you say. Now, over the horses's name, number 3, John's Bird, there is written in pencil a numeral 2; can you tell us what that means?", his answer being "That is the horse that came in second."

95. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Under that same column, there is a name of a horse 'Victory Maid' with a pencil mark written over it, number 3; can you tell us what that number 3 is or what it indicates?" (referring to Exhibit S-22).

96. Because the trial judge erred in refusing to strike the answer to the preceding question, the answer being "That horse came in third."

97. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "On the botton of that list of nine names of horses, or horses' names, there is three columns, in the first column there is 25.50, 9.70 and 6.50. Can you tell me please what that indicates?" And the refusal of the trial judge to strike the following answer "That means that Fred Coty paid $25.50 to win, $9.70 for second, and $6.50 for third." (all referring to Exhibit S-22).

98. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants,

to answer the following question asked by the Prosecutor: "Now that column which you just referred to was 25.50, 9.70 and 6.50—under there there are 5.20 and 4.40; can you tell us what that indicates", (referring to Exhibit S-22).

99. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now these two last figures that you have just given us, there is written after that $11.30. I ask you what that indicates?" (referring to Exhibit S-22).

100. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now I show you 'Racing Form', exhibit S17 and I ask you to look at this and compare it with the two races that you have referred to, and please tell us, if you can whether or not the names in this 'Daily Racing Form' appear in this sheet that you have just referred to?"

101. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, will you now refer to the race at Suffolk Downs, and will you read that from page 16 of the Daily Racing Form?" (referring to Exhibit S-17).

102. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants,

to answer the following question asked by the Prosecutor: "I show you S-21 in evidence, which purports to be 'Index to Entries'. Can you tell us what that is?"

103. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor : "I show you these slips and ask you whether or not these slips are used in connection with bookmaking?" (referring to Exhibit S-61).

104. Because the trial judge erred in allowing James J. Mahoney, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, Lieutenant, with what I have shown you here and from your experience and knowledge, and from what you see in this court room, this board marked S-12 in evidence, these telephones, these private telephones; can you tell us, in your opinion, what all this was being used for?" And the refusal of the trial judge to strike the answer of the witness to the above question as follows: "Typical bookmaking equipment."

105. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, Chief, I show you Exhibit S-13; can you tell us what those sheets are, yes or no?" Answer, "Yes, sir." Question, "Will you please tell us what they are?"

106. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over

the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "How are these bets made?" "How are they received, Chief?"

107. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "And I show you this first sheet, which has on the back Adams Street, and there is a number one in the second column; can you tell me please what that is?" "What are they?" (referring to Exhibit S-22).

108. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "What is this sheet, do you know?" (referring to Exhibit S-22).

109. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "You say they are racing charts, what are they for?" (referring to Exhibit S-22).

110. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I show you another sheet in Exhibit S-13 with two dollars in the second column, Fred Coty, 25.50 and can you tell us if that is the same situation?"

Specifications for Reversal.

111. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, Chief, these Exhibits that I have shown you, together with all of this paraphernalia that you see before you, the table and the telephone and the radio and these boxes, can you tell us whether or not they are used in connection with bookmaking?"

112. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, I show you again S-13 in evidence and ask you whether or not these sheets marked Exhibit S-13 are used in taking and making a book?"

113. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "And Chief, would you say or would you not say that these sheets, S-13, are used in taking and making a book?"

114. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I show you these sheets S-22 in evidence and I ask you if these sheets are used in making and taking a book?"

115. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to an-

swer the following question asked by the Prosecutor: "I show you this 'Racing Form' marked S-17 and I ask you if this racing form is used in making and taking a book?"

116. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following questions asked by the Prosecutor: "I show you what purports to be 'Lawton Handicap' marked S-20 in evidence and I ask you if you know what that is?" "What is it?" "And is this used in taking and making bets?"

117. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "I show you, Chief, S-54 in evidence and I ask you if that sheet is used in taking and making a book?"

118. Because the trial judge erred in allowing Peter J. Devine, a witness called by the State, over the objection of counsel for the defendants, to answer the following question asked by the Prosecutor: "Now, I call your attention to a great number of pads here marked S-47 in evidence, one of which is in my hand and I ask you whether or not these pads are used in the making and taking of a book?"

119. Because the trial judge erred in refusing to strike the testimony of the witness Simon L. Fisch on the ground that it was incompetent, irrelevant and immaterial.

120. The trial judge erred in denying the motion made by defendants' counsel for the direction

of a verdict of not guilty on the same grounds as the court's refusal to quash the indictment.

121. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to charge the commission of any crime by the defendants or any of them.

122. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to charge a crime under Revised Statutes 2:135-3.

123. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment fails to allege a material element of an offense created by the Statute under which the indictment was drawn, in that the indictment charges the defendants wilfully and unlawfully did make and take what is commonly known as a book upon the running of horses, mares and geldings. The statutory language, so far as pertains is: "Any person who shall make or take what is commonly known as a book upon the running, either within or without the state, of any horse mare and gelding, shall be guilty of a misdemeanor.

124. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment is defective in filing to charge a place either within or without the state where the alleged running took place, and whether such place was within or without this state.

Specifications for Reversal.

125. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the indictment is defective in its charge that the defendant did make and take what is commonly known as a book upon the running of horses, mares and geldings, without setting forth the statutory fact constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the party accused of the offense with which he or they can charge.

126. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove the charge or crime set out in the indictment against the defendant or any of them.

127. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, did make and take what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

128. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, either made or took what is commonly known as a book, as charged in the indictment.

129. The trial judge erred in denying the motion made by defendants' counsel for the direc-

tion of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any of them, made or took, or made and took what is commonly known as a book upon the running of any horse, mare or gelding, either within or without the State, or in fact anywhere.

130. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to show that any horse, mare or gelding ever did run within or without the state or anywhere.

131. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the State has failed to prove that the defendants, or any one of them, made and look a book, or made or took a book upon any horse, mare or gelding, which did in fact run either within or without the state.

132. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that no part of the evidence offered by the State, nor the whole thereof taken together, constitute the making or taking, or making and taking of what is commonly known as a book, as charged.

133. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that if a book was in fact made and taken, as charged in the indictment, there is no proof as to which of the defendants made the same.

Specifications for Reversal.

134. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that the defendants are all charged as principals, and the evidence fails to show which are principals, and which, if any, aided, abetted or assisted, and it is impossible for the jury to find which of the defendants are principals and which are aiders, abettors and assisters.

135. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of not guilty on the ground that from the evidence, the most that can be said of the defendants, other than Eugene Lewis, is that they aided, abetted or assisted in some part of the activities which took place on the premises referred to in the testimony; and as to them, there should be a direction of acquittal since they are not charged with aiding, abetting and assisting.

136. The trial judge erred in denying the motion made by defendants' counsel for the direction of a verdict of acquittal at the end of the entire case, which motion was based upon the same grounds as the motion for acquittal made at the end of the State's case.

137. The trial judge erred in charging the jury in the following respects:

"Now, the statute of the State of New Jersey, Revised Statutes, Article 2, 135-3, states as follows:

" 'Any person who shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or with-

out this state, of any horse, mare or gelding * * * shall be guilty of a misdemeanor.'

"Now, that is what the statute says.

"In the absence of any court decision in this state defining the meaning of the word 'bookmaking' or 'making or taking books' I shall read to you what Webster's new international dictionary, second edition, says:

" 'Bookmaking: The making of a book of bets.'

"At another place: 'Make a book. To record bets in a book. To make a business of accepting bets, as on horse races.'

"And in another place, on the word 'book':

" 'A record of bets; especially a record of bets on horse races.'

"Now, it is called bookmaking because the bets are booked, or a record of them is kept in a book or on sheets of paper."

138. The trial judge erred in refusing to charge the jury at the request of the defendants' counsel in the following manner:

11. Defendants request that the Court charge the jury as to what facts must be proved by the State to establish the defendants' guilt of the offense of making and taking what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

12. Defendants request that the Court charge the jury as to what is meant by the term "making and taking what is commonly known as a book upon the running of horses, mares and geldings," as charged in the indictment.

Specifications for Reversal.

13. Defendants request the Court to instruct and charge the jury as to what constitutes the making of a book such as the defendants are charged in the indictment with making.

14. What is commonly known as a book upon the running of horses, mares and geldings is the making up of a written list of entries in a horse race or races, together with the odds at which the person who prepared the list is willing to accept bets in favor or against the success of such horses in the race or races.

If the State has failed to establish to your satisfaction, beyond a reasonable doubt, that such a "book" was prepared by the defendants, you must bring in a verdict of "not guilty."

15. The making or taking of a book, the offense with which the defendants are accused in the indictment, consists of the following elements:

First, the preparation of a written list of the entries in a horse race or races, and of the odds at which the person who prepared the list is willing to accept bets for or against the respective entries;

Second, the public offering to accept bets at the listed odds;

Third, the acceptance of bets at such odds from members of the public; and

Fourth, the written recording of such bets at such odds.

Specifications for Reversal.

If the State has not established that the defendants did each and every one of the things just mentioned, to your satisfaction, beyond a reasonable doubt, it is your duty to bring in a verdict of "not guilty."

16. Unless the State has proved to your satisfaction, beyond a reasonable doubt, that the defendants accepted bets in accordance with a system of prepared odds, the State has not established that they made or took what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment, and you must bring in a verdict of "not guilty."

17. Even though you should be satisfied, beyond a reasonable doubt, that the defendants made and accepted bets with the public on the event of horse races, and recorded such bets, still, if it has not been proved to your satisfaction, beyond a reasonable doubt, that the bets so made were made in accordance with a system of odds prepared in advance, they are not guilty of the offense charged in the indictment, and you must acquit the defendants.

18. The defendants have been charged with having, on June 9th, 1944, made and taken what is commonly known as a book upon the running of horses, mares and geldings.

If the State has not proved to your satisfaction, beyond a reasonable doubt, that the defendants, on the day mentioned in the indictment, engaged in making and taking what is commonly known as a book, as it has been

defined to you, even though it has proved that they engaged in a different type of betting, the guilt of the defendants of the offense charged in the indictment has not been established, and you must bring in a verdict of "not guilty."

19. If the State has failed to prove that any horse, mare or gelding upon which the defendants may have made or taken a bet on the date charged in the indictment actually ran, you are instructed to bring in a verdict of "not guilty."

20. The defendants are all charged in the indictment as principals, with having made and taken a book upon the running of horses, mares and geldings.

If the State has established to your satisfaction, beyond a reasonable doubt, that certain of the defendants made and took such book, but has established, as to other defendants, that they only aided, abetted or assisted therein, you must acquit those other defendants.

22. Some evidence has been offered of statements made by some of the defendants while they were in custody, following their arrest. I charge that such statements, made at the time of arrest, to persons in authority, are to be received with great caution, for besides the danger of misapprehension of the witness, or the misuse of words, or the failure of the party to express his own meaning, it should be recalled that the mind of the prisoner is often oppressed by the calamity of his situation, and that he is often in-

flenced by motives of fear, or the hope of favorable treatment, and may thus be induced to make statements which he believes the prosecuting officials wish to hear.

23. I charge you that any evidence of statements alleged to have been made by any of the defendants while in custody, following their arrest, and not in the presence of their co-defendants, are to be considered, if at all, as evidence only against the defendant who made the statement. In no event may you consider such statement, even though implicating another defendant, as evidence against any other defendant; and if the guilt of such other defendant has not been established to your satisfaction, beyond a reasonable doubt, entirely apart from such statement, it is your duty to acquit him.

24. If you find from the proofs offered in this case that a book was made or taken, as the Court has defined it, at 1124 Garden Street, Hoboken, but that any of the defendants on trial were mere employees or only casually assisting in the activities at 1124 Garden Street, Hoboken, on the day in question, then your verdict as to him or them must be not guilty.

139. The verdict is against the weight of the evidence.

140. The verdict is contrary to the evidence.

141. The trial judge erred in permitting certain State Police Officers and County Detectives to express opinions as experts and testify with respect to what was meant by the making and taking

what is commonly known as a book upon the running of horses, mares and geldings.

142. Because the trial judge erred in permitting certain State Police Officers and County Detectives, after an examination and inspection of the exhibits offered by the State, to express an opinion that such exhibits made up or constituted the making and taking what is commonly known as a book upon the running of horses, mares and geldings.

143. Because there was no evidence to sustain the verdicts of guilty.

144. Because there was no evidence to sustain the offenses charged in the indictment.

145. Because the trial judge refused to dismiss the indictments on motion of counsel.

146. Because the trial judge refused to direct a verdict for the plaintiffs-in-error.

147. Because the trial judge, over objection, admitted illegal evidence in the case on the part of the State.

148. Because the verdict was against the weight of the evidence.

149. Because manifest injustice was done to the plaintiffs-in-error by the whole charge of the trial judge.

Wherefore, because of the aforesaid causes, or some of them, constitute error prejudicial to the said plaintiffs-in-error they pray that the said

judgments and sentences may be reversed, set aside and held for nothing and that they may be restored to all things which they have lost by reason thereof.

JULIUS LICHTENSTEIN,
FREDERIC M. P. PEARSE,
Attoneys for and of Counsel with
Plaintiffs-in-Error.

Due and timely service is hereby acknowledged this 12th day of January, 1945.

WALTER D. VAN RIPER,
Attorney General and Acting Prosecutor
of the Pleas of Hudson County.

Testimony.

HUDSON COUNTY COURT OF
QUARTER SESSIONS.

THE STATE OF NEW JERSEY *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS, JAMES A. LEWIS, SALVATORE URSO, ANTHONY MONTELIONE, NICHOLAS BASSO, Defendants.	Indictment No. 197. April Term, 1944. Bookmaking. Testimony.

Jersey City, N. J.
October 30, 1944.

Before HON. HORACE K. ROBERSON, Judge, and a jury.

Appearances:

JAMES J. GIULIANO, ESQ.,
Deputy Attorney General.

JULIUS LICHTENSTEIN, ESQ.,
For the Defendant James A. Lewis.

FREDERIC M. P. PEARSE, ESQ.,
For the Defendants Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis.

DOMINICK MARRONE, ESQ.,
For the Defendants Anthony Montelione and Nicholas Basso.

DANIEL H. ROSEN, ESQ.,
For Defendant Salvatore Urso.

Mr. Giuliano: May I at this time ask that the defendants Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, James A. Lewis step forward and do so in order to re-enter their plea.

Mr. Pearse: On behalf of these defendants we enter a plea of not guilty.

Mr. Giuliano: In other words, Mr. Pearse, you waive the reading of this indictment of the ten defendants and enter a plea of not guilty?

Mr. Pearse: That is correct.

Mr. Marrone: May it please the court, I represent two of the defendants mentioned in the second count, Montelione and Basso. I would like at this time to move your Honor to allow us ten challenges. I understand the complainant, the State, is entitled to ten challenges, and the defendants collectively, where they are tried jointly, are entitled to ten challenges.

In the event that we would be only entitled to one challenge each for ten defendants, and since my clients are mentioned in the second count of the indictment, and since that is a separate offense, I think your Honor should allow us ten challenges to the State's challenges.

The Court: I think the court decided last week they were not separate offenses. They are the same offense. What have you to say, Mr. Giuliano?

Mr. Giuliano: I think the motion is premature. I think if Mr. Marrone will wait until the State moves the case and then make his motion maybe it won't be necessary.

At this time I move the case of the State *vs.* Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, James A. Lewis, Salva-

tore Urso, Anthony Montelione and Nicholas Basso.

Now, with respect to Salvatore Urso, Anthony Montelione and Nicholas Basso, the State now moves for a severance.

The Court: Have you anything to say about that?

Mr. Marrone: I think, your Honor, since the defendants were jointly indicted and since your Honor has already ruled that it is one case and it is not a separate case, I think they should go to trial at the same time. It is a joint defense.

The Court: Of course it will not injure you, that is, your clients, by having a separate trial, Mr. Marrone.

Mr. Marrone: No, it will not.

The Court: In fact it might help you.

Mr. Marrone: It might and it might not.

The Court: If you wish to get the benefit of the testimony that goes in on the trial of the others—

Mr. Rosen: If your Honor please, may I ask, representing the defendant Salvatore Urso, that we have about two or three minutes for a conference since Mr. Marrone's clients and my client are in the same position?

We are in the position that we have gotten ready for this trial and we moved last time that they were separate offenses, and your Honor has ruled that it is one crime.

The Court: That was whether the indictment charged one crime.

Mr. Rosen: We are ready to go on. We have gotten ready and we should go on jointly.

Mr. Giuliano: The State has asked for a severance, your Honor, for many reasons, which it does not have to disclose. The State feels that it will proceed at this time against the seven defendants

mentioned in the first count, and desires a severance and asks for a severance as to the other three.

The other three defendants cannot be heard as your Honor has just said. I think the State is fair when the State asks for a severance.

As your Honor has indicated, these three defendants are going to have the benefit of all the testimony, so I don't see where counsel should object to the severance.

The State has asked for it and I therefore at this time ask that the State's motion be granted.

Mr. Rosen: Perhaps if Mr. Giuliano would give me the benefit of his reasons I might join him in the motion, but you take me completely by surprise this morning.

Mr. Giuliano: I am surprised by a lot of things and I am not here to mention them, so the State is now moving for a severance.

Mr. Rosen: Mr. Giuliano has not advanced one reason. Usually one good reason should be advanced to give your Honor a reason for doing this, other than the fair word of the Prosecutor.

Mr. Giuliano: I can give that reason very simply. The three defendants mentioned in the second count, the proof is a little different than the proof for those mentioned in the first count.

The State feels, in fairness to all, that the request should be made, and that the request should be granted.

The Court: I can't see how your client would be prejudiced at all, and in view of that fact I feel that the court should comply with the State's request.

Mr. Marrone: If that is your Honor's ruling.

Mr. Giuliano: May these defendants remain, please?

Mr. Marrone: I think that if the case is over for them, unless the State intends some other action, I don't know—

The Court: If the State needs them?

Mr. Giuliano: If the State needs them it can easily get them. If counsel does not want them to remain, it is perfectly all right.

Mr. Rosen: May I ask an exception to your Honor's ruling?

Mr. Marrone: And may I ask your Honor to give me an exception.

Mr. Giuliano: The defendants are at liberty to do what they want to, these three defendants, that is Salvatore Urso, Anthony Montelione and Nicholas Basso.

Mr. Rosen: With respect to that I ask that the same bail be continued so that they may be at liberty.

(Thereupon a jury was duly impaneled, being found satisfactory, it was sworn.)

(The court thereupon declared a recess until 2:45, officers were sworn and the jury was admonished not to discuss the case, nor to permit anyone to discuss it until the evidence was all in.)

(The jury then left in the custody of the officers.)

(Adjourned until 2:45 P. M.)

(After Recess, 2:45 P. M.)

(In the presence of the defendants and their counsel, the clerk polled the jury.)

Edward D. Davis, called as a witness on behalf of the State, being sworn, was examined and testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. Jersey City.

Q. What is your address? A. 53 Duncan Avenue.

Q. What is your business? A. Photography.

Q. Were you in business on June 9th, this year? A. Yes, sir.

Q. I show you a picture and I ask you if you took that picture, and on what date you took that picture? A. It was made on June 9th.

Q. Where did you take that picture, what was the address? A. 1124 Garden Street, Hoboken, New Jersey.

Q. What floor? A. That was made on the top floor.

Q. Do you know whether it is the first or second or third floor? A. I believe it is the third floor, the rear of the room.

Q. Does that picture disclose the condition of the room at the time you took the picture? A. Yes, sir.

Mr. Giuliano: I offer it in evidence.

(Accepted and marked as State's Exhibit S-1 of this date.)

Mr. Lichtenstein: May we ask just one question? Is the time which is indicated on the clock the correct hour?

Mr. Giuliano: I assume so.

Q. Will you look at that picture. There is a clock disclosed in that picture; when would you say that was, about? A. About the time my record shows, I started at 4:50.

Q. And that discloses around 4:55? A. Yes, 4:56.

Q. Mr. Davis, I show you another photograph and I ask you if you took that picture (handing witness)? A. Yes, sir.

Q. About what time did you take that picture, can you tell? A. Well, ten minutes after five.

Q. And that is disclosed in the picture? A. Yes, sir.

Q. And that picture discloses a true condition of the part of the room which is disclosed in the picture? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-2 of this date.)

Q. I show you another photograph, Mr. Davis, and ask you if you took that photograph? (Handing witness) A. Yes, sir.

Q. And what does that disclose? A. That discloses the outside, the front of the building at 1124 Garden Street, Hoboken.

Q. When did you take that picture? A. That was made on June 12th.

Q. That was three days after the other pictures were taken? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-3 of this date.)

Mr. Giuliano: Cross examine.

Mr. Pearse: We have no questions.

Emil Minette, the applicant, being sworn, was examined and testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. 147 White Oak Terrace, Belleville, New Jersey.

Q. By whom are you employed? A. Newark Evening News.

Q. Were you employed by the Newark Evening News on June 9, 1944 last? A. Yes, sir.

Q. Did you have occasion to go to 1124 Garden Street, Hoboken on an assignment for your newspaper? A. Yes, sir.

Q. In what capacity are you employed in the Newark Evening News? A. I am a news photographer, sir.

Q. I show you a picture and I ask you if you took that picture, and on what date you took it? A. I took this picture on June 9th.

Q. Where? A. At 1124 Garden Street.

Q. Now, before you took that picture, was there anything said in the presence of the defendants Eugene Lewis, Walter Lewis, Frank Morano and the defendant Mullins and the defendant Halpin?

Mr. Pearse: I ask if that question is answered, it be answered yes or no.

Mr. Giuliano: That is right.

A. Yes, sir.

Q. And what was said at that time and by whom?

Mr. Pearse: I object; in the first place, the time when this remark was made, or the things were said to the defendants whom I represent should first be fixed.

When I say the time, I don't mean the day, I mean the hour, because I listened very intently to the opening of the Prosecutor, as your Honor knows, and heard him relate what he expected to prove, and while it may be possible that some of the things that were said or done in that house may be admissible at this trial, other things might not be, and therefore it all depends upon the time when this took place, and so I object to any testimony as to what was said until a time is fixed.

Mr. Lichtenstein: May I, in behalf of the defendant James Lewis, interpose this objection. The form of the question excludes James Lewis from any participation in the conversation, nor was he present.

Therefore, anything that might be said would not be binding upon James Lewis.

I know very often the court permits testimony to be given and gives instructions to the jury to disregard it. That may be theoretically very well, but practically and from the point of view of experience, it is not very effective. It is very difficult for a jury to exclude from their minds and eradicate from their mind, even though they may be enjoined and instructed by the court, the testimony which might indirectly affect another defendant who would not be bound by the testimony.

Therefore I object, in behalf of my client, Mr. James Lewis, to that question.

The Court: As to your objection, Mr. Lichtenstein, if it is permitted, the jury will be instructed to give no regard to it as far as your client is concerned, sir.

Mr. Lichtenstein: Well, the question involves an answer by these defendants which must necessarily exclude any evidence which would affect my client.

Mr. Giuliano: It does. I have made no reference to James Lewis, either Mr. Lewis when referring to my question.

Mr. Lichtenstein: That is the reason I object. I say necessarily it could not possibly bind my defendant.

The Court: And the jury will be told that. I don't think that is any reason that excludes it entirely.

Mr. Lichtenstein: Should not the jury be instructed now rather than wait until some future time?

The Court: You are perfectly right. Any answer that this witness makes as to a conversation that went on when Mr. James Lewis was not present, is not to be held as binding on him in any way or manner whatsoever.

Will you kindly have him fix the time, approximately, please.

Q. About what time did you get there, Mr. Minette? A. Well, I will say around 4:15.

Q. What time did you take that picture that I have shown you? A. 4:25.

Q. Now, between 4:15 and 4:25 P. M. on June ninth, will you please tell us the statement that

was made and by whom it was made, and what was told at that time to the five defendants that I have referred to before?

Mr. Pearse: I object, if the Court please. If we paid attention to what the Prosecutor said in his opening, that this event about which he is questioning this witness took place after the house had been broken into by the state troopers and the representatives of the Prosecutor's office, after the persons who were there were either in restraint, if not actually under arrest, anything which they said or did or which was done in their presence, is absolutely inadmissible in the trial of this case as not being voluntary.

The Court: There is no testimony before the Court that would indicate that it is not voluntary or that there was any restraint.

Mr. Pearse: If the Court please, the difficulty that I am confronted with, is that the Prosecutor before he brings on the story of the raid, puts this witness on the stand, fixes a time which was long after the raid took place, and after these men, as he says in his opening, were under restraint, and therefore anything that they said after they were under restraint and taking the Prosecutor's own word for the time, was not a voluntary statement and is not binding and any consent that they may have given to anything which took place after they were put under restraint is not voluntary and is not binding upon them.

Mr. Giuliano: May I say this——

Mr. Pearse: May I finish, please?

So I would suggest, if the Court please, if I may, that the Court insist that the Prosecutor take these events step by step so that we don't jump right into the middle of this thing and be forced to object all the time where things happen after we have been told there was a raid.

Mr. Giuliano: May I say this in answer to Mr. Pearse, that it is not the law in New Jersey, I must differ from my learned friend for the purpose of putting the pictures in now, I might say to Mr. Pearse, is that the articles, when they are produced here can be identified in the picture, and also identified here. I may say that the State can only put one witness on at a time. I am sure that the State will connect everything that it puts in evidence.

Mr. Pearse: Well, then, may I make this statement, if the Court please. The Prosecutor says I don't understand the law of New Jersey.

Mr. Giuliano: I didn't say that. I said I differ with my learned friend. I think Mr. Pearse understands the law and understands it very well.

Mr. Pearse: I am quite sure that it is the law of this State that any statement made by a person after he is put under restraint by police officers is not, under ordinary circumstances, a voluntary statement unless it is so proved, and I say that this witness is not in a position to testify in that respect, and that it is unfair to us to call upon this witness to testify as to what was said until the jury first has the facts which led up to the conversation.

The Court: Of course we don't know whether this witness can testify to it or not until we know what he is going to say.

Mr. Pearse: I am making timely objection, if the court please, before what might be damage, perhaps is done.

Mr. Lichtenstein: Since there are two counsel in this case, in order that we may not be repetitious in all our objections, there are times when I will get up first, and there are times when Mr. Pearse may get up first; may we have an understanding that objections made by Mr. Pearse or objections made by me, that they be applied to all the defendants?

The Court: All the defendants will get the benefit of the objections.

Mr. Lichtenstein: Then it is the ruling of the court that all the defendants individually and collectively may have the benefit of any ruling and any objection made by respective counsel without particularly pointing out, unless counsel has a special reason because of his particular client to particularize.

The Court: Similar to the objection made a few minutes ago?

Mr. Lichtenstein: On the subject of whether a statement is voluntary or not, it is my opinion that where a person is under arrest, as is evidenced in this case that all these defendants were under arrest other than James Lewis, that before the prosecution is permitted to introduce the statement made by any of the defendants, that it is necessary for them to show the voluntariness of the statement.

The Court: That is only done, Mr. Lichtenstein, by a witness and after all, if this witness testified to what was said by someone to them, wouldn't that indicate whether or not it was voluntary?

Mr. Lichtenstein: No, that goes beyond the point, and once he makes the statement, that is the end of it.

The Court: I am not talking about the defendant's statement; apparently someone said something to the defendant.

Mr. Lichtenstein: Well, do I understand that the question involves a third party other than the defendant making the statement?

Mr. Giuliano: That is right.

Mr. Lichtenstein: Then I object, if the court please, on behalf of all the defendants, that it is irrelevant,, incompetent and immaterial and not binding upon any of the defendants and certainly not binding upon the defendant James Lewis, a statement made by a third party.

The Court: In the presence of these defendants except Mr. James Lewis?

Mr. Lichtenstein: Yes, your Honor.

The Court: The jury has been instructed as to the effect of the statement and I will allow the statement.

Mr. Lichtenstein: Your Honor will allow an exception?

The Court: Yes.

The Witness: When I was up there, Mr. Prosecutor, I heard you say, or you asked these men that were in this bedroom to come out and sit down in exactly the same chairs that they were in before you fellows

got there, and then, when they were seated at this table, I made that picture.

Mr. Pearse: I move to strike that answer. He says that you, Mr. Prosecutor, asked; I insist, if the court please, that he should be instructed to state, if he is going to state it at all, exactly what was said and the language, to the best of his recollection, that was used. So much depends on the circumstances which a man finds himself in, whether he is being asked to do a thing which is something that he is doing voluntarily or if there were, say a gun in his back, and he has to do it.

Mr. Giuliano: I don't think that is a fair statement, Mr. Pearse. There were no guns there.

Mr. Pearse: Figuratively speaking.

Mr. Giuliano: I don't think that is fair, really I don't.

The Court: If the witness will repeat the conversation to the best of his ability.

Q. Do you remember the conversation? A. Yes, when I was making the pictures up there of these people, I heard you ask these men that were in the bedroom.

Q. What did I say to them? A. To come out and sit exactly—in exactly the same chairs that they were seated before you fellows got in there, and that is all. I heard these men come out there and take their places, and I made a picture. That is all I know.

Q. Did anybody force them out of that room? A. I didn't see anyone.

Mr. Pearse: I object.

Q. Did you see any guns? A. I did not.

Mr. Pearse: I object.

Mr. Giuliano: Mr. Pearse made the statement about guns.

Mr. Pearse: That is not the statement he made at all. It is a figure of speech.

The Court: You have to be careful in handling figures of speech. Someone may take them as reality.

Mr. Giuliano: That is what I did. I want to clear that point with the jury.

Q. After these five defendants came out and seated themselves at this table, did you take a picture? A. Yes, sir.

Mr. Giuliano: I offer this picture in evidence.

Mr. Pearse: I object to it because it now appears that these men were called out of a room by the Prosecutor who was there on the spot, and told to sit down at a table and have their pictures taken.

Now, that is after the happening of any event in connection with the alleged commission of any crime, and means nothing and is not evidential and is simply attempting to depict something which did not really happen.

Mr. Giuliano: May I say this statement was very clear to the defendants at the time it was made, as has been testified by this witness, to take their seats, the exact seat that they had occupied before we got there.

Mr. Pearse: That is exactly what I complain of.

The Court: I will permit it.

Mr. Lichtenstein: Your Honor will grant an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-4 of this date.)

Mr. Pearse: Just a moment before this is shown to the jury. I would like to reserve my right at the end of the State's case to move to strike this particular exhibit, and I ask that it be held from the jury until that motion is decided.

Mr. Giuliano: But it is in evidence, Mr. Pearse, and the jury is entitled to everything.

The Court: Yes, it has been admitted in evidence.

Mr. Giuliano: May I show it to the jury.

Mr. Pearse: I know that is a matter entirely within the discretion of the Court so I would take an exception to your Honor's ruling.

Q. After you took the picture which is marked S-4 in evidence, did you go, or did you not go to the adjoining bedroom? A. I did.

Q. And did you take a picture in that room? A. I did.

Q. And what picture did you take there; can you describe it, please? A. It was some gentleman coming from under a bed.

Q. I show you a picture and ask you if that is the picture which you took of a man coming from under a bed? A. Yes, sir.

Q. Do you see that man in court? A. Yes, sir.

Q. Will you indicate him, please? A. Right over there, one, two, three, the second row, third right.

Mr. Giuliano: Indicating the defendant Mr. Marnell, Mr. Pearse?

Mr. Pearse: I think so, if you say so.

Mr. Giuliano: I am not saying anything; I am not testifying.

Q. You saw him coming from under the bed? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

Mr. Pearse: I certainly object to this, if the Court please.

Has your Honor seen this picture; I will show it to you.

What possible evidential value can that have so far as the State's charges in this indictment are concerned?

Mr. Giuliano: Very simple, flight.

Mr. Pearse? Flight?

Mr. Giuliano: Just what I said, flight.

The Court: Of course it is only evidential as to this defendant.

Mr. Pearse: I don't think it is evidential as to anything so far as the charge in this indictment is concerned.

Your Honor has looked at the picture. If that looks like flight, that is a new way of flying as far as I am concerned.

Mr. Lichtenstein: I would like to add to the objection this observation, if the Court please, as to why it should not be introduced in evidence.

I can't see, despite the statement of the Prosecutor, that it evidences flight; that I cannot agree with. It can only be used for one purpose, and that is to inject into this case something that has nothing whatever to do with the crime charged, and can only

bring the person into ridicule and may have the effect of prejudicing a jury against the defendant, because of the manner in which this picture was taken.

I cannot conceive of any other purpose in introducing this picture in evidence. I don't think it should, under these circumstances, go into evidence.

They have the proof, the Prosecutor has indicated in this testimony of the witness where he said that a man was under the bed and he came out.

Now, what purpose would this serve except for embarrassing a defendant and for prejudicing the minds of a jury by introducing this picture?

The Court: I presume it will be connected up.

Mr. Giuliano: This picture will only show what the true evidence is, and will be connected up with the oral testimony.

Mr. Pearse: It is not proof of anything that is charged in this indictment.

Mr. Giuliano. I say that it is, your Honor, that is a matter for the jury.

The Court: I will permit it.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Yes.

(Accepted and marked Exhibit S-5 of this date.)

Q. After the photograph was taken by you that is marked S-5 in evidence, what did the defendant Marnell do, if you recall? A. After this picture was taken, I think he got dressed. I am pretty sure he put his pants on and he came out and sat down at the table, if I remember right.

Q. Before he sat down at the table, was any statement made by me or by anyone else present to the defendant Marnell? A. I didn't hear anything.

Q. Did Marnell take his place at the table? A. Yes, sir.

Q. And did you take the picture——

Mr. Lichtenstein: I object and ask that that answer be stricken, because there is an insinuation that he took a particular place designated.

Mr. Giuliano: Maybe I can change that.

The Court: The word "his" will be stricken.

Q. Did he take a place at the table? A. Yes, sir.

Q. And did you take any other photographs? A. Yes, sir.

Q. Is this a photograph taken of the six men seated at the table in the room at 1124 Garden Street? A. Yes, sir.

Q. Can you tell us, Mr. Minette, how Mr. Marnell happened to take that place at the table?

Mr. Lichtenstein: The witness has already stated.

Mr. Pearse: I object to that.

Mr. Lichtenstein: He said that he walked over and sat down.

Q. Did he walk over and sit down? A. Yes, sir.

Q. He sat down at the place? A. Yes, sir.

Q. Himself? A. Himself.

Q. And that was the place nearest the window? A. That is right.

Q. These two men, were they seated there before Mr. Marnell got there in the room? A. They were.

Mr. Giuliano: I offer that in evidence.

Mr. Lichtenstein: I object to the offer upon the same grounds in opposition to the previous photograph.

Mr. Pearse: The one next previous.

Mr. Lichtenstein: Yes.

Mr. Pearse: I urge the same grounds as to S-4, the same as to that picture.

The Court: I will allow it.

Mr. Lichtenstein: Exception, please.

(Accepted and marked State's Exhibit S-6 of this date.)

Q. I show you another picture and ask you if you took that picture? A. Yes, sir.

Q. On what day did you take that picture? A. The same day.

Q. About what time of the day? A. Five o'clock.

Q. There is a clock in the picture? A. Yes, sir.

Q. That picture discloses the condition of the room at that time, five o'clock? A. That is right.

Mr. Giuliano: I offer it in evidence.

Mr. Pearse: I object to it as merely cumulative. Is there anything here that was not in the first picture introduced?

Mr. Giuliano: It is another picture taken by another photographer; I don't think it is cumulative. Probably it is corroborative.

(Accepted and marked as State's Exhibit S-7 of this date.)

Mr. Giuliano: You may cross examine.

Cross examination by Mr. Pearse:

Q. Mr. Minette, you say that you are a photographer employed by the Newark Evening News; is that right? A. Yes, sir.

Q. And that you received instructions from your superior to report to what is it 1124 Garden Street? A. Yes, sir.

Q. What time did you get those instructions? A. From my office?

Q. Yes. A. Well, it must have been about 3:30, sir.

Q. What time did you get to Garden Street? A. About four o'clock.

Q. Who were in the house when you got there? A. Well, I saw the Prosecutor Giuliano and a lot of cops, a lot of state troopers.

Q. Whereabouts? A. They were all over, downstairs, upstairs, all over the building, sir.

Q. And did you take these pictures on instructions from your newspaper, or at the request of the Prosecutor? A. I made these pictures myself.

Q. Why? A. Well, it was good news pictures.

Q. You made them for the purpose of publishing them in the newspapers, is that right? A. Yes, sir.

Q. That means all of them? A. I made them all for my paper, yes, sir.

Q. And that includes S-5, does it? A. Yes, sir.

Q. You expected that to be printed in the Newark Evening News? A. I thought so; they used it, sir.

Q. Did they print the picture? A. Yes, sir.

Mr. Pearse: I must have missed that issue; that is all.

Re-direct examination by Mr. Giuliano:

Q. They printed a picture of the others, too, didn't they? A. They printed quite a few, that one and quite a few of the others.

Q. That you made? A. That I made.

Mr. Giuliano: That is all.

TROOPER FRANK PASCH, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Trooper, by whom are you employed? A. New Jersey State Police.

Q. How long have you been employed with the New Jersey State Police? A. Two and a half years.

Mr. Pearse: May I ask what the witness has in front of him?

Mr. Giuliano: It is a sketch of the building.

Mr. Pearse: Is that what you are going to call him for?

Mr. Giuliano: That is all.

Q. You say you have been with the State Police two and a half years? A. Yes, sir.

Q. Now, did you go to 1124 Garden Street, Hoboken, on June 9, 1944? A. I did.

Q. What did you do there? A. I entered the building which had already been entered by some troopers who were there previous to my arrival.

Mr. Pearse: May we have the hour fixed?

Q. About what time did you get there? A. Approximately 3:40.

Q. 3:40 in the afternoon? A. P. M. June 9th.

Q. What did you do there? A. I was detailed by Sergeant Dowgin who was in charge of the

state troopers to draw a sketch map of the floor plan of the entire building, each floor.

Q. Did you make such a sketch? A. Yes, sir.

Mr. Pearse: If you want to show this to us, maybe we can show you a lot of time.

Q. Trooper, I show you a sketch and I ask you if you made that sketch, and what it represents (handing witness)? A. Yes, I made that sketch. This is a sketch map of the first floor of the residence at 1124 Garden Street, and represents a living room and lounge room.

Q. Can you tell us what this is down here, you have certain numerals? A. The lettering at the bottom of the diagram indicates where each article of furniture was placed in the house.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-8 of this date.)

Q. Trooper, I show you another sketch and I ask you if you made that and what it represents? A. Yes, that represents the basement, which is on the level with the sidewalk and represents the dining room, kitchen and sun parlor of the residence 1124 Garden Street, and the letter underneath the sketch indicates where each article of furniture was in these three rooms.

Mr. Giuliano: I offer that in evidence. I understand there is no objection.

(Accepted and marked as State's Exhibit S-9 of this date.)

Q. I show you another sketch, Trooper, and ask you if you made that—and can you tell us

what that represents? A. Yes, that is the second floor of the residence 1124 Garden Street and it represents the bedroom, rear bedroom, front bedroom and rear bedroom of the residence and the lettering at the bottom represents the position of the furniture in reference to the rooms.

Q. As you saw them? A. Yes, sir.

Mr. Giuliano: I offer that in evidence; I understand there is no objection.

(Accepted and marked as State's Exhibit S-10 of this date.)

Mr. Pearse: I assume that the Prosecutor is only introducing the face of these things and not the back or the board upon which they are pasted, which, upon inspection—I just wanted to look and see what it was, whether it had anything to do with horseracing. I see it says "Arsenic and Old Lace." I think that is sufficient.

Q. Officer, I show you another sketch and I ask you if you made that sketch, and what it represents? A. Yes, that represents the third floor of the residence 1124 Garden Street, and it represents the front bedroom, bathroom and a rear room, and the lettering at the bottom indicates the articles of furniture in each room, and also the table which was in the rear room.

Mr. Pearse: Could I take another look at that?

Mr. Giuliano: Surely (handing counsel).

Mr. Giuliano: I offer it in evidence if there is no objection.

(Accepted and marked as State's Exhibit S-11 of this date.)

Mr. Giuliano: You may cross examine.
Mr. Pearse: I have no questions.
Mr. Lichtenstein: No questions.

SERGEANT RALPH DOWGIN, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Sergeant, are you connected with the State Police Department? A. Yes, sir.

Q. How long have you been so connected? A. 15 years.

Q. You are a sergeant? A. Yes, sir.

Q. Now on June 9, 1944, did you receive a detail from your superior? A. Yes, sir.

Q. Who was with you on that detail? A. There were several troopers from my station, Corporal Heckmann, Trooper Green, Trooper Kerr, Trooper McEnroe, Sergeant Schindler and Trooper Pasch, Trooper Zazzi, Trooper Sangi, Trooper Young and Trooper Itesta from the Clinton and Washington Station.

Mr. Pearse: I see that the Sergeant has a paper; may I ask what that is?

The Witness: These are my notes.

Mr. Pearse: I assume that the notes will not be used unless it is necessary for him to refer to them in order to refresh his recollection?

The Court: Do you have to use that to refresh your recollection?

The Witness: Only to fix a time, or some particular time, your Honor.

The Court: In other words, you might have to use them?

The Witness: Yes, sir.

The Court: All right, you may do that.

Q. Where did you go on that day? A. We met with the Attorney General at the Attorney General's office and from there we went to 1124 Garden Street in Hoboken.

Q. Now, will you tell me, or tell us, please, what you did when you got to 1124 Garden Street? A. When we reached 1124 Garden Street, we observed the location and checked it over, and at 3:30 P. M. we went to 1124 Garden Street and entered and effected the raid.

Q. Before you entered the premises, did you do anything? A. When we went to the front door, we rang the door bell and a woman opened the door inside, answering the knocking and ringing of the bell. When we announced that we were from the Prosecutor's office, State Police, the woman slammed the door shut. With that we had to use necessary force to gain entrance.

Mr. Pearse: I ask that the word "necessary" be stricken out and the word "force" remain.

Mr. Giuliano: I have no objection to it. If you don't want that in I think we can agree on that.

Q. Now, after you gained admittance to the property, where did you go? A. We went to the third floor, through the building and upstairs. There was located a stairway in the center of the floor, the center of the floor plan. As we went upstairs, we found the wire room on the third floor.

Mr. Lichtenstein: I ask that the designation "wire room" be stricken as calling for a conclusion of the witness.

The Court: It will be stricken.

Q. You went you say, to the third floor? A. Yes, sir.

Q. What did you see on the third floor? A. On the third floor, in the front room—it was used as—the front, towards Garden Street, was used as a bedroom; the rear was set up with a table and numerous telephones, radio, chairs around the table.

Q. I show you S-1 in evidence and ask you whether or not that is the room that you refer to in which you saw this table and telephone and other articles? A. Yes, sir.

Mr. Giuliano: I ask the court's pardon for about two minutes or so.

Mr. Pearse: Are you going to bring in that big table?

Mr. Giuliano: I am going to bring in that big table.

Mr. Giuliano: May I suggest that we take four chairs and put this on them so that it will make it level.

Mr. Pearse: If it will make the Prosecutor happy, I don't object at all.

Mr. Giuliano: I don't want to be made happier.

Mr. Pearse: It seems to me that this is ridiculous. You have a picture and then you want to bring in this tremendous thing. Cluttering up the court room.

Mr. Giuliano: I am not cluttering up the court room. That is what was in this room

and I think the jury have a right to see it. This picture does not disclose the full board.

Mr. Lichtenstein: All right, set her up.

Mr. Giuliano: All right; that's what I like.

By Mr. Giuliano:

Q. I show you a table and ask you if you have ever seen that table before? A. Yes, sir.

Q. Where did you see it for the first time? A. The rear room, third floor, at 1124 Garden Street.

Q. What date? A. June 9th.

Q. Now I show you a sketch that is on this blackboard. Will you please indicate from the sketch where this table was found by you and the other men? A. That is indicated here, in this room, in the rear of this floor.

Mr. Lichtenstein: Indicating what exhibit?

Q. What exhibit is that? A. S-11.

Q. Will you please put your initials on the table where you say you indicated the table in here? A. Yes, sir.

Q. Will you mark that with your initials, please?

Mr. Lichtenstein: May we have it noted on the record what the witness indicates; the wire room, what purports to be a table in this sketch in the rear room of the top floor.

Mr. Giuliano: That is right.

Q. And this is the table that was in the room, is that right? A. Yes, sir.

Q. I show you six legs and ask you where these legs came from? A. They came from that table.

Mr. Giuliano: I offer the table and the six legs in evidence as one exhibit.

(Marked State's Exhibit S-12 of this date.)

Q. After you got up to the third floor, who did you find there? A. We found there Walter Lewis, Eugene Lewis, Vincent Halpin, Frank Marnell, Eugene Lewis, Walter Mullins.

Q. Do you see them in court? A. Yes, sir.

Q. Where are they, will you indicate? A. The first row back of the counsel table.

Q. Which ones? A. Eugene Lewis, Walter Lewis, Halpin, Mullins, Marnell, Morano.

Q. Everybody, with the exception of James Lewis. A. Yes, with the exception of James Lewis.

Q. You didn't know these men's names; you know they were on the premises? A. Yes, sir.

Q. The six you refer to? A. Yes, sir.

Q. No doubt about that? A. No, sir.

Q. Every one of these defendants was found on the premises with the exception of James Lewis?

Mr. Pearse: I object to that statement of the Prosecutor. This witness has already testified and there is no need to accentuate it.

The Court: It is repetition.

Mr. Lichtenstein: I further object to that general characterization "on the premises", too broad.

Mr. Giuliano: I don't see what is wrong about that.

Mr. Lichtenstein: That is something we have a right to know about. "They were found upon the premises"; here is a four-story building. I don't know what the Prosecutor means.

Mr. Giuliano: It is 1124 Garden Street, which is where this alleged crime happened, and these men were found on the premises. What is wrong with that?

Mr. Lichtenstein: I find a great deal of fault with it. I claim you should not characterize it as "found upon the premises." Premises might be any part of the building; it might mean some part of the building, it might mean some particular part of the building. We have a right to know where they were and not just a general characterization in that way.

The Court: Let the witness state where he found them.

Q. Where were these men? A. After the prisoners were picked up in the wire room.

Mr. Lichtenstein: I object to the characterization "wire room."

Mr. Giuliano: What is the matter with that?

The Court: Do you know what a wire room is?

Mr. Lichtenstein: I don't know. I don't think you know, sir.

Mr. Giuliano: I disagree with you but I don't want to testify.

Mr. Lichtenstein: You can't testify, but don't characterize this. There is no proof what that thing is.

Mr. Giuliano: We will show what it is; don't worry about that.

The Court: If you will explain what this means, what is meant by wire room; I think just "wire room" doesn't mean anything.

Mr. Lichtenstein: He is testifying as to where these men were found. I think he ought to indicate.

The Court: Where, in the property?

Mr. Giuliano: Maybe we had better clear it up another way.

Q. You refer to this room as a wire room; is that right? A. Yes, sir.

Q. What is a wire room?

Mr. Lichtenstein: I object to the question on the ground that calls for a conclusion of the witness.

The Court: I think he can say what a wire room is.

Mr. Lichtenstein: He should not do that; I mean to call a place a wire room is one thing, unless he is an expert he can't testify, and asking him what a wire room is calling for his conclusion of what he might think a wire room is. A wire room, as he describes it, might not be a wire room in your Honor's opinion.

The Court: We naturally want to know what he calls a wire room.

Mr. Lichtenstein: I object to it because it does not make it a wire room if he calls a place a wire room. That is not the test.

The Court: I will allow him to answer.

Mr. Lichtenstein: Your Honor will grant me an exception on behalf of all of the defendants.

The Witness: Repeat the question.

By Mr. Giuliano:

Q. What is a wire room? A. A wire room as I understand it, as we found there that day, the third floor, with a table such as this, and a set-up to receive——

Mr. Lichtenstein: The witness has stated "as I understand it."

The Court: Describe what a wire room is.

Mr. Lichtenstein: May I object to the question of your Honor upon the ground that it is incompetent, irrelevant and immaterial, calling for a conclusion of the witness. It is not for this witness to characterize a room in a manner in which he understands it to be, namely, what he understands a wire room is.

The Court: He can only describe what he understands, not what someone else understands. I will allow the question.

Mr. Lichtenstein: Exception.

The Witness: A room which would be set up with a table, telephones, arranging to accept bets to carry on——

Mr. Lichtenstein: I ask that that answer be stricken as being a conclusion of the witness and not binding on any of the defendants.

The Court: That is your idea of a wire room?

The Witness: Yes, sir.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Yes.

Mr. Lichtenstein: I want it also to appear that my objection is that this witness'

opinion is not a proper characterization of a wire room, he hasn't any knowledge of it and he is not an expert upon the subject and therefore his evidence cannot be taken as binding upon these defendants.

The Court: I overrule the objection.

Mr. Lichtenstein: Exception.

Q. Did you find anywhere in the third floor any of these men? A. Yes, sir. All of the men who were found in the building when we entered, they were taken to the third floor and in the front room, and the men were turned over to Corporal Heckmann who obtained the data on the men, their names, addresses and so on.

Q. How many men did you find on the third floor?

Mr. Pearse: He has answered that. He said they were all taken to the third floor.

Mr. Giuliano: I want to find out how many on the third, how many on the second and how many were on the first, if they were on the first, second and third floors.

Mr. Lichtenstein: It depends upon where they were before they got to the third floor. As I understand this witness, he says they were taken to the third floor.

The Court: Taken to the third floor room, as I understand it, the front room.

Mr. Lichtenstein: I think the witness ought to say where he first saw them.

Q. Where did you first see these defendants? A. I first saw them, one, Walter Mullins was running down the stairs. Walter Lewis—I beg pardon.

Q. Walter Lewis? A. Was running downstairs. He was taken back up to the third floor, and turned over to the troopers. I found another man down on the bottom floor. He was also brought to the third floor, the front bedroom where they were all kept, where the information could be taken from them, as to their names, addresses and ? ? ? ?

Q. That was two; where were the other four men? A. In the front room or in the rear room; that is on the Park Avenue, or Park Street end of the building.

Q. And that is the room you refer to as the wire room? A. Yes, sir.

Q. Where was the defendant Marnell at this time, if you know? A. I don't know.

Q. Where did you see the defendant Frank Marnell for the first time? A. After he was brought to our attention by Trooper Kerr; he was under the bed in the front room on the third floor.

Q. About what time was that? A. Approximately an hour after the initial raid.

Q. Will you indicate, please, on that sketch, which room Mr. Marnell was found in? A. The third floor, under this bed (indicating).

Q. Will you put your initials there, please?

Mr. Lichtenstein: Don't let him put it there; that's not the third floor.

Mr. Giuliano: Yes, it is.

Mr. Lichtenstein: Where is the table—pardon me, that is. I didn't want him to be confused.

Q. Now, will you put "Marnell" right after that. Now, Sergeant, were you present when the defendant took their pictures at this board?

Mr. Pearse: I don't understand that question.

Q. When the pictures were taken of the defendants? A. Yes, sir.

Q. How many were then at the board at the time the first picture was taken? A. Five.

Q. After Marnell was found under the bed was another picture taken? A. Yes, sir.

Q. Where did Mr. Marnell go after he was found under the bed? A. He took his original place at the table.

Mr. Pearse: I ask that be stricken out "took his original place at the table." How does he know what his place was.

The Court: The word "original" will be stricken out.

Q. How did Mr. Marnell come to take a place at that table, do you know? A. Yes, after being found under the bed he came out and was asked to take his place at the table.

Q. Did he take a place at the table? A. Yes, sir.

Q. Then after that, the picture was taken? A. Yes, sir.

Q. With him and the other five defendants? A. Right.

Q. You saw this table; what else did you see in this room? A. Telephone, charts around the table, switchboard in back of the table, two telephone boxes, units and portions of telephones and other paraphernalia, racing sheets on the table.

Mr. Lichtenstein: I object to that and ask that that be stricken out, the "racing sheets" that he refers to.

Mr. Pearse: He might identify what he found, not characterize it.

The Court: That will be stricken.

Q. You say you found some sheets. Where were these sheets? A. On the table.

Q. I show you some sheets and ask you were the sheets you saw these sheets? A. They were in the box that we took, that was marked by me, and I presume are the ones we placed in the box the day of the raid. They are dated Friday, June 9th, and they were taken from the table, from on the table in the rear room, on the third floor.

Q. These sheets you say you saw on the table? A. Yes, sir.

Q. And did that picture disclose any of these sheets, the picture referred to as S-1? A. Yes, sir.

Q. Are these the same sheets as disclosed in the picture? A. Yes, sir.

Q. And when you say "on the table", you mean this table in evidence as S-12? A. Yes, sir.

Q. Can you testify to what these sheets are?

Mr. Lichtenstein: I object to that as incompetent, irrelevant and immaterial.

Q. Do you know?

Mr. Lichtenstein: This witness cannot characterize what the sheets are. He has shown no qualification to indicate that he has any knowledge upon the subject. I further object upon the ground that the documents do not in anywise involve any question that is involved in the indictment in this case, and do not indicate anything of evidential value.

The Court: If the witness can identify them, Mr. Lichtenstein, I cannot agree that they are not evidential.

Mr. Lichtenstein: I don't think he has.

The Court: All right, we can presume he is going to identify them.

Mr. Lichtenstein: He has not shown he is qualified to testify what they are.

The Court: That may be; if he does, I think they are evidential.

Mr. Lichtenstein: Without his showing any qualification?

The Court: No; if he can show knowledge of what these things are.

(To the witness) Do you know what they are?

The Witness: Yes, sir.

Mr. Lichtenstein: I would like to cross examine the witness before he testifies as to what they are.

Mr. Giuliano: I think Mr. Lichtenstein will have an opportunity of cross- examination, but if the court wants to permit him to do so now, I have no objection.

Mr. Lichtenstein: I have a right before he characterizes them to cross examine for the purpose of indicating whether he is or is not qualified.

The Court: I will allow you to examine.

By Mr. Lichtenstein:

Q. Sergeant, have you ever seen sheets of that type before, just like this? A. Yes, sir.

Q. Just like this? A. I don't know about the particular lines and colors and so on, but the same kind of sheets, used for that same purpose.

Q. With the same language contained on them? A. Not with the same writing.

Q. The same language? A. The same general meaning.

Q. Have you ever been in the business of making book?

Mr. Giuliano: I object. The man is a police officer for fifteen years.

The Court: Sustained.

Q. Have you ever made a book?

Mr. Giuliano: I object.

The Court: Sustained.

Mr. Lichtenstein: Your Honor will grant me an exception?

Q. Have you ever made up sheets of this kind, yourself, before?

Mr. Giuliano: I object to that.

The Court: Sustained.

Mr. Lichtenstein: Your Honor will grant me an exception?

Q. Have you ever seen anybody make up sheets of this kind yourself, or made them up yourself?

Mr. Giuliano: I object, if your Honor please.

The Court: I think that would be permissible, would it not?

Mr. Giuliano: I withdraw the objection.

The Witness: What is your question?

(Question read as follows: "Have you ever seen anybody make up sheets of this kind yourself, or made them up yourself?")

A. No sir, I have not, never seen anyone in the process of making up these sheets.

Mr. Lichtenstein: That is all. I object to the witness testifying as to what these sheets are, and showing his qualifications, as calling for nothing but a conclusion of the witness.

Mr. Giuliano: Except that he has been a police officer for 15 years, that is all.

The Court: Do you know what these sheets are?

Mr. Giuliano: He has answered that, that he does.

The Court: I will permit the question.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Yes.

By Mr. Giuliano:

Q. What are these sheets? A. These sheets are racing sheets and used to accept bets for win, show, and place, and the money that was paid on the races, as I understand it.

Q. How do you know that? A. We have picked up people before on the highway and so on, and I have been on gambling raids before.

Q. You did that because of being a police officer in the performance of your duty? A. Yes, sir.

Mr. Giuliano: I offer the sheets in evidence.

Mr. Lichtenstein: I object to the sheets going in evidence upon the ground that the witness has shown no qualifications to testify to what these sheets are, and there is no evidence in the case to indicate that they

have anything to do with the issues involved in this case, or the charge made against these defendants or any of them.

The Court: I will allow them in.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-13 of this date.)

Q. I show you a pad of sheets and ask you where you saw that for the first time? A. Friday, June 9, 1944, the date stamp is on there.

Q. Where did you see or take it from? A. From 1124 Garden Street, in the room on the third floor, rear.

Q. Was it on the table or on the floor? A. There were so many of them. This one was on the table.

Mr. Giuliano: I offer that in evidence.

Mr. Lichtenstein: I object to this upon the same grounds urged in opposition to the previous batch of so-called sheets.

Mr. Giuliano: Racing sheets.

Mr. Lichtenstein: Sheets.

The Court: I will allow it.

(Accepted and marked Exhibit S-14 of this date.)

Q. I show you, Sergeant, some loose sheets, with no writing with the exception of the date, and on one sheet there is just the name "Lulu" and ask you where you saw these sheets for the first time? A. The date is on there, June 9, 1944, Friday, and at 1124 Garden Street, third floor, rear room.

Q. On the table? A. On the table.

Sergeant Ralph Dowgin, for the State—Direct.

Q. Can you tell us whether or not these sheets can be seen in the picture you have before you that is marked S-1 in evidence? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: I object to them upon the same ground as urged in opposition to the entry of the two last preceding exhibits of slips.

The Court: I will allow them.

(Accepted and marked as State's Exhibit S-15 of this date.)

Q. I show you three books and ask you when you first saw these books? A. They were found on this table, the third floor rear, 1124 Garden Street.

Q. Do you know what these books are?

Mr. Lichtenstein: I object.

A. Yes, sir.

Mr. Pearse: The books speak for themselves.

Q. They are parlay books?

Mr. Pearse: I don't know what they are. I never saw one like that. How can I know or how can the jury know.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: I object to their going into evidence upon the ground that they are not evidential and have no bearing upon any of the issues involved in this indictment against any of the defendants.

The Court: I will allow them.

Mr. Pearse: Obviously on the face of them—has your Honor seen the books?

(Accepted and marked as State's Exhibit S-16A, B and C respectively, of this date.)

Q. Where were these books? A. On this table, third floor rear, 1124 Garden Street.

Q. And when you refer to rear, you refer to S-12 in evidence? A. Yes, sir.

Q. And the picture, S-1 in evidence, does that disclose any of these books? A. Yes, sir.

Q. Can you see them on that picture? A. Yes, sir.

Q. Where? A. One here, another one here with a pencil in it.

Q. You can see two in that picture, Sergeant; and I show you this picture and I ask you where you found that paper on June 9th? A. On this table, rear room, third floor, 1124 Garden Street.

Q. And is that paper disclosed in the picture also? A. Yes, sir.

Mr. Giuliano: I offer that in evidence, and don't tell me you don't know what that is.

Mr. Lichtenstein: I don't.

Mr. Pearse: We have the same objection this exhibit which is offered on behalf of the State, as we have to the last three previous exhibits, because they are in no way evidential of matters contained in the charge in this case, which is the charge of bookmaking.

The Court: I will allow it in.

Mr. Pearse: Your Honor will grant us an exception?

(Accepted and marked as State's Exhibit S-17 of this date.)

Sergeant Ralph Dowgin, for the State—Direct.

Q. I show you a "Daily Mirror" which is a newspaper, I understand, dated Friday, June 9, 1944, and I ask you where you found that? A. On this table, at the end towards the key board for the telephone at 1124 Garden Street, on the third floor, rear room.

Q. The table you refer to S-12 in evidence? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

Mr. Lichtenstein: Same objection.

Mr. Giuliano: It has nothing to do with bookmaking except it is being offered, because it was found there.

Mr. Lichtenstein: I understand why it was offered.

Mr. Giuliano: I am only offering it because it was found there.

Mr. Lichtenstein: They could offer ten thousand different things and we would be here for a week, but as long as it is not evidential, what is the object of offering it?

The Court: If you look in the picture and someone might discover it, would wonder why it was not offered.

Mr. Lichtenstein: I was going to object because I didn't look at it, and realize that.

(Admitted and marked as State's Exhibit S-18 of this date.)

Mr. Giuliano: I understand your Honor is going to seclude this jury. It is a matter in the discretion of the court.

Mr. Lichtenstein: May I suggest if we are going into that subject that we have the jury recess for five minutes.

(The court then admonished the jury and the jury then recessed until 10 A. M. October 31, 1944.)

Mr. Lichtenstein: We understand at recess, without any motion having been made by the Prosecutor, that the jury was sent in the custody of one of the custodians here to have their lunch.

The Court: That is right.

Mr. Lichtenstein: Then we also gather from something that was said inferentially that the Prosecutor intended to make application to the court to have this jury segregated during the course of the trial. Whether that is so or not, I don't know.

The Court: I don't have any idea of what the Prosecutor intended to do, but the court itself had this jury segregated, and without having any motion made, Mr. Lichtenstein.

Mr. Pearse: If your Honor please, we know that it is a matter within the sound discretion of the court as to what should be done.

We simply rise to say that we feel that it is highly prejudicial to the defendants and it casts a reflection on the jury itself.

After all, we know that in murder cases and in crimes involving high misdemeanors, sometimes, for many reasons, it is advisable for the protection of the jury and otherwise. But after all, the charge here is nothing but a simple misdemeanor and undoubtedly impresses the jury with the idea of undue importance to the case itself. It is the first time in my experience that I ever heard of a jury being segregated where the charge was a simple misdemeanor, and we feel this very strongly, if the Court please, and that it would be highly prejudicial to us.

The Court: In what way?

Mr. Pearse: Locking them up.

The Court: Why prejudicial to the defendants?

Mr. Pearse: Locking them up and creating in the minds of the jury the idea that this is a matter of the greatest and of most importance, that the Court considers this practically a heinous crime, and that the jury—and I take it that this case is going to last several days—that the jury will be put to great inconvenience and they might easily misconstrue the whole purpose of this thing.

The Court: I don't see how, Mr. Pearse.

Mr. Pearse: We feel very strongly, if the court please. Of course it is entirely within your Honor's discretion, but it is a most unusual situation and one that I have never experienced.

Mr. Lichtenstein: I have never heard of such a thing in a simple case of this kind, particularly where the Prosecutor has not asked for it.

The Court: I don't see why the defendants are prejudiced.

Mr. Lichtenstein: They are; in a simple case of this kind where the jury is segregated, kept in a room, having their meals, segregated, having to stay in a hotel, it would indicate to a jury—and have a tremendous effect upon them in that they would consider this was a matter of such great importance that there is something hidden in the case, that the court feels that they must be segregated, and that would naturally have a prejudical effect upon their minds and against the defendants.

The Court: Is that all, Mr. Lichtenstein?

Mr. Lichtenstein: That is all.

The Court: Then I must say that I consider that it should be done in this case.

Mr. Pearse: May we take an exception to your Honor's decision to do that?

The Court: You may put your exception on the record.

(Adjourned to October 31, 1944, 10 A. M.)

October 31, 1944, 10 A. M.

(Appearances, the same.)

(In the presence of the defendants and their counsel, the clerk polled the jury.)

(Trial continued pursuant to adjournment.)

Ralph Dowgin, resumed the stand.

Direct examination (continued) by Mr. Giuliano:

Q. Sergeant, I show you what purports to be the "National Racing Program" and ask you where you found that? A. On the table on the third floor in the rear room, the wire room.

Q. When you say the table, you mean S-12 that is marked in evidence? A. Yes, sir.

Q. Do you know what that is?

Mr. Lichtenstein: I object to the question upon the ground that the witness has not indicated he has any knowledge. Fur-

ther on the ground that the document will speak for itself.

The Court: I think the document will speak for itself.

Mr. Giuliano: I am inclined to agree with Mr. Lichtenstein, that it speaks for itself. I offer it in evidence.

Mr. Lichtenstein: I also object on the ground that it is incompetent, irrelevant and immaterial, has nothing to do with the issues involved in this case, nor with anything that is alleged in the indictment. There is nothing in this offered document which would in any wise substantiate any of the allegations contained in the complaint, or the crimes alleged in the complaint, if a crime is alleged.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-19 of this date.)

Mr. Giuliano: May I show it to the jury?

The Court: Yes, you may.

(Handing to the jury.)

Q. Sergeant, I show you four sheets of paper entitled "Lawton Handicap" and ask you if you ever saw these papers before, and where? A. Yes, on the day of the raid at 1124 Garden Street, third floor, rear room, on this table.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: We object to these, if the court please, upon the ground they are

incompetent, irrelevant and immaterial, that they do not in anywise affect nor are they evidence of the alleged crime named in the indictment.

The Court: I will allow them.

Mr. Lichtenstein: Your Honor will grant us an exception.

(Accepted and marked as State's Exhibit S-20A, B, C and D respectively, of this date.)

Q. I show you five sheets marked June 9, 1944, "Index to Entries" and ask you where you saw these sheets for the first time? A. 1124 Garden Street, top floor, rear, on this table.

Q. On this table, you mean S-12 in evidence? A. That is right.

Q. Do you know what these sheets are?

Mr. Lichtenstein: I object to the question upon the ground that the witness has not shown that he is qualified to testify to what they are.

Mr. Giuliano: May I say that this witness has shown that he is qualified to testify, and I think your Honor has ruled upon it.

The Court: He has shown that he has had experience that would qualify him.

Mr. Pearse: May we take a look at these, please?

I object to them, to his saying what they are, unless it is shown first whether they speak for themselves.

The Court: Counsel is asking the question whether he knows what they are.

Mr. Pearse: Your Honor will grant us an exception.

The Court: I will allow him to answer the question. Do you know what they are?

The Witness: Yes, racing sheets, with the index for the day's entries.

Q. And entries in the races, is that what you mean? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: I object to the offer, if the court please, on the various grounds mentioned in opposition to the two preceding exhibits without repeating the objection, so as to save time.

The Court: All right; I will allow them.

Mr. Lichtenstein: Your Honor will grant us an exception?

(Accepted and marked as State's Exhibit S-21A, B, C, D and E respectively of this date.)

Q. Sergeant, I show you 17 sheets with printing on and ask you where you saw these sheets for the first time? A. June 9, at 1124 Garden Street, rear room, top floor, on the table.

Q. And do you know what these sheets are?

Mr. Lichtenstein: I object to the question upon the ground the witness has shown absolutely no qualifications to testify as to what they are.

The Court: I will allow him to answer.

Mr. Lichtenstein: Exception.

A. Results of races for that particular day at the various tracks.

Q. What tracks, where were they printed, that is, where do you find the tracks named? A. On the top.

Q. And that is, you refer to this sheet, for instance, Detroit? A. Yes, sir.

Q. And then here you find Lincoln Field? A. Yes, sir.

Q. Then Detroit again? A. Yes, sir.

Q. Lincoln Field? A. Yes, sir.

Q. Aqueduct Park? A. Yes, sir.

Q. You say these are tracks, racing tracks?

Mr. Lichtenstein: I object to the question, if the court please, first upon the ground that it is leading; second upon the ground the witness has shown no qualification to answer any such question.

The Court: Let the witness testify, Mr. Lichtenstein I will allow him to answer the question if it is properly put.

Q. These names that you refer to, what are they, in your opinion?

Mr. Lichtenstein: I object to the question upon the ground that the witness has shown absolutely no qualifications to testify on a matter of opinion.

The Court: It is not a matter of opinion; does he know?

Q. Do you know?

Mr. Lichtenstein: I object to the question upon the ground that the witness has shown no qualification to testify on that subject. There is nothing to indicate that he does know.

Mr. Giuliano: I must differ again with Mr. Lichtenstein. He is a police officer for 15 years.

The Court: I think the witness indicated yesterday his experience has taught him various things.

I will permit it.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. Aqueduct, that is in New York.

Q. What are they? A. Race tracks.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: I object to their going in evidence, first, upon the ground that since the witness has not shown any qualification to testify to their contents or to testify to the subject matter that he just did speak of in his testimony, that they are not admissible in evidence for the purpose of indicating any such thing.

Mr. Giuliano: Maybe they speak for themselves, Mr. Lichtenstein.

Mr. Lichtenstein: I am not saying that.

Mr. Giuliano: Maybe they do. I am saying that.

Mr. Lichtenstein: I object to the Prosecutor trying to make a statement as mine which I am not making. I submit the witness has failed to show any qualifications to testify as to what these sheets mean, or what the names mean, and therefore the documents themselves are not admissible in evidence.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: I will.

(17 sheets received and marked as one exhibit, State's Exhibit S-22.)

Q. I show you, Sergeant, one sheet, dated June 7, 1944, and ask you where you saw that sheet for the first time? A. At 1124 Garden Street, the day of the raid, top floor, rear room, on this table.

Mr. Lichtenstein: I object to these going in evidence upon the grounds which I have already urged, and which we urged in opposition to the 13 sheets without repeating the grounds, and upon the further grounds,. if the Court please, that this sheet is dated June 7, 1944, and antedated the alleged crime committed on June 9, 1944, and that therefore this sheet would not be evidence in anywise to sustain the allegations contained in the complaint, and that this is therefore incompetent, irrelevant and immaterial.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception?

(Accepted and marked as State's Exhibit S-23 of this date.)

Q. Sergeant, I show you a carton containing several pads and pencils, and ask you where you saw these pads and pencils for the first time? A. At 1124 Garden Street. They were taken from the top of the table in the wire room and put in this box.

Q. You put them in this box? A. Yes, sir.

Q. And did you sign that? A. Yes, sir.

Mr. Giuliano: I offer this in evidence.

Mr. Lichtenstein: Are there any writings on these things?

Mr. Giuliano: I don't know whether there are any writings. I think it just has pads.

Mr. Lichtenstein: I would like to know if there is any writing on them.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: There is no objection except that they are immaterial.

Mr. Giuliano: They were found in this place.

Mr. Pearse: It is cluttering up the records with a lot of things that are unnecessary.

Mr. Giuliano: I don't think so. We are not cluttering up any record. We are trying to show a true picture to the jury, and we are keeping nothing out.

The Court: All right, they may be marked.

(Accepted and marked as State's Exhibit S-24, carton A.)

Q. I show you a pad with some writing on it and ask you where you got that pad from and where you saw it for the first time? A. At 1124 Garden Street, top floor, in the wire room on June 9th.

Mr. Lichtenstein: I object to the offer, if the Court please because there is nothing to indicate upon this sheet or on this pad first, in whose handwriting it is, whether it is in the handwriting of any of the defendants or all of them. Further, upon the ground that there is nothing to indicate that the writing upon this sheet, either on the face or on the back side thereof, has anything to do with the matters involved in issue here, in the issues we are trying here today.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

(Accepted and marked as Exhibit S-25 of this date.)

Mr. Lichtenstein: Are you offering both sides or one side?

Mr. Giuliano: There are four cards.

Mr. Lichtenstein: Are you offering the writing on one side or the other side?

Mr. Giuliano: I am offering the cards, and the writing on both sides of the cards and in between, if there is any writing. Is there any objection to that?

Mr. Lichtenstein: I have already stated my objection.

Mr. Giuliano: You are objecting to the card itself, together with the writing?

Mr. Lichtenstein: I made my objection, but I merely wanted to know whether you intended to offer both sides, and you stated you did.

Q. Now, Sergeant, I show you four ash trays and ask you where you saw them, and where they came from? A. At 1124 Garden Street on June 9, top floor, rear room, on this table.

Mr. Giuliano: I offer them in evidence.

(Accepted and marked as State's Exhibit S-26, four ash trays, as one exhibit.)

Q. When you got into this room on the day in question, did you observe the condition of these ash trays which are now in evidence and marked Exhibit S-26? A. They were in use; they had cigarette butts, cigars, lighted cigars in them.

Q. Did you see the lighted cigars? A. Yes, sir.

Q. I show you a steel cabinet, and ask you whether or not you ever saw that steel cabinet before, and if so where you saw it? A. June 9th, at 1124 Garden Street, on the top floor in the wire room.

Q. I show you an envelope marked "Mr. James Lewis, Hoboken, New Jersey", and ask you if that envelope was in that cabinet on the desk in question? A. Yes.

Mr. Giuliano: I offer this as a separate exhibit.

Mr. Pearse: You offer this envelope?

Mr. Giuliano: Yes.

Mr. Pearse: I object to the introduction of these papers on behalf of the defendants Morano, Mullins, Halpin, Marnell, and Walter A. Lewis, on the ground that there is no relationship to them in any way, and I also object to them on behalf of all the defendants whom I represent, and also James A. Lewis because they are in no way material to the issues here involved, and the charge in the indictment.

Mr. Giuliano: May I state that this exhibit or evidence is being offered insofar as James A. Lewis, the defendant James A. Lewis and Eugene Lewis.

The Court: May I see it, please?

(Handed to the court by Mr. Lichtenstein.)

The Court: I will allow this only as against James A. Lewis and Eugene V. Lewis not as against the other defendants, and I instruct the jury that they are not to

consider them in any way as evidence against the other defendants in this case.

Mr. Pearse: Your Honor will grant us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-27 of this date.)

Q. I show you bill of the Jaegels Fuel Corporation, made to James Lewis, 1124 Garden Street. Will you please tell us where you got that? A. At 1124 Garden Street in the steel cabinet in the wire room on the third floor.

Mr. Pearse: I object so far as the six defendants whom I represent are concerned.

Also on the general ground that it is not evidential so far as the charges and the issues in this trial are concerned as to any of these defendants.

Mr. Giuliano: I am only offering it, so that the record may be straightened, as to the defendant James Lewis.

Mr. Lichtenstein: On behalf of the defendant James Lewis I object to it upon all the grounds which were mentioned by my colleague in opposition to the offer in behalf of the other defendants, and upon the further ground that it appears in evidence in this case that this is a private home consisting of a basement and various other floors, and this is a bill for fuel oil, and therefore there would be nothing to indicate from this document, nor the evidence of anything which is charged against the defendant James Lewis in this indictment.

The Court: I will allow it as against James Lewis only, and I instruct the jury that you are not to consider it as evidence against any other defendant except James Lewis.

Mr. Pearse: Your Honor will grant us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-28 of this date.)

Q. I show you a journal and ask you where you found that, or saw that journal for the first time? A. At 1124 Garden Street on June 9th on the top floor, rear room, wire room.

Q. And where did you find it, in the cabinet? A. Yes, sir.

Mr. Giuliano: I offer the book, together with the papers in the book. I might say they are being offered insofar as Eugene Lewis and James Lewis, defendants.

Mr. Pearse: I object to the introduction of this book, marked on the outside as being a "journal", together with the papers that are folded up inside of it, so far as all the defendants whom I represent are concerned, with the exception of Eugene Lewis, on the ground that they have no relation or connection whatsoever with them.

There is nothing to show that anything in the book is in the handwriting of any of them.

I further object on behalf of all of them, including Eugene, and I assume that Mr. Lichtenstein would also want me to include James Lewis, on the ground that the book

and its contents, and the papers therein, are in no way material evidence in respect to the charges contained in the indictment.

Mr. Lichtenstein: In behalf of the defendant James Lewis, I object to the so-called journal, or book which is marked journal, or the entries therein contained, upon the ground that there is no evidence to indicate in whose handwriting these entries are, or what they mean, or to whom they refer.

Further, upon the ground that insofar as this journal is concerned, and as to the documents which were offered with it, I object to the letters and copies of letters dated September 19, 1940, and August 22, 1940, both addressed to one Hurley, upon the ground that there is nothing to indicate by whom these letters were written, or at whose request they were written, nor anything to indicate that they relate to, or that they have anything whatever to do with the issues involved in this case.

I object to the carbon copy of a letter dated October 2, 1939 addressed to Eugene V. Lewis and in typewriting, purported sent by the trading department, F. W. Warner, to Eugene V. Lewis, upon the ground that this letter would not in anywise bind the defendant James Lewis, and further upon the ground that it has nothing whatever to do with the issues involved in this case; on the contrary it shows it does not, right on its face.

I object to a bill of John H. Gavin, surrogate of this county, addressed to the estate of William J. Lewis, deceased, dated 7/27/38, upon the ground that it does not in

anywise affect any of the defendants in this case, nor does it in anywise indicate that it is evidential as against any of them, nor does it in anywise affect the issues involved in this case.

I object to the four cancelled checks signed Eugene V. Lewis and made out to the order respectively of Kelly, Waskowski, Lenahan and Surrogate of Hudson County, upon the ground that they do not bind the defendant James Lewis, nor do they in anywise indicate that they could be used as evidence to charge any of the defendants in this case with the crime with which they are charged.

I object to the last of these documents which is a bill made to Mr. Lewis, without indicating which Mr. Lewis it is, on a letterhead of Seisman, upon the ground that no one by an examination of the bill can determine which of the defendants it was addressed to nor who it was who purchased the merchandise mentioned, and further upon the ground it does not in anywise indicate, nor can it be used for the purpose of binding any of the defendants upon any issue involved in this case.

Mr. Giuliano: I may state that these letters are being offered because they were found in this steel cabinet in this alleged wire room.

The Court: Mr. Giuliano, how are these documents, for instance this Surrogate's bill or these checks, material?

Mr. Giuliano: They are not, except they were found there. We do not want to offer them except that they were found in this book in this wire room.

Here is check Eugene V. Lewis to Surrogate of Hudson County, which is Eugene Lewis's, and then these papers were found in this particular cabinet which was in the wire room.

The Court: But it would show personal belongings of his in the room?

Mr. Giuliano: That is the only purpose that I am asking they be allowed in, that they were found there.

Mr. Pearse: The mere fact that things are found in a place does not necessarily make them evidential. It all depends upon the charge which we are here to meet. This charge is the charge of being a bookmaker, and certainly a Surrogate's bill or cancelled checks don't seem to me to be very relevant.

The Court: I don't think that the rest of them have any materiality to this issue.

Mr. Giuliano: Except there is the name of James A. Lewis on them. And that refers to the same person.

The Court: But that doesn't purport to have been signed by anybody.

Mr. Giuliano: It is only offered because it was found there. I will withdraw this one (indicating).

The Court: I will permit the rest of these to be offered, or put in evidence only against Eugene V. Lewis, as to these checks which bear his signature, or which purport to bear his signature, and the letter, or carbon copy of a letter dated October 2, addressed to Mr. Eugene V. Lewis from the trading department, F. W. Warner, and the Surrogate's bill with Eugene V. Lewis's check for $19, as against Eugene Lewis

only, and not as against any other defendant.

I will admit the copy of the letter with the typed signature James A. Lewis, addressed to Walter Early Jr. dated September 1941; bill of M. J. Riley, 84 Garden Street, Hoboken, I will allow to be admitted as against James Lewis.

I don't think I shall permit these others.

Mr. Lichtenstein: May I have it noted on the that the court referred to Mr, J., as to which one that is.

The Court: The one I will not allow in is the one letter addressed to Hurley, without a signature or name.

Mr. Pearse: Your Honor will allow an exception as to all the defendants?

The Court: Yes, I will.

(Accepted and marked as State's Exhibit S-29 of this date.)

Q. Will you step down, Sergeant, and look at this cabinet. Now, were the articles contained in this first drawer of the steel cabinet, or were they not in that drawer when you got to 1124 Garden Street? A. Yes, sir.

Q. They were? A. Yes, sir.

Q. Will you look at the second drawer. Were the articles now in that drawer in the steel cabinet there when you got to 1124 Garden Street? A. Yes, sir.

Q. And the last drawer. Were these pads and sheets and the other articles in this drawer in this room when you got there? A. Yes, sir.

Mr. Giuliano: I now offer the steel cabinet and the articles contained therein in evidence.

Mr. Lichtenstein: We object to the offer because, first, there are hundreds and hundreds of sheets there of all kinds.

The Court: Blank sheets?

Mr. Lichtenstein: I presume so. There are some that are written on, but blank sheets and other sheets.

Mr. Giuliano: All blank sheets with the exception of the writing on this one.

Mr. Lichtenstein: What do you offer, first?

Mr. Giuliano: I offer the cabinet and the contents.

Mr. Lichtenstein: I object to the cabinet and the contents going into evidence because the offer is entirely too general. I repeat that there are hundreds upon hundreds of sheets and pads and papers of all kinds.

The Court: Do you wish to have an opportunity of examining them?

Mr. Lichtenstein: It is not a question of examining them, but some of them have writings on and others have not. I don't believe that such an offer is proper. The prosecutor should offer whatever he wants to offer in a proper manenr.

Mr. Giuliano: If Mr. Lichtenstein wants me to go through every piece of evidence I will do it. I will take every pad and offer it individually.

M. Lichtenstein: I am not asking you to do that. You should not put us to the burden of going through every single one of these sheets of paper. You have gone through them and you are able to say whether there is any writing on these papers, and I will take your word.

The Court: There are articles there of all kinds?

Mr. Lichtenstein: If they are all blank, we don't need to offer them separately, but I don't want to go to the trouble that Mr. Giuliano undoubtedly has gone to, of going over every single one of these papers.

Mr. Giuliano: I make this representation to the court and to Mr. Lichtenstein and to Mr. Pearse, that insofar as the cabinet is concerned, and the contents, the only things that have writing on are these four sheets; one appears to be an original and three copies—and the other contents are all pads and papers, and there are certain books, but there does not appear any writing upon them.

Mr. Pearse: May I ask Mr. Giuliano if he really wants to offer in evidence all these pads and stationery. After all, we are charged with bookmaking and not keeping a stationery shop.

Mr. Giuliano: The State charges that these articles were used for the purpose of bookmaking and it will prove that.

Mr. Pearse: I have no objection if that is so.

Mr. Giuliano: That is all I offer.

Mr. Lichtenstein: That is the contents of the cabinet without these sheets?

Mr. Giuliano: No, with the sheets.

Mr. Lichtenstein: But not offered separately?

Mr. Giuliano: I am offering the sheets.

Mr. Lichtenstein: We have no objection to the offer of the miscellaneous mass of blank stationery and pads.

The Court: Perhaps they should be marked for identification.

Mr. Lichtenstein: There is an original here and three copies; perhaps that should be offered as a separate exhibit.

Mr. Giuliano: In order to simplify matters, I will make it a separate exhibit.

The Court: First of all, the cabinet and its contents, except these sheets.

Mr. Giuliano: First I will take testimony on that.

By Mr. Giuliano:

Q. Sergeant, I show you four sheets with some writing on one, which appears to be an original, and the other three copies, and I ask you where you saw those sheets for the first time? A. 1124 Garden Street on June 9th in the steel cabinet here in the court room.

Mr. Giuliano: I offer these four sheets.

Mr. Lichtenstein: I object to them going in evidence upon the ground that they do not indicate anything in connection with the crime charged in the indictment.

On the further ground that they are incompetent, irrelevant and immaterial. We don't know when they were made, nor what they relate to, or who made them.

The Court: I will allow them.

Mr. Lichtenstein: Exception.

(Accepted and marked as State's Exhibit S-30 of this date.)

Mr. Giuliano: Now I offer the steel cabinet together with its contents.

The Court: I will admit it.

(Accepted and marked as State's Exhibit S-31 of this date.)

By Mr. Giuliano:

Q. Now, Sergeant, when you got in this wire room, how many telephones did you see on the top of the table? A. Ten on the top and two on the side.

Q. You say two on the side; will you show us where you mean, please? A. Well, this hook is tied under here now, but that was up on the side and the phones were hanging on the side.

Q. There were two of them under there? A. Yes, sir.

Q. And you saw ten telephones on the top of the table, is that so? A. Yes, sir.

Q. Sergeant, I show you eight so-called "French" phones and two upright telephones, and I ask you where you saw those phones for the first time? A. On June 9th, on the top floor at 1124 Garden Street in the rear room, wire room.

Q. Where were they? A. On the table and lying on each side.

Q. Do you know whether or not these telephones were working at the time? A. Yes, they were.

Q. The man who dismantled the telephone wires was Corporal Heckmann in your squad? A. Yes, sir.

Mr. Giuliano: I now offer the telephones in evidence.

Mr. Pearse: We have no objection, if the court please, to admitting them in evidence, but it seems to me it is an awful waste of time and effort when the State has already

introduced pictures showing the situation as they claim that it was. That is all; it is simply further encumbering the record with something that is already proven.

Mr. Giuliano: I differ from my learned friend.

(Accepted and marked in evidence as State's Exhibits S-32, A to J inclusive, of this date).

Q. Did you see any other telephones in this wire room? A. Yes, there were some in the closet.

Q. I show you three complete sets of French telephones, together with an extra receiving and talking set—that is what it is—and ask you where you saw these for the first time? A. At 1124 Garden Street; one was in James Lewis' room.

Mr. Lichtenstein: I object to the characterization as being James Lewis' room.

The Court: Sustained.

Mr. Lichtenstein: I ask that that be stricken out.

The Court: It will be stricken.

Mr. Giuliano: Maybe I can re-frame the question.

The Court: The jury will disregard that answer.

Q. You said that you found some telephones in the closet? A. Yes, sir.

Q. Were these the telephones that you found in the closet? A. I am not sure just which ones they were, only as we could have them with the other things as evidence.

Q. Where did you get these from? A. From the house at 1124 Garden Street.

Mr. Giuliano: Now I offer them in evidence.

(Accepted and marked as State's Exhibits S-33 A, B, C and D respectively of this date.)

Q. Now I show you one telephone and ask you where you got that telephone from? A. This telephone was on the second floor.

Q. Will you indicate what room you found that telephone in and where it was at the time that you saw it? A. It was on this night table between these two beds.

Q. Will you mark that telephone, please (indicating)?

Mr. Giuliano: I offer that one in evidence.

(Accepted and marked as State's Exhibit S-34 of this date.)

Q. Did you find any other telephones besides these you found on the table and these you found in the closet, and this other telephone that you found on the second floor where you have indicated on that sketch? A. I am not sure, Mr. Giuliano.

Q. Were there any phones on the first floor that you saw? A. I don't recall.

Q. You said Corporal Heckmann cut all these telephones? A. Yes, sir.

Q. I show you a box and ask you where that came from? A. That I believe Corporal Heckmann cut and took care of. I am not sure just where it was.

Mr. Giuliano: I will withdraw that for the present.

Q. Now Sergeant, you mentioned a panel board. Will you look at this panel board and tell us, please, if that is the same panel board that is disclosed in the photograph marked S-1 in evidence? A. Yes, sir.

Q. Where was that board? A. At the end of this table in the wire room.

Q. And was it in the same condition as it is now, that is, with the outer boxes removed? A. Yes, sir.

Q. And that was also dismantled by Corporal Heckmann? A. Yes, sir.

Q. Now, these boxes, or the instruments above, were they on this board, or were they above it on the wall; will you look at the picture and look at the instrument, please? A. They were above the board as they are placed now.

Mr. Giuliano: I offer it in evidence.

(Accepted and marked as State's Exhibit S-35 of this date.)

Q. How many chairs did you find around this table? A. There were eight or ten chairs around the table.

Mr. Pearse: We will concede the chairs that are shown in the pictures. We don't dispute that chairs were around the table.

Q. Now, Sergeant, were these chairs around the table? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

(Eight chairs accepted and marked in evidence as one Exhibit S-36.)

Sergeant Ralph Dowgin, for the State—Direct.

Q. I show you three folding chairs and I ask you where you saw them before? A. In the wire room.

Q. Where were they? A. In the closet.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: We don't object to them if the Prosecutor gets any pleasure out of it.

Mr. Giuliano: I am not getting any pleasure out of this. I am doing my duty as prosecutor.

(Accepted and marked as State's Exhibit S-37, as one exhibit, three chairs.)

Q. I show you a tin box and I ask you where you saw that before? A. The third floor, front room, 1124 Garden Street.

Q. Where was it? A. In the closet.

Q. And how did you have to get into that closet? A. The use of force.

Q. Did you ask anybody to open that closet before you forced it open? A. Yes, sir.

Q. Who did you ask? A. Eugene Lewis.

Q. What did he say? A. He didn't have the key.

Q. What did he say in addition to that? A. That there was nothing in the closet but some liquor.

Mr. Pearse: I object to that.

Mr. Giuliano: This is a conversation with Eugene and it is proper.

The Court: I will allow it as against Eugene Lewis.

Mr. Pearse: You Honor will allow me an exception.

Q. There was nothing in this closet except liquor, he said? A. Yes, sir.

Q. Then you forced it open? A. Yes, sir.

Mr. Giuliano: I now offer it in evidence.

Mr. Pearse: May I ask for what purpose?

Mr. Giuliano: It was found on the premises adjoining the wire room. Certain moneys and property both belonging to the defendant Eugene Lewis and James Lewis.

Mr. Lichtenstein: May I ask if that is a statement of Mr. Giuliano's?

Mr. Giuliano: Mr. Pearse asked why I was offering it.

Mr. Pearse: I asked what the purpose was of the State's offer. In the first place, it was not what this witness has designated as the wire room, it was an entirely different room in the house.

I ask that the remarks of the Prosecutor to the effect that certain moneys belonging to Eugene and James Lewis be stricken from the record.

The Court: It will be stricken.

Mr. Pearse: This box contains a great many things and they are offered in bulk. It will take us some time to look at these things here for the purpose of determining whether or not they are, in our opinion, properly admissible or not.

The Court: I think you should have the privilege of doing so.

Mr. Pearse: I would also ask that while we are looking at them that a representative of the Prosecutor's office be present.

Mr. Giuliano: May I suggest that it now be marked for identification so that counsel may examine it.

(Marked Exhibit S-38 for identification of this date.)

Sergeant Ralph Dowgin, for the State—Direct.

By Mr. Giuliano:

Q. Now, Sergeant, were you present on the premises when your attention was called to the finding of the money? A. Yes, sir.

Q. I show you a package of bills amounting to $16,000 and I ask you whether or not you saw these bills on June 9th? A. Yes, sir.

Q. Who brought that money to your attention? A. Sergeant Schindler.

Q. He was in your party? A. Yes, sir.

Mr. Giuliano: I ask that that be marked.
Mr. Pearse: Marked for identification?
Mr. Giuliano: Yes.

(Accepted and marked State's Exhibit S-39 for identification, of this date.)

Q. I show you a diamond bracelet, together with a sheet of paper on which there is some writing, W. H. Sims, Inc. and an envelope and a piece of tissue paper, and I ask you whether or not you saw that on June 9th? A. Yes, sir.

Q. Where did you find it on June 9th? A. Sergeant Schindler found it.

Q. And turned it over to you? A. Yes, sir.

Mr. Giuliano: I ask that that be marked for identification.

(Accepted and marked State's Exhibit S-40 for identification, of this date.)

Q. I show you three Eveready "hot shot" batteries, and I ask you where you saw them for the first time? A. 1124 Garden Street.

Q. Where were they? A. In the wire room.

Q. Where, in the room or in the closet? A. In the closet.

Mr. Giuliano: I offer them in evidence.
Mr. Pearse: No objection.

(Accepted and marked as State's Exhibit S-41, A, B and C, of this date.)

Q. I show you another battery and ask you where you got that from? A. 1124 Garden Street.
Q. In the room or in the closet? A. It was in the room.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-42 of this date.)

Q. I show you a clock and I ask you if that is the same clock that is disclosed in this photograph now in evidence? A. Yes, sir.
Q. Was that in the room, too? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked State's Exhibit S-43 of this date.)

Q. I show you this fan and I ask you where you first saw that, and where it was? A. 1124 Garden Street.
Q. Where was it? A. That was in the room.
Q. Also this waste paper basket? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

(Fan accepted and marked as State's Exhibit S-44 of this date.)

(Waste basket accepted and marked State's Exhibit S-45 of this date.)

(The court thereupon declared a short recess.)

(After Recess.)

Q. Now, Sergeant, I show you a table with a stand, and I ask you where you saw that? A. On the third floor, rear room, 1124 Garden Street.

Q. Is that disclosed in the picture? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-46 of this date.)

Q. I show you several cartons and pads and books and also a waste basket full of pads, and I ask you where you saw them? A. They were in the rear room, third floor, on the floor and around throughout the room.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: Are they all blank?

Mr. Giuliano: All blank; I make that representation.

Mr. Lichtenstein: No objection.

(Accepted and marked as State's Exhibit S-47 of this date.)

Q. I show you two green light shades, and ask you where you saw these shades for the first time? A. They were on the lights in the rear room.

Mr. Giuliano: I offer them in evidence.

(Accepted and marked as State's Exhibit S-48A and B respectively of this date.)

Q. I ask you to look at this steel safe and ask where did you see that for the first time? A. On the second floor in the closet at the top of the stairs.

Q. Where was that closet? A. On the second floor, on the top of the stairs.

Q. Was it in any room or in a hallway? A. In the hallway.

Mr. Giuliano: I ask that that be marked for identification.

(Accepted and marked State's Exhibit S-49 for identification, of this date.)

Q. Sergeant, I ask you to look at the contents of this carton and I ask you if this was written on the outside of it? A. Yes, sir.

Q. And where did you take the contents of that carton from? A. From the closet in the wire room.

Mr. Lichtenstein: What is that?

Mr. Giuliano: A book entitled parlay book and pads and pencils and telephone directory. They were found there and I am offering them for what they are worth.

Mr. Pearse: Found in the box?

Mr. Giuliano: No, found in the closet that has been testified to.

Mr. Pearse: I object to this book which is called a telephone directory, and to this printed book "Parley, pay-off", it is called, on the ground that so far as the telephone directory is concerned, there is no evidence as to whose handwriting it is, or who kept it; and as to the parlay payoff book, I object to that upon the same grounds that we objected to the same type of book yesterday, the exhibit numbers of which I do not recall.

Also the general objection that none of this is evidential to the issues being tried here or binding on any of these defendants.

Mr. Lichtenstein: May I call your Honor's attention to this; I think the record should be straight.

Where these articles are offered, where the Prosecutor comes along and offers a whole big box full, a whole lot of paper we could never on the record indicate what those papers are—I don't like to take up time, but if he will please state what this is.

Mr. Giuliano: They can be classified very easily.

Mr. Pearse: I would like to have the books that I have spoken of marked for identification, so that the record will show what I am talking about.

("Parlay payoff book" marked S-50 for identification of this date. "Telephone directory" marked S-51 for identification of this date.)

Mr. Lichtenstein: I merely ask the State to tell us what is in there.

Mr. Giuliano: May we state that there are twelve boxes containing pencils, some partially filled and some filled. Also there are four boxes of pencils and one partial package of pencils, three jackknife switches, —I think that is what they call them—some wire of some sort, an ash tray, rubber stamp and pad, head phone apparatus, I believe it is, some pads, five of them, a brush, a clip and a bottle and a can-opener, also one slip with some writing on.

Now I offer them in evidence.

Mr. Pearse: Now I want to object. I am speaking now of the contents of the box what was in the boxes.

The Court: I will allow them to go in now.

(Accepted and marked State's Exhibit S-52 of this date, carton B and contents.)

Mr. Giuliano: There was also a telephone directory marked S-51. I now offer that in evidence.

Mr. Pearse: I make the same objection, that I made when it was first offered.

The Court: I will allow it.

Mr. Pearse: Your Honor will allow us an exception?

(S-51 now accepted and marked in evidence.)

By Mr. Giuliano:

Q. I show you a book entitled "parley payoff", marked S-50 for identification and ask you where you got that from? A. In the closet in the wire room.

Mr. Giuliano: I offer that in evidence.

Mr. Pearse: We repeat our objection to this introduction into evidence.

The Court: I will allow it.

(Exhibit S-50 now marked in evidence as State's Exhibit S-50.)

(The court then admonished the jury not to discuss the case, nor permit it to be discussed until all the testimony was in; officers were sworn and the jury left in the custody of the officers and the court recessed until 2:15 P. M.)

Sergeant Ralph Dowgin, for the State—Cross.

AFTER RECESS 2:15 P. M.

(In the presence of the defendants and their counsel, the clerk polled the jury.)

RALPH DOWGIN, resumed the stand.

Cross examination by Mr. Pearse:

Q. Sergeant, how long have you been with the State Police? A. 15 years.

Q. How long have you been a sergeant? A. Two years and a half.

Q. Corporal is the next step, and then trooper? A. That is right.

Q. You say you were at this address, 1124 Garden Street, Hoboken, on June 9th, right? A. Yes, sir.

Q. And who else was with you or went with you? A. Corporal Heckmann, Trooper Green, Trooper Kerr, Trooper McEnroe, from the Scotch Plains station; Sergeant Schindler, Trooper Young, Trooper Itesta, Trooper Zazzi and Trooper Sangi from the Clinton and Washington Station.

Q. And who else? A. Mr. Giuliano of the Prosecutor's office.

Q. How many was that altogether? A. 11.

Q. You went up to the front door of this house, as I understand it, and what did you do next? A. Rang the bell.

Q. Did you have a search warrant?

Mr. Giuliano: I object to that. It makes no difference, your Honor, whether or not there was a search warrant. I don't believe a search warrant is necessary.

The Court: I sustain the objection.

Mr. Pearse: Your Honor will allow an exception. I think it is a perfectly proper question.

Q. You rang the bell? A. Yes, sir.

Q. Did you ring the bell? A. Yes, sir.

Q. Did you gain admission then, when you rang the bell? A. No, sir.

Q. What did you do next? A. We knocked on the door along with ringing the bell.

Q. What next? A. The lady from the inside opened the inside door, and as we announced we were state——

Mr. Pearse: Just a minute.

Mr. Giuliano: I think he ought to answer the question.

Mr. Pearse: He is going too fast, pardon me.

Mr. Giuliano: Maybe he is going too fast for Mr. Pearse.

Mr. Pearse: That is right; he is going entirely too fast for me.

Mr. Giuliano: I think the answer is responsive. I think we should have the sergeant answer fully.

Mr. Pearse: I will ask to have the answer stricken on the ground it is not responsive because we only have him at the front door, ringing the bell and knocking on the door. When I asked what did he do next.

Q. There are two doors there, are there not? A. Yes, sir.

Q. An inside door and an outside door? A. Yes, sir.

Q. Is there a vestibule in between the two? A. That is right.

Q. How large a vestibule? A. Roughly four feet, and the width of the double door.

Q. How did you get in from the porch, through the front door? A. After the woman from the inside heard that we were police, state police and prosecutor's men, she slammed the door closed.

Q. The outside door or the inner door? A. The inner door.

Q. And how did you get through the outer door? A. By using force.

Q. What did you do? A. Broke the window.

Q. With what? A. With a hammer we had.

Q. Put your hand inside then? A. Yes, sir.

Q. Turned the knob and got in the vestibule? A. Yes, sir.

Q. Then what did you do? A. Went on inside.

Q. How did you get inside the door? A. The woman opened the inside door.

Q. Did you rap on it? A. No, sir, after she saw we meant business, she opened the inside door.

Q. What kind of glass is there on that inside door? A. I am not qualified to say what kind of glass.

Q. Is there any glass there? A. There is glass there.

Q. Can you see through it? A. I don't recall.

Q. Well, did she open the door? A. She opened the door.

Q. Did you knock on the inside door? A. No, she opened it when we gained entrance, got inside the outside door.

Q. She opened it and looked out and then shut it, is that right? A. Of course.

Q. What did she do next, then? A. After we got through the outside door, she opened the inside door for us.

Q. Then what happened? A. We went on in.

Q. All of you? A. No, sir.

Q. How many? A. Four of us.

Q. Four of you went in; can you tell us who they were? A. Mr. Giuliano, Corporal Heckmann, Trooper Green and myself.

Q. Now, what did you do next? A. We went to the stairway.

Q. What did you do next? A. I went to the stairway and on up to the third floor.

Q. Walk up? A. Fast.

Q. Went on to the third floor, you didn't stop on any other floor? A. No, we hesitated when Trooper Green who grabbed one of the prisoners running downstairs.

Q. When you say "we hesitated", I ask what you were doing? Did you hesitate? A. Yes, sir.

Q. And you say there was someone coming downstairs; I think you said that was Walter Lewis; is that right? A. Yes, sir.

Q. Was that down from the third floor, or down from the second floor? A. From the third floor.

Q. And what happened to Lewis? A. Trooper Green took care of him.

Q. He grabbed him, didn't he? A. Yes, sir.

Q. What did he do with him? A. He brought him on up to the third floor.

Q. And put him in the front room? A. The front room.

Q. Then, in the meantime you were going upstairs, is that right? A. Yes, sir.

Q. With how many others? A. Corporal Heckmann and Mr. Giuliano.

Q. Who were the first people that you saw up there? A. The men that were in the back room.

Q. In the back room? A. Yes, sir.

Q. Who were in the back room? A. You want me to give you their names?

Q. Yes. A. In the back room, Vincent Halpin, Frank Morano and Walter Mullins.

Q. Just point out on this sketch what you mean by the back room. A. The back room of the third floor up here—the wire—the rear room on the top floor.

Q. Is that the room that you have been calling the wire room? A. Yes, sir.

Q. Is that the room you say these men were in when you first went in and first saw them? A. Yes, sir.

Q. You are sure about that? A. Yes, sir.

Q. Well, what happened next? A. They were all turned over to Corporal Heckmann and Trooper Kerr, who took them in the front room to get their information, such as name, address, age and so on.

Q. In other words, they were all herded into this front room, is that right?

Mr. Giuliano: I object to the characterization.

The Court: Sustained.

Q. Well, they were pushed in.

Mr. Giuliano: I object to that. I think the question ought to be what Corporal Heckmann or what the Sergeant did.

Mr. Pearse: This is cross examination, and I have a right to probe into this, as to how it was done.

The Court: All right; I will permit it.

Q. Were they pushed into this room? A. No, sir.

Q. How was it done? A. They were all asked into the front room.

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Q. You mean to say: "Will you please go into the front room?" Is that what was said to them?

Mr. Giuliano: I object to that.
The Court: I will allow it.

A. I don't remember the exact words.

Q. They were told to go into that room? A. They were taken into that room.

Q. They were told to go in there; is that right? A. Yes, sir.

Q. After they had been in there a while, they were told to go back into the other room, what you call the wire room? A. They were asked to go back.

Q. Well, what words were said to them? A. When they went from the front room to the rear room, you mean?

Q. Yes. A. They were asked to come in and take their places.

Q. What was said to them? A. They were asked to come in and take their places.

Q. Did you hear what the corporal said to them about going into the room? A. When they were taken into the front room or the back room?

Q. Exactly as you say; what did he say to them? A. At what time?

Q. Did he say: "Go into the front room?" A. Yes, we said, "Come over into the front room."

Q. Come on into the front room. Then, when you were there with them in the front room, did you then say: "Go on into the back room?" A. We said, "Come in the back."

Q. Did you say: "Go on into the back room?" A. No, sir, we asked them.

Q. What did you say, not what did you ask them? What were the words you used? A. We asked them to come back to the rear room, back to the place where they had been.

Sergeant Ralph Dowgin, for the State—Cross.

Q. You mean to say you asked them, "You come back to the other room?" Is that the way you asked them to come? A. We did ask them.

Q. What did you say? A. "Come back to the rear room and take your place."

Q. In other words, you told them to go back to the rear room and take their places, didn't you? A. Yes, we asked them to go back.

Q. You told them to go back, didn't you?

Mr. Giuliano: I object to that.

A. No, sir.

Q. You just said a moment ago you did.

Mr. Giuliano: The witness has testified "we asked them." That is as far as I remember the answer, three or four times.

The Court: The witness has answered that.

Q. You say: "We asked them." What were the words you used? A. The exact wording of when they moved from the front to the rear?

Q. Yes. A. I suppose it was: "Will you men come on back and take your places at the table where you were"?

Q. There wasn't any doubt about what you wanted them to do? A. No, they understood.

Q. Then you set them down in these chairs which are shown in the room here, and shown in the picture?

Mr. Giuliano: I don't think that is what the testimony is, your Honor.

Q. Well, am I wrong in that? A. Yes, sir.

Q. What did you do? A. We asked them to take their places at the table. "Take your places, if you don't mind, where you were sitting before."

Q. "If you don't mind", did you put that in, "take your places, if you don't mind?" A. Yes, sir.

Q. You put that in? A. Yes, sir.

Q. Did you say that? A. Yes, sir.

Q. All nice and gentle, wasn't it?

Mr. Giuliano: I object to that statement by Mr. Pearse.

The Court: Sustained.

Q. Look at this, Sergeant, this Exhibit S-3. You notice on the back the word "No." and the number on the other side of the door, surrounded by white. Is that the way the place looks; it is gold, isn't it, on the door itself? A. As I remember it was, leaf.

Q. Gold leaf? A. Yes, sir.

Q. It shows out there much more prominently than it does on the door itself? A. Well, it is very plain on the door also.

Q. I didn't ask you that. Does it show more prominently here than it does on the door? A. I could not say.

Q. Where the gold is, it is white here? A. I don't know what that is.

Q. Doesn't that look like white? A. I don't know whether it is or not.

Q. It appears on the picture to be white? A. It looks white.

Q. Now then, I call your attention to S-34, and, Sergeant, you said I think you found that in a room on the second floor? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. Just point out there what room you have reference to. A. Second floor, this room, this here.

Sergeant Ralph Dowgin, for the State—Cross.

Q. That is the dining room, to the extreme right of the upper right-hand of the picture?

Mr. Giuliano: Second floor rear.

Q. Second floor rear is what it is; you are sure about that? A. Yes, sir.

Q. Whereabouts in the room was it? A. The night table between the two beds.

Q. Now, you say that you and four others, I think, walked into the house through the front door. Were any doors broken down that you saw, to gain entrance? A. Yes, sir, a door, a basement door was forced also.

Q. I also understood you to say that the door in the closet on the third floor was locked; is that right? A. Yes, sir.

Q. I am correct about the third floor, am I not? A. That is right.

Q. Which room is that on this sketch here? A. This room here, the same floor the wire room is on.

Q. The same floor the wire room is on? A. The same floor.

Q. You saw the closet in the front bedroom marked on that? A. 13.

Q. And marked 13 on the sketch, showing the third floor? A. Yes, sir.

Q. And the closet was locked and you had to use force to open it, is that right? A. Yes, sir.

Q. He told you he didn't have a key, is that right? A. Yes, sir.

Q. And then you broke into it? A. We forced it.

Q. What did you do? A. It was in the closet.

Q. What did you do to force it? A. What method we used? We had a pinch bar there.

Q. Pried it open? A. Yes, sir.

Q. And took this box which is marked S-38 out of it?

Mr. Giuliano: That is Exhibit 38 for identification.

Q. How long did you remain in this house, or at least, tell us when you arrived and about when you left. A. We arrived at 3:30 P. M. I left there and left Corporal Heckmann in charge of what was still there at 12:15 A. M.

Q. Fifteen minutes after midnight? A. That is right.

Cross examination by Mr. Lichtenstein:

Q. May I ask a few questions. I want to get the record straight so that there is no misunderstanding as to what you meant during the course of your direct examination. Mr. Giuliano was questioning you, and you on several occasions referred to the defendants who were in and about the house. You didn't by that mean that the defendant James Lewis was in or about the house?

Mr. Giuliano: Of course that is understood. The Sergeant never included Mr. James Lewis on that day.

The Court: I will permit Mr. Lichtenstein to make it clear.

Q. It is admitted that the defendant James Lewis was not in or about the house at the time of this alleged raid?

Mr. Giuliano: At 3:30, from 3:30 on, no.

Q. Sergeant, you went through this entire house, didn't you? A. The men on the detail were assigned to various floors.

Sergeant Ralph Dowgin, for the State—Cross.

Q. Where, for instance in the basement, and when I speak of the basement I mean what is known as the kitchen floor or the dining room floor? A. Yes, sir.

Q. Does that dining room appear on any of these exhibits which are before the jury now? A. Right here.

Q. That is Exhibit S-9; the front of the house is as indicated here on the basement floor which is marked dining room? A. Yes, sir.

Q. Did you recall—was that a fully furnished dining room? A. Yes, sir.

Q. As any dining room would be furnished? A. Yes, sir.

Q. Table, dining room table, dining room chairs and china closet? A. All as is marked there.

Q. And buffet? And some other closets? A. Yes, sir.

Q. In other words, it was as fully equipped as it would generally be equipped—any dining room? A. Yes, sir.

Q. Rather old-fashioned, wasn't it? A. It was not new.

Q. And let us take the floor above that, which would be what ordinarily would be termed the parlor floor, right? A. Right.

Q. And that floor, there is a stoop that leads from the street in the front of the building, leading to that parlor floor? A. Yes, sir.

Q. And that is the door which you say you forced? A. Yes, sir.

Q. After forcing the door to the dining room? A. No, sir.

Q. Well, did you force the dining room door first? A. I didn't force both of them.

Q. But you did see the dining room door—and it was forced first, did you? A. No, sir.

Q. Well, was it forced after the stoop door? A. After.

Q. So that in the first instance when you arrived at the top of the front stoop which leads to a hall on the parlor floor, that door was forced? A. Yes, sir.

Q. Now, let us go into that parlor. Which diagram is it that indicates the parlor floor? A. This one here.

Q. That is Exhibit S-8? A. Yes, sir.

Q. Now, you entered from the street, got up the stoop, right? A. Yes, sir.

Q. And then, after forcing the entrance, walked into the living room, and that door leads right directly into the living room? A. Right.

Q. In other words, there is no hallway; there is a front door into the living room, but it is rather an entrance which goes directly into the living room as soon as you opened the door. A. Aside from the vestibule.

Q. After you get through the vestibule, which is a series of front door and center door, when you open these two doors you are in the living room? A. Yes, sir.

Q. Now, that living room again was furnished as a conventional old-fashioned living room, was it not?

Mr. Giuliano: Let the witness testify.

Mr. Lichtenstein: I am cross-examining and I have a right to do that. I have a right to ask leading questions.

Mr. Giuliano:: Yes, you have, but not to say "conventional dining room." I don't know what conventional dining room means.

The Court: Proceed, Mr. Lichtenstein.

The Witness: It was furnished with living room furniture.

Q. As indicated by this legend, there was a table and small radio there? A. Yes, sir.

Q. And two chairs? A. Yes, sir.

Q. Overstuffed chairs? A. They were living room chairs.

Q. And you had that davenport there? A. Yes, sir.

Q. And a rocking chair? A. Yes, sir.

Q. And a mirror? A. Yes, sir.

Q. Vase, flower vase? A. Everything as listed.

Q. I am just asking you. You have the davenport there, isn't that right? A. Yes, sir.

Q. This was all furniture that you could see, that furniture that was used, old-fashioned furniture? A. I could not say it was old-fashioned, no, sir.

Q. Now, that is the parlor, the front parlor. Now, was there a room in the rear of that front parlor on the first floor? A. Yes, sir.

Q. And that was equipped, was it not, with chairs, table, the same as an ordinary rear parlor would be furnished? A. Yes, sir.

Q. In other words, the way all these old houses were, there was a front parlor and a rear parlor, and both of these were furnished as such? A. As a lounge.

Q. Tables, chairs and things of that kind? A. Yes, sir.

Q. Then we take the next floor, the second floor above the basement floor, and that would be indicated by which exhibit, sir? A. S-10.

Q. Now, taking the room in the front which is marked here "bedroom, front". Now, that room was fully furnished as a bedroom? A. Yes, sir.

Q. And contained one bed, did it? A. That is right.

Q. And a side table or a night table? A. That is right.

Q. And contained a dresser? A. Yes, sir.

Q. And a clothes chest? Clothes tree, and was fully furnished as an ordinary bedroom would be furnished? A. Yes, sir.

Q. All made up when you came there? A. Yes, all made up.

Q. In other words, nobody had been sleeping the night before; as if it had already been made up? A. It had been made, it was all made up.

Q. Then there is another bedroom in the rear of this front bedroom? A. Yes, sir.

Q. And that bedroom contains two beds? A. That is right.

Q. And a night table in between? A. Yes, sir.

Q. And that room contained, in addition to the two beds and the night table, in between, contained some other furniture, such as chair and clothes tree? A. Yes, sir.

Q. And a chest of drawers? A. Yes, sir.

Q. And a cabinet, is that right? A. Yes, everything as indicated.

Q. And a dresser? A. Yes, sir.

Q. And various other ordinary items of furniture you would find in an ordinary bedroom? A. That is right.

Q. And that bedroom, at the time you entered there, was also made up? A. Yes, sir.

Q. Ready to be occupied if anybody wanted to occupy the room? A. Yes, sir.

Q. In other words it was readied and made to use? A. Yes, sir.

Q. Now, let us take the next floor which would be the top floor. A. Yes.

Q. Now, in the rear of that top floor, you have already described the room which you call a wire room? A. That is right.

Q. All of these things which have been offered by the State were taken from that room? A. Yes, sir.

Q. Other than the box which you said you took from the room in the front, which has been marked for identification S-38? A. That is right.

Q. Now, is there anything which you left in that rear room which is not in court here today; in other words, is everything here, is everything that was in that rear room at the time you entered it here in court today? A. We covered everything and marked everything for identification, and put it in this large box, everything that pertained to gambling.

Q. So far as you know, every single thing that was in the rear room is here in front of the jury? A. Everything pertaining to gambling.

Mr. Lichtenstein: I ask that that be stricken out.

Mr. Giuliano: I don't think it should.

Mr. Lichtenstein: Let me get in my objection. I object to the characterization of the witness because it is not responsive and is a conclusion of the witness.

The Court: It will be stricken.

Q. Now, what did you leave there? A. We made no notes of what we left.

Q. Can you remember a single thing that you left in the room that is not here in court? A. In that particular room I can't say what we left, articles that were of no importance to us.

Q. Can you mention one single thing that you left there? A. I don't recall of anything in particular.

Q. Can you remember anything that is not in particular, that you did not consider of any importance that you left there? A. No, sir, I don't recall.

Q. To the best of your recollection, every vestige of articles is right here in court, and taken from that room? A. That pertains to the gambling.

Q. I didn't ask you that. I asked you whether there is anything that you can think of, a single item, a single article which is not accounted for and before this jury at the present time that you took from that rear room, that you found in the rear room? A. That I can't say.

Q. Now, let us take the front room on that top floor, and that is indicated on Exhibit S-11, and the front room is the room which is marked "bedroom"; is that right? A. Yes, sir.

Q. And that had twin beds and a wardrobe? A. Yes, sir.

Q. And a clothes tree? A. Yes, sir.

Q. Chair? A. Yes, sir.

Q. Another clothes tree? A. Yes, sir.

Q. And a dresser? A. Yes, sir.

Q. In other words, that room was entirely equipped as an ordinary bedroom would be equipped? A. Yes, sir.

Q. And that room was tidied up and in order? A. The beds were in order and made.

Q. Officer, did you transport the articles that were taken from that place? A. They were transported in Goodman's van, Trooper Green rode with the van and Sergeant Schindler, Mr. Giuliano followed in their car down to the court house.

Q. Take for instance this iron box marked S-38 for identification. Who took that out of the house? A. On finding it, it was turned over immediately to Mr. Giuliano.

Sergeant Ralph Dowgin, for the State—Re-cross.

Q. You did not transport that? A. No.

Q. You did not take it away? A. No, sir.

Q. Did you hand it to anybody? A. No, sir.

Q. Who took it out of the rear room closet that was forced? A. I can't recall exactly who took it out of the closet.

Q. You were shown a package of money. Did you see where it came from? A. Yes, sir.

Q. Who showed it to you? A. Sergeant Schindler.

Q. Did you see where it came from? A. Yes, sir.

Q. You were there when it was found? A. I was called there as soon as it was found.

Q. Then it was already found at the time you were called there? A. Yes, sir.

Q. And another officer had it in his hand? A. Yes, sir.

Q. You didn't see where it came from? A. He showed me.

Q. You personally didn't see? A. Surely, he showed me it came out of a suit.

Q. He had already the money in his hand? A. Yes, he had already taken the money out.

Q. So therefore you didn't see where he got it from except what he told you? A. That is right.

Mr. Pearse: May I ask one or two more questions that I omitted, if your Honor please.

Re-cross examination by Mr. Pearse:

Q. You told us that you first saw Morano and Mullins and Halpin, and I think Eugene Lewis when he came upstairs in this room which is marked just "room" on the third floor and which you have described as the wire room? Is that correct? A. No, sir, I didn't say that.

Q. You didn't say a few moments ago that you first saw them in the wire room? A. No, sir.

Q. Are you sure of that? A. All except Eugene; I didn't mention Eugene Lewis.

Q. Well, then, all except Eugene were found in the room you call the wire room? A. Yes, sir.

Q. What were they doing? A. Answering telephones and the radio was going, there was race results and it was pretty noisy.

Q. When you first came up? A. Yes, sir.

Q. Are you sure of that? A. The telephones were ringing.

Q. Where were they? A. On the table, they were just getting up away from the tables. There was a couple of men still fooling with the switches when we moved in.

Q. And you are sure about that? A. Yes, sir.

Q. You identify these; you were not listening on the telephone? A. I answered one phone.

Q. When you first came in? A. No, sir, I did not.

Q. Then you could hear what was coming over the telephone? A. The radio was going.

Q. So you were listening to the radio, what was coming over the radio; is that what you mean? A. We could hear it.

Q. Of course you could; I assume so. You identify this cigar thing as having been found on the table, some butts in there, lighted and smoking—I think—is that right? A. Right.

Q. Did you see anybody put these cigar or cigarette butts in there? A. No, sir, I don't recall who really put them in there.

Q. But you still insist that when you first came up that you found four of these men in what you call the wire room? A. No, sir, I didn't say four.

Sergeant Ralph Dowgin, for the State—Re-direct.

Re-direct examination by Mr. Giuliano:

Q. Mr. Lichtenstein brought you through this whole house. He told you you found a fully equipped living room, lounge room, bedroom, two bedrooms on the second floor, fully equipped bedroom on the third floor. Did you find a fully equipped wire room on the third floor rear?

Mr. Lichtenstein: I object to that as being highly improper and only done for the purpose of inflaming this jury against the defendants.

Mr. Giuliano: Oh, now.

Mr. Lichtenstein: Let me put my objection first, if you please.

I say that the statement is made, and it is highly improper, and is only done for the purpose of inflaming this jury against these defendants. The question is incompetent, it is irrelevant and counsel cannot characterize it as he did, and should not do so.

The Court: The witness has already stated he knew what a wire room is, Mr. Lichtenstein, and why cannot he testify as to what the wire room is the same as the bedroom, if he knows what one is?

Mr. Lichtenstein: He has already described it. I had him particularize just exactly what he found there. He has specified what he found there. There is no need of putting a question of this kind which I say is only done for the purpose of influencing the jury against these defendants.

Mr. Pearse: I object to the question on the ground it is not re-direct examination and highly improper.

The Court: I will allow it.

Mr. Pearse: Your Honor will grant us an exception.

(Question read as follows: Mr. Lichtenstein brought you through this whole house. He told you you found a fully equipped living room, lounge room, bedroom, two bedrooms on the second floor, fully equipped bedroom on the third floor. Did you find a fully equipped wire room on the third floor rear?'')

Mr. Lichtenstein: I neglected to add a further objection, that this witness is not qualified to state that this is fully equipped, or otherwise equipped, wire room.

The Court: Do you know what a fully equipped wire room is?

Mr. Lichtenstein: May I with all due respect, object to your Honor's question upon the ground that your question is incompetent, irrelevant and immaterial and further that this witness is not in a position to and has not shown any qualifications to answer your Honor's question.

The Court: He has answered about the matter of experience, Mr. Lichtenstein, and I would like to know whether he knows what one is.

Mr. Lichtenstein: I object to the form of the question on the ground that the mere statement of the witness as to whether he knows or does not know is dependent upon his being an expert and having knowledge upon the subject, and he has not shown any such qualifications.

The Court: He can get that knowledge from his experience.

Mr. Lichtenstein: I fully know, because I tried a case forty odd years ago in which the Supreme Court and the Court of Errors held that a person may become an expert by practice without experience, or experience without practice; those are almost the very words used.

I still contend that this witness has not shown that he is qualified in any such regard as is laid down by the courts of this state.

Mr. Pearse: I presume that your Honor will instruct the witness to answer that question yes or no.

The Court: Yes, the question should be answered yes or no.

Mr. Lichtenstein: Your Honor will grant me an exception.

The Court: Do you know what a fully equipped wire room is?

The Witness: Yes, sir.

Q. And would you say that this room on the third floor of 1124 Garden Street was a fully equipped wire room?

Mr. Lichtenstein: I object to the question upon the ground that the witness has not shown qualifications to answer the question.

Mr. Pearse: I object further on the ground that the question, or the subject matter on which he is being questioned is not relevant to the issue here. These men are now charged not with operating a wire room; they are charged with bookmaking.

The Court: If bookmaking is done there, it can be shown.

Mr. Lichtenstein: I think, in view of this open demonstration by the State's witnesses, who are all state troopers, they should be admonished that they shall not engage in any such open laughable demonstration in the presence of the jury.

Mr. Giuliano: I don't think that that is so.

Mr. Lichtenstein: That also includes the assistant prosecutor who did the same thing.

The Court: If there is humor in the court room, you can't help people from smiling, or perhaps showing more than a smile if they recognize humor.

Mr. Lichtenstein: I contend that it is not a humorous trial; it is a serious trial.

The Court: It is humorous—sometimes a trial is. I observe you have not refrained from smiling and perhaps laughing sometimes, yourself.

Mr. Lightenstein: I don't think we ought to do it.

The Court: I will permit the question.

Q. Will you answer the question?

(Question read as follows: "Question: And would you say that this room on the third floor of 1124 Garden Street was a fully equipped wire room?")

A. Yes, sir.

Q. You were taken through this house, as I said; did you go down to the basement? A. Yes, sir.

Q. Did you see what was down in the basement?

A. Yes, sir.

Walter Heckmann, for the State—Direct.

Q. What was down in the basement, what did you find down there? A. Basement or sub-basement?

Q. The sub-basement, which is not shown on any of these sketches. A. A large quantity of liquor.

WALTER HECKMANN, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. You are a member of the State Police? A. Yes, sir.

Q. How long have you been a member? A. About fifteen and a half years.

Q. On June 9th did you receive an order to go to 1124 Garden Street, Hoboken, New Jersey? A. Yes, sir.

Q. Who went with you there? A. Sergeant Dowgin, Trooper McEnroe, Trooper Green, Trooper Zazzi, Trooper Zangi and the Prosecutor's men.

Q. And I was there? A. That is right.

Q. When you got to the premises 1124 Garden Street, what did you do? A. I went up the stairs to the front entrance with Sergeant Dowgin and Trooper Green and Mr. Giuliano and another officer.

Q. And when you got into the premises, who did you see in the premises, the first person that you saw? A. A lady.

Q. And where was she? A. She was at the inside door.

Q. The first floor? A. That is right.

Q. Now then, where did you go then? A. Upstairs to the third floor.

Q. Now, when you got up to the third floor, what room did you go into? A. The front bedroom.

Q. Who was in the front bedroom when you got there? A. Six defendants.

Q. Had you seen the six defendants as soon as you got there, or did you find another one later on?

Mr. Pearse: I object to the form of the question. He said he found six defendants there.

Q. When did you find the six?

Mr. Pearse: He has answered that by saying, when he first went up there.

The Court: I will allow the question.

A. About 45 minutes later.

Q. And how many did you find when you originally got to the third floor? A. Five.

Q. And the sixth man was found some three-quarters of an hour later where? A. Under the bed nearest the front window.

Q. Now as you went up on the third floor, did you interrogate the five prisoners, or the five defendants? A. I did.

Q. And did you search them? A. They were searched for weapons in the beginning.

Q. And then did you find any weapons on them? A. No.

Q. Now then, did you search them for something else? A. No, I didn't search them.

Q. Did you take anything away from them? A. They were interrogated separately, one at a time, and requested to remove all of their belongings from their pockets and place them on the table at which I was sitting.

Walter Heckmann, for the State—Direct.

Q. Now, did you interrogate Eugene V. Lewis; and did he take from his pocket a certain sum of money? A. I did.

Q. How much was that? A. $450.

Q. I show you an envelope marked "$450, Eugene V. Lewis." Is that your handwriting? (Handing witness) A. That is.

Q. And this $450 was found on his person? A. That is right.

Mr. Giuliano: I offer it in evidence.

Mr. Pearse: As evidence of what?

Mr. Giuliano: Found on his person at that time.

Mr. Pearse: I object, you may as well offer his clothes as his pocketbook.

Mr. Giuliano: There will be some clothes.

Mr. Pearse: I don't see what possible evidential value money in a man's pocket has as far as the issues in this case are concerned, and I object to it.

The Court: I will allow it.

Mr. Pearse: Your Honor will grant me an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-53 of this date.)

Q. While you were there with the other persons did you see Eugene Lewis do something? A. No, I did not.

Q. You were not present at the time? A. I was in the room.

Q. Was your attention called to something? A. It was.

Q. What was it?

Mr. Pearse: I object to that.

Q. Was Mr. Lewis there?

Mr. Pearse: He says he didn't see anything and I object.

Mr. Giuliano: His attention was called to it.

Mr. Pearse: By whom?

Q. By whom? A. Trooper David Kerr.

Q. Was Mr. Lewis in the room? A. He was.

Q. What did he say?

Mr. Pearse: I object to what he said. This is after you called him a prisoner and now I object to anything he said unless it was a voluntary statement.

Mr. Giuliano: Prisoner or defendant, or whatever it may be, doesn't make any difference. Here is a statement made in front of the defendant himself.

Mr. Pearse: I object to any statement made in front of the defendant by somebody else. Such statements are not binding on him.

Mr. Giuliano: They are admissions.

The Court: Who made the statement?

Mr. Giuliano: Mr. Kerr, involving the defendant Eugene Lewis.

Mr. Pearse: I object to the characterization.

The Court: I will permit the statement.

Mr. Pearse: Your Honor will allow me an exception?

Q. What was that statement? A. The statement made by Trooper Kerr: "Here, Corporal, watch that man, he is hiding something."

Mr. Pearse: I ask that that be stricken out. That is some instruction and not binding on the defendant.

The Court: I will allow it.

Mr. Pearse: Exception, please.

Q. After your attention was called that he was trying to hide something, did you find anything? A. I did.

Q. What did you find? A. A roll of money, with a slip inserted inside of it.

Q. Where did you find it? A. In one of the bed covers on the twin bed nearest the hall door.

Q. I show you an envelope marked "Eugene Lewis, $70"; is that your writing? A. That is right.

Q. When you found this money under the sheet on this bed, where was Eugene V. Lewis standing? A. He was sitting on the bed.

Q. Now I show you a fifty dollar bill and two tens, together with a slip, and I ask you if that is the slip and the money that you found under the bed clothes as you referred to them? A. ????

Q. Was that the same bed that Eugene Lewis was sitting on? A. It was.

Q. Now, after you found that slip, together with the money, did you ask Eugene Lewis to do anything?

Mr. Pearse: Please answer that question yes or no, if the court please.

The Court: Yes or no.

A. Yes, sir.

Q. What did you ask him to do?

Mr. Pearse: I object to that on the ground that Lewis is now under arrest; he

is called a prisoner by the assistant prosecutor and I assume that he is under restraint and it must first be shown that any statement that he makes is entirely and completely voluntary and not otherwise; in other words, anything that Lewis said or did is not admissible against him.

The Court: I will allow it.

Mr. Pearse: Your Honor will allow us an exception.

The Court: Yes.

Q. What did he do? A. Signed it.

Q. Signed this sheet; is that right? A. Yes, sir.

Q. And that is his name, Eugene V. Lewis? A. Yes, sir.

Mr. Giuliano: I offer the money and the sheet in evidence.

Mr. Pearse: We object to it on the ground raised a moment ago with respect to the testimony.

The Court: I will allow it.

Mr. Pearse: Your Honor allows us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-54 A and B respectively, of this date.)

Q. Did you also take from other persons certain amounts of money? A. Yes, sir.

Q. I show you an envelope, V. P. Halpin, $117; was that taken from him? A. Yes, sir.

Q. I show you an envelope Walter Mullins $4. A. That is right.

Q. You took that from him? A. That is right.

Q. Frank Marnell, $16? A. That is right.

Q. And Frank Morano, $163? A. That is right.

Mr. Pearse: I ask that all this testimony be stricken with reference to these last named defendants on the same ground that we objected to the questions with respect to what happened so far as Eugene Lewis was concerned.

The Court: Your objection will be overruled. The testimony will not be stricken.

Mr. Pearse: Your Honor will allow us an exception?

I now make the same objection to the introduction of these papers which have been identified, on the same grounds advanced in reference to the question.

The Court: The objection will be overruled and they will be admitted into evidence.

Mr. Pearse: Exception.

(Accepted and marked as State's Exhibits S-55, S-56, S-57 and S-58 respectively.)

Q. Now, Corporal, this envelope containing $163, also seven slips, can you tell me where these slips came from, and the envelope with the name Frank Morano? A. They came from the person of Frank Morano.

Q. Did you ask him to sign these slips? A. I did.

Q. Did he sign them? A. He did.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: We object to this on the grounds already advanced with reference to the other exhibits which have just been introduced, and also on the ground that

they are not material to this issue in any respect.

Mr. Lichtenstein: I object, if the court please, for the further reason that these papers all bear dates which are dates which antedate the date alleged in the indictment, some of them as much as a month prior to the date alleged in the indictment, and further upon the ground that they are incompetent, irrelevant and immaterial, and do not in anywise indicate that they have anything to do with the issues involved in this case, namely a charge of bookmaking on the ninth of June, 1944, against the defendant, or any of them.

The Court: I will allow them.

Mr. Lichtenstein: Your Honor will grant us exceptions?

The Court: Yes.

Mr. Lichtenstein: I also ask that the admission of any evidence relates only to the defendant on whose person it was found.

The Court: That is so; they would only affect Mr. Morano, the particular slips.

Mr. Giuliano: That is right.

The Court: I will instruct the jury that they are not to regard this as evidence against any of the other defendants.

(Accepted and marked as State's Exhibit S-59 of this date.)

Q. Do you know what these slips represent? A. Racing bets.

Mr. Pearse: What are you talking about?

Mr. Giuliano: The slips marked S-59, found on Morano.

Mr. Pearse: I object to any characterization of these slips; the slips have got certain writings on them and I don't see how they could be described by this witness.

The Court: I will allow the witness to answer that question yes or no. To answer the question, "Do you know?"

Q. Do you know? A. I do.

Q. What are they?

Mr. Pearse: I object now on the same grounds I have already advanced, and on the further ground that there is nothing to show that this witness is qualified as an expert of any kind in connection with the matters which are involved in this trial.

The Court: If you wish to cross examine him on the qualifications as to whether he knows what they are.

Mr. Pearse: I think he should be qualified first.

The Court: He says he knows. Perhaps you had better examine him.

Cross examination by Mr. Pearse:

Q. How long have you been on the force? A. For fifteen and a half years.

Q. Did you ever go to the races? A. No, sir.

Q. You don't ever go to the races? A. No, sir.

Q. Do you know anything about betting on races?

Mr. Giuliano: I object to that.

The Court: He can answer whether he knows or not.

The Witness: I know it has been done.

Q. That is all you know about it, that it has been done? A. That is right.

Q. You have never seen anybody do it? A. No, I have not.

Q. Never heard anybody do it? A. I have heard a lot of things.

Q. I didn't ask you that; I assume you have. Will you answer my question? A. You will have to repeat that question.

Q. Did you ever see anybody bet on the races? A. No, I have not.

Q. Did you ever hear anyone bet on the races? A. No, I have not.

Q. Did you ever bet on the races yourself?

Mr. Giuliano: I object to that.

Mr. Pearse: That is not a crime.

Mr. Giuliano: It is not a crime at the track. It is a crime here.

Mr. Pearse: Let him answer.

The Court: It depends on where it is.

Mr. Lichtenstein: We haven't asked him where.

Mr. Pearse: I haven't asked him anything incriminating.

Mr. Giuliano: I don't think he can ask him anything that will incriminate him.

Mr. Pearse: I have asked the question.

The Court: I will overrule the question unless you qualify it.

Q. Have you ever bet at the races at the race track? A. I have never bet on races. I have never been to a race track. I have already repeated that.

Mr. Pearse: I submit, if the court please, that this man is not qualified as an expert with respect to betting on races of any kind,

whether pari-mutuel or anything else in connection with the racing business.

The Court: I don't think a man has to bet to know.

Mr. Pearse: He claims that he doesn't know anything about race tracks.

The Court: No, he didn't say anything of the kind. He answered your question on that. He doesn't say he doesn't know what these sheets are.

Mr. Pearse: I submit, if the court please, that he has not qualified as an expert in order to testify with respect to the matters which are in issue at this trial.

The Court: I will permit him to answer.

Mr. Pearse: May I have an exception?

Mr. Lichtenstein: May I also have an exception?

By Mr. Giuliano:

Q. What are these slips? A. They are slips on which the amount bet on horses is written down and the amount bet and how it is bet.

Q. And how it is bet? A. That is right.

Q. Now, on this slip here marked "Frank Morano 4, 2"; can you tell us what that means?

Mr. Lichtenstein: I object to the question upon the ground that either this form speaks for itself, or if it requires the testimony of an expert, that this witness has not qualified as an expert to testify as to what these figures and names mean.

The Court: Do you know what it means?

The Witness: Yes, sir.

The Court: I will permit the question.

Mr. Lichtenstein: Your Honor will grant an exception?

The Court: Yes.

Q. What does 4 and 2 mean? A. That is marked for show and place.

Q. In the columns there? A. In the columns.

Q. What does show and place mean?

Mr. Pearse: I object to that upon the ground that this witness has not shown any knowledge, but has shown total ignorance on the subject of races.

The Court: By the last answer, you mean?

Mr. Pearse: No, up to the present time.

The Court: I will permit it.

Mr. Pearse: Your Honor will grant us an exception.

Q. Show and place, what does that mean? A. I don't know that, sir.

Mr. Lichtenstein: I ask that his testimony be stricken.

Mr. Pearse: I join in the request.

The Court: I will permit it to remain for what it is worth, and let the jury pass upon the credibility and weight it will give to it.

Mr. Lichtenstein: Your Honor will grant us an exception.

Q. Corporal, after you had interrogated these five defendants, were you present when they were asked to go into the rear room? A. I was.

Q. Where did they go? A. Into the rear room on the third floor.

Q. What did they do there? A. Sat down at different places.

Mr. Pearse: I object to what they did in the rear room when they went, as the Prosecutor says, they were asked to go. We heard from the lips of the previous witness that the asking was a direction and not a request, and that they were under restraint, and that they were sent into or taken into this rear room, and that whatever they did in there, there is no proof that it was done voluntarily; they were under arrest and it is a violation of their constitutional rights, the rights of these defendants, to permit this witness to testify as to what happened under those circumstances.

Mr. Giuliano: May I say this, your Honor. I don't think it is fair for Mr. Pearse to make a speech of this kind about the defendants' constitutional rights. I think we ought to have it straightened out once and for all, that this does not constitute a violation of their constitutional rights.

The Court: The court will determine and will pass upon whether or not it is admissible.

Mr. Pearse: I simply make that argument, that it is a violation of their constitutional rights.

The Court: I have already ruled on that and I shall rule the same way with this witness and permit the testimony.

Mr. Lichtenstein: May I enter, on behalf of James Lewis, an objection to the question upon the ground that whatever these men did or were told to do on the top floor of this house on the day in question,

is not binding upon the defendant James Lewis.

The Court: I shall so instruct the jury, Mr. Lichtenstein, that anything that these other persons did, or any motions that they went through are not binding on James Lewis, as he was not present.

Mr. Lichtenstein: Will your Honor go one step further and grant us an exception to your ruling?

The Court: Yes.

Mr. Lichtenstein: And also instruct the jury that what one man did in company with the others is not binding on the others.

The Court: Well, I will say what each one does binds himself only; that a man can't do something that will bind anyone else.

Mr. Pearse: I am sorry I didn't express it that way.

Q. As I understood you to say, Corporal,—you say they were asked to go into the other room and they took their places? A. That is right.

Q. Was a photograph taken of the men in their seats? A. There was.

Q. I show you a photograph marked S-4 in evidence and ask you if that was the photograph taken of the five men that were in their seats? A. It is.

Q. Now, after this photograph was taken, was your attention called to someone in the back room? A. I was in the back room.

Q. What did you see in the back room after this picture was taken that was marked S-4 in evidence? A. I saw one of the defendants under a bed.

Q. Now, who was the defendant under the bed?

Mr. Pearse: In the back room, did he say?

Mr. Giuliano: You know the room I mean, Mr. Pearse.

Mr. Pearse: Well, I didn't think so; I am not trying to confuse you.

Q. Which room was it? A. The front bedroom on the third floor.

Q. What was the name of that defendant who came from under the bed? A. Frank Marnell.

Q. I show you a picture marked S-5 in evidence and ask you if that is the bed, and is that the defendant as he came out from under the bed? A. It is.

Mr. Pearse: May I say, before the question is answered, isn't that merely cumulative?

Mr. Giuliano: It is corroborative.

Mr. Pearse: Well, you have got the picture; you have displayed it to the jury and it seems to me that we have pretty conclusive indication as to what they found there.

Mr. Giuliano: I don't think that's fair; I am proving my case.

The Court: Proceed, Mr. Giuliano.

Q. Now, after that picture was taken, what did Mr. Marnell do, if anything? A. Got dressed.

Q. Then where did he go? A. Into the back room on the third floor.

Q. Is that the room that is referred to as the wire room? A. That is right.

Q. What did he do there? A. Took a seat at the table.

Q. Were you present when the photograph was taken of the six defendants at the table? A. I was.

Q. I show you a picture marked S-6 in evidence and I ask you if that is the six defendants at the table (handing witness)? A. It is.

Mr. Pearse: I ask to have all that testimony stricken with respect to what took place in the so-called wire room after these defendants whose names have been mentioned, were under restraint.

The Court: Your objection will be overruled.

Mr. Pearse: Your Honor will allow us an exception.

Q. Now, Corporal, when you got to the third floor, did you observe this wire room? A. I did.

Q. Will you explain to the jury; tell us what you observed. A. I observed this long table with phones on it, tables all around it, and several phones ringing and buzzing, the radio was playing, the clock was in motion, and racing paraphernalia was strewn all over the table.

Mr. Pearse: I ask to have that characterization stricken.

The Court: You mean the words "racing paraphernalia".

Mr. Pearse: Yes. That is for the jury to determine.

The Court: I think it has been testified to before, racing sheets and racing forms.

Mr. Lichtenstein: Under objection by us as to the characterization.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

Mr. Pearse: Exception.

Q. You referred to the radio playing; do you know what was on the radio? A. No, I don't.

Q. I show you sheets marked S-13; can you tell me whether or not you saw those sheets on the table in this wire room? A. I did.

Q. I show you some blank sheets with the date Friday June 9, 1944 stamped on, with the exception of the first page, on which is written "Lulu" and ask you whether or not you saw those sheets on this table that is marked in evidence S-12? A. I did.

Q. I show you this pad marked S-14 in evidence, with the date Friday, June 9, 1944, and two items written on there, and ask you if you ever saw that on this table? A. I did.

Q. I show you a publication "National Racing Program" marked S-19 in evidence and ask you whether or not you saw that on this table marked S-12 in evidence? A. I did.

Q. I show you what is called "Racing Form" marked S-17 in evidence, and ask you whether or not you saw that on the table marked S-12 in evidence? A. I did.

Q. I show you four sheets headed "Lawton Handicap" marked S-20 in evidence, and ask you whether or not you saw these four sheets on the table marked S-12 in evidence? A. I did.

Q. I show you five sheets marked "Index to Entries" marked S-21 in evidence, and ask you whether or not you saw those five sheets on this table in the wire room, the table marked S-12 in evidence? A. Yes, sir.

Q. I show you seventeen sheets marked S-22 in evidence, with printed names on the top, such as "Detroit", "River Downs", "Suffolk Downs", and ask you whether or not you saw these 17 sheets on the day in question on the table marked

S-12 in evidence, and which was in this wire room? A. Yes, sir.

Q. Corporal, I show you three "parlay payoff" books which are marked S-16 in evidence and I ask you whether or not you saw those books on this table marked S-12 in evidence? A. I did.

Q. How many telephones, if any, did you observe on this table when you went into this wire room? A. Twelve.

Q. How many were on top of the table? A. Ten.

Q. Where were the other two? A. Hanging off the side.

Q. And when you say "hanging off the side", are they the two telephones that are now hanging down from that wire? A. That is right.

Q. Where were they? A. Fastened to the side of the table.

Q. Who was it who removed them from the side of the board? A. I did.

Q. You took out the screws? A. Yes, sir.

Q. You refer to the radio playing. I show you one radio and ask you whether or not you saw this radio in this wire room on June 9th? A. I did.

Q. Where was it? A. On the mantel on the left side of the wire room on the third floor.

Mr. Giuliano: I offer it in evidence.

Mr. Pearse: No objection.

(Accepted and marked as State's Exhibit S-60 of this date.)

Q. I show you a batch of slips; where did these —this batch of slips come from? A. From the shelf in the wire room.

Mr. Giuliano: I offer them in evidence.

Mr. Lichtenstein: We object to that batch of papers going into evidence upon the ground that there is nothing to indicate that they have anything whatever to do with the charge made in this indictment, nor do they prove or tend to prove the charges made in the indictment, nor is there any evidence to indicate whose slips they are, or where they came from, or whether any of the defendants, or some of them, are charged or are being charged with their possession.

The Court: Will you ask the witness about these slips, if he knows what they are?

Q. Do you know what these slips are, Officer?
A. Yes, sir.
Q. What are they?

Mr. Lichtenstein: I object to the question on the ground that the witness is not qualified to testify, has not shown that he is qualified; on the contrary he has shown that he is not qualified to testify to what these documents or any other documents are.

The Court: In your experience as a police officer, have you ever seen slips like these before?

The Witness: Yes, sir.

The Court: You know what these are?

The Witness: Yes, sir.

The Court: I will permit it.

Mr. Lichtenstein: May I examine?

The Court: Yes.

Cross examination by Mr. Lichtenstein:

Q. Officer, you just looked at this batch of papers without examining them, didn't you? A. Just now?

Q. Yes. A. That is right.

Q. There are probably fifty or sixty such slips there? A. I don't know how many there are there.

Q. You have not looked at them nor examined them? A. No, I have not.

Q. You have not looked at any of them? A. Not now.

Q. Still you are willing to say that you know what they are? A. That is right.

Q. You still say so? A. That is right.

Q. Still you are willing to say that you know what they are? A. That is right.

Q. You still say so? A. That is right.

Q. Where did you ever see a slip such as the one right on top of the batch? A. Taken off from defendants.

Q. What is that? A. I have taken this kind of slips from other defendants.

Q. You have taken pieces of paper from other defendants? A. Slips.

Q. Slips? A. Like you are referring to here.

Q. Where did you take any slips from anybody? A. At various times.

Q. Where? A. I don't recall just where.

Q. Tell us one place where you took them? A. I would not begin to recall.

Q. Tell us one place that you ever took any such papers as this from any person. A. I could not recall it.

Q. Can you tell us what year it was that you took them from anybody? A. Perhaps eight or nine years ago.

Q. Can you tell us what county it was that you took them from any person? A. I believe it was Monmouth county.

Q. But you are not certain about that? A. That is right.

Q. Can you tell us what community, or what municipality it was where you took them? A. No.

Q. Can you tell us where the person from whom you took them was arrested? A. No.

Q. Can you tell us whether or not any such person was in fact arrested? A. I don't think they were.

Q. Let me see if I can understand what you mean by saying that you knew; you mean to say that you stopped a car on the road? A. That is right.

Q. You stopped a car on the road and you searched a man that was riding in a car? A. Yes, sir.

Q. You found on the person who was riding in the car a piece of paper? A. That is right.

Q. Having seen the piece of paper, you did not arrest him, and did not charge him with anything? A. That is right.

Q. And because you found a piece of paper on the man you think you are qualified to testify what it was? A. I don't say that.

Q. Well, the piece of paper that you found upon the person, was it larger than the piece of paper that you tell us now that you feel you are competent to testify about what these pieces of paper are? A. No, I didn't say that.

Q. I thought you said that you knew about this from experience, with having picked up people on the road? A. That is right.

Q. So that it was because of people you picked up on the road you got experience to know what these papers are? A. I have seen lots of them.

Q. On people you pick up on the road? A. That is right.

Q. So that it is solely because of a piece of paper you found on people riding in cars along the road, that you want to say now that you are able to judge what these papers were; right? A. What do you want me to say to that?

Q. I am just asking the question; I am not asking you to say anything. A. I said that I know what they are from my experience as a police officer.

Q. I asked what your experience was, and let's see if I can understand it; you have told us, I think, that your experience was gained as a result of people that you accosted or stopped on the road, or stopped in automobiles; and you took some papers from their possession? A. That is part of it, right.

Q. What is the other part? A. We have horse-racing and documentary exhibits on file at our headquarters for the purpose of training men as to what to look for when they go on raids, and so forth and so on.

Q. Now, having gained some experience from what you saw, and having arrested people on the road, or stopped people on the road, and finding documents in their possession—still you didn't arrest these people?

Mr. Giuliano: That is not the question here, your Honor. I object. This man doesn't have to divulge as a police officer who he arrested and who he didn't.

The Court: Of course he did answer one question that he had in mind, that he did not make the arrest at that particular time.

Mr. Lichtenstein: At any time.

Mr. Giuliano: I object to the question; it makes no difference whether this man made any arrests or not. I certainly say that he is qualified when he says that they have been instructed, that they have exhibits and he is a police officer of fifteen years, and if he doesn't know what these things are I am sure he should ? ? ? ? ?

Q. What exhibits do you have at police headquarters? A. We don't have any particular exhibits. We just have a lot of sheets the same as you see here, and our men, the troopers, observe and look them over.

Q. What exhibit? A. These things to look over. It is not an exhibit. I might have said an exhibit in the sense of doing it as an exhibit, but it is not an exhibit, it is a collection, I would say, of various racing sheets that have been taken on other raids.

Q. What kind of sheets? A. And was evidence in other cases.

Q. What kind of sheets did you have for the purpose of being trained, as you say? A. Sheets like this.

Q. Like what? A. Like this and writing on them.

Q. Do you mean to say that you have fifty sheets or sixty or seventy sheets——

Mr. Giuliano: Or a hundred sheets.

Q. Or a hundred sheets exactly like this? A. No, could not be exactly so; they have different names on, different writing.

Mr. Lichtenstein: I renew my objection upon the ground that this witness has not shown any qualifications to testify about these documents which are being offered in

evidence here. Furthermore, he has not examined them and does not know what they are.

The Court: Have you ever seen these slips before, Corporal, these particular slips. I don't mean right now, but prior to this time?

The Witness: Yes, on June 9th.

The Court: You saw them at that time?

The Witness: Yes, sir.

The Court: You identify them as the same slips you saw that day?

The Witness: Yes, sir.

The Court: You looked at them that day?

The Witness: Yes, sir.

Q. Did you make a mark on these slips so that you can identify them as being the same slips that were there the day of this alleged raid? A. No, I didn't make any marks on these slips.

Q. If you were handed a hundred slips in addition to these, that I were to put in, how would you know what I put in, or which ones the Prosecutor brought to you; would you know that? A. Yes, I would.

Q. You could identify them? A. I could identify each slip in particular, I would know whether they were the slips I had given to the Prosecutor and put in the box, or whether they were other slips you had gotten from some other place, if you didn't get them out of that box.

Q. You mean to identify these slips as being the ones that were picked up in that place, the identical slips? A. These slips are the ones I picked up at the place and put in that box in the presence of the Prosecutor, in that box, and retained by the Prosecutor——

Q. You didn't identify them by any mark which was on them in any way, did you? A. No other way than that.

Q. Or any way? A. No, I did not.

Q. You are merely saying that these came from that room and you identify them now because they were handed to you by the Prosecutor?

Mr. Giuliano: That is not the testimony.

Mr. Lichtenstein: I am asking him.

Mr. Giuliano: That question is improper because it does not go to his qualifications that Mr. Lichtenstein is cross examining him about. I object to the form of the question.

The Court: He is going into the qualifications.

Mr. Lichtenstein: He has been asked to identify them and it seems to me it is still upon the subject of qualifications because he is speaking of these particular documents.

The Court: All right.

Mr. Lichtenstein: I renew my objection that he is not qualified.

The Court: I don't agree with you, Mr. Lichtenstein. I think now more than ever he has indicated he is qualified.

I shall permit that testimony.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Court: Your exception will be noted.

(Accepted and marked as State's Exhibit S-61 of this date, being batch of slips.)

Direct examination (resumed) by Mr. Giuliano:

Q. These slips, you say, were put in this box; did you sign this box? A. I did.

Q. Is this your handwriting (indicating)? A. It is.

Q. And where was this done, where was this writing done? A. Right in the wire room.

Q. Right in the wire room at 1124 Garden Street? A. That is right.

Q. And you tied it with this rope? A. That is right.

Q. And you saw me untie this in court now, didn't you? A. I did, sir.

Q. I show you a letter addressed to James Lewis, dated April 21, 1944, Aleutian Cafe, 10th and Washington Streets, Hoboken, New Jersey, and I ask you where you got that letter from? A. From one of the shelves in the wire room on the third floor.

Q. Did you place it in this box? A. I did.

Mr. Giuliano: I offer that in evidence.

Mr. Lichtenstein: I object to the offer. It is addressed to Mr. James Lewis, Aleutian Cafe, 10th and Washington Streets. That is not the place mentioned during the course of the examination which is this Garden Street house, and it is a letter and a card which has nothing whatever to do with racing or any allied or kindred subjects. It is an invitation.

Mr. Giuliano: I have no objection to the letter and the card being left out of the envelope.

Mr. Lichtenstein: I am objecting to the whole thing.

Mr. Giuliano: I withdraw the contents of it. I just want to get the letter in evidence.

Mr. Lichtenstein: You still want to have the envelope in?

Mr. Giuliano: That is right.

Mr. Lichtenstein: I call your Honor's attention to the fact that the envelope is addressed to a cafe on Washington Street and not to the house in question.

Mr. Giuliano: But it was found in that room.

The Court: It was found in the house?

Mr. Giuliano: Yes, sir.

The Court: I will permit it.

Mr. Lichtenstein: Exception.

(Accepted and marked as State's Exhibit S-62 of this date.)

Q. I show you a book which is marked "parlay payoff" and ask you where you found that book? A. On a shelf, in the third floor, of the wire room.

Mr. Giuliano: I offer that in evidence.

Mr. Pearse: I object to that upon the same ground that we objected to the papers which were offered about twelve or thirteen times before.

The Court: I will permit it.

(Accepted and marked as State's Exhibit S-63 of this date.)

Q. I show you Lawton record for 1943, and ask you where you got that from? A. From one of the shelves on the third floor in the wire room.

Mr. Giuliano: I offer that in evidence.

Mr. Lichtenstein: I object to the exhibit being offered upon the same grounds as we urged in opposition to a previous document also referred to as a Lawton publication.

The Court: I will permit it.

Mr. Lichtenstein: Your Honor will grant us an exception?

(Accepted and marked as State's Exhibit S-64 of this date.)

Mr. Lichtenstein: If your Honor please, I did not state the particular reasons, but referred back to a previous objection. May I have those same reasons apply to this objection?

The Court: The same reasons will apply to this document.

Mr. Lichtenstein: Thank you, sir.

Q. I show you a copy of the Morning Telegraph, dated June 6, 1944, and a copy of the New York Inquirer, dated Monday, June 5, 1944, and I ask you where you got these two newspapers from? A. From a shelf in the wire room on the third floor.

Mr. Giuliano: I offer them in evidence.

(Accepted and marked in evidence as follows: Morning Telegraph, State's Exhibit S-65; New York Inquirer, State's Exhibit S-66, of this date.)

The Court: Ladies and gentlemen of the jury, before adjournment, the court has been informed that tomorrow is a holy day in the Catholic church. Such members of the jury as wish to attend church may do so if they so desire in company of a court officer.

(The court thereupon admonished the jury about discussing the cases, officers were sworn, and the jurors retired in the custody of the officers and court adjourned until November 1, 1944, at 10 A. M.)

NOVEMBER 1, 1944.

(Trial resumed pursuant to adjournment.)

(Appearances, the same.)

(In the presence of the defendants and their counsel, the jury was polled by the clerk.)

WALTER HECKMANN, resumed.

Direct examination (continued) by Mr. Giuliano:

Q. Now, Corporal, was your attention called to some money that was found in a closet on the second floor in a coat? A. It was.

Q. I show you State's Exhibit S-39 for identification and ask you if that is the money?

Mr. Lichtenstein: One moment, please. This is not an exhibit yet, and the prosecutor proceeds as if it were an exhibit. I don't think that that should be done. I think he should first prove the exhibit and the circumstances under which the money was found, and where, in order that we may make a proper objection if there is to be objection, and then interrogate the witness.

There is nothing here but something that has been marked for identification and it may all go out when objection is made.

The Court: Suppose you are more specific in your reference to it.

By Mr. Giuliano:

Q. Corporal Heckmann, was your attention called on that date to any money which was found on the second floor? A. It was.

Q. And did you see that money? A. I did.

Mr. Pearse: First, did he see it when it was found or did he see it after it was called to his attention? I object.

Q. When did you see it? A. When it was called to my attention.

Q. And who was present when you saw it?

Mr. Pearse: I object to that, if the court please. It is obvious that somebody told him something, and I object to what somebody told him, unless it was one of the defendants.

Q. Which one or more of the defendants were present when you saw the money? A. Eugene Lewis.

Q. And he was questioned about the money; don't tell us what was said? A. That is right.

Q. And do you recall what he said with reference to this money? Don't answer that until objection is made.

Mr. Pearse: I object to that, if the court please. I assume this questioning took place after Mr. Lewis was put under restraint, and anything which he said after that is not evidential and cannot be used against him or any of the other defendants.

Mr. Lichtenstein: I object upon the ground that it would not be binding on any of these defendants other than Eugene Lewis.

The Court: It would only be binding upon him, or any other defendant that was present at the time.

Mr. Pearse: I can't see how it can be binding even on any of the defendants present at the time.

The Court: Well, it would be admissible. I would not say it was binding. It would be admissible.

Mr. Pearse: Not when a man is under restraint by police officials. Anything said by somebody else in his presence is certainly not binding on him.

The Court: I will allow it.

Mr. Pearse: Your Honor allows us an exception?

Q. Will you please tell us? A. I don't recall what was said.

Q. Was Sergeant Schindler there? A. He was.

Q. Now, did you remain on the premises at 1124 Garden Street on the day in question? A. I did.

Q. And did you go down at any time to the kitchen, or were you in the kitchen at all on that day? A. I was.

Q. Did you find anything in the kitchen? A. Yes, sir.

Q. Now, when you say the kitchen, will you please refer on this sketch and tell us which room you mean? A. This is the kitchen, sunparlor and dining room (indicating).

Q. That is level with the sidewalk? A. That is correct.

Mr. Giuliano: That is Exhibit Number S-9.

Q. I show you a bag and I ask you whether or not this is your signature on the outside of the bag? A. It is.

Q. I show you the contents of that bag and ask you where you found these slips on June 9, 1944? A. On the desk in the sun parlor attached to the kitchen on the first floor or basement apartment, rear.

Q. And did you remove them from that drawer? A. They were on top of the desk.

Q. Did you remove them and place them in this bag? A. I did.

Q. You then dated it and signed it? A. That is right.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: I object to the introduction of these papers on the same ground that we have urged with respect to Exhibit S-61 which was certain slips that the same witness identified yesterday.

The Court: I will allow them in.

Mr. Pearse: Exception.

(Accepted and marked as State's Exhibit S-67 of this date.)

Mr. Giuliano: May I present these to the jury?

The Court: You may.

Q. I show you a book, Sergeant, which is entitled, "Parlay payoff book" and ask you where you got that book, and the contents of that book, from? A. Third floor bedroom, vanity drawer, at 1124 Garden Street.

Q. When you refer to the third floor bedroom, will you please indicate on the sketch there the place, please? A. Right here (indicating).

Q. Referring to article numbered on S-11 in evidence. You took that from that vanity? A. Yes, sir.

Mr. Giuliano: I offer that in evidence.

Mr. Pearse: I object to the introduction of these papers on the ground that they are not evidence, nor proof of the charges contained in this indictment, and that if they are admitted they can't possibly be binding on any of the defendants except Eugene. I not only refer to the book, but I refer particularly to the automobile policy which hardly seems to me to be evidence on a charge of bookmaking.

The Court: I will admit the book, but as to the policy, I will only admit it as against Eugene V. Lewis.

Mr. Giuliano: There are other articles there that I think your Honor ought to refer to.

The Court: I will admit them along with the book, also they will only be considered by the jury in connection with Eugene V. Lewis.

Mr. Pearse: Your Honor will allow us an exception?

(Accepted and marked as State's Exhibit S-68 of this date.)

Q. I show you a clipping with printed matter on, which reads: "Current and Coming Meets" and I ask you where did you find that? A. On the wall in the wire room on the third floor.

Q. Did you remove that from the wire room on the third floor, 1124 Garden Street? A. I did.

Q. Did you initial it? A. I did.

Q. Are those your initials? A. They are.

Mr. Lichtenstein: We object to the reproduction of that clipping on the ground that

it is apparent it is a clipping from a newspaper, looking at the reverse side, and further upon the ground that it gives no information as to what this clipping referred to.

Further, upon the ground that upon its face there is absolutely nothing to indicate that it has anything there that could be material to the issue involved in this case.

Mr. Giuliano: Except that it lists tracks and dates, and that is why it is put in, and because it was found in the wire room.

The Court: I will admit it.

Mr. Lichtenstein: Your Honor will allow us an exception?

The Court: Yes.

(Accepted and marked as State's Exhibit S-69 of this date.)

Q. Did I understand you to say you dismantled these telephones? A. Yes, sir.

Q. You cut them? A. Yes, sir.

Q. Did you also remove from the wall any boxes? A. Yes, I removed telephone boxes, cable boxes and the connecting boxes.

Q. I show you a telephone box with a handle and ask you if you removed that from this alleged wire room, or where did you remove it from? A. I removed it from the wall, the rear wall of the third floor, of the wire room, below the table.

Q. This table, you mean this table in evidence, S-12? A. That is right.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-70 of this date.)

Q. I show you another telephone box with two bells outside and a handle on the side, and ask you where you removed that from? A. That was also removed from the same wall, from the same room.

Q. What do you mean when you say the same room? A. The wire room on the third floor.

Mr. Giuliano: I offer this box in evidence.

(Accepted and marked as State's Exhibit S-71 of this date.)

Q. I show you a telephone box and ask you where you removed that from? A. From the wall on the third floor of the wire room at 1124 Garden Street.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-72 of this date.)

Q. You say you removed these from the wall; did you, or did you not cut any wires before removing these articles now in evidence? A. I cut all wires before I removed them.

Q. Where did these wires run to? A. To a cable box.

Q. I show you a cable box with wires, and I ask you whether or not you removed that from the wall? A. I did.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-73 of this date.)

Q. These three boxes, S-70, 71, 72 and this cable box, S-73, did these, or did they not, attach to this table that was found in the wire room? A. They did.

Q. Do you know whether or not these telephones that were found on the top of this table went to this cable box? A. They did.

Q. Now, Corporal, how long did you remain on the premises? A. Until about approximately 6 P. M. on June 10th.

Q. Did you leave at about 6 P. M. that night? A. About that time, yes, sir.

Q. And did you return that same night; you are talking about June 10th and I am talking about June 9th. How long did you remain in the premises on June 10th? A. I believe about ten thirty or a quarter to eleven, as near as I can recall.

Q. Did you leave at that time? A. I did.

Q. What time did you return, if you did return? A. About eleven thirty or a quarter to twelve.

Q. And how long did you remain on the premises after you came back the second time? A. Until about 6 P. M. on June 10th.

Q. What remained on the premises on June 10th; that is, what part of this evidence remained on the premises? A. The evidence that is on file at this time?

Q. Yes, and the exhibits? A. This large table.

Q. And when was this table that was marked S-12 for identification removed from the premises? A. About 5:30 P. M. on June 10th.

Q. Now, while you were on the premises on June 9th, did you have occasion to go down to the cellar? A. I did.

Q. I show you a box and ask you whether or not you saw that box on the premises at 1124 Garden Street? A. I did.

Q. And did you remove this box? A. Yes, sir.

Q. What time did you remove this box, do you recall? A. I removed the box from the wall about around eleven o'clock in the morning.

Q. And was that taken out the same time as this board that is S-12 in evidence, or this table? A. It was.

Mr. Giuliano: I offer the box.

Mr. Pearse: No objection.

(Accepted and marked as State's Exhibit S-74 of this date.)

Q. Now, did you also find an outer covering to this cable box? A. Yes, sir.

Q. Was it open as it is in court now? Did it have its outer covering? A. No, it had the outer covering. It was closed up.

Q. I show you a two-piece outer covering and ask you if that was on the outside of the cable box at the time you saw it? A. It was.

Mr. Giuliano: I ask that that be marked as a part of the same exhibit.

(Marked with State's Exhibit S-74 of this date.)

Q. Now, Corporal, I show you three batteries and ask you where you got them from? A. From the third floor, wire room.

Q. Were they attached to anything, or were they loose? A. They were attached to one of these bell boxes.

Q. One of these bell boxes marked in evidence? A. That is right.

Mr. Giuliano: I offer the batteries in evidence.

(Accepted and marked as State's Exhibit S-75 of this date.

Q. I show you S-42 in evidence and I ask you where you got that from? A. On the floor, on the third floor, wire room.

Q. Was that attached to any of these boxes, or loose? A. It was attached to one of these bell boxes.

Mr. Guiliano: You may cross-examine.

Cross examination by Mr. Pearse:

Q. Corporal, I assume that you arrived with the nine or ten other men, state troopers, at this 1124 Garden Street on the 9th of June? A. That is right.

Q. And after you had been there a while, you searched these various defendants to see what they had on their person, is that right? A. No, it is not right.

Q. Who did? A. I searched them; I searched them for weapons.

Q. Well, you searched them, didn't you? A. Yes, sir.

Q. To find out what they had on them? A. No, I didn't search them to find what they had on them; for weapons.

Q. You mean to make sure they were not armed? A. That is right.

Q. How did you get possession of these exhibits here marked S-53, S-54, S-55, S-56, S-57, and S-58; how did you get possession of these? A. When I interrogated each defendant I had them remove all their belongings from their pockets.

Q. You told them to take everything out of their pockets and turn it over to you? A. No.

Q. Or put it down on the table? A. Put it down on the vanity table.

Q. When that was done, you picked these exhibits up, which apparently all of them contained money, and which you later put into envelopes? A. That is correct.

Q. You say that you called upon these defendants to sign these envelopes, Sergeant?

Mr. Giuliano: No, that is not the testimony.

The Witness: No, I didn't say that.

Mr. Giuliano: The only two that this Corporal was questioned on was Frank Morano, and this slip which had attached to it the $70 that Mr. Eugene Lewis, the defendant, was attempting to hide. Those were the only two slips that this officer testified to.

Mr. Pearse: My mistake.

Q. Did you give these men a receipt for this money that you took away from them? A. I had them sign a slip.

Q. You had them sign a slip? A. That is right.

Q. And then did you take the slip away? A. Showing the amount of money I had counted was correct.

Q. You counted the money and then you had them sign a slip? A. That is right.

Q. And that slip was turned back to you? A. Yes, sir.

Q. You didn't give them any receipt? A. No, I didn't.

Q. Why not? A. I didn't have to.

Q. That is your answer?

Mr. Giuliano: I don't think that counsel should comment on it. That's nothing unusual. I never heard of a police officer giving receipts yet.

Mr. Pearse: I ask that the remarks of the Prosecutor be stricken. He is not testifying here.

Mr. Giuliano: Neither is Mr. Pearse.

Q. Now, why did you ask them, each one of them, to sign a slip and return it to you? A. So that there would be no dispute as to the correct amount of money that was taken from them.

Q. No dispute with whom? A. With me.

Q. Why didn't you give them a receipt so that there would not be any dispute? A. I didn't see fit to give them a receipt.

Q. You didn't see fit. In other words you wanted to be sure you were protected. You didn't care whether they were protected or not, is that right?

Mr. Giuliano: I object to that. That calls for a conclusion and has nothing whatever to do with this case. I don't think it is proper cross examination of this man to keep cross examining him on what he did, on what he knows, and why he did certain things.

The Court: I think he can be allowed to answer that.

(Question read as follows: You didn't see fit. In other words you wanted to be sure you were protected. You didn't care whether they were protected or not, is that right?")

A. No, that is not right.

Q. Well, what is right? A. It would be the same answer I gave you before. I didn't see fit.

Q. What do you mean, you didn't see fit? A. I didn't think it was necessary.

Q. You didn't think it was necessary? A. That is right.

Q. In other words, when you took money away from these defendants, you didn't think it was

necessary to give them a receipt; that is your answer? A. That is right.

Q. Now, Corporal, did you, and as I understand, Sergeant Dowgin, go to the third floor; did you? A. Well, I proceeded—followed him right after he went up the stairs.

Q. You went up the stairs at the same time? A. Well, possibly maybe half a minute later.

Q. Half a minute? A. I didn't time myself to see how close I was behind him.

Q. Were you on the stairs when he was on the stairs? A. I presume I was.

Q. Do you remember? A. Quite a ways up from the bottom floor to the top floor.

Q. You were there first? A. I was there at the same time that Sergeant Dowgin was there.

Q. That is what I am trying to find out; you both went up together? A. No, we didn't go together; Sergeant Dowgin was ahead of me.

Q. How long after he got there did you get there? A. Where?

Q. You saw him go upstairs, didn't you? A. Yes, I seen him go upstairs.

Q. How long afterwards did you go up? A. Right after.

Q. Right after? A. Certainly.

Q. And the first time you saw any of these defendants sitting over there was when you got there and they were all in—those that you saw were in the bedroom, is that right? A. That is right.

Q. They were not in the wire room? A. No, I didn't see anyone in the wire room.

Q. Did you see them pass from the wire room into the bedroom? A. I don't believe so.

Q. And how long did you say it was between the time that you saw Sergeant Dowgin going up-

stairs and the time you went upstairs to the third floor? A. Well, within a minute.

Q. You really mean a minute or a moment? A. No, a minute.

Mr. Giuliano: I think a moment is a minute. He said a minute.

Mr. Pearse: An expert, Judge.

The Court: Let the witness determine what the time was.

The Witness: I mean a minute, when I say a minute, a minute is sixty seconds, but I didn't have my watch.

Q. Do you mean sixty seconds, or do you mean that you followed right after him upstairs? A. I mean just what I said. I followed up right after him, within a minute.

Q. Within a minute? A. It might have been a little more, it might be a little less.

Q. Less than a minute? A. Could have been.

Q. Were you walking up the steps behind him? A. Not directly behind him; no, I didn't.

Q. How far behind him? A. I don't know.

Q. Did you see him? A. Sure I seen him.

Q. He was going up the stairs and you were behind him? A. No, I was not right behind him.

Q. Were you behind him? A. No.

Q. Where were you? A. Starting up the stairs.

Q. You were not ahead of him, were you? A. No.

Q. You were not behind him, then? A. I certainly was behind him.

Q. You certainly were? A. I was directly behind him.

Q. How far behind him? A. That I don't know, either.

Q. You were both on the stairs together? A. I presume we were.

Q. When you got to the head of the stairs, these men, these defendants whom you saw, you saw them in the bedroom? A. That is right.

Q. And not in the wire room? A. That is right.

Mr. Pearse: That's all.

Re-direct examination by Mr. Giuliano:

Q. Now, Sergeant Dowgin was in front of you, wasn't he? A. That's right.

Q. And I was in front of Sergeant Dowgin, wasn't I? A. That is right.

Q. There is no doubt that the men were on the third floor that you saw there?

Mr. Pearse: I object to that question. That is a leading question and he has already answered.

The Court: It has been answered long ago.

Mr. Giuliano: I won't press it.

(Witness excused.)

DAVID KERR, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Up to today, I understand you have been a member of the State Police? A. That is right.

Q. You have resigned today to take some other employment? A. That is right.

Q. How long were you connected with the State Police? A. It will be three years the first of February.

Q. Were you detailed on June 9th to go to 1124 Garden Street, Hoboken? A. Yes, sir.

Q. And where did you go when you came to the premises, what part of the building? A. I was detailed to go on the side street and watch over a back fence to see if anyone left the back of the house.

Q. And after you completed that assignment, did you come back to the building? A. Yes, sir.

Q. About what time did you come back to the building? A. I would say in the neighborhood of ten minutes.

Q. Now, when you came back to the building, where did you go, what part of the building? A. I walked up the front steps up to the top floor and went into the bedroom and I stayed in the bedroom.

Q. When you got up in the bedroom, who did you first see? A. I saw Corporal Heckmann there with these men.

Q. And how many men in addition to Corporal Heckmann were there? A. I believe five.

Q. When you got up to the third floor, did you look at the room that is called a bedroom, where these five men were, and Corporal Heckmann? A. I didn't look in there until I was ready to leave.

Q. And what time were you ready to leave? A. I could not say the exact time.

Q. Did you go into the wire room? A. I walked in there when they were moving things out.

Q. Now, while you were in this room did the men leave that were with Corporal Heckmann and go into the wire room? A. Yes, sir.

Q. While they were out of the room and in the wire room, did you see someone under the bed? A. Yes, sir.

Q. And who was that? A. The third man from the left.

Q. The third man, indicating the defendant Marnell. I show you a picture of the defendant coming from under that bed, and ask you if that is the bed he came from under? A. Yes, sir.

Mr. Giuliano: That is Exhibit S-5.

Q. Now, while you were in this room, did you notice any one of the defendants do something? A. Yes, sir, I did.

Q. What did you notice him do? A. I noticed the last man on the right put some money under a pillow.

Q. The last man on the right, indicating Mr. Eugene Lewis? A. Yes, sir.

Q. What did you see him do? A. I saw him put something under the pillow. I didn't know what it was. I went over and investigated and found it was a paper with some money in it.

Q. I show you Exhibit S-54 with $70 and a sheet of paper, and ask you if that is the sheet of paper and the money that you saw him attempt to hide? A. Yes, sir.

Mr. Giuliano: Cross examine.

Mr. Pearse: We have no questions.

(Witness excused.)

Walter Schindler, for the State—Direct.

WALTER SCHINDLER, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Sergeant Schindler, you are a member of the State Police Department? A. I am.

Q. How long have you been a member of that department? A. Seventeen years.

Q. Now, Sergeant, on June 9th, did you go to 1124 Garden Street, Hoboken, New Jersey? A. I did.

Q. Were you with this raiding party, or did you come there after? A. I came there with my own detail.

Q. Who was in your detail? A. Trooper Itesta, Trooper Young, Trooper Pasch and myself.

Q. Now, what time did you arrive on the premises? A. I would presume about three forty-five.

Q. Where did you when arrived; what room did you go to first? A. When we arrived, I immediately went upstairs to the third floor.

Q. Did you at any time go into the wire room? A. I did.

Q. I show you these exhibits that were on the table, and I am going to refer to them by number. I call your attention to these exhibits marked S-12, which is the table; and these sheets, S-13; these sheets, S-20; these sheets, S-22; and these telephones that were on the table, and these "parlay payoff books" marked in evidence; and the radio and these shades, and I ask you whether or not you saw them in the room which you call the wire room? A. Yes, sir.

Q. At the time you were there, did you or did you not hear any of these telephones ring? A. Not to my recollection.

Q. After you got to the third floor, what did you do? A. After I got to the third floor and reported to you, Sergeant Dowgin detailed me with Trooper Green to check the second floor bedroom rear.

Q. Now, the second floor bedroom rear; you mean the bedroom which is shown on Exhibit S-10 and marked "bedroom rear"? A. Yes, sir.

Q. Now, did you search that room? A. I did.

Q. Did you search any other part of that floor? A. Yes, sir.

Q. Where did you search? A. On completion of the search of the bedroom we started with the hall. There is two closets in the hall. I searched the first closet and was going to search toward the front room, working our way towards the front.

Q. You say you searched the first closet; will you indicate on S-10 which closet you searched? A. Marked "C".

Q. That is marked "C"? A. The second floor.

Q. What did you do after searching that closet? A. After searching that closet?

Q. Did you find anything there? A. Yes, sir.

Q. What did you find? A. I found a diamond brooch and a roll of money in a blue gabardine suit.

Q. I show you S-40 for identification, and I ask you if that is the diamond bracelet or brooch you refer to? A. Bracelet, yes, sir.

Mr. Giuliano: I offer the bracelet in evidence.

Mr. Lichtenstein: As to the defendant James Lewis I object to this upon this ground. The witness states that he went to the bedroom on the second floor. I presume that is the floor just underneath the top floor, and that he found in some clothes a

necklace or a bracelet. We contend, if the court please, that this is not evidence in this case, has nothing to do with the indictment, or the charge alleged in the indictment, could not by the wildest stretch of the imagination indicate that either the defendant James Lewis, or any other defendant here charged had anything to do with the crime which is alleged in the indictment, and that it should not be offered in evidence.

The Court: I will allow it as part of the contents of the clothing.

Mr. Lichtenstein: May I at the same time make the same objection as to the other defendants, so that it is not repeated again.

The Court: It will be so noted.

Mr. Lichtenstein: Exception.

(Exhibit S-40 for identification now marked in evidence as S-40.)

Q. Now, Sergeant, I show you S-39 for identification and ask you where you got that money from? A. This money was in a roll wrapped with an elastic band in the inside pocket with this diamond bracelet in that blue gabardine suit.

Q. Both of these articles were in one pocket? A. In one pocket, yes, sir.

Q. Now, after you found this money, where did you go with it? A. After I found that money I yelled upstairs.

Q. Were you asked to come up. Don't tell us what you yelled. You were asked to come in? A. No, they came down and I went up with them.

Q. Who came down? A. You did, yourself, sir.

Q. Where did you go, together with the others that came down? A. Well, the money was given

to you and then we immediately went upstairs to the wire room, taking the money and the diamond bracelet and the suit into the wire room.

Q. Were any of the defendants taken in the wire room while you were there? A. Yes, sir.

Q. Who was taken in there? A. Eugene Lewis.

Q. Do you recall whether or not Eugene Lewis was questioned with respect to this money that you found in this blue suit on the second floor? A. Yes, sir.

Q. What did he say?

Mr. Lichtenstein: I object to the question upon the ground it is incompetent, irrelevant and immaterial, and would not bind any defendant who was not present at the time.

Further upon the ground that anything that might be said concerning this money which was found on a floor below the so-called wire room, in a private apartment, in the closet of a private apartment, of somebody who is not identified as yet, is immaterial so far as this case is concerned, and cannot be used as evidence.

The Court: It can only be binding on the man who said it.

Mr. Giuliano: Only on the man who said it.

The Court: Of course if it involves anyone else, it will be stricken.

Mr. Pearse: If it will have to be stricken, of course the Prosecutor knows what the answer is going to be.

Mr. Giuliano: I don't know what the answer is going to be.

Mr. Pearse: You were right there.

Mr. Giuliano: If you want me to testify I will, but I am not trying to testify. I am trying to keep the record straight.

Mr. Pearse: I submit that the Prosecutor knows what the answer is going to be and he knows it is highly prejudicial to one of these defendants and he should not ask the question.

Furthermore, this statement was made, if there was one made, by Eugene Lewis after he had been arrested or was under restraint from the police authorities, was made under duress and not as a voluntary statement such as is admissible under circumstances of this kind.

There is nothing to show that Eugene Lewis was informed of his constitutional rights after he was put under restraint, that he had any opportunity to find out what those rights were, and anything that he said after this is not binding upon him or any of the other defendants.

Mr. Giuliano: I might say that that is another speech and no person's constitutional rights were violated, and if they were, I ask counsel to show me. He has a right to cross examine this man and ask him, if he wants to. I don't think it is fair on the part of Mr. Pearse to make another speech on constitutional rights because this court, I am sure, will protect any defendant in his constitutional rights.

The Court: Will you tell me whether any constitutional rights were violated. If they were the jury will be informed about it.

Mr. Lichtenstein: Except possibly unlawful search and seizure, which is guaranteed

under the Constitution of the United States.

Mr. Giuliano: I object to that statement, and that is not so in as far as the State of New Jersey is concerned. Of course if Mr. Lichtenstein wants to try to prove it, he will have his chance on his defense.

The Court: I don't agree with you, Mr. Lichtenstein.

Mr. Giuliano: In all fairness may I reframe my question?

The Court: Proceed.

Q. Now, Officer, I ask you about a conversation that was had with Eugene Lewis. Please refrain from mentioning any other defendant. What did he say this money was used for?

Mr. Lichtenstein: I object to that as being a leading question. I think the Prosecutor should be admonished not to lead the witness.

The Court: In view of your objection, I admonish the witness to confine his answer to those certain things; in other words, it should not involve any other defendant except Eugene Lewis.

Mr. Lichtenstein: Will you listen to the question, if you please.

(Question read as follows: "Now, Officer, I ask you about a conversation that was had with Eugene Lewis. Please refrain from mentioning any other defendant. What did he say this money was used for?")

Mr. Lichtenstein: I object to it; it is a leading question.

Q. What did he say pertaining to this money?

Mr. Lichtenstein: That is a leading question, and it suggests an answer in this witness' mind which it should not do. That is not a proper way to examine the witness.

The Court: I will allow the second question to be answered.

Mr. Lichtenstein: Your Honor will grant me an exception.

Q. What did he say pertaining to this money? A. That was the bankroll.

Q. What else, did he say what it was the bankroll for? A. The bets taken in on the wire room.

Mr. Giuliano: I offer the money in evidence.

Mr. Pearse: I move to strike out the last question and answer on the same grounds that we discussed as to the other question.

The Court: Your motion will be denied.

Mr. Giuliano: Is there any objection to the $16,000 going into evidence? It has been testified to, that it was the bankroll.

Mr. Pearse: I object to the Prosecutor's characterization.

The Court: He is repeating the statement of the witness.

(Exhibit S-39 for identification now marked in evidence as State's Exhibit S-39.)

Mr. Giuliano: I now show you, Sergeant, a blue suit, a blue gabardine suit and I ask you where did you see that suit for the first time?

A. In the closet in the hallway on the second floor.

Q. And is that the suit from which you took this $16,000 and the bracelet? A. Yes, sir.

Q. Did you put that slip in at the time you removed the articles and removed this suit from the closet which you refer to as "C" on Exhibit S-10 in evidence? A. That is right.

Mr. Giulano: I offer the suit in evidence.

Mr. Pearse: I object to it unless it fits one of the defendants whom I represent.

(Accepted and marked as State's Exhibit S-76 of this date.)

Q. You said, Sergeant, the second floor bedroom that is referred to on S-10— A. Rear.

Q. I show you a bunch of blank checks with the name "James A. Lewis" on and I ask you where you saw them the first time? A. They were picked up in the rear bedroom in the drawer marked 25.

Q. 25 on S-10, is that right? A. Yes, sir.

Mr. Giuliano: I offer these in evidence.

Mr. Pearse: I object to them as not being binding on anybody I represent.

The Court: The jury will only consider them as against the defendant James A. Lewis.

Mr. Lichtenstein: I have no objection.

(Accepted and marked as State's Exhibit S-77 of this date.)

Q. I show you a package of envelopes with the name "A. & B. Sales Company, 501 Garden Street," marked "James A. Lewis, personal", and ask you whether or not you saw these envelopes on that day? A. I did.

Q. Where did they come from? A. They came from the rear bedroom, second floor, in the drawer as I said before, 25.

Mr. Giuliano: I offer these in evidence.

Mr. Lichtenstein: As to all the defendants?

Mr. Giuliano: As to James A. Lewis.

Mr. Lichtenstein: I object to the offer. The Prosecutor referred to envelopes. He means to include in that the contents, and the contents are a number of sheets in each envelope, or memorandums, and I object to the contents going into evidence, as well as the envelopes, on the ground that they do not in any wise have any bearing on the issues involved in this case.

The Court: I will allow them.

Mr. Lichtenstein: Exception.

Mr. Giuliano: I am offering the sheets, together with the envelopes, and in order to save a great deal of work for the stenographer, I offer them as one exhibit.

(Accepted and marked as S-78 of this date.)

Q. I show you a leather kit with the initials J. A. L. and I ask you where you got that from? A. That was found in the bedroom on the second floor rear.

Mr. Giuliano: I offer it in evidence.

Mr. Pearse: Are you offering the contents?

Mr. Giuliano: I am offering the kit as is.

Mr. Pearse: That is only as to James A. Lewis?

Mr. Giuliano: That is Exhibit S-79 as of this date.

(Received and marked Exhibit S-79 of this date.)

Q. I show you another case, black leather, with the initials J. A. L., and I ask you where you got that from? A. That was taken out of the same room, rear bedroom, second floor.

Mr. Giuliano: I offer that in evidence.

(Accepted and marked as State's Exhibit S-80 of this date.)

Q. Sergeant, I show you a hat box which contains personal belongings of James A. Lewis.

Mr. Lichtenstein: I object to the characterization.

The Court: The characterization will be stricken.

Q. I show you a hat box with bank statements and letters and ask you where did you get the contents of that hat box from? A. These articles were taken out of the rear bedroom, the same floor, second floor.

Q. I call your attention to this program "Maryland Jockey Club", and ask you if that came from that same bedroom (handing witness)? A. Yes, sir.

Mr. Giuliano: I now offer the contents of the box in evidence.

Mr. Lichtenstein: May we ask the court for a short recess in order to examine the contents of this box.

(The court declared a short recess.)

(After recess.)

Mr. Lichtenstein: The offer is of the contents of this hat box. I have attempted to look at some of these things, but I could not possibly go through all of them because there are, I should say, hundreds of individual pieces of paper. I don't know what the purpose of the offer is, and it is an unusual thing for a mass of papers to be offered, and that is not the proper way of offering documents.

I merely call this to your Honor's attention because I don't want to spend the terrible length of time, going through each and every one of these papers.

I don't know what the object of the offer is, but I have no objection to saying that this was James Lewis' room. I know it is his room. There is no objection to that. I have written to the Attorney General and demanded that he return certain of these things which we say belong to James Lewis.

Mr. Giuliano: This is the first time that Mr. Lichtenstein or anybody else has admitted that he lived in that house.

Mr. Lichtenstein: You never asked me.

Mr. Giuliano: Let me get this through, Mr. Lichtenstein, then, that Mr. James Lewis occupied that bedroom, rear bedroom on the second floor. If Mr. Lichtenstein makes that representation that he occupied that bedroom on June 9th, June 8th, and years before, I will withdraw this offer.

Mr. Lichtenstein: You have never asked that question, and if you had asked it at the beginning of the trial I would have cheerfully answered it.

Walter Schindler, for the State—Cross.

I will admit that Mr. James Lewis has lived in that house for the past 20 years, that his father before him lived in the house.

Mr. Giuliano: I don't want to know anything about his father or anybody else. I am interested only in James A. Lewis.

Mr. Lichtenstein: And I admit that he occupied the rear room of these premises, which is next to the top floor and which has been described in this case, and that he has occupied and lived there, and has lived there for 20 years.

Mr. Giuliano: And that he lived there on June 9th?

Mr. Lichtenstein: And that he lived there on June 9th, June 8th, June 7th, June 6th, for twenty years prior to that time.

Mr. Giuliano: Then I withdraw the offer so long as he lived there for the past seven years.

Mr. Lichtenstein: Yes, seven years and more.

Mr. Giuliano: Then I withdraw the offer. You may cross-examine.

Cross examination by Mr. Lichtenstein:

Q. Officer, on the day that you found this $16,000 you, as I understand it, were on the floor next to the top floor? A. Second floor, yes, sir.

Q. On the second floor, which is the floor just below the top floor? A. Yes, sir.

Q. There are several floors that have been mentioned on occasion; there is the basement, the first floor, and there was a little confusion, and that is the reason I call your attention to the fact that, as I understand it, you found this money in

a suit of clothes on the floor beneath the top floor? A. Yes, sir.

Q. That is immediately beneath it? A. Yes, sir.

Q. Now, that is the floor on which you heard me admit that Mr. James Lewis has his bedroom? A. Yes, sir.

Q. And that bedroom is in the rear of the floor? A. Yes, sir.

Q. Now, in the front of the house there is another bedroom? A. The same floor?

Q. On the same floor? A. Yes, sir.

Q. At the time that you came on this floor, both bedrooms were made up, were they? A. Yes, sir.

Q. That is, they were righted and usable? A. Yes, sir.

Q. Now, in between both of these bedrooms there is a stairway? A. Yes, sir.

Q. That leads from downstairs? A. Yes, sir.

Q. And there is also between these two rooms a large bathroom? A. Yes, sir.

Q. And a shower? A. Yes, sir.

Q. And then there is a passageway that leads from the front bedroom to the rear bedroom, James Lewis' bedroom? A. Yes, sir.

Q. And the passageway has on its left, as you go from the front to the rear, the bathroom? A. From the front to the rear, on the left, yes, sir.

Q. And on your right there was a series of closets? A. There were two closets.

Q. Two or three? A. Two.

Q. There were not three? A. No, sir.

Q. Did you make a note; weren't there really three. It isn't very important, but I am wondering whether there were not three. A. Two closets.

Q. Were there three doors to the two closets; it is not very important. A. I recall the closets. According to the map it is three.

Mr. Lichtenstein: Well, that agrees with me.

Q. These three closets, were they open or closed when you got there? A. The closets, they were open.

Q. So that all you had to do was just open the door and look in? A. Yes, sir.

Q. And you found there were a number of suits of clothes there? A. Yes, sir.

Q. A considerable number of suits of clothes? A. Yes, sir.

Q. You searched every one of the suits, did you? A. Yes, sir.

Q. And then you found that—in what pocket was it? A. The inside pocket.

Q. It was not closed, I mean the pocket was not locked? A. No, open.

Q. No zipper on it? A. No zipper.

Q. The money was loose? A. The money was rolled up with an elastic band on it.

Q. Inside the pocket? A. Inside the pocket.

Q. And the suit of clothes was the suit of clothes that you brought into the court room? A. Yes, sir.

Q. And that was the suit of Mr. James Lewis?

Mr. Lichtenstein: We will admit that the suit of clothes is a suit of James Lewis.

Mr. Giuliano: In which the money was found?

Mr. Lichtenstein: In which the money was found.

Mr. Giuliano: I am sure he admits it because we have proof of it.

Mr. Lichtenstein: I ask that that be stricken out because it is so very unfair.

The Court: It will be stricken.

Mr. Pearse: Will your Honor be good enough to warn the jury not to pay any attention to that remark.

The Court: They will be informed to take the testimony from the witnesses only.

Q. Now, officer, when you found this large roll of bills, I think you said you yelled upstairs? A. I did.

Q. You were concerned about finding the money and you being present yourself, I presume you wanted someone to witness the fact so that you would not be embarrassed in any way?

Mr. Giuliano: I object to that question.

The Court: I will allow the question. I think he has a right to answer.

The Witness: Trooper Sangi was searching the other closet right opposite to me when I was searching this. As soon as I found the money, I yelled upstairs to the prosecutor, and he came down immediately.

Q. And then, with reference to this $16,000, did you give a receipt for it to anybody? A. No, sir. I turned it over to the Prosecutor immediately.

Q. You didn't give any receipt to anybody? A. I did not.

Q. The bracelet, Officer, did you find that in the same pocket in the same suit of clothes? A. The same suit of clothes, the same pocket.

Q. And that was in this little piece of paper? A. It was right in this white tissue paper inside an envelope.

Q. Did you find any other things in the suit of clothes that has been brought here? A. No, sir.

Q. No other articles of any kind at all? A. No.

Q. Did you go through all the clothes? A. Yes, started from the side, looking for weapons, searched the suit up and down, and when I came to this particular suit that was hanging there, I felt the bulge on the inside and I put my hand in down inside and reached in and found these articles.

Q. So that out of all the suits of clothes that you searched there, this was the only suit of clothes that you found anything in that you took out? A. Yes, sir.

Q. Did you take anything out of the other suits of clothes? A. No, sir.

Q. And the only two items you did take out were the roll of bills and the bracelet? A. Yes, sir.

Mr. Lichtenstein: That is all.

Mr. Pearse: I have no questions.

(Witness excused.)

Mrs. Anastasia Smerechniak, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. 5712 Hudson Avenue, West New York.

Q. Union City? A. No, West New York.

Q. On June 9th where did you work? A. I worked in James Lewis' house.

Q. You lived there at the Lewises? A. I only see the two brothers.

Q. Who were they? A. James and Eugene.

Q. They are the only two that lived in the house? A. That is all I know.

Mrs. Anastasia Smerechniak, for the State.
—Direct.

Q. How long have you worked for Eugene and James Lewis? A. About seven or eight years.

Q. What were your duties? A. Well, I came in and I dust and clean. I didn't do no beds at all. The beds was always made when I came in.

Q. Now, did you clean all four floors; that is, the kitchen floor and basement, the street level, the first, second and third floors? A. Well, yes I did. The third floor in the front, I mean the bathroom and one room.

Q. You cleaned on the third floor, as you have said, the bedroom in the front and the bathroom? A. Yes, sir.

Q. Now, in the seven years that you worked for James and Eugene Lewis, did you ever go into that rear room? A. No, I did not.

Q. Were you allowed in that room? A. I don't know, nobody told me anything. I didn't go there.

Q. Was it open or closed? A. It was always shut, the door there.

Q. On June 9th, did you see James Lewis? A. Yes, he came in.

Q. What time did he get there? A. He came in after one, because my hours is after one to five there.

Q. Mr. James Lewis came in after you got there? A. Yes, I was cleaning, so he came and I saw him.

Q. You remember when the state troopers came in? A. Oh, sure.

Q. How long before that did you see James Lewis, the defendant? A. I would not remember.

Q. About how long? A. He might have come maybe after one or so, right after I was cleaning the rooms there.

Q. Where did he go after you saw him? A. I don't know; he went upstairs.

Q. You saw him on what floor? A. Well, I was on the first floor then in the back room.

Q. You were on the first floor and he went upstairs; did you see James Lewis leave that day? A. No, I didn't.

Q. You don't know what time he left? A. No, because I worked; I didn't pay attention.

Q. You didn't see him go out? A. No.

Q. You know he was there after one o'clock some time? A. Yes, sir.

Q. And could he have been there after two o'clock? A. Maybe after two or so.

Q. Could it have been nearly three o'clock? A. No, I don't think three.

Q. It might have been after two? A. After two.

Mr. Pearse: I object to putting words in the witness' mouth.

The Witness: I don't know the time.

Mr. Giuliano: That is all.

Mr. Lichtenstein: No questions.

(Witness excused.)

Trooper Albert E. Green, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Trooper Green, how long have you been a member of the State Police? A. This is my fourteenth year.

Q. Were you assigned to the detail with Sergeant Dowgin on the 9th of June, 1944? A. I was.

Q. Did you take part in the raid on this house 1124 Garden Street? A. Yes, sir.

Q. When you entered, who did you follow in? A. Sergeant Dowgin.

Q. Where did you go? A. I followed Sergeant Dowgin to the second floor landing and there was a gentleman there, I believe his name was Walter Lewis. I don't know his first name.

Q. One of the Lewis brothers? A. One of the the Lewis boys.

Q. You followed Sergeant Dowgin, is that right? A. Yes, sir.

Q. When you got to the second floor landing, you left Sergeant Dowgin? A. Yes, sir.

Q. And then who followed Sergeant Dowgin up to the third floor? A. Corporal Heckmann.

Q. Was Corporal Heckmann behind you when you went from the first floor to the second floor? A. Yes, sir.

Q. Then you went into the second floor and Corporal Heckmann followed Sergeant Dowgin? A. Yes, sir.

Q. When you got to the second floor, you say you saw one of the Lewis brothers? A. Yes, I was instructed to take him into custody.

Q. Where did you take him? A. I went into the back room, looked in, holding on to the gentleman's wrist at the time, glancing in the front room, then went on up to the third floor.

Q. You brought him with you? A. Yes, sir.

Q. That was Walter Lewis, I think you said? A. Yes, sir.

Q. When you got upstairs did you go into any of the rooms on the third floor? A. I took Walter Lewis to the third floor front, and then was instructed by Sergeant Dowgin to go back into the wire room.

Q. When you got into the wire room, did you see anything? A. I saw that table setting up.

Q. And did you see these telephones that are on the table that are now in evidence and marked S-34? A. I saw the telephones, quite a number; I didn't count them.

Q. And did you see the sheets that have been testified to, that were found on the table; did you see them on this table? A. Yes, sir.

Q. Marked S-12 in evidence? A. Yes, sir.

Q. Did you see that radio that is marked in evidence? A. Yes, sir.

Q. Now I show you a picture marked S-7 in evidence and I ask you whether or not that discloses the condition of the room at the time you saw it? A. From my observation, yes, sir.

Q. Now, after you left the third floor, where did you go? A. I was detailed down on to the second floor with Sergeant Schindler, reported to him and he detailed me to assist him in searching the room.

Q. The front room; did you assist him to search it? A. A short time in the rear room, then he detailed me to the front room.

Q. The front room; now, when you say the front room, do you mean the bedroom front, on the second floor, which is disclosed in S-10 in evidence? A. Yes, sir.

Q. Now, I show you a box of blank checks marked Eugene F. Lewis, 1124 Garden Street, and ask you whether or not you found these blank checks in the bedroom that you have just referred to on S-10? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: I don't think they are evidential. I object on that ground.

The Court: I will admit them.

(Accepted and marked as State's Exhibit S-81 of this date.)

Q. Officer, I show you a batch of returned checks and envelopes and ask you where you got them from? A. These also came from the front room on the second floor.

Mr. Giuliano: I offer them in evidence.

The Court: These are checks of whom?

Mr. Giuliano: Eugene V. Lewis.

Mr. Pearse: There isn't any question about the fact that Eugene Lewis was there in that building on the third floor on the 9th of June, 1944. Whether or not he occupied a bedroom down on the second floor is something else. I don't see what it has got to do with it.

Mr. Guiliano: May I ask you again, as I have already said in reference to James A. Lewis. If it is admitted that Eugene V. Lewis, the defendant, occupied the bedroom on the second floor front, I will withdraw the offer of these cancelled checks and the envelope.

Mr. Pearse: The answer is yes.

Mr. Giuliano: That is all I wanted to know, and that that is the bedroom that is shown on S-10, Mr. ? ? ? ? ?

Mr. Pearse: I guess so. I will take your word for it.

Mr. Giuliano: Then I withdraw the offer.

Q. I show you three two-dollar bills, and I ask you where did you get them from? A. They were also gotten from the front bedroom on the second floor.

Q. And that is the bedroom that is referred to as being occupied on June 9th by Eugene V. Lewis, the defendant? A. Yes, sir.

Trooper Lawrence Sangi, for the State—Direct.

Q. I offer the three two-dollar bills in evidence.

(Accepted and marked Exhibit S-82 as of this date.)

Mr. Pearse: If you want to do it, go ahead.

Mr. Giuliano: You may cross examine.

Mr. Pearse: I have no questions.

Mr. Lichtenstein: No questions.

(Witness excused.)

Trooper Lawrence Sangi, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. How long have you been a state trooper? A. Two and a half years.

Q. Were you on the detail at 1124 Garden Street, Hoboken? A. Yes, sir.

Q. Where did you enter the premises from? A. I entered the premises through the basement floor, street level floor.

Q. Did you at any time go up to the third floor? A. Yes, I did go up to the third floor.

Q. Did you go into the wire room? A. I went into the wire room when it was dismantled.

Q. Now, were you assigned, or given the assignment to search the premises? A. Yes, I was assigned to enter through the basement floor, go to the rear of the building to make sure that no one leaves, and to make sure they are searched, the bottom floor is searched.

Q. You went through the basement floor which is not disclosed on any of these sketches? A. Yes, sir.

Q. And then you went to the next floor? A. That is right.

Q. Now I show you three pads, sheets, similar to the ones that are now in evidence, with a date of Friday, June 9, 1944, and I ask you where you found those pads? A. In the little room just beyond the kitchen, on the desk in it, and some on some chairs. I found these in the desk, in that room.

Mr. Giuliano: I offer these in evidence.

Mr. Pearse: I object to that, if the Court please, on the ground that they have obviously been written upon subsequent to the time of their finding by this witness.

Q. Did you put that writing on? A. Yes, sir.

Q. And you signed it?

The Court: What else is on there, Mr. Giuliano?

Mr. Giuliano: 3:30 to 3:35 P. M.

The Witness: I didn't write that.

Q. Do you know who wrote that? A. No, sir, I don't know.

Mr. Pearse: There is something more on there, too.

Q. This twelve here, did you write that? A. No, sir, that's not my writing.

Mr. Giuliano: I consent that that be stricken off.

I am now offering these pads that were found in the kitchen.

The Court: I will allow them.

Mr. Lichtenstein: With all this writing, sir?

The Court: You will offer them except that writing which the Trooper could not identify; just offering the writing that the Trooper identified.

Q. When did you see this pad? A. I found that pad as is and I just signed my name to it.

Q. Did you write this in the kitchen, street level? A. Yes, sir.

Mr. Giuliano: I offer it.

Mr. Pearse: I object to this offer. Apparently there is something on there that has not been identified.

The Court: He said he found it that way, Mr. Pearse.

Mr. Pearse: He says he doesn't know who wrote it.

Mr. Giuliano: I don't know who wrote it and I am willing to strike it out if you think it would prejudice your client.

Mr. Pearse: That is O. K. by me. The prosecution makes that concession?

Mr. Giuliano: Take everything off except the date.

Mr. Pearse: Now, the only objection is, I think that it does not prove anything.

The Court: The same objection as to similar exhibits.

Mr. Pearse: Yes, sir.

(Accepted and marked as State's Exhibit S-83 of this date.)

Mr. Giuliano: Cross examine.

Mr. Pearse: No questions.

Mr. Lichtenstein: No questions.

(Witness excused temporarily.)

Trooper Zazzi called.

Mr. Giuliano: May I recall this witness and have Trooper Sangi back for some questions I omitted.

LAWRENCE SANGI, recalled.

Further direct examination by Mr. Giuliano:

Q. Trooper Sangi, were you with Sergeant Schindler when this money and bracelet was found in this blue coat that is in evidence? A. I was in the same search party; he was in one closet and I was in the other closet.

Q. Did he call your attention—don't tell us what he told you—did he call your attention to the finding of the money? A. Yes, sir.

Q. And did he say where he took that money from? A. Yes, sir.

Q. Where did he take it from? A. Took it out of the closet, showed me he took it out of the blue suit.

Q. And did you see the money? A. Yes, I saw the money.

Q. I show you the money which is marked S-39 in evidence and I ask you if that is the money? A. Yes, sir.

Q. I show you a diamond bracelet that is marked S-40 in evidence, and ask you if that is the bracelet that you found in that blue suit on the second floor, in the blue coat? A. Yes, sir.

Mr. Giuliano: That is all.

Mr. Pearse: No questions.

Mr. Lichtenstein: No questions.

(Witness excused.)

Mr. Giuliano: I have here Trooper Zazzi and maybe we can save time. Trooper Zazzie, Trooper McEnroe, Trooper Young, they are all in court and they are only here for the purpose of corroboration as to the raiding party and this wire room, and the testimony would, I think, be cumulative.

I am willing to refrain from calling them if counsel will enter a stipulation that their testimony will only be cumulative.

Mr. Pearse: That is a very unfair question.

Mr. Giuliano: All right, I will call them.

Mr. Pearse: If he is not going to call them he can state that it would be cumulative, and he doesn't have to call them.

Mr. Giuliano: I will save time; I won't call them.

(Officers were sworn and the jury instructed not to discuss the case, and the jury left in the custody of the officers. The court then declared a recess until 2:10 P. M.)

AFTER RECESS 2:10 P. M.

(The jury was polled in the presence of the defendants and their counsel.)

J. ROBERT SULLIVAN, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. 299 Sylvan Street, Rutherford.

Q. By whom are you employed? A. New Jersey Bell Telephone Company.

Q. In what capacity? A. I am manager of the Hoboken Office.

Q. As such, have you charge of the records of that office? A. I have.

Q. And have you the records of installation of telephones in the address known as 1124 Garden Street, Hoboken, New Jersey? A. Yes, sir, I have.

Q. Now, will you please refer to your records and tell us when the first telephones were installed in 1124 Garden Street? A. I have a record of one telephone account here which was installed July 13, 1918.

Q. And what number was that? A. That was Hoboken 3-1239.

Q. In whose name was that telephone installed at that time? A. It was listed as John W. Lewis.

Q. When was the next telephone or telephones installed? A. May 23, 1939.

Q. And what was installed then? A. We installed four telephones.

Q. What numbers? A. Hoboken 3-6306, 6307, 6308 and 6309.

Mr. Pearse: Would you mind repeating those?

A. Hoboken 3-6306, 6307, 6308 and 6309.

Q. When were these four telephone lines installed? A. May 23, 1939.

Q. What other telephones, if any, were installed in the premises, and when? A. I have a record of private line 1693, which was installed on the 10th of October, 1939.

Q. Now, in whose name is that private line 1693? A. It is in the name of John Harris.

Q. Do you know where that telephone runs to, from your record? A. To 454 Newark Street.

Q. Now, have you any other records of any other telephones in that building? A. I have private line 1695.

Q. In whose name is that private line? A. That is in the name of Anthony Monte.

Q. Where does that telephone run to from Garden Street? A. To 88 Hudson.

Q. Have you any other private line? A. I have private line 2666.

Q. Where does that private line run to and in whose name is it listed? A. To 126 River Street in the name of Sylvester Urso.

Q. You have referred to these telephones that are listed in the name of Anthony Monte, John Harris and Sylvester Urso; are any of these telephones listed in the directory? A. Not those private lines.

Q. Now, will you refer to your record of Hoboken 3-6306, 7, 8 and 9. Have you that record? A. Yes, sir.

Q. Those are four separate telephones? A. Yes, sir.

Q. In whose names, were these four separate telephones billed? A. John Henry.

Q. Were these telephones listed in the directory? A. No, they were not.

Q. What would you call these telephones, unlisted phones or private phones? A. We would call them unpublished telephones.

Q. Now, will you refer, please, to your record of Hoboken 3-1239, in the name of John W. Lewis; was that listed or an unlisted phone? A. That was listed.

Q. Now, had that telephone any extension; will your records disclose that? A. It had two.

Q. Now, do you know where these extensions run to? A. I don't.

Q. Now, Mr. Sullivan, these telephones, private telephones—I will take first 1693 in the name of John Harris which ran to 1124 Garden Street, from there to 454 Newark Street, Hoboken. Can you tell us, please, whether or not those telephones were dial telephones, and whether or not a coin was necessary in order to get the party on the other line, on the other end? A. Well, from my record they were not dial telephones, and from my knowledge of private lines, would not need a coin.

Q. Can you explain what a private line is, please? A. Well, it is a direct connection between two points.

Q. Does central have to be contacted? A. No.

Q. In order to get either one of the points? A. No.

Q. How is the contact made?

Mr. Pearse: If he knows.

A. Well, I am not an authority on equipment.

Mr. Giuliano: That is all right; I won't press the question.

Q. Now, Mr. Sullivan, taking first the telephone that is Hoboken 1693, private line, which went from 1124 Garden Street to 454 Newark Street, Hoboken, now, can you say whether any other person other than these two destinations could use that telephone line?

Mr. Pearse: How can he answer that question?

The Court: He can answer whether he knows; do you know, Mr. Sullivan?

Mr. Giuliano: Maybe I will reframe it this way.

Q. Could any calls, outside calls, be made on these lines running from 1124 Garden Street, Hoboken, to 454 Newark Street, Hoboken?

Mr. Pearse: I object to that. I don't know what it means.

Mr. Giuliano: I said outside calls.

Mr. Pearse: That is exactly what I don't understand.

Q. As I understood you to say, these are private lines that run between two destinations? A. Right.

Q. That is, one ran from 1124 Garden Street to 454 Newark Street? A. That is right.

Q. Could calls be made on these lines other than the calls that were made from these two points? A. No, a private line is for contacting between just two points.

Q. You don't have to contact central? A. No.

Q. And does the same situation exist with respect to private line 1695 running from 1124 Garden Street to 88 Hudson Street, Hoboken, New Jersey? A. It does.

Q. And is that also the same with reference to Hoboken 2666, which is a private line from 1124 Garden Street to 126 River Street? A. Yes, sir.

Q. Now, can you look over your records, please, and can you tell us how many telephones these numbers that you have repeated here would be entitled to?

Mr. Pearse: I object to that question. How can he possibly answer that by looking over his records, how much they were entitled to?

Mr. Giuliano: I withdraw the question.

Charles J. McCarthy, for the State—Direct.

Q. From your records, how many telephone instruments were put in the premises at 1124 Garden Street, Hoboken? A. Well, there would be one on each of the three private lines, and there would be four on Hoboken 3-6306, 6307, 6308 and 6309, and on 1239 there were three.

Q. In other words, ten telephones? A. That is right.

Mr. Giuliano: That is all; you may cross examine.

Mr. Lichtenstein: No questions.

Mr. Pearse: I have no questions.

(Witness excused.)

Charles J. McCarthy, called as a witness on behalf of the State, being sworn, was examined and testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. 161 Glenwood Avenue, Jersey City.

Q. And by whom are you employed? A. New Jersey Bell Telephone Company.

Q. How long have you been connected with the telephone company? A. 22 years.

Q. In what capacity? A. Installation foreman.

Q. What is your position at this time? A. Installation foreman.

Q. Now, Mr. McCarthy, will you please look at this board. These switches running through the center, which is Exhibit S-12, tell us whether or not the New Jersey Bell Telephone Company installed that board at 1124 Garden Street? A. The New Jersey Bell Telephone Company did not install that table.

Q. Will you please look at the bottom of that board, which is S-12 in evidence, and will you tell us, please, whether or not the wiring under there was installed by the New Jersey Bell Telephone Company? A. No, sir.

Q. Now, I refer you to Exhibit S-35 and I ask you whether or not the New Jersey Bell Telephone Company installed a panel board such as that? A. No, sir.

Q. Now, I ask you please, to open one of the boxes underneath this board, if you can. A. It is open.

Q. Mr. McCarthy, you have that box open. Can you please tell me whether or not the wires are connected with the bell installed in that box? A. The leads on the bell are disconnected.

Q. When—you say the leads to the bell are disconnected? A. That is right.

Q. Now, is that a New Jersey Telephone Company installation? A. No, sir.

Q. Now, can you tell us why that wire is dis connected from the bell in that instrument?

Mr. Lichtenstein: I object to the question upon the ground that it is improper and the witness can't state why it is.

The Court: Sustained.

Q. What would the result be when the wire is disconnected? A. The bell would not ring.

Q. Now, I show you a wire which is marked in evidence with three wires exposed, one white and one black— A. Red, yellow and black.

Q. What is the purpose of that wire? A. This cord is connected from the transmitter handle to the telephone set.

Q. Why is it connected? A. For transmission and receiving.

Q. That is the only purpose it is connected, and it is the telephone company's practice never to leave any of these wires loose and about premises? A. No, sir.

Q. Now, can you please explain to this court and jury how these private telephones that have been referred to here operate? A. They operate by means of a battery connected to the set which supplies battery for transmission over the line; that is, for talking and hearing at the other end. They have an end generator setting in the box that rings a bell at the other end and supplies the electricity.

Q. I show you Exhibit S-71 and ask you if that is part of the private line? A. That is a sub-set of the private line.

Q. And what is that commonly used for? A. To ring the bell.

Q. To ring the bell where? A. On the other end of the line.

Q. Of course the other end—and I should say vice versa? A. That is right.

Q. Now, you say these are generated by batteries? A. Generated by the hand generator.

Q. In order to supply electricity? A. They have got to have that.

Q. I show you a battery and ask you if that is the type of battery used for the purpose of generating power? A. The telephone company uses a battery of that type.

Mr. Giuliano: That is S-42.

Q. Now, Mr. McCarthy, does the telephone company use this type of battery, which is S-57 in evidence? A. That is not telephone company equipment.

Q. It is not? A. No, sir.

Q. Will you look at this, please, and tell me whether or not that can be used to generate the voice over these telephones that have been referred to as private lines? A. Yes, they can.

Q. Now I show you three batteries which are marked S-41 in evidence, and I ask you if these are telephone company equipment? A. No, sir.

Q. Can they be used to generate the voice over the telephones that have been referred to as private lines? A. They might be used, but I don't know how long. They will have to—they may damage the transmitter, they may burn it out.

Q. But they can be used? A. Yes, sir.

Q. I think you told me that this line of switches was not telephone equipment; did you tell me that? A. That is right.

Q. Now, can you tell us, by looking at this board, what would be the purpose of those switches? A. I don't know. I don't think I could answer that.

Q. Well, can you examine the wires underneath these switches? A. It would have to be all traced out.

Q. Now, with these private lines, is it possible for any outside calls to be made on any of these private lines?

Mr. Pearse: I don't understand what he means by that.

Mr. Lichtenstein: I think I understand but I may be mistaken.

Mr. Pearse: I object to the form of the question.

Mr. Giuliano: I withdraw it.

Q. Can any person outside of the two points, the two destinations going from 1124 Garden Street to 88 Hudson, 454 Newark Street, and 126

River Street, use these telephones; other than the people who may be at these points? A. The only way you could use a private line would be at the terminating and the originating end.

Q. No other person could call that number outside of the people who were using it? A. That is right.

Q. Now, Mr. McCarthy, did you examine this board at the request of the Prosecutor's office last week? A. I examined a part of it.

Q. And from the part that you examined, can you tell me whether or not you can explain the function of that board?

Mr. Lichtenstein: One moment; the witness has already said he could not.

The Court: I don't think he was asked that question. I will let him answer, to see what he knows about it.

Q. Can you tell us? A. Well, the part that I examined is in reference to the talking sets. There is a wire going from each talking set to this knife switch, and the knife is connected on multiple, one set can answer one side and the other set can answer the other.

Q. Let's see if I understood you readily; by throwing a switch you can answer either telephone. Is that what I understood you to say? A. That telephone by throwing of the switch could answer that individual line.

Q. And if another telephone rang up, could that person answer it by throwing the switch in another position? A. Not that same person.

Q. Could another person? A. That is right.

Q. Answer the telephone that might be at the other end of the board? A. That is right.

Mr. Giuliano: You may cross examine.
Mr. Pearse: I have no questions.
Mr. Lichtenstein: No questions.

(Witness excused)

HARRY IMHOFF, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Where do you live? A. 3404 Boulevard, Jersey City.

Q. By whom are you employed? A. New Jersey Bell Telephone Company.

Q. In what capacity? A. Installer.

Q. Now, did you have occasion to go to 88 Hudson Street, 454 Newark Street, and 126 River Street, Hoboken? A. Yes, sir.

Q. When did you go there? A. Well, the Hudson Street and River Street, I went around the 20th of June.

Q. Do you recall what kind of a place 88 Hudson Street was? A. It is a barber shop.

Q. When you got to 88 Hudson Street, what did you receive?

Mr. Lichtenstein: I object to that, what he received.

Q. What did you find there?

Mr. Pearse: I object to what he found.
The Court: With reference to what?
Mr. Giuliano: With reference to the telephone, with reference to the private telephone at 88 Hudson Street, what did he find there?

Mr. Lichtenstein: I object to that upon the ground that it has no relation whatever to the charge in this indictment. I don't know where it is going to lead to. This is in June he was there and he saw these telephones. How is that material now? I object to it, as to what happened in the month of June, 1944, also upon the ground it is incompetent, irrelevant and immaterial, not binding upon any of the defendants as to what happened after this date named in the indictment.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

Q. What did you find there? A. We are talking about 88 Hudson Street?

Q. Yes. A. We found nothing there that day.

Mr. Lichtenstein: What is that?

The Witness: We were told that——

Mr. Lichtenstein: I object to what he was told.

The Witness: We found nothing.

Q. Did you return there? A. Yes, sir.

Q. When did you return? A. Next day.

Q. What were you given?

Mr. Lichtenstein: I object.

Q. What happened?

Mr. Lichtenstein: I object to that.

The Court: In relation to what?

Mr. Giuliano: In relation to this telephone which is at 1124 Garden Street.

Mr. Pearse: I object to that statement.

Mr. Lichtenstein: I object to anything that took place, or anything that he heard, or anything that he saw on that day, on the ground that whatever happened there, or whatever he saw or whatever he heard is not receivable as evidence against any of these defendants, nor has it any bearing upon the charges alleged in the indictment.

The Court: I will permit him to relate what he heard or what he saw with reference to this telephone.

Mr. Lichtenstein: Your Honor will grant us an exception?

The Witness: Will you repeat that, please?

Q. With reference to this telephone? A. On the second day?

Q. 88 Hudson Street, P. L. 1695, what did you find? A. I found nothing, but a package was handed to me with the telephone in it.

Q. A package was handed to you with the telephone in it?

Mr. Lichtenstein: I object to that and ask that the answer be stricken. I object to the question because there was no one present, no defendant present, and someone hands him a package.

The Court: Does this man know whether it was a telephone from that building at the other end of the line?

Mr. Giuliano: I will ask him the question.

Q. Do you know whether this telephone was this private line telephone instrument?

Mr. Pearse: I assume, if the Court please, that he can't properly answer that ques-

tion, because he says when he went to 88 Hudson Street the first time he saw nothing.

The Court: I don't think that follows.

Mr. Pearse: Probably he never saw this telephone before. How could he say it was the same telephone?

The Court: He has not said whether he did or not.

Mr. Giuliano: He said he saw nothing.

The Court: That day.

Mr. Giuliano: And he went back the next day and was handed something, as I understand.

Mr. Pearse: We object to that because it is not shown that it was the same.

The Court: I think the witness should be examined as to whether he could identify this as the telephone that was in the building.

Q. Now, can you tell us, Mr. Imhoff, whether or not the telephone that you took from that building was the telephone that was in the building?

Mr. Pearse: I object to the form of the question, if the Court please.

Q. And was the number 1695?

Mr. Pearse: I object to that. How can he say that something that was given to him on this particular occasion was something that was there before when he never saw what was there before?

The Court: I don't know whether he was there before or not. He said the day before when he went there he saw nothing.

He doesn't say whether he was there before that or not.

Mr. Pearse: He was not asked that.

The Court: I will allow the question to be answered. (Question read as follows: "Now, can you tell us, Mr. Imhoff, whether or not the telephone that you took from that building was the telephone that was in the building?

"Mr. Pearse: I object to the form of the question, if the Court please.

"Question: And was the number 1695?")

A. That is a hard question to answer because all these types are similar.

Q. It is a similar telephone? A. Most of them are.

Q. Was it a type like this? A. Yes, it was.

Mr. Pearse: Exhibit number?

Mr. Giuliano: Referring to S-71.

Q. And that was handed to you in a package?

Mr. Pearse: Wait a minute. He didn't say that.

Mr. Giuliano: He did say it as I understood.

The Court: He didn't answer that question; he said he was handed a package and that what was in the package was a telephone. He didn't identify the telephone, whether it was that or not.

Mr. Giuliano: He said it was a similar telephone to the one that is now in evidence. and I think that he has shown sufficient knowledge of the type of telephones that was in this building.

Q. Then you went to 126 River Street, I understood you to say? A. Yes, sir.

Q. When did you go there? A. The first time?

Q. That was on June 20th? A. Yes, sir.

Q. And what did you see there?

Mr. Lichtenstein: I object to that.

Q. With reference to the telephone number 2666. A. I saw nothing.

Mr. Lichtenstein: I object to that question.

Mr. Giuliano: He said he saw nothing that day.

Q. Did you go back there next day? A. Yes, sir.

Q. Now, the first day that you went there how is it that you didn't see anything?

Mr. Lichtenstein: I object to that.

Mr. Pearse: So do I.

The Court: Sustained.

Q. Did you gain admittance into this place?

Mr. Pearse: I object.

The Court: I will allow it.

Q. Did you gain admittance into this building? A. Yes, sir.

Q. And did you go into the back room? A. No.

Q. Why didn't you go into the back room? A. Well, it is our custom—

Mr. Lichtenstein: If the court please, there is nothing in the evidence to show that any of these defendants were there at the time that this witness refers to. This is some time afterwards.

Mr. Giuliano: Eleven days.

Mr. Lichtenstein: Eleven days after because he went to this particular place and he asked concerning what happened and what he saw and what he didn't see.

The Court: I will permit it so far as it relates to this private telephone.

Mr. Lichtenstein: Your Honor will grant us an exception.

Q. Did you receive anything that day? A. No, sir.

Q. The second day? A. Yes, sir.

Mr. Lichtenstein: We urge the same objection as to this same class of question that was asked before with reference to the telephone.

The Court: Your objection will be noted and you may have an exception.

Q. What did you receive there? A. We received a package similar to the package, the first package we received in the other place.

Q. What did the package contain? A. Contained a telephone and bell box.

Q. And the instrument, too? A. Yes, sir.

Q. Was it similar to S-71 in evidence? A. Yes, sir.

Q. Now, what kind of a place is 126 River Street?

Mr. Pearse: I object. What difference does that make so far as these defendants are concerned?

The Court: I will allow it.

A. It is a barbershop.

Q. Now, when did you go to 454 Newark Street, Hoboken? A. Several weeks later.

Q. When you went there, what kind of a place did you find there? A. It is also a barbershop.

Q. Did you receive anything there? A. No, sir.

Q. Did you take anything out? A. No, sir.

Q. You received nothing and you took nothing out? A. That is right.

Q. What did you do there? A. We were asked to come back next day.

Q. Did you go back next day? A. Yes, sir.

Q. What happened next day? A. We received a package the same as we did in the two other barbershops.

Q. Now, what was in the package? A. There was a telephone, bell box and a talking set.

Q. I show you S-71 and I ask you was this the type of box that you received from that address? A. It was, yes, sir.

Mr. Giuliano: Cross examine.

Mr. Pearse: No questions.

Mr. Lichtenstein: No questions.

(Witness excused.)

Mr. Giuliano: May I recall Mr. Sullivan for a question or two, please?

J. Robert Sullivan, recalled.

Direct examination (resumed) by Mr. Giuliano:

Q. I neglected to ask you when was the service terminated on lines P. L. 1695, P. L. 1693, P. L. 2666 and Hoboken 3-6306, 6307, 6308, and 6309 and Hoboken 3-1239? A. June 10th on all of them.

Mr. Giuliano: That is all.

Mr. Lichtenstein: No questions.

(Witness excused.)

WILLIAM ROBERT PRICE, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Mr. Price, where do you live? A. R. F. D. 3, New Brunswick, New Jersey.

Q. What is your business? A. Court stenographer.

Q. How long have you been a court stenographer? A. About 20 years.

Q. Did you act as stenographer for the office of the Prosecutor on the evening of June 9, 1944? A. I did.

Q. And did you take down stenographically the questions asked by the Attorney General, Walter D. Van Riper, and the answers made to these questions by the defendants Frank Marnell, Eugene V. Lewis, Walter Lewis, Vincent Halpin and Walter Mullins? A. Yes, sir.

Q. Now, who was present at the time these five defendants were questioned; that is, who was in the room, to your knowledge?

Mr. Pearse: If the court please, do I understand that all five were together when they were questioned; otherwise I object to the question.

Mr. Giuliano: I will reframe the question.

Q. Were these defendants questioned individually; that is, one at a time? A. Yes, sir.

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Mr. Pearse: Out of the presence of the others?

Mr. Giuliano: Out of the presence of the others, I am willing to concede that.

Q. As each defendant who has been referred to by me was questioned, who was present in the room besides the attorney general and yourself? A. The room was, I would say, full of people. There were some photographers present; men I gathered to be newspaper reporters; attaches of the Prosecutor's office. That is all I remember.

Q. And do you recall whether or not people were coming in and out of that room while the questioning was going on? A. Yes, I would say yes.

Q. Now, while the defendants were being questioned, were there any threats or promises made to any of the defendants?

Mr. Pearse: If the court please, I object. I insist that each defendant be taken up separately and find out what was said to him, and not what was collectively said to all of them.

Q. With respect to the defendant Frank Marnell, were there any promises or threats made to him?

Mr. Pearse: I object to the form of the question. If you are going to examine this witness, if the court please, I insist that counsel ask what was said, if anything was said, and what the answers were, and no conclusions insofar as your questions are concerned.

The Court: Let the witness state what was said.

Mr. Pearse: He is perfectly capable of doing it.

Q. Now, Mr. Price, have you your notes with respect to the questions asked by the attorney general of the defendant Frank Marnell, and have you his answers? A. Yes, sir.

Q. Will you refer to them, please? A. I also have a transcript.

Q. Will you refer to the original notes; I believe it is necessary.

Mr. Pearse: No. I know Mr. Price, and I know that he is a very competent stenographer. We are not questioning his ability or his capacity to take notes. If he has a transcript, we are content to take his transcript, rather than put him to the trouble of reading his notes and taking up a lot of time. I think he can do that well, too.

Q. Will you refer to your transcript, then Mr. Price, of Mr. Marnell's examination, please, and read his answers to the questions; the questions of the Attorney General and the answers that you took down stenographically.

Mr. Pearse: If the court please, before that is done, I would like the opportunity of examining this witness to show the circumstances under which these statements were taken.

Mr. Giuliano: I have no objection.

By Mr. Pearse:

Q. Now, Mr. Price, will you be good enough to tell us the name of the first one of these defendants who was brought into this room? A. Frank Marnell.

Q. Where was this room? A. It was in the Prosecutor's office.

Q. In this building? A. In this building on the third floor.

Q. How large a room was it? A. 14 x 16, some such proportion.

Q. Furniture in the room? A. Yes, sir.

Q. Desks, chairs, tables? A. Desks, chairs, tables.

Q. Is it the front office, facing the jail? A. I remember it is a corner office, a corner room.

Q. Is that the one——

Mr. Fisch: The room that you had been in, my office, Mr. Pearse.

Mr. Pearse: I have been in the room.

Q. Now, were you in the room before Marnell came in? A. That I don't remember, Mr. Pearse.

Q. What time of the day was this? A. Well, shortly before the dinner hour, maybe around six o'clock.

Q. What date was it? A. Well, that was June 9th.

Q. And your recollection is that this examination, or these various examinations, started about six o'clock, you say? A. About that. It is hard for me to fix the exact time.

Q. Before dinner, was it? A. Yes, I would say so.

Q. I mean that is your recollection? A. Yes, sir.

Q. And the Attorney General himself was there? A. Yes, sir.

Q. And you were there? A. Yes, sir.

Q. There were other persons connected with the Prosecutor's office who were there? A. Yes, sir.

Q. And newspaper photographers were there? A. Yes, sir.

Q. And newspapermen not photographers were also there? A. That is what I gather was their status.

Q. What is your best recollection as to the number of people that were in this room at the time these statements were taken? A. Well, that is hard to approximate. The room was full of people —fifteen.

Q. Standing around and sitting around? A. Standing around.

Q. When this examination started? A. Yes, sir.

Q. Have you any recollection as to how many newspaper photographers were there? A. Three or four.

Q. Were pictures taken? A. Yes, sir.

Q. How many other newspaper men were there? A. That I would not be able to say.

Q. Several? A. I would say several.

Q. How many people, other people connected with the Prosecutor's—was Mr. Giuliano there? A. I don't believe so.

Q. Was Mr. Fisch? A. I don't believe so.

Q. Who, from the Prosecutor's office? A. I would not know except as they acted, as though they were attaches, by bringing in men or taking them out.

Q. I suppose these were flashlight pictures?

Mr. Giuliano: I object.

Mr. Pearse: I want to show the excitement that was going on.

Mr. Giuliano: There is something else to to be said.

The Court: I will allow it.

The Witness: Yes, sir.

Q. Now, you say that the examination started with Marnell? A. Yes, sir.

Q. About how long did his examination take? A. Just a few minutes, ten minutes.

Q. During all that time, were these people that you have mentioned present in the room? A. Yes, sir.

Q. Then I assume the next man was brought in? A. Yes, sir.

Q. Who was that, Mr. Price? A. That was Eugene V. Lewis.

Q. Was his statement taken under the same circumstances, a crowd present in the room? A. Yes.

Q. I am speaking now of photographers and newspaper men and various attaches connected with the Prosecutor's office or with the court? A. Yes, sir.

Q. Tell us then—just read in order the names of the other defendants as they were called in, for me, first; how long it took to interview and examine, or whatever you want to call it—Eugene Lewis? A. Well, I would say about ten or fifteen minutes of the examination. They were not quiet. They were sometimes interrupted.

Q. By whom? A. Well, by the Attorney General discontinuing the questions for a moment to answer the telephone, or something of that kind.

Q. What was the next in order? A. There was Walter Laurence Mullins, Vincent Halpin, Frank Morano and Walter Ambrose Lewis.

Q. Were there any attorneys present representing these men?

Mr. Giuliano: I object to that.

Mr. Pearse: They had a perfect right to counsel. I want to know certainly whether or not counsel was permitted.

The Court: You ask if they were present. It doesn't make any difference whether they were present or not.

Mr. Pearse: I think it does, if the Court please.

The Court: You may ask whether they requested counsel.

Mr. Giuliano: I have no objection to that question.

Mr. Pearse: I will withdraw my question.

By Mr. Pearse:

Q. I suppose it was—while the questioning was going on there was talking by the others going on at the same time? A. Yes, in the room.

Q. Considerable confusion because of interruptions by telephone calls and things of that kind? A. Well, quite a bit of bustle.

Q. People interrupting the Attorney General personally while the examination was going on? A. I wouldn't say that.

Q. People coming in and out of the room, too, I suppose? A. Yes, sir.

Q. Would you describe it all as an "air of confusion"?

Mr. Giuliano: I object to that.

The Court: That would call for a conclusion.

Mr. Pearse: If the court please, now that we have heard the circumstances under which these statements were made, I object to them because I think we must reach the conclusion that the statements taken at six o'clock in the evening, on until later in the evening after these men had been arrested at half past three in the afternoon, obviously taken from 1124 Garden Street to

somewhere else, finally again into the Prosecutor's office, in the presence of the Attorney General with this crowd of photographers, newspapermen and attaches hanging around this comparatively small room, with constant interruptions, or at least interruptions of various kinds, that no one can possibly reach the conclusion that any such statement, made under any such circumstances, was a voluntary statement. They were taken under pressure, under duress, under excitement, and are not binding on these defendants.

The Court: I don't understand the rule is that excitement prevents them from being voluntary, Mr. Pearse. The presence of the people that were there would tend to show they were voluntary.

Mr. Giuliano: Exactly.

Mr. Pearse: I should have an entirely different feeling on the subject because there is such a thing as psychological effect, and it seems to me that any testimony taken of a man under arrest, and under these exciting circumstances, certainly a very fearful position for him to be in, and he might easily not be accountable for the things which he said under these circumstances, and the excitement.

Mr. Lichtenstein: So far as the defendant James Lewis is concerned, I object to any statements that were made by any of these people, on the ground that they could not in anywise affect him.

The Court: Any statement, made by any person, would only be binding on the person who made the statement, and would

not be binding on any other one of the defendants.

Mr. Lichtenstein: The witness has already stated who the statements were made by, and they do not include James Lewis. Therefore, they could not bind James Lewis.

The Court: The jury will be so instructed. They are not to be binding on anyone except the person who makes the statement.

Mr. Pearse: May I interrupt once more?

I understand that your Honor is going to permit Mr. Price to testify as to what was said. I also understand that he has a transcript before him. I think this is a fair request, and that is that if any one of these defendants' names are mentioned—or mention the name of any other defendant, any other of these defendants—that name should be eliminated and, not to be repeated as having been taken, otherwise how, under any circumstances, could the jury or any member of the jury possibly erase a conversation from his or her mind, the circumstances under which they heard this particular statement.

I think your Honor has consistently ruled that statements made by one are not binding on the others. Nevertheless it is manifestly almost impossible for anyone to erase such a statement.

The Court: If they omitted the name it would not be anything at all.

Mr. Pearse: Of course if it is a question of mentioning names and not what particular defendant—but then I say the statement is worthless.

Mr. Lichtenstein: May I on behalf of the defendant Lewis call your attention to this situation. I have never seen the statements. Let us assume for the purpose of this discussion that one of these witnesses were asked a question concerning James Lewis and he made a statement in response to that question. Now, that, according to your Honor's ruling would not be admissible and could not be used.

The Court: I think if you hear the question and answer read here, that whenever you come to a question of that kind, it might be debatable as to whether or not it is admissible.

Mr. Lichtenstein: But then the harm has been done.

The Court: I don't see why an objection would not be made at the time; if it was the question and answer could be passed upon.

Mr. Lichtenstein: An incompetent question, it would not have been permitted if it had been asked in court, or answered in open court, and that is the harm and viciousness of a situation of this kind, permitting the whole statement to go in when it might involve another person on an illegal statement.

The Court: This is a question and answer statement.

Mr. Lichtenstein: Yes.

Mr. Giuliano: May I say this, as I understand the law,—and there are many cases on it, and it might just as well get it straight now—that the full statement may be admitted. It is the same rule if this was

a written statement; under the law your Honor advises the jury to disregard any statement not made in the presence of the other defendant if that statement incriminates any one of the defendants. You cannot take a statement in part. It must go in in full and these cases—that is the way the cases hold—and that is the way your Honor has ruled in this case. Now these are statements made by the defendants, and I say that the State has the right, and I know that your Honor agrees.

The Court: We have done that on other occasions.

Mr. Giuliano: And that is the law, your Honor.

Mr. Lichtenstein: I address myself to your Honor's discretion. If you are going to proceed in this case, that you listen to the question and permit us to object. For instance, my friend, if it concerns my client, may object to it and then and there, if the answer is illegal—the answer admittedly is illegal and the answer is not admitted in evidence.

Mr. Giuliano: I don't agree with Mr. Lichtenstein. This is a statement made by the defendants, not by another person. We have the right to put an oral statement against any evidence.

The Court: If you so desire, when you come to these particular parts, I will admonish the jury right then, so that they will be informed, that it is not to apply to other defendants.

Mr. Lichtenstein: I am concerned with the answer if it is one which will be illegal,

and it may be very nice theoretically to do just that.

The Court: Of course it is in question and answer form.

Mr. Lichtenstein: Yes.

The Court: On a plain statement—we have had them here several times—and that is the practice that I have pursued, and I think I am correct about that.

Mr. Lichtenstein: I think that your Honor has discretion, but while it may be all right theoretically, practically and from the point of view of the human factor, the humanity of it, the thing just can't be done. Your Honor might instruct the jury a hundred times and they just can't forget something which is illegal.

Mr. Giuliano: I don't think that that is a fair statement, "something that is illegal". We are bound by the law, as I understand it.

The Court: And the evidence.

Mr. Giuliano: And the rules of evidence. The rule of evidence is, as I understand it, that these statements are admissible, and that then your Honor—and that is the rule also laid down in the cases, in all of the cases—your Honor admonishes the jury. I think that if we follow that that is what we are trying to do.

The Court: That is the practice that I have pursued, and I think I shall continue it.

Mr. Pearse: I don't desire to be so persistent, but I am awfully sorry, but I must ask Mr. Giuliano—have you got a copy of

this that you might loan to us and maybe we would be able to follow it?

Mr. Giuliano: I have no copy. There is a copy here and that is why I was asking the stenographer to read from his notes.

Mr. Lichtenstein: May we ask your Honor to grant us an exception to your ruling?

The Court: Yes.

Mr. Giuliano: May we proceed?

The Court: Go ahead.

By Mr. Giuliano:

Q. Will you read what I asked you, please, Mr. Price. A. You asked me to read the questions and answers.

Q. With reference to the defendant Marnell. A. (Reading) "Question: Where do you live?

"Answer: 1200 Park Avenue.

"Question: Hoboken?

"Answer: Hoboken.

"Question: How long have you lived there?

"Answer: I lived there about five years."

Mr. Giuliano: Mr. Price, I think number eleven is having some trouble hearing.

The Witness: (Reading):

"Question: How long have you lived there?

"Answer: I lived there about five years.

"Question: What is your business?

"Answer: I am a physical instructor in the public schools.

"Question: In Hoboken?

"Answer: That is right.

"Question: How long have you had that job?

"Answer: 22 years.

"Question: What school do you work at? Any particular school?

"Answer: David E. Rue.

"Question: You were arrested this morning at 1124 Garden Street, Hoboken?

"Answer: Yes.

"Question: You were found under the bed without any clothes on?

"Answer: Yes, sir.

"Question: You were working in there taking bets over the wire, were you?

"Answer: Yes, sir.

"Question: How long have you been doing that?

"Answer: Off and on for six or seven years.

"Question: What time of day did you usually go in to go to work?

"Answer: After three o'clock.

"Question: How long did you work, until when?

"Answer: Until closing.

"Question: Which would be when? Half past five?

"Answer: No, sir, half past six or seven o'clock.

"Question: Half past six or seven o'clock. How much did you get for doing it?

"Answer: An average of $25 a week.

"Question: Who paid you?"

Mr. Lichtenstein: I want to press my objection here. I desire to interpose an objection at this time in the light of your Honor's ruling.

(Continuing reading) "Answer: James Lewis."

Mr. Lichtenstein: Right here and now I ask your Honor to presently instruct the jury that they shall disregard that answer of this witness, so that it may be impressed

upon their minds now, that it is not binding upon the defendant James Lewis, and that they must disregard that answer.

Mr. Giuliano: May I just make a correction of law, if your Honor please. It doesn't mean that they must disregard that answer. It is that your Honor advise the jury that it is not binding on Mr. Lewis, but not to disregard the answer. This man is a defendant, and he was working for someone. He is asked where he is employed and who paid him. Now your Honor can admonish the jury or advise the jury that Mr. Lewis is not bound by that, by that answer, but that answer cannot be disregarded because this is this defendant's answer as to where he is employed.

Mr. Lichtenstein: I only ask that it be disregarded so far as the defendant James Lewis is concerned.

Mr. Giuliano: But that does not mean that they should disregard the testimony. I don't like the use of the word "disregard".

Mr. Lichtenstein: That it does not bind James Lewis, but not to disregard it. It may be disregarded as to the defendant James Lewis.

The Court: Mr. Foreman and ladies and gentlemen of the jury, this statement you have just heard is not a statement of James A. Lewis, but is a statement of Mr. Marnell, and it is, therefore, not binding on Mr. Lewis, Mr. James A. Lewis.

Mr. Giuliano: Go ahead, Mr. Price.

(Continuing reading) "Question: Who paid you?

"Answer: James A. Lewis.

"Question: Who?
"Answer: James Lewis.
"Question: James A. Lewis?
"Answer: That is right."

Mr. Lichtenstein: May I object?

The Court: He is just repeating the testimony.

Mr. Giuliano: Can't we wait until the statement is read and then Mr. Lichtenstein can make whatever objections he wants?

The Court: The same question you objected to before, Mr. Lichtenstein.

Mr. Lichtenstein: Yes, sir.

(Continued reading) "Question: That is his house, 1124 Garden Street, isn't it?

"Answer: That is right.

"Question: How many men work, usually, up in that room where you were?

"Answer: I believe it was one, two, three, four."

Mr. Lichtenstein: May we have this understanding, if your Honor please, I will take the statement, and after the witness has read the whole of it then call your Honor's attention to the statement so that your Honor can instruct the jury.

The Court: I will instruct them now, that these matters which were stated by Mr. Marnell which involve the other defendants, they are not binding on that other defendant in this particular instance.

Mr. Lichtenstein I don't like to interrupt every time because it may be all full of these statements.

Mr. Giuliano: May we have the statement read and then Mr. Lichtenstein can make his objection?

The Witness: (Reading) "Question: How many men were usually up in that room where you were?

"Answer: I believe it was one, two, three, four.

"Question: Four of them?

"Answer: Yes.

"Question: How many were there today? There were five there today, weren't there?

"Answer: There were six there today. Not counting Gene, there was five.

"Question: Gene is a brother?

"Answer: Yes.

"Question: Was he there today?

"Answer: Yes.

"Question: Does he work there, too?

"Answer: Yes.

"Question: Does he work there every day regularly?

"Answer: Yes.

"Question: Jimmy is the owner of the business, isn't he?

"Answer: Yes.

"Question: You have always worked for him, have you not, up there?

"Answer: Yes.

"Question: And always have been paid by him?

"Answer: That is right.

"Question: Where did the calls come from, the bets come from, that were phoned in? Do you know where they would come from?

"Answer: I don't know the location. Possibly Hoboken.

"Question: What kind of places do they come from? Places like taverns, cigar stores?

"Answer: I would say more cigar stores than taverns—very few taverns.

"Question: Do you know where the bets were paid off?

"Answer: The business was called on to the office.

"Question: Did the Lewis place pay their bets off any other place?

"Answer: No.

"Question: They handled them all themselves?

"Answer: Yes, sure."

The Witness: That is all.

Mr. Giuliano: Is that the end of the Marnell statement?

The Witness: Yes, sir.

Mr. Lichtenstein: I now ask your Honor to instruct the jury that any statement made by Mr. Marnell which referred to James Lewis be disregarded by the jury as not being binding upon him in any respect.

The Court: Ladies and gentlemen of the jury, I will now instruct you that any statement made by Mr. Marnell that related to this witness, or any other person, particularly James A. Lewis, and possibly Eugene Lewis, is not binding on Eugene or James Lewis.

Q. Have you your questions and answers, Mr. Price, with respect to the defendant Eugene V. Lewis? A. Yes, sir.

Q. Will you read that, please? A. (Reading)

"Question: What is your name?

"Answer: Eugene V. Lewis.

"Question: Where do you live?

"Answer: 1124 Garden Street, Hoboken, New Jersey.

"Question: How long have you lived there?

"Answer: 22 years.

"Question: Who else lived there in that house?

"Answer: My brother James.

"Question: James A. Lewis?

"Answer: Yes. That is, all the year round. During the summer, my brothers. During the winter they are away.

"Question: What brothers?

"Answer: Walter and Arthur and his wife. His wife is home at present.

"Question: What is your business?

"Answer: Painter.

"Question: What kind of painter?

"Answer: Ship painter, Union Engineering.

"Question: Where are you working?

"Answer: Union Engineering, 221 Hudson Street.

"Question: Hoboken?

"Answer: Hoboken.

"Question: Do you work there every day?

"Answer: Yes, sir.

"Question: How long have you been working there?

"Answer: Since last May.

"Question: Painting every day?

"Answer: Yes, sir.

"Question: You would not fool me about this, would you?

"Answer: No.

"Question: What is Jimmy's business?

"Answer: Jimmy; he is supervisor for the Union Engineering.

"Question: He is a painter, too?

"Answer: No, supervisor.

"Question: What kind of supervisor?

"Answer: Goes around from ship to ship and checks up.

"Question: Does he work there every day?

"Answer: Yes.

"Question: Who runs the wire room at 1124 Garden Avenue?

"Answer: I own the house, I own the wire room.

"Question: That is your business?

"Answer: Yes.

"Question: And you work every day as a painter?

"Answer: Yes.

"Question: What is Jimmy's connection with the wire room?

"Answer: Aside from being a brother and helping out occasionally, that is all.

"Question: How does he help out occasionally?

"Answer: If I go out for a day or two, he will attend to the business, but outside of that he does not.

"Question: He works in the wire room?

"Answer: At times, yes, sir.

"Question: Who else works in the wire room?

"Answer: Frank Marnell.

"Question: How long has he been working there?

"Answer: Oh, I will say the last year and a half.

"Question: How often does he work? Every day?

"Answer: Well, practically every day.

"Question: When does he come in? After school in the afternoon?

"Answer: After school in the afternoon.

"Question: How much do you pay him?

"Answer: Forty dollars a week.

"Question: Who pays him?
"Answer: I do.
"Question: Does Jimmy ever pay him?
"Answer: No, Jimmy never pays.
"Question: Of course, Jimmy knew what was going on?
"Answer: He knew.
"Question: Who handled the money for that place? Who carries the bankroll? In other words, you have to have a bankroll to run a place like that, don't you?
"Answer: Yes, sir.
"Question: Who has the bankroll?
"Answer: Jimmy.
"Question: Jimmy has the bankroll. That means he owned it, doesn't it?
"Answer: No, not necessarily.
"Question: He just puts up the bankroll. Putting up the bankroll means you furnish the money?
"Answer: Yes.
"Question: You furnish the capital?
"Answer: Yes.
"Question: It takes a lot of capital to run a place like that?
"Answer: I don't know, sir.
"Question: You did a big business?
"Answer: I don't know.
"Question: You and your brother?
"Answer: It is my business.
"Question: You know how much it takes to run it?
"Answer: Yes.
"Question: It takes a lot of capital, doesn't it?
"Answer: Yes, sir.
"Question: You did a big business there?
"Answer: Not always.
"Question: You have been doing it lately?

"Answer: I have been doing it lately with the shipyard.

"Question: You have an elaborate layout, telephones and teletype?

"Answer: No, not teletype; just telephone and radio.

"Question: You had an elaborate radio. You took in a lot of bets, didn't you?

"Answer: Yes.

"Question: You know they found a lot of money today, don't you?

"Answer: Yes.

"Question: Do you know how much?

"Answer: Well, a man called it out.

"Question: Around $17,000?

"Answer: Yes.

"Question: That is a lot of dough?

"Answer: Yes.

"Question: Is that Jimmy's money?"

"Answer: Yes.

"Question: That is the bankroll for running the place?

"Answer: That is the bankroll.

"Question: In other words, if you had heavy losses today you would have to pay the losses tomorrow, and you would pay them out of that $17,000?

"Answer: Yes.

"Question: That was the business capital, wasn't it?

"Answer: Yes.

"Question: And that was Jimmy's capital?

"Answer: Yes.

"Question: How have you been going there? Have you been making any money?

"Answer: Well, we have and we have not.

William Robert Price, for the State—Direct.

"Question: How long have you been running a wire room there, Gene?

"Answer: Well, it was let out to other people five years ago, and within the last three years we have been running it.

"Question: You and Jimmy?

"Answer: Yes.

"Question: For the last three years?

"Answer: Yes.

"Question: You fellows are pretty active in politics over there, aren't you?

"Answer: Yes, sir.

"Question: What organization are you a part of?

"Answer: Democratic.

"Question: I know, but whose organization?

"Answer: Democratic.

"Question: Who is the leader?

"Answer: McFeeley.

"Question: You are active in the McFeeley organization?

"Answer: Only as a voter.

"Question: Well, when it comes time for election day, you boys are pretty active politically?

"Answer: Yes, sir.

"Question: For McFeeley?

"Answer: For the Democrats.

"Question: You are pretty good friends of McFeeley?

"Answer: Yes.

"Question: Did you ever have a question over there as to whether or not the police might knock this place off?

"Answer: We have been knocked off many times.

"Question: You have?

"Answer: Yes.

"Question: When were you knocked off last, Gene?

"Answer: I have been knocked off on 14th Street three years ago.

"Question: Who did that?

"Answer: McFeeley. Chief McFeeley.

"Question: What happened to you?

"Answer: We were fined. Everybody was fined, and the case dismissed.

"Question: How much were you fined?

"Answer: I think it was $50 a principal, I think.

"Question: $50. You are not looking for anything like that this time, are you?

"Answer: I am in your hands.

"Question: You are not helping yourself, either, brother. You were knocked off three years ago. Did you ever have an idea you might be knocked off in this place?

"Answer: Well, that is my home and I did not think so.

"Question: You have a pretty elaborate place there. You had these switchboards and telephones. You had a pretty big business.

"Answer: I said, in between, yes and no.

"Question: You did not think you would be knocked off there?

"Answer: No, it was just——

"Question (interposing): Do you think the police knew you were operating there?

"Answer: I could not say.

"Question: Did you ever talk to anybody in the police department about it?

"Answer: No.

"Question: Did you ever talk to anybody in public office about it?

"Answer: No, sir.

"Question: Did you ever talk to any of the police about your operating there?

"Answer: No.

"Question: Do you think it was generally known around town that you were operating there?

"Answer: I imagine so.

"Question: It would not surprise you any, would it, if I told you dozens of people wrote me about the fact that you were operating there?

"Answer: It would not.

"Question: It would not surprise you?

"Answer: No.

"Question: It was kind of general knowledge?

"Answer: Yes.

"Question: Do you know the Elysian Cafe?

"Answer: Yes.

"Question (continuing): At Washington and 10th?

"Answer: Yes, sir.

"Question: You boys have got some connection with that?

"Answer: We originally owned it and sold it to Robert Highland.

"Question: Jimmy used to own it?

"Answer: Yes.

"Question: Jimmy used to own it and sold it to Robert Highland, and Highland runs it now, does he?

"Answer: Yes.

"Question: You get a lot of bets phoned from there?

"Answer: No.

"Question: No?

"Answer: No.

"Question: When you are talking to anyone else about the Elysian Cafe, you always refer to it as 10th Street?

"Answer: Yes.

"Question: You say, 'He has gone down to 10th Street?'

"Answer: Yes.

"Question: O'Leary has the betting concession at the Elysian, hasn't he?

"Answer: No, sir.

"Question: Who has it?

"Answer: Whoever calls in just say '10th Street.'

"Question: Either O'Leary or Mrs. O'Leary do most of the calling?

"Answer: No.

"Question: They do a lot?

"Answer: They do a lot. It might have been their personal business. I don't know.

"Question: But they have some betting concession at the Elysian?

"Answer: No.

"Question: They call in bets from there?

"Answer: I am telling you they call from 10th Street.

"Question: They spend their time at 10th Street, don't they?

"Answer: I imagine so.

"Question: By '10th Street' I mean the Elysian Cafe?

"Answer: Yes, I imagine so.

"Question: And they take bets there?

"Answer: I am telling you they might be their own, because I never go to 10th Street.

"Question: Does it strike you at all peculiar—you say it does not surprise you a bit when I tell you that a dozen wrote me letters that you fellows were doing business at 1124 Garden Street?

"Answer: Yes.

"Question: And you say you assume it was public knowledge. Did it ever strike you as strange that the police did not know about this?

"Answer: No, sir.

"Question: You knew it was an illegal business?

"Answer: I knew it, yes, sir.

"Question: And you assumed that the police of Hoboken know it is illegal to run a wire room?

"Answer: I imagine.

"Question: You imagine they know that?

"Answer: Yes.

"Question: But it does not strike you as being a peculiar thing they did not do anything about knocking it off?

"Answer: It was my home.

"Question: It was your home?

"Answer: It was my castle.

"Question: It was also your wire room, wasn't it?

"Answer: Yes.

"Question: They invented that 'castle' before they had wire rooms, Gene?

"Answer: I don't doubt that.

"Question: You got that 'castle' from Blackstone, but he did not have wire rooms.

"Answer: No. I got it from my father. He always said his home was his castle, no matter how poor it is or how good it is.

"Question: You figured, because it was your home, you could do anything you wanted?

"Answer: That is true.

"Question: And you figured that is the reason why the police did not come up?

"Answer: Yes.

"Question: Just because it was your home?

"Answer: Yes.

"Question: Therefore, you figured that gave you protection?

"Answer: Yes.

"Question: That is the only way in which you got protection?

"Answer: That is my home.

"Question: You did not get any protection through any political influence you had?

"Answer: No, sir.

"Question: You never paid anybody?

"Answer: No, sir.

"Question: You never make any contributions?

"Answer: No, sir.

"Question: To any campaigns?

"Answer: No.

"Question : Or any affairs that were going on? It is a matter of common knowledge, also, isn't it, Gene, that you cannot take bets on horses or run numbers, or do anything in Hoboken unless Jimmy put his O. K. on it?

"Answer: No, sir.

"Question: That is not a matter of knowledge?

"Answer: No, sir.

"Question: Who does have to put the O. K. on it? You?

"Answer: No, sir.

"Question: By the way, where is Jimmy today?

"Answer: Jimmy? He was in the house at three o'clock.

"Question: At three o'clock?

"Answer: Yes.

"Question: You mean he was just missed?

"Answer: Just missed.

"Question: Do you know something?

"Answer: What is that?

"Question: I had this set for three o'clock and moved it up to 3:30.

"Answer: That was your misfortune, I guess.

"Question: It is no misfortune, because Jimmy will be in all right.

"Answer: That is all right.

"Question: He will be in.

"Answer: He will be in, but he won't be inconvenienced like me.

"Question: I just missed it by three o'clock?

"Answer: Yes.

"Question: If you had gone out to go to the barber's at three o'clock——

"Answer: I would have missed.

"Question: You would have missed?

"Answer: So I would have been brought up at some future date.

"Question: What difference does it make, after all?

"Answer: That is right. Jimmy has been out a day or two, though. He was away Monday and Tuesday.

"Question: But he was around today?

"Answer: Yes.

"Question: He was in the house until three o'clock.

"Answer: Yes, sir.

"Question: Do you know where he might happen to be right now?

"Answer: Well, when he left me he was going to New York, and I haven't been in contact with him since.

"Question: Do you think he has heard?

"Answer: No, I don't think so. Heard?

"Question: Heard.

"Answer: I don't imagine so.

"Question: Do you think he has heard about it?

"Answer: I don't think so.

"Question: Your brothers besides Jimmy are John?

"Answer: John.

"Question: And what?

"Answer: Arthur.

"Question: Arthur?

"Answer: Ray, Walter.

"Question: Ray, Walter. How many are you?

"Answer: I was number eight, and one died; my brother Edmund, the oldest.

"Question: Seven of you are living?

"Answer: Yes.

"Question: You and Jimmy live here?

"Answer: Yes, sir.

"Question: John does not live here?

"Answer: No.

"Question: Where does he live?

"Answer: 1143 Garden Street.

"Question: Are you married?

"Answer: No, sir.

"Question: Jimmy is not married?

"Answer: No, sir.

"Question: You are two bachelors?

"Answer: We are two bachelors.

"Question: You live together, and the rest have their own homes?

"Answer: The rest have their own homes.

"Question: They all live in Hoboken?

"Answer: No. Edward lives at Weehawken.

"Question: The rest of you live in Hoboken?

"Answer: Yes.

"Question: Is there any more you want to say or tell me?

"Answer: Not that I know of.

"Question: By the way, who else did they arrest? They took you and Marnell?

"Answer: Halpin.

"Question: Who?

"Answer: Vincent Halpin, Walter Mullins and my brother Walter happened to be there.

"Question: Your brother Walter?

"Answer: Yes.

"Question: Were they all working today?

"Answer: Yes.

"Question: It was more than that?

"Answer: No, there was only six.

"Question: That is five and you. You were all working there on the wires today?

"Answer: Yes, sir.

"Question: Why didn't you get out? Did they come in too fast?

"Answer: Oh, my God, I got stuck up once. I thought it was another one.

"Question: What did they do? Crash?

"Answer: Did they? And they wrecked the house, too.

"Question: They did? Sue them.

"Answer: Sue them? You never can sue the State."

Mr. Giuliano: That is all as to Eugene.

Mr. Lichtenstein: May I make the same request that all the statements made by this witness which in any way referred to the defendant James Lewis be disregarded?

The Court: All right. Ladies and gentlemen of the jury what I said before, any statement made by this witness, any statement which has just been read, which involves any other person besides the person who is alleged to have made the statement is not binding on Mr. Lichtenstein's client or any other person; it is only binding on the person who made the statement.

By Mr. Giuliano:

Q. Have you the answers to the questions with respect to the defendant Walter Laurence Mullins? A. Yes, sir.

Q. Will you read that, please, Mr. Price. A. (Reading) "Question: What is your name?

"Answer: Walter Laurence Mullins.

"Question: Where do you live?

"Answer: 929 Willow Avenue, Hoboken.

"Question: How long have you lived there?

"Answer: Well, I have lived there about six years. 931, next door, 10 years.

"Question: What is your business?

"Answer: I work for the O'Leary Engineering, packing cases and so forth.

"Question: The O'Leary Engineering Company?

"Answer: Yes.

"Question: Where is it located?

"Answer: Newark and Washington, Hoboken.

"Question: How long have you been working for them?

"Answer: About five years.

"Question: Do you work there every day?

"Answer: Yes, sir.

"Question: What are your hours? What hours do you work?

"Answer: Eight to six.

"Question: Eight to six. You got through a little early today, then?

"Answer: I took the day off.

"Question: Oh, you took the day off. What were you working at today?

"Answer: I was not working today. I had intention to go down to the track, and changed my mind.

"Question: You were arrested at 1124 Garden Street, weren't you?

"Answer: Yes.
"Question: What were you doing there?
"Answer: I just stopped in to see them.
"Question: See who?
"Answer: To see the boys, Lewis, there, Jack.
"Question: Did you see them?
"Question: What Lewis did you see?
"Answer: Eugene.
"Question: Did you see Jimmy?
"Answer: No, sir.
"Question: What time did you get there?
"Answer: About one o'clock, half past one.
"Question: Jimmy was there, wasn't he?
"Answer: I did not see him.
"Question: Gene says he was there.
"Answer: I don't know. He might have been some place about the house.
"Question: Gene says he was there, up in the wire room.
"Answer: I did not see him.
"Question: And Gene says he left at three o'clock.
"Answer: I did not see him there.
"Question: You were working there on the phone, weren't you?
"Answer: I was sitting there, yes, sir, for a chance to go down to the track.
"Question: You were taking bets over the phone.
"Answer: I did not take bets over the phone.
"Question: You were taking messages over the phone?
"Answer: I did not take messages over the phone.
"Question: You were working there?
"Answer: No, sir.
"Question: Gene says you were working.

"Answer: I was not working.

"Question: Gene knows, doesn't he?

"Answer: He knows I was not working there.

"Question: That is a private house, isn't it?

"Answer: Yes, sir.

"Question: And this wire room is on the top floor?

"Answer: Yes.

"Question: They have got a pretty big layout there, haven't they?

"Answer: Yes.

"Question: A lot of telephones and radios?

"Answer: Not a lot of them.

"Question: They have several of them, haven't they?

"Answer: About three or four.

"Question: Radios and all that sort of stuff?

"Answer: Radio. A radio right in the house.

"Question: They have a big switchboard of some kind?

"Answer: No, sir.

"Question: They have a big board with a key board?

"Answer: That was for the three or four phones.

"Question: The public generally does not come in there and make bets, do they?

"Answer: No.

"Question: The Lewis boys keep that house pretty well closed up, don't they?

"Answer: So far as I know.

"Question: They do not let everybody come in there, do they?

"Answer: No, sir.

"Question: And the people in there work there, don't they?

"Answer: I don't know that.

"Question: You were working in there?

"Answer: I was not working there.

"Question: You were working there today?

"Answer: No, sir.

"Question: Gene is lying when he says you were working?

"Answer: I cannot help that.

"Question: And you say Gene is lying?

"Answer: I did not say he was lying.

"Question: Either he is or he is not. He says you were working.

"Answer: I cannot help that.

"Question: You say it is not true?

"Answer: It is not true.

"Question: Who owns the place? Who owns the wire room? Who owns the business?

"Answer: I do not know who owns it.

"Question: You do not know who owns it?

"Answer: I know he owns the house.

"Question: You know Gene owns the house?

"Answer: I know Gene owns the house, yes, sir.

"Question: You do not know that Jimmy owns the business?

"Answer: I do not know their private affairs.

"Question: You do not know their private affairs?

"Answer: No, I do not know who owns the business, who has the business, or anything else, sir.

"Question: You say you cancelled going down to the track. What are you, a horse man?

"Answer: No. I take a day off and like to go down to the track. I don't think there is any harm in that. I go to ball games or go to a fight.

"Question: In fairness to you, before you go, I want to give you a chance to get this thing straight if you can. You say today, now, you work for the O'Leary Engineering Company?

"Answer: Yes.

"Question: That is your regular business?

"Answer: Yes.

"Question: You work there every day?

"Answer: Yes.

"Question: You worked there yesterday?

"Answer: Yes.

"Question: And you worked there all this week except today?

"Answer: I took today off.

"Question: This is the only day this week you have taken off?

"Answer: Yes.

"Question: Every other day you worked?

"Answer: I take off when I feel like it, if I want to go some place.

"Question: I am talking about this week.

"Answer: Yes.

"Question: Have you worked there every day this week except today?

"Answer: Yes.

"Question: At the O'Leary Engineering Company?

"Answer: Yes.

"Question: You stand on that?

"Answer: Yes.

"Question: How long have you known the Lewis boys?

"Answer: I have known them all my life. I was born and raised in Hoboken.

"Question: You knew for years they had this wire room, didn't you?

"Answer: I did not know nothing about it.

"Question: You did not know nothing about it. Suppose you just discovered that today?

"Answer: No, I didn't just discover that today.

"Question: What?

"Answer: I didn't just discover that today. I only found out what happened today, that is all.

"Question: Today it was raided.

"Answer: I never hung around and associated with them. I have known them for a long time. I have met them at different affairs at different places.

"Question: I know, but for a long time you have known that the Lewis boys had a wire room at 1124 Garden Street?

"Answer: No, I did not know it.

"Question: When did you first find out they had a wire room there?

"Answer: I did not know what business they were doing.

"Question: When did you first find out they had a wire room?

"Answer: Maybe, I would say, five, six, seven months ago.

"Question: How did you find it out?

"Answer: Probably you hear through information on the street.

"Question: It was talked around about, wasn't it?

"Answer: Probably that was it.

"Question: Everybody knew it on the street, didn't they?

"Answer: Yes.

"Question: Did you ever wonder why it was the police did not raid the Lewis place?

"Answer: No. It did not interest me.

"Question: You knew it was an illegal business, didn't you?

"Answer: That I don't think has anything to do with me. I do not figure I should go into other people's affairs, or anything like that.

"Question: I am not asking you about that. You knew it was an illegal business, didn't you?

"Answer: I read in the papers about so many people going down to the tracks and going here and there.

"Question: Do you think I am going to spend all night here fencing with you?

"Answer: No, sir.

"Question: You are an intelligent man. You knew that running a wire room was an illegal business?

"Answer: Yes. So far as you look at it that way, yes.

"Question: Didn't it ever strike you as strange that the police of Hoboken did not close up the Lewis place when everybody knew it was going on?

"Answer: I never knew nothing about that.

"Question: You never knew nothing about that. You never gave any thought to that?

"Answer: I never gave any thought to that.

"Question: When you were working, did you ever realize that you had protection?

"Answer: I was not working there. I never worked for Lewis. I never done nothing around there.

"Question: You never worked there?

"Answer: No, sir."

Mr. Lichtenstein: May I have the same objection?

The Court: The same admonition, ladies and gentlemen of the jury will go to this statement as went to the other statements. It is binding on the person only who purports to have made the statement, and not any other person that is referred to in the statement.

William Robert Price, for the State—Direct.

By Mr. Giuliano:

Q. Mr. Price, have you the questions and answers made by the defendant Vincent Halpin? A. Yes, sir.

Q. Will you read that, please? A. (Reading)

"Question: And what is your name?

"Answer: Vincent Halpin.

"Question: Where do you live?

"Answer: 1106 Park Avenue, Hoboken, New Jersey.

"Question: How long have you lived there?

"Answer: Oh, about seven years.

"Question: What is your business?

"Answer: Business? I was working for Gene.

"Question: Gene who?

"Answer: Gene Lewis.

"Question: At 1124 Garden Street?

"Answer: Yes.

"Question: What were you doing there?

"Answer: Clerk.

"Question: What did you do as clerk?

"Answer: Wrote the sheets.

"Question: You wrote the betting sheets for racing bets?

"Answer: Yes.

"Question: That was a wire room there, wasn't it?

"Answer: Yes, sir.

"Question: Run by Gene and Jimmy Lewis?

"Answer: Jimmy worked one day a week. That was Wednesday.

"Question: Was Jimmy there today?

"Answer: No, sir.

"Question: Gene says he was there today.

"Answer: I did not see him.

"Question: Gene said he left three o'clock today.

"Answer: I did not see him.

"Question: What time did you go to the wire room?

"Answer: I was there at twelve thirty.

"Question: How long have you been working?

"Answer: Seven months.

"Question: Working every day?

"Answer: Yes, sir.

"Question: How much do you get?

"Answer: Forty dollars.

"Question: Forty dollars a week?

"Answer: Yes, sir.

"Question: Who worked around there besides you?

"Answer: Mr. Marnell, Walter Mullins.

"Question: Marnell used to come there after three o'clock, after school?

"Answer: Yes.

"Question: What time did Mullins come?

"Answer: Mullins came at the same time as I did.

"Question: Mullins came at the same time you did. Around noontime?

"Answer: Yes, sir.

"Question: Walter Morano?

"Answer: Frankie came at the same time.

"Question: Frankie Morano?

"Answer: Yes.

"Question: Were you all there today?

"Answer: Yes.

"Question: You were all arrested today?

"Answer: Yes.

"Question: That is a regular wire room where you take bets over the phone, is that right?

"Answer: Yes.

"Question: You had several telephones there?
"Answer: Yes, sir.
"Question: You had a radio?
"Answer: Yes.
"Question: You had racing sheets?
"Answer: Racing charts.
"Question: Racing charts, and everything that goes with it?
"Answer: Yes.
"Question: You had a big business there, didn't you?
"Answer: Well, pretty big—I never——
"Question (interposing): Did you ever work in this racket any other place?
"Answer: No.
"Question: Were you ever arrested?
"Answer: No, sir. For gambling?
"Question: For anything?
"Answer: A year ago last week, on Pier 4, Hoboken.
"Question: For what?
"Answer: Some razor blades and brushes.
"Question: Stealing them?
"Answer: Yes, sir.
"Question: What happened to you?
"Answer: A year, suspended sentence, before Judge Botti.
"Question: Have you ever been arrested for anything else?
"Answer: No, sir.
"Question: You know all of the Lewis family?
"Answer: Yes, sir.
"Question: You know Gene and you know Jimmy?
"Answer: Yes, sir.
"Question: You know they both live there in that house?
"Answer: Yes.

"Question: You know Jimmy lives there, too, don't you?

"Answer: Yes, sir.

"Question: Who puts up the bankroll for this business, do you know?

"Answer: Gene puts it up.

"Question: Who is the guy that put up the dough, do you know, the bankroll?

"Answer: Gene, so far as I know.

"Question: You know they found a lot of dough there today, don't you?

"Answer: According to Mr. Giuliano, yes.

"Question: $17,000 or $18,000?

"Answer: That is what I heard.

"Question: Do you know whose money that was?

"Answer: They found it direct.

"Question: Do you know whose money it was?

"Answer: No, sir.

"Question: You don't know whose money it was?

"Answer: I heard them say something like seventeen or eighteen thousaid dollars.

"Question: You say you have been working how long?

"Answer: Six or seven months.

"Question: Of course, you hang out in different places in Hoboken?

"Answer: Yes, sir.

"Question: Do you hang out on 10th Street?

"Answer: Yes.

"Question: That means the Elysian Cafe?

"Answer: Yes.

"Question: Bob Hylan runs that?

"Answer: Bob Hylan.

"Question: Bob Hylan runs it. Do you know Dan O'Leary?

"Answer: Yes.

"Question: And Mrs. O'Leary?

"Answer: Yes.

"Question: They work there?

"Answer: Not as I know.

"Question: They are in there a lot, aren't they?

"Answer: They might be there in the daytime.

"Question: They telephone bets from there, don't they?

"Answer: Maybe their own personal bets.

"Question: What is Mr. O'Leary's business?

"Answer: He runs an engineering business.

"Question: Is that the O'Leary Engineering Company?

"Answer: Yes.

"Question: Where is he located in business, do you know?

"Answer: He has a place on Hudson Street.

"Question: You never heard anything about him having the betting concession at the Elysian, did you?

"Answer: No, sir.

"Question: Tell me, it was generally known around Hoboken that the Lewis Brothers had a wire room at 1124. Everybody knew that. It was no secret?

"Answer: That as I know of.

"Question: So far as you know, it was general knowledge?

"Answer: Yes.

"Question: You were working there. Did you ever have an idea that the police might knock you off? You never thought they would do that, did you?

"Answer: I did not know. You never can tell.

"Question: You never worried much about it, did you?

"Answer: I always worried.

"Question: You did worry?

"Answer: Yes:

"Question: You mean, every day you went there to work you worried?

"Answer: Not every day.

"Question: The fact is that you felt sure you were never going to be knocked off, didn't you?

"Answer: No.

"Question: You felt pretty sure?

"Answer: I would not say secure.

"Question: Look here, you were not making a lot of dough.

"Answer: $40.

"Question: $40 ain't big dough?

"Answer: No.

"Question: For a fellow that works hard. You have got brains. You were not making book every day knowing you were taking a chance if it was knocked off?

"Answer: Yes.

"Question: You know it was an illegal business?

"Answer: Yes.

"Question: You knew if it was knocked off you stood a good chance of going away, didn't you?

"Answer: Yes.

"Question: You would not have taken a job at forty dollars a week that carried that risk with it, would you?

"Mr. Van Riper: He shakes his head 'no'.

"Question: Which means you felt pretty sure that you were not going to get knocked off?

"Answer: I would not say sure.

"Question: You felt pretty sure. You felt it was pretty safe?

"Answer: Yes.

"Question: Why did you feel that it was pretty safe, that you were not going to be knocked off?

"Answer: I did not feel it was going to be pretty safe.

"Question: You did not feel it was dangerous, did you?

"Answer: Yes.

"Question: Let us be honest.

"Answer: It proved today that it was dangerous.

"Question: You would not go back there tomorrow, would you?

"Answer: No, sir.

"Question: But yesterday you were not worrying, were you?

"Answer: Was not worrying?

"Question: Yes.

"Answer: I always worry.

"Question: Did it ever strike you as strange that the police did not knock off this place that everybody knew was an illegal place?

"Answer: What do you mean, "everybody knew it?"

"Question: You said a few minutes ago that it was general knowledge.

"Answer: Around those that bet.

"Question: Around those that bet, horse people, everybody that goes to 10th Street, Hoboken, knows that the Lewis brothers have a wire room?

"Answer: So far as 10th Street.

"Question: It was not any great secret, was it?

"Answer: Not so far as 10th Street, no.

"Question: It was not as much a secret as the date of the invasion the other day, was it?

"Answer: Would not say that.

"Question: Doesn't it strike you that if the police tried hard to find out, they could find out what was going on there?

"Answer: I could not say.

"Question: You could not say. Did it ever strike you as being strange that the police did not do anything about it?

"Answer: No, sir.

"Question: That never amounted much to you. Did you ever have any idea why it was that the police let the Lewis place alone?

"Answer: No.

"Question: It never occurred to you that the reason was that they are active in politics in Hoboken?

"Answer: Active in politics?

"Question: Yes.

"Answer: Yes, sir. I am on the election board.

"Question: Whereabouts?

"Answer: 11th and Willow.

"Question: 11th and Willow. What district?

"Answer: Twelfth.

"Question: You are a member of the district board of elections?

"Answer: Yes.

"Question: Whose organization do you belong to?

"Answer: Political club?

"Question: Yes.

"Answer: No.

"Question: You do not belong to any political club?

"Answer: No.

"Question: You haven't any political leader?
"Answer: No, sir.
"Question: Who got you the job with Lewis?
"Answer: Gene asked me to go to work.
"Question: Gene Lewis?
"Answer: Yes.
"Question: Is Gene working all the time?
"Answer: Every day but Wednesday.
"Question: He takes Wednesday off.
"Answer: That is right.
"Question: What day does Jimmy work?
"Answer: Jimmy works Wednesday.
"Question: Jimmy works Wednesday, and Gene takes Wednesday off?
"Answer: That is right.
"Question: Sundays you are not open?
"Answer: No, sir.
"Question: So Gene works five days a week?
"Answer: Yes.
"Question: Ever since you have been there?
"Answer: Yes.
"Question: He has been working five days a week?
"Answer: That is right.
"Question: No doubt about that?
"Answer: That is right.
"Question: He takes every Wednesday off?
"Answer: He takes every Wednesday off.
"Question: But he is there every other day?
"Answer: Yes, five days.
"Question: Except Wednesday and Sunday, because on Sunday it was closed up?
"Answer: Yes.
"Question: You never saw any Hoboken police in there?
"Answer: No, sir.

"Question: You never had them come there to the place?

"Answer: No, sir.

"Question: Is there anything else you want to tell me about it?

"Answer: No, I am only there a short time.

"Question: Who have I had down there? I have Gene. I have had Marnell and Mullins and you. And who else was knocked off there?

"Answer: Frankie Morano.

"Question: And who else?

"Answer: Walter Lewis.

"Question: Is he down there?

"Answer: He is upstairs. He does not work there.

"Question: But he was there?

"Answer: Yes."

Mr. Lichtenstein: May I ask that I be allowed the same exception and objection?

The Court: The same admonition will be made to you ladies and gentlemen concerning this statement as was made concerning the other ones.

The statement is only binding on the person who purports to have given the statement and not on any of the other defendants.

Mr. Pearse: If the Court please, may I have particular attention called to what Halpin said concerning Mullins?

Mr. Giuliano: I think that goes as to all the defendants.

The Court: It is not binding on any other person except the person who made the statement, and that particular person was Halpin.

Mr. Pearse: May I call your Honor's attention to the fact that it is a quarter after four?

(The Court thereupon declared a recess until ten A. M. November 2, 1944, the officers being sworn and the jury leaving the court room in the custody of the officers.)

NOVEMBER 2, 1944.

(Trial continued pursuant to adjournment.)

(Appearances, the same.)

(The jury was polled by the clerk in the presence of the defendants and their counsel.)

WILLIAM ROBERT PRICE, recalled.

Direct examination (continued) by Mr. Giuliano:

Q. I believe, Mr. Price, you had finished with the questions and answers given by the defendant Vincent Halpin? A. I believe that is so.

Q. Now, will you please read to us the questions made to Frank Morano, and the answers made to these questions; that is, the defendant Frank Morano? A. (Reading) "Question: What is your name?

"Answer: Frank Morano.

"Question: Where do you live?

"Answer: 319—39th Street.

"Question: Hoboken?

"Answer: Union City.

"Question: Union City. How long have you lived there?

"Answer: About 30 years.

"Question: 30 years. What is your business?

"Answer: Teaching violin.

"Question: Whereabouts?

"Answer: At 39th Street. I had a studio in New York until things got bad.

"Question: Did you teach Jimmy Lewis to play the violin?

"Answer: No.

"Question: What does he play, by the way? Does he play the violin or the flute?

"Answer: I don't know.

"Question: You were arrested this afternoon at 1124 Garden Street, Hoboken?

"Answer: Yes.

"Question: Working on a wire sheet?

"Answer: I was sitting there.

"Question: You were sitting there with a head phone, taking bets on the phone?

"Answer: That is right.

"Question: How long have you been working there?

"Answer: About three or four years, about four years.

"Question: How much do you get there?

"Answer: I get $35.

"Question: A week?

"Answer: Yes, lots of time I do not put full time in there.

"Question: You say you have been working there how long?

"Answer: Three or four years.

"Question: You are getting $35 a week?

"Answer: Yes.

"Question: They do not pay you much.

"Answer: I do not put in time.

"Question: What do you mean? You come in at noon?

"Answer: Sometimes later. And sometimes I leave early if I have some lessons.

"Question: But you are there every day?

"Answer: Most every day.

"Question: Who else works with you? Marnell works every day?

"Answer: Yes.

"Question: He came in at three o'clock?

"Answer: Yes.

"Question: And Gene worked there every day?

"Answer: Yes.

"Question: And Mullins worked there every day?

"Answer: Mullins.

"Question: Mullins, he worked there every day?

"Answer: Yes.

"Question: Who is the other fellow? Halpin?

"Answer: Halpin, yes.

"Question: He was there every day?

"Answer: Yes.

"Question: Jimmy did not do much work?

"Answer: I never seen him around. He did not do any work.

"Question: You never seen who?

"Answer: I do not mean it that way. I say, I did not see him around the office much.

"Question: He was there every day?

"Answer: He lived there.

"Question: He was there every day, wasn't he?

"Answer: I suppose so.

"Question: And you saw him there today?

"Answer: Yes, sure, he was there. Sometimes I would not see him.

"Question: You saw him today?

"Answer: Monday, I did not see him at all. Or, Tuesday, I did not see him at all. I saw him Wednesday and today, that is right.

"Question: You saw him there today?

"Answer: Yes.

"Question: What time did he leave there to day?

"Answer: I don't recall now. It might have been half-past one or two o'clock. Something like that. I could not tell you.

"Question: Maybe three. That is what Gene says. Gene says he just left at three o'clock.

"Answer: It might have been that time.

"Question: Jimmy was boss, wasn't he?

"Answer: I suppose so, he is boss.

"Question: You suppose so. You know he is boss?

"Answer: I was working under Gene.

"Question: Jimmy came around and gave orders?

"Answer: I suppose so.

"Question: Now, don't tell us you suppose so. You know so, don't you?

"Answer: Right.

"Question: You know he gave orders?

"Answer: Yes.

"Question: Jimmy gave you orders, didn't he? He gave everybody orders?

"Answer: Yes.

"Question: He came in and said, 'do this and do that?' When there was anything to be done in the way of policy Jimmy made it?

"Answer: Yes.

"Question: And he says, 'We are going to do this or that today'. He would say, 'You do this and you do that. Lay off on these bets.'

"Answer: I don't know about 'lay off'.

"Question: Things like that. Jimmy would tell you what the policy was?

"Answer: Yes.

"Question: You know what I mean by policy of the house; odds, and all that. Jimmy took care of that?

"Answer: Doubtless.

"Question: He was the man who knew that. Jimmy was the guy that furnished the bankroll?

"Answer: I suppose so.

"Question: You knew Jimmy was the boy with the money, didn't you?

"Answer: Gene was doing all the paying.

"Question: Did Jimmy pay you off?

"Answer: No, Gene paid me.

"Question: Gene paid you off $35 a week, you mean, and when it came to the real dough, Jimmy held the real dough?

"Answer: I suppose.

"Question: You know they found a lot of dough there today?

"Answer: Yes.

"Question: You know it was Jimmy's dough?

"Answer: Yes.

"Question: You say you have been working three years?

"Answer: Three or four years; something like that.

"Question: Did you ever have fear that the place was going to be raided and you were going to be knocked off?

"Answer: I was going off as soon as I could get work, but I had suffered with neuritis in the arm.

"Question: Did you ever have fear that place was going to be raided?

"Answer: I did.

"Question: You knew everybody knew that was a wire room in there, didn't you?

"Answer: Surely.

"Question: It was no secret, was it?

"Answer: No.

"Question: Everybody in Hoboken almost knew that?

"Answer: Yes.

"Question: Even in Union City?

"Answer: Yes.

"Question: They knew that Lewis had a wire room, didn't they?

"Answer: Yes.

"Question: Did you ever think the police would find it out?

"Answer: I don't know. Sometimes I would not give it a thought.

"Question: Did you think that the police knew it?

"Answer: I don't know. Maybe they did. Maybe they did not. That I could not tell you.

"Question: Did you ever think it was funny that the police did not knock it off?

"Answer: Well, I don't know.

"Question: You don't know. How did you come to get the job there with Jimmy and Gene?

"Answer: I used to bet horses before.

"Question: Whereabouts? Different places?

"Answer: Yes.

"Question: How did you come to get the job there?

"Answer: I was broke.

"Question: All right, but who introduced you to Gene and Jimmy and got you the job?

"Answer: I used to place bets before over the phone.

"Question: You placed bets there with other people by phone, didn't you?

"Answer: No.

"Question: How did you come to get the job? You did not walk in and sit down one day.

"Answer: No. I saw how it was. I got a little experience. Then my family—

"Question: I know, but, look; did you say to somebody, 'Will you give me a job?' or did somebody say to you, 'Do you want to go to work?' or what happened?

"Answer: They knew I was broke.

"Question: Who knew you were broke?

"Answer: Well, Lewis, because I could not bet no more.

"Question: Jimmy knew you were broke?

"Answer: Yes.

"Question: And did Jimmy offer you a job?

"Answer: He said, if I want to go to work.

"Question: Jimmy Lewis said to you, 'If you want to work, I will give you a job?'

"Answer: Yes.

"Question: You said to him, 'How much?'

"Answer: I did not discuss that.

"Question: Did you say, 'What kind of a job?'

"Answer: I knew what it would be.

"Question: You knew it would be what?

"Answer: Just taking in the business.

"Question: Taking bets over the phone?

"Answer: Yes.

"Question: You said, 'All right, I will take the job?'

"Answer: Yes.

"Question: He said, 'Come on, go to work Monday morning', something like that?

"Answer: Yes.

"Question: You came in there?

"Answer: Yes.

"Question: And went to work?

"Answer: Yes.

"Question: You have been working there ever since?

"Answer: Yes."

By Mr. Giuliano:

Q. Now, Mr. Price, will you read the questions and answers made by Walter Ambrose Lewis? These are, of course, the answers made by the defendant Walter Ambrose Lewis to the questions put by the Attorney General.

Mr. Lichtenstein: May I at this time, before proceeding with the statement of the next witness, ask your Honor to instruct the jury as your Honor did heretofore.

The Court: Yes. Ladies and gentlemen of the jury, the admonition I gave you yesterday concerning this statement, goes for the statement that has just been read, and that is to say, that this statement is binding only on the defendant Frank Morano, who is the person who purports to have made the statement, and is not binding on any of the other defendants.

Q. Will you continue your reading, Mr. Price.

A. (Reading)

"Question: What is your name?

"Answer: Walter Ambrose Lewis.

"Question: Ambrose?

"Answer: Yes.

"Question: You always use the 'Ambrose'?

"Answer: No, never use the Ambrose. Walter A.

"Question: Where do you live, Walter?

"Answer: I live at 1023 Willow Avenue.

"Question: Hoboken?

"Answer: Yes, sir.

"Question: You are married?

"Answer: I am married, and my wife happens to be away. I live with my brother while they are away.

"Question: You are one of seven brothers?

"Answer: I am the seventh son.

"Question: The seventh son of the seventh son?

"Answer: That is right.

"Question: Jimmy and Gene are your two unmarried brothers?

"Answer: That is right.

"Question: And they live at 1124 Garden Street?

"Answer: Yes.

"Question: All the rest of you have homes of your own?

"Answer: Yes. In the absence of my family——

"Question: In their absence you live with Gene and Jimmy?

"Answer: That is right.

"Question: Gene and Jimmy run a wire room at 1124 Garden Street?

"Answer: Whatever business you call it.

"Question: They run the business of taking bets over the telephone on horses?

"Answer: That is right.

"Question: Isn't that right?

"Answer: I imagine so.

"Question: And they have been in that for some time?

"Answer: How long they have been in that, I could not tell you.

"Question: You were arrested there today?

"Answer: I happened to be there.

"Question: I see. But you were arrested there today?

"Answer: If you want my idea, I was in my room at the time your state troopers came in the house. You see, I sleep there, as I say, and I am on the top floor just where they happened to be operating. And I was in my room at the time.

"Question: And your room is on the top floor?

"Answer: That is right.

"Question: And it is on the top floor where the wire room is.

"Answer: Yes.

"Question: And of course you knew about this wire room?

"Answer: Naturally, I knew about that.

"Question: You could not be in your room and not know?

"Answer: That is right.

"Question: When you were arrested, were you in your room?

"Answer: That is right.

"Question: You were not working a telephone today, or making out sheets?

"Answer: To be truthful with you, I come in there ten minutes after three. I am an attendant at the school.

"Question: At the school?

"Answer: Yes.

"Question: And you just got in in time?

"Answer: That is right. I just got in in time, is right. I was in the front—I was in the back room. I was in the back.

"Question: What do you mean? The back room? The wire room?

"Answer: Yes. I was in the back and my brother asked me to answer the phone.

"Question: You got in about the same time as Marnell? He was in the schools.

"Answer: You see, Marnell is a physical trainer. Whenever his period is up, I don't know.

"Question: He gets through at three o'clock and comes in right after that?

"Answer: Yes.

"Question: You get through at three o'clock?

"Answer: Yes.

"Question: And you go there at the same time?

"Answer: That is, when my folks are not home.

"Question: When your folks are not home. And if you can give them a little help around the back room, you will do it?

"Answer: Yes, once in a while, like today, I gave them a hand and answered a few phones.

"Question: And make a few bets?

"Answer: Yes.

"Question: Gene and Jimmy have been running the place there quite a while, haven't they?

"Answer: Yes, they have been.

"Question: You live in Hoboken and you get around a lot, and meet people, don't you, in Hoboken?

"Answer: I sure do.

"Question: You know it is common knowledge in Hoboken that Jimmy and Gene run a wire room?

"Answer: I guess it would be.

"Question: It is, isn't it? You and I don't have to kid each other.

"Answer: That is true.

"Question: And people around town, so-called people about town, they know that Jimmy and Gene have a wire room up on Garden Street?

"Answer: Yes.

"Question: Did it ever strike you as being probable that the police might go in there and raid the place?

"Answer: Me? It would not make any particular difference.

"Question: It would not make any difference to you because you would not be there?

"Answer: I would not be there.

"Question: But you were there today?

"Answer: I told you.

"Question: That was your hard luck?

"Answer: It was my hard luck, owing to the fact that where I live they are renovating. Ordinarily, under different circumstances, if the boy was home my wife would not be away yet until school closed, but he happens to be overseas.

"Question: Let us get down to this thing. Jimmy and Gene are your brothers?

"Answer: Yes.

"Question: It would make a difference to you if Jimmy and Gene were arrested and sent to jail?

"Answer: I would not like to see it.

"Question: No man wants to see that happen to his brothers?

"Answer: That is true. What kind of brother would you be?

"Question: I would not have any respect for you as a man if you did not. So you do care about that, naturally?

"Answer: Yes, I do.

"Question: You knew your brothers were engaged in an illegal business, didn't you?

"Answer: Well, I can't say that.

"Question: You knew they were running a wire room?

"Answer: I can't answer that question, because I think when you go to the race track you just do the same thing.

"Question: That does not make any difference, whether you think that or not. You know that running a wire room is an illegal business, don't you?

"Answer: I guess, in the eyes of the law. I guess it is.

"Question: Yes, in the eyes of the law. You are a man of intelligence. You are an officer of the law, yourself, to a certain extent?

"Answer: That is, to a certain extent.

"Question: You know the law is not what you and I think it ought to be, but it is as written on the books?

"Answer: That is right.

"Question: And, therefore, you knew that running a wire room was an illegal business?

"Answer: I guess it is.

"Question: Did you ever concern yourself about the fact that your brothers were engaged in an illegal business, and that they might be arrested for that?

"Answer: I tell you, Mr. Van Riper, as to that question I cannot answer, because they have no responsibility, not like being a married man.

"Question: You never went to Jimmy and Gene and said, 'You fellows better be careful. You might get arrested?'

"Answer: I never said anything like that, because Jimmy is older than me, and he should know what is right from wrong.

"Question: How old is Jimmy?

"Answer: Jimmy, I imagine, is a year and a half older than me.

"Question: And how old are you?

"Answer: I am 47 in November.

"Question: You never had any idea that the Hoboken police would do anything to Jimmy, did you?

"Answer: That, I could not say.

"Question: You knew Jimmy was in right?

"Answer: No, I can't say that.

"Question: You knew that Jimmy was quite a power politically, didn't you?

"Answer: I don't know.

"Question: You know that Jimmy has quite an organization over there politically, hasn't he?

"Answer: Well, we had an organization years ago, but we have no more organization.

"Question: You are part of another organization now, aren't you?

"Answer: Well, you mean the Democratic machine?

"Question: Whose organization do you belong to now?

"Answer: Well, I do not even belong to the K. of C.

"Question: Political.

"Answer: I do not belong to any organization.

"Question: Who does the Lewis clan follow? Who is the leader?

"Answer: McFeeley.

"Question: McFeeley, the Mayor?

"Answer: That is right.

"Question: And the Mayor's brother is Chief of Police?

"Answer: That is right.

"Question: Did it ever occur to you that one reason why they were not being molested was because the Mayor's brother was chief of police?

"Answer: I could not say.

"Question: And Jimmy was a power in the McFeeley organization?

"Answer: I could not say.

"Question: Didn't it ever occur to you?

"Answer: No, sir. That is between Jimmy and the rest, that does not concern me. Jimmy was pretty——

"Question: You felt secure in what he was doing?

"Answer: Well, I do not know as I can say that.

"Question: Where is Jimmy today, do you know?

"Answer: Jimmy was around today.

"Question: I know. He left just about the time you came in, didn't he?

"Answer: I seen Jimmy today.

"Question: And he left. Was that the time you came in?

"Answer: Around that time, I think.

"Question: Gene says he left around three o'clock.

"Answer: That is right, sir.

"Question: That is right, isn't it?

"Answer: That is right.

"Question: So he got out just in time?

"Answer: That is right.

"Question: Do you know where he went?

"Answer: I could not tell you. That is one thing I never asked him yet, where he goes, because I always find out it is none of my business. It is just the same if I am going out with my wife; he never asks me.

"Question: He always comes back?

"Answer: Sure, he does.

"Question: And he will come back?

"Answer: He will come back. I hope to God he does, anyhow.

"Question: Is there anything else you want to tell me about the running of this place?

"Answer: I do not know anything about the running. I do not know.

"Question: All you know is that you were, on occasions you took some bets there like you did today?

"Answer: Just today. As I say, if my wife was home, I would not be around there. Because I live in the house—that is true. From the day I got married, in order to be good to my father when I was away, he never took the key of the house away from me, and I still have the keys to that house."

Mr. Lichtenstein: May I ask that your Honor give the same instructions?

The Court: Ladies and gentlemen, the statement which you have just had read by the witness is only binding on the defendant Walter A. Lewis, and not on any other defendant in this suit.

Mr. Giuliano: That is all.

Mr. Lichtenstein: No questions.

(Witness excused.)

Captain Joseph Avia, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Captain, you are a member of the Prosecutor's office of this county? A. Yes, sir.

Q. For how long have you been a member? A. It will be 16 years this coming March.

Q. And you hold the rank of captain? A. Captain, yes, sir.

Q. Now, Captain, I call your attention to June 10, 1944. Did you or did you not accompany the defendant Eugene V. Lewis and myself and others to the Goodman Warehouse? A. Yes, sir.

Q. I show you a safe with compartments in, which is marked Exhibit S-49 for identification, and ask you where you saw that safe for the first time? A. At the Goodman warehouse.

Q. Where was that safe? A. In the vault of the Goodman warehouse.

Q. Was the vault open, or was it closed at the time you got there? A. Closed, sealed.

Q. What happened to the seal? A. It was opened by one of Mr. Goodman's employees.

Q. Who was present? A. Mr. Giuliano, Mr. Eugene Lewis, and I, Mr. Goodman and one of his employees and one of the Sheriff's men, Mr. Whalen, I think his name is.

Q. Mr. Whalen? A. Whalen, I think he had Mr. Lewis.

Q. And how was that vault or the compartment opened, if they were opened? A. We got in and opened the vault; Mr. Goodman, I mean, opened the vault. Mr. Lewis had some keys. You asked for the keys and we opened possibly one or two, but we could not open the others and Mr. Lewis asked that they be broken off and one of Mr. Goodman's men used a screw driver or a chisel.

Q. We opened two or three of them and used force? A. That is right, because he had no key.

Q. Was that done in the presence of the defendant Eugene V. Lewis? A. Yes, myself, you and Mr. Goodman, Mr. Whalen and Mr. Goodman's employees.

Q. I show you a batch of two-dollar bills, and I ask you where these two-dollar bills came from? A. From one of the boxes.

Q. Were these bills counted in the presence of the defendant Eugene V. Lewis? A. Yes, myself and Mr. Goodman, Mr. Whalen and you.

Q. And how many two-dollar bills were there there?

Mr. Lichtenstein: I object to this question and any other question with relation to these bills as having come from this box or vault upon this ground: My recollection is that it has already been testified to that this box was taken from the floor in which James Lewis' bedroom was. Am I correct?

Mr. Giuliano: That is right, beyond question.

Mr. Lichtenstein: In the closet which was identified by one of the officers as being in the passageway leading from the front room to the rear bedroom, and passageway to the bathroom.

There is nothing in the fact of money being found in that box which is evidence per se of the crime which is charged in this indictment, and therefore this evidence could not be used for any purpose in connection with the charge.

The box itself has not been offered in evidence and I think that the Prosecutor should, if he is going to use that box, make the offer so that I may have an opportunity of objecting and placing my reasons upon the record, and that before he attempts to dissect the box and its contents.

The Court: I think the box should be in evidence before reference is made to it, or to its contents.

Mr. Giuliano: I have no objection to that. I will offer it now.

Mr. Lichtenstein: Now, I object to the box going into evidence on the ground that

it appears from previous evidence that this came from a closet which was on the floor beneath the floor in which the so-called wire room was located; that the place was occupied by James Lewis, and that in this closet there were a great many things, there were suits of clothes, an entire wardrobe of James Lewis, that in that wardrobe he had a coat in which there was money which has been offered in evidence under our objection.

This safe or box came from that same closet and we urge this objection, if the court please.

If I am correct, it was found in that closet and then this is the one that I have already described as being on the same floor which was occupied as a private residence.

We contend, if the court please, under these circumstances, this box is not evidence in itself of the commission of any offense charged in the indictment and that it cannot, therefore, be offered in evidence.

It has got to be evidence per se and has got to be related to the crime charged in the indictment before the Prosecutor can use it.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Court: Yes.

(Exhibit S-49 now marked in evidence)

Mr. Giuliano: I now offer in evidence the two-dollar bills, three hundred and seventy-two in number.

Mr. Lichtenstein: I object to that upon the same ground.

Mr. Pearse: We object on the same grounds that have just been advanced for the admission of the box and its contents in evidence.

The Court: I will allow it.

Mr. Pearse: Your Honor will allow us an exception.

(Three hundred and seventy-two two-dollar bills now marked in evidence as State's Exhibit S-84.)

Q. I show you a pack of twenty-dollar bills, and I ask you where these bills came from? A. From the box; there were sixty-nine twenty-dollar bills.

Q. Were they taken from there in the presence of the defendant Eugene V. Lewis? A. Yes, sir.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: I make the same objection as urged in connection with the admission of the box and the other money.

The Court: I will allow it.

Mr. Pearse: Your Honor will grant us an exception.

(Sixty-nine twenty-dollar bills marked in evidence as State's Exhibit S-85 of this date.)

Q. I show you a package of fifty-dollar bills and ask you where these came from? A. The same box, twenty-eight fifty-dollar bills.

Mr. Giuliano: I offer the fifty-dollar bills in evidence.

Mr. Pearse: The same objection.

The Court: The same ruling.
Mr. Pearse: Exception.

Q. Were these bills counted in the presence of the defendant? A. Yes, sir.

Q. How many fifty-dollar bills were there? A. Twenty-eight.

(Accepted and marked as State's Exhibit S-86 of this date, being twenty-eight fifty-dollar bills.)

Q. I show you a pack of one-hundred-dollar bills and ask you where these came from? A. The same box, there were ten one-hundred-dollar bills.

Mr. Lichtenstein: The same objection.
The Court: Allowed.
Mr. Lichtenstein: Exception, please.

(Accepted and marked as State's Exhibit S-87, ten $100 bills.)

Q. I show you a package which has some checks and two-dollar bills, and I ask you whether that package came out of that safe which is now in evidence as S-49? A. Yes, sir; there were four checks tied up in a package, one $7 check, one $45 check, one $2 check, one $50, and also fifteen $2 bills in the package.

Q. And they were in the package where they are now? A. Yes, sir.

Mr. Giuliano: I offer them in eivdence.
Mr. Lichtenstein: The same objection.
The Court: Same ruling.
Mr. Lichtenstein: Exception.

(Package marked as State's Exhibit S-88 of this date.)

Q. I show you a leather case, and I ask you whether or not that case came from the safe that is marked S-49 in evidence? A. Yes, came out of one of these little compartments.

Q. I show you the contents of that leather case and ask you if the contents you see in there were in there at the time that the safe was opened, and opened in the presence of Eugene V. Lewis? A. Yes, sir.

Mr. Lichtenstein: Let me see that, please. You are taking these out of the envelope?

Mr. Giuliano: Yes.

The Witness: I will tell you what they are.

Q. I show you an envelope containing certain papers. I am not going to refer to them. I ask you if that envelope with the papers in there came from this leather case which you found and which was taken from this safe marked S-49? A. Yes, were in that safe.

Mr. Giuliano: For the purpose of keeping the record clear, I will offer it in evidence.

Mr. Lichtenstein: I object to that envelope going in evidence. I am stating this objection for the purpose of raising a question which I desire to raise that will tie in with other articles that may come from the safe and not this particular article standing alone.

I object to it going in evidence upon the ground that it appears that this house was broken into and entered by the Prosecutor without a search warrant, and that these articles, including this safe, were taken

from that house without a search warrant after breaking and entering, and therefore although the Prosecutor may use papers and documents that are evidential per se, in evidence, and the laws of this state, but not under the Federal laws, that this safe and its contents which your Honor can look at——

The Court: May I see this, please?

Mr. Lichtenstein: —which I will concede are government $50 bonds issued in the name of one of the defendants.

Mr. Giuliano: Both defendants.

Mr. Lichtenstein: Some in the name of one and some in the name of the other.

Mr. Giuliano: And not $50 bonds; there are some $500 bonds.

Mr. Lichtenstein: I only saw some $50 bonds.

I object and urge that these bonds are not evidential per se, that they do not have anything to do with the crime charged in the indictment or the proof of it, either directly or indirectly, and should be excluded.

The Court: I think I shall admit them.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Court: Yes.

Mr. Giuliano: I don't want to interpose any statement, but I think we ought to get something clear right now. What the Prosecutor did on June 9th was not breaking and entering, and, as I understand the law——

The Court: Not in the sense that it is commonly used, you mean in a criminal offense?

Mr. Giuliano: That is right, nor was a search warrant necessary. That's all I want to say.

Mr. Lichtenstein: That is your statement.

Mr. Giuliano: No, that is the law as I understand it. I think the court will charge on that.

Mr. Lichtenstein: But our Constitution, if the Court please——

Mr. Giuliano: I don't think we ought to argue that. We can argue that on the question of law.

Mr. Lichtenstein: You admit that you had no search warrant.

The Court: That is true, Mr. Lichtenstein, but the objection of Mr. Giuliano, just made, was to your expression of breaking and entering.

Mr. Lichtenstein: I did not use it in the sense of it being a crime. I say it is an unlawful act unless there is a search warrant.

The Court: I can't agree with you on that.

Mr. Lichtenstein: That is a matter of opinion and we have got to abide with your Honor's opinion.

Mr. Giuliano: I think you will have an opportunity to argue that.

Mr. Lichtenstein: I don't think that is for you, Mr. Giuliano, unless the court doesn't want to hear me.

The Court: What do you want to say, Mr. Lichtenstein?

Mr. Lichtenstein: All I want to say is that my recollection of the language of the Constitution is that the right of people to be secure in their person, houses, papers

and effects against any unreasonable search and seizure shall not be violated and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and the things to be seized.

Now, we know that there is also a similar provision contained in the federal constitution.

Mr. Pearse: Yes they are both part of the Bill of Rights.

There is one charge in the New Jersey Constitution. In the New Jersey Constitution it is papers and in the Federal Constitution it is persons.

Mr. Lichtenstein: Now, as we all know, in the federal court this evidence could not have been admissible at all.

Mr. Giuliano: Can't we disregard that, then?

Mr. Lichtenstein: I am arguing this matter.

Mr. Giuliano: This is being tried in a state court and I think it is a state matter.

Mr. Lichtenstein: I am arguing this matter in the state court, even though there is an unlawful search and seizure our courts have held that if the evidence that was seized is evidence per se, in other words if the articles seized are evidence per se, that they may be used but not otherwise.

It is still unlawful to break and enter. It is still unlawful to enter a private home without a search warrant. There is no change in the law as to that. Neither a prosecutor nor the attorney general nor an

individual has the right to violate that provision of the law.

The only difference is that even if he does violate the law and does enter in violation of the consitutional rights of a person, nevertheless our courts hold that the evidence which is found, which is criminal in nature, may be used against the defendant.

First I think we have a right to show and it is admitted here that this place was entered without a search warrant. There is no dispute about that, is there, Mr. Giuliano?

Mr. Giuliano: I don't say there is any dispute. I say that the Attorney General entered this place under his authority.

Mr. Lichtenstein: Without a search warrant?

Mr. Giuliano: Under his authority and without a search warrant, and he had the right to do so, under the law.

Mr. Lichtenstein: I dispute that he had a right to violate the Constitution of the State of New Jersey, that this does not matter, even if he did have to take property in the possession of the defendants, under the circumstances and without a search warrant. He may use it if he sees fit. He may use what he has seized provided that what he has seized is evidential per se and not otherwise, because that is the purpose of this constitutional provision. It is to safeguard the lives and liberties of individuals and their rights to their personal possessions and their private letters, and

that they should not be scrutinized by every Tom, Dick and Harry.

In his effort to end the commission of crime, whether he violates the provisions of the Constitution or not, if the Prosecutor gets possession of certain documents, he cannot use every single document and every single article indiscriminately, because that would be flying in the face of the provisions of the constitution. But there is a leeway which is granted under our law in this state, that even if he enter illegally, if there is something found which shows that a person who is charged with a crime has committed the crime, you may offer those articles or documents which were so seized.

He may not use them if they were not used in the commission of a crime; under such circumstances they are not admissible. I am using this one as an illustration. Here are Government bonds, bought in the names of these defendants. I have looked at them and some are in the name of Eugene and some in the name of James A. Lewis. They are not evidential per se and they do not show or tend to show the commission of the crime alleged in this indictment any more than some letters that were brought here that were withdrawn because they showed nothing more than the fact that his name was on them, and merely for the purpose of showing that either James or Eugene were in that building or occupied some part of the building, or had something to do with it.

Now, as to this, I ask your Honor to exclude this exhibit upon the grounds that I have urged, and I urged that on behalf of all the defendants.

The Court: Mr. Lichtenstein, I think I will admit these the same as the other exhibits in this case. We all know that betting takes money, and it takes things that are valuable like money, and I consider these in the same classification, that it is money that is usable for betting purposes.

Mr. Lichtenstein: The bonds?

The Court: Yes.

Mr. Lichtenstein: Your Honor will admit them?

The Court: Yes.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Court: As to the section of the Constitution which you have quoted, it also contains the words "unreasonable search and seizure", and I think the law has been construed that where there is, as stated here, in the case cited, that the article seized was liquor without a search warrant, it was held that there is no unreasonable search or seizure at all.

Mr. Lichtensein: If your Honor will read the decisions based upon the liquor seizures, that is an entirely different principle of law that is involved, and the liquor cases have always been the subject of excise and stand in an entirely different category. Under our laws, the enforcement officer, as the A. B. C. officer has a right to go into a saloon at any time under the very language of the statute, without a search war-

rant, and take from the possession of the owner any liquor. All the liquor cases, if the court please, are in an entirely different category.

The Court: I think you can certainly say that this evidence or the exhibits that have been shown here show that this place certainly might, or could be characterized——

Mr. Lichtenstein: Characterized?

The Court: In view of all these exhibits, I think the exhibits show what it could be characterized as. In view of that I think it would be construed as not an unreasonable search or seizure.

Mr. Lichtenstein: Well, that is a matter of construing the Constitution.

Mr. Giuliano: May I say at this time that this argument is not to concern the jury.

The Court: It is a question of law.

The jury will be instructed on these questions of law. Members of the jury, you should only concern yourselves with questions of fact that are testified to in your presence and in the presence of the court, and should not concern yourselves with questions of law.

Mr. Lichtenstein: May I have an exception to your Honor's ruling?

(Bonds accepted and marked as State's Exhibit S-89 of this date.)

Mr. Giuliano: I show you a letter of indebtedness and I ask you if that came from the box?

The Witness: It was taken out of that envelope.

By Mr. Giuliano:

Q. Here is another letter of indebtedness.

Mr. Lichtenstein: I object to that characterization.

Mr. Giuliano: I don't want to state the amount.

Mr. Lichtenstein: I object to the characterization.

Q. A letter? A. A couple of letters.

Q. And this particular one? A. Yes, sir.

Mr. Lichtenstein: I object to any one of these documents going into evidence upon the ground first, that they were the subject of an unlawful seizure as I have already indicated, or at least argued, in opposition to the last preceding exhibit. Further, upon the ground that these documents do not in anywise indicate that they are evidential per se so that they are in anywise concerned with, or have any relation to, or have any application to the charge alleged in the indictment; nor are they proof in any way of the charge alleged in the indictment. They are purely personal documents and nothing else.

Mr. Giuliano: I may state at this time that this evidence is being offered also to show that both Eugene and James A. Lewis had access to this safe, to the whole house, the whole establishment.

Mr. Lichtenstein: The whole house or this safe?

Mr. Giuliano: And the safe and contents were used in connection with this bookmaking establishment.

Mr. Pearse: I object to the characterization of the place being a bookmaking establishment.

The Court: The jury will be instructed that they are the sole judges of the facts as to whether it is or is not.

Mr. Lichtenstein: If the offer is made for the purpose of showing that James and Eugene had access to this Exhibit, S-49, that will be admitted.

Mr. Giuliano: And also that the things in it, in this safe, were used in connection with the bookmaking charge or establishment.

Mr. Lichtenstein: As to that, they have absolutely no relation to any such charge.

The Court: I will admit it.

Mr. Lichtenstein: Your Honor will grant us an exception?

Mr. Giuliano: I offer in evidence this letter signed "Joseph Romano" and "John Romano" that was taken from this safe.

(Accepted and marked as State's Exhibit S-90 of this date.)

Mr. Giuliano: I also offer this letter, a letter of indebtedness in the sum of $7,000 to James Lewis, signed "Charles M. Peluso".

(Accepted and marked as State's Exhibit S-91 of this date.)

Mr. Giuliano: I also offer in evidence this letter of indebtedness of $25,000 to the order of James A. Lewis, signed by the Union Engineering Corporation, and by its president.

The Witness: That came out of the safe.

Mr. Giuliano: I offer it in evidence.

(Accepted and marked as State's Exhibit S-92 of this date.)

Q. I show you two blank checks for $500 each, undated, to the order of Eugene Lewis, and I ask you if those were taken from that box? A. That is right.

Mr. Giuliano: I offer them in evidence.

Mr. Pearse: I object upon the same ground as already advanced in relation to the other exhibits offered.

The Court: I will admit them.

Mr. Pearse: Exception.

(Accepted and marked as State's Exhibits S-93A and B, respectively, of this date.)

Mr. Giuliano: I now offer the case in evidence.

Mr. Lichtenstein: We don't object to that, we only object to the contents.

(Accepted and marked as State's Exhibit S-94 of this date.)

Q. And there were many other articles found? A. In the box, yes, sir.

Q. And this list was made out in the presence of Eugene V. Lewis? A. Yes, sir, and a man from Mr. Goodman.

Q. And Mr. Eugene V. Lewis signed a verification of what was taken out of the box? A. He was satisfied to sign it.

The Court: Wait a minute; answer the question.

Mr. Lichtenstein: He signed a verification—I don't know what he is talking about.

Mr. Giuliano: I will withdraw that question.

Cross examination by Mr. Pearse:

Q. After you had counted all this money out in the presence of Eugene Lewis and took possession of it, did you give him a receipt? A. Did I give him a receipt?

Q. Did anybody in your presence give him a receipt? A. No, Mr. Lewis signed the paper after Mr. Giuliano asked him if everything was all right, fair and square.

Q. I am not asking you that. I asked whether or not Mr. Eugene Lewis was given a receipt? A. I didn't see any.

Q. For the money that was taken away from him in your presence? A. I didn't see the receipt.

(Witness excused.)

James J. Mahoney, called as a witness on behalf of the State, being sworn, testified as follows:

Direct examination by Mr. Giuliano:

Q. Lieutenant Mahoney, by whom are you employed? A. The Hudson County Prosecutor's office.

Q. How long have you been a member of the Hudson County Prosecutor's office? A. It will be 11 years this coming February.

Q. And you now hold the rank of Lieutenant? A. Lieutenant, county detectives.

Q. During the 11 years that you have been connected with the Prosecutor's office, have you made any investigations with respect to bookmaking? A. I have.

Q. Have you made any arrests with respect to bookmaking? A. Yes, sir.

Q. Have you prepared cases for the Prosecutor of the Pleas of this county for bookmaking against defendants? A. I have.

Q. And do you know what charts and sheets are used in order to make book, and make a book?

Mr. Lichtenstein: I object to the question upon the ground that this witness has shown no qualifications to testify in this case, as to what making a book is.

Q. Do you know the sheets and charts which are necessary to take and make a book?

Mr. Pearse: I object, he has not yet shown he knows what bookmaking is.

Mr. Giuliano: I will ask him the question, if you want me to.

The Court: Mr. Lichtenstein, do I understand that this man could not learn through experience what the sheets and charts are?

Mr. Lichtenstein: He can learn from practice, as I said, without study, or study without practice.

The Court: You don't claim that he had to participate in the activity himself?

Mr. Lichtentsein: I don't claim that he need do that, but mere observation is not sufficient.

The Court: Well, he can learn from his experience as a prosecutor's detective.

Mr. Lichtenstein: Provided he has had the necessary experience which would be

required of a man before he can qualify as an expert.

The Court: You may cross examine on his qualifications.

Mr. Lichtenstein: No, I think the Prosecutor should qualify him before asking that question.

By Mr. Giuliano:

Q. Lieutenant, have you in your capacity as lieutenant and in your duties ever entered any place where there were telephone and cables similar to those that are now in evidence?

Mr. Lichtenstein: I object to that as being incompetent and immaterial. That would not go toward qualifying the witness to testify as an expert upon the question which has been submitted to him.

The Court: I will allow an exception.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. I have.

Q. How many such places have you visited that you can tell us about? A. Approximately 25 wire rooms, probably a thousand horse pool rooms.

Mr. Lichtenstein: We will argue that later. I object to that.

By Mr. Giuliano:

Q. Did you ever take any bets over the telephone? A. I have.

Q. And that was in connection with your duties as a Prosecutor's detective and as lieutenant? A. Yes, sir.

Q. And did you observe any sort of sheets and charts on these tables? A. I have.

Mr. Giuliano: If Mr. Lichtenstein wants to question him further on his qualification, I think I have qualified him now.

Mr. Lichtenstein: I contend that the witness has shown absolutely no qualifications as a matter of law, and as a matter of fact, to testify concerning the charge alleged in the indictment.

The Court: Have you ever received, in addition to your experience, any instruments or paraphernalia used in wire rooms?

Mr. Pearse: May we respectfully object to the court's question.

The Court: Well, in connection with bookmaking?

The Witness: Primarily from my own experience.

Q. And in the preparation of cases of bookmaking? A. For the office.

Mr. Lichtenstein: I object to the leading question, and move to strike out the answer.

The Court: Strike it out.

Mr. Giuliano: I consent to that.

Q. I show you several sheets which are marked in evidence S13 and I ask you if you can tell us what those sheets are?

Mr. Lichtenstein: I object because he has not shown any qualifications to testify as to what he has been asked. There certainly

is nothing to indicate that he knows anything about such sheets or what they are.

The Court: He can answer yes or no.

Mr. Lichtenstein: Exception.

A. I can.

Q. Can you tell us what these sheets are?

Mr. Lichtenstein: I object to the question upon the ground the witness has shown no qualification to testify what these sheets are.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant me an exception.

A. These sheets are similar to thousands of others I have seen in bookmaking, wire rooms, and they indicate the amount——

Mr. Lichtenstein: I object to what they indicate.

The Court: What are they?

The Witness: They are the account of individuals, showing the names of horses running at various tracks on June 9, 1944, the amount of money laid and the account of the winning.

Q. Lieutenant Mahoney, on top of these three sheets, there is written here "Charles B". Can you tell us in your opinion what that is, what that refers to?

Mr. Lichtenstein: I object to that.

The Court: What does it mean?

Mr. Lichtenstein: I object to that. I object to the witness answering the question

upon the ground that he has not shown any qualifications to testify to what this is and that it would be impossible for him to testify merely by looking at it.

The Court: You may ask whether he knows what it is.

By Mr. Giuliano:

Q. Well, do you know what it is? A. Yes, sir.

Mr. Lichtenstein: I object to that upon the ground that he has not shown any qualification to testify in answer to this question.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. It is the account of Charles B, gives the horses that he played on June 9, 1944.

Q. When you say "horses that were played by Charles B", are these names that are written down along the sheet? A. Yes, sir.

Q. Now, in this column you will find 1 and 1.

Mr. Lichtenstein: You are referring now to the column on the left-hand side of the sheet?

Mr. Giuliano: Can you tell us what that is, do you know?

Mr. Lichtenstein: I object to the question because he has not shown a qualification to say what it is.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. One dollar win, one dollar place; total two dollars.

Q. When you say "total two dollars" that is in the other column? A. Yes, sir.

Q. Where you have the two dollars in the one column—in other words you have two dollars in the third column or a figure 2, rather, I should say. Can you tell us what that is? (handing witness)

Mr. Lichtenstein: I object to the question upon the same ground without the necessity repeating it again, with your Honor's permission.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. Two dollars win, two dollars show.

Q. I show you "National Racing Program", Exhibit S-19 in evidence, and I ask you if you know what that program is? A. I do.

Mr. Pearse: I object to that. It speaks for itself. It is a publication.

The Court: Does it not speak for itself?

Mr. Giuliano: It speaks for itself, but I thought this witness could testify to what it is and what it is used for.

Mr. Pearse: If the document speaks for itself, is that necessary?

The Court: I will allow him to say what it is used for.

Mr. Pearse: I object to that upon the same grounds previously urged.

Q. What is it used for?

Mr. Pearse: I object, the witness has failed to show any qualification to state what it is used for.

The Court: I will allow it.

Mr. Pearse: Allow us an exception.

A. It is a scratch sheet.

Q. What is a scratch sheet? A. Well, there is various information in it; usually they buy it to show the scratch, that is horses scratched out of the original entry list.

Q. Does that sheet also show any other list, that is, horses that were run on that day?

Mr. Lichtenstein: I object upon the ground he has failed to show qualifications to answer any such question.

A. It does.

Q. Is this sheet used in the taking and making of a book?

Mr. Lichtenstein: I object to that question upon the ground that it is highly improper, and upon the further ground that this witness is not qualified to answer. He can state, if your Honor permits him to state, facts, if he is qualified under your Honor's rule to answer this general question which we contend is highly improper.

Mr. Pearse: It is also the expression of an opinion.

The Court: I will let him testify as to what it is used for.

Mr. Lichtenstein: Your Honor will grant us an exception to that ruling?

The Court: Yes.

A. It has general racing information.

Q. Can it be used in the taking and making of a book?

Mr. Lichtenstein: I object to the question upon the ground that it is highly improper, first, because the witness is not qualified to answer; and secondly, that it calls for a conclusion of the witness and is not a statement of any fact.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

Q. Is it or is it not? A. What is the question?

(Question read as follows: "Can it be used in the taking and making of a book")

A. Only to furnish certain information.

Mr. Lichtenstein: I ask that the answer be stricken out as being incomprehensible, not usable.

The Court: Except he said to give information.

Mr. Lichtenstein: I don't know what that might mean; the color of the horse; the color of the horse's hair; how old the horse is.

Q. What information can that give to a book-making establishment?

Mr. Lichtenstein: I object; not what it can give.

The Court: What does it give?

Q. What does it give?

Mr. Lichtenstein: I object that that is not the subject of an expert witness' testimony. Anybody who can read can read what that says.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. It shows the entries at the various tracks, late scratches, post position.

Q. Keep your voice up. A. Post positions, jockeys, probable odds, and their selection of horses that they think may win.

Q. What is their selection? A. Of the horses that they think are likely to win.

Q. That is the people who publish that magazine? A. Yes, sir.

Q. I show you these sheets which are marked S-13 in evidence, and I ask you whether or not they are used in connection with taking and making a book?

Mr. Lichtenstein: That is a leading question and I object to it.

Q. What are they used for then?

Mr. Lichtenstein: I object to that, what they are used for. The witness has stated already what is on these sheets. That would be a question for the court and jury to determine, whether it constitutes making and taking a book.

The Court: I will allow him to answer.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. I found similar sheets in the various bookmaking establishments.

Mr. Lichtenstein: I ask that that be stricken.

Q. What are they used for?

Mr. Lichtenstein: I object to the question upon the ground that the witness has shown no qualifications to answer that question, and that he cannot state that these sheets were used for any purpose. They are documents which your Honor permitted in evidence over my objection and the witness has stated that he doesn't know what these items read, and what they mean. Now how does that appear to be anything but a question of law for the court and for the jury upon instructions of the court to determine whether or not that was bookmaking. It is not for this witness to characterize that.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. They are used for keeping accounts of bettors.

Q. And the bets received? A. Over the telephone.

The Court: Will you kindly take your hand away from your mouth so that the jury can hear you.

(The court declared a short recess.)

(After recess.)

Q. I show you several sheets, seventeen in number which are marked S-22 in evidence, and I ask you have you ever seen that type of sheet before, and if so, what they are?

Mr. Lichtenstein: I object to the question upon ground the witness has not shown

any qualifications to testify to what these documents are.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. This type of sheet shows the entries in all of the races at Aqueduct track on June 9th, 1944. On the lower half it shows the entries at Suffolk Downs Race Track on the same date.

Q. Do you know where Aqueduct Park is? A. I think it is on Long Island.

Q. Do you know where Suffolk Downs Race Track is? A. Yes, it is right outside of Boston.

Q. I call your attention to this one over here, "Five and a half furlongs." What is that, if you know?

Mr. Lichtenstein: I don't like to keep objecting.

The Court: You might put in a general objection.

Mr. Giuliano: I think we would save time if counsel would.

Mr. Lichtenstein: At your Honor's suggestion, instead of my taking specific objections to each of these questions being asked of the witness, may I take a general exception, please, based upon the same grounds as already urged in opposition to this witness' testimony, and that the objection shall go to any questions that are asked of this witness from now on?

The Court: Very well.

Mr. Lichtenstein: And may we have an exception now, without repeating the objection?

The Court: That is right.

A. That is the first race of the horses entered who are running five and a half furlongs.

By Mr. Giuliano:

Q. That is the races five and a half furlongs? A. Yes, sir.

Q. What are these names listed under the numbers 1, 2, 3, 4, 5 down to 9; can you tell us please? There are nine numbers. A. They are horses.

Q. On the other side of the same column there are other names in different type; what are those, if you know, names such as Ercaro? A. Yes, that is the jockey riding that horse.

Q. The jockey A. Yes, sir.

Q. In that same column there are 114, 110, 121, 109, 109, 117, 117, 115 and 112; can you tell us what that means? A. That is the weight the horse will carry.

Q. Can you tell by looking at the column, please, whether or not that race was run?

Mr. Lichtenstein: I object to the question upon the ground that the witness cannot testify as to whether the race was or was not run unless he is at the track and sees it, and he cannot testify that a horse did run from looking at a sheet of paper which is shown in here, six months after the event.

The Court: How can he testify from that particular sheet of paper?

Mr. Giuliano: He can testify because on that sheet of paper there are some things written that this witness, as an expert, should know.

The Court: Let him interpret what the paper says.

Mr. Giuliano: I will withdraw the question.

Q. Now, what is this horse which is number nine, Fred Coty; there is a three-quarter circle around that horse?

Mr. Lichtenstein: I object to his characterization of that as a horse.

Mr. Giuliano: It has been testified that these were horses.

Mr. Lichtenstein: He said they were horses' names, but not horses.

Q. This horse's name, can you tell us what that means? A. That is the winner.

Mr. Lichtenstein: I object to the characterization that it is the winner, merely because there is a circle around the name, unless the witness can state that he was at the horsetrack and saw that horse win.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

Q. That is the winner, you say. Now, over the horses name, number 3, John's Bird, there is written in pencil a numeral 2; can you tell us what that means? A. That is the horse that came in second.

Mr. Lichtenstein: I ask that that be stricken, the statement that the horse came in second. The witness was not present, did not see the horse come in, and cannot therefore state that the horse did even run, and cannot say that he came second or in any other position.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

By Mr. Giuliano:

Q. Under that same column, there is a name of a horse "Victory Maid" with a pencil mark written over it, number 3; can you tell us what that number 3 is or what it indicates?

Mr. Lichtenstein: I object to the characterization by the Prosecutor calling that another horse.

Mr. Giuliano: What is it, then?

Mr. Lichtenstein: I am not testifying, and I object to the characterization.

Mr. Giuliano: I think it has been testified to already.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception?

A. That horse came in third.

Mr. Lichtenstein: I ask that the answer be stricken because the witness is incompetent to testify that that horse came in because he was not at the race track, does not know whether the horse ran, doesn't know whether the horse did in fact ever run.

The Court: I will allow the answer to remain.

Mr. Lichtenstein: May I have an exception to that?

By Mr. Giuliano:

Q. On the bottom of that list of nine names of horses, or horses' names, there is three columns, in the first column there is 25.50, 9.70 and 6.50. Can you tell me please, what that indicates?

Mr. Lichstenstein: I object to the question upon the ground that the witness has shown no qualifications to testify as to what this particular information indicates that he is being called upon to give.

The Court: I will allow it.

Mr. Lichstenstein: Your Honor will grant us an exception.

A. That means that Fred Coty paid $25.50 to win, $9.70 for second, and $6.50 for third.

Mr. Lichtenstein: I ask that the answer be stricken out on the ground the witness has no knowledge, has not shown any knowledge that any particular horse ran, or that any particular payment was made upon the running of any horse. He just sees a few items here and he characterizes them as the moneys paid upon some horse that ran, came in first; and what he paid on second, and on third.

The Court: I will allow the answer to remain.

Mr. Lichtenstein: Exception.

Q. Now, that column which you just referred to was 25.50, 9.70 and 6.50—under there there are 5.20 and 4.40; can you tell us what that indicates?

Mr. Lichtenstein: The same objection, if the Court please.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. 5.20 is the price on the second horse for place; and 4.40 is the price on the second horse for third.

Q. Now, these two last figures that you have just given us, there is written after that $11.30. I ask you what that indicates?

Mr. Lichtenstein: Same objection.
The Court: I will allow it.
Mr. Lichtenstein: Your Honor will grant us an exception.

A. That is the show price on the third horse.

Q. That is the show price on the third horse; what do you mean? A. That is the price that he paid to run third.

Q. Now, there is written in blue pencil over the names of these horses, 4, 10, 7, 5, 15, 8, 4, 12, and there are others that have no number except a line. Can you tell us what that indicates, if you know? A. That is the odds at some stage of the betting.

Q. Now I show you underneath the word "Suffolk Downs" and ask you what that number 1¾ of a mile means? A. That is the first race the horses will run, ¾ of a mile.

Q. Listed there are the names of twelve horses, or twelve names; can you tell us what that indicates? A. They are the entries in the first race at Suffolk Downs on June 9, 1944.

Q. And the names on the other side are what? A. The weights of the horses.

Q. The names, I said. A. The jockeys.

Q. The numerals here, 113 and so forth, are the weights they carry? A. The weights they carry.

Q. Will you look at this and tell us what that semi-circle means around "three blue colors"? A. The winner is Blue Color.

Q. And around number two and three, do you know what that means? A. That number 2 and 3 —it looks like a dead heat.

Q. What do you mean, a dead heat? A. That two horses finished together; they split the money, both of them.

Q. Can you tell us when two horses tie, looking at that sheet, that they finished in a dead heat? A. Yes, Star Maedic and Alreck.

Q. Now, will you look at the bottom and you see 9.60, 5.45 and 4.60; can you tell us what that indicates? A. That is the three prices on the winning horse, $9.60 to win; $5.45 for place and $4.60 for show.

Q. Underneath there is three sixty and five, and then we have underneath the three sixty and five, fourteen twenty and seventeen sixty. Now what does that indicate? A. That is the place and show price on the two horses in the dead heat.

Q. In other words, that is both win, place and show money? A. That is right.

Q. Now I show you "Racing Form," Exhibit S-17, and I ask you to look at this and compare it with the two races that you have referred to, and please tell us, if you can, whether or not the names in this "Daily Racing Form" appear in this sheet that you have just referred to?

Mr. Lichtenstein: I object to that. This is a special objection. First upon the ground that an examination of that will indicate that; that is not the important part of my objection.

I object further upon the ground that it is not evidential of anything which is alleged in the indictment. The mere fact as to whether names on Exhibit S-22 appear in Exhibit S-17, publications, general publications, is not evidence. If it is anything at all, it is hearsay. It does not indicate that any horses ran or did not run.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will allow us an exception.

Q. You will read from where? A. Reading from the first race, Aqueduct, June 9, 1944.

Q. You are reading page 8? A. Page 8 of Daily Racing Form.

Q. Will you please tell us what appears on page 8 under the heading of Aqueduct? A. There is a list of the entries in the first race.

Q. What are they; will you read them, please? A. Lady Eccleston, Awashonka, John's Bird, Victory Maid, Karen Q, Singular, Watch Henry, Josephine, Fred Coty.

Q. You are reading from page 8. Will you compare that with the list which is marked S-22 in evidence, and please tell us if the names that you have now read from the Daily Racing Form appear under this first race which you have indicated? A. They are identical.

Q. Now, will you now refer to the race at Suffolk Downs, and will you read that from page 16 of the Daily Racing Form?

Mr. Lichtenstein: May I have an objection, the same form as I have made in the objection to the last preceding question?

The Court: Yes.

Mr. Lichtenstein: And exception. I think I will let him state generally, if the court please. If he will state generally I will take his word for the same names appearing in the newspaper that are there.

Mr. Giuliano: On all of these sheets.

Mr. Lichtenstein: I don't know what you mean by all the sheets.

Mr. Giuliano: All the sheets of this exhibit. Some are duplicates.

Mr. Lichtenstein: You mean they are in the same publication, the publication known as the Morning Telegraph?

Mr. Giuliano: In the publication Daily Racing Form.

Will you admit that what appears in the Daily Racing Form, as to the races, as set out, and the names of the horses as set out in this Daily Racing Form are the same that appear in these sheets which are Exhibit S-22?

Mr. Lichtenstein: Subject to the benefit of my objection and your Honor granting me an exception, without the necessity of standing here for hours, probably, and going through and comparing these items, we will admit that for the purposes of the record.

Mr. Pearse: What the Prosecutor just said.

Mr. Lichtenstein: What the Prosecutor just said.

Q. Now, Mr. Mahoney, I ask you again to look at S-22 in evidence, and tell us please what these sheets are used for, and in connection with what.

Mr. Lichtenstein: I object to the witness stating what they are used for, or in what connection they are used, not only because he is not qualified, but because he cannot state what would be in the mind of anybody who would have possession of such documents and would use them for or that they could be used for.

The Court: Could you tell from what you found on the sheet, what it was used for?

The Witness: Yes, sir.

The Court: Then I will let him answer.

Mr. Lichtenstein: Exception.

The Witness: These sheets are used to keep records in bookmaking.

Mr. Lichtenstein: I ask that that answer be stricken.

The Court: I will allow it to stand.

Mr. Lichtenstein: Your Honor will grant me an exception.

By Mr. Giuliano:

Q. Now, Lieutenant, I show you S-22 with the wording "Lawton Handicap", and ask you if you can tell us what that means or indicates? A. I can.

Q. What is it? A. Lawton is an expert handicapper, and he sends out this information as his choice of the horses to win, that he thinks will win.

Q. What is that used in connection with?

Mr. Lichtenstein: I object to that.

Q. If it is used in connection with anything.

Mr. Lichtenstein: I object to that. Here is a publication which is apparently sent out by a man who gets up a list of what he thinks will be the result of races, what horses he thinks will win, and what chance the horse has. I object to him testifying as to that, and characterizing it. What there is there, it is not necessary for an expert to testify to.

The Court: I will allow him to answer.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Court: Yes.

By Mr. Giuliano:

Q. What is it used in connection with? A. Horseracing.

Mr. Lichtenstein: I object to the question.

Mr. Pearse: In horseracing?

Mr. Giuliano: Yes.

Mr. Pearse: That is all right.

Q. Can you tell us what these red figures mean on there?

Mr. Lichtenstein: I object to the question. In addition to the grounds already urged, as to this, I object that it is incompetent. It seems to me that it would be humanly impossible and inconceivable for a person looking at a piece of paper and seeing in somebody's handwriting some red pencil marks that he could say what they mean.

The Court: I will let him answer, if he knows.

The Witness: I could not say.

Mr. Giuliano: You could not say.

Q. I show you S-21 in evidence, which purports to be "Index to Entries". Can you tell us what that is?

Mr. Lichtenstein: One moment; I object to the question. The document speaks for itself, index to entries.

The Court: I will allow him to answer.

Mr. Lichtenstein: Exception.

A. It is an index to the entries at the various tracks on this particular day.

Q. After each name here we will find a numeral, like this one here, Alert, 2 Del.; what does "2 Del." mean? A. He is running the second race at Delaware track.

Q. Do you know where Delaware track is? A. It is in Delaware.

Q. What is this 6 Suf.? A. That is the sixth race at Suffolk Downs.

Q. You told us where Suffolk Downs is. This 1 Det. What does that mean? A. That is Delaware. That is the first race at—oh, the first race at Detroit.

Q. Where is the Detroit track? A. It must be at Detroit.

Q. Now I show you three books which are marked in evidence, and some others that are here, S-16, and I ask you what they are used for, if you know? A. Yes, they are used for quickly computing the prices on the winning daily double, or winning parlay, rather.

Q. Winning parlay; do you know what a parlay is? A. Yes, sir, I do.

Q. What is a parlay? A. It is a bet on two or more horses, both of them must win.

Q. And these books are used in computing winnings; is that what you mean? A. That is right.

Q. You mentioned "daily double". Do you know what daily double is? A. Yes, in mutual betting, it is a separate daily pay on the first and second races.

Q. I am taking one of these slips, if you want to see it, from this batch of slips marked S-61 in evidence, which reads: "Watch Henry 100, Alca Girl 110." Can you tell us what that means, if you know? A. That is one dollar bet on Watch Henry

if he wins; one dollar win and one dollar place on Alca girl.

Q. I show you these slips and ask you whether or not these slips are used in connection with bookmaking?

Mr. Lichtenstein: I object to the question as calling for a conclusion of this witness and in addition the fact that he is not an expert within the meaning of the law and it is not for this witness to say.

(Question read as follows: "I show you these slips and ask you whether or not these slips are used in connection with bookmaking?")

Mr. Lichtenstein: We object to the witness testifying, not only because he has not the qualifications, but that the question embraces a situation which excludes these slips being used for any other purpose excepting bookmaking.

The Court: I don't understand the question. The question is are they used in connection with something that would exclude something else?

Mr. Giuliano: They may be used for something else.

Mr. Pearse: That is the thing that is in my mind, and I assume that this goes for all of this testimony of his.

Mr. Giuliano: No, it does not, Mr. Pearse. I am referring to the question now with reference to these slips. If you have any question to ask the Lieutenant, you can ask him on cross examination.

Mr. Pearse: I will.

Mr. Lichtenstein: Your Honor will grant us an exception.

By Mr. Guiliano:

Q. Are they used in connection with bookmaking? A. Yes, sir, they are.

Q. Now, Lieutenant, with what I have shown you here and from your experience and knowledge, and from what you see in this court room, this board marked S-12 in evidence, these telephones, these private telephones; can you tell us, in your opinion, what all this was being used for?

Mr. Lichtenstein: I object to that upon the ground that it is in the nature of a hypothetical question, and that all these facts are not embraced in the questions. Then, it is entirely too all-inclusive, and that it is a question that cannot be answered and should not be permitted to be answered, and not a proper hypothetical question.

The Court: I will permit the question.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. Typical bookmaking equipment.

Mr. Lichtenstein: I ask that the answer be stricken as being a conclusion of the witness and not based upon a proper hypothetical question.

The Court: I will allow it to remain.

Mr. Lichtenstein: I also ask that the term "typical" be stricken out as being a characterization which this witness is not permitted to make.

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The Court: Well, I think if he is qualified to know what a typical set-up like this is, he can so characterize it.

Mr. Lichtenstein: Your Honor will grant us an exception?

Mr. Guiliano: You may cross examine.

Cross examination by Mr. Lichtenstein:

Q. Officer, you were shown one sheet, which is part of Exhibit S-22, which consisted of 17 sheets, and I am told by Mr. Giuliano that the sheet which I hold in my hand and which I show you is one, and he examined you on that? A. Yes, sir.

Q. You recognize that? A. Yes, sir.

Q. In one of your answers to the question, which in effect said, What do the figures under Aqueduct Park 1 indicate; do you recall such question being asked, or something along those lines? A. Yes, sir.

Q. My recollection is that you said the first item 25.50 indicates what the horse paid? A. For two dollars.

Q. And that is on the winning horse? A. That is right.

Q. And the item 9.70 represents what he paid for what? A. Second place.

Q. And 6.50 what he paid at third position, show? A. Show, that is right.

Q. Aqueduct Park, that is a pari-mutuel track? A. Yes, sir.

Q. These figures are the result at a pari-mutuel track? A. Yes, sir.

Q. In other words, after the horses have run, if this horse did run at Aqueduct Park, the result of the race would be indicated at the track and the winning or the price that the horse paid in

whatever position he ran would be indicated there at the track? A. That is right.

Q. And these figures are the result of the pari-mutuel results at the track? A. Yes, sir.

Q. And the figure 5.20 in the second position, underneath the 9.70, what did you say that was? A. That was the price of the second horse, that ran in second place.

Q. And that is also a pari-mutuel price, is that right? A. Yes, sir.

Q. And the figure 4.40, what does that indicate? A. That is the price he would pay if you had bet on him to run third.

Q. And that is also the pari-mutuel price? A. Yes, sir.

Q. And the 11.30 in the third line indicates what? A. That is the price that the third horse paid.

Q. Under the pari-mutuel? A. Yes, sir.

Q. And at Aqueduct Park, is that a pari-mutuel track? A. Yes, sir.

Q. And the other parks that you mentioned, the race courses you mentioned in answering the questions of Mr. Giuliano, are they all pari-mutuel tracks? A. Yes, sir.

Q. The track in New Jersey, is that a pari-mutuel track? A. Yes, sir.

Q. There is only one here? A. Yes, sir.

Q. What a horse pays in a pari-mutuel track is indicated at the track at which the particular horse runs after all the betting is stopped?

Mr. Pearse: After the race is over.

Mr. Lichtenstein: No, I don't think so. After the betting is stopped.

The Witness: The price is not made until some time after the race. There is

some calculation made and they don't usually show the price until after the race is stopped.

Q. In other words no price on any horse's running is made until after the race is over? A. There are probable prices which are up there, because you can see the progress of the betting.

Mr. Giuliano: I think he ought to be permitted to answer fully.

The Witness: Yes, the prices are indicated on this tote board.

Q. The price paid, and I am speaking of what you have indicated in your testimony here as being represented by the figures as shown, which is a part of the Exhibit S-22 you said was the price paid? A. That would be the price paid for a two dollar ticket on the winning horse.

Q. And that would be the price announced at the track at which this race was run? A. Yes, sir.

Q. Now, in the operation of a pari-mutuel, people come to the track and bet, and as each bet is made——

Mr. Giuliano: I have no objection to admitting that that is so, but I don't see how this is cross examination. I think we ought to confine ourselves.

The Court: If Mr. Lichtenstein wishes to check the qualifications of this witness I will permit it.

Mr. Lichtenstein: He is talking about figures and I want to know how they are arrived at.

The Court: I will permit it.

James J. Mahoney, for the State—Cross.

(Question read as follows: "Now, in the operation of a pari-mutuel, people come to the track and bet, and as each bet is made——")

By Mr. Lichtenstein:

Q. (Continuing)—at a series of windows, the bet is registered, is it not? A. Yes, sir.

Q. And that is so in each window, whether thirty or forty or fifty windows? A. Yes, sir.

Q. There is an automatic calculating machine that records the sum total of all the bets at any particular moment on any particular horse? A. That is true.

Q. And depending upon the amount of money bet on any particular horse, the price that is to be paid is announced by pari-mutuel changes? A. Yes, sir.

Q. Is it not? A. Yes, sir.

Q. And that goes on from the time that the betting begins until the betting is ended in accordance with a designated understanding at the track? A. Yes, sir.

Q. Or by the track people? A. Yes, sir.

Q. So that, assuming that there are thirty or forty windows at the track, as each person comes up and makes his bet, the clerk registers the bet and the horses and the calculator is working, calculating, and it adds up the total of all of the windows on this particular horse? A. Yes, sir.

Q. And as they are totalled, the price to be announced by the pari-mutuel track changes? A. Yes, sir.

Q. And that keeps on changing, depending upon the amount of money that is bid on the particular horses? A. Yes, sir.

Mr. Giuliano: Bet, not bid.

Mr. Lichtenstein: Bet.

Q. From the time the track begins to take bets until the betting is over on a particular race, the odds at the track change? A. The odds will fluctuate as the betting proceeds.

Q. That will go up or down, depending on the amount of money that has been bet on that particular horse at any particular time? A. Yes, sir.

Q. Those odds at the track may change and fluctuate twenty or thirty times or more? A. Possibly.

Q. Between the time that the windows are opened and the time that they close? A. Yes, sir.

Q. And then, when the windows close a calculator determines what it is willing to pay on first or second or third on any particular horse that is posted? A. Yes, sir.

Cross examination by Mr. Pearse:

Mr. Pearse: Will it be all right, Judge, to hand a few of these sheets to the ladies and gentlemen of the jury so that they will know what we are talking about.

Mr. Giuliano: I think that is Exhibit S-13.

Q. Now, will you kindly look at one of these many sheets of paper which appear as a part of Exhibit S-13. This particular one is for Friday, June 9, 1944, on the top, is it not? A. Yes, sir.

Q. Now, the next thing, in pencil we see a name; is that right? A. Yes, sir.

Q. Over the red line. Now, in the sheet which I have in my hand, in the first left-hand column I

have nothing, but in your one, the one before you, in the left hand column you have the letter "F" or "if"; what is it? A. "If".

Q. What is there, "if"? A. Some appear like an "f" and "if"; I don't know what that means.

Q. You don't know about that first column? A. No, that does not mean anything to me.

Q. Now, this second column—we find a figures 1-1-2 and various amounts; and this second column, so far as your experience goes, if you have had any experience, what do you say it indicates on this sheet? A. That is a bet to win.

Q. And the second cloumn then to the left? A. Place.

Q. Would be the amount bet to win? A. The second column, yes, sir.

Q. The third column is what? A. The amount bet to place.

Q. And the fourth column is what? A. The amount, show.

Q. Now, in some of these that you have there appears that there was a bet of a dollar or two dollars, or various amounts to win, and another column no bets, and a bet to show, and a fourth column, either no bets or a bet to place? A. Just the reverse, the third column would be to place and the fourth column would be show.

Q. It is win, place and show; those are the three orders? A. Yes, sir.

Q. The fifth column indicates to you what? A. The name of the horse.

Q. And the sixth column indicates to you what? A. The total amount of the bet.

Q. The total amount of the bet? A. Yes, sir.

Q. And the eighth column and the ninth column, what do they indicate to you? A. Why they don't indicate anything to me.

Mr. Pearse: Now may we have a few of these sheets handed to the jury.

Q. In order to get it perfectly clear, may I have a few of these passed around. Now, Lieutenant, would you be kind enough to look at one of these sheets in S-22?

Mr. Guiliano: Some of these sheets are not exactly alike.

Mr. Pearse: The question I am going to ask is only one question and I am sure they are the same on all sheets.

Q. Now, take the first column. You see the names of the horses and down at the bottom in pencil there are three columns of figures, one on the left-hand side there are certain figures; in the next one right, there are two sets of figures; and in the third one to the right there are three sets of figures; is that right. A. Yes, sir.

Q. Those figures indicate, do they not, what the pari-mutuel actually paid on a particular horse for win or place or show on that particular day? A. Yes, sir.

Q. And that announcement comes over the radio? A. Yes, sir.

Re-direct examination by Mr. Giuliano:

Q. Now, Lieutenant, is that the way bookmaking establishments get their information, over the radio.

Mr. Pearse: I object to the question. These people are not being charged with conducting a bookmaking establishment in the first place, and it doesn't make any dif-

ference how they get their information; that doesn't make it bookmaking.

The Court: Of course if they are making book in an establishment, it would be a bookmaking establishment.

Mr. Pearse: Perhaps it might be some other kind of establishment.

The Court: I will permit the question.

Q. Is that where they get their information?

Mr. Pearse: I further want to object because the witness has shown absolutely no qualification to answer that question.

The Court: Do you know whether that is so?

The Witness: The results of each winner are broadcast and the price paid upon them.

Mr. Pearse: Now, there is a difference between Mr. Giuliano and I. Perhaps we don't understand each other on the question of price. When I say "price" I mean the amount of money which was paid on the race, actually paid on the race by mutuel.

Mr. Giuliano: Maybe we had better get this straight. I am sure that Mr. Pearse means the amount of money that a two dollar ticket would win.

Mr. Pearce: That is much better expressed than I did.

By Mr. Giuliano:

Q. Now, you said that Fred Coty in this race in Aqueduct paid $20.50, is that so? A. Yes, sir.

Q. Now, I show you a bet that has been referred to here——

Mr. Pearse: I object to it being referred to as a bet.

The Court: Give him the rest of the question.

Q. Now, referring to Exhibit S-13, in the second column is $2; is that right? A. That is right.

Q. What does that $2 indicate? A. $2 to win.

Q. And the name in the large column, which would be the fifth column, that name is Fred Coty? A. That is the name of the winning horse in the first race at Aqueduct on June 9, 1944.

Q. And as you have told me, in this column, that is the total bet, $2? A. Yes, sir.

Q. Now, in the far corner there is 25.50; is that the amount that the horse won by winning first place? A. Evidently it is the same amount that the horse paid in pari-mutuel.

Q. Now, I show you another slip and we see a bet here on this Exhibit S-13, one of these sheets, a $3 bet there, $3 in the first column, nothing in the second column, nothing in the third, nothing in the fourth, on Josephine $3.30, total amount bet; can you tell us what that means? A. That is insurance.

Q. Insurance on what? A. On the bet.

Q. On the bet; what does that mean? A. Well, that means that a bookmaker has a certain price, and that the mutuel pays more; you must insure the bet to make the mutuel payoff.

Q. In other words, a person can make a bet for a dollar, and if he pays a dollar and ten cents for that bet, he will get track odds? A. That is right.

Q. And track odds may be more than what the bookmaker would pay, in the event that the horse won? A. Yes, that is true.

Re-cross examination by Mr. Lichtenstein:

Q. The pari-mutuel, I think you said, took its calculations after the race? A. Yes, sir.

Q. And then it is announced over the radio? A. Yes, sir.

Q. And that is a radio that anybody can listen to? A. A broadcast.

Q. It is a general broadcast? A. Yes, sir.

Q. And this general broadcast is from the race-track or from a newspaper wire room which broadcasts the result of the race immediately after the race is completed? A. It is a broadcast from the radio station, I suppose; I don't know where they get their information.

Q. And they broadcast what the horses paid at the race track, as a result of pari-mutuel results, after all the betting was made? A. Yes, sir.

Q. And then the announcement is made over the radio? A. Yes, sir.

Q. And you and I and anybody that listens in, would know how much that horse paid? A. Naturally.

Q. There is first place, second place and third, and that is what these figures are; that is, the result is heard over the radio and the figures that appear in the three lines, underneath the particular race, at that particular track that you have just testified to? A. That is the winning price of the horse.

Q. As announced over the radio? A. Yes, I imagine they announced all of them.

(Officers were sworn and the jury left in the custody of the officers, the court adjourning until 2:20 p. m.)

Peter J. Devine, for the State—Direct.

AFTER RECESS 2:20 P. M.

(In the presence of the defendants and their counsel, the clerk polled the jury.)

PETER J. DEVINE, called as a witness on behalf of the State, being sworn, was examined and testified as follows:

Direct examination by Mr. Giuliano:

Q. Are you connected with the office of the Hudson County Prosecutor of the Pleas? A. Yes, sir, I am.

Q. For how long have you been connected with that office? A. Twenty-eight years.

Q. How long have you been chief? A. About fifteen years.

Q. During the past twenty-eight years that you have been connected with the Prosecutor's office, can you tell us how many raids you have made on book making establishments? A. I would say well over a hundred.

Q. In your duties as chief, have you had the opportunity of preparing cases which were in the office of the Prosecutor of the Pleas against defendants who were charged with taking and making a book? A. I have.

Q. Can you estimate how many you might have had in the past twenty-eight years? A. Well, that would be hard to estimate but I would say half the arrests I made.

Q. Half the arrests you made would be how many? A. Seventy-five.

Q. Besides the hundred places that you have raided? A. Yes, sir.

Q. Now, Chief, I show you Exhibit S-13; can you tell us what those sheets are, yes or no? A. Yes, sir.

Q. Will you please tell us what they are?

Mr. Lichtenstein: Just one moment. I object to the question upon the ground that the witness has not shown any qualifications to testify as to what these documents which have been presented to him are.

The Court: I will allow the question.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Court: Yes.

Q. What are they, Chief? A. These are tabulated lists of bets covered by these different agents here.

Q. How are these bets made?

Mr. Lichtenstein: I object to that on the ground that the witness could not possibly know how they are made.

The Court: What do you mean by that.

Q. How are they received, Chief?

Mr. Lichtenstein: I object to that upon the ground that the witness cannot state; that it would clearly be a physical impossibility for him to know that.

The Court: You mean what the practice is?

Mr. Giuliano: That is right; what the practice is, how were they made.

Mr. Lichtenstein: I object to that. What the practice has been is no concern of ours in this case.

The question here is what did these defendants do. We are not being charged with having done something which is generally done by some people, but what we did on this day.

The Court: I think the practice in bookmaking establishments is relevant to show whether what they did was making book.

Mr. Lichtenstein: That is not what I understood they are asking.

Mr. Giuliano: That is my question, your Honor.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

The Witness: They could easily be delivered personally or telephoned in.

Q. And I show you this first sheet, which has on the back, Adams Street, and there is a number one in the second column; can you tell me please what that is?

Mr. Lichtenstein: I object to that upon the ground that the witness has shown no qualifications to testify what this sheet is or what the figures or the names or the symbols represented there are.

The Court: First, question him whether he knows.

Q. Do you know what these figures are in this first column? A. Yes, they are different bets.

The Court: Not what they are; do you know.

Q. Do you know? A. Yes, sure I do.

Q. What are they?

Mr. Lichtenstein: I object to the question and without repeating the specific grounds to your Honor permit my objection to stand with the objection that I made to the previous question.

The Court: Yes.

Mr. Lichtenstein: May I have an exception to your Honor's ruling?

Q. What are they? A. In the first column dollar bets for the horse to win.

Q. And what is this column, these names? A. These horses, the second column is the horses for place, that means second; the third column is show, which means third.

Q. Now, Chief, I show you Exhibit S-22 made of seventeen sheets and I show you one sheet on the top, Aqueduct Park with the number one on it. A. Yes, sir.

Q. And a list of names, which purports to be horses. A. Yes, sir.

Q. What is this sheet, do you know?

Mr. Lichtenstein: I object to the witness testifying as to what these sheets are upon the ground that he has not shown qualifications to testify as to what these sheets are.

The Court: You will ask him first whether he knows what the sheets are.

Mr. Giuliano: I asked that at the end of the question.

Q. Do you know what these sheets are? A. I do.

Q. What are they?

Mr. Lichtenstein: My objection now is that he is not qualified to answer, has not shown he is qualified.

The Court: I will permit the question.

Mr. Lichtenstein: Your Honor will grant me an exception?

A. They are what they call racing charts.

Q. What do these racing charts disclose?

Mr. Lichtenstein: I object. They speak for themselves and do not call for expert opinion.

Q. You say they are racing charts, what are they for?

The Court: I will allow the witness to interpret the sheets.

Mr. Lichtenstein: Your Honor will grant me an exception.

A. These here indicate horses running in this particular case and these are the names of the jockeys riding these horses and these are the weights these horses are carrying.

Q. And down here are some figures 2550, 970 and 650. Can you tell us what those are? A. Yes, sir.

Q. What is the 2550? A. 2550 is the price paid on the winning horse. 970 represents the same horse at place and 650 represents the odds on the same horse paying third.

Q. And what is 520? And 540? A. That is the second horse, the price on the second horse for place and show.

Q. And 1130? A. 1130 represents the price paid on the third horse at the finish for show.

Q. You said 650 for show and you said the odds; what do you mean by that? A. You get 650 for every two dollars you bet on the horse for show.

Q. Now, Chief, I call your attention to that part of the sheet which referred to the first race and there is a semi-circle around the number nine, Fred Coty; do you know what that means? A. That indicates this horse won the first race.

Q. And number two over John Bird? A. Ran second.

Q. And number three over Victory Maid? A. She ran third.

Q. Now I show you one of these sheets in Exhibit S-13 which shows two dollars in this column, the second column. A. Yes, sir.

Q. What does that mean? A. That means that the bettor put two dollars on Fred Coty to win.

Q. Is that in your opinion the same horse as is marked with a circle as winning the race?

Mr. Lichtenstein: I object to the question, if the Court please. That does not call for an expert opinion and it is an improper question to ask the witness whether in his opinion the name on the sheet represents a horse.

Mr. Giuliano: I will withdraw the question.

Q. That was what two dollars paid on Fred Coty? A. Yes, sir.

Q. After Fred Coty there is an amount 25.50 in this last column. Can you tell us, please, what that represents? A. That was paid bettor for his two dollar bet.

Q. And that is the same amount, 25.50? A. Yes, sir.

Q. I show you another sheet in Exhibit S-13 with two dollars in the second column, Fred Coty, 25.50 and can you tell us if that is the same situation? A. It is.

Mr. Lichtenstein: I don't want to break in but I would like to know whether I have the understanding with your Honor and with the Prosecutor that it is not necessary for me to object to this whole line?

The Court: I understood that this morning that you wanted the objection to run to all this line.

Mr. Lichtenstein: So that without my objecting to all these questions that have been asked the witness from the time he got on the stand, may that objection run to all of them?

The Court: The answers are over your objection.

Mr. Lichtenstein: Subject to my objection and over my objection to which I ask to take exception even though it is not specifically mentioned.

The Court: That is right.

Q. Now, I show you a sheet marked Ralph in Exhibit S-13 and I call your attention to these figures, one and one, Johns Bird, two. Two sixty and I ask you what that two sixty represents? A. That means the bettor who made this bet has insured his bet.

Q. In that column; I imagine this is the last column? A. That is the winner, that is the odds that they paid on this two dollars.

Q. Now, refer please to this chart and tell me the position Johns Bird finished? A. Second.

Q. And that was the amount paid for the second place? A. That is right.

Q. Now, Chief, I show you S-16 in evidence which are parlay books and others are on the table that are similar; can you tell me what these parlay books are used for? A. That computes the money paid for the different parlay bets.

Q. Now, what is parlay, do you know? A. Yes, sir.

Q. What is it? A. A parlay bet is this: The bettor picks two horses in two different races. Now, he will bet two dollars on the parlay. If the first horse wins he wins ten dollars and then that ten dollars, with the money including the two dollar bet goes down on the second horse and that is twelve dollars riding on the second horse.

Q. If this horse wins, that is parlay? A. Whether he wins.

Q. Now, I show you this book marked, "Index of entries" and I ask you if you know what these are? A. These here (indicating)?

Q. Under the names here first. A. Well, these are the names of the horses running at this particular track that day.

Q. And what 2 Del.? A. That runs in Delaware.

Q. 8 Aq.? A. Aqueduct.

Q. And that is the Aqueduct Track, Long Island? A. Yes, sir.

Q. I show you S-19, National Racing Program, and ask you if you know what that is? A. Yes, I do.

Q. What is it? A. That is a guide to anybody making a bet. They have got all the horses listed. They have got the odds against them. They have got the jockeys who are riding them and they have got their post position.

Q. I also show you "Daily Racing Form" and I ask you what that is? A. Well, that is the same thing.

Q. Now, Chief, these Exhibits that I have shown you, together with all of this paraphernalia that you see before you, the table and the telephone and the radio and these boxes; can you tell us whether or not they are used in connection with bookmaking? A. Yes, sir, they are.

Mr. Lichtenstein: Before he answers that, please. I object to the question upon the ground that the witness is not competent or qualified to answer the question. Further upon the ground that it is a hypothetical question and that it does not embrace all the elements involved in such a question and neglected to include certain elements which should be included in order to make it a proper hypothetical question for the witness to answer.

The Court: I will allow him to answer.

Mr. Lichtenstein: Exception.

Mr. Giuliano: Will your Honor let the answer stand?

The Court: Let the answer come in; let him repeat the answer.

(Question read by the stenographer as follows: "Question: Now, Chief, these Exhibits that I have shown you, together with all the paraphernalia that you see before you, the table and the telephone and the radio and these boxes; can you tell us whether or not they are used in connection with bookmaking?

"Answer: Yes, sir, they are.")

Q. Now, I show you again S-13 in evidence and ask you whether or not these sheets marked Exhibit S-13 are used in taking and making a book?

Mr. Lichtenstein: I object to that first upon the ground that it is highly leading; second upon the ground that the witness is not qualified to answer that question on the data shown to him and that it has not been shown that he is qualified or to indicate that he knows what making and taking a book is and thirdly upon the ground that this question is a question of law and not a question of fact and one which your Honor will have to decide and one which the jury will have to find.

The Court: You may ask him whether he knows what making and taking a book means.

Q. Do you know what making and taking a book is? A. I do.

Q. And Chief, would you say or would you not say that these sheets, S-13, are used in taking and making a book?

Mr. Lichtenstein: I object to the question, if the Court please upon the grounds that urged in my last preceding objection.

The Court: I will allow the question.

Mr. Lichtenstein: Exception.

A. Yes, I do.

Q. And are they? A. Yes, sir.

Q. I show you these sheets marked S-22 in evidence and I ask you if these sheets are used in making and taking a book?

Mr. Lichtenstein: The same objection without repeating it.

The Court: All right, overruled.

Mr. Lichtenstein: Your Honor will grant an exception.

A. They are.

Q. I show you this "Racing Form" marked S-17 and I ask you if this racing form is used in making and taking a book? A. Yes, sir.

Mr. Lichtenstein: I object on the same grounds without repeating them.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant me an exception?

A. Yes, sir.

Q. I show you what purports to be "Lawton Handicap" marked S-20 in evidence and I ask you if you know what that is? A. Yes, sir.

Q. What is it?

Mr. Lichtenstein: I object on the same grounds, if the Court please.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant me an exception?

A. This is used by people making bets, gives them a general line on horses running here and as to how they should finish.

Q. And is this used in taking and making bets?

Mr. Lichtenstein: I object to the question.

The Court: I will allow it.

Mr. Lichtenstein: Exception.

A. Yes, sir.

Mr. Lichtenstein: You said taking and making a bet.

Mr. Giuliano: Taking and making book. Thanks for the correction.

Mr. Lichtenstein: The witness was asked whether they were used in making and taking book?

The Court: I will allow the question.

Mr. Lichtenstein: Your Honor will grant me an exception.

Q. I show you again, Chief, this Parlay book S-16 and ask you if these books are used in the taking and making a book? A. They are.

Q. I show you S-59 in evidence and ask you if these slips are used in taking and making a book?

Mr. Lichtenstein: I object to this upon the same grounds as I urged in opposition to the previous questions of a similar nature without repeating my objection.

The Court: It will be noted and I will allow the question.

Mr. Lichtenstein: I take an exception.

A. They are.

Q. I show you a bundle of sheets marked S-67 in evidence and ask you whether or not these sheets are used in taking and making a book?

Mr. Lichtenstein: Same objection.

The Court: Same ruling.

Mr. Lichtenstein: Exception.

A. They are.

Q. I show you, Chief, S-54 in evidence and I ask you if that sheet is used in taking and making a book?

Mr. Pearse: May I ask a question first? Is that the same one. I am not familiar with all these Exhibits and numbers.

Mr. Giuliano: That S-70 you mean?

Mr. Pearse: Is that the same kind of sheet as was exhibited to the witness in the bundle S-13?

Mr. Giuliano: It is not. It is S-54 that I have referred to now.

Mr. Pearse: It is the same kind of sheet?

Mr. Giuliano: Yes.

The Witness: Yes, they are.

Mr. Lichtenstein: I object to the question upon the ground not only that he is not qualified to answer the question, which objections I have already made but upon the further ground that the question itself is incompetent, irrelevant and immaterial; upon the further ground that it is immaterial whether the sheet itself is taken or is made for the purpose of making and taking a book.

The Court: I will allow the question.

Mr. Lichtenstein: An exception, please.

Q. Just so we can get the answer then; that is right, Chief? A. Yes, sir.

Q. Now, I call your attention to a great number of pads here marked S-47 in evidence, one of which is in my hand and I ask you whether or not these pads are used in the making and taking of a book?

Mr. Lichtenstein: I object.

Mr. Pearse: Blank pads.

Mr. Giuliano: Yes, blank pads.

The Court: I will allow it.

Mr. Lichtenstein: Your Honor will grant us an exception.

A. They are.

Cross examination by Mr. Pearse:

Q. Now, what is there, Chief, in this portion of Exhibit S-47 that leads you to the conclusion that a pad like this is used in the making and taking of a book? A. Well, in most every pool room I have raided——

Q. Pool room; you are talking about pool rooms? A. Well, here is rooms.

Q. Is that what you are talking about? A. In most——

Mr. Giuliano: I don't know of any difference.

Mr. Pearse: I ask to have that stricken.

The Court: Let the witness answer.

The Witness: Everything indicating a bet on horses, names of horses, the bets received, how they finished, is all put on that simple pad.

Q. All like this? A. Yes, sir.

Q. You are quite sure of that? A. Yes, sir.

Q. Now, Chief you said that you have been Captain of the County Detectives or Chief of the County Detectives for how many years? A. Twenty-eight years.

Q. That takes us back to when? A. 1916.

Q. What did you do before that?

Mr. Giuliano: I object to that. I don't see how that is material.

The Court: How is it material?

Mr. Pearse: I will withdraw it.

Q. May I ask how old a man you are? A. Over twenty-one.

Q. You are like me then? A. Yes, sir.

Q. How about being over sixty? A. Yes, that is right.

Q. And you say that during these last twenty-eight years that you have had numerous experiences in raiding what you call bookmaking establishments, is that right? A. Yes, sir.

Q. Now, as a matter of fact, what you call bookmaking establishments is an establishment where any kind of betting goes on with respect to horse races, isn't it? A. That is right.

Q. All inclusive? A. Yes, sir.

Q. How do you distinguish between a pool room and a horse room; what distinction is there? A. Well, there is no distinction that I know of. A horse betting room is called a pool room.

Q. It is a pool room and a horse betting room and a bookmaking establishment; in your opinion are all the same thing? A. With the exception of a pool room where pool is played.

Q. When I say "pool" I am speaking of pool in relation to racing? A. Yes, sir.

Q. So that there is no difference, so far as you know or your opinion goes in reference to any of these establishments? A. No.

Q. Is that right? A. Yes, sir.

Q. Now, you have said that these Exhibits S-13 and the S-22 sheet and S-20 and S-19 and S-21 and S-16—I think that is all of them—you, in your opinion stated that they were things which were used in connection with bookmaking; is that right? A. That is right.

Q. And the same things could be used in connection with pool selling on races, couldn't they? A. I suppose they could, yes, sir.

Q. Well, don't you know? A. Yes, sir.

Q. And the same could be used in any kind of other betting on horse races, is that right? A. Yes, sir.

Q. So they are not, in your opinion, limited to bookmaking; is that right? A. Well, I am classifying bookmaking coming under the three heads that you mentioned.

Q. You classify bookmaking as coming under the head of pool selling, betting on horse races and what else? A. Wire room.

Q. And that means the same to you? A. Exactly.

Q. Now, then, take one of these S-13's, if you will. You find on the top the date? A. Yes, sir.

Q. You find on the top a name? A. Yes, sir.

Q. You find on the first column to the left a figure? A. That is right.

Q. And that, you say, indicates that somebody bet on Ralph or whatever the name is, bet a dollar? A. On this four dollars.

Q. Let us take any figure you say bet or whatever the figure is a dollar for one? A. Yes, sir.

Q. And if it is a dollar in the next column it would be for place? A. Yes, sir.

Q. And if there would be a dollar in the next column it would be show and the name of the horse which follows? A. That is right.

Q. And the amount after the name of the horse is the amount he has paid in, is that right? A. That is right.

Q. And the last column contains certain figures. Here it is, 25.50 at the top and then also there is 25.50 here in the amount at the top. Now that figure is the money which was paid to the winner on a horse, the amount of money paid to the winner on a horse at the pari-mutual track; isn't it? A. That is right.

Q. I suppose then in your category, you would consider pari-mutual betting also bookmaking?

Mr. Giuliano: I object to that.

Mr. Pearse: Let me ask him.

A. Well, it is legalized bookmaking.

Q. It is legalized bookmaking, is that what you say it is? A. Yes, sir.

Re-direct examination by Mr. Giuliano:

Q. Just one more question. Mr. Pearse asked you a question about pari-mutual betting and you said that that was legalized betting.

Mr. Pearse: No, he said bookmaking.

Q. Would you say this was legal or illegal?

Mr. Pearse: I object to that. That is incompetent. It is not for this witness to say whether it is legal or illegal.

Mr. Giuliano: I will withdraw it. I'll let the jury consider it.

(Witness excused.)

Simon L. Fisch, called as a witness on behalf of the State, being sworn, was examined and testified as follows:

Direct examination by Mr. Giuliano:

Q. What is your full name? A. Simon L. Fisch.

Q. You are a member of the Bar of the State of New Jersey? A. I am.

Q. For how long? A. Thirty-five years.

Q. Presently you are a Deputy Attorney General of the State of New Jersey? A. I am .

Q. On June 10th, 1944, were you assigned to the office of the Prosecutor of the Pleas of Hudson County? A. I was. I was assigned before that. I was in the office at that time.

Q. Were you present when Mr. Eugene V. Lewis, the defendant, returned from the Goodman Warehouse? A. I was in my office when he came in with you and Captain Avia and I believe with a sheriff officer.

Q. I show you Exhibit S-38 for identification and ask you whether or not you saw that strong box in the office of the Prosecutor of the Pleas at the time Mr. Eugene V. Lewis, the defendant, came back from the Goodman Warehouse? A. I did.

Q. And was that box opened in his presence? A. It was.

Q. I show you a bundle of two dollar bills which purports to have fourteen hundred and thirty-four dollars in, being seven hundred and nineteen two-dollar bills and ask you whether any statement was made to and by the defendant at the time those bills were taken out of this strong box? A. There was.

Q. What did Mr. Lewis say with reference to these two dollar bills after they were removed from the strong box?

Mr. Pearse: I object to what he said, if the Court please, on the ground it is a statement made by the defendant after his arrest, unless it is first shown he was warned of his constitutional rights and that anything he might say might be used against him at some subsequent date.

The Court: Do you wish to cross examine Mr. Fisch?

Mr. Pearse: Yes.

Cross examination by Mr. Pearse:

Q. You say you had a conversation with Eugene Lewis? A. I was present at a conversation between Eugene Lewis and Mr. Giuliano and I also engaged in the conversation.

Q. Was counsel for Lewis present at the time? A. No.

Q. Do you know how Lewis got there? A. He came in with Mr. Giuliano.

Q. You don't know whether he was under arrest? A. Oh, I think he had been under arrest.

Q. Had he yet been released on bail? A. He had not; I don't believe he had. This was Saturday morning he was arrested. The raid took place on Friday afternoon and this was rather early Saturday morning, I think around ten or half-past ten.

Q. So far as you know, he was still under restraint? A. He was in custody.

Q. He had no counsel present? A. No.

Q. Did either you or Mr. Giuliano advise him before you talked to him that whatever he might say might be used against him on some subsequent occasion; answer yes or no?

Mr. Giuliano: I object to the question because it is not necessary under the cases.

The Court: That is as I understand it, Mr. Pearse.

Mr. Pearse: The point I am trying to make is that it can't possibly be said or ruled that a statement by a man under these circumstances without first being told what

his rights are could possible be said to be a voluntary statement.

The Court: I think it might be, Mr. Pearse.

Q. Were you present when Mr. Lewis was interrogated by the Attorney General? A. Well, I was in and out of the room. I was not present during the entire interrogation because I was busy on other matters at that time in another room, although the interrogation of Mr. Lewis by Attorney General Van Riper on Friday took place in my office.

Q. At what time? A. Some time between four and six o'clock, I think; probably around five o'clock, or half past five, something like that.

Q. How late did that examination in the Attorney General's office continue of the various defendants who are here on trial? A. All these defendants in this particular case I think somewhere around half past six or seven o'clock; somewhere in that neighborhood. I am not sure about that, Mr. Pearse, because as a matter of fact I didn't pay any particular attention to the examination which was conducted by the Attorney General on Friday afternoon because I knew and felt that he was perfectly competent to take care of that himself.

Q. Then, I assume, Lewis, after that was locked up? A. I don't know; I don't know of my own knowledge.

Q. Who brought him into this room of yours? A. As I recall it, he came in with Mr. Giuliano and I think with the sheriff's officer who remained outside of the door. I think that Mr. Giuliano, he and perhaps Captain Avia.

Q. As a matter of fact you do know that he was brought from the jail? A. No, I don't know that.

My recollection is that he came from Goodman's Warehouse.

Q. You don't know when he went to Goodman's Warehouse or who took him there? A. No, I don't know that.

Q. So as a matter of fact you don't know whether he was under restraint or not? A. All I know is, Mr. Pearse, this man had been questioned by the Attorney General on Friday afternoon, that later that night he was arraigned and bail was fixed for him and that I then next saw him around ten or a quarter past ten on Saturday morning, June 10th.

Q. Before you talked to him on this Saturday morning, did you tell him that he had the right to have counsel? A. I didn't tell him that because it was not necessary.

Q. You did not tell him that? A. I certainly did not, sir.

Q. You did not tell him that anything he might say under these circumstances might be used against him? A. That question was asked and ruled on.

Mr. Giuliano: I object to the question. Your Honor sustained my objection before.

Mr. Pearse: I am sorry; I didn't mean to repeat it. However, if the Court please, I still insist that whatever this man said is not a voluntary statement and should not be permitted.

The Court: I will allow him to answer.

Mr. Pearse: Your Honor will allow me an exception.

Direct examination (continued) by Mr. Giuliano:

The Witness: Mr. Giuliano, the conversation developed this way. This box, this

strongbox, which you have referred to was opened in Eugene Lewis' presence and then he admitted the bills which were in an elastic as they are here—they were loose in this box. The two-dollar bills were taken out of the box and they were counted in Eugene Lewis' presence. You then asked Eugene Lewis what these two dollar bills were and he said that these two-dollar bills were money that came in to the business and you asked what business and he said. "Into the bookmaking business." And you asked him then whether he meant this bookmaking business on Garden Street and he said that is what it was and you asked him how it came about that they were all two dollar bills and he said, "Well, we made it a practice to save the two-dollar bills." You then said, "Who do you mean by 'We' ". He said, "My brother James and I." Then I said to him, "Why did you keep the two-dollar bills," I said, "Because $2 is said to be hard luck to horseplayers?"

And he said, "Yes, I guess that is it."

You then asked him whether these two-dollar bills had any relation to the two-dollar bills which were found in the safe, which is this white safe which was offered in evidence and which you had shown him in Goodman's warehouse, and he said, "Yes, that is the same thing. That money in that box came from the bookmaking business." There were some other things in that box. You took those things out of the box and you asked him about these, asked him who they belonged to?

Mr. Lichtenstein: Before the next question is asked, may I ask your Honor to instruct the jury that any statement that may have been made by the witness as against James Lewis, is not to be regarded by them as binding or as evidence against James Lewis.

The Court: Ladies and gentlemen, the statements which the witness has just referred to as having been made by Eugene Lewis are only binding on Eugene Lewis and not the other defendants in this case.

Mr. Giuliano: I now offer the two-dollar bills in evidence.

Mr. Pearse: I object to them.

Mr. Lichtenstein: I also object to these bills going in evidence—where were they taken from?

Mr. Giuliano: From the third floor in the front, adjacent to the wire room.

(Accepted and marked as State's Exhibit S-95, being 719 two-dollar bills.)

Q. I show you certain bonds and ask you if those bonds were taken out of that strong box in the presence of the defendant Eugene V. Lewis (handing witness)? A. They were.

Q. And were they calculated at the time? A. Yes, a calculation was made of them and you asked him who they belonged to, and he said that they belonged to him and to his brother James, and the calculation was made and it was found that there were $13,750 face value of bonds in the name of Eugene V. Lewis, and that there were $15,800 face value of bonds in the name of James A. Lewis, and my recollection is that some of these bonds were payable, if they were in the name of

James A. Lewis, were payable in case of death to Eugene V. Lewis, and that others which were made payable to Eugene Lewis were payable in case of death to James A. Lewis.

Mr. Giuliano: I offer the bonds in evidence.

Mr. Lichtenstein: I object to their going in evidence upon the ground that they are not evidence per se of any charge made in the indictment and can have no bearing as to any part of the charge.

The Court: I will allow them.

Mr. Lichtenstein: Your Honor will grant me an exception.

(Accepted and marked as State's Exhibit S-96 of this date.)

Mr. Lichtenstein: May I ask that a list be prepared of the bonds with the serial numbers?

Mr. Giuliano: My office will be glad to give you a list of anything we have got.

By Mr. Giuliano:

Q. Now, Mr. Fisch, did you then go over everything that is in this box? A. Yes, each item and article that was in the box was taken out and shown to Eugene Lewis and he identified all of the items. My recollection is that there were a number of items that did not particular pertain to this bookmaking charge although they are now in the box, they were not particularly marked.

Mr. Giuliano: I now offer the box, marked for identification S-38 in evidence.

(S-38 for identification now marked S-38 in evidence.)

Q. Now, Mr. Fisch, did you on a later date see the defendant James A. Lewis? A. I did.

Q. What date was that? A. That was on Tuesday, June 13, 1944.

Q. And did you interview Mr. James A. Lewis, the defendant? A. I endeavored to.

Q. Will you please tell us what you said to him and what he said to you?

Mr. Lichtenstein: I object to the question. The witness testified that he endeavored to interview him.

The Witness: I had a conversation with him.

Mr. Lichtenstein: If that is all he did, that is the end of the story, it seems to me.

Q. Did you have a conversation with him? A. I did.

Q. What did he say? A. He said his name was James A. Lewis.

Q. Did you ask him where he lived? A. I did.

Q. What did he say? A. He said he lived at 1124 Garden Street.

Q. Did you ask him where he was employed and what his occupation was? A. I asked what his business was.

Q. What did he say? A. He said he was unemployed.

Q. And then, did he say anything to you further? A. Yes. I asked him how long he was unemployed or had no business, and he refused to answer. I asked him what his business was before he became unemployed, and he refused to answer that. Then I asked him if he knew Marnell and he refused to answer that. Then I asked him who paid the bills for 1124 Garden Street and he refused to answer that. I asked him who

paid the telephone bills and he refused to answer that. I asked him where he was on Friday afternoon at 3:30 and he refused to answer that. I asked where he had been since Friday afternoon at 3:30 and he said he had been somewhere around in Hoboken, and then I asked him whose money that $16,000 was that was found in the coat, and he said, "There will be time for that later."

I said, "Well, it is a lot of money. We would like to know who it belonged to, and I want to know whether it belongs to you."

And he refused to answer that. I asked him whose suit that was that the money was found in, and he refused to answer that. Then he said, "I would like to have my lawyer."

I said, "Well, your lawyer is in the building. You will have an opportunity to have your lawyer here, and I will ask you questions in the presence of your lawyer."

I said, "But your lawyer does not know about these things. You are the one who knows about it, and I am asking you. I want to know who your partner was in this bookmaking place at your home, at your house there," and he refused to answer that. I asked him then why he was refusing to answer these questions.

I said, "Are you refusing to answer these questions because you are afraid that you will incriminate yourself?"

He said, "Well, I just refuse to answer."

I said, "Why do you refuse to answer; what is the reason?"

And he said, "Well, the fish that never opens its mouth, never gets caught."

Mr. Lichtenstein: I ask that this entire line of testimony be stricken upon the ground that it is incompetent, irrelevant

and immaterial, has nothing to do with the case whatever, and no statements were made and no demands were made, and it is only used for the purpose of influencing this jury adversely to the defendant, and upon the the statement—this man being a lawyer and Mr. Giuliano being the prosecuting attorney in this case, Mr. Fisch being an assistant attorney general, I ask for a mistrial in this case upon the statements that were made by this witness.

The Court (after argument): I will allow the entire statement in.

Mr. Lichtenstein: Will your Honor rule on my motion for a mistrial?

The Court: I will deny your motion.

Mr. Lichtenstein: Your Honor will grant me an exception to both rulings?

The Court: Yes.

Cross examination by Mr. Lichtenstein:

Q. Mr. Fisch, let me ask you some questions on this very subject. You recall that the night before Mr. Lewis was in your office, on the occasion that you interrogated him, that I talked to you over the telephone? A. Yes, I do. You did talk to me over the telephone, to make some arrangement about bringing him in, to surrender him.

Q. That was the night of the alleged raid? A. No, I think not, sir.

Q. Or the next night? A. No, I think not, sir. The raid was Friday, Mr. Lichtenstein.

Q. I talked to you? A. I think you spoke to me late Monday afternoon.

Q. Yes, and I told you that I was going to bring Mr. Lewis in? A. You wanted to know—you said

that you would surrender him, and you wanted to know how much the bail was before you surrendered him.

Q. I told you that I would bring him in the next morning? A. Yes, I think you did.

Q. And I did bring him in the next morning? A. Yes, sir.

Q. And took him to your office? A. Yes, sir.

Q. And asked you what the bail was going to be? A. Yes, sir.

Q. And you told me? A. Yes, sir.

Q. And I said that I was ready to give bail? A. Yes, sir.

Q. And I was in your room with James Lewis at the time? A. I don't know whether you were in my room with him at the time, or whether he was outside in the hall.

Q. Don't you recall that we were in the corner room, in the room you used, you and I and Mr. Lewis? A. That may be so.

Q. And don't you recall that at that time you told me to go downstairs and arrange the bail? A. Yes, I remember that.

Q. Mr. Lewis, who was with me at the time, wanted to walk out of the room, you remember that, with me? A. Yes, I think that is true. I said——

Q. You put your hand on his shoulder and you said to him, "You stay here". A. Yes, I think that is correct.

Q. And you told me that you wanted me to go downstairs to see the clerk and secure the bail, and I said I would if that was necessary, and I would come back. A. That is right.

Q. You remember that Mr. Lewis at that time said to me in your presence as he stood on the threshold going out of your room into the hall-

way, "Can this man ask me any questions without your being here?" A. No, I don't remember any such thing. I think he whispered something to you.

Q. Weren't you standing right next to him and didn't that occur right in your presence "Mr. Lichtenstein, has this man a right to ask me any questions without your being there?" A. I didn't hear that.

Q. You didn't hear it? A. No, sir.

Q. Didn't you hear me say to him, "You stay here. Never mind. Never mind, you stay here?" A. I remember you asking him "You stay here".

Q. Didn't he ask me whether he had a right to be represented by me in your room, right in your presence? A. I don't recall that.

Q. And didn't I say to him, "You have a right to have me here?" A. I didn't hear.

Q. You don't remember. You say you don't remember? A. I don't remember. I didn't hear any conversation which you had with Mr. Lewis.

Q. Now, I was out of the room, Mr. Lewis was in the room with you? A. That is right.

Q. And within a short time I came back into your office? A. Right.

Q. While I was absent, while you knew I represented this man, you undertook to examine my client without my presence, didn't you? A. Yes, I did. And when you mention being in the room, I asked him the identical questions in your presence and I told you what he had stated to me, that he made the statement to me, "A fish that never opens its mouth never gets caught."

Q. Let us wait a minute. A. I told you that, sir.

Q. Wait a minute. I will show you that you are mistaken, if you can recall what you said.

When I came back into the room, you recall you were sitting with your back to the rear of this court house in a chair? A. I was sitting at my desk.

Q. And Mr. Lewis was seated right next to you? A. He was sitting in the chair alongside of my desk.

Q. And at another desk you had a stenographer? A. Yes, sir.

Q. And who was that? A. Mr. Zymet.

Q. Is he in court? A. He is right in the court house.

Q. Have you got a transcript of the testimony that he took? A. Yes, sir.

Q. And do you recall that when I came in, you turned to me and you said to me, words to this effect, "Mr. Lichtenstein, I have been interrogating your client, or asking your client some questions and your client said to me that he would not answer them until you came up"—until I, the lawyer came up. Do you remember that? A. Well, there were some words to that effect, Mr. Lichtenstein.

Q. Didn't you say it to me, and wasn't that your language? A. Some words to that effect that Mr. —just a minute, that Mr. Lewis told me that if his lawyer was present he would answer questions. Then Lewis said——

Q. I am examining you. Didn't my client then in your presence, after you had made the statement then state that he would answer questions if I came back, if I was there and say to you, "Mr. Fisch, that is not so. I never said that I would answer any of your questions." Isn't that what he said or language to that effect? A. No. He said at that time "I didn't say that. I said if my lawyer is here I may go along with you." That is what he said in my presence.

Q. And then sat down? A. And sat down.

Q. And then he asked me whether you had a right there to ask him any questions. A. I didn't have to, Mr. Lichtenstein, that was my duty.

Q. You didn't? A. I was performing my duty. I didn't have to ask you what to do.

Q. You didn't ask me, did you? A. No, sir, I didn't.

Q. And then you started to ask him some questions? A. Yes, sir.

Q. And he did not answer you? A. He refused to answer me and they were the same questions, most of them, that I had asked him in your absence.

Q. Wasn't it during the time of the examination, after he was back in the room that he said something to you concerning the fish? A. No, Mr. Lichtenstein. He said that before you came into the room. I repeated to you the fact that he had made that statement.

Mr. Lichtenstein: Mr. Giuliano, I call upon you to produce the transcript of the record of the stenographer who was present at that time.

Mr. Giuliano: I have it right here.

Q. Why didn't you use this transcript, Mr. Fisch, instead of relying up your memory?

Mr. Giuliano: I object to that.

The Court: You may ask the witness that.

A. Well, I didn't think it was necessary to use the transcript. I had a pretty fair recollection of what took place.

Q. Mr. Fisch, let me call your attention to the statement and see whether or not you are mis-

taken in what you said concerning this question about a fish. You said it was while I was absent. Here is the statement produced, a transcript of the statement that was made. A. Let me have it, please.

Q. Let me call your attention to the fact, on page four. "Question—" This is a question that you asked:

> "Mr. Lichtenstein, I asked your client some questions and he said he wants you present before he answers them.
>
> "Mr. Lewis, I asked you before and you said you lived in this house with your brother who was arrested—and you refused to answer?"

A. That is the answer.

Q. And on page four where you asked that question I was already back in your room. A. That is right.

Q. I call your attention that afterward, on page five appears the question, "You told me also a fish that never opens its mouth never gets caught." That is correct; so that that statement was made after I got back. A. It was made by me after you got back, as a result of what he had told me before you got back and I call your attention, sir, to this portion of the transcript which is before you on page four here and which is voluntarily given and particularly to look at it for a moment on page three of the transcript before you when you got back into the room.

"Question: When did you find it out?" and I had the question repeated.

"Question: You knew there was a warrant out for your arrest, didn't you?

"Answer: Ha ha ha, that is why I am here.

"Question: When did you find it out?

"Answer: I refuse to answer. I was never yellow in my life. I never ran away from anything. I know a fish that doesn't open it's mouth never gets caught."

Q. Then you called my attention to that and the statement? A. That is what I said on my direct examination, isn't it?

Mr. Lichtenstein: I think you did.

Cross examination by Mr. Pearse:

Q. When you had Eugene Lewis in the room for questioning—speaking of the time when Mr. Giuliano came in with him, the last time— A. I must interrupt. He was not there for questioning at that time. It was just a conversation which was had in connection with opening this strongbox.

Q. You did question him? A. It was a conversation and only a conversation.

Q. You asked him the questions and you say he answered? A. Yes.

Q. Don't you call that questioning? A. You can call it whatever you want to call it, Mr. Pearse, but it was not a matter of sitting down and taking a statement from him, in that sense. He had been brought into the office and the box was opened in his presence so that he could identify the articles. We wanted to have that box opened while he was there and during the course of it, it developed that Mr. Giuliano asked him some questions concerning the things that were in the box and I made the remark concerning the two-dollar bills being hard luck for horse players and asked him one or two questions in that connection.

Q. What I am trying to find out; did you have a stenographer present? A. No, sir, we did not.

Q. Did you make any notes of what he said? A. No, I made no notes of what he said. I have a pretty good memory.

Q. Isn't it a fact, Mr. Fisch, that every reference to bookmaking or taking or making a book were words that either you or Mr. Giuliano used and not the words of Eugene Lewis or James Lewis? A. That is not so, Mr. Pearse.

(Witness excused.)

Mr. Giuliano: The State now rests.

Mr. Lichtenstein: If your Honor please, I have a motion to make but it is now four-twenty and I don't intend to argue it at any great length tonight and perhaps it would be better if I make my motion without argument and then at the conclusion of the entire case I will make my motion and present my argument if this motion is denied.

The Court: Perhaps you had better make your motion in the morning.

(Thereupon officers were sworn and the jury left in the custody of the officers and the court adjourned until November 3, 1944, at 10 o'clock.)

NOVEMBER 3, 1944, 10 A. M.

(Trial resumed pursuant to adjournment.)

(Appearances, the same.)

(In the presence of the defendants and their counsel the clerk polled the jury.)

(Mr. Lichtenstein made his motion for a direction of verdict in chambers.)

MOTION FOR DIRECTION OF VERDICT ON CLOSE OF STATE'S CASE

Mr. Lichtenstein: If the court please, the State having rested its case, the defendants now move for a direction of a verdict upon the following grounds:

First, upon each and every ground urged by the defendants on their motion to quash the indictment upon which they are now on trial, and I will repeat them into the record so that we have them right here; namely:

(I) The indictment fails to charge the commission of any crime by the defendant or any of them.

I have added "or any of them", which was not in the motion to quash.

(II) The indictment fails to charge a crime under Revised Statutes 2:135-3.

(III) The indictment fails to allege a material element of an offense created by the statute under which the indictment was drawn, in that the indictment charges the defendants wilfully and un-

lawfully did make and take what is commonly known as a book upon the running of horses, mares and geldings. The statutory language, so far as pertains is: "Any person who shall make or take what is commonly known as a book upon the running, either within or without the state, of any horse, mare and gelding, shall be guilty of a misdemeanor."

(IV) The indictment is defective in failing to charge a place either within or without the state where the alleged running took place, and whether such place was within or without this state.

(V) The indictment is defective in its charge that the defendant did make and take what is commonly known as a book upon the running of horses, mares and geldings, without setting forth the statutory fact constituting the alleged breach of the statute with sufficient clearness and all necessary certainty so as to apprise the party accused of the offense with which he or they can be charged.

My second ground for this motion is that the State has failed to prove the charge or crime set out in the indictment against the defendants or any of them.

Third: The State has failed to prove that the defendants, or any of them, did make and take what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

Fourth: The State has failed to prove that the defendants, or any of them, either made or took what is commonly known as a book, as charged in the indictment.

Fifth: The State has failed to prove that the defendants, or any of them, made or took, or made and took what is commonly known as a book upon the running of any horse, mare or gelding, either within or without the State, or in fact anywhere.

Sixth: The State has failed to show that any horse, mare or gelding ever did run within or without the state or anywhere.

Seventh: The State has failed to prove that the defendants, or any one of them, made and took a book, or made or took a book upon any horse, mare or gelding, which did in fact run either within or without the state.

Eighth: No part of the evidence offered by the State, nor the whole thereof taken together, constitute the making or taking, or making and taking of what is commonly known as a book, as charged.

Ninth: If a book was in fact made and taken, as charged in the indictment, there is no proof as to which of the defendants made the same.

Tenth: The defendants are all charged as principals, and the evidence fails to show which are principals, and which, if any, aided, abetted or assisted, and it is impossible for the jury to find which of the defendants are principals and which are aiders, abettors and assisters.

Eleventh: From the evidence, the most that can be said of the defendants, other than Eugene Lewis, is that they aided, abetted or assisted in some part of the activities which took place on the premises referred to in the testimony; and as to them, there should be a direction of acquittal since they are not charged with aiding, abetting and assisting.

Motion for Direction of Verdict.

And as to the defendant James A. Lewis as an individual, I ask for a direction of verdict upon the ground that as to him there is absolutely no proof of the allegation contained in the indictment.

The Court: In the opinion of the court, there has been sufficient evidence to raise a question of fact and to be left to the jury.

Now on the matter of a direction you said you wanted to make this motion now and you may wish not to put in any evidence.

Mr. Lichtenstein: I will make my motion for a direction and that will embrace the argument on all of these grounds. I don't think your Honor should preclude us until you hear the argument.

Mr. Giuliano: I think the motion has to be denied for the record.

The Court: On this particular motion, I think it is a question of fact and I will deny the motion.

(The court then declared a ten-minute recess.)

(After recess.)

Mr. Pearse: I suppose that this has to be made in the presence of the jury; we rest.

On behalf of the defendants Morano, Mullins, Halpin, Marnell, Walter Lewis, Eugene V. Lewis and James A. Lewis, the defendants rest.

MOTION FOR DIRECTION OF VERDICT ON CLOSE OF CASE.

Mr. Lichtenstein: The defendants having rested, we now move for a direction of acquittal in favor of each and every one of the defendants upon the following grounds:

Motion for Direction of Verdict.

First, upon each and every ground which we urge on our motion for the direction at the end of the State's case, and have I your Honor's permission to incorporate them in this motion as though I had repeated everything that I stated on that motion at this time?

The Court: You have, sir.

(Motion argued.)

The Court: Gentlemen, after having listened very attentively to your argument, I am still of the same opinion and that is that there is sufficient evidence in this case which should be left to the jury and should not be taken out of the jury's hands by the court.

Therefore I shall deny your motion and let the case go to the jury.

Mr. Lichtenstein: Your Honor will allow us us an exception?

Mr. Pearse: For all defendants.

(The court then summoned the jury to the court room.)

The Court: May I ask counsel for the defendant to make a statement for the jury.

Mr. Lichtenstein: Defendant James Lewis rests upon the case made by the State.

Mr. Pearse: And the other defendants do likewise.

(Thereupon officers were sworn and the jury retired and the court adjourned until 2:15 P. M.)

(After recess, 2:15 P. M. counsel summed up to the jury.)

Charge of the Court.

(The Court then charged the jury as follows:)

The Court: Mr. Foreman and ladies and gentlemen of the jury:

At the April term, 1944, the defendants Frank Morano, Walter Lawrence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis were indicted on a charge of what is commonly known as bookmaking.

Now, when I say that these defendants were indicted by the Grand Jury of this county, I mean that the Grand Jury has presented to the court a formal complaint against each of these defendants charging them with the crime of bookmaking. Such indictment is not evidence of these defendants' guilt. The indictment is merely a formal declaration or a complaint charging the defendants with having committed this crime, and informing the defendants of the charge so that the defendants may know specifically the crime with which they are charged in order that they may meet the charge and defend themselves against it.

Now, no inferences are to be drawn by you against the defendants, or any of them, because the indictment was returned by the Grand Jury, for under the criminal procedure of this state, the Grand Jury only hears one side of the case, the plaintiff's side, that is the side of the State. Here at this trial, before you, is the time when the entire case is brought before you, both sides; the side of the State and the side of the defendant. The defendant then has his day in court and you have heard both sides of this case and should decide it on the sworn testimony and such other evidence which has been submitted by both sides for your consideration.

Charge of the Court.

I shall read this indictment to you.

"Hudson Oyer and Terminer, April Term A. D. 1944.

"Hudson County, to wit: The Grand Inquest of the State of New Jersey in and for the body of the County of Hudson, upon their respective oath present that Frank Morano, Walter Lawrence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis, and James A. Lewis, late of the City of Hoboken, in the said County of Hudson, on the 9th day of June in the year of our Lord one thousand nine hundred and forty-four, with force and arms at the City of Hoboken aforesaid, in the County aforesaid, and within the jurisdiction of this court, wilfully and unlawfully did make and take what is commonly known as a book upon the running of horses, mares and geldings, contrary to the form of the statute in such case made and provided, and against the peace of this state, the government and dignity of the same."

There is a second count in this indictment which you will have with you when you consider and deliberate on this case, but you are to disregard the second count because that does not concern these defendants. This indictment has been signed "Walter D. Van Riper, Acting Prosecutor of the Pleas and Attorney General."

Now, the statute of the State of New Jersey, Revised Statutes, Article 2, 135-3, states as follows:

"Any person who shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this state, of any horse, mare or gelding * * * shall be guilty of a misdemeanor."

Now, that is what the statute says.

In the absence of any court decision in this state defining the meaning of the word "bookmaking" or "making or taking books" I shall read to you what Webster's new international dictionary, second edition says:

"Bookmaking: The making of a book of bets."

At another place, "Make a book: To record bets in a book. To make a business of accepting bets, as on horseraces."

And in another place, on the word "book": "A record of bets; especially a record of bets on horse races."

Now, it is called bookmaking because the bets are booked, or a record of them is kept in a book or on sheets of paper.

Now, ladies and gentlemen of the jury, these defendants, like every other defendant accused of a crime under the law come into court with the presumption of innocence in their favor. From the time these defendants enter this court to defend themselves against this charge and until you arrive at your verdict, they are presumed to be innocent of the charge until their guilt is established by the State beyond a reasonable doubt. They do not have to prove that they are not guilty. The burden is upon the State to prove that they are guilty.

Reasonable doubt is a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt.

It is that state of the case, which, after the entire comparison and consideration of all the evidence leaves the minds of you jurors in that con-

dition that you cannot say that you feel an abiding conviction to a moral certainty of the truth of the charge.

The burden of proof, as I said before, is on the prosecution, the State.

If upon such proof, there be reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. The evidence must establish the truth of the facts to a reasonable and moral certainty, a certainty that convinces and directs the understanding, and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

This we take to be proof beyond reasonable doubt; because if the law should go further than this and require absolute certainty, it would exclude circumstantial evidence altogether.

Ladies and gentlemen of the jury, during the course of the trial, there have been certain motions made and certain reference made on questions of law. Those motions are motions which concern matters of law and which do not concern you at all. They were something which was entirely within the province of the court and the court had to decide them, and you are not to be influenced one way or the other as to the court's action in passing upon any motions that were made during the course of this trial.

A reference has been made to the fact that the defendants have not taken the stand to testify. In that regard, I want to say that the law does not compel a defendant against whom a criminal charge is made to testify in a suit. The law permits him to do so if he so desires, but he is not bound to offer himself as a witness. In not testifying, he was exercising his right as a citizen.

The fact that the defendant, having an opportunity to take the stand if he saw fit, has elected

not to, and that he has been here and heard the statements of witnesses on the stand, would warrant you in presuming that he could not deny that the facts which they stated were true.

Now, a reference has been made, particularly, as to one defendant, and one defendant only, and that is Francis X. J. Marnell, that he was found under a bed, and one of counsel has referred to that as having shown that he fled, that there was flight on his part. Whether there was or not is for you to determine, because that is another fact which only you, ladies and gentlemen of the jury, are to determine.

You are to determine all the facts in this case and that is one of them. If you believe that the defendant Marnell did flee, it is a circumstance which you may consider in your deliberations as to the guilt or innocence of this defendant. The fact that this defendant may have fled from the vicinity where these crimes is alleged to have been committed, having knowledge that he was likely to be arrested or charged with its commission or suspected of guilt in connection therewith, is a circumstance which may tend to indicate the guilt and could be considered by you, with the other circumstances of the case, tending or which might tend to connect this defendant with the commission of the crime, to authorize the drawing of the inference of guilt, provided, however, that you are convinced from the evidence that he did so flee. Mere flight alone, however, will not justify the conviction of this defendant in the absence of other evidence tending to connect him with the commission of the crime.

Now, as to these statements. I have informed you through the trial, and I shall inform you again. There has been testimony in this case by

one William Robert Price, a stenographer, as to certain alleged statements made by some of the defendants. You are to consider these statements and give to them such weight as you feel they merit or warrant. In this connection, however, any statement that may have been made by one defendant cannot be used against any other defendant who was not present when the statement was made; such a statement is binding only on the defendant making it.

In this case there has been considerable evidence which is called circumstantial evidence. In the event that some of you members of the jury may not know what circumstantial evidence is, I should like to read you a definition of circumstantial evidence.

Circumstantial evidence is evidence directed to the attending circumstances, evidence which inferentially proves the principal fact by establishing a condition of surrounding and limiting circumstances, whose existence is a premise from which the existence of the principal fact may be concluded by necessary laws of reasoning.

When the existence of any fact is decided by witnesses as having come to a cognizance of their senses or is stated in documents, the genuineness and veracity of which there seems no reason to question, the evidence of that fact is said to be direct or positive. When on the contrary the existence of a principal fact is only inferred from one or more circumstances which have been established directly, the evidence is said to be circumstantial.

The circumstantial evidence in this case is passed on to you just as the other evidence is, and it is for you to determine what weight you will give to it, for if a person would have to be con-

victed on direct evidence without any doubt whatever, circumstantial evidence would be excluded altogether.

Ladies and gentlemen of the jury, you are called upon to pass solemn judgment on the liberty of your fellowmen. You are to act in harmony with the law and without prejudice of any kind, because jurors and judges do not make the law. That duty rests upon others. Juries and judges are controlled by the law and by the oath which they take which binds their consciences.

You are the judges of the facts in this case, the weight of the testimony, the credibility of the witnesses, the inferences to be drawn from the evidence and the ultimate conclusion to be reached upon all the facts. In considering the evidence in this case you are not to be controlled by statements made by either counsel for the State or counsel for the defense, or by the court as to their recollections of the testimony. You are the sole judges of the facts and it is your recollection as to what the facts were and what the testimony has been, and what the evidence is in this case that must control and influence you in arriving at your verdict. You are to weigh the evidence in this case in your minds, and the case is to be decided by you on the evidence alone. All the evidence in this case is to be considered by you, including that which comes in the form of oral testimony, as well as that which is in the form of exhibits or statements.

You are to consider the character of the testimony and the manner in which it was given by each witness who has appeared before you. You may consider the interest of the various witnesses in the outcome of this case. You must weigh, and weigh carefully, all the evidence in this case and

give to it the credence which you believe it merits at your hands.

Now, in arriving at your verdict, you may either find all the defendants guilty as charged in this indictment, or you may find any one or more than one of them guilty, naming the particular defendant whom you do find guilty as charged in the indictment. In that event you are to signify the names of the defendants that you find not guilty, or you may find all of the defendants not guilty.

Now, ladies and gentlemen of the jury, I do not propose to review the testimony, because, as I said before, even if I did, it would just be your function to determine what the facts are, and you are not to take what the court's recollection of these facts is, and therefore I will not comment on the testimony.

I have already referred to the fact that you, and you alone, are the judges of the facts, and regardless of what anyone has said, except for witnesses on the stand, and as to the inference which you may draw from the exhibits and the testimony, that has been adduced here, and all the evidence that has been adduced here, you, and you only, are to determine what those facts are.

My attention has been called to the fact that in one part of the charge I referred to the word "defendant". Wherever I have used the word "defendant" it applies to all the defendants. The indictment is against all these defendants whom I have named.

With these remarks, I think this case should be left in your hands and for your convenience I think that I shall have this court room cleared and the court chambers will be locked and you will be given the benefit of these exhibits here

instead of having to have the exhibits removed to some other room where it may take a long time to move them back and forth.

You will therefore have the facilities of this room as a court room. You may remain in your seats where you are until the court room is cleared.

Mr. Lichtenstein: If your Honor please, I desire to take a general exception to your entire charge, without limiting the general exception, specifically to that part of the charge where the court defines what making of a book was, and again to the comments that the court made on the fact of the defendants not taking the stand.

I also except to the comment that the court made concerning the defendant Marnell on the question of flight.

Then lastly, to that part of the charge of the court where the court said that the jury might find all the defendants, or any one or more of them guilty.

Then may I also take an exception to the court's refusal to charge the 24 requests submitted to the court.

The Court: In that regard I might say that I refused to charge as requested except as I have already charged.

Mr. Lichtenstein: For the purposes of the record, and with the court's consent, we are handing the stenographer the 24 requests which your Honor had before you.

May I take an exception to your Honor's refusal to charge as requested.

(An officer was sworn and the court cleared the court room and retired.)

DEFENDANTS' REQUESTS TO CHARGE.

1. The defendants in this case, being charged with crime, are presumed to be innocent; and this presumption of innocence remains throughout the trial and continues until the State establishes their guilt beyond a reasonable doubt.

If the State has failed to establish their guilt beyond a reasonable doubt, it is your duty to acquit the defendants.

2. The defendants are not required to prove their innocence, but may rest upon the presumption in their favor until it is overthrown by positive, affirmative proof, beyond a reasonable doubt, that they are guilty.

If the State has failed to establish their guilt beyond a reasonable doubt, you must give to the defendants the benefit of that presumption of innocence, and bring in a verdict of "not guilty".

3. The burden is upon the State to establish to your satisfaction beyond a reasonable doubt, that the defendants are guilty of the offense charged in the indictment.

Unless the State has done so, you must bring in a verdict of "not guilty."

4. Even if the evidence demonstrates a probability of guilt, yet, if it does not establish guilt beyond reasonable doubt, you must acquit the defendants.

5. The State has the burden of proving, by competent evidence, every essential element or necessary ingredient of the crime charged in the indictment, to the satisfaction of each and every juror, beyond a reasonable doubt.

Defendants' Requests to Charge.

Unless the State has proved, beyond a reasonable doubt, as to each defendant, that he has committed every essential ingredient of the offense with which he is charged, you must find that that defendant is not guilty.

6. The burden of proving the defendants guilty of every material ingredient of the offense charged in the indictment to your satisfaction, beyond a reasonable doubt, remains with the State throughout the trial, and this burden never shifts. The defendants never must establish their innocence.

Unless the State has proved the defendants' guilt to your satisfaction, beyond a reasonable doubt, you must find the defendants not guilty.

7. If, after consideration of the entire evidence in the case, you entertain a reasonable doubt as to any single fact or element necessary to constitute any of the defendants guilty, it is your sworn duty to give him the benefit of the doubt, and, as to him, bring in a verdict "not guilty."

8. The Court further charges that a reasonable doubt is a doubt based on reason, and which is reasonable in view of all the circumstances and if, after an impartial comparison and consideration of all of the evidence, or from a want of sufficient evidence on behalf of the State to convince you of the truth of the charge, your minds are left in such a condition you can candidly say that you have not an abiding conviction to a moral certainty of the truth of the charge or charges against a defendant, you have a reasonable doubt and you should find the defendants not guilty.

Defendants' Requests to Charge.

9. In order to convict the defendants, each member of the jury must be satisfied in his own mind that every necessary element or ingredient of the offense charged in the indictment has been established beyond a reasonable doubt. It is not sufficient to convict that a majority, or any number, of the jurors, less than all of them, are convinced of the guilt of the defendants.

10. The mere fact that the defendants have been indicted by a Grand Jury is no evidence of their guilt. In your deliberations, you are to consider only the evidence admitted at the trial, and are not to be influenced by the fact that the defendants have been indicted.

11. Defendants request that the Court charge the jury as to what facts must be proved by the State to establish the defendants' guilt of the offense of making and taking what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

12. Defendants request that the Court charge the jury as to what is meant by the term "making and taking what is commonly known as a book upon the running of horses, mares and geldings," as charged in the indictment.

13. Defendants request the Court to instruct and charge the jury as to what constitutes the making of a book such as the defendants are charged in the indictment with making.

14. What is commonly known as a book upon the running of horses, mares and geldings is the making up of a written list of entries in a horse race or races, together with the odds at which

the person who prepared the list is willing to accept bets in favor or against the success of such horses in the race or races.

If the State has failed to establish to your satisfaction, beyond a reasonable doubt, that such a "book" was prepared by the defendants, you must bring in a verdict of "not guilty."

15. The making or taking of a book, the offense with which the defendants are accused in the indictment, consists of the following elements:

First, the preparation of a written list of the entries in a horse race or races, and of the odds at which the person who prepared the list is willing to accept bets for or against the respective entries;

Second, the public offering to accept bets at the listed odds;

Third, the acceptance of bets at such odds from members of the public; and

Fourth, the written recording of such bets at such odds.

If the State has not established that the defendants did each and every one of the things just mentioned, to your satisfaction, beyond a reasonable doubt, it is your duty to bring in a verdict of "not guilty."

16. Unless the State has proved to your satisfaction, beyond a reasonable doubt, that the defendants accepted bets in accordance with a system of prepared odds, the State has not established that they made or took what is commonly known as a book upon the running of horses,

mares and geldings, as charged in the indictment, and you must bring in a verdict of "not guilty."

17. Even though you should be satisfied, beyond a reasonable doubt, that the defendants made and accepted bets with the public in the event of horse races, and recorded such bets, still, if it has not been proved to your satisfaction, beyond a reasonable doubt, that the bets so made were made in accordance with a system of odds prepared in advance, they are not guilty of the offense charged in the indictment, and you must acquit the defendants.

18. The defendants have been charged with having, on June 9th, 1944, made and taken what is commonly known as a book upon the running of horses, mares and geldings.

If the State has not proved to your satisfaction beyond a reasonable doubt, that the defendants, on the day mentioned in the indictment, engaged in making and taking what is commonly known as a book, as it has been defined to you, even though it has proved that they engaged in a different type of betting, the guilt of the defendants of the offense charged in the indictment has not been established and you must bring in a verdict of "not guilty."

19. If the State has failed to prove that any horse, mare or gelding upon which the defendants may have made or taken a bet on the date charged in the indictment actually ran, you are instructed to bring in a verdict of "not guilty."

20. The defendants are all charged in the indictment as principals, with having made and

taken a book upon the running of horses, mares and geldings.

If the State has established to your satisfaction, beyond a reasonable doubt, that certain of the defendants made and took such book, but has established, as to other defendants, that they only aided, abetted or assisted therein, you must acquit those other defendants.

21. The defendants are not obliged to take the stand and testify. Our Constitution guarantees to persons accused of crime that they shall not be required to testify, and that, in refusing to testify, the defendants have relied upon their constitutional privilege.

22. Some evidence has been offered of statements made by some of the defendants while they were in custody, following their arrest. I charge that such statements, made at the time of arrest, to persons in authority, are to be received with great caution, for besides the danger of misapprehension of the witness, or the misuse of words, or the failure of the party to express his own meaning, it should be recalled that the mind of the prisoner is often oppressed by the calamity of his situation, and that he is often influenced by motives of fear, or the hope of favorable treatment, and may thus be induced to make statements which he believes the prosecuting officials wish to hear.

23. I charge you that any evidence of statements alleged to have been made by any of the defendants while in custody, following their arrest, and not in the presence of their co-defendants, are to be considered, if at all, as evidence only against the defendant who made the statement. In no

event may you consider such statement, even though implicating another defendant, as evidence against any other defendant; and if the guilt of such other defendant has not been established to your satisfaction, beyond a reasonable doubt, entirely apart from such statement, it is your duty to acquit him.

24. If you find from the proofs offered in this case that a book was made or taken, as the Court has defined it, at 1124 Garden Street, Hoboken, but that any of the defendants on trial were mere employees or only casually assisting in the activities at 1124 Garden Street, Hoboken, on the day in question, then your verdict as to him or them must be not guilty.

Jersey City, New Jersey.

NOVEMBER 9, 1944.

Before Hon. Horace K. Roberson, Judge.

(Appearances as before stated.)

(Defendants all present.)

Mr. Guiliano: I desire at this time to move imposition of sentence in the matter of The State *vs.* James A. Lewis, Eugene V. Lewis, Walter A. Lewis, Frank Morano, Walter L. Mullins, Vincent P. Halpin, and Frank X. J. Marnell.

Mr. Lichtenstein: I desire at this time to move in arrest of judgment on behalf of all the defendants, and upon the following grounds:

Motion in Arrest of Judgment.

1. Upon each and every ground which the defendants urged at the end of the State's case, when the defendants requested the court to direct a verdict of acquittal.

2. And upon the further ground—based on the exceptions taken by the defendants to your Honor's charge.

3. Upon the further ground that your Honor failed to charge the requests to charge except as you had already charged, all of which requests to charge are now a part of the record.

The Court: Do you wish to say anything, Mr. Giuliano?

Mr. Giuliano: I have nothing to say.

The Court: I shall deny the motion.

Mr. Lichtenstein: Will your Honor grant us an exception?

The Court: Yes.

Mr. Pearse: Before the defendants step forward—I don't know exactly what the practice is here in this court—I would like to have an opportunity to say something to your Honor with respect to each one of those defendants whom I represent.

The Court: I shall be pleased to hear from you.

Mr. Pearse: I will promise your Honor not to take up too much time on this. I feel it is my duty to present to you what I have been able to ascertain concerning these men whom I represent.

While trying to take it up, in the reverse order of the names set forth in the indictment, because that is the reverse that was used by Mr. Giuliano in calling the defendants forward.

I start, therefore, with Eugene Lewis.

As your Honor has already heard from the statement which he made, Eugene Lewis is 44

years old and he has lived in Hoboken apparently all his life; he has been employed by the Sheffield Company and also by the Public Service Electric Company or the Union Engineering Company, and the only thing that I can say is that he has frankly made a statement as to the situation which existed there at his home at 1124 Garden Street.

While considerable comment was made by the Prosecutor concerning the fact that he did not take the stand in his own defense, it would seem to me, as his counsel, that his statement was so complete that it was unnecessary for him to go on the stand and repeat what he had already said, and which your Honor is familiar with.

So far as the defendant Walter Lewis is concerned, Walter is married. He has a home of his own at 1023 Willow Avenue, Hoboken. He has a son who is now serving overseas and of course he is married and lives with his wife. To be sure he was one of seven brothers in this Lewis family, which seems to be quite a large family; the only reason why he visited or came to 1124 Garden Street was simply because of the fact as he stated in his statement, that his own home was being renovated while his boy was away and while his wife was away, while that was being done; that his brothers provided a bedroom for him at their home at 1124 Garden Street which opened up on the third floor. Walter is employed by the Public School system, I think, of Hoboken. That is his occupation, and to be sure he was found there at this place on this day, butI think that the most than can be said about Walter is that he was merely a casual visitor there, had no stock in the enterprise which was going on in this house, and which has been proven here and, apparently the

only thing that he had done on that day was, at the request of his brother, to answer a telephone call.

So far as Frank Marnell is concerned, he is a World War veteran. He also is employed by the Board of Education of the City of Hoboken, and that is his regular occupation. He also is married and has three boys, the oldest of whom is in France and one is attending Stevens Institute. Like some of the others, whatever he did, he was a mere employee. There seems to be some discrepancy as to what he made a week; it was somewhere between $25 and $40 a week, and so far as all of those whom I have spoken about so far, none of them have ever been charged or convicted of any offense against the state, and have perfectly clean records.

So far as Vincent Halpin is concerned, he is not married, but he is the support of an aged father and he is also a World War veteran. He got himself into a little jamb, apparently, not long ago in the Federal Court. But outside of that he has no record.

Walter Mullins is fifty years old. He lost his business during the depression which existed prior to 1933 and since that time he has been a chauffeur and engaged in taking on odd jobs. In spite of that fact, the fact that he did not see fit to take the Attorney General into his confidence at the time he was questioned, nevertheless I do not feel that your Honor should hold that against him. The proof also against him is that he was a mere employee at this place.

So far as Frank Morano is concerned, he is not only a musician, but he also worked for the Bethlehem Steel Company in Hoboken. He is a World War veteran. He has a wife and fortunately, or unfortunately, whichever way you look at it, she

is momentarily expecting a baby which puts him in a very serious position.

I haven't stated this, but all of these men, except Walter Mullins himself whom I have said was in his fifties—the rest are in their forties.

I think that these matters ought to be called to your Honor's attention before sentence is imposed by the court. It would seem to me that in view of the type of men that these men are, and the fact that most of them were nothing but employees, and one of them was only a casual visitor at the place, that your Honor should show them some leniency.

Mr. Lichtenstein: I would like to say a few words in behalf of Mr. Lewis, James Lewis.

I don't recall ever, in any case that I have been interested in, stating anything in extenuation of sentence. I haven't very much to say. James Lewis, I think said he was 49 or 48 years of age. He has lived in Hoboken all his life, and his father before him. I don't know whether it is the practice of the Attorney General or the Prosecutor or the Court to make investigations as to the general character and reputation of individuals as is done in New York, for instance. But I think if the Court has, or if the Prosecutor or the Attorney General has, I think you will have found, as I did, during the course of this trial and after the trial in and among the politicians or men of that type, not among his friends, but people who knew all of these boys, the Lewis boys, and had read in the newspaper of the charges made against them, and the purpose of the trial, and they were only people—for instance that people who lived in my own home, that is, in the apartment house in which I live, men who are not interested in politics, and women who are not interested in politics, men

and women whom I have met on the street stopped, as they ordinarily will when there is a case of this kind, and from each and every one of them there was just one refrain: "Sorry for these poor Lewis boys. They are nice, quiet, fine men, men that always did charitable work, men that always had a kind act and word for everybody."

I never knew the Lewis boys prior to the time of this trial, although I have lived in Hoboken all my life. I only know of them indirectly, and knew one of their brothers who had a most enviable reputation, a man of fine character and fine standing in the community, none better.

I haven't heard a single word uttered against these men or James Lewis. Nothing but the finest. No matter what people might consider the ethics or the morals of any business that they might have been engaged in, nothing but the finest.

James Lewis is also a First World War veteran. He served on the other side for about 22 months, as I understand it. He is not a gangster; he is not a vicious man; he is not a man against whom, I think, anything could be said to the effect that he was an immoral or an unmoral person. The family is highly respected. He is before your Honor, convicted of an offense, one which is not *malum in se*. It is not a crime which in itself is a vicious thing. It is something which is prohibited by law.

I am not here justifying Mr. Lewis in anything that he did. That is not my purpose. I would be the last person to come here and say that I justified anything that he may have done. But we all know that gambling at the race track or gambling on the outside is one of human frailties which seems to possess a very, very large part of this

entire country, not only the people in the State of New Jersey.

A friend of mine sent me several sheets, clipped from "Life", an issue that appeared only a matter of two or three weeks ago, and in that clipping, as I recall it, it is indicated that there is something like sixteen millions of people in this country who bet on horses. I think I am right about the figures. That, of course, is no justification, again, for an offense which is prohibited under our law, but I think those are things that can be taken into consideration by the Court in determining the gravity of the offense. Lots of people have an idea that it is entirely wrong for the State to have amended the Constitution to permit horse-racing and so-called gambling at the tracks. Others think that it was a logical conclusion to come to by the people of the State, knowing that in all of us there is more or less a spirit to gamble. We do it instinctively, or without thinking, almost every day.

But here, the law provided that the making of a book shall be prohibited. It does not prohibit all classes of gambling. It is just this particular type of gambling that is prohibited.

It would not be a crime in this state, I believe, for me to bet today at odds that either Mr. Roosevelt or Mr. Dewey would be elected president. There are a great many other things that are done that are called gambling that are not prohibited under the law.

I merely point these things out to your Honor for the one purpose, and that is to take these things into consideration in determining the weight of the guilt of these men.

I have nothing else to say.

The Court: I wanted to ask you something with reference to this statement was made about Halpin, where counsel referred to the fact that he was in some sort of trouble in the federal court. I would like to be enlightened further on that.

Mr. Pearse: It appears in his statement, I think.

Mr. Giuliano: He was convicted and he is now on probation; the conviction was for stealing government property.

Mr. Pearse: He was not accused of stealing; he was accused of receiving. He had in his possession government property.

Mr. Giuliano: And I think he received a suspended sentence of one year, probation for five years.

Mr. Pearse: That is the usual federal probation.

One thing more, if you Honor will permit me; there was a good deal of evidence in this case, an abundance of evidence introduced by the prosecutor with respect to certain notes that were found among these papers, some of them for substantial amounts.

There was also found in these papers a veteran's check—what was it called?

Mr. Giuliano: An allotment check.

Mr. Pearse: Yes, an allotment check.

I want to assure your Honor that these notes were not notes given for the payment of any gambling debts. These notes were all given, and I happen to know, and I am speaking from personal knowledge so far as one of them is concerned, that was a $7,000 note, because I represented the man who made that note in a business venture some years ago and he told me that it was a note which he gave to Jim Lewis for the purpose of setting himself up in a new business after he failed in an old one.

The same was true about the doctor's note, and that was given to buy a house. I think there was another one, I am not sure. Anyway, none of these notes, whether they were large or small, were given for gambling debts, and so far as that allotment check was concerned, that check was cashed by Eugene Lewis simply for the purpose of convenience for the person who wanted to get the check cashed and had nothing to do with any gambling transaction on the part of the veteran or the person whose check it was.

I think that in all fairness I ought to add that if your Honor had an investigation made you would see that what I say as to this evidence, that all these things are so as far as these notes and the other things are concerned. Just one thing further, enlarging for a moment on what Mr. Lichtenstein has said.

After all, this charge against these men is nothing but a simple misdemeanor. I think your Honor will agree that by sending people to jail for gambling, you are not going to stop gambling. Sending them to jail would not deter others from continuing to gamble or to give others the opportunity to gamble.

We had an "experiment" in this country which lasted from 1919 or twenty to 1933, and it was severely enforced, severe enforcement of the law against the sale of intoxicating liquor so that we might all become prohibitionists. And the effect was exactly the opposite. As Mr. Lichtenstein has also said, this charge against these men is not *malum in se*. It is simply a statutory offense, and for many, many years it was not an offense in this state.

So I conclude by asking your Honor not only to be lenient, but I trust your Honor, in your wis-

dom, will see fit not to send any of these men to jail.

Mr. Giuliano: I do not wish to reply to any of these remarks. May I now ask that the defendants step forward.

(The defendants were summoned to the bar.)

Mr. Giuliano: I would like to say now that it is needless for me to review the evidence produced at the trial over which your Honor presided.

There are a few facts which I would like to call to your Honor's attention.

It has been definitely established by the evidence submitted by the State and also from other information in the possession of the State that this bookmaking establishment at 1124 Garden Street, Hoboken, had been operated openly by these defendants for several years past. Most of these defendants have admitted in their statement made to the Attorney General that it was common knowledge in and about Hoboken that they operated a bookmaking establishment. It seems to me peculiar that these defendants could operate this illegal business for so long a time without being molested by the local police. The verdict of the jury in this case shows that the decent respectable law-abiding citizens of Hudson County will not tolerate open defiance of the law, whether it is bookmaking or any other crime.

I now move the sentence of these defendants.

Frank Morano.

(The defendant proceeded to the bar.)

The Court: You are sentenced to a term of a minimum of one year and a maximum of three years in state prison.

Mr. Giuliano: Walter L. Mullins.

The Court: You are sentenced to a minimum of one year and a maximum of three years in state prison.

Mr. Giuliano: Vincent P. Halpin.

The Court: You are sentenced to a minimum of one and a half years and a maximum of three years in state prison.

Mr. Giuliano: Frank S. J. Marnell.

The Court: You are sentenced to a minimum of one year and a maximum of three years in state prison.

Mr. Giuliano: Walter A. Lewis.

The Court: You are sentenced to a minimum of one year and a maximum of three years in state prison.

Mr. Giuliano: Eugene V. Lewis.

The Court: You are sentenced to a minimum of three years and a maximum of five years in state prison.

Mr. Giuliano: James A. Lewis.

The Court: You are sentenced to a minimum of three years and a maximum of five years in state prison.

I hope that this will serve as a warning to others who might participate in similar activities, that they cannot carry on in utter defiance of the law.

If these defendants, who knew full well the extent of their activities and the circumstances under which they were arrested, had not put the state to the trouble and great expense of this trial, these sentences might have been lighter.

Mr. Pearse: If the Court please, I might say that we have, or expect to have a writ of error back here as soon as it can be produced from Trenton. As soon as it arrives we would like the

opportunity to make application to your Honor for a certificate of reasonable doubt.

I was wondering if you would care to save the time of the arrival of the writ to listen to our request.

The Court: I will be willing to listen to your request now. I will be available all day.

Mr. Lichtenstein: We are just telephoning.

Mr. Giuliano: I think that in order that the record might be straight there should be some word that the writ has been filed before any action is taken.

The Court: I will be here all day.

Mr. Lichtenstein: The writ was sent down to the clerk's office early this morning. The writ is in the clerk's office now and we expect telephonic communication.

The Court: I will be here all day.

Certificate of Stenographer.

I, the undersigned, do hereby certify that I am an assistant to Emmet J. Victory, Official Stenographic Reporter of the Eighth Judicial District of New Jersey, and was in attendance and took the testimony and proceedings at the trial in the above-mentioned cause of The State of New Jersey *v.* Frank Marano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis, defendants, which trial was held before Honorable Horace K. Roberson, Judge of the Hudson County Court of Quarter Sessions, on October 30th, October 31st, November 1st, November 2nd and November 3rd, 1944, and that I transcribed the same, and I further certify that the foregoing is a full, true, accurate and complete transcript of the entire record of the proceedings and testimony had upon the said trial.

Dated: December 13, 1944.

JOHN H. TURNER.

Certificate of Trial Judge.

I, HORACE K. ROBERSON, ESQ., Judge of the Hudson County Court of Quarter Sessions, and the Judge who presided over the aforesaid cause, certify that the foregoing book contains the entire record of the proceedings had upon the trial of said cause and that the same is returned by the plaintiffs-in-error therein with the writ of error, bringing up the bill of exceptions in the cause in form as prescribed by law and as the same has been settled by me.

Dated: December 15, 1944 .

HORACE K. ROBERSON,
Judge of the Hudson County Court
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Photograph (top floor).

(Opposite ☞)

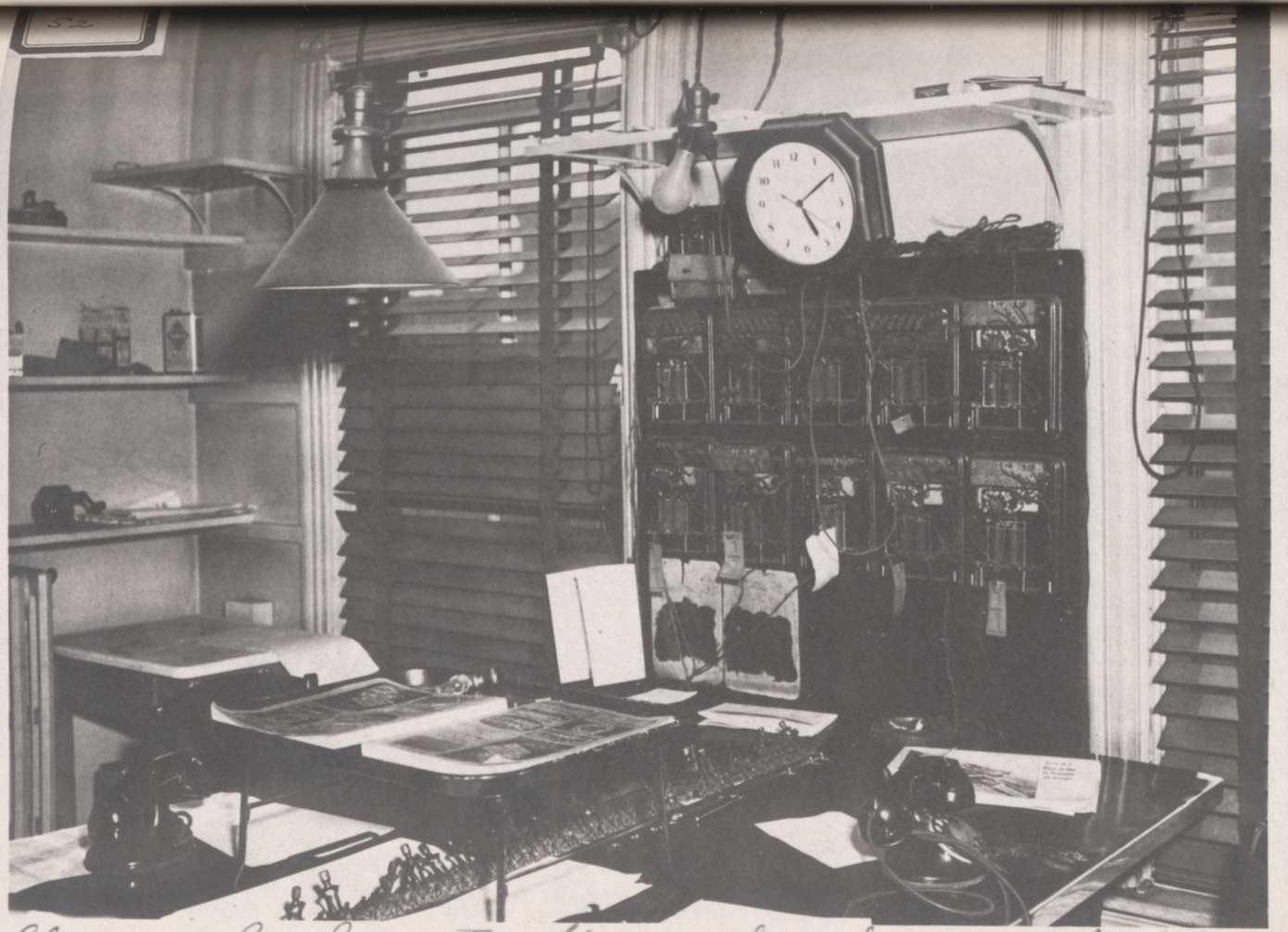


Top floor - Rear Room - 1124 Garden St Hoboken NJ 6-9-44

Exhibit S-2.

Photograph (top floor).

(Opposite ☞).



Close-up - Rear Room - Top Floor 1124 Garden St Hoboken N.J. 6-9-44



Exhibit S-3.

Photograph (outside).

(Opposite ☞)

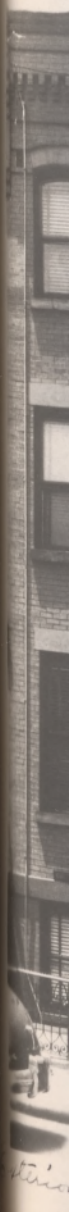


Plate
23



Interior of Front Garden [illegible]

Exhibit S-4.

Photograph (table).

(Opposite ☞)





Exhibit S-5.

Photograph (bed).

(Opposite ☞)

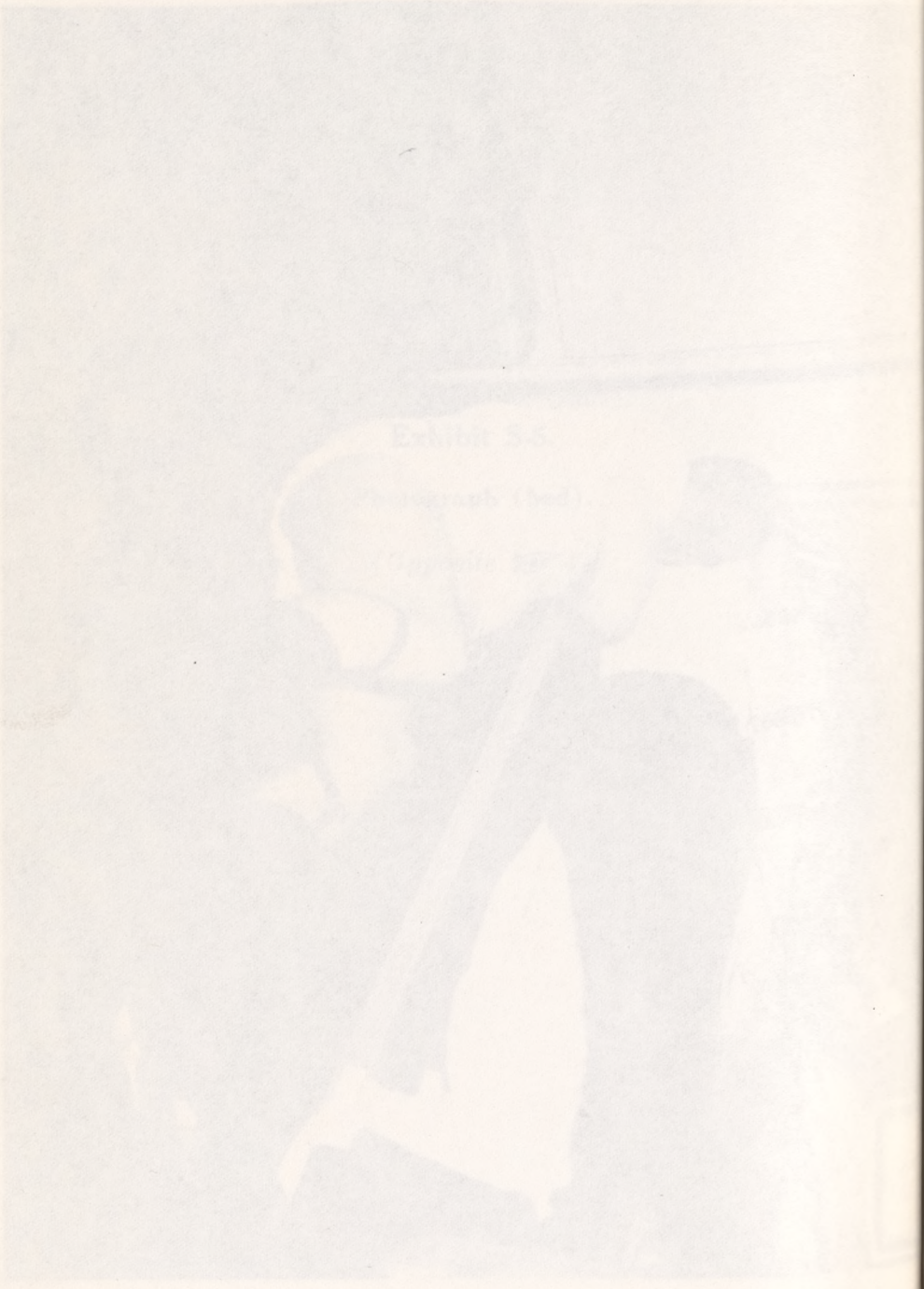


Exhibit S-6.

Photograph (table—six).

(Opposite ☞)



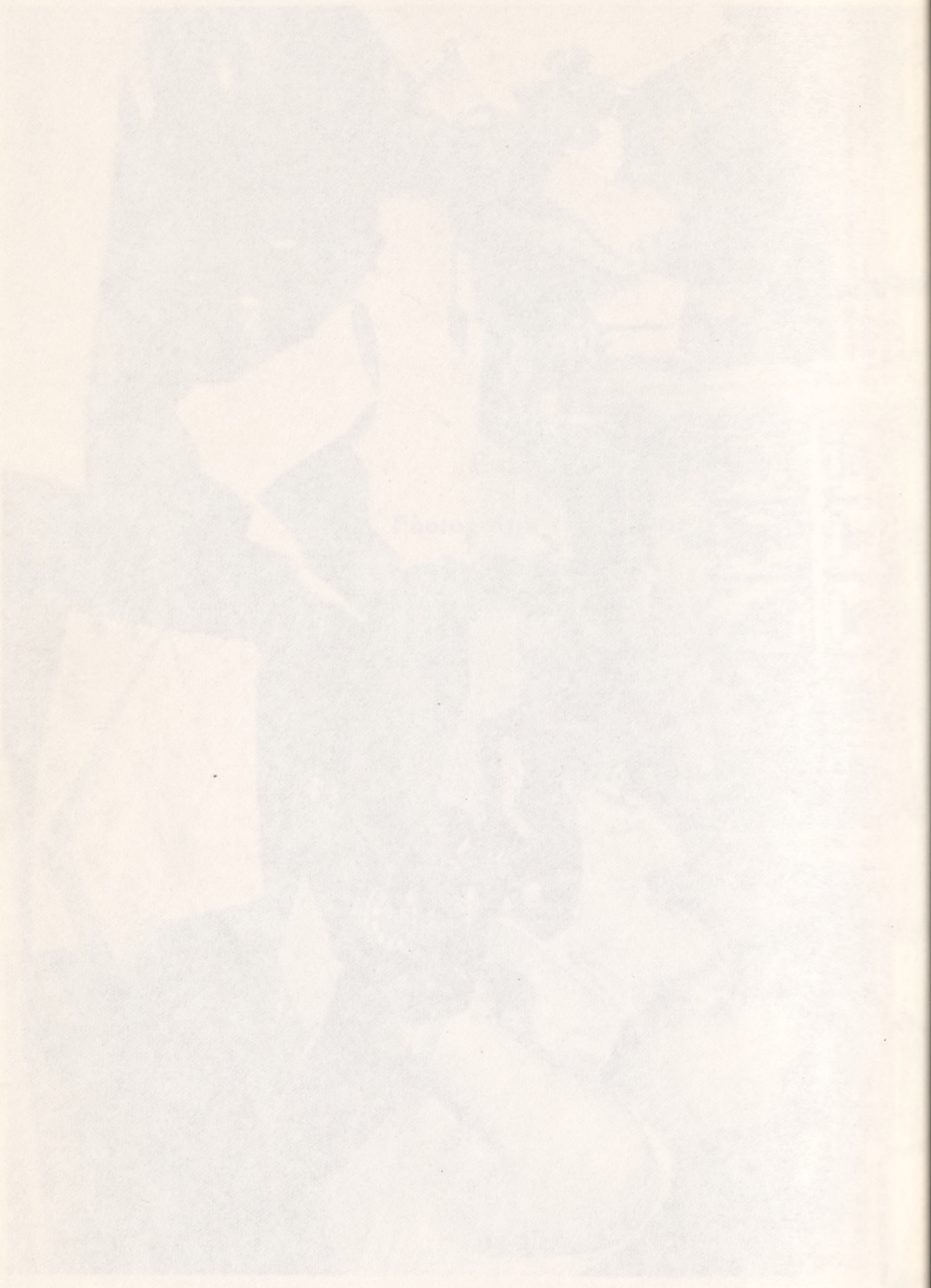
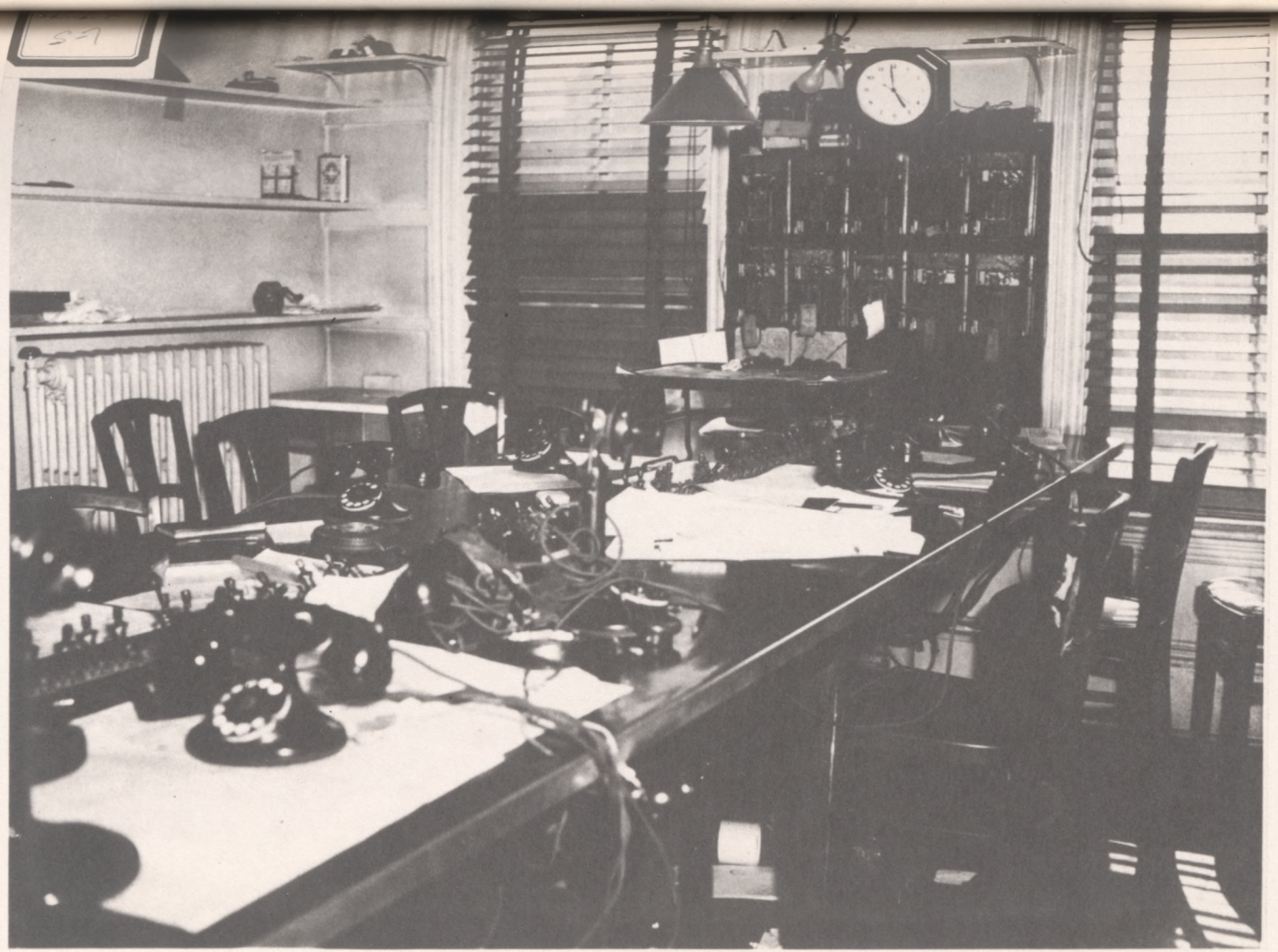


Exhibit S-7.

Photograph (room).

(Opposite ☞)





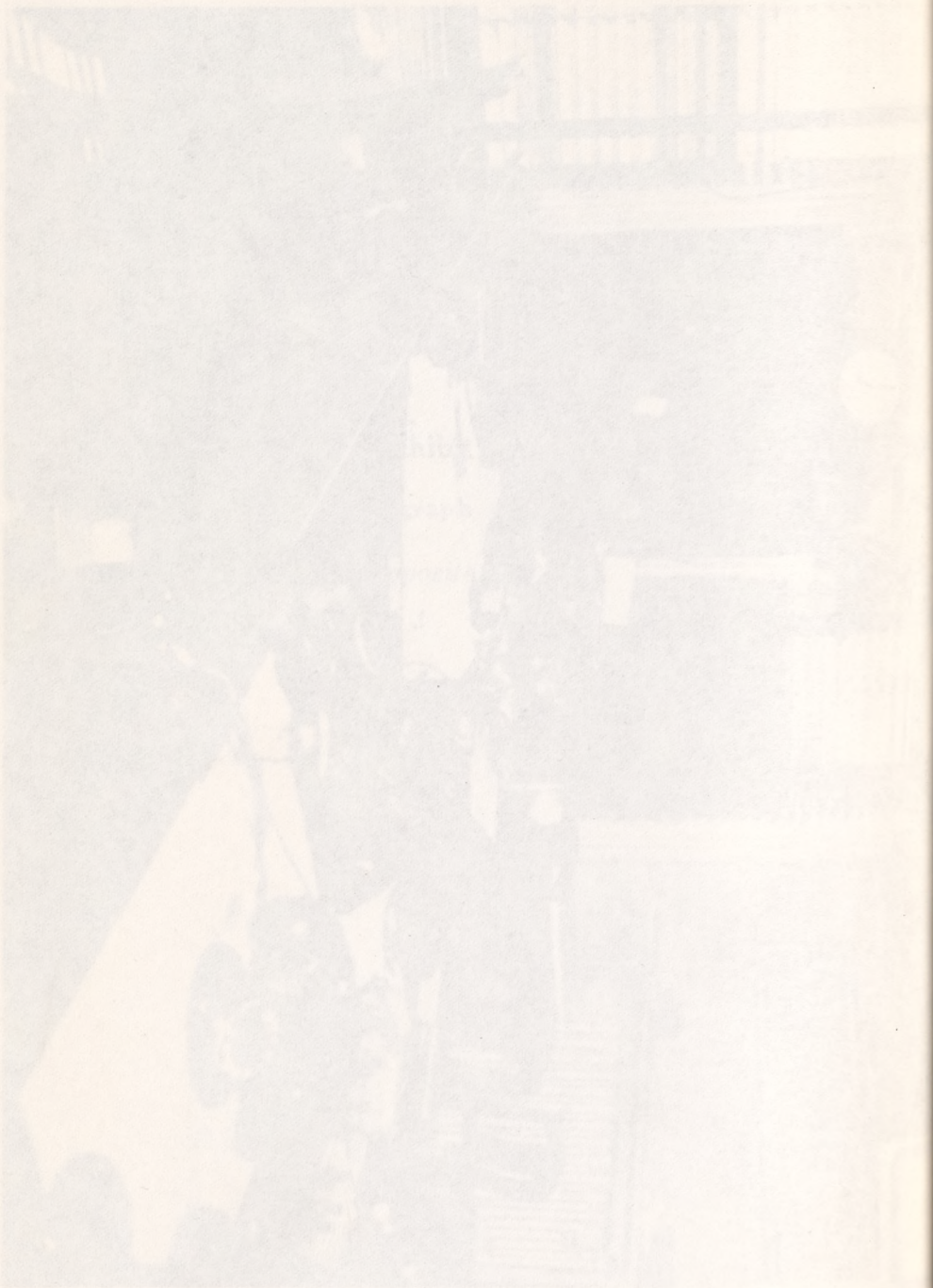
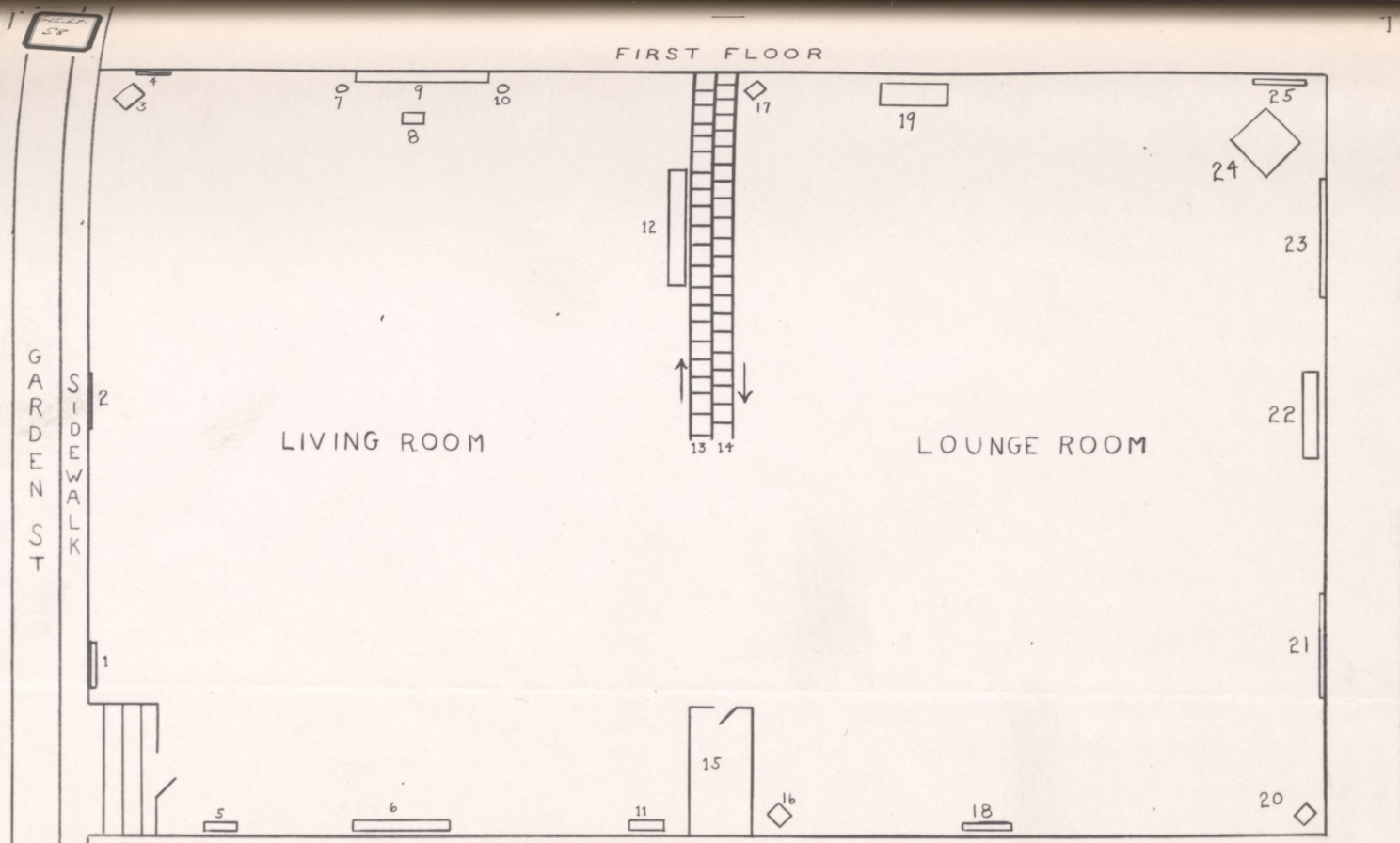


Exhibit S-8.

Sketch (first floor).

(Opposite ☞)



1 - TABLE AND RADIO
2 - WINDOW
3 - CHAIR
4 - RADIATOR
5 - TABLE
6 - DAVENPORT
7 - VASE
8 - ROCKING CHAIR
9 - MIRROW FLOOR TYPE
10 - VASE
11 - TABLE AND PHONE
12 - DAVENPORT
13 - STAIRS UP
14 - STAIRS DOWN
15 - CLOSET
16 - CHAIR
17 - CHAIR
18 - TABLE
19 - CHAIR
20 - CHAIR
21 - WINDOW
22 - RADIO
23 - WINDOW
24 - CHAIR
25 - RADIATOR

New Jersey State Library

Exhibit S-9.

Sketch (basement).

(Opposite ☞)

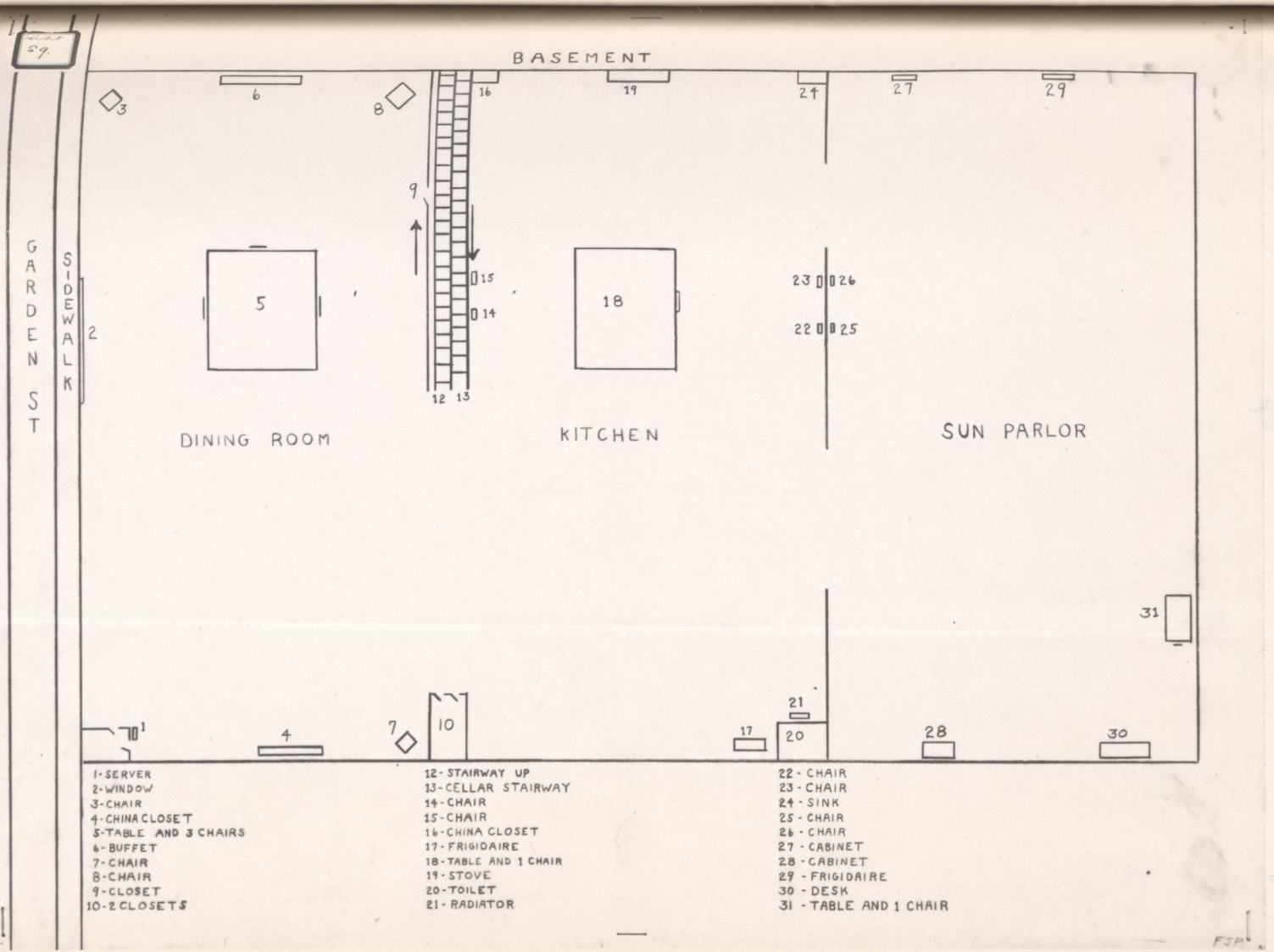
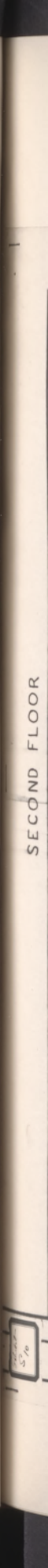
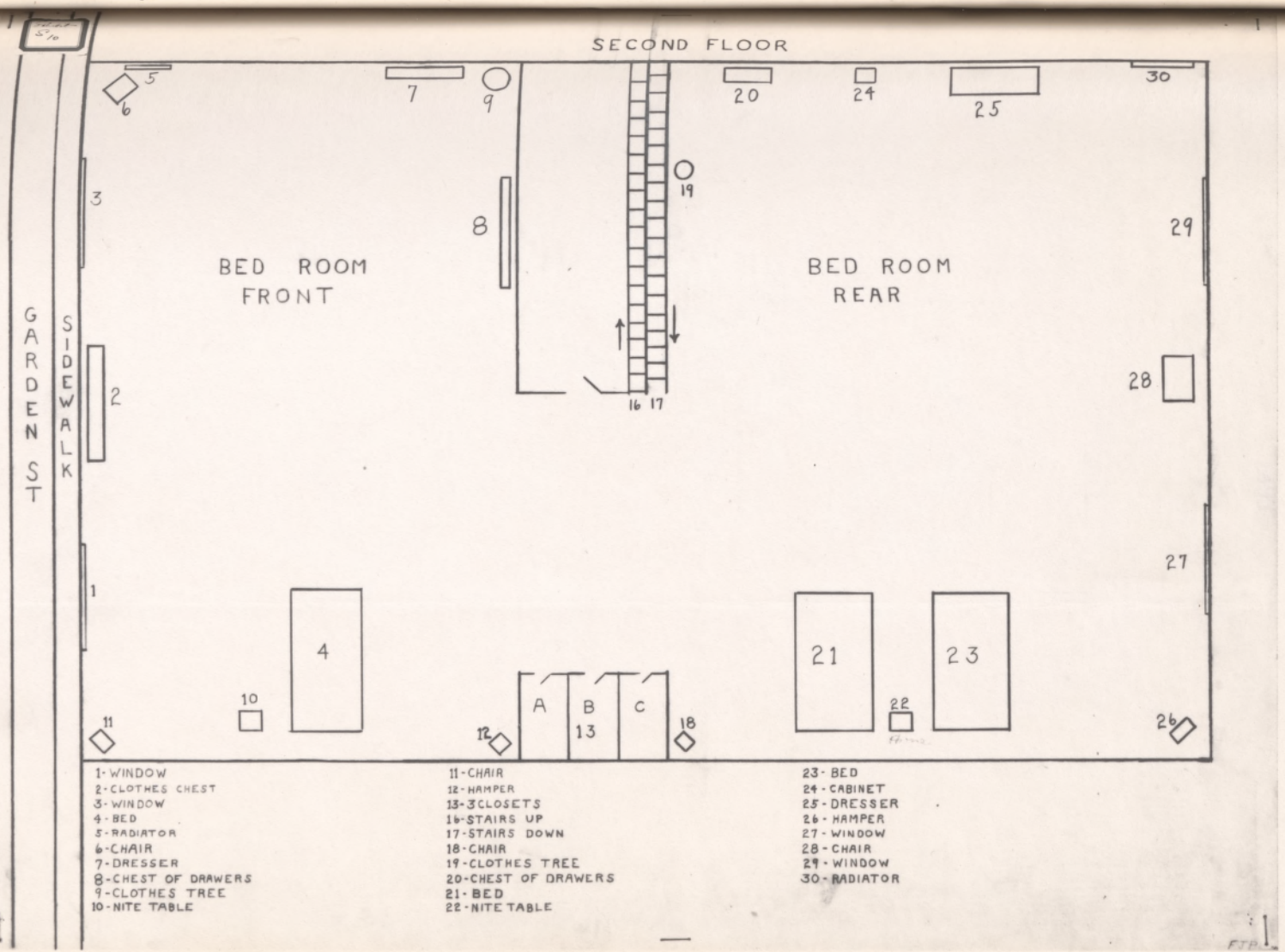

BASEMENT
GARDEN ST
SIDEWALK
DINING ROOM
KITCHEN
SUN PARLOR
1-SERVER
2-WINDOW
3-CHAIR
4-CHINA CLOSET
5-TABLE AND 3 CHAIRS
6-BUFFET
7-CHAIR
8-CHAIR
9-CLOSET
10-2 CLOSETS
12-STAIRWAY UP
13-CELLAR STAIRWAY
14-CHAIR
15-CHAIR
16-CHINA CLOSET
17-FRIGIDAIRE
18-TABLE AND 1 CHAIR
19-STOVE
20-TOILET
21-RADIATOR
22-CHAIR
23-CHAIR
24-SINK
25-CHAIR
26-CHAIR
27-CABINET
28-CABINET
29-FRIGIDAIRE
30-DESK
31-TABLE AND 1 CHAIR

Exhibit S-10.

Sketch (second floor.)

(Opposite ☞)




SECOND FLOOR
GARDEN ST
SIDEWALK
BED ROOM FRONT
BED ROOM REAR
A
B
C
13
1-WINDOW
2-CLOTHES CHEST
3-WINDOW
4-BED
5-RADIATOR
6-CHAIR
7-DRESSER
8-CHEST OF DRAWERS
9-CLOTHES TREE
10-NITE TABLE
11-CHAIR
12-HAMPER
13-3 CLOSETS
16-STAIRS UP
17-STAIRS DOWN
18-CHAIR
19-CLOTHES TREE
20-CHEST OF DRAWERS
21-BED
22-NITE TABLE
23-BED
24-CABINET
25-DRESSER
26-HAMPER
27-WINDOW
28-CHAIR
29-WINDOW
30-RADIATOR

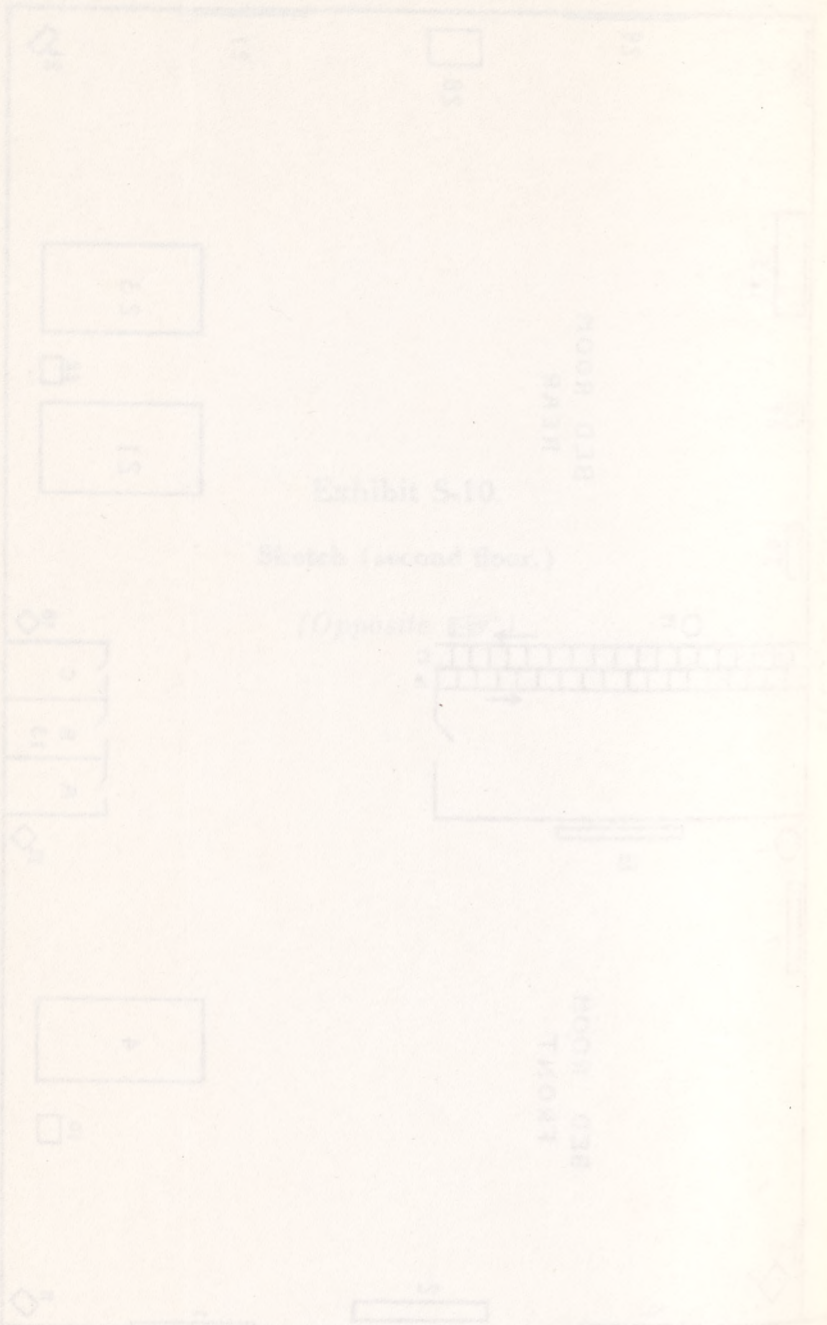
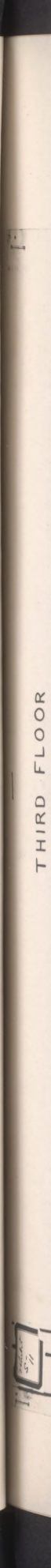
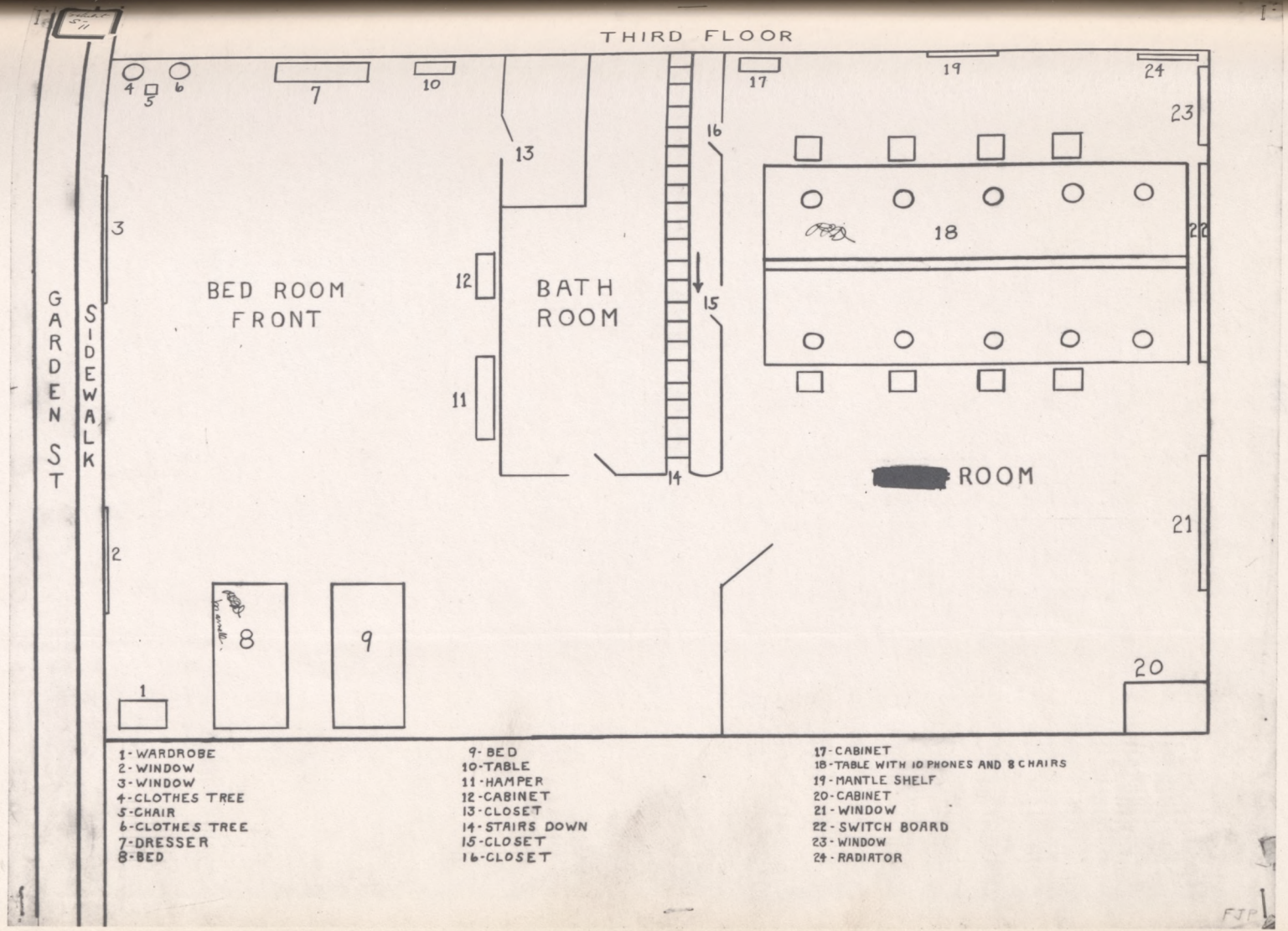


Exhibit S-11.

Sketch (third floor).

(Opposite ☞)




THIRD FLOOR
GARDEN ST
SIDEWALK
BED ROOM FRONT
BATH ROOM
[redacted] ROOM
1-WARDROBE
2-WINDOW
3-WINDOW
4-CLOTHES TREE
5-CHAIR
6-CLOTHES TREE
7-DRESSER
8-BED
9-BED
10-TABLE
11-HAMPER
12-CABINET
13-CLOSET
14-STAIRS DOWN
15-CLOSET
16-CLOSET
17-CABINET
18-TABLE WITH 10 PHONES AND 8 CHAIRS
19-MANTLE SHELF
20-CABINET
21-WINDOW
22-SWITCH BOARD
23-WINDOW
24-RADIATOR

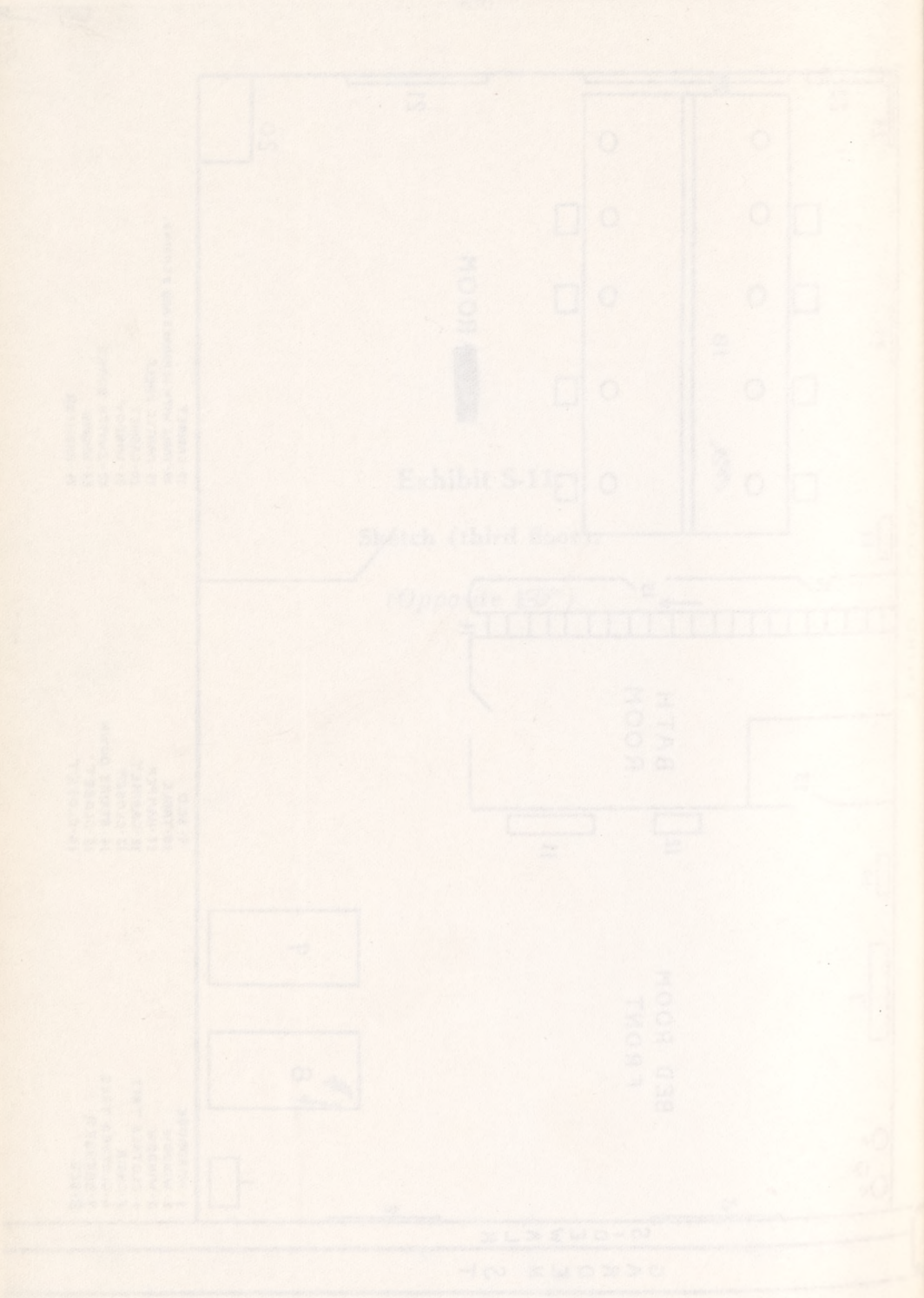


Exhibit S-12.

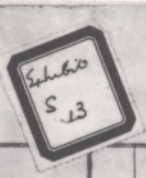
Table and Six Legs.

Exhibit S-13.

(Opposite ☞)

This exhibit consists of 73 sheets similar to the four set forth, 71 dated June 9, 1944 and 2 dated June 7, 1944. They are all similar in content except that various sheets contained the following names at the head instead of *Ralph*

Sal	J. V.	25
Chas. B.	Lulu	208
Adams St.	Mike Reilley	218
Chas. 11 St.	Phillip	302
Cooke	Riley	10th St.
Gottilla	Chas. W. N. Y.	Hudson St.
George	Sal	Court St.
Hudson St.	Shammy	Garden St.
Harry S.	Toney	Cook

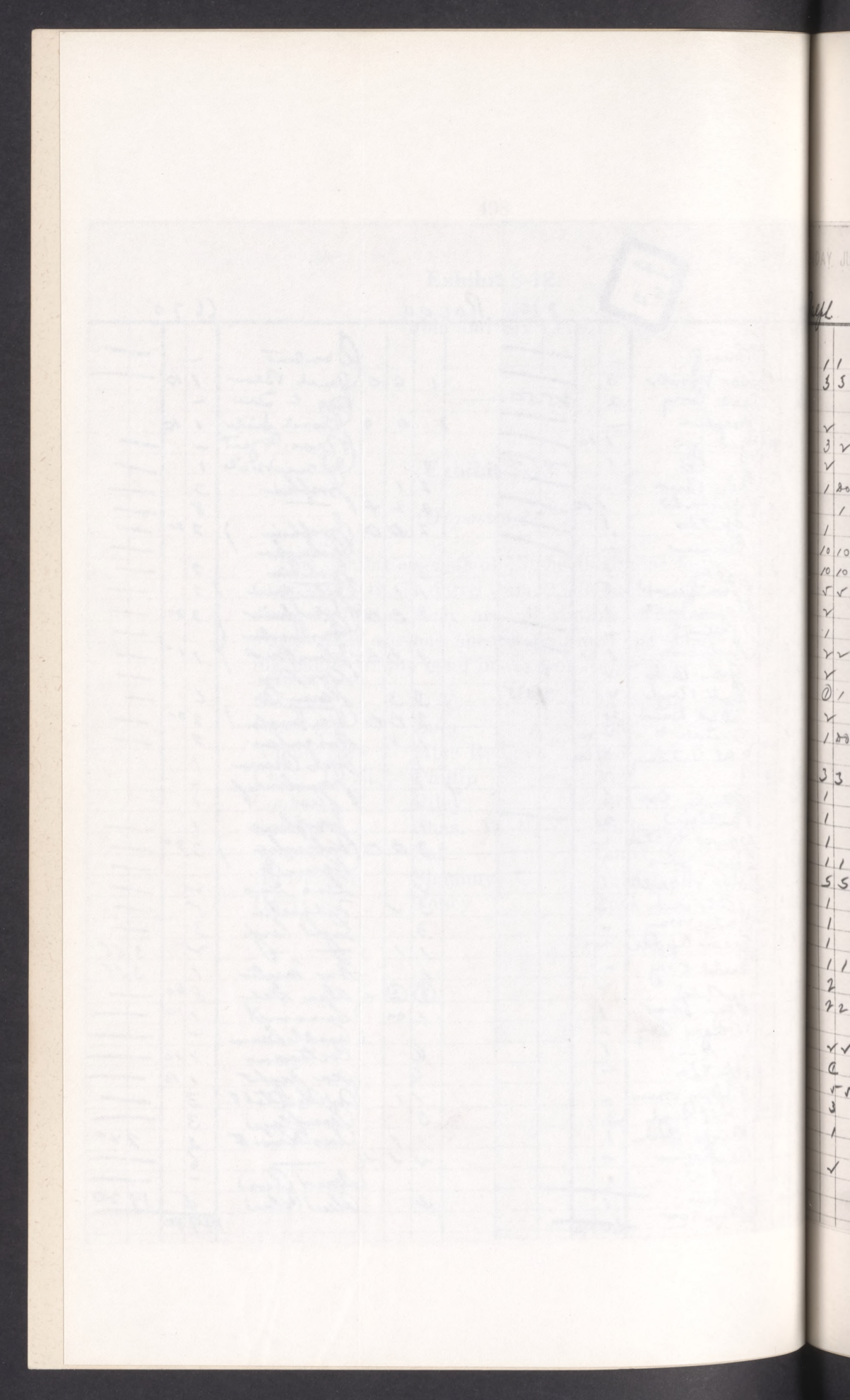


FRIDAY JUN 9 - 1944

PH

8 10

| | | |



FRIDAY JUN 9 - 1944

Ralph

149 80

| | | |

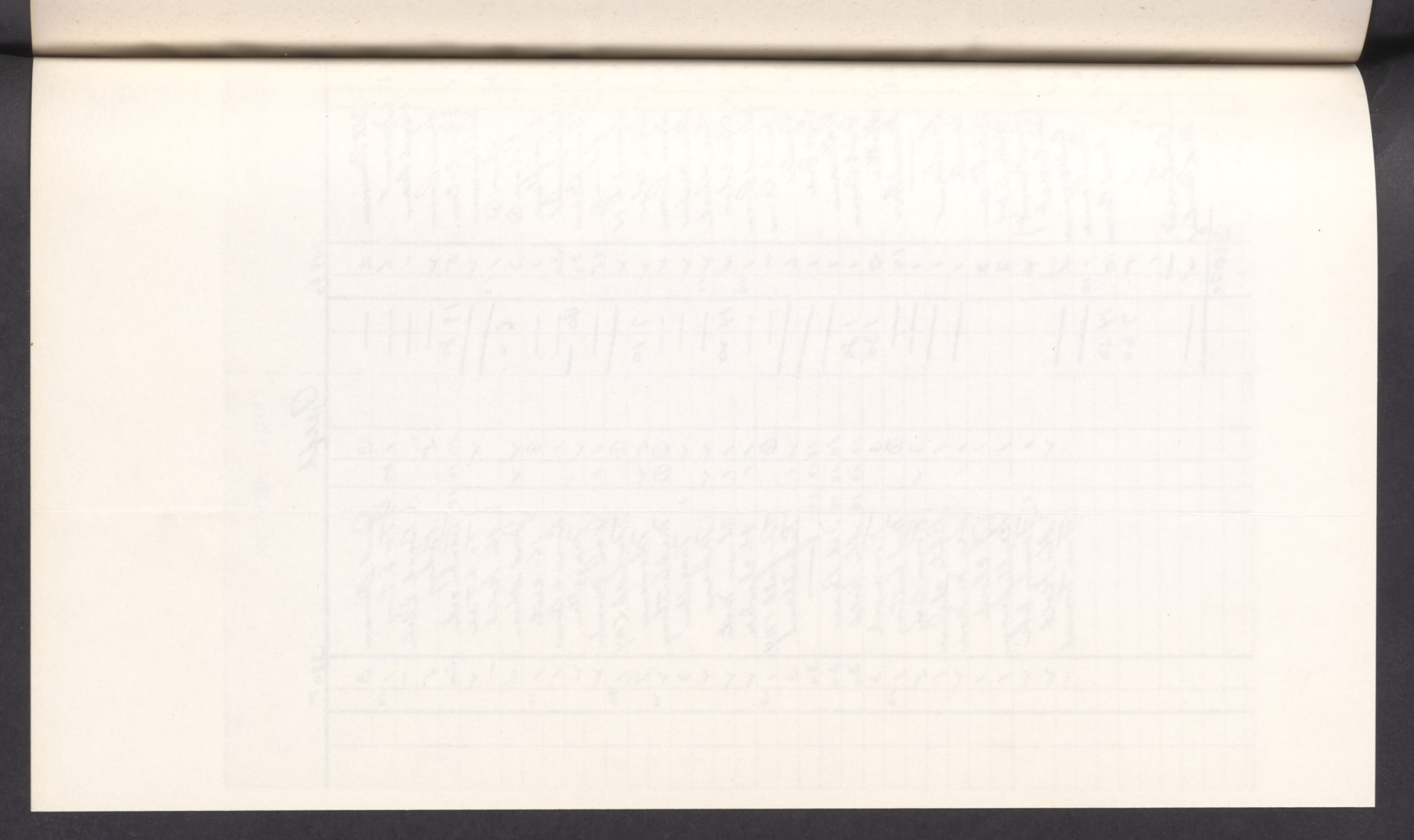


Exhibit S-14.

Pad of blank sheets similar to Exhibit S-13.

Exhibit S-15.

Loose blank sheets dated June 9, 1944 similar to Exhibit S-13.

Exhibit S-16.

(Opposite ☞)

This exhibit consisted of 3 books with similar title page and foreword.

PARLAY PAY-OFF

Copyright 1933

Compiled and Computed
by
ALBERT A. BERGER
ACCOUNTANT

THIRD EDITION

PUBLISHED BY
ZAMKIN PRESS, INC.
30 COOPER SQUARE
NEW YORK CITY

FOREWORD.

The American Horse Racing Public has always been interested in playing two horse Parlays, and the greatest difficulty has been as to how correct the Pay-Off is, totaling the official prices from the Daily Racing papers.

This book called "PARLAY PAY-OFF" has been compiled and computed for the Racing Public in order to derive at a glance the pay-off on a two horse parlay without any calculating, and to avoid any disputes in determining the exact official pay-off.

The calculations in this book have been computed on a $2.00 basis in accordance with Pari-Mutuel pay-off. However, if the play is for more, you figure the amount as played.

For example: If your play was for $1.00, you would divide the pay-off in half. If the play was for $5.00, you would multiply the pay-off by 2½ times. In other words, if you played a two horse parlay to win for $5.00, the first price paying $8.60 and the second price paying $6.80, the pay-off on a $2.00 basis would amount to $29.24, and multiplying by 2½ times the exact pay-off including the $5.00 play would amount to $73.10.

The author of this book has taken every precaution to see that the figures in this book are accurate, and he gives you his assurance that the same is correct.

In the back of the book we have also included a Ready Reference Calculator and a Percentage Table as to how to figure odds.

Exhibit S-17.

(Opposite ☞)

AMERICA'S TURF AUTHORITY
Official Racing Paper of the National Association of State Racing Commissioners

Daily Racing Form

Trade Mark
Reg. U. S Pat. Off.

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XXV. No. 138 5 4 3 2 1 NEW YORK, N. Y., FRIDAY, JUNE 9, 1944 25 CENTS EVERYWHERE

ubdued Triumphs in Astoria Stakes; lucky Maud Routs Oaks Opponents

wns Whirlabout Three Lengths

zy F Ranch's Filly Steps ne Furlongs in 1:50⅗ Delaware; Everget Third

RTON, Del., June 8.—Plucky Maud, the silks of the Lazy F Ranch and by Apprentice Robert Permane, something of an upset here this on in the sixth running of the Dela- as she skipped to a three-length at the expense of Louis B. Mayer's favorite, Whirlabout.

Stable's Everget, five lengths back, and Longchamps Farms' Pilot, beaten a length for show, completed the small field in the

Maud, under 110 pounds, was in 1:50⅘ for the mile and a furlong, fast track, and this was just four- of a second under the track standard distance set by Tangled in the 1941 of this particular feature.

bout, with Johnny Longden up, right to the front as Everget and Maud raced together just off the in the club house bend. There Per- moved into second position, a spot seemed to occupy until they turned home.

Maud Draws Clear

the head of the home lane, he had enough to be lapped on Whirlabout Plucky Maud moved away from her smartly in the final stages. Whirl- carried 116 pounds. Everget was length for the first two.

Plucky Maud, as second choice in the betting, paid $7.50 for $2. With only starters, there was no show betting. crowd was estimated at slightly more than 8,000.

Plucky Maud earned $7,185 in this, her second score in four starts this season, to add to earlier winnings of $5,660.

Just before the running of the Oaks, the filly suffered a rude setback when Col. E. R. Whitney's Monsoon failed to land the money although backed into odds-on favoritism. Of $106,786 in the pools, $53,393 was wagered on the favorite.

Ridden by Crispin Oglebay's Cold Shower, Johnny Gilbert, who came through on the rail at the head of the stretch in the five-furlong number to win by two lengths of a length, catching the favored Miss Lavender, from Mrs. R. Hoffman's string, in the late stages and drawing away slightly. Brookfield Farms' Miss Purple was third.

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Seven Fillies and Mares Meet In Ocean Tide Handicap Today

Topweighted Boiling On to Engage Able Foes in Peppy Miss, Leaving at Aqueduct

Fillies and mares occupy the spotlight on the Aqueduct program of eight races today, seven being scheduled to skip six furlongs in the $4,000 Ocean Tide Handicap. This will be the sixth race and is followed by the secondary feature, the Dry Monopole Purse, for three-year-olds, at a mile and a furlong.

The Ocean Tide is headed by the hard-hitting Boiling On, who has been assigned 122 pounds. This filly has run consistently well and with rare courage all season, moving up in the handicap brackets after having been claimed from Maxwell Howard by W. S. Jacobs back at Jamaica. Today, however, Boiling On seems really up against it, for she will have to concede three and five pounds, respectively, to Grant Thorn's Leaving and A. E. Munyer's Peppy Miss.

Both of these fillies have a touch of class and the former is fully as consistent as Boiling On. Peppy Miss raced against the best last year and showed a good effort in her last start there on Monday. No boy had been assigned at this writing. Joe Renick rode her in her last effort.

Balance of Field

The others in the Ocean Tide are Faro Queen, 116; Bird Hawk, 113; Thread o' Gold, 110, and Modest One, 107. Superficially, this dash would seem to be a tight fit between the three topweights, with Peppy Miss having a slight edge.

Last year, Thread o' Gold was one of the better fillies, but this season she has shown little or nothing, but she will be back at her home track and might show sharp improvement.

Greentree Stable's Bird Hawk, was a fair sort of filly last year, the daughter of Sir Gallahad III.—Kestrel, having won two overnight races and finished third in another in a light campaign of seven races, during which she ran unplaced in a pair of stakes.

the Dry Monopole, which is named for the winner of the first Brooklyn Handicap. Back in 1887, he beat Blue Wing and Hidalgo and it is unlikely that there is anything in this edition of the race named in his honor who could put him to a drive.

Topweight of the Dry Monopole is Wheatley Stable's Free Lance, a rather well regarded colt who won a race at Jamaica and a couple of more at Belmont, then trailed in the Belmont Stakes won by Bounding Home.



LT. OGDEN PHIPPS—His silks were carried to victory by Subdued in the Astoria Stakes at Aqueduct yesterday.

Fans Create Disturbance After Disqualification

Police Required to Clear Course After Seventh Race at Suffolk

EAST BOSTON, Mass., June 8.—Following Bayport's disqualification in the seventh race, disgruntled patrons created a disturbance. Approximately 200 patrons surged on the track and moved toward the starting gate, delaying the start of the eighth race.

It was then necessary to bring track police onto the track proper to clear the

Continued on Page Twenty-Four

Ticket Sale for War Bond Day Opens Today

The advance sale of tickets for War Bond Day at Aqueduct, June 24, starts today. As there is inevitable delay in the purchase of war bond admissions, a large proportion of the admissions must be purchased well in advance of the day of racing. June 24, a Saturday, is the day when the $50,000 Dwyer Stakes, for three-year-olds, will be renewed at a mile and a quarter. The Dwyer has almost always resulted in a thrilling contest.

All five New York racing associations are underwriting War Bond Day. There will be nine advance sale booths, three located at the entrance, one at the end of the paddock, one at the lower club house entrance, one in front of the restaurant, one at the lower railroad entrance, one in the lower club house betting ring and one under the grandstand between sections 14 and 15.

On Saturday, June 24, no regular tickets of admission will be sold. Only the purchase of war bonds will admit any patron to the track. One grandstand admission will be given for each $25 or $50 bond purchase, and one club house ticket for each $100 bond.

Closes With Rush To Beat Pamela C.

Victory of Phipps Miss in Aqueduct Fixture Surprise; The Beak Winner of 'Chase

Trainer Jim Fitzsimmons surprised the vast majority of the 22,878 racing fans who visited Aqueduct race track yesterday when he saddled Naval Lt. Ogden Phipps' Subdued to win the $7,500 Astoria Stakes. The brown daughter of Fighting Fox —Humility, by Hyperion, closed with a rush in the stretch to beat Louisiana Farm's Pamela C., ridden by Don Meade, a widening length and one-half, while Greentree Stable's Expression was a tiring third, another neck back.

Drumuir, a stablemate of the winner, but carrying the colors of the Wheatley Stable, owned by Lt. Phipps' mother, was fourth, a length farther away and a half-length before the favored Ace Card, who was racing for Mrs. W. M. Jeffords.

Subdued was timed in 1:06⅘ and paid $12.30, a price that would probably have been considerably larger had she not been coupled with Drumuir. She is the first stakes winner by the speedy but crooked-legged Fighting Fox, who won the Carter Handicap at this track for Belair Stud a few years back. Subdued had won a single race in five previous starts and was not much faster leaving the gate today than in her earlier races, but finished with plenty of power under Eric Guerin's strong urging.

Meade Gives Mount Hustling Ride

Meade displayed his old-time hustle aboard Pamela C. in the five and one-half furlong Astoria, sending her in close pursuit of Brookmeade Stable's Winning Bid as they came out of the gate, with Expression close by in third place, a wide margin before Subdued and Drumuir, who was under the whip before the field had gone an eighth of a mile.

Winning Bid had enough between the turns and fell back rapidly, with Pamela C. inheriting the lead and saving considerable ground on the bend for home. At the top of the stretch it appeared that Meade's first winner since his comeback might be in a stakes, but Guerin shot Subdued out of the pack to run over her field in the drive for the wire. Pamela C. outlasted Expression in the final drive, while Drumuir finished well down the middle of the track, after going rather wide on the last turn.

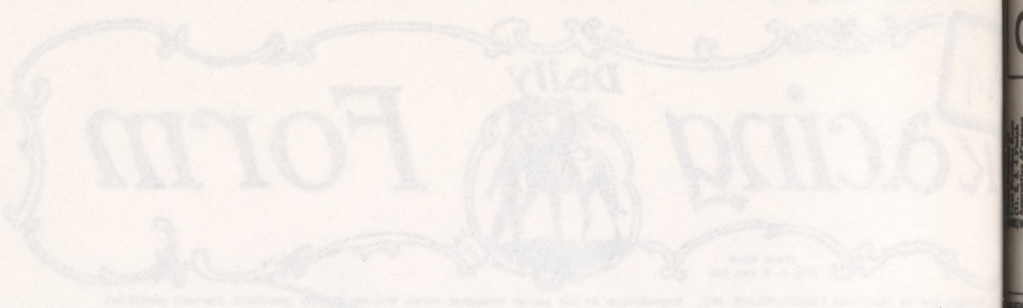
Ace Card was off slowly under George Woolf, who was not having one of his good

Continued on Page Four

Racing Today

(Eastern War Time)

Track and Number of Races	Post Time
Aqueduct (8) (Weather Clear—Track Fast)	1:15
Charles Town (8) (Weather Clear—Track Fast)	1:00
Delaware Park (8) (Weather Clear—Track Fast)	3:30
Detroit (8) (Weather Clear—Track Fast)	4:30
Lincoln Fields at Hawthorne (8) (Weather Cloudy—Track Fast)	3:15
Pascoag Park (8) (Weather Clear—Track Fast)	2:30
Roosevelt Raceway (8) (Weather Clear—Track Fast)	8:4[illegible]
Suffolk Downs (8) (Weather Clear—Track Fast)	2
Wheeling Downs (8) (Weather Clear—Track Fast)	



Official Racing Charts

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EXPLANATION OF DAILY RACING FORM'S CHARTS

Horse and Owner	Equipment Carried	Age of Horse	Weight Carried	Post Position	Positions in Race and Lengths Ahead of Next Following Horse: at Start	¼	½	¾	Stretch	Finish	Jockey	Owner	Odds $1 Str't
SUPER ADMIRAL	w	4	120	12	3	12½	12½	14½	14½	12½	C Kurtsinger	Glen Riddle Farm	11.25

Aqueduct

AQUEDUCT, L. I., N. Y., THURSDAY, JUNE 8, 1944—AQUEDUCT (1 MILE). Third day of twenty-four-day meeting (June 5 to July 1). Queens County Jockey Club. Automatic electric starting gate. Green finish. Weather clear.

Racing starts at 1:15 p. m. Eastern War Time. W indicates whips, S spurs, B blinkers. (In steeplechase races *indicates five pounds apprentice allowance. ‡Seven pounds apprentice allowance. †Ten pounds apprentice allowance.) (On flat races, *indicates three pounds apprentice allowance. ‡Five pounds apprentice allowance. ‡‡Seven pounds apprentice allowance.) Percentages of winning favorites, Summer meeting, 25.6; Current meeting, .38. Daily Double, first and second races. Fields and entries run as one.

FIRST RACE
9600
June 8-44—Aqu

3-6 MILE (Doubirab—June 27, 1942—1:10⅘—4—125). Purse $2,500. 3-year-olds. Fillies. Maidens. Special weights, 115 pounds.
Net value to winner, $1,555; second, $480; third, $240; fourth, $120. Trainer's award, $105; breeder's award, $25. Handle, $55,580.

Horse	Eq't	A	Wt	PP	St	¼	½	Str	Fin	Jockey	Owner	Odds $1 Str't
MISS EUNICE	ws	3	115	5	4	4h	4¹	4¹	1¾	T Atkinson	E Giuffra	3.65
LAUGHTER	ws	3	115	13	5	3²½	2½	2¹½	2³	E Guerin	Wheatley Stable	1.75
DESERT MIRAGE	ws	3	115	2	3	2h	3²	3¹	3¹	S Young	E R Bradley	3.30
ALNORAD	ws	3	115	14	2	1¹½	1¹½	1½	4h	H Lindberg	A C Ernst	43.50
FLEDGLING	ws	3	115	11	6	9h	8¹	6½	5¹	F Zufelt	A G Vanderbilt	7.60
ZACA BEE	w	3	115	9	10	8½	7¹½	7h	6³	G L Smith	Mrs B Di Giorgio	44.15
ONE LOOK	ws	3	115	1	1	5½	6h	8¹½	7³	B Strange	W Allen	54.30
SUN BANNER	ws	3	115	3	12	7h	9h	10¹	8h	W Mehrtens	G Thorn	f-74.20
STOLEN KISS	ws	3	115	12	6	10¹	10¹	9½	9½	E Arcaro	H L Straus	28.55
DEAR BRIDGET	w	3	115	4	7	6h	5²	5h	10¹	S Brooks	P Godfrey	13.60
HANNAH B.	w	3	115	7	14	14	14	12½	11³	E Steffen	Mrs H Bixer	67.45
DARK PASSION	ws	3	115	10	13	11½	11½	13²	12¹½	T May	J S Phipps	157.60
PEAR BRIDGET	w	3	115	8	11	13²	13¹	11h	13¹	S Murphy	Miss A Gold	f-74.20
SUGALL	ws	3	115	6	8	12³	12h	14	14	D Gorman	Paragon Stable	f-74.20

Time, :23, :46⅘, 1:13⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
MISS EUNICE	9.70	4.30	2.90	3.85	1.15	.45
LAUGHTER		3.30	2.50		.65	.25
DESERT MIRAGE			2.80			.40

Winner—Ch. f, by Jack High—Sara Burdon, by Sporting Blood, trained by J. J. Krug; bred by William Brydson.
WENT TO POST—1:21. OFF AT 1:23½ EASTERN WAR TIME.
Fair good from stall gate. Won driving; second and third same. MISS EUNICE came around the leaders entering the stretch, losing ground and responded to urging and drew away. LAUGHTER forced the pace from the start and had no mishap. DESERT MIRAGE raced forwardly and had no excuse. ALNORAD showed speed and then tired. FLEDGLING made up some ground. ZACA BEE bore out entering the stretch. ONE LOOK raced well. STOLEN KISS drifted out rounding far turn. DEAR BRIDGET no mishap. HANNAH B. began slowly.
Scratched—Rockwood Edah, 115; Surf [illegible]ch, 115.
Overweight—Hannah B., 2 pounds.

SECOND RACE
9601
June 8-44—Aqu

1 1-16 MILES (Jacom—June 15, 1940—1:42⅘—3—111). Claiming. Purse $2,200. 4-year-olds and upward. Weight, four pounds below scale. Non-winners since April 7 of three races allowed three pounds; of two races, six pounds; of one race, nine pounds. Claiming price, $2,500.
Net value to winner, $1,300; second, $420; third, $210; fourth, $105. Trainer's award, $105; breeder's award, $25. Handle, $218,778.
Daily Double handle, $60,822.

Horse	Eq't	A	Wt	PP	St	¼	½	¾	Str	Fin	Jockey	Owner	Odds $1 Str't
WISE ADVICE	ws	4	114	₀0	2	1½	1½	1²	1¹	1h	F Zufelt	R Petillo	5.20
BALLOTANT	ws	6	114	8	7	9¹	7½	5½	3½	2¾	H Woodh'se	M J Lewis	46.75
PHARIEN	ws	5	108	6	11	11¹½	11³	10¹	5h	3¹	B Mills‚	I Bieber	2.65
ALLESSANDRO	w	6	117	11	10	10⁸	10⁸	11½	11¹	4¾	T Atkinson	Mrs D Woodward	f-17.10
SHOW HOUSE	w	5	107	13	8	4½	2¹½	2½	2h	5h	J Pit'relli‚‚	Mrs H Mart	f-17.10
B I S	w	4	113	4	14	14	14	13½	10h	6³	T May	Mrs L Rabinowitz	18.65
AIR BEAUTY	w	4	110	3	1	3h	6½	8½	9h	7¾	E Garza‚‚	J Tritsilini	18.10
HISTRIONIC	w	9	115	14	9	8h	9¹½	6h	6nk	8²	S Brooks	E S Haviland	f-17.10
MY GOVERNOR	w	6	114	2	6	7h	8¹	7h	7½	10³	G Woolf	Aberdeen Stable	2.55
SHE DAST	w	5	109	7	13	13²	12½	12h	12¹½	11³	G L Smith	Mrs D J Schneider	9.15
UMBRIL	w	5	112	5	12	12h	13h	11h	14	12¹½	H Lindberg	A Middendorf	62.05
THE KILLER	w	5	114	12	4	6½	5¹	5h	9¹	13¹	F Maschek	E Brady	17.85
GUARD'L JACK	w	6	114	3	3	2½	3h	4h	13h	14	E Guerin	J Hazza	47.15

Time, :25, :48, 1:14⅘, 1:42, 1:48⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
WISE ADVICE	12.40	9.00	5.80	5.20	3.50	1.80
BALLOTANT			31.10	14.90	14.55	6.45
PHARIEN				3.30		.60

Winner—Br. f, by Good Advice—Miss Fortune, by All Gold, trained by N. Gonzalez; bred by W. S. Kilmer. Winner entered to be claimed for $2,500.
WENT TO POST—1:53. OFF AT 1:54½ EASTERN WAR TIME.
Fair good from stall gate. Won driving; second and third same. WISE ADVICE showed speed and responded under pressure and closed with good courage on the inside. BALLOTANT safe. Tire latter weakened entering the stretch and finished on the outside. PHARIEN worked her way up, bore out entering the stretch and closed well. ALLESSANDRO was sent between horses for a brief spell in the stretch but finished well. BETTY'S BOBBY had no mishap. AIR BEAUTY saved ground. HISTRIONIC was forced wide rounding the first turn. ROMAN GOVERNOR raced well. UMBRIL lacked speed. THE KILLER stopped badly. Scratched—52900 Faust II., 117.
Overweight—Wise Advice, 1 pound; Pharien, 1; Air Beauty, 2; Histrionic, 1.

Daily Double on First and Second Races Paid $85.50

THIRD RACE
9602
June 8-44—Aqu

5 1-2 FURLONGS (Devil Diver—Sept. 7, 1942—1:05—3—140). Allowances. Spinalong Purse, $2,500. 2-year-olds. Colts and geldings. Non-winners of two races. Weight, 122 pounds. Non-winners of a sweepstakes allowed six pounds; maidens, eleven pounds.
Net value to winner, $1,575; second, $480; third, $240; fourth, $120. Trainer's award, $85; breeder's award, $25. Handle, $278,360.

Horse	Eq't	A	Wt	PP	St	¼	½	Str	Fin	Jockey	Owner	Odds $1 Str't
GREAT POWER	w		116	4	4	5½	3h	1h	1½	E Arcaro	Mrs B F Whitaker	5.35
HEDRON	ws		111	10	5	2h	1¹	2h	2²	J Lynch	Brookmeade Stable	6.10
SPINALONGA-TAYLAD	w		116	2	6	9¹	6h	5½	3h	G Woolf	Mill River Stable	.70
KING DORSETT	w		116	5	2	3½	4nk	3½	4³	W Mehrtens	Mrs E Mulrenan	12.15
BIOLOGY	w		116	6	8	6h	7½	6h	5h	C Erickson	Bokelia Farms	29.55
HUNTSMAN	w		111	6	8	4²	5½	4½	6²	E Guerin	J W Brown	21.50
MICHAELO	w		111	3	10	10	10	10	7¹	J Stout	Belair Stud	a-17.40
JASON PETERS	w		111	1	7	7½	8¹	8¹	8²	F Maschek	Belair Stud	a-17.40
Coupled, Huntsman and Biology.	w		111	9	1	8h	9½	9h	9¹	A Snider	Mrs F Magann	108.15
						1²	2½	7½	10	S Brooks	P Godfrey	42.85

Time, :22⅘, :47⅘, 1:00⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
HITEM	12.70	5.50	2.90	5.35	1.75	.45
GREAT POWER		6.40	3.00	2.30	.50
HEDRON			2.30		.15

Winner—Ch. f, by Burgoo King—Chichelle, by Chicle, trained by P. F. Dwyer; bred by Idle Hour Stock Farm.
WENT TO POST—2:26. OFF AT 2:27½ EASTERN WAR TIME.
Fair good from stall gate. Won driving; second and third same. HITEM improved his position in the early stages, was given the leaders and drew away at the end. GREAT POWER forced the pace from the start and had no mishap. HEDRON dropped back in the early stages, moved up when urged entering the stretch and finished well. KING DORSETT was steadied along in the early stages, moved up when urged entering the stretch and then hung at the end. SPINALONGA-TAYLAD could not keep up. BIOLOGY raced with HUNTSMAN to the stretch but tired. MICHAELO was outrun in the early stages and finished well under urging. JASON PETERS stopped badly.
Scratched—Valdina Gayland, 116; Army Rest, 111; 58548[2]Homeward Run, 116.

FOURTH RACE
5 9 6 0 3
June 8-44—Aqu

1 1-16 MILES (Jacomar—June 15, 1940—1:42⅘—3—111). Allowances. Oregon Purse, $2,500. 3-year-olds. Non-winners other than a maiden race. Weight, 120 pounds. Non-winners at a mile or over allowed three pounds; maidens, seven pounds.
Net value to winner, $1,600; second, $480; third, $240; fourth, $120. Trainer's award, $60; breeder's award, $25. Handle, $276,821.

Index	Horse	Eq't	A	Wt	PP	St	¼	½	¾	Str	Fin	Jockey	Owner	Odds $1 Str't
58125[3]	SUTTON PLACE	ws	120	2	3	2½	2½	2h	2h	1¹	E Arcaro	J S Phipps		7.00
58123[3]	YUTAN	ws	117	1	1	1h	1h	1h	1½	2½	D Meade	R A Firestone		.95
58429	MISS BISCUIT	ws	112	4	2	3²	3¹½	3²	3³	3⁷	T Atkinson	Mill River Stable		1.85
58120[4]	SUPER MARINES	ws	117	3	4	4²	4²	4²	4h	4²	T May	J Freedman		9.15
58681	GLOBAL	ws	117	5	5	5	5	5	5	5	E Guerin	Millbrook Stable		25.60

Time, :25, :49⅘, 1:14⅘, 1:41½, 1:47⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
SUTTON PLACE	16.00	3.70	2.20	7.00	.65	.10
YUTAN		2.00	2.10		.30	.05
MISS BISCUIT			2.10			.05

Winner—B. g, by Blenheim—Beauty Slave, by Sweep, trained by John P. Smith; bred by John S. Phipps.
WENT TO POST—2:57. OFF AT 2:58 EASTERN WAR TIME.
Start good from stall gate. Won driving; second and third same. SUTTON PLACE was well up from the start between the leaders and responded to urging in the final drive to dispose of YUTAN at the end. The latter was steadied along to the stretch turn, bore out slightly, assumed a slight lead in the stretch but then hung. MISS BISCUIT was a prominent factor but on the outside and had no mishap. SUPER MARINE was sent up on the inside rounding the far turn and then faltered. GLOBAL was never a factor.

FIFTH RACE
5 9 6 0 4
June 8-44—Aqu

ABOUT 2 MILES (Bath—June 11, 1942—3:41⅘—4—155). Seventh Running LION HEART STEEPLECHASE HANDICAP. $4,000 added. 4-year-olds and upward. Scale of weights: 4-year-olds, 149 pounds; 5-year-olds, 157 pounds; older, 162 pounds. Winners after announcement of weights, three pounds additional.
Net value to winner, $3,275; second, $800; third, $400; fourth, $200. Trainer's award, $60; breeder's award, $120. Handle, $160,529.

Index	Horse	Eq't	A	Wt	PP	St	3	6	9	13	Fin	Jockey	Owner	Odds $1 Str't
59121[2]	THE BEAK	w	8	135	3	1	1²	1½	1½	1¹	1²	W Owen	Mrs F A Clark	a-2.00
58798[2]	KNT'S QUEST	ws	6	147	5	2	2⁰	2½	2²	2⁴	2¹½	W Passmore	B Sharp	.65
57004	GOOD CHANCE	ws	11	138	1	5	5	5	5	3¹	3⁵	E Roberts	Rokeby Stables	7.05
52606	INVADER		9	144	4	4	4³	4³	4³	4⁵	4⁶	S Riles	Mrs F A Clark	a-2.00
59253[4]	LECHLADE	w	7	136	2	3	3¹⁰	3¹	3²	5	5	H Cruz	H La Montagne	14.70

a-Coupled, The Beak and Invader. Time, 3:48. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
THE BEAK (Entry)	6.00	2.20	....	2.00	.10	....
KNIGHT'S QUEST		2.20	....		.10	....
NO SHOW MUTUELS SOLD.						

Winner—Ch. g, by Portlaw—Honey Buzzard, by Papyrus, trained by D. Byers; bred in England by Sir Laurence Philipps.
WENT TO POST—3:28. OFF AT 3:28 EASTERN WAR TIME.
Start good from flag. Won cleverly; second and third driving. THE BEAK made a bad landing at the third fence but recovered quickly, showed speed on the flat and responded to urging nearing the final fence and drew away. KNIGHT'S QUEST was steadied along in the early stages, moved up when urged entering the final half-mile, made a bad landing at final fence and then came again. GOOD CHANCE was outrun in the early stages and finished well under urging. INVADER had no mishap in the running. LECHLADE made a determined bid after going one mile, but then tired.
Scratched—58577[4]Kennebunk, 133; (58798)Iron Shot, 163; (58426)Winged Hoofs, 130.
Overweight—Lechlade, 1 pound.

SIXTH RACE
5 9 6 0 5
June 8-44—Aqu

5 1-2 FURLONGS (Devil Diver—Sept. 7, 1942—1:05—3—140). Thirty-eighth Running ASTORIA STAKES. $7,500 added. 2-year-olds. Fillies. Weight, 119 pounds. Winners of two races of $5,000 each, three pounds additional. Non-winners of $3,000 allowed three pounds; of $2,000 or three races, six pounds; maidens, eleven pounds.
Net value to winner, $7,245; second, $1,500; third, $750; fourth, $375. Trainer's award, $80; breeder's award, $225. Handle, $310,853.

Index	Horse	Eq't	A	Wt	PP	St	¼	½	Str	Fin	Jockey	Owner	Odds $1 Str't
57714	SUBDUED	w		113	8	7	4h	4¹½	4²	1½	E Guerin	O Phipps	a-5.15
(58796)	PAMELA C.	ws		116	9	2	2½	2²	1nk	2nk	D Meade	Louisiana Farm	10.00
(57714)	EXPRESSION	ws		113	6	3	3⁵	3¹	2½	3¹	E Arcaro	Greentree Stable	3.60
58796[4]	DRUMUIR	w		113	2	5	5h	5½	5½	4½	W Mehrtens	Wheatley Stable	a-5.15
58340[3]	ACE CARD	w		115	7	8	7¹	7²	6½	5²	G Woolf	Mrs W M Jeffords	1.65
58578[4]	BERTIE S.	ws		119	4	4	6²	6²	7²	6h	H Lindberg	I Bieber	b-3.95
58425[2]	WINNING BID	w		108	1	1	1½	1½	3h	7⁴	J Lynch	Brookmeade Stable	26.50
57714	SCOTCH PLAINS	w		113	5	9	9	8¹	8¹	8h	S Brooks	P Godfrey	59.80
56601	PHEECIA	w		113	3	6	8h	9	9	9	T Atkinson	I Bieber	b-3.95

a-Coupled, Subdued and Drumuir; b-Bertie S. and Pheecia.
Time, :22⅘, :46⅘, 1:09⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
SUBDUED	12.30	7.10	5.70	5.15	2.55	1.25
PAMELA C.		8.00	6.00	3.30	2.60
EXPRESSION			3.00		.80

Winner—Br. f, by Fighting Fox—Humility, by Hyperion, trained by J. Fitzsimmons; bred by Belair Stud.
WENT TO POST—2:58. OFF AT 4:00½ EASTERN WAR TIME.
Start good from stall gate. Won driving; second and third same. SUBDUED responded to pressure in the stretch run and closed with a rush, wore down the leaders and drew away. PAMELA C. was a prominent factor and held on well. EXPRESSION raced well up all the way but tired at the end. DRUMUIR showed an even effort throughout. ACE CARD made up ground on the inside at the finish. BERTIE S. bore out in the stretch run. WINNING BID stopped badly.
Scratched—58807[4]Sant'e Vixen, 108.
Overweight—Ace Card, 2 pounds.

SEVENTH RACE
5 9 6 0 6
June 8-44—Aqu

3-4 MILE (Doubirab—June 7, 1942—1:10⅘—4—125). Sheepshead Bay Handicap. Class C. $3,000 added. 3-year-olds.
Net value to winner, $1,965; second, $580; third, $290; fourth, $145. Trainer's award, $85; breeder's award, $25. Handle, $335,210.

Index	Horse	Eq't	A	Wt	PP	St	¼	½	Str	Fin	Jockey	Owner	Odds $1 Str't
(58553)	APPLEKNOCKER	ws		120	7	9	9²	9h	5²	1¹	G Woolf	R A Coward	1.75
57192[2]	GEORGE CASE	w		122	10	8	6h	4¹	4½	2½	R Adair	Cedar Farm	11.35
58552[4]	LOU-BRE	ws		112	2	3	4h	7²	7nk	3ⁿ	W Mehrtens	R V Boyle	10.75
58079	ETERNITY	ws		114	5	5	5²	5²	6h	4h	S Brooks	B F Lister	10.85
52544[4]	CIVIL LIBERTY	w		106	1	1	1²	1²	1½	5¹	H Lindberg	Mrs A Sabath	72.65
57868	RAVENALA	ws		119	8	4	2½	2½	2h	6h	E Guerin	J W Brown	2.30
58553[4]	TAMBO	ws		114	4	6	7h	6h	8½	7½	E Arcaro	Greentree Stable	11.50
46673	FAISEUR	w		114	6	7	8⁴	8¹	9⁴	8²	F Zufelt	S Messana	28.25
58079	QUARTER MOON	w		119	9	2	3¹	3¹	3¹	9⁵	T Atkinson	H L Straus	15.00
57792	GOOD ANTE	w		105	3	10	10	10	10	10	H Woodh'se	V Hotsky	106.90

Time, :22⅘, :46⅘, 1:12⅘. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
APPLEKNOCKER	5.50	4.20	3.10	1.75	1.10	.55
GEORGE CASE		7.00	4.70	2.80	1.35
LOU-BRE			5.00		1.30

Winner—Br. g, by Reaping Reward—Nectarine, by Bull Dog, trained by R. A. Coward; bred by Cold-stream Stud.
WENT TO POST—4:28. OFF AT 4:28½ EASTERN WAR TIME.
Start good from stall gate. Won driving; second and third same. APPLEKNOCKER was outrun in the early stages, improved his position with a rush through the stretch and was going away at the end. GEORGE CASE was kept forwardly from the start and finished well. LOU-BRE responded in the stretch run and closed willingly. ETERNITY had no mishap in the running. CIVIL LIBERTY showed early speed and then stopped. RAVENALA had no mishap. QUARTER MOON could not keep up.
Scratched—58077 Sweeping Time, 114; 58079[4]Tex Martin, 114; 57139 Okapi Lancer, 112; 57160[4]Bird Hawk, 112.
Overweight—Faiseur, 1 pound.

EIGHTH RACE
5 9 6 0 7
June 8-44—Aqu

1 1-16 MILES (Jacomar—June 15, 1940—1:42⅘—3—111). Claiming. Purse $2,500. 3-year-olds and upward. Weight, four pounds below scale. Non-winners since April 7 of three races allowed three pounds; of two races, six pounds; of one race, nine pounds. Claiming price, $5,000.
Net value to winner, $1,595; second, $480; third, $240; fourth, $120. Trainer's award, $85; breeder's award, $25. Handle, $327,216.

Index	Horse	Eq't	A	Wt	PP	St	¼	½	¾	Str	Fin	Jockey	Owner	Odds $1 Str't
58555	BIRCH ROD	ws	8	117	4	6	6	6	6	4¹½	1ⁿ	W Mehr'nst	J B Partridge	4.75
57218	OLYMPUS	ws	9	117	6	5	3¹	3½	3¹½	3¹	2ⁿ	E Arcaro	Barrington Stable	2.60
59013[5]	FREE AIR	w	4	111	2	3	1¹	1²	1½	3³½	T Atkinson	F J Buchanan		4.70
(57969)	BLITZKRIEG	ws	5	113	3	2	2½	2²	2¹	2h	B Mills‚‚	I Bieber		5.55
59015[2]	RECOGNIZE	ws	5	114	1	1	4²	4²	4²	5²	E Guerin	E Kalish		3.60
59015[4]	JIMJOE	w	4	116	5	4	5²	5²	5²	6	S Brooks	Mrs H Dufford		26.10

†Seven pounds allowance waived.
Time, :25, :49, 1:14⅘, 1:40⅘, 1:47. Track fast.

Mutuel Prices

	$2 Mutuels Paid	Odds to $1		
BIRCH ROD	11.50	5.40	3.80	4.75	1.70	.80
OLYMPUS		4.00	2.80		1.00	.40
FREE AIR			3.40			.70

Winner—Lt. h. g, by Pompey—Slapstick, by Broomstick, trained by D. L. Weitzel; bred by George D. Widener. Winner entered to be claimed for $5,000.
WENT TO POST—5:00. OFF AT 5:01 EASTERN WAR TIME.
Start good from stall gate. Won driving; second and third same. BIRCH ROD was closer up than usual due to the slow early pace, came around wide entering the stretch and finished with a rush. OLYMPUS was forced wide rounding the first turn, was steadied along and placed under pressure in the stretch run and finished well. FREE AIR was sent into command with a rush, showed speed and held on well. BLITZKRIEG was in near pursuit of the pace and faltered badly. The others had no mishaps.
Scratched—59013 Miss Sugar, 108; 58800 Hindu Prince, 101; 59125 Shamokin, 101.

Exhibit S-18.

(Opposite ☞)

JOE & ASBESTOS

By KEN KLING

Today's horse at Aqueduct may pay plenty if he wins. This one has been idling for a long time. MIKE 2-5-22. We risk $2 place. Bookiet sleeper 6 goes at Suffolk and is the only one on the list which we play today. Yesterday's Aqueduct code got a bad ride. A horse shipped from New York to Delaware today is Tricrarch. We bet $2 wh. Hialeah was there yesterday. Fort Harmony ran 2nd at Chicago. We bet a $2 place parlay on today's parlay below Westrope rides both.

TODAY'S DELAWARE PARLAY
Layaway, 6th Race....Annac, 8th Race







On Trail and Stream

—With Jim Hurley—

Harry Waldron was sunning himself outside of his Sea Horse Tackle Shop on the Merrick Road, Wantagh, Wednesday evening when we hove to to report on our first fishing expedition of the season in that section. Harry doesn't get much chance to take it easy during the day, but usually in the cool of the evening he has a few minutes to himself, now that night angling is forbidden.

We had been out from Wantagh Creek with the veteran Capt. Bill Hunt who has spent all his life on Great South Bay. Our gang from the office was eager to hit into the weaks after a year's layoff, but what with high winds, the blowfish and almost equally pesky herring, we were lucky to come in with 30.

In the morning we tried for flounder near the telephone poles to Zach's Bay, but had to capitulate to the blowfish after they chewed a couple of dozen hooks.

Mirror Artist Fred Weatherby caught the first and the most numbers (two) and also had the honor of boating the first weakfish when we moved over to the Inlet Channel later on. Highlok was Lou Goettel, of Pelham, who wasn't doing things any different than Messers Falvey, McCaleb, Weatherly, McRobbie and yours truly, but who got most of the hits.

Live shrimp is scarce this season and persons intending to go weakfishing should make sure in advance of getting it or taking their own down with them. However, we had plenty of luscious bait food with us including mussel meat and bloodworms for the flounders and some of the biggest sandworms we've seen in many seasons for the weaks.

Brother Waldron slipped a half dozen whopper sandworms, each of which was a foot long or over, into our package. Harry is sitting pretty as far as worms are concerned, getting them from a native expert, Lon Wonser, who is now located on Long Island, while his two brothers supervise what digging business "down east" on the Pine Tree State's shores.

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W. SEMMS Bay Fish's every day. 4:30 A.M.; Rowboats. Cart White's Bait Boat Station

Detroit Tigers Sign Shortstop

DALLAS, June 8 (AP).—Leslie (Bubba) Floyd, former shortstop for the Dallas Rebels, of the Texas League, has accepted terms to play with the Detroit Tigers and will leave shortly.

Floyd, property of Portland, of the Pacific Coast League, went on the retired list to work at a defense plant here and has been playing semi-pro ball.

Lincoln Fields Results

(By Associated Press)
TRACK FAST

1—3 YOS. & up. 1 & 70 yds. Off 3:17.
Praetorian (Campbell)....$5.80 $4.20 $3.40
Garden Pet (Grohe) ..... — 3.40 2.80
Good Get (Freeman) ..... — — 11.40
Also Ran—Sweet Helen, Stepping Out, Ghost Hunt, Our Willie, Pennsburgh.

2—3 YOS. & upwds. Off 3:45.
Foreign Shot (Knott) $9.20 $5.20 $3.20
Long Ago (Higley) ..... — 4.20 2.80
Ace (Martin) ..... — — 3.20
Also Ran—Bagnell, Uncle Bud, Wog, Port Ballot, Lakeview Ace.

DAILY DOUBLE (1 and 2) paid $65.20

3—3 YOS. 5 furs. Off 4:12.
Foreign Agent (Pierson)..$5.40 $3.40 $2.40
Satin Ace (Higley) ..... — 4.60 3.20
a-a-Sir Rim (Knott) ..... — — 2.60
Also Ran — Valdina Aid, Fogarel, a-Shoot Straight, Ayan, Dauntless Bo, Silver Bull, b-Stork of Peace.
a-Mohawk Stable entry. b—King Ranch entry.

4—3 YOS. 6 furs. Off 4:42.
Trib (Smith) $10.50 $4.60 $3.40
Dark Ship (Kaagle) ..... — 4.60 3.60
Dashing Lady (Higley) ..... — — 4.00
Also Ran—Infinity Flirt, Fuzz, Air Wind, Glenwood Boy, Painter.

5—2 YOS. 5 furs. Off 5:22.
Allback Pepper (Higley)..$11.60 $4.20 $2.60
Wilcox Brew (Cheek) ..... — 4.20 2.80
aPrincess Rena (Mory's) ..... — — 5.00
Also Ran—Bonnie Boy, Fox, Bold Chest, Relish, b-Last Salute.
a—Brodt & Brody Entry. b—King Ranch Entry.

6—3 YOS & up. 6½ furs. Off 5:52½.
West Gold (Lawton) $10.60 $5.80 $3.40
Port Harmony (Smith) ..... — 4.40 2.60
Topnard (Martin) ..... — — 2.60
Also Ran—Honey Kiss, Sis Baker, Eugene, Quaker.

7—3 YOS & up. 1 1-8 mi. Off 6:26½.
Gyal View (Conley) $10.00 $5.00 $3.40
Five A.M. (Mack) ..... — 4.60 3.20
Royal Risk (Adkins) ..... — — 3.60
Also Ran—Dorothy D.K., Epigot, Maurice K.

8—3 YOS. & up. 1 mi. & 70. Off 6:52.
West-Ho (Thornburg) $5.80 $3.80 $2.40
Border's Boy (Freeman) ..... — 8.40 4.60
Gainer (Martin) ..... — — 4.20
Also Ran—Lyrictown, Military Sand, Rémaire, Hadaboy, Whiscendent.

Delaware Park Results

(By Associated Press)
TRACK FAST

1—4 YOS. & up. 6 furs. Off 5:33½.
Hearts Entwine (P'mane)$8.10 $6.80 $5.20
Super Ego (Green) ..... — 24.90 12.20
Vinal Haven (Delaney) ..... — — 7.00
Also Ran—Glamour Girl, Shabeen, Shade, Nilson, Rare, Puro Oro, Castle Ridge, Hokum.

2—4 YOS. & up. 6 furs. Off 4:05½.
Steel Beam (E.Meade)...$6.20 $3.10 $2.20
Battle Jack (Tammaro) ..... — 2.70 2.20
Tom Up (Dodson) ..... — — 3.50
Also Ran—Bold Party Sprite, Miriule, a-Swell Time, Gilboir, King's Feast, Double Lady, Jacky B. Crucible.
a-Duffy & Kane entry.

3—4 YOS. 6 furs. Off 4:36.
Torch Ginger (Clark)...$121.20 $27.60 $10.60
Hal (J.Riesel) ..... — 2.80 2.70
a-Oakling (R.Meade) ..... — — 2.90
Also Ran—Wild Agent, Cherna, Fair Bid, a-Navy Dance, Mystery Book, Silver Sting, Tic Ne, Hasti Nazrya.
a-M. A. Cushman and W. G. Jones entry.

4—3 YOS. & upwds. Off 5:04.
Cold Shower (Gilbert)...$11.00 $5.80 $4.10
Miss Lavendar (Knapp) ..... — 16.70 6.70
In The Purpa (Schulhofer) ..... — — 4.00
Also Ran—Reheub Sis, Beaus Nurse, Belpast, Monsoon.

5—3 YOS. 1 1-8 mi. Off 5:33½.
Plucky Maude (Permane)..$7.50 $2.70 Out
Whirlbout (Longden) ..... — 2.30 Out
Everget (Kirkland) ..... — — Out
Also Ran—Dorothy's First.

6—3 YOS & up. 6 furs. Off 6:01.
Riaisely (Bastin) $4.20 $2.10 $2.00
Dark Danger (Arduini) ..... — 4.90 3.40
Alatomo (Schmidl) ..... — — 4.90
Also Ran—Hippiness, Ecomist, Saucy Song, Chief Mate.

7—3 YOS & up. 1 mi. & 70. Off 6:38½.
Python Player (B'wn) $9.50 $5.40 $3.90
Dairy Lady (Longden) ..... — 6.50 4.90
Unknown Reward (Bird) ..... — — 4.40
Also Ran—Theseus, Fold Under, Boy Soldier, Eternal Flame.

8—4 YOS. & up. 1 1-16 mi. Off 6:59.
Rough News (Hodson)...$5.00 $2.80 $2.40
Chiff Chaff (Westropp) ..... — 3.30 2.60
Wickliffe Gal (Gilbert) ..... — — 2.80
Also Ran—Infant Queen, Justice Nap, du-Signol Corps, Centrality.
dq-Won but was disqualified.

Correction!

Count Fearless ran third in the sixth race on Wednesday's Detroit card, not Hughie L.

Leading Jockeys

(AT AQUEDUCT—2 days)

Jockeys	Mts.	1st	2nd	3rd
F. Zufelt	8	4	1	0
R. Permane	11	2	2	1
J. Longden	11	2	0	1
T. Atkinson	11	1	0	1
R. Permane	7	1	2	1
E. Arcaro	16	2	3	3

SELECTIONS AT AQUEDUCT

	KEATS	COOK (I.N.S.)	ZEV	ORTELL	CURLEY	CONSENSUS
1st Race	Awashonks Karen Q. Johns Bird	(No selections)	Awashonks Karen Q. Fred Cody	Awashonks Karen Q. John's Bird	Josephine Awashonks John's Bird	Awashonks Karen Q. Josephine
2nd Race	War Master Nebraska Goo Goo	War Master Nebraska Light Reigh	War Master Light Reigh Loch Ness	Nebraska War Master Panthorn	Nebraska Loch Ness Panthorn	War Master Nebraska Light Reigh
3rd Race	Tioga Royal Archer Pico Blanco II	Cupid Tioga Pico Blanco	Royal Archer Cupid Pico Blanco II	Tioga Royal Archer Cupid	Tioga Pico Blanco II Royal Archer	Tioga Royal Archer Cupid
4th Race	Rea's Agent Spitha Meadow Maid	(No selections)	Meadow Maid Spitha Rea's Agent	Spitha Wemite Rea's Agent	Rea's Agent Spitha Wemite	Spitha Rea's Agent Meadow Maid
5th Race	Romanock Chance Mate Morani	Romanock Chance Mate Morani	Morani Mad Anthony Romanock	Tudor King Jean Miracle Romanock	Romanock Jean Miracle Chance Mate	Romanock Chance Mate Morani
6th Race	Peppy Miss Boiling On Faro Queen	Boiling On Peppy Miss	Peppy Miss Leaving Faro Queen	Leaving Boiling On Peppy Miss	Leaving Boiling On Peppy Miss	Leaving Boiling On Peppy Miss
7th Race	Autocrat Free Lance Spangled Game	Autocrat Free Lance Comenow	Autocrat Free Lance Comenow	Spangled Game Topsy Sue Autocrat	Autocrat Comenow Free Lance	Autocrat Spangled Game Free Lance
8th Race	Plantagenet Omission Green Apples	Plantagenet He Rolls Jaco Royal	Green Apples Zanzibar Omission	Plantagenet Omission Zanzibar	Tragic Ending Omission Jaco Royal	Plantagenet Omission Green Apples
BEST BET	Autocrat 7th Race	Plantagenet 8th Race	Autocrat 7th Race	Spitha 4th Race	Romanock 8th Race	Autocrat 7th Race

Detroit Results

(By Associated Press)
TRACK FAST

1—2 YOS & up. 4 furs. Off:38.
Displayed (Mojena) $16.60 $5.00 $5.10
Buzzy (Scurlock) ..... — 5.50 4.60
Fur Coat (Berg) ..... — — 6.50
Also Ran—High One, Our Advice, I-Milkshe, f-Power Man, Tip Totate, Count Haste, Cloudy Weather, Developer, f-Sister Higher.
(f—Field.)

2—3 YOS. 6 furs. Off 2:06½.
Sealane (Adams) $6.00 $4.10 $3.30
(Tonza (Scurlock) ..... — 5.90 4.30
Sea Victory (Milligan) ..... — — 3.90
Also Ran—f-Freemar, Happy Factor, f-Doctile, Piss Pot, Hummup, Swift Lagion, Some Gain. (f—Field.)

DAILY DOUBLE (land 2) Paid $96.30

3—3 YOSA up. 6 furs. Off 5:25½.
Buena Ventura (Berg)....$16.20 $4.80 $3.60
Drumont (Adams) ..... — 4.10 3.30
Foulard (Rodriguez) ..... — — 8.90
Also Ran—Lady Stardust, Sky Soldier, Buck Ledown, f-Tim O' Shank, Better By Far, Miss Frakes, f-Violin Solo.
(f—Field).

4—2 YOS. 5½ furs. Off 6:08.
Alabama Boy (Layton) $6.00 $3.50 $2.40
Little Moose (Burns) ..... — 5.50 3.00
June Dear (Adams) ..... — — 2.60
Also Ran—f-Bitter Briar, Drayore, Pet's Brother, Money Lake, Valdina Rumpus, Cobalt, f-Hasty Chance. (f—Field.)

5—3 YOS. 6 furs. Off 6:36½.
Royal (Adams) $12.50 $4.60 $2.40
Kenty Boy (Scurlock) ..... — 5.50 4.00
Passion (Layton) ..... — — 3.80
Also Ran—Top Ceiling, Count Foray, Handy Lad, Red Rebel.

6—3 YOS. & up. 6 fur. Off 7:05.
Hydrant (Adams) $43.40 $11.50 $4.00
Jo Agnes (Berg) ..... — 3.90 2.70
Credit Man (Garcia) ..... — — 2.60
Also Ran—Commando Tom, Ray G., Darby Damron, Gwennies Pal.

7—3 YOS. & up. 1 1-16 mi. Off 7:30½.
Dina Flag (Adams) $18.60 $6.10 $3.70
Towakee (Milligan) ..... — 4.40 2.70
Romcat (Berg) ..... — — 2.60
Also Ran—Fleshalong, Starway, Hard Lu, Tomluta.

8—3 YOS. & up. 1 1-16 mi. Off 7:57½.
Dissension Sir (Bers)..$5.20 $3.10 $2.40
Sun By (Caffarella) ..... — 5.80 4.40
f-Stonthearted (Lang) ..... — — 4.30
Also Ran—Betrothed, High Hat, Second Thought, Defenseman, f-Nancy's Son, Don Lad, All True, f-Red Duster.
f-Field horses.

Trotting Entries

Roosevelt Raceway, Westbury, L. I.
POST TIME—8:30 P. M. (E.W.T.)

1—$300; Trot; 1 mi; 3 YOS & up; Mr. Kennion (Hyland); Bahnon Dewey, Peter Song, Jr. (Safford); Edna Hanover (Tuma, Jr.), Cherry Hanover (Tuma); Bold Hanover (Hatchell); Meadow Sweet (Miller), Rita (Puckett).

2—$300; Pace; 1 mi; 3 YOS & up: Adage (Safford); Lessome (Morgan), Swance Miller (Miller); Kerwin Hanover (Brooks), Mina Dale (Huggins), Hollywood Bridget (Munz), Joan Marie Scott (Myott), Patsy Gory (Miller), Lady Kenwyn; Cash Boy I, Strawberry, Clifford H. Muns entry.

3—$300; Pace; 1 mi; Non-winners of $2 or better; Meda Scott (Brown), Catherine K. (Finney), Murel (Morgan), Time Table (Hyland), Walter Kirkland (Jones), Balmy (Goodrich), Wolf Tone (Munz), My Partner (Chapell). Also eligible: Bruno Dewey, Peter Song, Jr. (Safford), Edna Hanover (Tuma, Jr.), Cherry Hanover (Tuma), Bold Hanover (Hatchell), Meadow Sweet (Miller), Rita (Puckett).

4—$300; Pace; 1 mi; 17 Class with allowances; Abbe Cleary (Finney), Fast Hanover (Myott), Mazie Hanover (Tools), Volotte (Casey), Hustler (Hodgins), Secret Mission (Hatchell), Henry Vole (Miller), Miss Emmadale (Vineyard). Also eligible: Betty Castle, Jean Pick.

5—$400; Pace; ½ mi; all ages: Marie C. Brooks (Casey), Mr. Veet (Dunwoody), Paddy Maxx (Huggins), Bahnon Hanover (Miller), Whiz (Hodgins), Hal Cochato (Toole), Phillipian (Finney).

6—$300; Trot; 12 Class with allowances; 1 mi. Miss Belfast (Chin), Cub Hanover (Miller), Dutchman Hanover (Hatchell), Chuck Signal (Tyson), The Nutcracker (Munz), Dixie Spencer (Hodgins), Delaswan Mc. Also eligible: Kerr Scott, (E. Miller entry).

7—$400; Pace; 1 mi; all ages. 2nd dash of 5th. Field same as in 5th.

8—$400; Trot; 12 Class with allowances; 2nd dash of 6th. Field same as in 6th.

COOK'S (I. N. S.) SELECTIONS
At Suffolk Downs

1—Sunamit, Hasty May, Star Maedic
2—Ariel Beam, Dark Mischief, Tyrone
3—Republican, Buck Patch, Macs Quest
4—Valdina Bina, Short Stay, Cat Lady
5—Undulator, First of All, Tiera Rock
6—Scottsville, Jamoke, Aera
7—Paille, Risanda, War Communique
8—Queens Reward, Tiny Sis, Hard Trek
BEST BET—Queens Reward, 8th Race

PETE

By FRED WEATHERLY



Daily Double Figure	Quinella Figure	Red Figure	Daily Map	Quinella Figure	Red Figure
8	858 and 078	31	697 and 868		
7	034 and 053	30	— and —		
6	473 and 372	29	446 and 867		
5	502 and 992	27	086 and 501		
3	754 and 788	26	256 and 700		
2	197 and 477	25	420 and 596		
1	681 and 141	24	022 and 533		

Detroit Entries

(By Associated Press.)
POST TIME—4:30 P. M. (E.W.T.)

1—$1,300; m'd'n; 3 YOS. 5½ fur.
Tiger Rebel ..... 119 Flowing Tide 119
Maybe Tops ..... 119 Crack Reward 119
Lady Rolf ..... 119 Gil Gamble 119
Maritowa ..... 115 Runaway 119
Parkdale ..... 119 No Bounds 119
Aasted ..... 119 Plover Brand 119

2—$1,300; cl.; 3 YOS.; m'd'ms; 6 fur.
xLumber King ..... 102 Exclamatory 112
Paramus ..... 117 Beautiful Boy 112
Dick Richards ..... 112 xGolden Ebony 102
xxTwigs Bee ..... 102 Merited 107
Castraw ..... 107 Ate Thread 107
Marcap ..... 107 Advisory 117

3—$1,400; cl.; 3 YOS. & up; 6 fur.
Epigal ..... 105 Valdina Phao 109
Valdina Della ..... 104 Kiss Kiss 109
Axmion ..... 109 Gray Dottie 109
Dreamy Eyes ..... 109 Beth B. 107
Alfadildo ..... 113 Bony Tune 109

4—$1,800; cl.; 3 YOS.; 6 fur.
Young Buddy ..... 115 Fayerf 110
Gezira ..... 105 Doc Blessed 110
Dewy Dennis ..... 107 Ranked Ranger 115
Ry Cap ..... 115 Rougheres 115
xxWave Cap 100

5—$1,800; 3 YOS.; 6 fur.
Valdina Brave ..... 112 Good Going 111
What A Play ..... 113 Hot Knocker 116
Play Dandy ..... 116 Tonka 111
Play Hands ..... 108 Kings Mount 110
xxPlay Bob ..... 108 Valdina Senora 113
a-Mrs. R. Hernandez entry.

6—$2,000; 3 YOS. & up; 6 fur.
Valdina Loria ..... 104 Gissimo 111
Miss Mary Jo ..... 111 xHard Pass 104
Mercury ..... 111 In The Rough 111
Camps Pet ..... 116 Boom On 108
Ida Mia 113

7—$2,000; 3 YOS. & up; 1 1-16 mi.
Cee Raf ..... 104 Carl Junior 116
Afghanistan ..... 116 Betty Johnson 109
Rex ..... 111 Ubiquitous 109

8—$1,400; cl.; 4 YOS. & up; 1 1-16 mi.
Three Roses ..... 107 xxExtend 102
Might Step ..... 112 Batik 113
Surgeon Dick ..... 118 Detained 105
Easy Jack ..... 112 Geuchers Boy 110
xx-7 lbs. apprentice allowance claimed.

Delaware Entries

Stanton Del.
(By Associated Press)
POST TIME 3:30 P. M. (EWT)

1—$2,500; cl., 4 YOS. & up; 6 fur.
xxxHuracon ..... 114 xxxHere Goes 112
Gray Pike ..... 112 xxAt Bat 109
xxxPirates Heart ..... 110 Mickey Curran 119
Amother ..... 112 Rough Man 119
Rocky Craig ..... 117 Lell Allright 119
xxHi-Gold ..... 116 Marron 117
Brother Dear ..... 112 Hiccup 112
xxGamily Doc ..... 114 xxBoy Larkmead 114
Mervyn Leroy ..... 121 Second Love 112

2—$2,500; mdns., 2 YOS.; 5 fur.
Junior Four ..... 115 Mister Chat 118
C K Charlie ..... 118 xxxHammer Lock 111
His Jewel ..... 118 Sea Bees 118
Lovan Day ..... 115 a Biel 118
Split the Wind ..... 118 Passatis 115
Big Son ..... 118 Happy Buckie 118
H. Hour 118

3—$2,250; mdns., 3 YOS.; 6 fur.
Hear Ye ..... 120 Time Bomb 120
Ben Teddy ..... 120 xxxBarbe Miss 108
Another Night ..... 115 Adelphia 120
xxxTyncer Bullet ..... 113 Mabel Dauber 115
Dos Two Chaps ..... 115 Ever Ours 115
Smiling Lass ..... 115 a-Jacenda 115
xKaleel Teddy ..... 113 Hav-U-Heard 115
Dawn Watch ..... 120 xxMighty Blow 115
Good Show ..... 120 Veiukie Luki 120
a-Mr. & Mrs. Christmo and A. H. Hewitt entry.

4—$3,000; Class C, allw.; 4 YOS. & up; 6 fur.
Layaway ..... 119 Hornbeam 117
Pothos ..... 119 Abracadabra 121
Gondaline ..... 114 Flying Easy 116
Kopia ..... 119 xxQuilton 116

5—$3,000; 'Cap; Series 21; 3 YOS & up; 1¼ mi.
Bright Argosy ..... 109 Grey Flares 106
Patrick Jay ..... 112 Grey Flight 111
Trisarch ..... 122 Satin Cap 108
Edie Jane ..... 109 Spartan Dnyvil 101

6—$2,400; cl., 3 YOS.; 6 fur.
Gay Brigadier ..... 113 xxBlack Africa 108
Ky T. ..... 113 Wood Spirit 104
Assailant ..... 113 Fred Havecker 113
xxxChalpre ..... 108 Guy Hertel 113
Cherbourg ..... 112 Darby Divot 112
xxxBomb Dolly 101

7—$2,300; cl., 4 YOS. & up; 1¼ mi.
Cruiser ..... 117 Omaha Mike 114
xxxWild Chance ..... 110 On the Line 115
xxxGood Odds ..... 112 Andaz 117
Dust Off 117
xx-5 lbs.; xxx-7 lbs. apprentice allowance claimed.

Suffolk Downs Entries

(East Boston, Mass.)
(By Associated Press)
POST TIME—2 P. M. (EWT)

1—$1,500; cl.; 3 YOS.; 6 furs.
Senior Prom ..... 113 Payable 112
Sky Clock ..... 117 Sunamit 112
xBlue Colors ..... 107 Star Maedic 113
Lucky Socks ..... 112 Abret 112
xxBunamic ..... 112 Hasty May 108
Black Business ..... 110 In Balance 106

2—$1,300; cl.; 4 YOS. & up; 6 furls.
xKleig Light ..... 117 Dark Mischief 112
xRed Ted ..... 115 Ariel Beam 110
Bellarmine ..... 115 Tyrone 114
xMiss Ponne ..... 104 Tyrone 122

3—$1,400; alws.; Grade E; 3 YOS.; 6 furls.
Republican ..... 110 Hay Burner 110
xBuck Patch ..... 110 xRenraw 110
Macs Quest ..... 115 Hat 115
xHer Image ..... 110 a-Barts Change 115
Ky Clock ..... 113 Pinay Transit 120
a-Merry Ho and L. Phillips entry.

4—$1,700; cl.; 2 YOS.; 5 furls.
Roadmaker ..... 114 Model Lady 114
xRed Revelle ..... 114 Imperial Doc 107
Valdina Bina ..... 111 Linda Darling 112
Short Stay ..... 112 Cat Lady 109

5—$2,500; alws.; Grade C; 4 YOS. & up; 6 furls.
Sunamit ..... 119 xNavy 115
Miss Time ..... 109 Diego Red 114
First of All ..... 114 xTetra Rock 113
Johnny Jr. 111

6—$1,500; alws.; 3 YOS.; 1 1-16 mi.
Hasty May ..... 112 Imperial Doc 107
Airport ..... 113 Able 113
xJamoke ..... 107 Aera 120

7—$1,300; cl.; 3 YOS. & up; 1 1-16 mi.
W. Communique ..... 115 Paille 112
xWitchwater ..... 107 xRisanda 106
Tierce ..... 118 xxSparrow Chirp 110
Helen Mowles 101

8—$1,400; alws.; 3 YOS.; 1 mi.
Bark ..... 111 Queens Reward 112
Hard Trek ..... 111 xTiny Sis 107
Plane spotter ..... 109 xPolly Lou 107
xMoney Muse ..... 109 xxCountess Play 110
Eiben Mist 106
xxApprentice allowance claimed.

Aqueduct Charts

Copyright, 1944, by Triangle Publications, Inc. (Daily Racing Form.)

AQUEDUCT, L. I., June 8, 1944.—3RD DAY. Clear and track fast.

1st RACE—For three-year-olds; maidens; fillies; purse $2,500; six furlongs. Net value of 125%. Start good from gate. Won driving; place same. Time :21⅘. Winner—Ch. f. 3, by Jack High—Sara Burdon, by Sporting Blood. Owner—E. Giuffa. Trainer—J. J. Krug.

Horse	Wt.	P.P.	St.	¼	½	¾	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Miss Lou	115	5	4	4½	4½	4½	1½	T. Atkinson	$9.70	$4.30	$2.90	$3.85
Miss Ann	115	1	2	1½	1½	1½	2nk	E. Guerin	—	3.30	2.50	1.75
Miss Kopp	115	3	3	3h	3h	3h	3½	S. Young	—	—	2.80	3.30
Miss Ida	115	14	2	1½	1½	1½	4h	H. Lindberg	—	—	—	42.50
Miss Ina	115	2	1	2h	2h	2h	5h	P. Zufelt	—	—	—	7.60
Miss Joe	115	9	10	8½	7½	6h	6½	G. L. Smith	—	—	—	28.95
Miss Lad	115	1	1	5½	6h	7h	8h	R. Strange	—	—	—	54.30
Miss Lee	115	7	9	9h	10h	9h	9h	W. Mehrtens	—	—	—	f74.75
Miss Joe	115	12	6	10½	10½	9½	9½	E. Arcaro	—	—	—	28.95
Miss Ada	115	4	7	6h	5h	8h	10h	S. Brooks	—	—	—	13.60
Miss Eve	115	11	5	7½	8½	10h	11h	E. Steffen	—	—	—	87.85
Miss Fay	115	10	13	11½	11½	12h	12½	T. May	—	—	—	137.90
Miss Ann	115	11	12	12h	12h	13h	13h	J. Murphy	—	—	—	f —
Miss Ada	115	13	8	13h	13h	14h	14	D. Gorman	—	—	—	f —
Miss Joe	115	6	11	3h	4h	5h	15	J. Gorman	—	—	—	f —

Mutuel handle $155,366.

Miss Ennie responded to urging and drew away. Laughter had no mishaps.

2nd RACE—For four-year-olds and upward; claiming; purse $2,200; one and a sixteenth. Post 1:53; off 1:54½. Start good from gate. Won driving; place same. Time—1:48 2-5. Winner—Blk. g. 4, by Good Advice—Miss Grace, by All Gold. Owner—E. Petillo. Trainer—N. Gonzales.

Horse	Wt.	P.P.	St.	¼	½	¾	1	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Good Advice	114	10	2	1½	1½	1½	1h	1h	P. Zufelt	$12.40	$9.00	$5.60	$5.20
Sir Gallant	116	8	7	7½	5½	3h	2½	2½	H. Woolhouse	—	21.10	14.90	46.75
Bimbo	116	6	11	12½	10h	5h	3h	3½	B. Mills	—	—	3.30	3.65
Bimbo	117	10	12	11½	11½	11½	6½	7h	T. Atkinson	—	—	—	f17.10
Bimbo	117	13	8	3h	2½	2½	5h	5h	J. Pitarelli	—	—	—	f —
Bimbo	114	4	14	14	13½	13h	8h	8h	T. May	—	—	—	18.65
Bimbo	111	3	6	6h	8h	7½	7½	9h	E. Guerin	—	—	—	18.10
Bimbo	116	9	3	4½	6½	8½	8h	10h	S. Brooks	—	—	—	f —
Bimbo	114	1	4	9h	9h	9h	9h	11h	G. Woolf	—	—	—	2.55
Bimbo	116	5	10	8h	12h	12h	12h	12h	G. L. Smith	—	—	—	5.15
Bimbo	116	7	13	13½	12½	11h	13h	13h	H. Lindberg	—	—	—	42.05
Bimbo	116	12	5	5h	3h	4h	12½	14	J. Lynch	—	—	—	30.50
Bimbo	116	14	9	10h	14	14	14	15h	F. Maschek	—	—	—	17.85
Bimbo	116	2	1	2h	4h	6h	13h	16	E. Guerin	—	—	—	47.15

Mutuel handle $218,778.

The Advice held Sailboat safe. Latter closed with courage. Pharien finished in extreme outside.

DAILY DOUBLE—Miss Eunice and Wise Advice paid $85.50.

3rd RACE—The Spinaloug Purse, $2,500; for two-year-olds; colts and geldings; allowances; five and a half furlongs. Post 2:26; off 2:27½. Start good from gate. Won driving; place same. Time—1.06 4-5. Winner—B. c. by Pompey—Chichella, by Chicle. Owner—Belair Stud. Trainer—J. Dyer.

Horse	Wt.	P.P.	St.	¼	½	¾	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Pompeyan	116	4	4	5½	5h	1h	1½	E. Arcaro	$12.70	$5.50	$2.90	$3.35
Pompey	111	10	6	2h	1½	2h	2h	J. Lynch	—	6.40	3.00	6.10
Pompeyan Girl	116	7	3	3½	4h	3½	3h	G. Woolf	—	—	2.30	.70
Pompeyan	116	3	2	4h	3½	4½	4h	W. Mehrtens	—	—	—	13.15
Pompeyan	116	6	5	6h	7½	6h	5h	C. Erickson	—	—	—	29.55
Pompeyan	116	5	7	7h	6½	5½	6½	E. Guerin	—	—	—	21.50
Pompeyan	116	8	8	10	10	10	7h	J. Stout	—	—	—	417.40
Pompeyan	116	1	10	9h	8½	8h	8h	F. Maschek	—	—	—	8 —
Pompeyan	116	9	9	8h	9h	9h	9h	A. Snider	—	—	—	148.10
Pompeyan	116	2	1	2½	2½	10	10	S. Brooks	—	—	—	42.85

Mutuel handle $278,346.

Pompeyan Stud entry.

Pompeyan was sent down leaders and drew away. Great Power hung. Hedron finished with a rush on outside.

4th RACE—The Oregon Purse, $2,500; for three-year-olds; allowances; one and a sixteenth. Post 2:57; off 2:58. Start good from gate. Won driving; place same. Time—1.47 4-5. Winner—B. g. 3, by Blenheim—Beauty Spot, by Sweep. Owner—S. Phipps. Trainer—J. P. Smith.

Horse	Wt.	P.P.	St.	¼	½	¾	1	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Pluto	119	1	3	2½	2h	2h	1h	1h	E. Arcaro	$16.00	$2.70	$2.20	$7.00
Bimbo	117	1	1	1h	1½	1½	2½	2½	D. Meade	—	2.60	2.10	.50
Bimbo	117	2	2	1½	2h	3h	3h	3½	T. Atkinson	—	—	2.10	1.85
Bimbo	117	3	4	3h	4h	4h	4h	4h	T. May	—	—	—	3.15
Bimbo	117	4	5	5	5	5	5	5	E. Guerin	—	—	—	25.40

Pluto responded to urging in final drive. Yutan hung. Miss Biscuit finished with a rush.

Mutuel handle $276,822.

5th RACE—The Lion Heart Steeplechase; purse $4,000; added; (seventh running) for four-year-olds and upward; about two miles. Post 3:28; off 3:29. Start good from flag. Won cleverly; place driving. Time—5.46. Winner—Ch. g. by Pontiac—Honey Buzzard, by Papyrus. Owner—Mrs. F. Clark. Trainer—D. Byers.

Horse	Wt.	P.P.	St.	¼	½	¾	1	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Lion Heart	145	1	1	2h	1½	1h	1h	1h	W. Owen	$6.00	$2.20	—	a$2.00
Bimbo	138	3	2	3h	3h	2h	2h	2½	W. Passmore	—	2.20	—	.65
Bimbo	138	4	3	4h	4h	3h	3h	3h	E. Roberts	—	—	—	7.05
Bimbo	138	2	4	2h	2h	4h	4h	4h	R. Biller	—	—	—	8 —
Bimbo	138	5	5	5	5	5	5	5	H. Cruz	—	—	—	14.70

Mutuel handle $169,329.

a—Owner entry.

Lion Heart responded to urging nearing final fence and drew away. Knight's Cross a bad landing at final fence and then rallied. Good Chance finished with a rush.

6th RACE—The Asteria Stakes (28th running); purse $7,500 added; for three-year-olds, fillies; five and a half furlongs. Post 3:58; off 4:00½. Start good from gate. Won driving; place same. Time—1.04 4-5. Winner—Br. f. by Bull Dog, Owner and trainer—R. A. Coward.

Horse	Wt.	P.P.	St.	¼	½	¾	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Bimbo	120	7	5	4h	4½	4½	1½	G. Woolf	$5.50	$4.20	$3.10	$1.75
Bimbo	122	10	6	6h	5h	3h	2½	H. Adair	—	7.60	4.70	11.35
Bimbo	122	1	3	3h	2h	2h	3h	W. Mehrtens	—	—	5.00	11.75
Bimbo	122	3	1	1h	1h	1h	4h	S. Brooks	—	—	—	10.35
Bimbo	122	8	7	7h	6h	5h	5h	H. Lindberg	—	—	—	72.65
Bimbo	122	9	8	8h	8h	6h	6½	E. Guerin	—	—	—	11.75
Bimbo	122	5	4	5h	7h	7h	7h	E. Arcaro	—	—	—	11.50
Bimbo	122	2	2	2h	3h	4h	8h	P. Zufelt	—	—	—	28.25
Bimbo	122	6	9	9	9	8h	9	T. Atkinson	—	—	—	14.90
Bimbo	122	4	10	10	10	9h	10	H. Woodhouse	—	—	—	106.90

Mutuel handle $335,710.

7th RACE—For 3-year-olds and upward; claiming; purse $2,500; 1 1-16 miles. Post 4:30. Off 4:31. Time—1.47. Start good from gate. Won driving. Winner—Lt. b. c., 3, by Pompey — Slapstick, by Broomstick. Trained—D. L. Weitzel.

Horse	Wt.	P.P.	St.	¼	½	¾	1	Fin.	Jockeys.	St.	Pl.	Sh.	Eq. Odds
Red Bird	117	4	6	6h	6h	5h	4h	1h	W. Mehrtens	$11.50	$5.40	$3.80	$4.75
Bimbo	113	3	4	3h	3h	3½	3½	2h	E. Arcaro	—	4.00	2.80	2.00
Bimbo	113	1	3	1½	1½	1½	2h	3½	T. Atkinson	—	—	3.40	4.70
Bimbo	113	2	1	2h	2h	2h	1h	4h	B. Mills	—	—	—	5.55
Bimbo	113	5	5	5h	5h	6	6	5h	E. Guerin	—	—	—	2.00
Bimbo	113	6	2	4h	4h	4h	5h	6	S. Brooks	—	—	—	29.10

An apprentice allowance claimed.

Mutuels handle $287,156. Total handle $2,162,141.

COOK'S (I. N. S.) SELECTIONS
At Detroit

1—(No selections)
2—Dick Richards, Lumber King, Beautiful Boy
3—King Kiss, Alfadildo, Axelson
4—Genire, Wave Cap, Hy Cap
5—Darby Doulton, Play Hands, Good Going
6—Mercury, Hard Pone, Boom On
7—Afghanistan, Ubiquitous, Rex
8—Surgeon Dick, Batik, Detained
BEST BET—Afghanistan, 7th Race

KEATS' AQUEDUCT SELECTIONS

Best Bet
Autocrat—7th Race.

Take a Chance Horse
Plantagenet—8th Race.

Keats' Aqueduct Form

Handicap figures are based on recent form. One point in rating indicates difference of one length. Selections made for a fast track. (In column showing last races, 0 indicates out of money.)

FIRST RACE—$2,000; claiming; 2-year-olds; 5½ furlongs.

Post Pos.	Horses.	Wt.	Jockeys.	Hnt-ings	Prob. odds	3 Last Races	Comment.
2	xxAwashonks	110	No boy	42	—	1-0-0	Improved
5	xxKaren Q.	109	No boy	41	—	0-0-2	Can do better
3	Johns Bird	121	Arcaro	41	—	0-0-3	In and out
4	Josephine	115	Atkinson	40	—	1-0-0	Not bad
1	Watch Henry	117	No boy	36	—	0 - -	May improve
9	xxFred Cody	112	No boy	36	—	0-0-0	Shows little
6	Singular	117	Murphy	35	—	0 - -	Far back
7	Victory Maid	109	Lindberg	—	—	- - -	First start
1	Lady Eccleston	114	Loveridge	—	—	- - -	First start

SECOND RACE—$2,000; claiming; 4-year-olds and upward; 1 1-4 miles

5	War Master	113	Arcaro	40	2-1	0-0-2	Chance if ready
7	xxNebraska	113	Permane	38	6-1	0-1-2	Early speed
9	Goo Goo	108	Atkinson	38	6-1	1-3-0	May need race
3	Hawk's Prince	114	Longden	38	6-1	0-0-0	Can do better
2	Light Reign	114	Thacker	38	8-1	3-3-0	May need race
11	Loch Ness	114	Guerin	36	10-1	0-1-2	Fair at times
11	xxxPollonator	107	Mills	35	20-1	0-0-2	Shows little
10	Isolation	113	Adair	35	20-1	0-3-2	Not much
8	xxxAlca-Gal	102	Pittarelli	35	8-1	3-3-0	Just fair
3	Panthorn	104	Maschek	34	20-1	3-0-0	Shows little
6	Chatlet	109	No boy	30	50-1	0-0-0	Not much
12	xxxWallow Run	106	F. Rinetter	30	50-1	0-0-0	Not much

THIRD RACE—The George Eno Steeplechase, $2,000; claiming; 4-year-olds and upward; about two miles.

1	Tioga	147	Miller	—	—	2-2-0	Always close
4	Royal Archer	146	Riles	—	—	0-0-0	Might wake up
5	Pico Blanco II.	144	Scott	—	—	3-3-2	Not bad
8	West Haddon	146	Morlan	—	—	0-0-0	Just fair
9	Seaflight	131	Adams	—	—	0-0-0	Not much
a	Benebow	144	No boy	—	—	0-0-0	Shows little
6	Cortesano	140	No boy	—	—	0-0-3	Far back
3	Cupid	147	Leonard	—	—	0-1-0	Long idle
2	a-Sir Bisseteel	142	Owen	—	—	0-0-2	Last was poor

a-W. G. Jones and Mrs. H. Obrey entry.

FOURTH RACE—$2,500; maidens; fillies; 2-year-olds; 5½ furlongs.

8	Ree's Agent	115	Atkinson	43	—	2 - -	Shown promise
5	Spitha	115	No boy	43	—	3-3-0	Working well
3	Meadow Maid	115	No boy	43	—	3-0-0	Good chance
9	Vemite	115	Longden	41	—	0-0-0	Not bad
1	xxSavant D'Or	110	Permane	41	—	0-0-0	Just fair
2	Santa's Vixen	115	No boy	41	—	0-0 -	Improving
7	Ansenbosch	115	Erickson	41	—	0-0 -	Far back
7	Peacock Lady	115	Lindberg	35	—	0-0 -	Shows little
1	Brevithorn	115	No boy	—	—	- - -	First start

FIFTH RACE—The Seagate Purse, $2,500; allowances; Class D; 3-year-olds; colts and geldings; six furlongs.

6	Romanock	115	Arcaro	44	2-1	1-2-1	Figures well
4	Chance Mate	115	No boy	43	4-1	2-2-0	Improving
8	Magellan	115	Atkinson	42	8-1	0-1-3	In good form
7	xxAmerican Flyer	105	Permane	43	8-1	0-0-0	Working well
11	Morasi	118	Mehrtens	42	8-1	0-2-0	Early speed
13	Tudor King	110	Lynch	42	10-1	2-0-3	In good form
12	xxJane Miracle	103	Permane	42	10-1	1-2-3	Very fit
9	Bric A Bac	115	No boy	41	15-1	1-0-1	In and out
10	Mad Anthony	110	Woodhouse	40	30-1	0-0-3	Not bad
3	Mere Wine	110	Resnick	40	30-1	0-0-0	Can do better
2	Plucky Boy	110	No boy	40	30-1	0-0-0	Working well
17	Ankylos	110	Mehrtens	40	20-1	1-0-0	May need race
19	Stateen Cents	110	Kelly	40	30-1	0-0-0	Just fair
15	Brave Marine	110	No boy	38	30-1	0-0-0	Just fair
3	Knots	110	No boy	38	30-1	0-0-0	Just fair
14	J. J. Lynch	110	Zufelt	36	50-1	0-0-0	Not much
18	Free Dutch	110	Zufelt	36	50-1	0-1-0	Not much
19	Harpichord	110	Longden	35	50-1	0-0-1	Not much
20	Francis Marion	110	Young	35	50-1	0-0-0	Not much
5	Yodler	110	Torres	35	100-1	0-0-1	Not much

SIXTH RACE—The Ocean Tide Handicap; $4,000 added; 2-year-olds and upward; fillies and mares; six furlongs.

1	Peppy Miss	117	No boy	45	5-2	2-0-0	Can do better
7	Boiling On	112	No boy	45	3-1	2-2-1	Fair at times
3	Faro Queen	116	No boy	45	4-1	0-2-0	Fast worker
4	Leaving	119	No boy	44	6-1	3-1-2	Always close
5	Bird Hawk	113	No boy	44	10-1	1-0-0	Improved
6	Modest One	107	No boy	43	10-1	0-2-1	May need race
9	Thread o'Gold	119	No boy	43	10-1	0-0-0	May improve

SEVENTH RACE—The Monopole Purse; $3,500; allowances; 3-year-olds; one mile and an eighth.

2	Auguret	113	No Boy	46	8-5	3-2-2	Working well
2	xxFree Lance	114	Permane	44	3-1	0-0-1	Fair at times
1	Spangled Gama	113	Arcaro	44	5-2	3-3-1	In good form
4	Cameonoe	113	No Boy	44	6-1	1-0-0	May go well
6	Topsy Sue	111	No Boy	40	20-1	0-0-0	Tough spot

EIGHTH RACE—The Belle Harbor Purse, $2,600; allowances; 4-year-olds and upward; Class D; one mile and a sixteenth.

5	a-Plantagenet	117	No boy	44	4-1	0-0-2	May improve
2	Omission	117	Lindberg	44	4-1	3-3-0	In good form
12	Green Apples	111	Arcaro	43	6-1	0-0-0	Can do better
2	Jace Royal	116	Atkinson	43	6-1	2-0-0	Working well
8	Zanzibar	116	Zufelt	43	6-1	0-0-0	Should improve
1	Orphyum	116	No boy	42	15-1	0-0-0	Tough spot
13	Cousin Naa	116	Longden	42	10-1	3-0-0	Last was good
15	Rath Roman	110	No boy	42	10-1	0-0-2	Not bad
16	Tragic Ending	117	No boy	41	10-1	1-0-2	Just fair
14	He Rolls	121	Adair	41	15-1	0-0-0	Fair at times
3	Good Symbie	117	No boy	41	20-1	0-0-0	Just fair
7	b-Overtake	116	Adair	40	20-1	0-0-0	Not much
10	Jamesborough	116	Meade	40	20-1	0-0-0	Recent form dull
6	xxxMagdala	104	Mills	36	50-1	0-0-0	Not much
9	Air Transit	116	Gonzales	35	50-1	0-0-0	Not much
11	xxxMatakokon	109	West	30	50-1	0-0-0	Not much

a-Hayshonne Stable and N. G. Gibbons entry; b-W. L. Shea entry.
xx-5 lbs., xxx-7 lbs. apprentice allowance claimed.

Suffolk Downs Results

(By Associated Press)
(Track Fast)

1—4 YOS. & up. 6 furls. Off 2:25½.

Copin (Pratt)	$4.00	$2.20	$2.60
Colleen (Bowers)	—	11.60	9.60
Calan (Madden)	—	—	3.00

Also Ran—Sir Talbot, Is Dutch, Tetragal, Back Tooth, Mill Brian, Roman Hero, Calan Junior—20 Keys.

2—3 YOS. 6 furls. Off 3:06½.

Colonel Dan (Bowers)	$7.00	$3.40	$2.60
Miansai (Martin)	—	4.00	3.20
Smoothy (Patterson)	—	—	4.40

Also Ran—Flying Scout, Light Bandwich, Je Love Me, Casey Jones, Nate Reward, Prodigio, Kymarva, Round Clock.

DAILY DOUBLE (1 and 2) paid $13.60

3—2 YOS. 5 furls. Off 3:38½.

Uncle Louie (Caggiotti)	$25.20	$5.80	$2.80
Titian Miss (Trent)	—	4.00	3.00
Song Thrush (Green)	—	—	2.60

Also Ran—Toy Gun, Jene Slam, Galleon, Star Finder.

4—2 YOS. 6 furls. Off 4:07.

Evelyn Rolls (Martin)	$4.60	$2.80	$2.60
Elray (Rollins)	—	2.60	2.40
Half Smart (Trent)	—	—	2.60

Also Ran—Indie Fool, Ally Bay, Speed Up, Valdina Infant, Linwood Jim.

5—3 YOS. & up. 6 furls. Off 4:36.

Yes or No (Bista)	$11.60	$4.20	$3.00
Corona (Turnbull)	—	3.00	2.40
Dinne Path (Bowers)	—	—	3.00

Also Ran—Zacabarnd, Tracelette, Rough Command, Red Moon.

6—4 YOS & up. 1 1-16 mi. Off 5:07.

Santa Ellen (Madden)	$7.00	$3.20	$2.60
Momo Flag (Bowers)	—	3.00	2.40
Jyser (Borsell)	—	—	3.00

Also Ran—Masant, Anciptal, Skipper E., White Hope, Darby Dunn.

7—4 YOS & up. 1 1-16 mi. Off 5:36½.

Seven Hills (Bista)	$4.80	$2.20	$2.20
Indian Fifth (Bowers)	—	6.40	3.20
d-Bayport (Pratt)	—	—	2.60

Also Ran—Due Sport, Glnoca, Jack Venable, Chant Thru and Southern Sun finished first but was disqualified and placed third.

8—4 Yrs & up. 1 mi. & 70 yds. Off 6:05.

Pomiva (G. McMullen)	$10.50	$6.00	$4.20
Jo Kaye (K. Haslett)	—	3.40	6.40
Josie's Pal (G. Hettinger)	—	—	3.80

Also Ran—Battle Bells, Contemplation, Spay, Gold Bibb, Elkton, Phone Dixon, Still Gallant, Majorette.

a-Hill & Morrow and H. A. P. Farm entry.

Lincoln Fields Entries

(By Associated Press)
(Post Time—2:15 (EWT)

1—$1,500; cl; 3 YOS; 6 fur.

xStage Door	106	xNew Glory 108
xCrumpet	106	xEver Flying 113
xPaley	117	xSue Flight 113
xTo Tee	113	xMy Mistake 113
Quick Tool	115	xRandom Breeze 113
xJust Hiram	117	Mar Jean 113
Bird O'Gold	105	Star O' Hope 111
Briarson	116	

2—$1,500; cl; 4 YOS & up; 6½ fur.

xBook Plait	110	Miss Monarch 111
Air Power	107	xMadam 100
Free Style	113	Gentle Savage 118
Very True	110	Commando 113
xBenicue	102	Bellcode 113
Proud Sister	107	Rogers Boy 115
Ramsey Boy	110	Gold Pursuit 103

3—$1,500; mdns; 3 YOS; 6 fur.

Sc. Sure	116	Harriet Ann 116
xGolden Harvest	111	Over Cross 116
Rebut	116	Musical 116
Repeat	116	Which Witch 116
Vista	116	Lady Kentucky 116
Good Wife	116	

4—$1,500; cl; 3 YOS; 6 fur.

Rabbi's Crown	112	xMidkapt 102
Ucker	110	xDuke Boy 112
xBand Storm	104	Amalka 111
Lady Ed	105	Miss Jo 105
Rekiaw	112	

5—$1,500; alw; 3 YOS. & up; 6½ fur.

Chute		
Dusty	117	Three Dots 117
xFlyer Mate	112	xPaley 112
xTake Away	112	Loyal 100
HighCourt	117	First 117
OK Pal	105	Hoddell 116
Clarksville	117	Valdina Way 117
Spellicase	117	Valdina Style 117
xTawny Lady	103	

6—$1,500; alw; 3 YOS; 1 mi. & 70 yds.

Rising Light	108	x-Brief Sigh 116
xGremlin	109	Dane Canyon 110
American Eagle	112	xBob Fancy 112
x-Umpy Dan	110	xBob's Choice 107
x-Captain Eddie	107	xCapitol Duke 107
Campanula	105	

a-W. L. Huntley and River Divide Farm entry.

7—$1,500; cl; 4 YOS. & up; 1 1-16 mi.

Happy Choice	107	Anxiety 107
Fair Player	112	Gummed Up 102
xValdina Margo	102	xPamphlet 102
Gooseberry	112	Valdina Numph 107

8—$1,500; alw; 4 YOS. & up; mi. & 70 yds.

Waytrist	113	xAmyx Pilot 105
Kokomo	110	Good Play 110
Lynch	105	K. Sugar Roll 105
Obergo	107	Playful Pal 107
Black Time	113	xTimocracy 106
Ted O.	110	

COOK'S (I. N. S.) SELECTIONS
At Belmont Park

1—Well Alright, Family Doctor
2—Mrs. Tim Teddy, One Two Three
3—Flying Easy, Quillon Guard, Patsie Saint, Grey Hood
4—Genire, Wave Cap, Hy Cap
5—Darby Boulton, Play Hands, Good Going
6—Mercury, Hard Pone, Boom On
7—Afghanistan, Ubiquitous, Rex
8—Surgeon Dick, Batik, Detained
BEST BET—Afghanistan, 7th Race

O'Neill's Selections
AT AQUEDUCT

1—Josephine, Awashonks, Karen Q.
2—Nebraska, War Master, Goo Goo.
3—Royal Archer, Tioga, West Haddon.
4—Spitha, Ree's Agent, Vemite.
5—Jean Miracle, Romanock, Magellan.
6—Peppy Miss, Leaving, Boiling On.
7—Autocrat, Topsy Sue, Free Lance.
8—Zanzibar, Omission, Green Apples.
Best Bet—Spitha, 6th Race.

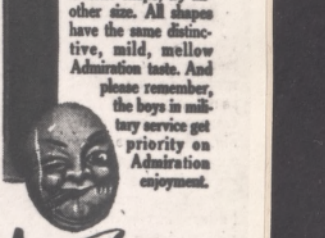
COOK'S (I. N. S.) SELECTIONS
At Lincoln Fields

1—River Flying, Crumpet, To a Tee
2—Rogers Boy, Book Plate, Free Style
3—(No selections)
4—Sand Storm, Reklaw, Amalka
5—Ruditaurus, Three Dots, Brown Mate
6—Brief Sigh, Captain Eddie, American Eagle
7—Valdina Nymph, Fair Player, Anxiety
8—Cobeggo, Ted O, Playful Pal
BEST BET—Brief Sigh, 6th Race



Never bite or tear off the end. Clip cleanly with sharp knife or cutter. Result: your Admiration will smoke evenly; you'll get no tobacco flakes in your mouth.

Choice, 100% Havana-filled Admiration Cigars are doubly precious nowadays! If your dealer runs short of your favorite shape, try another size. All shapes have the same distinctive, mild, mellow Admiration taste. And please remember, the boys in military service get priority on Admiration enjoyment.



ADMIRATION Cigars
15 SIZES AND SHAPES

Exhibit S-19.

(Opposite ☞)

Results

WBYN—Dial 1430 Broadcasts Start at 11:55 A. M.
Two Resumes of Day's Races—5:30 and 8:30 P. M.

LEADING HANDICAPPERS' DELAWARE PARK SELECTIONS

FIRST RACE
Consensus.... Hi Gold 17, Family Doc 14, Huracon 13
Trackman Hi Gold, Huracon, Here Goes
Reporter..... Hi Gold, Family Doc, Well Allright

SECOND RACE
Consensus.... Sea Bees 24, His Jewel 13, O. K. Charlie 12
Trackman Sea Bees, Big Sun, H. Hour
Reporter..... His Jewel, O. K. Charlie, Big Sun

THIRD RACE
Consensus.... Adelphia 19, Smiling Lass 15, One Two Three 13
Trackman Adelphia, Smiling Lass, One Two Three
Reporter..... Adelphia, Velikie Luki, Viva Teddy

FOURTH RACE
Consensus.... Layaway 32, Flying Easy 13, Spiller 12
Trackman Layaway, Flying Easy, Kopla
Reporter..... Layaway, Hornbeam, Abrasion

FIFTH RACE
Consensus.... TRIERARCH 32, GreyFlares 12, PatronSaint 11
Trackman Trierarch, Grey Flares, Bright Argosy
Reporter..... TRIERARCH, Grey Flares, Patron Saint

SIXTH RACE
Consensus.... Hercules 25, BlackAfrica 16, GayBrigadier 10
Trackman Hercules, Sunnytown, Gay Brigadier
Reporter..... Shoot to Boot, Hercules, Gay Brigadier

SEVENTH RACE
Consensus.... Assailant 17, Fred Havecker 13, Cherbourg 12
Trackman Cherbourg, Assailant, Elean
Reporter..... Assailant, Darby Divot, Bomb Dolly

EIGHTH RACE
Consensus.... Anzac 32, Good Odds 11, Cruiser 10
Trackman ANZAC, Cruiser, Good Odds
Reporter..... Anzac, On the Line, Cruiser

LEADING HANDICAPPERS' SUFFOLK DOWNS SELECTIONS

FIRST RACE
Consensus.... Payable 17, Senior Prom 15, Sunamit 13
Trackman Blue Colors, Senior Prom, Payable
Reporter..... Blue Colors, Payable, Sunamit

SECOND RACE
Consensus.... Tyrone 27, Ariel Beam 24, Kleig Light 10
Trackman TYRONE, Ariel Beam, Kleig Light
Reporter..... Tyrone, Ariel Beam, Bellarmine

THIRD RACE
Consensus.... FreeTransit 29, Bart'sChance 14, Republican 8
Trackman Republican, Free Transit, Bart's Chance
Reporter..... Free Transit, V Clock, Bart's Chance

FOURTH RACE
Consensus.... Valdina Bina 22, Ship Jr. 15, Cat Lady 14
Trackman Cat Lady, Ship Jr., Short Stay
Reporter..... Short Stay, Cat Lady, Valdina Bina

FIFTH RACE
Consensus.... First of All 19, Tetra Rock 18, Undulator 16
Trackman Tetra Rock, First of All, Undulator
Reporter..... Tetra Rock, First of All, Undulator

SIXTH RACE
Consensus.... SCOTTSVILLE 32, Jamoke 20, Aera 9
Trackman Scottsville, Jamoke, Royal Dic
Reporter..... JAMOKE, Scottsville, Aera

SEVENTH RACE
Consensus.... Tierce 26, Sparrow Chirp 19, Risanda 8
Trackman Sparrow Chirp, Tierce, Paille
Reporter..... Tierce, Sparrow Chirp, Paille

EIGHTH RACE
Consensus.... Ellen Mist 24, Money Muss 13, Polly Lou 11
Trackman Polly Lou, Ellen Mist, Money Muss
Reporter..... Queen's Reward, Tiny Sis, Ellen Mist

SEEK SHIFT OF PIMLICO TAX

BALTIMORE, Md., June 8.—City Solicitor Simon Sobeloff has recommended to the board of estimate that a city tax be placed on the Pimlico track, but that the legislature be asked to shift the $3,000 daily tax now paid to Baltimore county to the city instead. In recommending this plan, Sobeloff said he felt this arrangement would "correct an injustice."

YESTERDAY'S LATE SCRATCHES

Delaware Park—Fritz, 1st race; Weigh Anchor, 3rd.
Detroit—Task Force, 2nd race.

THE NATIONAL RACING PROGRAM
ISSUED EVERY SUNDAY. Subscription, $48 per year.
THE NATIONAL RACING PROGRAM, INC., 350 W. 34th St., NEW YORK 1, N. Y. Business phone, MEdallion 3-3540
THE NATIONAL RACING PROGRAM, INC., Publishers
ENTERED AS NO. 4942
Entered as Second-Class matter, January 20, 1039, at the Post Office at New York, N. Y., under the Act of March 3, 1879.

Today's Weather Forecast
Local—Cloudy and warm.

FINAL EDITION

THE NATIONAL Racing Program

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FRIDAY, JUNE 9, 1944 **PRICE, 15c**

Keen Observer's Selections

AT AQUEDUCT
1—Awashonks, John's Bird, Karen Q.
2—NEBRASKA, Light Reign, War Master.
3—Tioga, Royal Archer, Cupid.
4—Spitha, Rea's Agent, Savant D'Or.
5—Tudor King, Romanock, Chance Mate.
6—Boiling On, Peppy Miss, Leaving.
7—Topsy Sue, Spangled Game, Comenow.
8—Omission, Plantagenet, Green Apples.

AT DELAWARE PARK
1—Hi Gold, Huracon, Marron.
2—His Jewel, Big Sun, H. Hour.
3—Adelphia, Tracer Bullet, One Two Three.
4—Layaway, Flying Easy, Kopla.
5—TRIERARCH, Grey Hood, Grey Flares.
6—Hercules, Sunnytown, Shoot to Boot.
7—Assailant, Darby Divot, Guy Hottel.
8—Anzac, Cruiser, Good Odds.

AT SUFFOLK DOWNS
1—Senior Prom, Payable, Sunamit.
2—ARIEL BEAM, Red Ted, Dark Mischief.
3—Free Transit, Buck Patch, Bart's Chance.
4—Valdina Bina, Cat Lady, Short Stay.
5—Tetra Rock, First of All, Diego Red.
6—Jamoke, Scottsville, Aera.
7—Sparrow Chirp, Tierce, Paille.
8—Ellen Mist, Polly Lou, Queen's Reward.

AT LINCOLN FIELDS
1—To a Tee, Crumpet, Ever Flying.
2—BOOK PLATE, Very True, Miss Monarch.
3—Hepcat, So Sure, Overcross.
4—Sand Storm, Amalka, Lady Eli.
5—Clarksville, Take Away, Tawny Lady.
6—Brief Sigh, Captain Eddie, Gremlin.
7—Anxiety, Gooseberry, Fair Player.
8—Gal Ann, Cobegro, K. Sugar Roll.

ADMISSION ON DWYER DAY BY PURCHASE OF WAR BOND ONLY

Starting today the advance sale of tickets for racing's War Bond Day, which is on Saturday, June 24, will be placed on sale throughout the Aqueduct track. This is the day of the $50,000 Dwyer Stakes. All five of New York's racing associations are underwriting this day and it is racing's contribution in New York to the Fifth War Loan drive.

On this day no regular tickets of admission will be sold or honored and only the purchase of war bonds will admit any patron to the track.

This is in addition to the regular daily war bond admission, the difference being that on June 24 there will be no other way of getting into the track. One grand stand admission will be given for each $25 or $50 bond purchase and one club-house ticket for each $100 bond.

THE TURF
TRACK BULLETIN

AT AQUEDUCT
1—**Awashonks, Karen Q., Josephine, Victory Maid.**
2—War Master, Ne[illegible]ska, Xanthorn, Pollenator.
3—Cupid, Tioga, [illegible]lanco II., West Haddon.
4—Spitha, Rea's Agent, Wemite, Santa's Vixen.
5—Kuota, Tu[illegible]ling, Jean Miracle, Chance Mate.
6—Thread [illegible]old, Faro Queen, Bird Hawk, Leaving.
7—AUTOC[illegible]AT, Comenow, Free Lance.
8—Zanzi[illegible], Omission, Tragic Ending, He Rolls.

AT DELAWARE PARK
1—Huracon, Family Doc, Hi Gold, Marron.
2—**Sea Bees, Big Sun, O. K. Charlie, H Hour.**
3—Adelphia, Smiling Lass, One Two Three.
4—Layaway, Quillon, Kopla, Abrasion.
5—Trierarch, Patron Saint, Grey Hood.
6—Shoot to Boot, Hercules, Gay Brigadier.
7—Cherbourg, Fred Havecker, Riverbank.
8—ANZAC, Cruiser, Good Odds, Omaha Mike.

AT SUFFOLK DOWNS
1—**Senior Prom, In Balance, Sunamit, Hasty May.**
2—Tyrone, Ariel Beam, Bellarmine, Kleig Light.
3—Republican, Free Transit, Bart's Chance, V Clock.
4—Sangone, Valdina Bina, Cat Lady, Ship Jr.
5—First of All, Tetra Rock, Johnny Jr., Diego Red.
6—SCOTTSVILLE, Jamoke, Aera, Able.
7—Sparrow Chirp, Tierce, Paille, Risanda.
8—Polly Lou, Ellen Mist, Tiny Sis, Countess Play.

AT LINCOLN FIELDS
1—TO A TEE, Ever Flying, Just Hiram, Crumpet.
2—Proud Sister, Book Plate, Rogers Boy.
3—Lady Kentucky, So Sure, Hepcat, Good Wife.
4—Sand Storm, Robins Crown, Amalka, Bolo Babe.
5—Ruditaurus, Take Away, Tawny Lady, Three Dots.
6—Brief Sigh, Captain Eddie, American Eagle.
7—Fair Player, Valdina Nymph, Gooseberry, Anxiety.
8—Black Time, Cobegro, Timocracy, Playful Pal.

TYRONE, 2nd race, Suffolk Downs.
POLLY LOU, 8th race, Suffolk Downs.

Yesterday's Mutuel Totals, Race by Race

AQUEDUCT—Total public pool, $2,162,141. Daily double pool, $89,822. Attendance, 22,878.
1—$155,566 4—$276,821 7—$335,210
2— 218,878 5— 169,529 8— 327,216
3— 270,[illegible]6 6— 310,853
DELAWARE PARK—Total public pool, $772,132. Attendance, 9,818.
SUFFOLK DOWNS—Total public pool, $736,412. Attendance, 12,751.
LINCOLN FIELDS—Total public pool, $672,886. Attendance, 9,618.
DETROIT—Total public pool, $422,526. Attendance, 9,671.
CHARLES TOWN—Total public pool, $119,732. Attendance, 3,000.

THE NATIONAL SELECTOR'S BEST

1b

At Aqueduct—AUTOCRAT
At Delaware Park—LAYAWAY
At Suffolk Downs—ARIEL BEAM
At Lincoln Fields—BRIEF SIGH
At Lincoln Fields—TO A TEE
At Charles Town—CAROLINA BELL

WAR MASTER (2nd race, Aqueduct)

Aqueduct (N. Y.) Entries

Inaugural Day—23-Day Meeting — Daily Double—1st-2nd Races

GRADED SELECTIONS

Clear and Fast

Official Jockeys, Post Positions, Field Horses

NATIONAL FIRST EDITION

1 Aqu—5½ Furlongs. 2-year-olds. Claiming. 1:20

	P.P.	Wt.		Jockey
Eddie's Bird	3	121	5-2	E Arcaro
Fly Cooley	9	117	5-1	S Brooks
Karen Q	5	109	8-5	R Permane
Angular	6	117	12-1	E Guerin
Josephine[1]	8	115	6-1	T Atkinson
Watch Henry	7	117	10-1	H Woodhouse
Victory Maid	4	109	10-1	H Lindberg
Awashonks[1]	2	110		**SCRATCHED**
Lady Eccleston	1	114		**SCRATCHED**

BLINKERS ON—Karen Q. and Singular.
Fred Cody apprentice waived, weight changed.

Consensus.... Awashonks 18, Karen Q. 12, Fred Cody 11
National Trackman Josephine, Karen Q., Awashonks
Track Reporter..... Awashonks, John's Bird, Karen Q.

1 Aqu—1 Miles. 4-year-olds up. Claiming. 1:55

War Master	3	115	9-5	E Arcaro
Isolation	7	112	2-	R Permane
Loch Ness	1	114	10-	E Guerin
Goo Goo	9	108	6-	T Atkinson
Bright Relgh[3]	2	111	8-	Thacker
Nebraska-Gal[3]	8	102	20-1	Gottarelli
Pollinator	11	114	20-1	dberg
Pico Blanco[3]	3	108	12-1	F hek
Jack's Prince	4	114	20-1	J Lon n
Chatlet	6	109	50-1	A Pasc a

Pollinator apprentice waived, weight changed.

Sea Isolation	10	x113	**SCRATCH 'D**
Willow Run	12	106	**SCRATCHED**

BLINKERS AND SPURS ON—War Master.

Consensus.... Nebraska 29, War Master 19, Goo Goo 8
National Trackman NEBRASKA, Goo Goo, Loch Ness
Track Reporter..... NEBRASKA, War Master, Isolation

1 Aqu—Ab 2 M. 4-y-o up. 'Chase. Claiming. 2:25

Sir Bluesteel	2	142	2-1	W J Owens
Tioga	1	147	7-5	P Miller
Seaksar	7	144	3-1	E Jennings
Pico Blanco II	3	144	5-1	A Scott
West Haddon	6	141	15-1	N Brown
Sea Light	8	146	5-2	M Morlan
Royal Archer	9	131	30-1	F Adams
Cupid	4	146		**SCRATCHED**
Sea	5	147		**SCRATCHED**

Mrs. H. G. Obre entry.
BLINKERS ON—Pico Blanco II., West Haddon and Sea-Fight.

Consensus.... Royal Archer 22, Tioga 14, Cupid 10
National Trackman Royal Archer, Sir Bluesteel, Tioga
Track Reporter..... Tioga, Royal Archer, Pico Blanco II.

1 Aqu—5½ F. 2-year-olds. Fillies. Maidens. 2:55

Meadow Maid[3]	8	115	4-1	S Brooks
Spithal	5	115	8-5	E Arcaro
Servant D'Or	3	110	6-1	R Permane
Rea's Agent	6	115	3-1	T Atkinson
Smitha's Vixen	9	115	6-1	J Longden
Wemlite	2	115	12-1	F Zufelt
Peacock Lady	4	115	30-1	C Erickson
Swithorn	7	115	50-1	H Lindberg
BLINKERS ON—Santa's Vixen and Peacock Lady.	1	115		**SCRATCHED**

Consensus.... SPITHA 26, Meadow Maid 14, Rea's Agent 12
National Trackman Rea's Agent, Wemlite, Spitha
Track Reporter..... Rea's Agent, Spitha, Wemlite

[x]Five pounds apprentice allowance claimed.
[y]Coupled runner.
Small figure (123) after name of horse denotes in-the-money performance last time out.

5 Aqu—6 F. 3-y-o. C&G. Class D Allowances. 3:25

1*	Jean Miracle[1]	14	x110	5-2	R Permane
2	Morani	11	110	6-1	W Mehrtens
4	Romanock[1]	6	115	4-1	E Arcaro
5	Magellan	8	x115	6-1	T Atkinson
6	Chance Mate[3]	4	x115	5-1	J Longden
7	Bric a Bac[2]	9	115	8-1	
10	More Wine	1	110	30-1	J Renick
12	Plucky Boy	2	110	20-1	D Meade
13	Kuota	3	110	20-1	S Brooks
14	Yodeler	5	110	20-1	L Torres
15	American Flyer.	7	110	20-1	E Guerin
16	Mad Anthony	10	x110	20-1	H Woodhouse
17	Sixteen Cents	12	110	20-1	F Kelly
19	Brave Marine	15	110	20-1	S Young

FIELD HORSES—12, 14, 15.

→ American Flyer apprentice waived, weight changed.

3	Tudor King[2]	13	110	**SCRATCHED**
8	Free Dutch	18	110	**SCRATCHED**
20	J. J. Lynch	16	110	**SCRATCHED**
21	Ankylos[1]	17	110	**SCRATCHED**
22	Harpischord	19	110	**SCRATCHED**
23	Francis Marion[3]	20	110	**SCRATCHED**

Nat'l Consensus.... Romanock 15, Jean Miracle 14, Chance Mate 10
National Trackman Jean Miracle, Magellan, Tudor King
Track Reporter..... Romanock, Chance Mate, Bric a Bac

6 Aqu—6 F. 3-y-o up. Fils&Mares. Handicap. 4:00

1	Boiling On[3]	7	122	5-2	H Lindberg
2	Peppy Miss[2]	1	117	8-1	R Permane
3	Leaving[3]	4	119	3-1	T Atkinson
4	Faro Queen	3	116	5-2	W Mehrtens
5	Bird Hawk	2	113	8-1	E Arcaro
7	Modest One	6	107	30-1	L Torres
6	Thread o' Gold	5	110		**SCRATCHED**

Nat'l Consensus.... Boiling On 19, Peppy Miss 18, Leaving 18
National Trackman Thread o' Gold, Leaving, Peppy Miss
Track Reporter..... Leaving, Peppy Miss, Boiling On

7 Aqu—1¼ Miles. 3-year-olds. Allowances. 4:30

1	Autocrat[2]	3	113	4-5	F Zufelt
2	Comenow	4	113	3-1	T Atkinson
3*	Free Lance	2	114	4-1	R Permane
4	Spangled Game[3]	1	113	5-1	E Arcaro
5	Topsy Sue[1]	5	111	30-1	H Lindberg

Doubtful starter—Topsy Sue.

Nat'l Consensus.... Autocrat 25, Comenow 18, Free Lance 16
National Trackman Autocrat, Free Lance, Comenow
Track Reporter..... Free Lance, Spangled Game, Autocrat

8 Aqu—1 1-16 M. 4-y-o up. Class D Allow. 5:00

1a	Plantagenet	3	117	5-2	E Arcaro
2	Zanzibar	8	116	5-2	F Zufelt
3	Omission[3]	4	117	4-1	H Lindberg
5	Green Apples	12	111	10-1	A Snider
6	Jaco Royal[2]	2	116	8-1	T Atkinson
7	He Rolls	14	121	10-1	R Adair
10	Jamesborough	10	116	15-1	D Meade
13	Orpheum[2]	1	116	15-1	R Permane
14	Good Stymie[3]	5	117	30-1	E Guerin
16b	Overtake	7	116	30-1	S Young
17	Air Transit	9	116	50-1	M N Gonzalez
19†	Matakom	11	109	50-1	K West
4	Tragic Ending[2]	16	117		**SCRATCHED**
8	Cousin Nan[3]	13	116		**SCRATCHED**
12a	Enter	19	117		**SCRATCHED**
15†	Magdala	6	104		**SCRATCHED**
20	Rath Ronan	15	120		**SCRATCHED**
21	Miss Sugar	17	111		**SCRATCHED**
22b	Golden Thorn	18	116		**SCRATCHED**

a-Havahome Stable-N. G. Gibbons entry. b-V. L. Shea.

Nat'l Consensus.... Plantagenet 23, Zanzibar 16, Omission 14
National Trackman Zanzibar, Omission, Plantagenet
Track Reporter..... Tragic Ending, Omission, Zanzibar

†7 pounds apprentice allowance claimed for rider.

Delaware Pk. (Del.) Entries

11th Day—30-Day Meeting — No Daily Double at This Track

GRADED SELECTIONS

Clear and Fast

Official Jockeys and Post Positions

NATIONAL FIRST EDITION

1 Del—6 Furlongs. 4-year-olds up. Claiming. 3:30

1*	Hi Gold	6	x116	5-2	K Scawthorn
2*	Family Doc	8	x114	4-1	W Rudert
3	Huracon	1	x121	3-1	R Eccard
4†	Here Goes	10	112	8-1	J C Gilbert
8*	At Bat	11	109	12-1	R Arduini
10	Brother Dear	7	121	12-1	J Gilbert
12†	Pilates Heart[3]	3	110	15-1	R Meade
13	Gray Pass	2	117	20-1	J Ricnzi
14	Another	4	112	20-1	L Knapp
15	Rocky Craig	5	117	20-1	W Balzaretti
16	Mervyn Le Roy	9	x121	20-1	P Keiper
17	Mickey Curran	12	119	20-1	D Dodson

→ Huracon apprentice waived, weight changed.

5	Rough Man[1]	13	x119	**SCRATCHED**
6	Well Allright	14	x119	**SCRATCHED**
9	Marron[2]	15	117	**SCRATCHED**
19	Hiccup	16	112	**SCRATCHED**
20*	Boy Larkmead	17	112	**SCRATCHED**
21	Second Love[2]	18	112	**SCRATCHED**

HOSS LAFFS' SELECTION

PLANTAGENET (8th, Aqueduct)

2 Del—5 F. 2-y-o. Maidens. Colts & Geldings. 4:00

1	His Jewel	3	118	3-1	J Gilbert
2	Sea Bees	10	118	2-1	A Schmidl
3	O. K. Charlie[3]	2	118	4-1	J Rienzi
5	H Hour	7	118	10-1	D Dodson
6	Abiel	11	118	10-1	F Zehr
7	Split the Wind	5	118	20-1	C Longa
8	Junior Four	1	118	20-1	W Balzaretti
10	Lovan Day	4	118	20-1	W Mann
12	Mister Chat	8	118	20-1	J Breen
13†	Hammer-Lock	9	118	20-1	A Snelling
14	Pasapet	12	118	20-1	A Kirkland
15	Happy Buckie	13	118	20-1	R Eccard
4	Big Sun[2]	6	118		**SCRATCHED**

3 Del—6 Furlongs. 3-year-olds. Maidens. 4:30

1	Smiling Lass	6	115	3-1	R D Scott
2	One Two Three	5	115	4-1	W Balzaretti
3	Adelphia[2]	12	120	5-2	D Scocca
5	Viva Teddy	2	120	6-1	W Rudert
7	Tracer Bullet	4	120	20-1	J McCoy
8	Time Bomb	10	120	20-1	J Breen
10	Dawn Watch	8	120	15-1	D Dodson
13a†	Maybe Miss	11	108	10-1	J C Gilbert
15	Another Night	3	115	20-1	S Clark
16*	Kalessi Teddy	7	115	12-1	K Scawthorn
17	Stray Winds	14	115	20-1	A Schmidl
21	Hear Ye	1	120	50-1	C Longa

→ Tracer Bullet apprentice waived, weight changed.

4	Mabel Dauber[3]	13	115	**SCRATCHED**
6	Velikie Luki[2]	18	120	**SCRATCHED**
12	Good Show	9	120	**SCRATCHED**
14a	Jaconda	15	115	**SCRATCHED**
19	Hav-U-Heard	16	115	**SCRATCHED**
20*	Mighty Blow	17	115	**SCRATCHED**

a-B. F. Christmas-A. Hewitt entry.

4 Del—6 F. 4-yr-olds up. Class C Allowances. 5:00

1	Layaway[2]	1	x119	4-5	J Westrope
2	Flying Easy	7	x116	5-1	L Knapp
3*	Quillon[3]	8	x116	5-1	K Scawthorn
5	Abrasion[3]	6	x121	10-1	J Breen
6	Hornbeam[3]	5	x117	10-1	D Dodson
7	Gondalina	3	x114	10-1	W Balzaretti
8	Pompeco	2	x119	15-1	J Gilbert
4	Kopla	4	119		**SCRATCHED**

5 Del—1½ Miles. 3-year-olds up. Handicap. 5:30

1	Trierarch[1]	3	122	6-5	J Westrope
2	Grey Flares[3]	5	106	6-1	D Scocca
3	Patron Saint[2]	2	x112	4-1	
4	Bright Argosy[1]	1	109	8-1	W Balzaretti
5	Grey Hood	6	x111	4-1	N Wall
6	Edie Jane	4	110	10-1	J Breer
8	Satin Cap	7	108	20-1	J Gilbert
7	Spuyten Duyvil	8	101		**SCRATCHED**

6 Del—6 Furlongs. 3-year-olds. Claiming. 6:00

1*	Black Africa	6	108	4-1	K Scawthorn
2	Hercules	2	113	2-1	J Breen
3	Gay Brigadier	1	x113	5-1	J Westrope
4*	Sunnytown	8	x103	8-1	W Rudert
5	Shoot to Boot	4	111	6-1	M Beasile
6†	Bonnie Myth	5	101	12-1	R Arduini
7	Wood Spirit	7	104	15-1	D Scocca
8	Leave	3	109	12-1	F Zehr
10*	Grand Toy	9	106	10-1	E Crowther

→ Shoot to Boot apprentice waived, weight changed.

7 Del—1 1-16 Miles. 3-year-olds. Claiming. 6:30

2	Assailant[2]	3	113	2-1	J Gilbert
3	Fred Havecker	9	x112	4-1	P Keiper
4†	Bomb Dolly	6	101	8-1	A Snelling
5	Elcan	7	112	6-1	J Tammaro
6	Darby Divot[1]	11	112	8-1	J Westrope
7	Guy Hottel	10	112	8-1	D Dodson
8	Patsy T	2	110	12-1	S Clark
10	Riverbank	1	113	15-1	F Winn
12	Magic Eye	8	108	20-1	J Breen
13†	Chalpre	4	106	20-1	R Meade
1	Cherbourg	5	113		**SCRATCHED**

8 Del—1½ Miles. 4-year-olds up. Claiming. 7:00

1	Anzac	7	x117	4-5	J Westrope
2†	Good Odds	3	105	3-1	R Meade
3	Cruiser[2]	1	x117	4-1	F Winn
4†	Wild Chance[2]	2	110	8-1	A Snelling
5	On the Line	6	114	20-1	J Gilbert
6	Omaha Mike	5	114	30-1	D Dodson
7	Dust Off	4	117	30-1	V Bovine

HORSES CLAIMED

Horse	Track	New Owner	Price
Free Air	Aqu	Mrs. B. DiGiorzio	$5,000
Hippomenes	Del	M. Hunt	3,000
Uncle Leslie	Suf	P. Andolino	2,500
Seven Hills	Suf	K. Gerritson	2,000
Ginoca	Suf	H. G. Bedwell	2,000
In Dutch	Suf	Bar One Eleven Ranch	1,250
Foreign Shot	LF	C. Passarieu	1,250
Uncle Bud	LF	B. R. Janota	1,250
Dark Ship	LF	Mrs. W. R. Reid	1,250
Royal View	LF	Mrs. K. C. Morrow	1,250
Garden Pot	LF	R. Wilcox	1,000
Displayer	Del	W. Opperman	1,000
Big Sneeze	CT	Mrs. E. Warren	800

Suffolk Downs Entries

Daily Double—59-Day Meeting — Daily Double—1st-2nd Races

GRADED SELECTIONS

Clear and Fast

Official Jockeys and Post Positions

NATIONAL FIRST EDITION

1st—6 Furlongs. 3-year-olds. Claiming. 2:30

Jeramit[2]	5	112	3-1	J Martin
Undulet	7	112	4-1	J Brennan
Be Odious	3	107	8-1	E Jenkins
Count Prom[2]	1	113	3-1	R Sisto
Camouflage	8	113	8-1	W Turnbull
Risanda Balance	12	106	20-1	D Madden
Black Business	6	110	10-1	C Rollins
Star Maedic	9	113	12-1	H Trent
Five O'Clock	2	105	20-1	L Bowers
Bobby Jock	4	113	20-1	H Claggett
Derek	10	113	20-1	A Daniels
Hazy May	11	X108	20-1	W Canning

2nd—6 Furlongs. 4-year-olds up. Claiming. 3:00

Noel Beam[2]	6	110	8-5	P Patterson
Tyrone	8	122	2-1	H Trent
Spark Mischief	5	112	10-1	V Borsell
Bellarmine[1]	3	117	8-1	H Claggett
Rising Light[1]	1X	117	6-1	M Lemons
Red Ted[2]	2	115	10-1	E Jenkins
Miss Ponne[1]	4	114	20-1	L Bowers
Tamarus	7	114	20-1	E Gross

3rd—6 F. 3-year-olds. Grade E. Allowances. 3:30

Free Transit[2]	10	120	6-5	H Pratt
Republican	1	110	8-1	E Jenkins
Bart's Chance[2]	9	115	3-1	L Bowers
Red Hat	8	115	3-1	R Sisto
Black Patch	2	110	4-1	J Reno
Undock[2]	5	115	8-1	H Claggett
Tier Image	4	110	15-1	M Lemons
Seraw	7	110	20-1	L Kerr
Mar's Quest	3	115		SCRATCHED
Sky Burner[1]	6	X110		SCRATCHED

Barn-do Stable-L. Phillips entry.

4th—5 Furlongs. 2-year-olds. Claiming. 4:00

Medina Bina[3]	3	111	3-1	W Turnbull
Handmaker	1	114	8-1	H Trent
Smart Stay[1]	4	114	4-1	E Gross
Cat Lady[1]	8	108	3-1	P Patterson
Jolly Jr.	6	112	4-1	V Borsell
Model Lady	5	114	12-1	E Eckart
Linda Darling	7X	112	10-1	H Claggett
Tyrone	2	109	20-1	M Lemons

5th—6 F. 4-y-o. up. Grade C Allowances. 4:30

Undulator[1]	1X	119	3-1	L Bowers
Extra Rock[2]	7	115	5-2	V Borsell
Best of All[2]	3	114	3-1	H Pratt
Fire Red	6	114	4-1	H Trent
Johnny Jr.[1]	4	111	6-1	J Martin
Misty	5	115	15-1	E Haslett
Kim Time	2	109	30-1	D Madden

6th—1 1-16 Miles. 3-year-olds. Allowances. 5:00

Scottsville[3]	1	116	7-5	L Bowers
Smoke[2]	3	107	2-1	V Borsell
Kern	6	120	4-1	D Madden
Allie	2	113	6-1	W Turnbull
Robert	5	113	6-1	W Turnbull
Final Dic	4	112	20-1	C Rollins

Mary Joe apprentice waived, weight changed.

7th—1 1-16 M. 4-y-o up. F & M. Claiming. 5:30

Sparrow Chirp[2]	7X	110	5-2	L Kerr
Risen Star[2]	3	118	8-5	A Daniels
Bonnie Belle	6X	106	6-1	L Bowers
Maiden Mowlee	5	112	6-1	D Madden
Mr. Command'nique	4	101	8-1	E Jenkins
Smithwater	1	115	10-1	H Trent
Bold Ruler[2]	2	107	15-1	P Patterson

8th—1 M. 3-year-olds. Class E Allowances. 6:00

Risen Mist[2]	5	106	2-1	W Canning
Polly Lou	8	107	5-1	L Bowers
Queen's Reward[1]	6	112	4-1	D Madden
Starry Sis[1]	7	107	4-1	P Patterson
Starry Muss[3]	4	109	6-1	M Lemons
Crane Spotter	1	115	20-1	H Claggett
Countess Play[1]	3	109	20-1	G Hettinger
Jet	9	110		SCRATCHED

SUFFOLK DOWNS PROGRAM SELECTIONS

1—Summit, Payable, Two O'Clock.
2—Noel Beam, Tyrone, Bellarmine.
3—Free Transit, Republican, Bart's Chance.
4—Stamp Jr., Cat Lady, Short Stay.
5—Extra Rock, First of All, Undulator.
6—Scottsville, Jamoke, Aera.
7—Sparrow Chirp, Risanda.
8—Risen Mist, Tiny Sis, Polly Lou.

CHARLES TOWN (W. VA.) SCRATCHES

Clear and Fast

First race—4, 6, 8, 10. 6th—6, 12, 13. 7th—4, 7, 10, 14.

CHARLES TOWN PROGRAM SELECTIONS

1—Crystal, Big Moose, Wood Put.
2—Granny Cake, Thesplan, Saddling Bell.
3—Bellina, Beau Briar, Molasses Betts.
4—Stepped, Bonnie Ina, Pickwick Arms.
5—Lady Divine, Goldjack, Morocco D.
6—Rocks, Our Orphan, Never Home.
7—Doctor's Nurse, Shailleen, Gradatim.
8—Allen Cald, Sampler, Flying John.

Lincoln Fields (Ill.) Entries

21st Day—28-Day Meeting — Daily Double—1st-2nd Races

(WILL BE RUN AT HAWTHORNE)

GRADED SELECTIONS

Drizzling and Fast

Official Jockeys and Post Positions

NATIONAL FIRST EDITION

1 LF—6 Furlongs. 3-year-olds up. Claiming. 3:15

1	To a Tee	4X	115	2-1 S Freeman
2	Crumpet	2X	108	3-1 B Pucci
3	Just Flying	10	113	4-1 S Haynes
4	Just Hiram[1]	6	122	6-1 A Bodiou
6	Stage Door	1X	106	6-1 J W Martin
7	Pidgy	3X	117	10-1 E Campbell
14	Etheldale	12	117	12-1 J Higley
17	Star o' Hope	15	111	30-1 W Gillespie

→Just Hiram, Etheldale apprentice waived, weight changed.

5	Quick Tool	5	115	SCRATCHED
8	New Glory[3]	9	108	SCRATCHED
10	Bird o' Gold	7	105	SCRATCHED
12	Briarson	8	116	SCRATCHED
13	Cloe-Flight	11	113	SCRATCHED
15	Random Breeze	13	111	SCRATCHED
16	My Crest	14	113	SCRATCHED

2 LF—6½ Furlongs. 4-year-olds up. Claiming. 3:45

1	Book Plate[1]	1X	115	3-1 O Grohs
2	Miss Monarch[1]	8	111	8-1 A Bodiou
3	Rogers Boy	13	X115	5-1 N L Pierson
4	Bellcoda	12	X113	4-1 J Thornburg
5	Proud Sister	6	107	4-1 L Wagrzyn
6	Mismark	11	110	12-1 E White
7	Very True[1]	4	X115	12-1 H Allgaier
8	Say Nomore[3]	2	X107	15-1 W Gillespie
10	Gentle Savage	10	X118	15-1 W Morrissey
13	Bezique	5	X102	20-1 S Freeman
14	Running Sue	7	110	30-1 J Higley

→Book Plate, Very True apprentice waived, weight changed.

12	Free Style	3	113	SCRATCHED
15	Playante	9	100	SCRATCHED
16	Gold Fancy	14	103	SCRATCHED

3 LF—5 Fur. 2-year-olds. Fillies. Maidens. 4:15

1	Lady Kentucky	11	116	6-1 N L Pierson
3	So Sure	1	116	5-2 G Seabo
4	Good Wife	6	116	2-1 H Allgaier
5	Vista	5	116	10-1 J Wagner
7	Harriet A.	7	116	5-1 A Bodiou
8	Overcross	8	116	12-1 J Cavens
10	Musicale	9	116	10-1 O Grohs
12	Disbet	3	116	20-1 W Morrissey
13	Witch Watch	10	116	20-1 K Knott
2	Hepcat	4	116	SCRATCHED
6	Golden Harvest[2]	2	111	SCRATCHED

4 LF—6 Furlongs. 3-year-olds. Claiming. 4:45

1	Sand Storm[3]	3	104	2-1 S Haynes
2	Amalka[2]	8	111	5-2 O Grohs
3	Robins Crown[3]	1	112	5-1 W Gillespie
4	Reklaw	5	X112	8-1 J Wagner
6	Miss Jo Jo[2]	9	105	12-1 G Seabo
7	Lady Eli	4	105	8-1 F A Smith
8	Midkapi[1]	6	102	12-1 J W Martin
10	Puckety	2	110	15-1 J Boucher
5	Bolo Babe	7	104	SCRATCHED

5 LF—6½ Fur. 3-year-olds up. Allowances. 5:15

1	Ruditaurus[1]	7X	117	5-1 G Seabo
2	Tawny Lady[2]	8X	102	5-1 S Haynes
3	Take Away[1]	3X	112	5-1 J W Martin
4	Three Dots[1]	9X	117	5-1 K Knott
5	Clarksville[1]	6X	117	3-1 J Molbert
6	Cherry Trifle	15X	117	8-1 F A Smith
7	Fire Dust[1]	12	117	12-1 O Grohs
8	Valdina Way	14	117	12-1 C Webler
14	Okpal	5	105	15-1 H Allgaier
15	Brown Mate	2X	112	20-1 S Freeman
10	Holdall[2]	13	110	SCRATCHED
12	Highthorne	4X	117	SCRATCHED
13	Dusty[1]	1X	117	SCRATCHED
16	Gold Tint[2]	10	112	SCRATCHED
17	Loyal[2]	11	105	SCRATCHED

6 LF—1Mile,70Yards. 3-year-olds. Allowances. 5:45

2	American Eagle	3	112	4-1 O Grohs
3	Captain Eddie[3]	5X	105	3-1 R Campbell
4a	Umpydan[1]	4	110	7-5 A Bodiou
6	Rose Canyon[2]	8	110	10-1 C Hooper
7	Bolo's Choice	10	107	6-1 S Freeman
8	Bolo Fancy	9	100	20-1 J W Martin
10	Gremlin[3]	2X	109	5-1 S Haynes

Doubtful starter—Captain Eddie.

1a	Brief Sigh[3]	7	110	SCRATCHED
5	Rising Light[1]	1	109	SCRATCHED
12	Campanula	6	105	SCRATCHED

a-W. L. Huntley–River Divide Farm entry.

7 LF—1 1-16 Miles. 4-year-olds up. Claiming. 6:10

1	Gooseberry[2]	4	112	7-2 C Hooper
2	Valdina Nymph[2]	8	107	4-1 J Wagner
3	Fair Player[3]	2	112	5-1 J Higley
4	Anxiety	5X	107	3-1 N L Pierson
5	Valdina Marge	3	102	8-1 J W Martin
6	Gummed Up[3]	6X	102	5-1 S Freeman
7	Pamphlet[2]	7X	102	8-1 R Campbell
8	Happy Choice	1	107	20-1 A Bodiou

8 LF—1 M, 70 Y. 4-year-olds up. Allowances. 6:35

1	Cobeggo[2]	4X	107	5-2 G Seabo
2	Timocracy[1]	11X	108	4-1 R Campbell
3	Black Time[1]	5X	113	7-2 J W Martin
4	Playful Pal	10	107	8-1 J Cavens
5	Wayriel	1X	113	8-1 W Gillespie
6	K. Sugar Roll[2]	9X	105	8-1 F A Smith
8	Ted O.	6	110	8-1 J Higley
12	Amy's Third[1]	7	110	20-1 A Bodiou
13	Kokomo	2	110	30-1 C Hooper

→Amy's Third apprentice waived, weight changed.

7	Gal Ann[3]	3	X105	SCRATCHED
10	Good Play[2]	8	110	SCRATCHED

Detroit (Michigan) Entries

17th Day—72-Day Meeting — Daily Double—1st-2nd Races

GRADED SELECTIONS

Cloudy and Fast

Official Jockeys, Post Positions, Field Horses

NATIONAL FIRST EDITION

1 Det—4½ F. 2-y-o. Mdns. C&G. Combination. 4:30

1	Hi Gallant[2]	9	119	5-2 J R Layton
2	Crack Reward[2]	8	119	3-1 P Roberts
3	Maybe Tops	2	119	10-1 G Burns
4	Tiger Rebel	1	119	3-1 M Caffarella
5	Plover Brand	12	119	10-1 C Mojena
6	Runaway	10	119	8-1 J Adams
7	Flowing Tide	7	119	15-1 C Flamm
8	No Bounds	11	119	15-1 P McLean
10	Marltown	4	115	15-1 A Cooper
12	Shade Ruff	3	119	15-1 G McLeod
14	Ansted	6	119	15-1 T Mansor

FIELD HORSES—7, 10, 14.

13	Parkdale	5	109	SCRATCHED

2 Det—6 F. 3-year-olds. Maidens. Claiming. 5:00

1	Merited[2]	10	X117	5-2 M Caffarella
2	Castraw[2]	5	X107	4-1 D Scurlock
3	Late Thread[2]	11	107	6-1 J R Layton
4	Advisory	12	117	3-1 J Adams
5	Beautiful Boy	8	117	4-1 G Burns
6	Pharoma	2	117	20-1 P Roberts
7‡	Lumber King	1	102	15-1 J Berz
10‡	Tsuga Bee	4	102	20-1 J Malphurs
12	Marcap	6	107	20-1 H Hart
13	Exclamatory	7	112	20-1 B Thompson
14‡	Golden Ebony	9	97	10-1 M Little

FIELD HORSES—10, 12, 13.

8	Dick Richards	3	112	SCRATCHED

3 Det—5 Furlongs. 3-year-olds up. Claiming. 5:30

2	Beth B	9	107	3-1 C Dickson
3	Alfadildo	5	114	3-1 S Brumfield
4	Axelson	3	109	3-1 L Pruett
5	Ebony Tune	10	109	30-1 L Hansman
6	Valdina Phao	6	109	10-1 E Skjeie
7	Kiss-Kiss	7	109	15-1 W Miller
8	Dreamy Eyes	4	109	5-1 J Favorite
10	Valdina Della	2	104	30-1 F Smothers
12	Epi Gal	1	104	8-1 D Massey
1	Gray Dottie	8	102	SCRATCHED

4 Det—6 Furlongs. 3-year-olds. Claiming. 6:00

1‡	Wavecap	5	X100	5-1 J Berz
2	Rougheree[2]	9	115	4-1 B Thompson
3	Dog Blessed	7	110	4-1 J R Layton
4	Gezira	2	105	8-1 C Bianco
5	Fayeff	6	110	10-1 W Hawksw'th
6	Young Buddy	1X	115	8-1 M Caffarella
7	Silver Donna	3	113	3-1 J Adams
8	Hy-Cap	4	115	15-1 C Mojena
10	Masked Range	8	111	15-1 J A Fonso

5 Det—6 Furlongs. 3-year-olds. Allowances. 6:30

1a	Darby Doulton[1]	3X	116	1-1 P Roberts
2a	Valdina Sonora[2]	10X	113	1-1 P Roberts
3	Good Going	6X	111	4-1 J Adams
4‡	Play Boy	8X	116	5-1 J Berz
6	Chief Rocker	7	116	6-1 M Caffarella
7	Valdina Grave	1	113	15-1 B Thompson
8	Whaya Play	2	113	15-1 C Mojena
10	Pigeon Hands	4	108	20-1 D Scurlock
12	Tesca	8	107	10-1 P Milligan
5	King's Mount	9	110	SCRATCHED

a-Mrs. B. Hernandez entry.

6 Det—6 Fur. 3-year-olds up. Allowances. 7:00

1	Mercury[3]	3X	111	2-1 J Adams
2‡	Hard Pone[2]	7X	104	4-1 J Berz
3	In the Rough[3]	8X	111	5-1 G McLeod
4	Boom On	9X	108	4-1 B Thompson
5	Camp's First	4	116	8-1 P Milligan
6	Valdina Loria	1	104	15-1 M Calvert
7	Mia Mia	5	111	20-1 D Scurlock
8	Gissimo	6	111	10-1 P Roberts
10	Miss Mary Jo	2	103	15-1 M Caffarella

7 Det—1 1-16 M. 3-year-olds up. Allowances. 7:30

1	Afghanistan[1]	2X	116	6-5 J Adams
2	Rex[2]	3X	111	2-1 M Caffarella
3	Ubiquitous	6X	109	5-1 G Burns
4	Cee Raf	1	104	12-1 J Mattioli
5	Carl Junior	4	116	8-1 C Bianco
6	Betty Johnson	5	109	10-1 B Thompson

8 Det—1 1-16 M. 4-year-olds up. Claiming. 8:00

1	Three Roses[2]	1	107	5-2 M Caffarella
2	Surgeon Dick[3]	3X	118	3-1 J Adams
3	Detained	7	105	6-1 C Bianco
4‡	Extend[2]	5X	102	4-1 J Berz
5	Might Step	2	112	6-1 G McLeod
6	Betik	6	113	8-1 J R Layton
7	Groucher's Boy	8	110	20-1 G Burns
8	Easy Jack	4	112	15-1 D Scurlock

‡10 pounds apprentice allowance claimed for rider.

DETROIT PROGRAM SELECTIONS

1—Hi Gallant, Crack Reward, Tiger Rebel.
2—Merited, Advisory, Beautiful Boy.
3—Alfadildo, Axelson, Beth B.
4—Silver Donna, Young Buddy, Rougheree.
5—Darby Doulton, Good Going, Play Bob.
6—Boom On, Mercury, In the Rough.
7—Rex, Carl Junior, Ubiquitous.
8—Extend, Detained, Might Step.

LINCOLN FIELDS PROGRAM SELECTIONS

1—To a Tee, Just Hiram, Crumpet.
2—Book Plate, Bellcoda, Proud Sister.
3—Good Wife, So Sure, Musicale.
4—Amalka, Reklaw, Robins Crown.
5—Ruditaurus, Three Dots, Clarksville.
6—Umpydan, Captain Eddie, Gremlin.
7—Valdina Nymph, Gooseberry, Pamphlet.
8—Cobeggo, K. Sugar Roll, Wayriel.

AQUEDUCT RESULTS

...Day of Meeting—Clear and Fast
...F. Time, 1:13⅘. Off, 1:24
Straight Place Show
... 9.70 4.30 2.90
... 3.30 2.50
...Mirage..... 2.80
...—I Atkinson, E Guerin, S Young
...Rockwood Edah, Surf, Bel-
...
...⅛ M. Time 1:48⅘. Off 1:54⅕
...Advice..... 12.40 9.00 5.60
... 31.10 14.90
... 3.30
...—F Zufelt, H Woodhouse, B Mills
...Faust II.

DAILY DOUBLE PAID $85.50.

...⅛ F. Time 1:06⅘. Off 2:27⅕
... 12.70 5.50 2.90
...Power..... 6.40 3.00
... 2.30
...—E Arcaro, J Lynch, G Woolf
...Thor, Army Rest, Home Run.
...⅛ M. Time, 1:47⅘. Off, 2:58
...Place..... 16.00 3.70 2.20
... 2.60 2.10
...Biscuit..... 2.10
...—E Arcaro, D Meade, T Atkinson
...Ann.
...Alt 2 M. Time, 3:48. Off, 3:28
...Brat..... 6.00 2.20 .....
...Quest..... 2.20 .....
...Chance..... .....
...—W J Owens, W Passmore, E Roberts
...Kennebunk, Iron Shot, Winged
...(Mrs. F. A. Clark entry. No
...mutuels sold.
...⅛ F. Time, 1:06⅘. Off, 4:01
...Bud..... 12.30 7.10 5.70
... 6.00 3.60
...Boston..... 3.60
...—E Guerin, D Meade, E Arcaro
...Santa's Vixen.
...Stableley Stable-O. Phippe entry.
...⅛ Fur. Time, 1:12⅘. Off, 4:30
...Knocker 5.50 4.20 3.10
...Chase 7.60 4.70
... 5.00
...—G Woolf, R Adair, W Mehrtens
...Sweeping Time, Pex Martin,
...Lancer, Bird Hawk.
...⅛ M. Time, 1:47. Off, 5:01
...Rod..... 11.50 5.40 3.80
... 4.00 2.80
... 3.40
...—W Mehrtens, E Arcaro, T Atkinson
...Miss Sugar, Hindu Prince, Sha-

CHARLES TOWN RESULTS

...21st Day of Meeting—Clear and Fast
...Alt 7 F in 1:26⅘. Off, 1:26⅘
Horse Straight Place Show
... 4.60 5.80 3.[illegible]
... 12.80 3.60
...Lancer..... 2.20
...—C Coker, P Grant, F Sheaffer
...Calbraidon, Rolls Rough, Ex-
...Gold Jack, Arile Dale, Strolling
...
...1⅛ M. Time, 1:56. Off, 1:39
...Scene..... 2.80 2.40 2.40
...Scout..... 4.20 3.80
...Parlane..... 5.20
...—F Sheaffer, J Hernandez, B Leggett
...Ran.

DAILY DOUBLE PAID $9.00.

...—1⅛ M. Time 1:48⅘. Off 2:21⅕
...Play..... 8.80 4.20 2.80
...Scene..... 4.00 2.80
...—J Hummer, F Sheaffer, R Edens
... 2.80
...Ran.
...—Alt 7 F. Time, 1:26⅘. Off, 2:42
...Dallas..... 7.80 3.80 2.30
...Reserville..... 7.60 2.40
...Fern..... 2.20
...—F Sheaffer, P Grant, R Root
...Ran.
...—1⅛ F. Time, 1:21⅘. Off, 3:13
...Sweets..... 6.80 3.80 2.80
...Sweets..... 6.40 4.20
... 3.60
...—B Leggett, R Edens, J Hummer
...—Barraca, Silver Ruble, Dona-
...
...—1¼ F. Time 1:20⅘. Off 3:42⅕
...Lovely Player..... 15.20 4.60 2.60
...Agent..... 2.80 2.20
...Lady Stroll..... 2.80
...—H Hady, R Edens, P Grant
...Ran.
...—1⅛ M. Time 1:48⅘. Off 4:13⅕
...Morning..... 16.60 8.00 3.80
...Two..... 5.40 3.40
...Light..... 2.60
...—E Wright, F Sheaffer, J Hummer
...Ran.
...—1⅛ M. Time, 1:45⅘. Off, 4:43
...Flower Mine..... 6.40 3.60 2.80
...Four..... 3.60 3.20
...Boy..... 6.20
...—P Grant, R Edens, R Root
...Ran.

DELAWARE PARK RESULTS

10th Day of Meeting—Clear and Fast
1ST—6 F. Time, 1:13⅘. Off, 3:33⅓
Horse Straight Place Show
Hearts Entwine 8.10 5.80 4.20
Semper Ezo 24.90 12.20
Vinal Haven 7.00
Jockeys—R Permane, J Breen, R Delaney
Scr.—Fritz, Milkymoon, Turnabout, Marron, Feckless, Rocky Craig, Rough Man.
2ND—6 F. Time, 1:12⅘. Off, 4:05⅓
Steel Beam 6.20 3.10 2.80
Battle Jack 3.70 3.20
Toss Up 3.80
Jockeys—R Meade, J Tammaro, D Dodson
Scr.—Gallant Mowlee, La Reinette, Sweet Miss, Family Doc, Wise Decision, Amapola Pomp.
3RD—5 Fur. Time, 1:00⅘. Off, 4:36
Torch Ginger 121.50 27.60 10.60
Hal 3.80 2.70
†Oakling 2.90
Jockeys—S Clark, J Rienzi, R Meade
Scr.—Butler, High Master.
†M. A. Cushman-W. G. Jones entry.
4TH—5 Fur. Time, :59⅘. Off, 5:04
Cold Shower 11.00 5.80 4.10
Miss Lavender 10.70 6.70
In the Purple 7.50
Jockeys—J Gilbert, L Knapp, A Schmidl
Scr.—Fire Ship.
5TH—1⅛ M. Time 1:50⅘. Off 5:33⅓
Plucky Maud ..... 7.50 2.70 .....
Whirlabout ..... 2.30 .....
Evrget ....
Jockeys—R Permane, J Longden, A Kirkland
All ran. No show mutuels sold.
6TH—6 Fur. Time, 1:11⅘. Off, 6:01
Hialeah 4.20 3.10 2.90
Dark Danger 4.90 3.80
Alatomo 4.90
Jockeys—M Basile, R Arduini, A Schmidl
All ran.
7TH—M70Y. Time 1:43⅘. Off 6:30⅓
Phantom Player 9.80 5.40 3.90
Dairy Lady 6.50 4.90
Unknown Reward 4.40
Jockeys—K Scawthorn, J Longden, E Bianco
All ran.
8TH—1 ⅛ M. Time, 1:46⅘. Off, 6:59
Rough News 5.00 3.00 2.40
Chiff Chaff 3.30 2.60
Wickcliffe Gal 2.90
Jockeys—D Dodson, J Westrope, J C Gilbert
Scr.—Cruiser, Weigh Anchor, Gino T.
Note—Signal Corps finished first, but was disqualified for fouling.

SUFFOLK DOWNS RESULTS

21st Day of Meeting—Clear and Fast
1ST—6 F. Time, 1:12⅘. Off, 2:35⅓
Horse Straight Place Show
Copin 4.80 3.20 2.60
Colleen M 11.60 9.60
[illegible] call 8.00
[illegible]keys—H Pratt, L Bowers, D Madden
[illegible]b ...—Fogoso, Orcus, High Brow, Par Avion, Friar's Scout.
2ND—6 F. Time, 1:12⅘. Off, 3:06⅓
Colonel Don 7.00 3.40 2.60
Mianami 4.00 3.20
Smoothy 4.60
Jockeys—L Bowers, J Martin, P Patterson
All ran.

DAILY DOUBLE PAID $13.60.

3RD—5 Fur. Time, 1:01. Off, 3:36⅓
Uncle Leslie 5.20 3.60 2.80
Titian Miss 4.00 3.00
Song Thrush 2.60
Jockeys—H Claggett, H Trent, E Gross
All ran.
4TH—6 Fur. Time, 1:12. Off, 4:07⅓
Evelyn Rolls 4.60 2.80 2.60
Elray 2.80 2.60
Half Smart 3.40
Jockeys—J Martin, C Rollins, H Trent
Scr.—New Flame, Psychic Rate.
5TH—6 Fur. Time, 1:11⅘. Off, 4:36
Yes or No 11.40 4.20 3.00
Coronal 3.00 2.40
Dense Path 3.40
Jockeys—R Sisto, W Turnbull, J Brennan
All ran.
6TH—1 ⅛ M. Time, 1:45⅘. Off, 5:07
Santa Elisa 7.60 3.20 2.60
Momo Flag 3.00 2.40
Adviser 3.00
Jockeys—D Madden, L Bowers, V Borsell
Scr.—Darby Dismay.
7TH—1 ⅛ M. Time, 1:46. Off, 5:36⅓
Seven Hills 4.80 3.20 2.20
Indian Gift 6.40 3.20
Bayport 2.60
Jockeys—R Sisto, L Bowers, H Pratt
Scr.—Chant Thru, Dan's Choice.
Note—Bayport finished first, but was disqualified and placed third.
8TH—1M70Y. Time, 1:44⅘. Off, 6:40
Pomiva 10.20 6.00 4.20
In Range 21.60 6.40
Josie's Pal 3.80
Jockeys—G McMullen, E Haslett, G Hettinger
Scr.—Hi-Kid, Darby Du, Tamlin, What Excuse, Brown Flower.

LINCOLN FIELDS RESULTS

20th Day of Meeting—Cloudy and Fast
1ST—1M70Y. Time, 1:45⅘. Off, 3:17
Horse Straight Place Show
Praetorian 8.60 4.20 3.40
Garden Pot 3.40 2.80
Good Get 11.40
Jockeys—R Campbell, O Grohs, S Freeman
Scr.—Hicks.
2ND—6 Fur. Time, 1:14⅘. Off, 3:48
Foreign Shot 9.20 5.20 3.80
Long Ago 4.20 2.80
Neat Kee 3.20
Jockeys—K Knott, J Higley, J W Martin
All ran.

DAILY DOUBLE PAID $65.20

3RD—5 Fur. Time, 1:00⅘. Off, 4:18
Foreign Agent 5.40 3.40 2.40
Satin Ace 4.60 3.20
†Sir Bim 2.60
Jockeys—N L Pierson, J Higley, K Knott
Scr.—Witch Sir, Rotamal.
†C. C. Tanner-Don Ameche entry.
Note—Sir Bim finished first, but was disqualified and placed third.
4TH—6 Fur. Time, 1:14⅘. Off, 4:53
Tib 10.80 4.60 3.40
Dark Ship 4.60 3.60
Dashing Lady 4.00
Jockeys—F A Smith, H Keagle, J Higley
All ran.
5TH—5 Fur. Time, 1:00⅘. Off, 5:23
†Black Pepper 11.00 4.20 5.00
‡Witch Brew 3.20 2.80
†Princess Rena 11.00 4.20 5.00
Jockeys—J Higley, N L Pierson, W Morrissey
All ran.
†Brody and Brody entry.
‡King Ranch entry.
6TH—6½ F. Time 1:19⅘. Off 5:52⅓
Last Gold 10.40 5.00 2.40
Port Harmony 4.40 2.60
Topnard 2.20
Jockeys—O Grohs, F A Smith, J W Martin
All ran.
7TH—1⅛ M. Time 1:54⅘. Off 6:20⅓
Royal View 10.00 5.00 3.40
Five A. M 4.60 3.80
Royal Risk 3.60
Jockeys—R Conley, J W Martin, G Adkins
All ran.
8TH—1M70Y. Time, 1:46⅘. Off, 6:52
West-Ho 3.80 3.00 2.40
Border's Boy 8.40 4.60
Gainer 4.20
Jockeys—J Thornburg, S Freeman, J W Martin
All ran.

DETROIT RESULTS

16th Day of Meeting—Cloudy and Fast
1ST—6 Fur. Time, 1:14⅘. Off, 4:35
Horse Straight Place Show
Displayer 16.60 8.00 5.10
*Sucre 5.50 3.60
Fur Coat 6.80
Jockeys—C Mojena, D Scurlock, J Berz
All ran. *Mutuel field.
2ND—6 Fur. Time, 1:14. Off, 5:06⅓
Sealane 8.00 4.10 3.30
*Tomas 9.90 5.30
Sea Victory 3.90
Jockeys—J Adams, D Scurlock, P Milligan
Scr.—Task Force. *Mutuel field.

DAILY DOUBLE PAID $96.20

3RD—6 F. Time, 1:13⅘. Off, 5:35⅓
Buena Ventura 14.20 4.80 3.50
Drumont 4.10 3.30
Foulard 4.80
Jockeys—J Berz, J Adams, P Roberts
Scr.—Fenway, Gaudette.
4TH—4½ F. Time, :54⅘. Off, 6:08
Alabam I Boy 6.00 3.50 2.40
Little Moose 5.80 3.00
June Dear 2.40
Jockeys—J R Layton, G Burns, J Adams
All ran.
5TH—6 F. Time, 1:12⅘. Off, 6:36⅓
Royat 12.50 4.60 3.40
Kenty Boy 5.80 4.00
Passion 3.80
Jockeys—J Adams, D Scurlock, J R Layton
All ran.
6TH—6 Fur. Time, 1:12⅘. Off, 7:05
Hydrant 43.40 11.30 4.00
Jo Agnes 3.90 2.70
Credit Man 2.30
Jockeys—J Adams, J Berz, M Caffarella
All ran.
7TH—1 ⅛ M. Time 1:46⅘. Off 7:30⅓
Dina Flag 18.60 6.10 3.20
Towakee 4.40 2.70
Roncat 3.00
J Adams, P Milligan, J Berz
All ran.
8TH—1 ⅛ M. Time, 1:48. Off, 7:57⅓
Dissension Sir 5.20 3.10 2.60
Sun By 5.80 4.40
*Stouthearted 4.30
J Berz, M Caffarella, J R Layton
All ran. *Mutuel field.

Charles Town Entries

22nd Day—47-Day Meeting

Daily Double—1st-2nd Races

GRADED SELECTIONS

SCRATCHES AND LATE TRACK REPORT ON PAGE 3

1 CT—Ab 4½ Fur. Claiming. 1:00

1*All Crystal³	8	113	2-1
2*Big Moose²	5	104	3-1
3 Wood Put²	7	109	4-1
4 Firebox⁵	12	113	4-1
5 Elf Queen³	1	113	8-1
6*Golden Babe	9	108	5-1
7 Navigation	6	118	8-1
8*Spanish Uhl	10	109	8-1
10*Chat Hopkins⁸	11	113	6-1
12*Queen's Wreath.	4	108	12-1
13*Dance Around	3	108	10-1
14*Miss Kantor	2	108	10-1

2 CT—6½ Furlongs. Claiming. 1:30

1*Saddling Bell²	7	X111	5-2
2 Granny Cake	2	111	3-1
3 Thesplan	5	X116	4-1
4*Top Sawyer	8	111	4-1
5 Scootie	4	111	5-1
6 Kant Delay	3	116	12-1
7*Nutmeg Lass	1	106	20-1
8*Saint Pyrewick	6	111	20-1

3 CT—Ab 6 Fur. Claiming. 2:00

1*Carolina Bell¹	2	108	2-1
2 Stellita³	3	104	3-1
3 Beau Briar	5	112	4-1
4 Molasses Betts	4	107	5-1
5 Anizgoce	7	107	6-1
6 Heartburn	6	107	10-1
7*Fair Kantrina	1	108	15-1

4 CT—Ab 6 Fur. Claiming. 2:30

1 Equipped²	2	118	4-5
2 Bonnie Ina	4	107	5-2
3*Pickwick Arms³	6	110	6-1
4 Happy Dart	1	109	8-1
5 Scaredy Cat	3	104	15-1
6 Big Soldier	7	115	20-1
7*Annapolis Maid	5	108	20-1

5 CT—1 1-16 Miles. Claiming. 3:00

1 Lady Divine³	5	X111	1-1
2*Goldjack²	4	111	2-1
3*Grouchy	3	106	8-1
4*Morocco D.³	6	111	6-1
5*Mint Play	2	111	15-1
6 Bellclapper	1	108	20-1
7 Calbraidon	7	116	20-1

6 CT—Ab4½Furlongs. Claiming. 3:30

1 Never Home	7	113	3-1
2*Clocks²	3	113	5-2
3*Our Orphan³	5	113	5-2
4 Ginomel	4	109	8-1
5*Arch McDonald	9	109	6-1
6 Ruksh	10	109	5-1
7 Bettie Wynn	8	113	8-1
8 Ingerfire³	6	113	10-1
10*Brainchild	2	108	10-1
12 Patch Party	11	114	12-1
13*Muddy Run	1	113	20-1

7 CT—Ab 7 Furlongs. Claiming. 4:00

1 Doctor's Nurse³	3	112	5-2
2*Gradatim³	6	109	3-1
3 Pone³	9	112	4-1
4*Shailleen¹	5	107	4-1
5*Breeze Along	4	109	3-1
6*Wabaunsee	8	112	10-1
7 Jim Wallace	10	114	12-1
8*Donarose	7	107	15-1
10*Rough Egg	11	112	15-1
12 Zac Pam	2	112	10-1
13*Sug	1	104	20-1
14 Barraca	12	109	20-1

8 CT—1¼ Miles. Claiming. 4:30

1 Allen Caid¹	1	118	6-5
2 Sampler¹	4	111	4-1
3*Some Groucher³	3	110	6-1
4*Flying John³	2	113	4-1
5 Big Jack	5	X113	5-1
6 Specialist	6	115	15-1

Adams Rides Four Winners At Detroit

Jockey Johnny Adams had things pretty much his own way at Detroit yesterday, winning half of the card. He won with Sea Lane, $8.00; Royat, $12.50; Hydrant, $43.40, and Dina Flag, $18.60.

Exhibit S-20.

(Opposite ☞)

THE LAWTON HANDICAP

Selections Derived from Comparison of Assigned Weights with Handicapped Ability.

New York, Friday June 9, 1944

AQUEDUCT

FIRST RACE

Josephine	115	365
Karen Q.	109	363
~~Awaschonka~~	110	358
Johns Bird	121	355
Watch Henry	117	347
Fred Cody	112	347

SECOND RACE

Nebraska	113	399
Alca Gal	102	390
War Master	113	387
Pollenator	107	384
Willow Run	106	383
Lochness	114	380

THIRD RACE

NO SELECTIONS

FOURTH RACE

Reas Agent	115	368
Wemite	115	366
Santas Vixen	115	363
Spitha	115	361
Savant d'Or	110	359
Meadow Maid	115	357

FIFTH RACE

Romanock	115	352
Jean Miracle	110	352
~~Tudor King~~	110	350
Magellan	115	348
Morani	110	348
J. J. Lynch	110	346

SIXTH RACE

Boiling On	122	360
Peppy Miss	117	357
Leaving	119	350
Thread o'Gold	110	348
Faro Queen	116	342
Modest One	107	---

SEVENTH RACE

Free Lance	114	365
Comenow	113	360
Spangled Game	113	360
Autocrat	113	357
Topsy Sue	111	344

EIGHTH RACE

~~Tragic Ending~~	117	408
Omission	117	403
Good Stymie	117	401
Plantagenet	117	401
He Rolls	121	398
Orpheum	116	395

PREFERRED

NEBRASKA

TRAGIC ENDING

MOST PREFERRED

NEBRASKA

All Tracks handicapped by
George Lawton, Jr.

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1269 Broadway - New York 1 - N.Y.
Subscription Price - Seven Dollars and Fifty Cents per Week mailed overnight - or Eight Dollars and Ten Cents per Week by Special Delivery.
Chicago Office - 75 East Wacker Drive

THE LAWTON HANDICAP
Friday June 9, 1944

SUFFOLK DOWNS

FIRST RACE

Senior Prom	113	340
Blue Colors	107	340
Sunamit	112	339
Persiflage	113	338
Payable	112	336
Hasty May	108	335

SECOND RACE

Ariel Beam	110	402
Dark Mischief	112	395
Bellarmine	117	394
Kleig Light	117	391
Tyrone	122	390
Red Ted	115	389

THIRD RACE

Free Transit	120	351
Buck Patch	110	342
Bart's Chance	115	339
Renraw	110	335
Felt Hat	115	334
Mac's Quest	115	329

FOURTH RACE

Short Stay	114	375
Cat Lady	108	364
Ship Jr.	112	363
Valdina Bina	111	363
Linda Darling	112	358
Roadmaker	114	355

PREFERRED

FREE TRANSIT

JAMOKE

FIFTH RACE

First of All	114	317
Tetra Rock	115	315
Undulator	119	311
Johnny Jr.	111	311
Diego Red	114	309
Navy	115	305

SIXTH RACE

Jamoke	107	353
Scottsville	115	342
Aera	120	341
Alport	113	341
Able	113	340
Royal Dic	107	339

SEVENTH RACE

Risanda	106	397
Helen Mowlee	101	397
Sparrow Chirp	110	395
Tierce	118	393
Witch Water	107	393
War Communique	115	392

EIGHTH RACE

Polly Lou	107	346
Ellen Mist	106	345
Hard Trek	115	344
Money Muss	109	342
Tiny Sis	107	337
Countess Play	110	334

MOST PREFERRED

FREE TRANSIT

SPECIAL NOTICE

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THE LAWTON HANDICAP
Friday June 9, 1944

LINCOLN FIELDS

FIRST RACE

4XX	To a Tee	115	401
	Pidgy	117	395
3	Just Hiram	117	393
	Etheldale	112	393
	Stage Door	106	392
6	Random Breeze	111	391

SECOND RACE

8	Miss Monarch	111	403
	Book Plate	110	403
1	Very True	110	403
	Gentle Savage	118	399
4	Proud Sister	107	399
	Bellcoda	113	396

THIRD RACE

6	Good Wife	116	365
	~~Hopcat~~	116	363
1	~~Golden Harvest~~	111	360
	So Sure	116	359
	Over Cross	116	357
8	Musicale	116	349

FOURTH RACE

9	Miss Jo Jo	105	349
	Amalka	111	346
	Sand Storm	104	346
8	Lady Eli	105	344
	Bolo Babe	104	344
3	Midkapi	102	344

PREFERRED

TO A TEE

BLACK TIME

FIFTH RACE

7	Ruditaurus	117	418
6	Clarksville	117	415
	Take Away	112	415
	Tawny Lady	103	415
3	Dusty	117	409
	Highthorne	117	407

SIXTH RACE

5	Captain Eddie	105	367
	~~Brief Sigh~~	110	366
4	Umpydan	110	361
	Bolo Fancy	100	357
	Amer. Eagle	112	354
9	Gremlin	109	354

SEVENTH RACE

2	Fair Player	112	406
	Gummed Up	102	406
6	Valdina Marge	102	405
	Pamphlet	102	404
	Happy Choice	107	402
3	Anxiety	107	399

EIGHTH RACE

X5	Black Time	113	413
	~~Good Play~~	110	411
	~~Gal Ann~~	105	411
9	K Sugar Roll	105	410
	Cobeggo	107	409
4	Ted O.	110	405

MOST PREFERRED

TO A TEE

WARNING

Observe the waiver of Apprentice Allowance - Overweights and Corrected Weights. Each extra pound of weight in the first column reduces the second column figure the corresponding number of points. For purposes of computation the top horse after application of this rule and scratches is our selection.

THE LAWTON HANDICAP
Friday June 9, 1944

DELAWARE PARK

FIRST RACE

1	Huracon	114	391
6	Hi Gold	116	390
	Family Doc	114	390
	Mervyn Leroy	121	382
8	Brother Dear	121	379
	Well Allright	119	376

SECOND RACE

	~~Big Sun~~	118	366
10	Sea Bees	118	365
	Mister Chat	118	364
8	His Jewel	118	361
	O. K. Charlie	118	360
3	Lovan Day	118	359

THIRD RACE

12	Adelphia	120	338
	~~Velikie Luki~~	120	333
11	~~Mighty Blow~~	115	331
	~~Mabel Dauber~~	115	329
✓	Maybe Miss	108	325
	Viva Teddy	120	323

FOURTH RACE

1 XX	Layaway	119	408
	Quillon	116	404
8	Abrasion	121	399
	Kopla	119	399
10	Pompeco	119	396
	Flying Easy	116	396

PREFERRED

LAYAWAY

GOOD ODDS

FIFTH RACE

✓	Patron Saint	112	415
	Grey Hood	111	413
6	~~Spuyten Duyvil~~	101	411
	Bright Argosy	109	407
1	Grey Flares	106	406
	Edie Jane	110	402

SIXTH RACE

6	Black Africa	108	355
	Grand Toy	106	345
9	Shoot to Boot	104	344
	Hercules	113	339
	Gay Brigadier	113	335
4	Wood Spirit	104	331

SEVENTH RACE

11	Darby Divot	112	338
	Guy Hottel	113	336
	Elcan	112	335
10	Assailant	113	333
	Bomb Dolly	101	333
9	Fred Havecker	113	329

EIGHTH RACE

3 X	Good Odds	105	408
	Wild Chance	110	397
2	Cruiser	117	395
	Omaha Mike	114	391
	On the Line	114	388
1	Anzac	117	386

MOST PREFERRED

LAYAWAY

Exhibit S-21.

(Opposite ☞)

This exhibit consists of 5 sheets all identical in form to the one shown save that the four not shown do not bear any pencil markings.

June 9th 1944

INDEX to ENTRIES

GRI-O-PRESS

242 Lafayette St., New York City

Phone CAnal 6-9374

A

Abiel 2 Del
Able 6 Suf
Abrasion 4 Del
Abrek 1 Suf
Adelphia 3 Del
Advisory 2 Det
Aera 6 Suf
Afghanistan 7 Det
Air Transit 8 Aqu
Alca-Gal 2 Aqu
Alfadildo 3 Det
Alport 6 Suf
Amalka 4 LF
American Eagle 6 LF
American Flyer 5 Aqu
Amy's Third 8 LF
Anaesthesia 4 Aqu
Ankylos 5 Aqu
Another 1 Del
Another Night 3 Del
Ansted 1 Det
Anxiety 7 LF
Anzac 8 Del
Ariel Beam 2 Suf
Assailant 7 Del
At Bat 1 Del
Autocrat 7 Aqu
Awashonks 1 Aqu
Axelson 3 Det

B

Bark 8 Suf
Bart's Chance 3 Suf
Batik 8 Det
Beautiful 2 Det
Bellarmine 2 Suf
Bellcoda 2 LF
Beneksar 3 Aqu
Beth B 3 Det
Betty Johnson 7 Det
Bezique 2 LF
Big Sun 2 Del
Bird Hawk 6 Aqu
Bird O' Gold 1 LF
Black Africa 6 Del
Black Business 1 Suf
Black Time 8 LF
Blue Colors 1 Suf
Boiling On 6 Aqu
Bold Babe 4 LF
Bolo Fancy 6 LF
Bolos Choice 6 LF
Bomb Dolly 7 Del
Bonnie Myth 6 Del
Book Plate 2 LF
Boom On 6 Det
Boy Larkinhead 1 Del
Brave Marine 5 Aqu
Brevithorn 4 Aqu
Briarson 1 LF
Bric-a-Brac 5 Aqu
Brief Sign 6 LF
Bright Argosy 5 Del
Brother Dear 1 Del
Brown Mate 5 LF
Buck Patch 3 Suf

C

Campanula 6 LF
Camp's First 6 Det
Captain Eddie 6 LF
Carl Junior 7 Det
Castraw 2 Det
Cat Lady 4 Suf
Cee Raf 7 Det
Chalpre 7 Del
Chance Mate 5 Aqu
Chatlet 2 Aqu
Charbourg 7 Del
Cherry Trifle 5 LF
Chief Knocker 5 Det
Clarksville 5 LF
Clue-Flight 1 LF
Cobeggo 8 LF
Comenow 7 Aqu
Cortesano 3 Aqu
Cousin Nan 8 Aqu
Countess Play 8 Suf
Crack Reward 1 Det
Gremlin 6 LF
Cruiser 8 Del
Crumpet 1 LF
Crystal 3 Aqu

D

Darby Divot 7 Del
Darby Doulton 5 Det
Dark Mischief 2 Suf
Dawn Watch 3 Del
Detained 8 Det
Dick Richards 2 Det
Diego Red 5 Suf
Disbet 3 LF
Dog Blessed 4 Det
Dreamy Eyes 3 Det
Dust Off 8 Del
Daisy 5 LF

E

Easy Jack 8 Det
Ebony Tune 3 Del
Edie Jane 5 Del
Elcan 7 Del
Ellen Mist 8 Suf
Entre 8 Aqu
Epigal 3 Det
Etheldale 1 LF
Ever Flying 1 LF
Exclamatory 2 Det
Extend 8 Det

F

Fair Player 7 LF
Family Doc 1 Del
Faro Queen 6 Aqu
Fayeff 4 Det
Felt Hat 3 Suf
Fire Dust 5 LF
First of All 5 Suf
Flowing Tide 1 Det
Flying Easy 4 Del
Francis Marion 5 Aqu
Fred Cody 1 Aqu
Fred Havecker 7 Del
Free Dutch 5 Aqu
Free Lance 7 Aqu
Free Style 2 LF
Free Transit 3 Suf

G

Gal Ann 8 LF
Gay Brigadier 6 Del
Gentle Savage 2 LF
Gessimo 6 Det
Gezira 4 Det
Golden Ebony 2 Det
Golden Harvest 3 LF
Golden Thorn 8 Aqu
Gold Fancy 2 LF
Gold Tint 5 LF
Gondalina 4 Del
Good Going 5 Det
Goo Goo 2 Aqu
Good Odds 8 Del
Good Play 8 LF
Good Show 3 Del
Good Stymie 8 Aqu
Good Wife 3 LF
Gooseberry 7 LF
Grand Toy 6 Del
Green Apples 8 Aqu
Gray Dottie 3 Det
Grey Flares 5 Del
Grey Hood 5 Del
Gray Pass 1 Del
Groucher's Boy 8 Det
Gummed Up 7 LF
Guy Hottel 7 Del

H

Hammer-Lock 2 Del
Happy Buckie 2 Del
Happy Choice 7 LF
Hard Pone 6 Det
Hard Trek 8 Suf
Harpsichord 5 Aqu
Harriet A 3 LF
Hasty May 1 Suf
Haw-U-Heard 3 Del
Hay Burner 3 Suf
Hear Ye 3 Del
Helen Mowlee 7 Suf
Hobart 3 LF
Hercules 6 Del
Here Goes 1 Del
Her Image 3 Suf
He Rolls 8 Aqu
H Hour 2 Del
Hiccup 1 Del
Hi Gallant 1 Det
Highthorne 5 LF
Hi Gold 1 Del
His Jewel 2 Del
Holdall 5 LF
Hornbeam 4 Del
Huracon 1 Del
Hy-Cap 4 Det

J

Jacopda 3 Del
Jaco Royal 8 Aqu
Jamesborough 8 Aqu
Jamoke 6 Suf
Jean Miracle 5 Aqu
J J Lynch 5 Aqu
In Balance 1 Suf
In The Rough 6 Det
Johnny Jr 5 Suf
John's Bird 1 Aqu
Josephine 1 Aqu
Isolation 2 Aqu
Junior Four 2 Del
Just Hims 1 LF

ISOLATION 2 NY

K

Kalessi Teddy 3 Del
Karen Q 1 Aqu
King's Mount 5 Det
Kiss-Kiss 3 Det
Kleig Light 2 Suf
Kokomo 8 LF
Kopia 4 Del
K Sugar Roll 8 LF
Kuota 5 Aqu

L

Lady Eccleston 1 Aqu
Lady Eli 4 LF
Lady Kentucky 3 LF
Layaway 4 Del
Late Thread 2 Det
Leave 6 Del
Leaving 6 Aqu
Light Reigh 2 Aqu
Linda Darling 4 Suf
Loch Ness 2 Aqu
Lovan Day 2 Del
Loyal 5 LF
Lumber King 2 Det

M

Mabel Dauber 3 Del
Mack's Prince 2 Aqu
Mac's Quest 3 Suf
Mad Anthony 5 Aqu
Magdala 8 Aqu
Magellan 5 Aqu
Magic Eye 7 Del
Marcap 2 Det
Marltown 1 Det
Marron 1 Del
Masked Hanger 4 Det
Matakom 8 Aqu
Maybe Miss 3 Del
Maybe Tops 1 Det
Meadow Maid 4 Aqu
Mercury 6 Det
Merited 2 Det
Mervyn LeRoy 1 Del
Mia Mia 6 Det
Mickey Curran 1 Del
Midkapi 4 LF
Might Step 8 Det
Mighty Blow 3 Del
Mismark 2 LF
Miss Jo Jo 4 LF
Miss Mary Jo 6 Det
Miss Monarch 2 LF
Miss Ponnie 1 Suf
Miss Sugar 8 Aqu
Miss Time 5 Suf
Mister Chat 2 Del
Model Lady 4 Suf
Modest One 6 Aqu
Money Muss 8 Suf
Morani 5 Aqu
More Wine 5 Aqu
Musical 3 LF
My Crest 1 LF

N

Navy 5 Suf
Nebraska 2 Aqu
New Glory 1 LF
Nibby Jock 1 Suf
No Bounds 1 Det

O

O K Charlie 2 Del
Okpal 5 LF
Omaha Mike 8 Del
Omission 8 Aqu
One Two Three 3 Del
On the Line 8 Del
Orpheum 8 Aqu
Over Cross 3 LF
Overtake 8 Aqu

P

Paille 7 Suf
Pamphlet 7 LF
Panthorn 2 Aqu
Paraddle 1 Det
Pasapet 2 Del
Patron Saint 5 Del
Patsy T 7 Del
Payable 1 Suf
Peacock Lady 4 Aqu
Peppy Miss 6 Aqu
Persiflage 1 Suf
Pharoma 2 Det
Plaisance 2 LF
Pico Blanco II 3 Aqu
Pidgy 1 LF
Pilates Heart 1 Del
Plane Spotter 8 Suf
Plantagenet 8 Aqu
Play Bob 5 Det
Playful Pal 8 LF
Play Hands 5 Det
Plover Brand 1 Det
Plucky Boy 5 Aqu
Pollenator 2 Aqu
Polly Lou 8 Suf
Pompeco 4 Del
Proud Sister 2 LF
Puckety 4 LF

Q

Queen's Reward 8 Suf
Quick Tool 1 LF
Quillon 4 Del

R

Random Breeze 1 LF
Rash Roman 8 Aqu
Rea's Agent 4 Aqu
Red Ted 2 Suf
Reklaw 4 LF
Renraw 3 Suf
Republican 3 Suf
Rex 7 Det
Risanda 7 Suf
Rising Light 6 LF
Riverbank 7 Del
Roadmaker 4 Suf
Robins Crown 4 LF
Rocky Craig 1 Del
Rogers Boy 2 LF
Romanock 5 Aqu
Rose Canyon 6 LF
Rough Man 1 Del
Roughree 4 Det
Royal Archer 3 Aqu
Royal Dic 6 Suf
Ruditaurus 5 LF
Runaway 1 Det
Running Sue 2 LF

S

Sand Storm 4 LF
Sangone 4 Suf
Santa's Vixen 4 Aqu
Sating Cap 5 Del
Savant D'Or 4 Aqu
Say Nomore 2 LF
Scottsville 6 Suf
Sea Bees 2 Del
Seafight 3 Aqu
Second Love 1 Del
Senior Prom 1 Suf
Shade Ruff 1 Det
Ship Jr 4 Suf
Short Stay 4 Suf
Shoot to Boot 6 Del
Silver Donna 4 Det
Singular 1 Aqu
Sir Bluesteel 3 Aqu
Sixteen Cents 5 Aqu
Smiling Lass 3 Del
So Sure 3 LF
Spangled Game 7 Aqu
Sparrow Chirp 7 Suf
Spitha 4 Aqu
Split the Wind 2 Del
Spurfen Duvil 5 Del
Stage Door 1 LF
Star Maedic 1 Suf
Star O' Hope 1 LF
Stray Winds 3 Del
Sunamit 1 Suf
Sunnytown 6 Del
Surgeon Dick 8 Det

T

Take Away 5 LF
Tartarus 2 Suf
Tawny Lady 5 LF
Ted O 8 LF
Tetra Rock 5 Suf
Thread O'Gold 6 Aqu
Three Dots 5 LF
Three Roses 8 Det
Tierce 7 Suf
Tiger Rebel 1 Det
Time Bomb 3 Del
Timocracy 8 LF
Tiny Sis 8 Suf
Tioga 3 Aqu
Toaca 5 Det
To A Tee 1 LF
Tonsy Sue 7 Aqu
Tracer Bullet 3 Del
Tragic Ending 8 Aqu
Trierarch 5 Del
Tsuga Bee 2 Det
Tudor King 5 Aqu
Two O'Clock 1 Suf
Tyrone 2 Suf

U

Ubiquitous 7 Det
Umpydan 6 LF
Undulator 5 Suf

V

Valdina Brave 5 Det
Valdina Bina 4 Suf
Valdina Della 3 Det
Valdina Loria 6 Det
Valdina Marge 7 LF
Valdina Nymph 7 LF
Valdina Phao 3 Det
Valdina Senora 5 Det
Valdina Way 5 LF
V Clock 3 Suf
Velvetie Luki 3 Del
Very True 2 LF
Victory Maid 1 Aqu
Viva Teddy 3 Del
Vista 3 LF

W

War Communique 7 Suf
War Master 2 Aqu
Watch Henry 1 Aqu
Wavecap 4 Det
Wayriel 8 LF
Well Alright 1 Del
Wemite 4 Aqu
West Haddon 3 Aqu
What A Play 5 Det
Wild Chance 8 Del
Willow Run 2 Aqu
Witch Watch 3 LF
Witchwater 7 Suf
Wood Spirit 6 Del

Y

Yodeler 5 Aqu
Young Buddy 4 Det

Z

Zanzibar 8 Aqu

Exhibit S-22.

(Opposite ☞)

This exhibit consists of three sets each of six identical sheets, one sheet in each set being shown.

LINCOLN FIELDS

1 — 1-4 Mile

PP		
		Warty—
	106	Dear Dear
	108	Mount
	117	Star
	115	Ch A Tee
	115	Good Tool
	117	Lil Hess
	105	Pot O' Gold
	116	Royalie
	108	Navy Gary
	113	The Flying
	113	On Right
	112	Unbridled
	111	Knights Breeze
	113	Sky Coat
	111	The O' Hope

2 — 6 1-2 Furlongs

PP		
1	110	Book Plate
2	107	Say Nomore
3	113	Free Style
4	116	Very True
5	102	Bonigne
6	107	Proud Sister
7	110	Running Sue
8	111	Miss Monarch
9	106	Playmate
10	118	Gentle Savage
11	110	Mismark
12	113	Belleoda
13	115	Rogers Boy
14	105	Gold Fancy

3 — 5-8 Mile

PP		
1	116	So Sure
2	111	Golden Harvest
3	116	Diabet
4	116	Hagget
5	116	Vista
6	116	Good Wife
7	116	Harriet A
8	116	Over Cross
9	116	Musical
10	116	Witch Watch
11	116	Lady Kentucky

4 — 3-4 Mile

PP		
1	112	Robins Crown
2	110	Duckety
3	104	Sand Storm
4	105	Lady Eli
5	112	Rekiaw
6	102	Midhapi
7	104	Bolo Babe
8	111	Amalka
9	105	Miss Jo Jo

5 — 6 1-2 Furlongs

PP		
1	117	Dusty
2	112	Brown Mate
3	112	Take Away
4	117	Highthorne
5	105	Okpul
6	117	Clarksville
7	117	Rastaurus
8	103	Tawny Lady
9	117	Three Dots
10	112	Gold Flint
11	105	Lapel
12	117	Fire Dust
13	116	Holdall
14	117	Valdina Way
15	117	Cherry Trifle

6 — 1 Mile 70 yds

PP		
1	109	Rising Light
2	109	Gremlin
3	112	American Eagle
4	110	a-Umpydan
5	105	Captain Eddie
6	105	Campanula
7	110	a-Brief Sigh
8	110	Rose Canyon
9	100	Bolo Fancy
10	107	Bolo's Choice

5-4-9

a-Huntley-Hiver Divide 4-7

7 — 1 1-16 Miles

PP		
1	107	Happy Choice
2	112	Fair Player
3	102	Valdina Marge
4	112	Gooseberry
5	107	Anxiety
6	102	Gummed Up
7	102	Pamphlet
8	107	Valdina Nymph

2-6-3

8 — 1 Mile 70 yds

PP		
1	113	Wayriel
2	110	Kekoune
3	105	Gal Ann
4	107	Cobeggo
5	113	Black Time
6	110	Ted O
7	105	Amy's Third
8	110	Good Play
9	105	K Sugar Roll
10	107	Playful Pal
11	108	Timocracy

4-5-9-4

DELAWARE PARK

1 — 1-4 Mile

PP		
	114	Blossom
	117	Lady Fox
	110	Polite Heart
	112	Cavalier
	117	Lady Craig
	116	Gold
	121	Rodeo Dear
	114	Lady Dee
	121	Sherrys LeRay
	112	Miss Gem
	106	Dr Bat
	119	Mickey Cerrus
	119	Angel Man
	119	High Alright
	117	Hyella
	112	Hyella
	114	Boy Lockwood
	112	Hopeful Love

1-6-4

2 — 5-8 Mile

PP		
1	118	Junior Four
2	118	O K Charlie
3	118	His Jewel
4	118	Lovan Day
5	118	Split the Wind
6	118	Big Jeff
7	118	H Hour
8	118	Mister Chat
9	111	Hammer-Lock
10	118	Sea Bees
11	118	Abiel
12	118	Passpet
13	118	Happy Buckie

10-8-3

3 — 3-4 Mile

PP		
1	120	Hear Ye
2	120	Viva Teddy
3	115	Another Night
4	113	Tracer Bullet
5	115	Our Two Three
6	115	Smiling Lass
7	115	Kalent Teddy
8	120	Down Watch
9	120	Good Show
10	120	Time Bomb
11	108	a-Maybe Miss
12	120	Adelphia
13	115	Maher Dauber
14	115	Stray Winds
15	115	a-Jagotello
16	115	Hav-Ildeard
17	115	Mighty Blow
18	120	Velgate Loki

12-11-2

a-Christmas-Hewitt 11-15

4 — 3-4 Mile

PP		
1	119	Layaway
2	119	Pompeco
3	114	Gondolina
4	119	Knight
5	117	Hornbeam
6	121	Abrazion
7	116	Flying Easy
8	116	Quillon

X X 1-8-6

5 — 1 1-4 Miles

PP		
1	109	Bright Argosy
2	112	Patron Saint
3	122	Triarach
4	110	Edie Jane
5	106	Grey Flares
6	111	Grey Hood
7	108	Satin Cap
8	101	Spoyten Duyvil

2-6-1

6 — 3-4 Mile

PP		
1	113	Gay Brigadier
2	113	Hercules
3	109	Leave
4	104	Shoot to Boot
5	101	Bonnie Myth
6	108	Black Africa
7	104	Wood Spirit
8	103	Sunnytown
9	106	Grand Toy

6-9-4

7 — 1 1-16 Miles

PP		
1	113	Riverbank
2	110	Patsy T
3	113	Assailant
4	106	Chalpee
5	113	Cherbourg
6	101	Bomb Dolly
7	112	Elcan
8	108	Magic Eye
9	113	Fred Havecker
10	113	Guy Hottel
11	112	Darby Divot

11-10-7

8 — 1 1-8 Miles

PP		
1	117	Cruiser
2	110	Wild Chance
3	105	Good Odds
4	117	Dust Off
5	114	Omaha Mike
6	114	On the Line
7	117	Annac

X 3-2-1

PP Indicates Post Position Numbers

June 9th 1944

GRI-O-PRESS 242 LAFAYETTE STREET N Y — CANAL 6-8374

DETROIT

DETROIT

DETROIT

1 4½ Furlongs

2 3-4 Mile

3 5-8 Mile

4 3-4 Mile

5 3-4 Mile

6 3-4 Mile

7 1 1-16 Miles

8 1 1-16 Miles

RIVER DOWNS

RIVER DOWNS

RIVER DOWNS

1 4½ Furlongs

2 3-4 Mile

3 3-4 Mile

4 3-4 Mile

5 1 Mile 40 yds

6 1 Mile 70 Yds

7 1 Mile 70 yds

8 1 1-4 Miles

PP Indicates Post Position Numbers

June 9th 1944

GRI-O-PRESS 242 LAFAYETTE STREET N Y — CANAL 6-9374

AQUEDUCT PARK

1 1-2 Furlongs

	Lady Johnston	114
	Josephine	110
	Duke's Boy	121
	Money Maker	109
	Flame Q	109
	Napier	117
	Watch Every	117
	Josephine	115
	Red Cake	112

2 1 1-4 Miles

1	Lock Nose	114
2	Light Rain	114
3	Panthera	108
4	Mack's Prince	114
5	War Master	113
6	Chaflet	108
7	Nebraska	113
8	Alca-Gal	102
9	Gee Gee	108
10	Inclaction	113
11	Pollenator	107
12	Willow Run	106

3 About 2 Miles

1	Tinge	147
2	a-Sir Bluestrel	142
3	Cupid	147
4	Royal Archer	146
5	Pico Blood II	144
6	Cortesano	141
7	a-Beneheer	144
8	West Hadden	146
9	Seafight	131

a-Jones-Obre 2-7

4 1 1-2 Furlongs

1	Brevity Ore	115
2	Santa's Vixen	115
3	Servant d'Or	110
4	Annesthesia	115
5	Spitha	115
6	Rex's Agent	115
7	Peacock Lady	115
8	Meadow Maid	115
9	Wemito	115

5 3-4 Mile

1	Mary Wine	110
2	Tacky Boy	110
3	Knotty	110
4	Chance Mate	115
5	Tender	110
6	Romanoch	115
7	American Flyer	105
8	Magellan	115
9	Bric a Bac	115
10	Mad Anthony	110
11	Mirani	110
12	Sixteen Cents	110
13	Tudor King	110
14	Jean Miracle	110
15	Brave Marine	110
16	J J Jaffeh	110
17	Anjaffe	110
18	Frog Hatch	110
19	Happichord	110
20	Francis Marion	110

6 3-4 Mile

1	Poppy Mine	117
2	Bird Hawk	113
3	Fare Queen	110
4	Leaving	119
5	Three o' Gold	110
6	Modest One	107
7	Boiling On	122

7 1 1-8 Miles

1	Spangled Game	113
2	Free Lance	114
3	Autocrat	113
4	Comenow	113
5	Young Sol	111

8 1 1-16 Miles

1	Orpheum	116
2	Jazz Royal	116
3	a-Plantagenet	117
4	Omission	117
5	Good Stymie	117
6	Magellan	104
7	b-Overtake	116
8	Zanther	116
9	Air Transit	116
10	Jamesborough	116
11	Matahem	109
12	Green Apples	111
13	Count Nan	116
14	He Rolls	121
15	Rath Bolen	120
16	Tragic Ending	117
17	Miss Major	111
18	b-Golden Thorn	116
19	Slider	117

a-Havahome-Gibbons 3-19
b-V L Shea 7-18

SUFFOLK DOWNS

1 3-4 Mile

	Some Prom	112
	Two O'Clock	105
	Miss Colors	107
	Whitey Josh	113
	Smoot	112
	Black Business	110
	Pyrrhic	112
	Pontifex	113
	Blue Mystic	113
	Misty May	108
	Dr Bohnen	106

2 3-4 Mile

1	Kindy Light	117
2	Red Ted	115
3	Bellerophon	117
4	Miss Penne	114
5	Dark Mischief	112
6	Ariel Beam	110
7	Tartarus	114
8	Tyrone	122

3 3-4 Mile

1	Republican	110
2	Buck Patch	110
3	Mac's Best	115
4	Her Image	110
5	V Clock	115
6	Hay Burner	110
7	Renrew	110
8	a-Felt Hat	115
9	a-Bert's Chance	115
10	Free Transit	120

a-Merry-Ho-Philips 5-9

4 5-8 Mile

1	Roadmaker	114
2	Sangone	100
3	Valdina Bina	111
4	Short Stay	114
5	Model Lady	114
6	Ship Jr	112
7	Linda Darling	112
8	Cat Lady	106

5 3-4 Mile

1	Undulator	119
2	Miss Time	100
3	First of All	114
4	Johnny Jr	111
5	Navy	115
6	Diego Red	114
7	Tetra Rock	115

6 1 1-16 Miles

1	Scottsville	115
2	Alpost	113
3	Jamoke	107
4	Royal Dic	107
5	Able	113
6	Aera	120

7 1 1-16 Miles

1	War Communique	115
2	Witchwater	107
3	Tierce	118
4	Helen Mowbee	101
5	Paille	112
6	Rianda	106
7	Sparrow Chirp	110

8 1 Mile

1	Bark	115
2	Hard Trek	115
3	Plane Spotter	109
4	Money Maus	109
5	Ellen Mist	106
6	Queen's Reward	112
7	Tiny Sis	107
8	Polly Lou	107
9	Courtier Play	110

FF Indicates Post Position Numbers

June 9th 1944

GRI-O-PRESS 242 LAFAYETTE STREET N Y — CANAL 6-8374

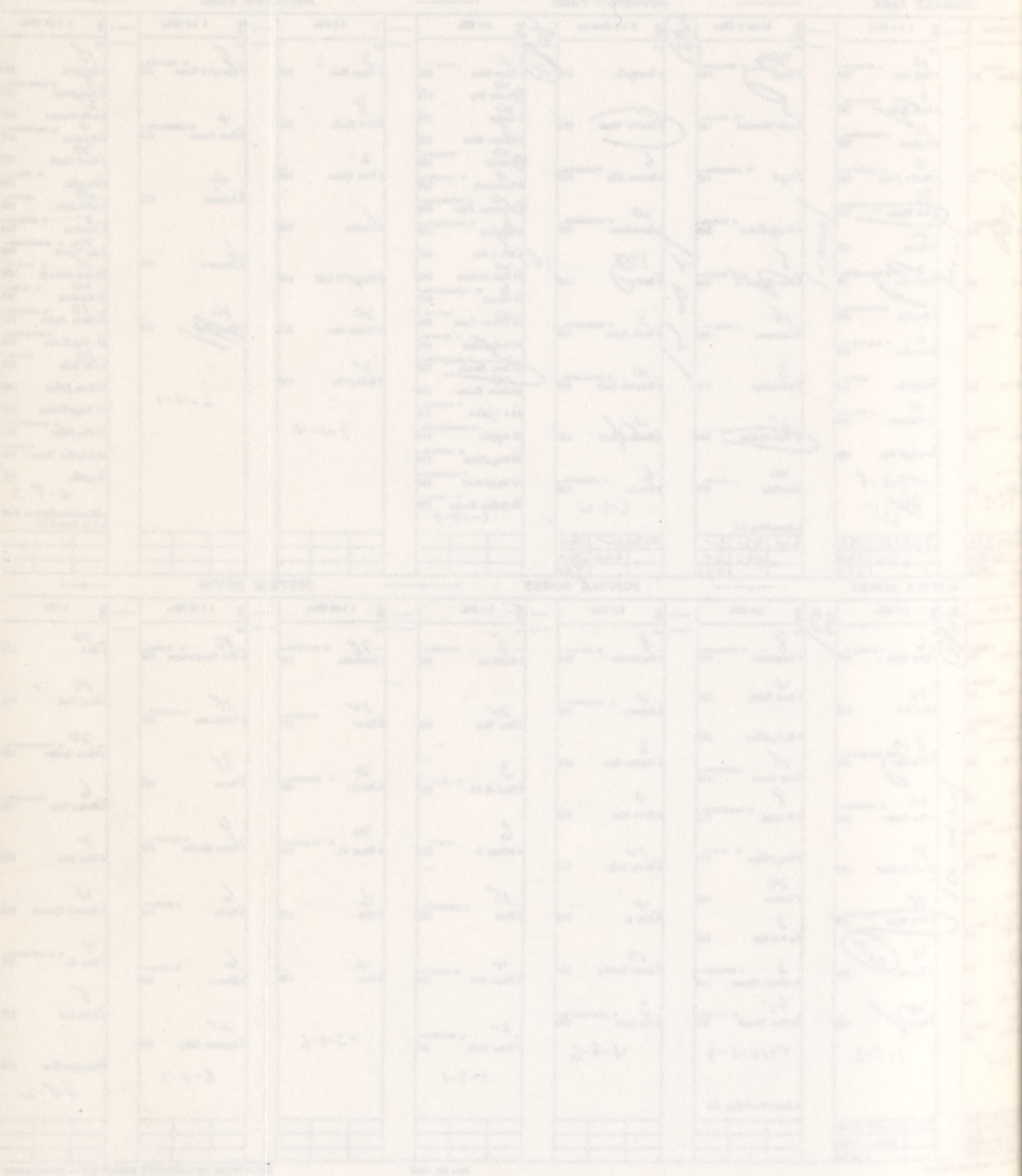


Exhibit S-23.

(Opposite ☞)

Errors (450)

Exhibit S 23

Ferry JUN 7 1944

								6	75
	1	1		Spread Set	2				
	1			Turnplate	1				
	2			Catalog	2				
	6	2		Tablecloth	8				
	1				1				
	2			Pattern	1				
	1			Napkin	1				
		1		Parlor	1				
	1	1		Sample	2				
	2			Clothes	1				
75¢	1	1		Runner	2				
	2			Paper	2				
	3			Flat Piece	3				
	2			Cloth	2				
	2			Pattern Hostess	2				
	1			Small Mat	1				
	1	1		Pattern	2				
	1			Tablecloth	1			2	00
	1		1	Napkin	2				
	1	1	1	Runner	3	30			
	1			Mat	1				
	1	1		Sample	2				
	2	2		Miss Mary Jane	1				
	1	1		Runner	2				
	1			Tablecloth	1				
375	1	1		Flat Piece	2				
	1			Rosedale	1				
	1			Miss Rose	1				
	1			Hummel	1				
	1			Sample	1				
	1	1		Napkin	2				
		1		Sample	1				
	2	2		Cashmere	4				
	2	1		Miss Robin	3				
		1		Cashmere	1				
	1	1		Napkin	2			4	10
		1		Tablecloth	1				
		1		Handkerch	1			3	00
	1			Hemstitch	1			2	60
	1			Runner Chef	1			5	10
	1			Napkin	1				
					68	30		75	55

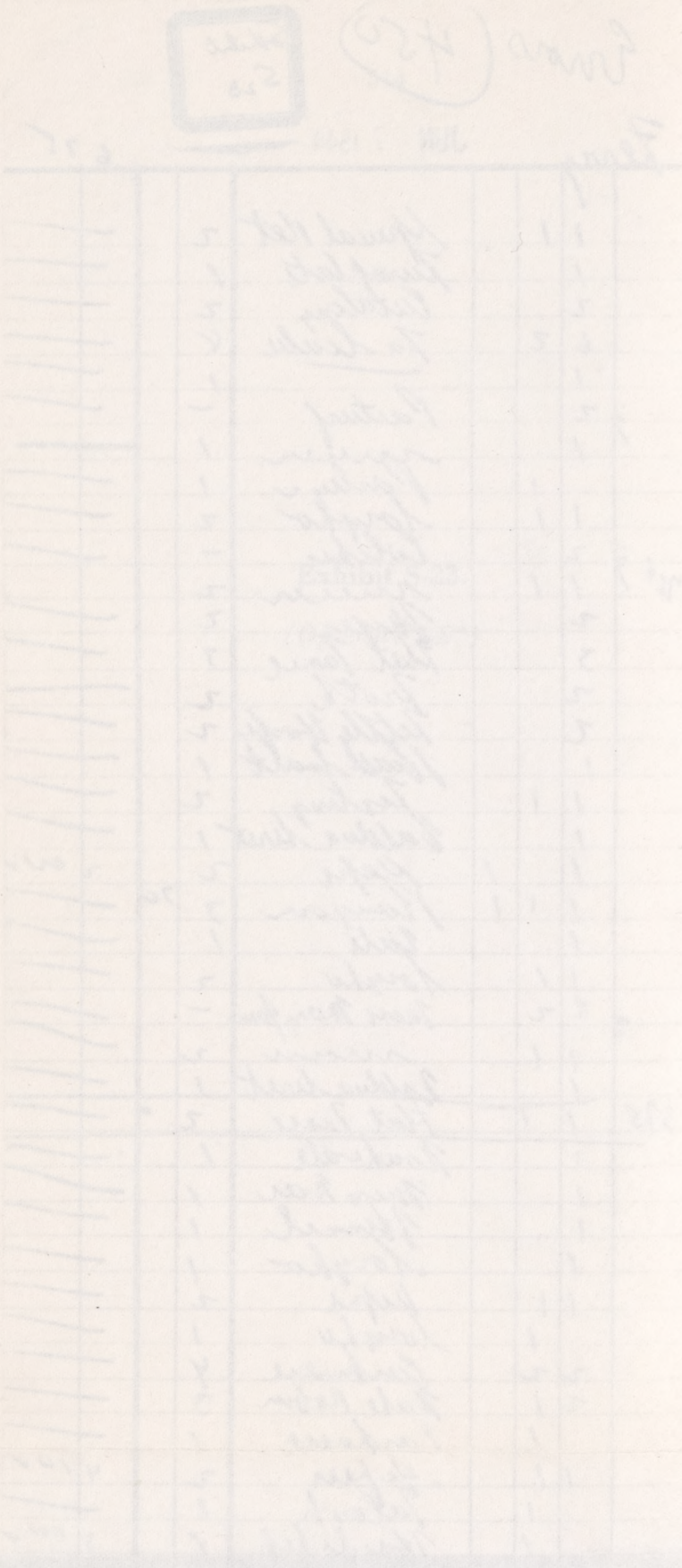


Exhibit S-24.

A carton containing blank pads and pencils.

Exhibit S-25.

(Opposite ☞)

The sheet was annexed to a pad, the rest of which was blank.

108 1/2

7 - 8 - 5

560 - 3 - 260

340 - 260

320

138

8 - 4 - 2

1680 - 11 - 520

2040 - 740

360

DD 5780

210

5 - 7 - 3

12 - 560 - 3 -

7 - 360

240

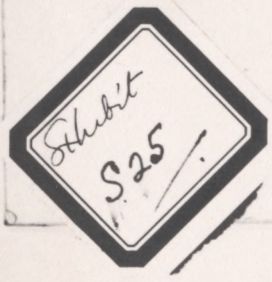


Exhibit S-26.

4 Ash Trays.

Exhibit S-27.

An envelope marked "Mr. James Lewis, Hoboken, N. J." containing copies of income tax returns for James A. Lewis and Eugene V. Lewis for the years 1938 through 1940.

Exhibit S-28.

A receipted bill of Jagels Fuel Oil Corporation to James Lewis, 1124 Garden Street, Hoboken, N. J. for fuel oil.

Exhibit S-29.

A journal in which was contained 5 cancelled checks in the year 1938, signed Eugene V. Lewis, a receipted bill to J. Lewis dated 1939, copy of letter signed James A. Lewis dated 1940, copy of letter addressed to Eugene V. Lewis dated 1939.

Exhibit S-30.

(Opposite ☞)

This exhibit consists of 4 sheets, the other 3 being identical to the one shown.

1	2	3	4	5	6	7	8
1 ELLENS CHANCE	1 DONEGAL						
2 WESTWOOD BELLE	2 JULDOE WEE						
3 RITA JANE	3 CHINESE SIS						
4 BELLE BAEAUE	4 EAGLE STONE						
5 BONNIE MYTH	5 SEA CONVOY						
6 HELP WANTED	6 GENTRICE						
7 CAMPANULA	7 JACO ROYAL						
8 MAGIC HEELS	8 VERY DRY						
9 SCARED CARDS							
10 MISS HEIGH							
11 ROSA BONHEUR							
12 LITTLE DOTTIE							
13 ALL WHITE							
N HAY BURNER							
S ROMAN MATRON							
14 PATCHES							

Exhibit S-31.

Steel cabinet containing blank pads, similar to Exhibit S-13.

Exhibit S-32.

10 Telephones.

Exhibit S-33.

4 Telephones.

Exhibit S-34.

1 Telephone.

Exhibit S-35.

Telephone Panel Board.

Exhibit S-36.

8 Chairs.

Exhibit S-37.

3 Folding Chairs.

Exhibit S-38.

Empty Steel Box.

Exhibit S-39.

$16,000 in denominations of $100 and $50.

Exhibit S-40.

Diamond Bracelet.

Exhibit S-41.

Hot Shot batteries (dry cells).

Exhibit S-42.

Battery (dry cell).

Exhibit S-43.

Clock.

Exhibit S-44.

Fan.

Exhibit S-45.

Waste Basket.

Exhibit S-46.

Two Tables.

Exhibit S-47.

Carton containing pencils and blank stationery.

Exhibit S-48.

Light Shades.

Exhibit S-49.

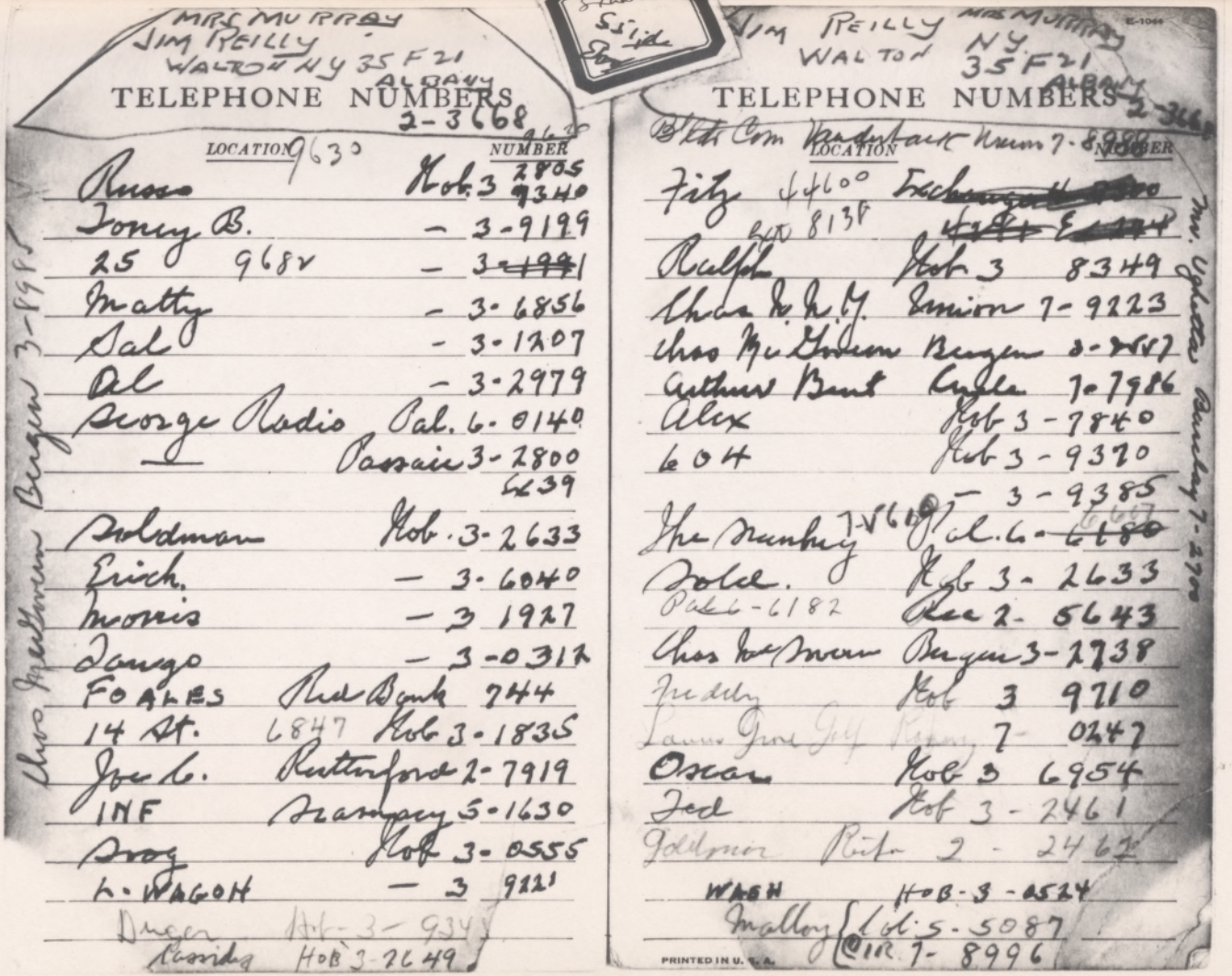
Steel Vault.

Exhibit S-50.

Book identical to S-16.

Exhibit S-51.

(Opposite ☞)



MRS MURRAY
JIM REILLY
WALTON NY 35 F 21
ALBANY
2-3668

TELEPHONE NUMBERS

LOCATION	NUMBER
9630	
Russo	Hob 3 2805 9340
Jonny B.	- 3-9199
25 9687	- 3-1991
Matty	- 3-6856
Sal	- 3-1207
Al	- 3-2979
George Radio	Pal. 6-0140
	Passaic 3-2800 6639
Goldman	Hob. 3-2633
Erich.	- 3-6040
Morris	- 3 1927
Dango	- 3-0312
FOALES Red Bank 744	
14 St. 6847	Hob 3-1835
Joe L.	Rutherford 2-7919
INF	Harrison 5-1630
Drog	Hob 3-0555
L. WAGON	- 3 9221
Dugan	Ht-3-9347
Cassidy	HOB 3-7649

Chas Friedman Bergen 3-5985

JIM REILLY
WALTON NY
35 F 21
ALBANY
2-3668

TELEPHONE NUMBERS

LOCATION	NUMBER
Fitz 4460 8135	[illegible]
Ralph	Hob 3 8349
Chas W. N.Y.	Union 7-9223
Chas McGovern	Bergen 3-7987
Arthur Bent	Eagle 7-7986
Alex	Hob 3-7840
604	Hob 3-9320
	- 3-9385
The Nanny 7-8619	Pal. 6-6180 6687
Gold.	Hob 3-2633
Pal 6-6182	Rec 2-5643
Chas McSwan	Bergen 3-1738
Freddy	Hob 3 9710
Lawn Jove Jay	Kitty 7-0247
Oscar	Hob 3 6954
Jed	Hob 3-2461
Goldman	Rita 2-2462
WASH	HOB-3-0524
Malloy	Lol 5-5087
	CIR 7-8996

Mr. Upholster Barclay 7-2700

PRINTED IN U. S. A.



Exhibit S-52.

Carton containing boxes of pencils, jackknife switches, wire, ash trays, rubber stamps, blank pads, headphone apparatus.

Exhibit S-53.

$450.

Exhibit S-54.

(Opposite ☞)

$70. clipped to slip.

Jones & Wait

Gardner	6300	
Tom.	6600	
odoms	16500	
J.	2700	
Fisher	5800	
Ralph	31200	
Sargent	2200	- 500
Lydia	6000	- 171
Chas	11506	
	$88800	
	$1800	
	7000	

15 ft	6.00
Lyf	130.06
Kinney	15.60
Williams	78.80
alex	15.60
Cooke	56.00
Toney	301.00
Gen.	105.00
Thomas	83.60
Cash & Jenny	25.60
*	4.60
	8.18 00

Eugene S Lewis

770 00 Cash

10 ft Toney

Exhibit S-55.

$117.

Exhibit S-56.

(Opposite ☞)

$4. clipped to slip.

1N3 FLEDGLING 3(1)

3NY NITEN 3(1)

10E, VINAL NAUEN 3(1)

3L SATIN ACE 3(1)

1S TETRAGAL 3(1)

Walter Mullin

$4.00

Exhibit S-57.

$16.

Exhibit S-58.

$163.

Exhibit S-59.

(Opposite ☞)

WEDNESDAY JUN 7 - 1944

Henry A.

4	2	Roldan	6		3	50
4	2	Still Jr	6	4-		
4	4	Parker 2	8	80		
2	2	Richardson	4			
2	2	Barnes	4			
2	2	2 Left Fielder	18	6-	13	85
2	2	Left Centers				
		Ball Player				
2		Left Fielder	2			
2		Left Centers	2			
2		Ball Player	2			
			53	80	17	35
			17	35		
			36	45		

C 33

Frank Isaacson

Frank Isaacson

Henry A.

2	2	Short Stop	4			
5	5	Home Runs	11			
2	2	Henry J	4	20		
2	2	Shortstop	4		9	50
2	2	Parker	4	40		
			27	60	9	50
		Rol 18 1/2	9	50		
			18	1		

Home Runs	5
Runs	30
Stolen Bases	15
Put Outs	20
Assists	5

Frank Isaacson

MONDAY MAY 29 1944

Henry A. Frank Isaacson

4	2	Shortstop Rot Et	6	40		
		Rol 6 40				

WEDNESDAY MAY 31 1944

Frank Isaacson

Henry A.

4	2	Pitcher	6	60		
4	2	Left Rot	6	60		
2	2	Parker 2	4	40		
		Rol 17 60	17	60		

SATURDAY JUN 3 - 1944

Frank Isaacson

Henry A.

4	2	Pitcher Abbot	6	60		
4	2	Pitcher Shoffner D	6	40	33	40
2	2	Parker 2	4	40		
			17	40	33	40
		Pay 16 -			17	40
					16	00

TUESDAY MAY 30 1944

Henry A. Frank Isaacson

4	2	Left Fielder	6	60		
4	2	Ball Player	6	60		
2	2	Parker 2	4	40		
4	2	Pitcher	6	60		
4	2	Left Fielder	6	60		
2	2	Parker 2	4	40		
		Rol 34 20	34	20		

Exhibit S-60.

Radio Set.

Exhibit S-61.

(Opposite ☞)

This exhibit consisted of 283 slips similar to the 4 set forth.

+ Aqueduct

Meadow Maid 5-9-0

5 Bucabac 5-0-0

---

1 Suffolk Senior Prom 5-0-0

2 Lincoln Bismark 5-0-0

20 #3

Karen G

War Master | 2 D.D.

JFP (2)

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chance Mate 1-0-1

O.K. Charlie 1-0-1

Family Doc. 1-0-1

(6) George York

JOSPHINE 2 D-D

WAR MASTE 0-2-0 Ruled

ORPHEUM 2-0-2

ANZIC 3-2-6 PARTED

LAY AWAY

13

EL

Exhibit S-62.

Envelope postmarked April 21, 1944, addressed to James Lewis, Elysian Cafe, 10th & Washington, Hoboken, N. J.

Exhibit S-63.

Book, identical to S-16.

Exhibit S-64.

(Opposite ☞)

GEORGE LAWTON
1269 BROADWAY

Percentages on Lawton Top Horses—1943

1943	PERCENTAGES Win	Place	Show
Fair Grounds—January 1 - March 27	25.15	45.38	60.29
Oaklawn—February 22 - March 27	25.32	43.88	56.96
Keeneland—April 10 - April 21	28.00	52.00	64.00
Jamaica—April 8 - May 8	29.44	48.04	59.77
Narragansett—April 10 - May 8	24.48	42.71	58.85
Churchill—April 24 - May 15	32.03	53.29	69.66
Pimlico—April 16 - May 8	34.09	53.79	64.62
Sportsmans' Park—April 24 - May 15	21.85	37.75	54.97
Belmont Park—May 10 - June 5	25.03	37.89	53.16
Suffolk Downs—May 10 - August 7	23.60	45.59	60.33
Detroit—May 22 - September 11	22.58	38.90	55.44
Lincoln Fields—May 17 - June 19	19.17	36.97	49.36
Aqueduct—June 7 - June 26	26.98	46.77	55.56
Arlington Park—June 21 - July 31	18.15	37.67	53.13
Empire—June 28 - July 24	29.17	45.79	60.25
Garden State Park—July 7 - September 11	28.25	46.00	60.81
Saratoga Springs—July 26 - August 28	29.05	45.85	57.84
Washington Park—August 2 - September 6	23.23	42.52	55.20
Narragansett—August 9 - September 25	26.45	47.09	61.11
Aqueduct—August 30 - September 18	23.02	40.48	54.10
Hawthorne—September 7 - October 16	22.81	38.95	51.23
Belmont—September 20 - October 9	19.84	35.71	51.22
Rockingham—September 27 - November 27	27.17	48.86	53.10
Jamaica—October 11 - October 20	28.57	49.21	57.14
Sportsmans' Park—October 18 - November 6	20.81	39.60	58.39
Empire—October 21 - November 3	21.43	45.24	60.00
Jamaica—November 4 - November 13	42.86	57.14	60.66
Pimlico—October 9 - November 13	24.31	47.00	58.69
United Hunts—November 15	50.00	75.00	100.00
Churchill—October 16 - November 6	24.84	42.11	56.85
Marlboro—November 17 - November 27	35.44	51.90	72.15
Charlestown—November 29 - December 18	29.86	52.78	71.53
Fair Grounds—November 25 - December 31	21.83	41.54	54.74
Tropical Park—December 15 - December 31	15.70	33.06	46.67
Totals	24.88	43.86	57.65

Percentages on Lawton Preferred Horses—1943

	Win	Place	Show
Most Preferred Horses	32.67	56.89	70.67
Second Preferred Horses	30.76	51.90	63.94

GEORGE LAWTON
1269 BROADWAY
NEW YORK, N. Y.

THE LAWTON RECORD FOR 1943

The following tables show the accomplishments of the Lawton Service during the year 1943. They set forth the positions in which the Lawton top horses after scratches finished and the positions in which the Lawton preferred horses finished; and give the results of ten-dollar flat play upon all these horses for all positions. In addition, the Lawton records for the years 1925 to 1943 are combined and summarized.

The flat play test appearing in the tables is the severest known; yet in the last thirty-seven years Lawton mutual selections have shown flat play profits twenty-seven years. This test applied to other selections seldom if ever shows profit; and the losses are usually amazingly large.

Lawton selections for the year 1943 show a small win loss. Flat play profits are becoming increasingly harder to attain. Within the recent past, the mutuel take has been raised considerably—this in turn lowering mutuel prices. Had the waiver of apprentice allowance and corrected weights been taken into consideration our top horse to win would have shown considerable profit. In the future this factor will be recognized and used in computing our yearly analysis. It is not claimed that Lawton percentages are higher than others but Lawton prices average higher and these do more to overcome losses.

Play upon the Preferred Horses has throughout all the years been found safest and most likely to profit; and the records indicate that such play should be straight and place. A study of the table giving Preferred Horse play results demonstrates this.

Lawton selections are arrived at through handicap figures. Workouts and information are not considered. Up to date public form is the sole guide. Since George Lawton's retirement, his son George Lawton, Jr. is in sole charge of the handicapping.

Followers of Lawton selections reduce the chances of ultimate loss to a minimum, and, when using conservative methods, have an excellent chance to profit.

In conclusion it may be stated that advertisements of the Lawton Service do not appear in newspapers or elsewhere. After thirty-seven years of existence, it continues prosperously. The secret lies in the fact that old customers renew subscriptions, and additional customers come from the personal recommendations of the old.

TERMS OF SUBSCRIPTIONS FOR THE LAWTON SERVICE

$7.50 per week by ordinary mail; $8.10 per week by special delivery mail; $8.50 per week by special delivery air mail or by wire sent "collect." The wires are night or day letters in our option.

New customers should try out the service for not less than four weeks as results of a single week are not a fair test. Please remember that this service is obtainable from the NEW YORK OFFICE ONLY.

George Lawton handicap selections are NOT syndicated to any individuals at New York, New Jersey, New England, Delaware or Maryland tracks. Any person offering George Lawton selections for sale on cards of any description at any of these tracks is doing so under misrepresentation.

Ten Dollar Flat Play on Lawton Top Horses—1943

1943	Straight Lost	Straight Won	Place Lost	Place Won	Show Lost	Show Won
Fair Grounds—Jan. 1 - Mar. 27	26.00		323.00		178.00	
Oaklawn—Feb. 22 - Mar. 27	177.00		282.00		313.50	
Keeneland—Apr. 10 - Apr. 21		736.00		232.00		83.00
Jamaica—Apr. 8 - May 8	42.00		206.50		188.00	
Narragansett—Apr. 10 - May 8	46.00		160.00		159.00	
Churchill—Apr. 24 - May 15	14.00			95.00		89.00
Pimlico—Apr. 16 - May 8		112.50		1.50	56.50	
Sportsmans' Park—Apr. 24 - May 15	23.00		195.00		158.00	
Belmont Park—May 10 - June 5	320.50		250.50		196.50	
Suffolk Downs—May 10 - Aug. 7	114.00		19.00		65.00	
Detroit—May 22 - Sept. 11	465.00		1,084.00		966.50	
Lincoln Fields—May 17 - June 19	517.00		334.00		267.00	
Aqueduct—June 7 - June 26	2.00			61.50	106.50	
Arlington Park—June 21 - July 31		349.00		165.00		153.00
Empire—June 28 - July 24		274.50	22.00		15.50	
Garden State Park—July 7 - Sept. 11		289.50		106.00	120.50	
Saratoga Springs—July 26 - Aug. 28		47.00	15.50		45.50	
Washington Park—Aug. 2 - Sept. 6		333.00		144.50	7.00	
Narragansett—Aug. 9 - Sept. 25		122.00		175.00		144.00
Aqueduct—Aug. 30 - Sept. 18	1.50		79.50		98.00	
Hawthorne—Sept. 7 - Oct. 16	341.00		227.00		281.00	
Belmont—Sept. 20 - Oct. 9	90.50			20.00	47.00	
Rockingham—Sept. 27 - Nov. 27	72.00			248.00		155.00
Jamaica—Oct. 11 - Oct. 20		392.50		130.50	8.00	
Sportsmans' Park—Oct. 18 - Nov. 6	248.00		163.00		40.00	
Empire—Oct. 21 - Nov. 3	101.50		75.00		51.00	
Jamaica—Nov. 4 - Nov. 13		352.50		104.50	55.00	
Pimlico—Oct. 9 - Nov. 13	457.00			184.50	78.50	
United Hunts—Nov. 15		40.00		55.00		49.50
Churchill—Oct. 16 - Nov. 6	121.00		184.00			9.00
Marlboro—Nov. 17 - Nov. 27		128.00	35.00			33.00
Charlestown—Nov. 29 - Dec. 18	55.00		86.00			80.00
Fair Grounds—Nov. 25 - Dec. 31	424.00		154.00		178.00	
Tropical Park—Dec. 15 - Dec. 31	317.00		376.00		253.50	
Totals	3,975.00	3,176.50	4,271.00	1,723.00	3,933.00	795.50
Net Results	789.50		2,548.00		3,137.50	
Net Results, 1942	2,351.00		1,842.50		1,198.25	
Net Results, 1941	153.50		1,742.25		1,080.50	
Net Results, 1940	2,649.00		2,755.00		2,428.20	
Net Results, 1939		5,014.50		1,984.00		273.50
Net Results, 1938	2,160.50		3,335.70		3,350.70	
Net Results, 1937		913.00	352.50		479.50	
Net Results, 1936	4,324.40		4,598.20		3,312.30	
Net Results, 1935	92.50		483.50			814.60
Net Results, 1934		1,767.70		984.60		871.25
Net Results, 1933		984.00		417.75		876.80
Net Results, 1932		91.20	449.35		1,398.55	
Net Results, 1931	1,576.30		801.45		985.10	
Net Results, 1930		1,739.95	335.50		688.95	
Net Results, 1929		979.10	826.70		1,760.85	
Net Results, 1928	1,387.95		687.30			236.95
Net Results, 1927		3,375.90		1,071.65		2,482.85
Net Results, 1926		1,650.00		1,022.00		340.00
Net Results, 1925		3,372.55		1,929.65		1,281.20
Net Results. 19 Years		4,403.25	13,348.30		12,643.25	

Ten Dollar Flat Play on Lawton Preferred Horses—1943

1943	MOST PREFERRED HORSES Straight Lost	Straight Won	Place Lost	Place Won	Show Lost	Show Won	SECOND PREFERRED HORSES Straight Lost	Straight Won	Place Lost	Place Won	Show Lost	Show Won
Fair Grounds—Jan. 1 - Mar. 27	96.00		72.00		64.00		37.00		30.00		78.00	
Oaklawn—Feb. 22 - Mar. 27	60.50			9.00		12.00	117.00		37.50		18.00	
Keeneland—Apr. 10 - Apr. 21	67.00		13.00			5.00		55.00		34.00		17.00
Jamaica—Apr. 8 - May 8		57.00		71.50		41.00	99.50			25.00		39.50
Narragansett—Apr. 10 - May 8	75.00		24.00		28.00			72.00		8.00		18.00
Churchill—Apr. 24 - May 15		192.00		69.00		48.00	17.00			10.00		16.00
Pimlico—Apr. 16 - May 8		24.50		33.00		15.00	6.00		1.50		15.00	
Sportsmans' Park—Apr. 24 - May 15		205.00		51.00		7.00	90.00		23.00			21.00
Belmont Park—May 10 - June 5	55.00		7.00		18.50		84.00		45.00		54.00	
Suffolk Downs—May 10 - Aug. 7	107.00			159.00		51.00		9.00	11.00			72.00
Detroit—May 22 - Sept. 11		66.00	42.00			39.00	60.00		44.00		92.00	
Lincoln Fields—May 17 - June 19	89.00		8.00		43.00			120.00		22.00	25.00	
Aqueduct—June 7 - June 26	89.50		34.00		37.00		6.00		13.50		43.00	
Arlington Park—June 21 - July 31	212.00			37.00		8.00	21.00		7.00		50.00	
Empire—June 28 - July 24	17.50			18.00		16.00	36.00		35.00		67.50	
Garden State Park—July 7 - Sept. 11	98.50			13.00		78.50	64.50		121.50		65.00	
Saratoga Springs—July 26 - Aug. 28		55.50	24.50		27.50		.50		1.00		23.50	
Washington Park—Aug. 2 - Sept. 6	28.00			31.00		33.00	8.00		18.50		26.00	
Narragansett—Aug. 9 - Sept. 25		16.00		39.00		54.00				6.00	41.00	
Aqueduct—Aug. 30 - Sept. 18		9.00		9.50		10.00	133.00		43.50		25.00	
Hawthorne—Sept. 7 - Oct. 16	70.00		81.00		37.00			13.00		71.00		20.00
Belmont—Sept. 20 - Oct. 9	37.50		30.50		14.00			60.50		58.00		54.50
Rockingham—Sept. 27 - Nov. 27		88.00		192.00		51.00		103.00		53.00		32.00
Jamaica—Oct. 11 - Oct. 20	70.00		6.50		19.00			135.50		85.50		39.00
Sportsmans' Park—Oct. 18 - Nov. 6	50.00		33.00		28.00			4.00	45.00		25.00	
Empire—Oct. 21 - Nov. 3	4.50			24.50		13.50	31.00			8.50	13.00	
Jamaica—Nov. 4 - Nov. 13		13.50	11.50		2.00			81.50		44.50		17.00
Pimlico—Oct. 9 - Nov. 13		35.50		87.50		22.50	162.00			12.50		5.50
United Hunts—Nov. 15								12.00		8.00		4.00
Churchill—Oct. 16 - Nov. 6	76.00		27.00			9.00	27.00		57.00			8.00
Marlboro—Nov. 17 - Nov. 27		1.00	8.00			1.00	46.00		19.50			.50
Charlestown—Nov. 29 - Dec. 18	80.00		68.00			18.00		74.00		62.00		10.00
Fair Grounds—Nov. 25 - Dec. 31		44.00	45.00			6.00	142.00		130.00		101.00	
Tropical Park—Dec. 15 - Dec. 31	103.00		63.50		11.50		57.00		55.50		64.00	
Totals	1,486.00	807.00	598.50	844.00	329.50	538.50	1,244.50	739.50	739.00	508.00	826.00	374.00
Net Results	697.00			245.50		209.00	505.00		231.00		452.00	
Net Results, 1942	500.50		349.50			55.50	196.50		17.00			135.00
Net Results, 1941		288.50		479.00		340.50	17.00			36.00		46.50
Net Results, 1940		763.50		26.00		84.00		513.50		101.00	49.00	
Net Results, 1939		1023.50		160.50	151.00			485.00		195.00		55.00
Net Results, 1938		907.30		541.00		296.30	1009.20		667.90		439.70	
Net Results, 1937		332.00		333.00		383.50	516.50		218.50		193.00	
Net Results, 1936	625.00			350.00		88.50		379.00	132.50			12.00
Net Results, 1935		377.80		301.10		261.80		1062.60		349.20		581.00
Net Results, 1934	31.80			300.10		164.85		708.05		474.35		417.35
Net Results, 1933	69.70			144.90	21.30			9.95		247.95		130.30
Net Results, 1932		508.15		423.60		264.20	105.90		8.95		69.80	
Net Results, 1931		49.30		206.05		89.85		31.60		274.80		236.05
Net Results, 1930	113.55			252.50	25.00		11.90			406.90		84.75
Net Results, 1929		394.75		184.45		116.45	145.90		239.75		76.65	
Net Results, 1928	591.45			59.65		157.35		198.80		197.40		185.45
Net Results, 1927		1188.80		964.90		673.80	323.95		202.80		74.65	
Net Results, 1926		590.00		278.00		511.05		364.00		470.50		34.00
Net Results, 1925		411.25		501.00		295.50	315.00			222.75		253.75
Net Results. 19 Years		4,205.85		5,401.75		3,744.85		605.65		1,257.45		816.35

Exhibit S-65.

(Opposite ☞)

CHICLE CLOWN — Br c, 2, by Xalapa Clown—Chicle Nut, by The Nut — M. B. Goff — F. J. Baker — (M. B. Goff) — 116 — 1944: 0 0 0 0 — 1943: 0 0 0 0 — Outrun 14
LATEST WORKOUTS: 6-2 Bel—3 f :37 h. Tr. fst; 5-27 Aq—4 f :51 b. Tr. my; 5-22 Aq—3 f :38 b. Tr. fst; 5-13 ChD—3 f :39 b. Tr. fst

THE WING — Ch c, 2, by Re Did—Beaway, by Wayward — A. Hamilton — J. C. Taylor — (W. L. Nutter, Jr.) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — Outrun 15
25My44-5Bel my 4½f W. C. .53⅘ M.Sp.W. 7 — 14 14⁵³14¹⁵ CErick's. w 116 f 40.10 70-18 Paricutin 116¹½ Copito 111½ See Raft 116⁵
LATEST WORKOUTS: 5-30 Bel—4 f :49⅘ h. Tr. fst; 5-28 Bel—4 f :47⅘ h. Tr. my; 5-14 Bel—3 f :37⅘ b. Tr. fst

COLLEAGUE — Dk br c, 2, by Count Gallahad—Co-Chick, by Cohort — Mrs. A. F. Sherman — T. Driscoll — (J. B. Davis) — 116 — 1944: 0 M 0 0 — 1943: 0 0 0 0 — Outrun 12
LATEST WORKOUTS: 5-6 Aq—3 f :58⅘ h. Tr. fst; 6-3 Aq—5 f 1.04 h. Tr. my; 6-1 Aq—3 f :40 b. Tr. fst; 5-30 Aq—3 f :38 b. Tr. fst

TALOOK — B c, 2, by Blenheim II—Hocus Focus, by Sir Gallahad III — Mill River Stable — H. Brown — (R. A. Fairbairn) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — Outrun 10
29My44-4Bel fst 4½f W. C. .52⅘ M.Sp.W. 1 3 — 9 8¹ 8⁵ EArcaro w 116 24.35 88-10 Housatonic 116¹½ Light Count 116⁵ Bill Corum 116¹½
LATEST WORKOUTS: 6-3 Bel—4 f :48⅘ h. Tr :fst; 5-28 Bel—3 f :37⅘ h. Tr. gd; 5-24 Bel—4 f :48 h. Tr. fst; 5-17 Bel—5 f 1.06 b. Tr. gd

ECOLIRE — Ch c, 2, by Economic—Tire-Lire, by Pontet Canet — Mrs. D. J. Lit — C. Buxton — (D. J. Lit) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — Outrun 9
2My44-2Jam fst 5f .23⅘ .47 .59⅘ M.Sp.W. 9 7 — 7 9 8⁵½ 7¹¹ DDodson w 116 72.95 80-14 King Dorsett 116¹ Army Rest 116⁵ Wildlife 116¹
LATEST WORKOUTS: 6-5 Aq—4 f :52 b. Tr. fst; 6-2 Aq—3 f :38 b. Tr. fst; 5-31 Aq—4 f :51 b. Tr. fst; 5-29 Aq—4 f :51⅘ b. Tr. fst

HINDU KUSH — B c, 2, by Mahmoud—Frilette, by Man o' War — C. V. Whitney — A. Schuttinger — (C. V. Whitney) — 116 — 1944: M 0 0 0 — 1943: 0 0 0 0 — Outrun 15
LATEST WORKOUTS: 6-2 Bel—3 f :37 h. Tr. fst; 5-30 Bel—4 f :48⅘ h. Tr. fst; 5-26 Bel—5 f 1.07 h. Tr. my; 5-25 Bel—3 f :37⅘ b. Tr. sly

DANCING FIRE — Dk br c, 2, by Sweeping Light—Mil, by Hydromel — B. F. Whitaker — F. F. Dwyer — (D. O'Sullivan) — 116 — 1944: 0 M 0 0 — 1943: 0 0 0 0 — Outrun 14
LATEST WORKOUTS: 6-3 Bel—5 f 1.04⅘ h. Tr. fst; 5-31 Bel—3 f :36⅘ h. Tr. fst; 5-29 Bel—3 f :36⅘ h. Tr. fst; 5-27 Bel—4 f :52⅘ b. Tr. my

TOP GENERAL — B c, 2, by Top Row—Ann O'Ruley, by Man o' War — A. A. Baroni — A. A. Baroni — (A. A. Baroni) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — $105
20My44-4Bel fst 5f W. C. .57⅘ Juv. St. 2 8 — 7 77½ 7¹½ FZufelt w 113 37.35 84- 9 Flood Town 116ⁿᵒ Forum 116⁵ Jeep 120ⁿᵒ — Outrun 9
8My44-1Bel gd 4½f W. C. .54⅘ M.Sp.W. 6 2 — 9 84½ 9¹⁰ HHath'y w 117 f 4.05 75-16 Flood Town 116¹½ Airflake 116⁵ Future Hero 116⁵ — No mishap 22
LATEST WORKOUTS: 6-3 Bel—6 f 1.17 h. Tr. fst; 5-30 Bel—5 f 1.01⅘ h. Tr. fst; 5-27 Bel—4 f :49 h. Tr. my; 5-25 Bel—3 f :36 h. Tr. sly

FIRST STAGE — Ch h, 2, by Stagehand—Becky Bates, by Boot to Boot — M. Howard — E. Sande — (M. X. Howard) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — Outrun 15
1Je44-5Bel fst 5f W. C. .58⅘ Allow'ce 9 10 — 13 13¹¹13¹⁴ BStr'nge w 112 f 61.55 72-14 Guam 116¹½ Hitem 116⁵ Burning Dream 111⁵
LATEST WORKOUTS: 6-5 Bel—3 f :36⅘ h. Tr. fst; 5-30 Bel—4 f :50⅘ h. Tr. fst; 5-27 Bel—4 f :50⅘ h. Tr. my; 5-20 Bel—5 f 1.02⅘ h. Tr. fst

TENNYSON — Ch c, 2, by Rhodes Scholar—Flying Song, by Sir Gallahad III — Belair Stud — J. Fitzsimmons — (Belair Stud) — **111 — 1944: 0 M 0 0 — 1943: 0 0 0 0 — Outrun 15
LATEST WORKOUTS: 6-2 Aq—5 f 1.03 h. Tr. my; 5-30 Aq—5 f 1.02⅘ h. Tr. fst; 5-27 Aq—5 f 1.03⅘ h. Tr. my; 5-24 Aq—4 f :48 h. Tr. fst

BRAVE BID — Ch c, 2, by Psychic Bid—Kawita, by Donnacona — Brookmont Stable — H. L. Fontaine — (Brookmeade Stable) — 116 — 1944: 1 M 0 0 — 1943: 0 0 0 0 — Early foot 15
1Je44-5Bel fst 5f W. C. .58⅘ Allow'ce 3 4 — 3 5³ 10⁸ JRenick w 111 f 58.15 77-14 Guam 116¹½ Hitem 116⁵ Burning Dream 111⁵
LATEST WORKOUTS: 6-5 Bel—3 f :35⅘ h. Tr. fst; 5-21 Bel—5 f 1.05 b. Tr. fst; 5-18 Bel—4 f :49 h. Tr. fst; 5-15 Bel—3 f :37 b. Tr. fst

ANTELOPE — Gr c, 2, by Okapi—Significant, by Royal Minstrel — Brookmeade Stable — H. L. Fontaine — (Brookmeade Stable) — 116 — 1944: 0 M 0 0 — 1943: 0 0 0 0 — Outrun 14
LATEST WORKOUTS: 5-30 Bel—5 f 1.02 h. Tr. fst; 5-27 Bel—4 f :50 b. Tr. my; 5-21 Bel—5 f 1.05 b. Tr. fst; 5-18 Bel—4 f :48⅘ h. Tr. fst

HUNTSMAN — Ch c, 2, by Isolator—Happy Gal, by Sir Gallahad III — Belair Stud — J. Fitzsimmons — (Belair Stud) — 116 — 1944: 0 M 0 0 — 1943: 0 0 0 0 — Outrun 14
LATEST WORKOUTS: 6-2 Aq—5 f 1.03 h. Tr. my; 5-30 Aq—5 f 1.02⅘ b. Tr. fst; 5-27 Aq—5 f 1.03⅘ h. Tr. my; 5-24 Aq—3 f :36 h. Tr. sl

5th Aqueduct

1 1-16 Miles. 3-year-olds. Allowances. Purse, $3,000

For non-winners of a sweepstakes or four races, Weights, 126 pounds. Non-winners of three races since April 7 allowed 4 pounds; two since then or three at any time, 7 pounds; those which have never won two races, 10 pounds; non-winners at a mile or over allowed 3 pounds additional.
Aqueduct track record, one mile and a sixteenth—Jacomar, 3, 111, 1.42⅘, June 15, 1940.

⊗LAWRINSON [65 Sp] — B c, 3, by Lawrin—Glister, by Sir Martin — W. A. Crawford — W. A. Crawford — (H. M. Woolf) — 113 — 1944: 11 0 0 3 — 1943: 10 1 0 1 — $1,125
LATEST WORKOUTS: 5 3 5²½ 8⁵ BStr'ge wb 113 111.25 77-13 Hoodoo 117¹½ Irish Tar 117⁵ Dustman 117⁴ — Outrun 12
29My44-5Bel fst 6f :22⅘ .47 1.12⅘ Allow'ce 4 4 — 14 14 13⁴ 12¹³ BStr'ge wb 113 63.45 78-15 JeanMiracle105⁵ ChanceMate115¹½ Enlistee103⁵ — No factor 14
24My44-3Bel my 6f :23 .46⅘ 1.12 D Allow. 10 7 — 7 6 5⁵ 6¹² AF'ch'r wb*111 7.60 77-14 Col.Steve113¹½ SuperMarines115⁵ TediousMiss103⁵ — No factor 7
19My44-2Bel fst 6f :23 .46⅘ 1.12½ Cl⁴$5000 1 1 — 7 7 6¹ 5¹⁰ AF'ch'r wb*111 45.70 84-10 Flying Doug 113⁸ Morani 116⁵ FriskyFire 111⁵ — Late foot 7
6My44-2Jam fst 6f :22⅘ .46 1.12⅘ Allow'ce 4 4 — 7 7 6¹½ 4⁸ AFisc'r wb*111 45.70 84-10 Flying Doug 113⁸ Morani 116⁵ FriskyFire 111⁵ — Outrun 12
2My44-3Jam fst 6f :24 .47⅘ 1.13⅘ D Allow. 4 4 — 9 9 10¹⁰ 8¹⁷ AFisch'r wb 115 17.50 78-14 Tarpan 117¹ Chance Mate 117⁵ Bud Grey 117⁵ — Outrun 8
24Ap44-4Jam sly 6f :23⅘ .47⅘ 1.12⅘ Allow'ce 3 7 — 7 5¹⁰ 6¹⁰ NJemas wb 117 10.50 74-21 Grant Rice 117¹½ Flying Doug 117⁴ Nursery Tale 117⁵ — Outrun 8
24Ap44-4Jam sly 6f :23⅘ .47⅘ 1.12⅘ Allow'ce 3 3 — 3 3 4³ 5⁴½ EArc'ro wb 117 14.30 81-14 Uncle Ace 117⁸ Sir Drake 117⁵ Free Lance 117½ — Impeded 8
14Ap44-6Jam fst 6f :24 .48 1.13 Allow'ce 3 1 — 8 3 4³ 5⁴½ EArc'ro wb 117 4-12 Jam—4 f .50⅘ b. Tr. fst 4-9 Jam—5 f 1.04 b. Tr. fst — Outrun 10
LATEST WORKOUTS: 5-18 Jam—3 f :39⅘ b. Tr. fst; 4-20 Jam—5 f 1.05 b. Tr. fst; 4-12 Jam—4 f .50⅘ b. Tr. fst; 4-9 Jam—5 f 1.04 b. Tr. fst

CAPTAINS AIDE [86 Sp] — B c, 3, by Quatre Bras II—Tenani, by Cariaris — Mill River Stable — Harris Brown — (Mill River Stable) — 119 — 1944: 6 2 0 0 — 1943: 8 3 1 1 — $2,960
18My44-7Bel fst 1 .46⅘ 1.11⅘ 1.37⅘ Allow'ce 4 10 10 10 10 10¹½ 8⁸½ PKelp'r wb 119 27.45 79-15 Johns Dear 106⁸ Leavenworth 116⁴ Tambo116⁵ — Outrun 10
9My44-3Bel fst 7f .23 .46⅘ 1.26⅘ Allow'ce 7 11 11 9 5 3¹½ 1¹ EArc'ro wb 117 16.85 79-17 Captains Aide 116⁵ Free Dance 116⁵ Yutan 116½ — Going away 13
28Ap44-6Jam gd 1⅛ 48⅘ 1.14⅘ 1.48⅘ Allow'ce 5 8 — 7 6 6¹½ 6¹⁰ CW'hl'r wb 126 f 8.20 56-14 Stir Up 126⁸ Stymie 126¹ Autocrat 126²½ — Outrun 8
22Ap44-5Jam fst 1⅛ 48⅘ 1.12⅘ 1.44⅘ Wood St. 7 6 6 6 8 8²⁰ 8³⁵ CW'hl'r wb 126 f 8.20 56-14 Stir Up 126⁸ Stymie 126¹ Autocrat 126²½ — Outrun 9
19Ap44-5Jam fst 1⅛ 48⅘ 1.13 1.43⅘ Allow'ce 4 9 9 8 9 9¹⁰ 9¹⁹ CW'hler wb 113 13.10 67-14 Stymie 113⁸ Olympic Zenith 120⁵ Fire Sticky 103ⁿᵒ — Outrun 9
13Ap44-2Jam fst 6f :23 .47⅘ 1.13⅘ CWah'r wb 113 *1.50 85-21 CaptainsAide 113²½ Slid'gHome 113²½ Oakford 119⁵ — Drew out 6
4My44-3Jam fst 6f :22⅘ .46⅘ 1.12⅘ SBrooks wb 108 7.20 69-15 StrongHold112⁵ WhoG'sThere 112⁵ LarkyDay116⁵ — No factor 6
14Jy43-5Jam fst 6f :23⅘ .46⅘ 1.13⅘ Stakes 8 8 — 8 7 8¹⁴ 8¹⁸ BoyKnight116ⁿᵒ CaptainsAide116¹½ Strongh'ld116⁵ — Game try 14
28Je43-3Jam fst 5½f .23 .46⅘ 1.06⅘ Md. Sp. W. 8 9 — 8 8 8¹⁰ 6²½ EArc'ro wb 117 f 3.60 82-13 Bold Knight 117⁵ Sir Drake 117⁵ Free Lance 117⁵ — Outrun 10
LATEST WORKOUTS: 6-5 Bel—4 f :49⅘ h. Tr. fst; 6-2 Bel—7 f 1.39⅘ h. Tr. fst; 5-29 Bel—4 f :52 h. Tr. fst; 5-17 Bel—3 f :37 h. Tr. gd

DUSTMAN [96 Sp] — Dk b g, 3, by Blenheim II—Blue Dust, by Gainsborough — Greentree Stable — J. M. Gaver — (Mare's Nest Stud) — 116 — 1944: 6 1 0 2 — 1943: 17 1 4 7 — $1,615
29My44-5Bel fst 6f :22⅘ .47 1.12 Allow'ce 7 8 — 8 8 4²½ 3¹½ EArc'ro wb 117 8.50 85-13 Hoodoo 117¹½ Irish Tar 117⁵ Dustman 117⁴ — Closed fast 13
20My44-5Bel fst 6f :23 .47 1.12 Allow'ce 6 9 — 9 9 7³ 6³ EArc'ro wb 117 5.15 88-14 Rolling On 115ⁿᵒ Lou-Bre 117⁵ Bull Dandy 117ⁿᵒ — Off slowly 9
13My44-4Pim fst 6f :22⅘ .47 1.13⅘ Allow'ce 10 3 — 4 4 5¹ 3¹ BTh'p'n wb 112 *1.30 71-26 Saraphara 107¹½ Wise Sue 107⁵ Dustman 112⁴ — Tired 7
5My44-4ChD my 6½f .24 .48⅘ 1.21⅘ Allow'ce 4 1 1 1 2 4½ 5⁷ EArc'ro wb 117 2.15 74-15 Free Lance 112⁵ Mustafa 120³ Pyracanth 113²½ — Stopped 6
20Ap44-6Jam fst 1⅛ 49 1.14⅘ 1.46⅘ Allow'ce 4 1 1 1 2 5 4½ 6³½ EArc'ro wb 117 3.25 78-14 Bull Dandy 117¹½ Frisky Fire 117⁵ Irish Tar 112⁵ — No excuse 8
14Ap44-6Jam fst 6f :23 .46⅘ 1.13⅘ Allow'ce 8 6 — 5 5 4²½ 4³½ EArcaro wb 119 3.70 70-20 BullWeed 119³ Cactus Foot 119ⁿᵒ BellSong 116ⁿᵒ — Cl. quarters 9
2Nov43-4Pim sly 6f :23½ .48⅘ 1.15⅘ Allow'ce 6 1 — 3 3 4²½ 5⁸ EArcaro wb 119 5-24 Bel—5 f 1.04½ b. Tr. gd 5-23 Bel—3 f :37⅘ b. Tr. fst — Outrun 8
LATEST WORKOUTS: 6-2 Bel—7 f 1.36½ h. Tr. fst; 5-27 Bel—4 f :48⅘ h. Tr. my; 5-24 Bel—5 f 1.04½ b. Tr. gd; 5-23 Bel—3 f :37⅘ b. Tr. fst

SUPPER DANCE [84 Sp] — Ch c, 3, by Supreme—Merry Dance, by Morvich — J. Graf — H. R. Duey — (W. S. Threlkeld) — **117 — 1944: 5 3 0 1 — 1943: 7 M 0 1 — $3,125
35My44-5Bel fst 1 .47 1.13 1.38⅘ D H'cap 6 7 7 8 7 5²½ 4³ WGer'k wb 115 12.90 78-14 Bric A Bac 109³ Romanock 112⁵ Step Across 109⁵ — Late foot 10
31My44-7Bel fst 7f .23½ .47 1.26⅘ D Allow. 6 10 11 11 11 7³½ 1¹ WGer'k wb*111 f 41.15 78-17 SuperDance 111¹ First Gun 101¹ Step Across 103¹ — Drew out 13
5My44-6Jam fst 1⅛ 49 1.14½ 1.47⅘ Allow'ce 10 5 5 6 5 4³ 3⁴½ WGer'k wb*117 39.45 69-15 Bound.Home118½ Pyrac'nth 122⁸ Sup'rD'nce117½ — Closed well 10
24Ap44-7Jam sly 1⅛ 50⅘ 1.17⅘ 1.50⅘ Cl⁴$2000 2 5 5 4 5 1¹ 1¹ FTh'k'r wb 113 4.30 61-21 S'perDance113⁴ H'lpW'n'dl110⁵ D'by Dr'c'le112ⁿᵒ — Going away 6
20Ap44-2Jam fst 6f :23⅘ .47⅘ 1.13⅘ Cl. $2500 5 2 — 6 5 8⁵ 7¹⁴ LLov'ge wb 113 26.35 82-15 Michigan Smart 113¹ Boiling On 108¹ Siriette 113ⁿᵒ — No factor 12
24Ap43-1Bel fst 5½f W. C. 1.05⅘ Md. 2000 11 9 — 7 4⁸ 3⁸ JW't'pe wb 117 10.75 80-13 Yodeler117ⁿᵒ CharmedLife117⁵ SupperDance117² — Closed well 22
24Sp43-1Bel fst 5½f W. C. 1.05⅘ Md. 2000 11 9 — 9 9¹½ 7⁴½ RMozer w 115 5.85 65-15 Campanula 117⁵ WoodSpirit 108⁵ Ellen's Chance 115² — Outrun 13
18Sp43-1Aq fst 7f .24 .48 1.28⅘ Cl. $2500 2 5 5 10 9 9¹½ 7⁴½ RMozer w 115 16.90 66-19 Triplicate 116¹ Magellan 116⁵ Mr. Pharned 116⁵ — Tired 7
14Sp43-4Aq fst 7f .24 .48⅘ 1.26⅘ M.Sp.W. 1 6 3 2 2 4³ 5¹³ JW'tropp w 116 7.85 80-14 Markobob 116½ Dry Good 116¹½ Play Grier 116ⁿᵒ — Outrun 12
3Sp43-1Aq fst 5½f .23½ .47⅘ 1.07⅘ Md. 4500 8 7 — 8 8 8 9¹½ 7⁴½ JWest'pe w 116 7.85 80-14 Markobob 116½ Dry Good 116¹½ Play Grier 116ⁿᵒ — Outrun 12
LATEST WORKOUTS: 6-4 Aq—1 m 1.45 h. Tr. fst; 5-31 Aq—4 f :53 b. Tr. fst; 5-29 Aq—4 f :51 b. Tr. fst; 5-23 Aq—4 f :53 b. Tr. fst

⊗SHUT UP [100 Rt] — Br g, 3, by Menow—Skelette, by St. Germans — H. Priddy — (H. P. Headley) — 122 — 1944: 7 1 1 1 — 1943: 16 2 3 2 — $3,775
23My44-4Bel fst 1 .46⅘ 1.11⅘ 1.37⅘ Allow'ce 5 6 6 6 6 6¹ 5⁵ LHaas wb 116 2.85 78-11 Freezout 117¹ Kopar 111⁴½ Spangled Game 116⁵ — Outrun 6
6My44-7ChD gd 1⅛ 47⅘ 1.12⅘ 2.04⅘ Ky. D'by 10 12 14 13 7 5³ 4²½ REcc'rd wb 126 f 7.70 81-12 Pensive 126⁴½ Broadcloth 126¹ Stir Up 126⁵½ — Late foot 16
26Ap44-6ChD fst 1⅛ 48⅘ 1.13⅘ 1.52⅘ Stakes 1 2 8 8 7 6ⁿᵒ 4²½ GSeabo wb 121 8.40 81-16 Skytracer 121⁴ Challenge Me120⁴½ ShutUp117⁴½ — Late foot 8
20Ap44-7ChD fst 1⅛ 48⅘ 1.13⅘ 1.52⅘ Allow'ce 9 7 7 7 7 7⁴ 5⁴ GSeabo wb 121 2.90 85-14 Bull-Buzzer 121³ Aforter 117⁴½ ShutUp 110¹½ — Closed fast 8
13Ap44-6Jam fst 1⅛ 46⅘ 1.10⅘ 1.37⅘ Ark. D'y 12 11 11 10 9 9¹¹ 2⁹½ REcc'rd wb 117 8.90 96-10 ChallengeMe120⁴½ ShutUp117⁴½ Bell-Buzzer117ⁿᵒ — Great rush 12
1Ap44-6Oak fst 1⅛ 46⅘ 1.10⅘ 1.50⅘ Ark. D'y 12 11 11 10 9 9 7 5 2½ 1² GSeabo wb 118 2.85 82-15 Shut Up 118² Real Short 112⁵ Four Deep 118⁵ — Going away 9
24Mr44-6Oak fst 1⅛ 48 1.13⅘ 1.46⅘ Allow'ce 8 7 7 3 3 3 5⁴½ 6⁸ WESn'r wb 113 6.15 84-12 M'rySunshine 108¹½ Bell-Bux'r 110ⁿᵒ Tex.S'ndman 102⁴ — Tired 10
18Mr44-5Oak fst 1⅛ 47⅘ 1.12⅘ 1.42⅘ Allow'ce 3 7 8 8 7 6 2¹ 1⁴ JL'gden wb 113 *0.40 85-14 Shut Up 113⁴ New Frontier 113⅓ Sir Date 113⁸ — Drew away 8
15Fe43-5BM fst 1 .47⅘ 1.13 Allow'ce 7 8 8 8 7 5⁸ 2⁸ HL'saw'l wb 110 f 14.15 84-13 Autocrat 114⁵ Shut Up 110⁸ Sirde 122⁴ — Finished fast 14
11Dc43-8BM fst 1 .47 1.12⅘ 1.38⅘ H'dicap 12 12 8 8 7 5⁸ 2⁸ HL'saw'l wb 110 f 14.15 84-13 Autocrat 114⁵ Shut Up 110⁸ Sirde 122⁴ — Finished fast 14
LATEST WORKOUTS: 6-5 Aq—4 f :50 b. Tr. fst; 6-2 Aq—1 m 1.43 h. Tr. fst; 6-1 Aq—3 f :37⅘ b. Tr. fst; 5-5 ChD—3 f :39 b. Tr. my

BOYSAN $2,500 [58 Sp] — Br g, 5, by Bel Aethel—Wa[illegible] — A. E. Carlton — J. H. Mc[illegible] — (Mrs. Josby Bros.) — 113 — 1944: 3 0 0 0 — 1943: 10 1 1 2 — $1,475
9My44-2Bel fst 7f .23 .47⅘ 1.26⅘ Cl. $2500 1 7 6 10 10 12³½ 9¹³ RM'rphy wb [illegible] 62-17 Romanock 118⁵ Sixteen Cents 116⁵ Tumult 119⁵ — Outrun 14
28Ap44-2Jam my 6f .23⅘ .48 1.14⅘ Cl⁴$3000 2 2 — 5 7 6³ 5⁴½ DDod'n wb 113 11.40 74-20 Boiling On 113²½ Siriette 117ⁿᵒ Tumult 119⁴ — No mishap 9
20Ap44-2Jam fst 6f .23⅘ .47⅘ 1.13⅘ Cl. $2500 6 1 — 1 2 3ⁿᵒ½ 10⁸ SYoung wb 113 67.60 76-15 Michigan Smart 113⁴ Boiling On 108¹ Siriette 113ⁿᵒ — Stopped 12
26Ap44-3Jam my 6f .23½ .49 1.16⅘ Cl. $2500 8 6 — 5 5 7⁸ 10²³ SYoung wb 114 6.70 49-32 Wing Tip 111⁸ Appeal Agent 112⁵ Gay Bugler Agent 114⁴ — Outrun 10
19Oc43-4Pim fst 1⅛ 48⅘ 1.14⅘ 1.47⅘ Cl. $2500 8 3 1 1 1 2⁴ 2½ SYoung wb 115 58.95 71-28 George Case 117¹½ Boyman 115½ Blue Sash 112¹ — Weakened 8
15Oc43-1Pim fst 6f .23 .47⅘ 1.13⅘ Cl. $1500 6 5 — 4 3 5³ 7¹⁴ SYoung wb 115 3.35 68-18 WoodSpirit114⁵ Leo'sLorraine109⁴ AppealAgent112½ — Stopped 12
28Sp43-1Aq fst 6f .23 .46⅘ 1.13 Cl. $3500 5 1 — 2 2 6⁴½ 10¹⁰ HLind'g wb 116 54.40 72-11 J.J.Lynch112⁸ HurricaneYank111ⁿᵒ Persiflage113ⁿᵒ — Tired 12
25Au43-1Bel fst 6f W. C. 1.12 Cl. $3500 4 9 — 10 10⁷ 11²⁴ JCavens wb 116 83.90 62-15 EbonyWave113⁵ FranciscMarion111½ N'ra'ryTale111⁵ — Outrun 12
11Au43-1Bel fst 6f W. C. 1.12 Cl. $3500 2 5 — 8 8⁷ 7¹² SYoung wb 116 17.35 69-14 EbonyWave113⁵ DarkMaiden114½ MoreWine116⁴ — No speed 8
LATEST WORKOUTS: 6-3 Aq—5 f 1.07 b. Tr. my; 5-31 Aq—3 f :37⅘ h. Tr. fst; 5-27 Aq—5 f 1.07 b. Tr. my; 6-20 Aq—5 f 1.03 h. Tr. fst

PLAY DUSTY $3,000 [70 Sp] — B g, 3, by Chance Play—Dustina, by Pompey — S. Bachrach — N. L. Ryer — (Calumet Farm) — 118 — 1944: 5 M 0 1 — 1943: 7 M 0 1 — $295
12My44-1Bel fst 7f .23 .47 1.25½ M.Sp.W. 9 3 4 6 8 9⁴½ 10¹⁰ JrPer'ne wb*111 22.35 72-20 Porpoise 116⁴ Sliding Home 116¹½ First Admiral 116⁵ — Outrun 14
4My44-1Jam fst 6f :23 .46⅘ 1.13 M.Sp.W. 5 2 — 4 5 6⁴½ 6¹½ FMash'k w 116 16.85 82-15 Gig 116ⁿᵒ Porpoise 116⁵½ Inspired 121⁵ — No mishap 11
27Ap44-1Jam my 6f :22⅘ .46⅘ 1.13⅘ Md⁴$2500 1 1 — 3 3 3² 3¹ RPerm'e w*118 *1.15 73-21 Hockey 113⁴ Sixteen Cents 113⁵ Play Dusty 118⁴ — Taken back 12
21Ap44-3Jam fst 6f :23⅘ .48⅘ 1.14½ M.Sp.W. 8 5 — 4 3 3¹ 6⁴½ SBrooks w 116 6.25 75-19 Yutan 116ⁿᵒ First Admiral 116⁵ Fleetlow 111½ — Tired 10
13Ap44-2Jam fst 6f :23⅘ .47⅘ 1.13⅘ M.Sp.W. 2 2 — 2 2 2⁸ 4⁸ RPerm'e wb*108 4.10 81-21 CaptainsAide113²½ Slid'gHome113½ Oakford119⁵ — Tired badly 6
11No43-4Jam fst 6f .24 .48 1.13⅘ Allow'ce 7 2 — 1 1 2¹½ 6³½ BStrange w 111 16.10 77-21 TiltTatToe116⁵ Bell-The-Cat 116⁵ Pyracanth113¹½ — Weakened 7
20Oc43-1Jam my 6f :23⅘ .47⅘ 1.12⅘ M.Sp.W. 11 4 — 5 2 2¹½ 3⁵½ EGuerin w 116 13.70 80-16 Irish Tar 116¹½ FindingHome 116⁵ Play Dusty 116² — Weakened 14
22Oc43-3Jam fst 6f :22⅘ .46⅘ 1.11⅘ Allow'ce 5 4 — 5 4 5¹ 4³ TatK'on wb 111 21.95 78-14 Okapi Lancer 116⁵ Lou-Bre 116⁵ Skytracer 116⁵ — No mishap 9
21Sp43-1Bel fst 6f W. C. 1.11 Cl. $5000 2 7 — 7 6²½ 5⁷ HL'db'g wb 111 38.20 84- 8 YourReward 116⁵ J.J.Lynch119⁵ BrickTop113²½ — No mishap 8
LATEST WORKOUTS: 6-5 Jam—4 f :53⅘ b. Tr. fst; 6-1 Jam—6 f 1.14⅘ h. Tr. fst; 5-29 Jam—4 f :51⅘ b. Tr. fst; 5-23 Jam—6 f 1.25 b. Tr. fst

HUTCH $3,000 [73 Rt] — B g, 3, by Gallant Fox—Lady Gibson, by Marvex — F. B. Codd — F. B. Codd — (Woodvale Farm) — 121 — 1944: 6 1 1 0 — 1943: 4 M 0 1 — $1,715
30My44-7Bel fst 1 .46⅘ 1.12⅘ 1.38 Allow'ce 8 9 9 9 10 9¹² 7¹⁴ HL'db'g wb 120 40.45 70-16 Jovine 111⁵ Porpoise 116⁴ Dora Dear 111⁵ — Outrun 12
18My44-1Bel fst 1 .48 1.13⅘ 1.39⅘ Md. 2500 6 8 — 4 4 1¹ 1¹⁴ HL'db'g wb 120 *1.60 77-15 Hutch 120⁵ May Wine 120½ Copy.Boy 120⁵ — Going away 14
12My44-1Bel my 7f .23 .47 1.25⅘ M.Sp.W. 6 11 10 11 10 10⁴½ 7⁸ HL'db'g wb 116 20.60 76-20 Porpoise 116⁴ Sliding Home 116¹½ First Admiral 116⁵ — Outrun 14
8My44-2Bel gd 6f .23⅘ .48⅘ 1.13⅘ M.Sp.W. 10 5 — 6 4 5²½ 4⁵ HL'db'g wb 116 5.10 77-29 Sorisky 116¹½ Jean Miracle 116½ Magellan 116⁵ — No mishap 14
1My44-1Jam fst 6f :23⅘ .47⅘ 1.14⅘ Md. 3000 5 5 — 4 1 1⁵ 2⁸ HL'db'g wb 120 3.25 78-17 Romanock 117⁵ Hutch 120⁵ Velikie Luki 120² — Hung 10
24Ap44-1Jam sly 6f .23⅘ .48 1.14⅘ D Allow. 5 4 — 4 4 8⁸ 8¹⁰ HL'db'g wb 113 32.15 71-21 Chance Mate 113² Step Across 103²⁰ Enlistee 113⁸ — Quit 8
8Jy43-1Jam fst 5½f .23⅘ .47⅘ 1.07⅘ Cl. $1750 2 4 — 4 5 5⁸ 5¹⁰ CM'Cr'y wb 114 2.55 73-18 Knight'sArmor119⁴T'wnGall'n111⁸½ MayalTintly114⁷½ — Outrun 7
LATEST WORKOUTS: 5-4 Jam—1 m 1.47 b. Tr. fst; 5-29 Jam—4 f :50⅘ b. Tr. fst; 5-26 Jam—1 m 1.47 b. Tr. my; 5-23 Jam—4 f :53⅘ b. Tr. fst

GUNFLASH $2,500 [63 Rt] — B g, 5, by Pilate—Carbina, by Supremus — L. Eichler — L. Eichler — (A. S. Hewitt) — 108 — 1944: 12 1 0 2 — 1943: 14 2 2 1 — $1,230
26My44-4Bel my 1⅛ 47⅘ 1.14⅘ 1.48⅘ Cl. $2000 8 7 6 6 4 3¹½ 3¹⁰ EH'sl't wsb*109 12.20 58-21 SammyAngott 120¹⁰ HelloBill 113⁴ Gunflash 109⁷ — Hung 8
22My44-2Bel fst 1 .46⅘ 1.12⅘ 1.39⅘ Cl. $2500 5 8 7 5 5 6⁷ 6³½ FPal's wb 111 24.35 67-15 Mich.Smart 118¹½ Sutton Place 118ⁿᵒ Still Life 118¹ — No factor 8
18My44-2Bel fst 7f .23 .47 1.26⅘ Cl. $2500 3 9 9 10 11 8⁴½ 6⁴ SBro'ks wb 110 23.10 77-20 King of Castle 112³ Global 117¹½ Tumult 117⁵ — Outrun 10
5My44-2Bel fst 1⅛ 47 1.12⅘ 1.46 Cl. $2500 7 6 5 5 7 8⁴½ 9¹⁰ SBro'ks wb 112 23.10 77-20 King of Castle 112³ Global 117¹½ Tumult 117⁵ — Outrun 10
26Ap44-7Jam fst 1⅛ 48⅘ 1.14⅘ 1.49⅘ Cl. $1500 6 6 6 5 4 5⁴½ 3⁴ SBro'ks wb 112 11.15 60-19 Sunamit 116⁴ Weapon's Pride 112¹ Gunflash 112⁵ — Went wide 8
21Ap44-7Jam fst 1⅛ 48⅘ 1.14 1.48⅘ Cl. $1500 7 7 6 6 6 6⁸ 6¹¹ TAtki'n wb 114 10.05 59-19 Busy Madeline 109⁸ Sunamit 117⁵ Wise Step 114⁵ — Outrun 9
1Ap44-3TrF fst 1⁰⁸ 48⅘ 1.13⅘ 1.44⅘ Cl. $2000 4 4 6 6 6 6²⁰ 6¹⁰ WRic'd wb 109 24.85 63-14 Miss Reward 106⁸ Rose Canyon 111ⁿᵒ Say Miss 101⁴ — Outrun 7
22Mr44-1TrF fst 6f :22⅘ .45⅘ 1.11⅘ D Allow. 6 6 — 8 8 8¹⁹ 8¹⁶ WEads wb 111½ 49.45 77-10 Thankful 112⁵ Ray G. 114²½ Night Bomber 106⁴³ — Trailed 8
LATEST WORKOUTS: 4-6 TrF—5 f 1.06 b. Tr. fst

KNIGHT'S ARMOR $2,600 [63 Sp] — Dk b g, 3, by Sir Gallahad III—Fleam, by General Lee — H. Phillips — A. Byer — (A. B. Hancock) — 114 — 1944: 2 0 0 0 — 1943: 19 1 1 1 — $1,480
2Jo44-5Bel fst 1 .47⅘ 1.12⅘ 1.37⅘ D Allow. 4 6 5 9 10 10¹⁰ 10¹⁶ SYoung w 114 214.30 50-16 Porpoise 114⁵ Step Across 113⁵ Yutan 109⁵ — Outrun 10
29My44-5Bel fst 6f :22⅘ .47 1.12⅘ Allow'ce 6 11 — 10 10 9⁷½ 9¹³ ASnider w 113 329.05 75-13 Hoodoo 117¹½ Irish Tar 117ⁿᵒ Dustman 117⁴ — Outrun 12
21Oc43-1Jam fst 6f :23⅘ .47 1.14 Cl. $2500 2 6 — 5 5 5⁸½ 5⁹ OGrohs wb 116 4.95 73-16 Kenty Boy 116⁵ Our Birthday 122⁵ Michig.Chevy 116⁵ — Outrun 7
13Oc43-1Jam fst 6f :23⅘ .47⅘ 1.13⅘ Cl. $2000 3 3 — 4 4 4⁴½ 3⁴ OGrohs wb 114 9.75 80-22 YesIDid109⁸ Mich.Chevy113ⁿᵒ Knight'sArmor113½ — Good effort 7
8Oc43-1Bel fst 6f W. C. 1.11 Cl. $2500 1 1 — 7 6⁴ 6¹³ TatK'on wb 111 19.50 78- 8 Tinchel 111⁵ Scared Cards 103⁸ Big Raid 113⁴ — Outrun 11
29Sp43-2Bel fst 1 .47⅘ 1.12⅘

65

Exhibit S-66.

(Opposite ☞)

UNIMPRESSIVE COLT HALTS PENSIVE

SELECTIONS AT AQUEDUCT

MONDAY, JUNE 5, 1944

Compiled by JAMES TROMBETTA

QUIET SHOT, 4th Race — YANKEE GIRL, 7th Race
Longshot Possibility—MOTIE BRAND, 1st Race

In considering the ratings each four points is the equivalent to one length. v Fair mudder xx good mudder xxx superior mudder.

FIRST RACE (1:15)—5½ furlongs, purse $2,300, claiming, two-year-olds.

8	MOTIE BRAND	116	May	15-1	100	Hiding behind good ones
7	Army Rest	114	Longden	6-1	96	Raced well in last one
6	Bee Twentynine	112	No Boy	4-1	94	Won last driving gamely
5	Juno	112	No Boy	6-1	93	Beat maidens, ridden out
4	Seven-O-Five	116	No Boy	6-1	90	Had speed, but tired
3	Flight Nurse	115	Atkinson	6-1	90	Just lasted at Jamaica
2	Gallantly	120	Arcaro	3-1	88	Won other day driving
1	Meangein	116	Thacker	4-1	88	Was well regarded in last
9	Park Heights	116	No Boy	20-1	75	Backed well; disappointed

Coupled (Meangen and Bee Twentynine).

SECOND RACE (1:43)—Seven furlongs, purse $2,000, claiming, three-year-olds.

7	BUSY MADELINE	108	No Boy	5-1	100	Freshened up; seems best
8	Zufelt	113	Zufelt	2-1	97	Slow breaker, fast closer
1	Test Flight	118	Thacker	4-1	95	Dangerous on 1943 best
3	More Wine	113	No Boy	20-1	90	May better this rating
5	Merrimac	106	Flynn	12-1	89	Has speed; may improve
6	Thrunthru	113	Guerin	8-1	88	Disappoints too often
4	Hero Mine	113	Yacuma	20-1	75	Badly outrun both starts
9	Barbara's Girl	108	Atkinson	15-1	74	Has speed; may better this
2	Chickmere	108	No Boy	30-1	70	All attempts poor

THIRD RACE (2:15)—About two miles, purse $2,000, The Delcanzia Steeplechase, four-year-olds and upwards.

1	ARMISH	141	Walker	4-1	.. Has a slight edge here
2	Kremon	148	Owen	4-1	.. Won last; dangerous
6	Bill Coffman	144	Roberts	6-5	.. Pulled up last one
7	Good Chance	152	Roberts	6-5	.. Steady veteran when right
4	Lechlade	146	Cruz	6-1	.. Away since last year Aqu.
3	Beneksar	143	No Boy	15-1	.. Tralled at Pimlico
5	Equirita	143	Harrison	8-1	.. From a good barn; wake up

Coupled (Bill Coffman and Good Chance).

FOURTH RACE (2:45)—5½ furlongs purse $2,500, maiden fillies, two-year-olds.

1	QUIET SHOT	110	Permane	5-2	100	Game filly; seems best
2	Nuala	115	Arcaro	7-2	96	Contender on recent form
6	Sea Floe	115	Atkinson	8-1	94	Disregard last; better
5	Wemite	115	Longden	4-1	93	Factor throughout in last
3	Sand Castle	115	No Boy	8-1	90	Badly outrun in both starts
8	Peacock Lady	115	No Boy	30-1	80	Badly outrun in only race
7	Miss Kay Cee	115	Guerin	30-1	90	Trailed in only attempt
9	Psychist	115	Lynch	20-1	70	Trailed only start
4	Singing Bid	115	Renick	20-1	..	This may be a good one

Coupled (Psychist and Singing Bid). (Sea Floe and Sand Castle).

FIFTH RACE (3:15)—Six furlongs, purse $3,000, The Astarita, Class C, three-year-old fillies.

10	DORA DEAR	103	Permane	6-1	100	Sluggishly; was taken up
2	Good Thing	112	Zufelt	6-1	95	Won last impressively
1	Peppy Miss	112	Renick	4-1	94	Always well there
4	Boiling On	112	Lindberg	4-1	92	Improved filly; chance
5	First Gun	101	Garza	10-1	90	All races excellent
8	Nances Ace	112	Claggett	6-1	90	Occasional good try
3	Smart Lookin	112	No Boy	20-1	84	One good race at Jamaica
11	Miss Drummond	112	Guerin	10-1	84	Has speed, but weakens
9	Bold Anna	112	Arcaro	12-1	84	Raced well at Jamaica
7	Scotch Mound	108	No Boy	30-1	70	Showed little last year
9	Fire Sticky	112	Atkinson	10-1	70	Occasional good one

SIXTH RACE (3:45)—1 1-16 miles, The Queens County Handicap, purse $10,000 added, three-year-olds and upward.

1	ALQUEST	120	Lindberg	4-1	100	Sparkling race in Suburban
10	Alex Barth	117	Guerin	8-1	95	Much improved; chance
9	Bossuet	122	Woolf	4-1	93	Sharp colt; may surprise
4	First Piddle	116	Longden	5-1	92	Won last one; fast and game
3	King's Abbey	113	Zufelt	10-1	90	Now ready for best
8	Famous Victory	108	McCreary	10-1	90	Has a good one to guess
2	Tola Rose	106	Mehrtens	6-1	89	Nicely weighted
6	Great Rush	108	Lynch	15-1	88	Seems overmatched
5	Bourmount	110	Lynch	15-1	88	Only race 1944 fair

Coupled (Bourmount and Great Rush).

SEVENTH RACE (4:15)—1⅛ miles, purse $2,700, The Rockaway, Class D, four-year-olds and upward.

7	YANKEE GIRL	103	Permane	5-2	100	Rare form; badly ridden
8	Strategic	113	Lindberg	4-1	94	Improves with every race
6	Fuego	114	Thacker	4-1	92	Steady racer; overdue
5	Arrow Rock	113	McCreary	10-1	90	Dangerous on 1943 best
d	Great Rush		Longden	4-1	89	Inexcellent; too far
1	Spoon Bread	114	Flynn	20-1	80	Outrun both tries Belmont
2	Tela Maude	113	Maschek	30-1	70	Raced fairly well at Jam.
3	River Wolf	113	No Boy	30-1	70	Seems a hopeless case

EIGHTH RACE (4:45)—1⅛ miles, purse $2,500, claiming, three-year-olds and upward.

5	IS I IS	108	Permane	4-1	100	Showed marked improvement
4	Pharlen	100	No Boy	5-1	97	Contender on race Friday
1	Sling Pal	117	No Boy	6-1	95	Didn't like mud last two
2	Mustafa	101	McCreary	4-1	93	Back where he may better
8	Air Beauty	108	Brooks	8-1	90	Has early speed
7	Good Strymie	109	Mills	6-1	89	Picks up 13 pounds
6	Blue Nose	114	Thacker	20-1	80	Been jumping, fair flat

FOR SELECTIONS AND RATINGS DURING THE WEEK APPLY TO JAMES TROMBETTA, Room 925, 152 West 42nd Street, New York City, or Telephone Wisconsin 7-8681.

'Sentiment Out,' Says Rickey Of Ostermueller Action

By JOE JAMES CUSTER
(United Press Staff Correspondent)

President Branch Rickey of the Dodgers, defending his action in waiving Pitcher Fritz Ostermueller out of the National League, said Saturday that "sentiment will have to go out of the window if it interferes with bringing a winning team to Brooklyn."

Rickey, bitterly criticized by Ostermueller, who had only six weeks to go before becoming a 10-year man in the majors, said he had made no undue effort to obtain waivers on either Ostermueller or Pitcher Bill Lohrman, both of whom were sent to Syracuse.

Neither player reported to the International League club, which promptly sold both of them back into the National League, Ostermueller going to the Pittsburgh Pirates and Lohrman to the Cincinnati Reds.

2 Hurlers Plus $20,000

"As a matter of fact, we not only gave up the two pitchers, but put in $20,000 to get Outfielder Goodwin Rosen in the deal with Syracuse, Rickey said.

Officials of the Syracuse club did not disclose the sale price of either player in their negotiations with Pittsburgh and Cincinnati.

Ostermueller, who protested the deal to Judge K. M. Landis, high commissioner of baseball, said he was certain that the Pirates had refused to waive on him earlier this season and that there was no reason why they should have done so later.

Corsairs Were Interested

Rickey admitted the Pirates were interested in Ostermueller, but said they wanted to trade "an infielder who couldn't run" when waivers previously were asked.

Meanwhile, he said, the Pirates lost interest because they acquired Pitcher Ray Starr from the Cincinnati Reds.

"I've heard it said I cut corners in this deal," Rickey said. "Well, I wasn't thinking of Ostermueller at all. I was thinking of the Dodgers. I don't owe this pitcher anything. From the time he reported to us last July we paid him $5,000. I haven't anything to do with his American League record and the fact that he was on the verge of being a 10-year man."

LEGAL NOTICE

At a Special Term, Part 2 of the City Court held in and for the County of New York at the Courthouse, 52 Chambers Street, in the Boro of Manhattan, City of New York, on the 31st day of May, 1944. Present:

HON. JOHN A. BYRNES,
Chief Justice.

In the Matter of the Application of SEYMOUR ROSENBERG and JEAN ROSENBERG for leave to change the names of HARVEY PEATE and JEAN PEATE.

Upon reading and filing the petitions of Seymour Rosenberg and Jean Rosenberg, duly verified the 31st day of May, 1944, praying for leave to change the name of petitioners to Harvey Peate and Jean Peate, and it appearing to the Court's satisfaction that there is no reasonable objection to the change to the names proposed, it is

On motion of S. Louis Soss, attorney for petitioners,

ORDERED that Seymour Rosenberg and Jean Rosenberg be and they hereby are authorized to assume the names of Harvey Peate and Jean Peate on and after the 10th day of July, 1944, upon condition that they comply with the further provisions of this order, namely, that this order and the papers upon which it is granted be entered and filed within 10 days from the entry hereof in the office of the Clerk of this Court in New York County; that a copy of this order be published in the New York Enquirer within 10 days from the entry hereof and that within 40 days from the making of this order, proof of publication be filed with the said Clerk, and further, that a copy of this order and the papers upon which it is granted be served upon the Chairman of Local Board No. 272, at No. 163-07 Depot Road, Flushing, N. Y. by registered mail, and upon the Bankruptcy Clerk of the U. S. District Court, Southern District, personally, within 20 days after it is entered and proof of service shall be filed with the said Clerk of this Court within 10 days thereafter, and it is further

ORDERED that upon compliance with the foregoing, on and after July 10th, 1944, petitioners shall be known by the names of Harvey Peate and Jean Peate.

ENTER
J. A. B.,
Chief Justice of the City Court of the City of New York, New York County.

June 5, 1944.

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Castleman at $4.20 Tops at Delaware Pk.

STANTON, Del., June 4. — Max Marmorstein's chestnut four-year-old Castleman took command going to the stretch turn to defeat Sea Marriage by four lengths Saturday in the seventh running of the $5,000 added Brandywine Handicap at Delaware Park, before approximately 12,000 fans.

The favorite in the mile and one-sixteenth feature, Castleman gained his second victory in as many starts at Delaware in the event. Timed in 1:47 flat for the spin, he brought $4.20, $2.70 and $2.30. Sea Marriage, moving up to second in the stretch, paid $4.80 and $3.20, and Omission yielded $3.40 for third.

Marmstein took the $4.550 purse in War Bonds, presenting $500 to Trainer James McGee and $500 to Jockey John Breen, up on the victor.

Probable Pitchers

(All teams play two games)

AMERICAN LEAGUE

New York (Dubiel 3-3 and Page 4-1) at Cleveland (Reynolds 4-5 and Harder 5-1)—1:30 p. m. EWT.

Boston (Johnson 0-2 and Terry 0-5) at Detroit (Trout 6-4 and Gentry 2-4)—1:30 p. m. EWT.

Philadelphia (Newsom 3-4 and Harris 4-3) at St. Louis (Galehouse 0-1 and Jakucki 3-1)—1:30 p. m. CWT.

NATIONAL LEAGUE

Pittsburgh (Ostermueller 2-1 and Sewell 7-2) at New York (Pyle 4-3 and Voiselle 5-6)—2:05 p. m. EWT.

Chicago (Derringer 2-6 and Erickson 1-2) at Brooklyn (Gregg 6-4 and Flowers 1-1)—2:05 p. m. EWT.

Cincinnati (Shoun 4-1 and Carter 1-0) at Boston (Barrett 4-6 and Andrews 4-4)—1:30 p. m. EWT.

St. Louis (Schmidt 0-0 and Gumbert 2-2) at Philadelphia (Schanz 4-3 and Lee 2-1)—1:30 p. m. EWT.

Bold Salute Wins at $4.40

BOSTON, Mass., June 4.—Fred Lansburgh's Bold Salute came on in the final 60 yards to head Reaping Glory by a length and three-quarters in the ninth running of the $5,000 added Paul Revere Handicap at Suffolk Downs Saturday before 20,558 fans.

Favored among a band of six in the mile and a sixteenth feature, the four-year-old red chestnut colt stepped the distance in 1:45 flat and paid $4.40, $3.00 and $2.40.

Mrs. H. P. Bonner's Reaping Glory, taking command approaching the stretch turn, led through the stretch and finished two lengths ahead of Son of War. Reaping Glory brought $4.20 and $3.00 and Son of War yielded $3.00 for third. Goober Lad set the early pace, but reached the tape last.

Harry Budd Selections

AT AQUEDUCT

First Race—Gallantly, Bee Twentynine, Juno.
Second Race—Tory Row, Busy Madeline, Test Flight.
Third Race—ill Coffman, Good Chance, Ahmisk.
Fourth Race—Quiet Shot, Wemite, Nuala.
Fifth Race—Good Thing, Boiling On, First Gun.
Sixth Race—Bossuet, First Fiddle, Alquest.
Seventh Race—*YANKEE GIRL, Tragic Ending, Strategic.
Eighth Race—Pharlen, Mustafa, Is I Is.

AT SUFFOLK DOWNS

First Race—Argos, Dark Mischief, Par Avion.
Second Race—Eternal Chance, Garter, Astrore.
Third Race—Titian Miss, Sage, Valdina Irene.
Fourth Race—Woof Woof, Up The Creek, Lightfoot Lee.
Fifth Race—Royal Flush, Defense, Tetra Rock.
Sixth Race—Windmill, Half Smart, Ballacolas.
Seventh Race—High Name, Kantar Run. Accord.
Eighth Race—Arabesque, War Communique, Helen Mowlee.

AT LINCOLN FIELDS

First Race—Loyal, Wise Don, Chance Game.
Second Race—Wrightwood, Bonalita, Old Kentuck.
Third Race—Blue Skimmer, So Sure, Hepcat.
Fourth Race—Valdina Love, Gal Ann, Cantata.
Fifth Race—*ST. LOUIS JOCK, F. S. Muns, Country Boy.
Sixth Race—Brief Sigh, Sameron, Twixt.
Seventh Race—Cobbeggo, Soverton, Bold Captain.
Eighth Race—Strength, Tusco, Gentle Savage.

AT DELAWARE PARK

First Race—O'Keating, Jetsione, Boonyard.
Second Race—Hippomenes, Marogay, Ask Aunt Ada.
Third Race—*WESLEY A., Becomly, Ecomint.
Fourth Race—*FREDDIE'S PAL, Jacforay, Boutai.
Fifth Race—Phantom Player, Fold Under, Pumpgun.
Sixth Race—Adelphia, Spirit Level, Annikin.
Seventh Race — O'Baladier, O'Goody, Say Miss.
Eighth Race—Dudie, Scarcanter, Prospect Boy.

*Star rated selections.

* * *

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THURSDAY, JUNE 1ST
DUSKY DUKE $13.00 WON
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WEDNESDAY, MAY 31ST
ALFORAY $ 5.70 WON
IRON SHOT $ 9.50 WON

TUESDAY, MAY 30TH
QUIZZLE $32.60 WON
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MONDAY, MAY 29TH
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Vitamins Aid Mel Ott Make The 'Homers'

By GLEN PERKINS
(United Press Staff Correspondent)

Manager Mel Ott, hitting homers at a pace close to Babe Ruth's record year of 1927, is giving the New York Giants the "shot in the arm" they needed to be pennant contenders, and that, in turn, is just what he is getting every day from a doctor who believes he has a vitamin deficiency.

Ott hasn't any way of knowing for sure, but ever since he started receiving the daily injections he has been bombarding the bleachers with homers.

Moreover, if he hadn't been out of the lineup for nine games with "that run down feeling," he might now be ahead of the great Ruth's 1927 pace in which he hit 60 home runs.

Good Average

Ott has played in 30 full games and has hit 12 homers, an average of one in every two and a half contests. He isn't likely to threaten Ruth's record because he doesn't expect to play every day and because he is now in his 20th big league season and neither the old legs nor the eyes are as fast or sharp as they used to be.

However, since May 21 when Ott put himself back in the lineup as an emergency measure to replace the injured Johnny Rucker, he has hit nine home runs and he thinks it no mere coincidence that he started taking the vitamin shots at the same time.

Solid Smashes

Moreover, his blows are the solid line smashes that go into the right field stands on the rise and only one or two have been the "cheap" variety usually hit into the short boundaries of the park.

The remarkable thing about the whole business is that Ott wouldn't be playing if he had a consistent hitter who could take his place. He had admitted when the team started the season that he probably wouldn't fill out the year as a playing manager.

If he does, he has an excellent chance to top his 1929 record of 42 homers in 150 games. Currently he is far ahead of his pace in that year, despite the fact that he was riding the bench for nearly two weeks.

The rest of the team has reflected his own success. The pitching is steadier, the fielding more certain and the hitting more timely.

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BOY O BOY!

We have PLENTY OF GOOD NEWS for you! Are you going to the races TODAY? Then GO WITH AN EDGE as WE ARE GOING to give you the "CUE" to

8 Gigantic Events At Aqueduct Today!

GO TO IT WITH FULL CONFIDENCE! Send it in to the "COLS" or if you play at home let "MR. BOOKMAKER" have it right on the nose. Why should you be the PAYEE? START SMILING and be on the RECEIVING END! Right off the reel we start you off with

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8 AQUEDUCT "GOOD THINGS" AWAITING YOU TODAY!

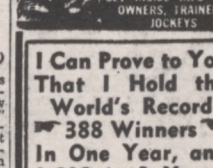
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9 OUT OF 12 WINNERS

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After the 6th race at Belmont Fri., June 2nd was final—
STICKY KITTY WON PAYING $24.50

My friends, that's what you call
INSIDE INFO

This coming week we again anticipate Big Doings.

A LITTLE SECRET Too Good To Keep

Mon., June 5th
CLOCKER SAM
phoned me to be ready for
2 SURE WINNERS

WED., JUNE 7th
how would you like to Win a
75 TO 1 PARLAY?

Fri., June 9th
in addition to the parlay we are releasing our
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9 WINNERS

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TRIPLE CROWN TRY DEFEATED BY LONGSHOT

By OSCAR FRALEY
(United Press Staff Correspondent)

The bid of Calumet Farm's Pensive for racing's coveted triple crown was ruined Saturday by Bounding Home, an unimpressive little brown colt who finally lived up to his name by taking the $50,000-added Belmont Stakes with a whirlwind finish.

Adopting the tactics that had carried Pensive to victory in both the Kentucky Derby and the Preakness and made him a favorite for the Belmont, Bounding Home scooted past the Calumet color-bearer as they turned into the stretch and then fought off the triple-crown seeker for a one-half length victory. Mrs. Donald Peters' Bull Dandy was a surprise third.

William Ziegler's winner was caught in 2:31.1—unimpressive time—as he flashed his purple and red silks under the wire at the end of the mile and a half test, with jockey Gail Smith riding frantically. Bounding Home's triumph over his six rivals netted $34.70, $8.20 and $5.80 for his backers in the crowd of 34,233 that witnessed the 76th running of the classic. Pensive paid $2.90 and $2.60 while Bull Dandy returned $19.30.

Worth $55,670

The victory was worth $55,070 to the Ziegler Stable and boosted Bounding Home's earnings as a three-year-old to $60,945 and total two-year earnings of $62,250. Pensive netted $10,0000 for second money, Bull Dandy got $5,000 for third and fourth place was worth $2,500 to George D. Widener's highly-regarded Who Goes There, winner of the Withers Mile.

Crispin Oglebay's Boy Knight took the lead as they broke from the gate followed by Who Goes There, Bull Dandy, Wheatley Stable's Free Lance, Bounding Home, Pensive and Widener's Platter, who was second in the Preakness and highly-regarded as an entry with Who Goes There to win the Belmont.

When they hit the half-mile mark, Who Goes There, a good front runner, had taken a two-length lead with Boy Knight second by four, Bounding Home now third by one and one-half, and Pensive fourth by a half.

Pensive's Bid

At the mile, it still was Who Goes There, now only by a length as Conn McCreary made an earlier bid than usual aboard Pensive and took over second by a half length ahead of Bounding Home. At the mile and a quarter, McCreary had pushed the Calumet colt out to the front by a length and it looked like Pensive would be the seventh horse in turf history to win the triple crown. But another length back of the second place Who Goes There was Bounding Home with Smith calmly biding his time. Rounding int othe stretch, he started his bid.

A wild rush carried him past Who Goes There and Bounding Home ranged up alongside the straining Pensive. There was no daylight between them as they barrelled down those final yards and at the wire it was Bounding Home by a half length, with the third place Bull Dandy another eight lengths back.

Four lengths away came Who Goes There in fourth place by a length, with Platter fifth by three, Free Lance sixth by seven and Boy Knight seventh.

McCreary, robbed of an almost certain triple crown by the outsider Bounding Home's surprising triumph, said he thought he had rated Pensive perfectly and moaned: "Why do these things happen to me?"

Smith admitted that Bounding Home had "little left at the end—but we won, and that's all that counts."

Bushwicks Take On Grays Friday Night

On Friday night the Bushwicks will play host to the Homestead Grays, world's Negro champions, in an arclight contest. The Grays are the only team last season who were able to take a clean sweep from the Dexters. They captured five games in all.

Sunday Double-Header

The New London Electric Boat Diesels Athletic Club, one of the strongest teams from the Nutmeg State, will meet the Bushwicks in a double-header on Sunday afternoon. Last season these teams met in three games, with two of them going to the Diesels. They played part of a three-team double-header and were the victors.

Rubber is vital for victory. Turn it in.

$24.50
STICKY KITTY

This was the advertised FRIDAY LONGSHOT SPECIAL which was received by all clients of "Longshot" Murphy last Friday, June 2nd, at Belmont. But that's not all. The same day,

$34.80
ROUGH COMMAND

at Suffolk won for the "Longshot" Murphy customers. In addition "Longshot" picked the Daily Double at Suffolk of ROUGH COMMAND and THREECENT, paying $50.60. On Wednesday, May 31st, at Belmont, "Longshot" Murphy gave his clients

$27.00
PORTER'S CAP

It was a banner week for all the "Longshot" Murphy followers. Here are the FOUR PIGURE WINNERS they received from Monday, May 29, to Saturday, June 3rd.

ROUGH COMMAND	$34.80
PORTER'S CAP	$27.00
STICKY KITTY	$24.50
CAB SIR	$20.00
JAKAJONES	$18.00
SUNTEGRA	$15.80
MINTLOCK	$15.60
LONE FLAME	$12.40
MARY ALICE	$10.40

AQUEDUCT SPOT PLAY

Here is one that "Longshot" Murphy has ready for Opening Day at Aqueduct. It will be listed as a SPOT PLAY and should WIN at a Big Price.

SUFFOLK TOP PREFERRED

On Wednesday "Longshot" Murphy will select a special at Suffolk which will be listed as a TOP PREFERRED and which should WIN and pay at least a FOUR FIGURE MUTUEL.

FRIDAY LONGSHOT

Just like last Friday when the advertised LONGSHOT STICKY KITTY won paying $24.50, "Longshot" Murphy has another Longshot set for this Friday at Aqueduct. It should be a BIG PRICED WINNER.

JOIN "LONGSHOT"

by acquiring the "LONGSHOT" CARD sheet at subjoined Newsstands. or by WEEKLY SUBSCRIPTIONS this very day.

TWO RACE TRACK FIELDS FIGURATED DAILY. ONE SPOT & TWO BEST BETS DAILY EACH RACEWAY.

NEW YORK "MURPHY'S DAILY RATINGS CARD"
50c Copy Copy 50c
Per Week Overnight Mail $2.50 advance

BEWARE OF FAKERS

In order to be sure that you get the authentic "LONGSHOT MURPHY DAILY RATINGS" buy your copy only from the followins authorized newsstands BEWARE OF FAKERS.

(Newsstand Open Day & Night)

MANHATTAN — Subway Entrance Newsstand, 1457 Broadway and 42nd Street; Subway Entrance Newsstand, N. E. Cor. 42nd Street and Eighth Avenue; 15 Wall Street; BROOKLYN.—Herman's Newsstand, DeKalb Ave. & Flatbush Ave. Ext., King's Newsstand Atlantic & Flatbush Aves.; 476 Saratoga Ave.; 333 Wyckoff Ave.; 6803 3rd Ave., SUNNYSIDE, L. I.—45-02 48th St.; JAMAICA.—Lustig's, Sutphin Blvd. & Jamaica Ave.; ASTORIA, L. I.—31-10 B'way.; YONKERS.—70 Main St.; NEW HAVEN, CONN.—Nodelman's, 104 Church St.; NEWARK.—Krasner, Broad & Market; BRIDGEPORT, CONN.—Miller Ross, State & Main; PHILADELPHIA.—N.W. Cor 52nd St. & Market.

"LONGSHOT" MURPHY
King of the Ratings Handicappers
17th Season on the New York Raceways
336 WEST 46TH STREET, NEW YORK, N. Y

Exhibit S-67.

Bag containing numerous sheets similar to S-13.

Exhibit S-68.

Book identical to S-16. Also contained therein was a standard auto policy in the name of Eugene V. Lewis as well as slip similar to Exhibit S-13 and 2 slips similar to S-61.

Exhibit S-69.

Newspaper clipping showing dates of race track openings.

Exhibit S-70.

Telephone Box.

Exhibit S-71.

Telephone Box.

Exhibit S-72.

Telephone Box.

Exhibit S-73.

Cable box.

Exhibit S-74.

Telephone Cable Box.

Exhibit S-75.

3 Batteries.

Exhibit S-76.

Suit of Clothes.

Exhibit S-77.

Box containing pads of blank checks with name of James A. Lewis printed thereon.

Exhibit S-78.

6 envelopes, 4 inscribed "James Lewis, personal"; 1 inscribed "James A. Lewis, personal"; one blank envelope all containing sheets similar to Exhibit S-13. Also loose sheets dated June 1-8, 1944 inclusive, similar to S-13.

New Jersey State Library

Exhibit S-79.

Brown overnight traveling kit bag initialed "J. A. L."

Exhibit S-80.

Black overnight kit bag initialed "J. A. L."

Exhibit S-81.

Pads of blank checks with the name "Eugene V. Lewis" printed thereon.

Exhibit S-82.

3—$2.00 bills.

Exhibit S-83.

Blank pads similar to Exhibit S-13 with the first sheet dated June 9, 1944.

Exhibit S-84.

372—$2.00 bills.

Exhibit S-85.

69—$20.00 bills.

Exhibit S-86.

28—$50.00 bills.

Exhibit S-87.

10—$100.00 bills.

Exhibit S-88.

15—$2.00 bills and four checks.

Exhibit S-89.

$2,200 of U. S. bonds.

Exhibit S-90.

Promissory note dated April 19, 1944 in the amount of $7,000 to the order of James A. Lewis.

Exhibit S-91.

Letter of indebtedness dated November 19, 1943 addressed to James A. Lewis, acknowledging debt of $7,000.

Exhibit S-92.

Receipt dated May 29, 1944 made to James A. Lewis for the sum of $25,000.

Exhibit S-93.

2 undated checks for $500 each made to the order of "Gene Lewis".

Exhibit S-94.

Leather case which contained Exhibits S-89 to 93 inclusive.

Exhibit S-95.

719—$2.00 bills.

Exhibit S-96.

U. S. Savings bonds, $13,750 in the name of Eugene V. Lewis, $15,800 in the name of James A. Lewis.

New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Indictment for Bookmaking. On Writ of Error to New Jersey Supreme Court. Sat Below: Brogan, *C.J.*, Parker and Oliphant, *J.J.*

BRIEF OF PLAINTIFFS-IN-ERROR.

The Proceedings.

At the April Term, 1944, the Grand Jury of Hudson County returned an indictment against the plaintiffs-in-error, and charged, in the First Count, that on the 9th day of June, 1944, in the City of Hoboken, the defendants "willfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, contrary to the form of the statute * * *" (Case, p. 5).

In the Second Count of the Indictment, three other persons were charged with aiding and abetting. The defendants named in the First Count, who are the plaintiffs-in-error, moved to quash the indictment on various grounds (Case, p. 11). The motion was denied (Case, p. 16).

Subsequently, the Prosecutor moved for, and was granted, a severance as to the three defend-

ants named only in the Second Count of the Indictment (Case, pp. 108, 109). The trial was then moved against defendants, plaintiffs-in-error.

At the close of the State's case, and again after the defendants rested, motions were made to direct a verdict of acquittal. These motions were denied (Case, pp. 442 to 446).

The defendants, the plaintiffs-in-error, also requested the Court to charge the jury in certain respects (Case, pp. 456 to 462), but the Court refused to charge as requested, and exceptions were taken to the charge of the Court and the refusal to charge as requested (Case, p. 455).

All defendants were convicted, and before sentence was imposed, a motion was made in arrest of judgment on their behalf (Case, p. 462), which motion was likewise denied (Case, p. 463). The defendants Eugene V. Lewis and James A. Lewis were each sentenced to State's Prison at hard labor for a maximum term of five years, and a minimum term of three years. The defendant Halpin was sentenced to a maximum term of three years, and a minimum term of one and a half years. The remaining four defendants were sentenced to a maximum term of three years, and a minimum term of one year (Case, p. 32).

The case was brought before the Supreme Court both on a strict writ of error and on a review of the entire record, under the provisions of *R. S. 2:195-16*. The Supreme Court affirmed the conviction (Case, p. "c"). The present writ brings to this court the entire record for review on Assignments of Errors and Specification of Causes for Reversal.

Facts.

On June 9th, 1944, defendants Eugene V. Lewis and James A. Lewis occupied a three-story dwelling at No. 1124 Garden Street, Hoboken, New Jersey, as their home. On that date, members of the New Jersey State Police, without a search warrant (Case, p. 366), forced an entry into the premises and searched them from garret to cellar (Case, p. 132). In the rear room on the third, or top floor, they found what they subsequently described as a "wire room," and which is depicted in two photographs (Exhibits S-1, S-2, Case, Vol. II, pp. 477, 479), taken an hour or so after the "raid." There was no one in the room at the time. However, the police officers found the defendants Morano, Mullins, Halpin, Walter A. Lewis and Eugene V. Lewis in another room on the top floor. Shortly thereafter, they discovered the defendant Marnell in the same room (see Exhibit S-5, Case, Vol. II, p. 485). All of them were then placed under arrest, and directed to go into the "wire room" and seat themselves at the table in that room, and directed to take their places at the table where they had been seated before the "raid" was made (Case, pp. 188, *et seq.*). Again their photographs were taken (see Exhibit S-4, Case, Vol. II, p. 483).

The police officers found on the table in the "wire room" various papers which were introduced and marked in evidence, and these papers, or samples of them, are marked Exhibits S-13 to S-25 (Case, Vol. II, pp. 499 to 517). The police officers then proceeded to search closets on the top floor, and all of the private rooms and closets in the rest of the house, as well as the cellar. They seized not only all the papers and paraphernalia

they could find in the "wire room," but also a safe with various personal property of James A. Lewis and Eugene V. Lewis, such as United States War Bonds, cash, and other documents. They also searched the private apartment of James A. Lewis, and seized clothing of James A. Lewis, and money and jewelry found therein. They also seized other moneys and valuables found in the various rooms, as well as moneys and personal belongings on the persons of the defendants who were arrested on the third floor. It may be noted here that all these various articles seized, including bonds, cash, personal letters, and notes payable to James A. Lewis, were offered in evidence and admitted (see Exhibits S-27 to S-69, Case, Vol. II, pp. 518 to 538; and Exhibits S-76 to S-96, Case, Vol. II, pp. 539 to 542). Objection was made to the admission in evidence of practically all of the exhibits, as they were introduced, including the furniture and telephone apparatus, depicted in whole or in part on Exhibits S-1, S-2 and S-4 (Case, Vol. II, pp. 477 to 483).

The exhibits above referred to were identified by various police officers as having been seized on the premises No. 1124 Garden Street, and were admitted as evidence in support of the charge in the Indictment, viz., that the defendants "did make and take what is commonly known as a book, upon the running of horses, mares and geldings." In addition to the exhibits, the Court permitted some of the State police officers and members of the Prosecutor's staff of detectives to describe to the jury the meaning, the purposes, and the effect of the various documentary exhibits, and to express an opinion as "experts" that such documents are and were used in connection with "bookmaking," or in making a "book."

POINT I.

The indictment is defective, and the trial court erred in (1) denying the motion to quash the indictment; (2) denying the motions to direct a verdict, and (3) denying the motion in arrest of judgment, insofar as said motions were made on the ground of the insufficiency of the indictment.

Assignments of Error 1 to 4, inclusive (Case, p. 38), and Specifications for Reversal 1 to 4, inclusive (Case, p. 72), are based on the refusal of the Court to quash the indictment. The motion appears on Case, page 12.

Assignments of Error 120 to 125, inclusive (Case, pp. 61 to 63), and 136 (Case, p. 65), and Specifications for Reversal 120 to 125, inclusive (Case, p. 94 to 96), and 136 (Case, p. 98), are based on the refusal of the Court to direct a verdict in favor of the defendants at the close of the State's case and at the close of the entire case, on the ground that the indictment was defective. The motions appear on Case, pages 442 to 446.

The motion in arrest of judgment, its denial, and exception, are found at Case, pages 462, 463.

The grounds urged on the various motions addressed to the insufficiency of the indictment were as follows:

(1) It fails to charge a crime;

(2) It fails to charge a crime under R. S. 2:135-3;

(3) It is defective because it fails to charge the place, either within or without this State, where the alleged running took place, or

whether such place was within or without this State; (we shall not argue this ground)

(4) It fails to set forth the necessary facts constituting the alleged violation of the statute with sufficient clearness so as to apprise the defendants of the offense with which they stand charged.

The First Count in the Indictment, which is the only count before the Court (the Court having granted the State's motion for a severance as to the defendants named in the Second Count) charges that on June 9th, 1944, in the City of Hoboken, the defendants, plaintiffs-in-error, "willfully and unlawfully did make and take what is commonly known as a book, upon the running of horses, mares and geldings, contrary to the form of the statute in such case made and provided * * *." (R. S. 2:135-3.)

For ready reference, we quote the entire statute:

"2:135-3. Bookmaking and pool selling; keeping gambling resort; pari-mutuel betting at race meetings excepted

"Any person who shall habitually or otherwise, buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this State, of any horse, mare or gelding, or shall conduct the practices commonly known as bookmaking or pool selling, or shall keep a place to which persons may resort for engaging in any such practices, or for betting upon the event of any horse race, or other race or contest, either within or without this State, or for gambling in any form, or any person who shall aid, abet or assist in any such acts, shall be guilty of a misdemeanor, and pun-

ished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the State prison for not less than one year nor more than five years. Nothing in this section contained shall be construed to apply to pari-mutuel betting at race meetings as authorized by the Constitution of this State and any statute passed in pursuance thereof."

Source: L. 1898, c. 235, section 65, p. 812 (C. S. p. 1766, section 65; as amended L. 1940, c. 205, p. 862, section 1.

It will be noted that in the statute above quoted, nine distinct crimes are set forth, and the committing of any one of them is forbidden. The crimes are: (1) habitually or otherwise to buy or sell what is commonly known as a pool; (2) to make or take what is commonly known as a book; (3) to conduct the practice commonly known as bookmaking; (4) to conduct the practice commonly known as pool selling; (5) to keep a place to which persons may resort for engaging in bookmaking; (6) to keep a place to which persons may resort for engaging in pool selling; (7) to keep a place to which persons may resort for betting upon the event of any horse race, or other race or contest; (8) to keep a place to which persons may resort for gambling in any form, and (9) to aid, abet or assist in any such acts.

The charge in the First Count of the Indictment is limited to only one of these forbidden acts, viz., the making and taking of what is commonly known as a book.

The phraseology of the First Count tracks the language of the Statute, except that it omits the words of the statute "either within or without this State."

It is our contention that the charge is insufficient in that it violates the requirement of our

Constitution and of the law that indictments shall be framed with certainty. While it is undoubtedly a well-settled general rule that in an indictment charging the commission of a statutory offense it is sufficient to describe the offense substantially in the words of the statute, that rule does not apply here for the reason that the statute itself does not describe the offense or, rather, the acts which constitute the offense. *State* v. *Schmid,* 57 N. J. L. 625.

As Justice Garrison said in that case (at p. 627):

> "It is, undoubtedly, a well-settled general rule that in an indictment for an offence created by statute, it is sufficient to describe the offence in the words in which the statute describes it. This rule, however, is based upon and applies only to those cases in which the statute describes the offence with which it has to do. Unless this is so, the mere recital of nondescriptive words from the statute will not constitute in reasonable completeness a statement of the offence so as to relieve the pleader from averring the acts that go to make it up."

Chief Justice Beasley, in the case of *Linden Park Horse Association* v. *State,* 55 N. J. L. 557, said, at page 558, *et seq.*:

> "* * * No one with any knowledge of law would say that a general charge of keeping a disorderly house, without any indication of the circumstances that make it such, would satisfy the legal rule of criminal pleading. As well allege that a man committed, without further description, a larceny, as to charge, in the same uncircumstantial fashion, that a man kept a disorderly house.
>
> * * * * * *
>
> "* * * * By the constitution of our state, no person can be held to answer for a criminal

offence 'unless upon the presentment or indictment of a grand jury,' and, in order to effectuate this provision it is indispensable that the charge preferred by that body should be sufficiently descriptive, so as to clearly show a specific crimination. In all the forms of criminal pleading founded on the common law, probably not one can be found which omits to set forth, in explanation of the general charge of keeping a disorderly house, a description of the habitual misconduct that justifies such characterization of the house itself. * * *

"Nor would a defendant, if such a conviction as has obtained in this case is to stand, be possessed of the second of the safeguards, that the rule requiring, according to Chitty, a certain description of the crime charged to be contained in the indictment. If he were indicted in the future for keeping a gaming-house, it is difficult to see how he could plead, in answer to such an accusation, his present conviction. Such a plea would be contradicted by the record before us, for it would show upon its face that the second indictment was for an offence not charged in the first. Nor could such a showing be contradicted by parol, for this would be to falsify the record itself. The rule of the law and of common justice is that the offence must be charged in the indictment, in a certain and identifiable form, and this principle is so essential to the personal security of the citizen that it is not to be impaired, no matter how great the particular exigency may be."

In *State* v. *Spear,* 63 N. J. L. 179, the indictment charged the defendants with being engaged in the business of transmitting communications by means of the telephone, and with unlawfully and knowingly receiving odds on the betting on certain races run within or without the State, and with knowingly transmitting and carrying said odds on the betting at the track by means of telephone to certain places where the practice of

bookmaking was then engaged in, in the City of Philadelphia. In that case, the Court, after quoting with approval from *Linden Park Horse Association* v. *State, supra,* said:

> "The doctrine that in indictments for misdemeanors created by statute it is sufficient to charge the offence in the words of the statute is always subject to the qualification that the facts must be set forth with clearness and all necessary certainty to apprise the person accused of the offence of which he stands charged. State *v.* Stimson, 4 Zab. 9; State *v.* Halsted, 10 Vroom 402.
>
> "In the case last cited the offence charged was the incurring of an obligation by a public board in excess of the appropriation previously made for the purpose; and in discussing this subject Mr. Justice Van Syckel said: 'In the present case it would not suffice to allege in the general words of the statute that the defendants did incur an obligation in excess of the appropriation; the particular act which constitutes such disregard of the statutory provision must be disclosed.'
>
> "In the case of State *v.* Schmid, 28 Vroom 627, a statute was considered that in terms enacted that the indictment for a certain class of offences should be 'in form for the sale of intoxicating liquors contrary to law;' yet this court held that the facts to constitute the offence must, nevertheless, be averred according to the established canons of criminal pleading.
>
> "This indictment is quashed" (p. 181).

Bookmaking is defined neither in the provision of the Constitution forbidding various enumerated kinds of gambling, including bookmaking, nor in the statutes enacted to carry into effect the constitutional prohibition.

It must be assumed that the framers of the Constitution, as well as the Legislature, had in mind the acts which constituted bookmaking, just as

we all have in mind acts which constitute murder, burglary, rape and arson at the common law. And it is just as objectionable to charge John Doe with the making and taking of what is commonly known as a book upon the running of horses as it would be to charge that John Doe, on a certain date, did commit larceny. The defendant is entitled to know not only what he is charged with, but also the specific acts of his that are complained of which constitute the crime charged.

The State argued in the court below:

> "We contend that in view of the fact that the word 'bookmaking' or the phrase 'making and taking what is commonly known as a book' have had from earliest times a meaning understood by all, and that it is not required to further define the meaning of the word 'bookmaking' or 'the making of a book'."

The Supreme Court considered that the word "bookmaking" was "adequately defined in the Webster International: ('specifically, the making of a betting book')." (Case, p. "g," ll. 16-19). We submit, however, that the phrase "to make and take a book," with which the defendants were charged in the language of the statute, is not so commonly understood as to be self-explanatory. The definition quoted as above in the Supreme Court opinion is not explanatory, for it does not show what a betting book is, as that term was understood by the Legislature when it adopted the statute under which the defendants were indicted.

We contend that if the indictment, instead of charging the defendants with bookmaking, embodied such dictionary definition and specifically charged that the defendants did make a "betting book," it would still be defective because that term itself does not express, in plain language,

what particular acts constitute the making of a betting book.

The brief submitted by the State in the court below itself shows considerable uncertainty as to what is meant by the phrase "to make and take a book." Purported definitions of bookmaking and bookmakers were cited, which undoubtedly will be called to this court's attention, containing only loose reference to the practice, but nowhere describing the conduct which constitutes the making of a book.

In this connection, it is well to observe that the statute makes it an offense to make or *take* a book. The defendants were indicted for making and taking a book. We have searched in vain to ascertain what the term "taking a book" means. Neither dictionaries, text books, nor adjudicated cases throw any light upon that subject, and still the defendants were convicted of making and *taking* a book.

The authorities, such as *State* v. *Schmid,* 57 N. J. L. 625, hereinbefore cited, of course set forth well known rules of pleading, and their application is particularly important in the instant case. As will appear later, the proofs in the instant case indicate that some form of betting on horse races was carried on at the house in Hoboken, but, as we will urge later, there was no evidence to prove that the particular conduct, as evidenced by the written documents and the paraphernalia, was bookmaking as that word was understood at the time of the enactment of the statute and as defined in court decisions. Hence, if the conviction is permitted to stand on this indictment, the defendants would be deprived of their constitutional right of pleading former jeopardy if indicted and tried for any of the other acts re-

lating to betting on race horses which are forbidden by the statute.

There is another well-known rule of pleading, that the indictment shall set forth with certainty all of the essential elements of the offense charged, and that failure to do so is a fatal defect. *Pettibone* v. *United States,* 148 U. S. 197, 37 L. ed. 419; *Cruickshank* v. *United States,* 92 U. S. 542, 23 L. ed. 588.

As the statute does not define the elements that constitute making a book on horse races, it necessarily follows that the indictment should set forth these elements to properly apprise the defendant of what he has to meet in defending himself, and it should not plead mere conclusions.

It is necessary for one to resort to adjudicated cases in order to ascertain what acts constitute the making of a book. Since such resort is necessary, and since there are probably no adjudications or definitions as to what is meant by *taking* a book, it follows that the term is not commonly understood in common speech and, therefore, the rule of the above cases that the indictment must set forth acts which, if committed, would constitute the offense charged, is applicable.

The information in the leading case in New York, *People ex rel Lichtenstein* v. *Langan,* 196 N. Y. Rep. 260, (1909), which involved a charge of bookmaking, shows the certainty with which facts should be set out in an indictment for bookmaking. In that case, the charge was that the defendants

> "did unlawfully, willfully and knowingly, to many persons, upon the results of said races and upon various and divers horses that were announced to participate and did participate in said races, quote and lay odds, that is to

say, did state and publish to said persons the terms on which they the said Sol Lichtenstein, William Brown and Louis Mayer, were willing then and there to bet with said persons on said results and against said horses; and did then and there quote and lay odds, as aforesaid, of eight to five on one of said horses called Fitz Herbert, and did then and there accept a bet of fifty dollars from a person whose name to the district attorney is unknown, but who can be identified, on said horse at said odds, that is to say, bet eighty dollars against fifty dollars bet by said person, that said horse would lose, against the form of the statute in such case made and provided."

In *People ex rel. Jones* v. *Langan,* 116 N. Y. Supp. 718, which was based on a charge of bookmaking, the Court said:

"Any person who engages in 'book-making' is guilty of misdemeanor. Pen. Code, section 351. The information and the warrant against the relator accuse him of the crime of 'engaging in book-making.' The information has to state facts which constitute book-making. Code Cr. Proc. section 742; People *v.* Corbalis, 178 N. Y. 516, 71 N. E. 106; People *v.* Pillion, 78 Hun. 74, 29 N. Y. Supp. 267, People *v.* Miller, 81 App. Div. 255, 80 N. Y. Supp, 1070. It does not do so. It states that the relator did on a race track 'quote and lay odds' to many persons, specifying the said odds, 'that is to say, did state and publish to said persons the terms on which' he was willing to bet with the said persons against the horses on the result of races then and there to be run by such horses, and did bet $500 to $200 with a person named that a certain horse would lose. There is no allegation of the writing or recording of anything. The learned counsel for the people admits there was no writing or recording, and argues that bookmaking means only the making up by one of a plan or system,

> called a 'book,' of odds to be followed by him in betting with all comers, and which, though it may be written or recorded, does not need to be, but may be made up and carried in his head, and communicated or published by him orally. This is not so. There can be no bookmaking without writing or recording. The word in betting, and as used in the Penal Code, implies the use of a book, or sheets of paper, or a bulletin board, or some such thing. This is the genesis of the word. It is not necessary to enter upon a precise definition, no facts of writing or recording being alleged."

All the cases which we have been able to find in New York in which the charge was bookmaking, the indictments or information set forth facts from which the Court could determine whether the charge was, in fact, bookmaking or not. See *People ex rel. Shane* v. *Gittens,* 78 Misc. Rep. 7, 137 N. Y. Supp. 670; *People* v. *Solomon, et al.,* 160 N. Y. Supp. 942.

The Supreme Court in the instant case held that the New York cases cited above were not apposite, saying (Case, p. g., ll. 19-21): " * * * it is properly pointed out that the New York statute and code are different from ours." With all due deference to this statement of the Supreme Court, we wish to point out that the New York statute punishing bookmaking, which was involved in the cited cases, was not substantially different from the New Jersey statute. The New York law read as follows:

> "Section 351. Pool-selling, book-making, bets and wagers. Any person who engages in pool-selling, or book-making, at any time or place; or any person who keeps or occupies any room, shed, tenement, tent, booth, or building, float or vessel, or any part thereof, or who occupies any place, or stand of any kind, upon any public or private grounds, within this state, with books, papers, appara-

tus or paraphernalia, for the purpose of recording or registering bets or wagers, or of selling pools, and any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed or power of endurance, of man or beast, or upon the result of any political nomination, appointment or election; or upon the result of any lot, chance, casualty, unknown or contingent event whatsoever; or any person who receives, registers, records or forwards, or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value, bet or wagered, or offered for the purpose of being bet or wagered, by or for any other person, or sells pools, upon any such result; or any person who, being the owner, lessee or occupant of any room, shed, tenement, tent, booth or building, float or vessel, or part thereof, or of any grounds within this state, knowingly permits the same to be used or occupied for any of these purposes, or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depositary for gain, hire or reward of any money, property or thing of value, staked, wagered or pledged, or to be wagered or pledged upon any such result; or any person who aids, assists or abets in any manner in any of the said acts, which are hereby forbidden, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment in a penitentiary or county jail for a period of not more than one year." (Laws of 1908, chapter 507; effective June 11th, 1908.)

The particular portion of the statute under which the defendants in the cited cases were charged was:

"Any person who engages in * * * bookmaking * * * is guilty of a misdemeanor * * *."

The statute under which the defendants were indicted in the present case, so far as pertinent, reads:

> "Any person who shall * * * make or take what is commonly known as a book * * * shall be guilty of a misdemeanor. * * *" (R. S. 2: 135-3.)

Thus, there is no basis for a distinction of the New York cases on the ground of statutory differences. The Supreme Court, in its opinion (Case, p. "g," ll. 35, *et seq.*), emphasizes that both our statute, R. S. 2:135-3, and the constitutional amendment of 1897, which it follows, comprehensively condemn all types of gaming, and from this, concludes: "Applying the familiar maxim of *'noscitur a sociis'*, the meaning of the word 'bookmaking' seems clear and requires no explanation or definition, or particulars in the language of the indictment." The quoted New York statute is even more comprehensive in generally condemning various forms of gaming than the New Jersey statute, R. S. 2:135-3. If the comprehensiveness of the New Jersey statute is of any significance in ascertaining the meaning of bookmaking, which we deny, any arguments of that nature would apply with equal force to the New York statute.

As to the New York Code of Criminal Procedure, the State argued, in its brief in the court below, that that Code required indictments for bookmaking to state that the defendant "did 'lay odds' by publishing the terms upon which he was willing to bet odds on the results of horses, etc." But the State did not specify any particular portion of the Code which so requires. At the time of the New York decisions cited hereinabove, the New York Code of Criminal Procedure provided, in Section 276, for the forms of indictments, and

provided that such indictments might be substantially in the following form:

After the formal introduction to the indictment, the Grand Jury may "accuse A B of the crime of .....(Here insert the name of the crime if it have one, such as treason, murder, arson or the like, or if it be a misdemeanor having no general name, such as libel, assault or the like, insert a brief description of it as it is given by statute)."

Section 742 of the Code provided for the forms of informations which were to be used only in prosecutions before the Court of Special Sessions, and stated that such informations shall "accuse A B of the crime (Here insert the name of the crime, if it have one, such as petty larceny, assault in the third degree, or the like, or if it have no general name, insert a brief description of it as given by statute) committed as follows: The said A B on the ....day of ....., 19.., at the City of New York, (Here set forth the act charged as an offense)."

The State maintained, in the court below, that the plaintiffs-in-error "seek to make this State follow the code of New York." We did not and do not so argue. We have cited the New York decisions, above, only as setting forth examples of what an indictment for making a book should allege to meet the requirements of the New Jersey cases relied upon in this Point, holding that where the statutory language is not descriptive, the pleader must, in the indictment, aver the acts that go to make up the offense.

The Supreme Court, in its opinion (Case, p. "h," ll. 8-11), says: "If defendants were entitled to particulars of the accusation, they could have applied to the court for a bill of particulars." It is

respectfully submitted that the availability of a bill of particulars does not cure an otherwise defective indictment.

In *State* v. *Freulli,* 98 N. J. L. 395 (Supreme Court, 1922), an indictment was quashed for failing to allege the facts constituting the crime charged, the court following *State* v. *Schmid, supra,* 57 N. J. L. 625. After quoting from the *Schmid* case, Justice Kalisch said, at page 401:

> "The fact that the legislature provided for a method by which a defendant may have a bill of particulars is of no consequence.
>
> "The function of a bill of particulars is not to remedy defects in indictments or to supply essential averments omitted and necessary to charge an indictable offence. No such legal effect can be given to it, without contravening, article 1, paragraphs 7, 8, of the constitution of this state.
>
> "A bill of particulars is no part of the indictment or of the judgment record. State *v.* Lehigh Valley Railroad Co., 92 N. J. L. 261; 94 Id. 171."

The cases of *State* v. *Pennsylvania R. R. Co.,* 84 N. J. L. 550, and *State* v. *Hatfield,* 66 N. J. L. 443, referred to on this Point by the Supreme Court in its opinion (Case, p. "h," ll. 11-13), are, we submit, not applicable to the point which we argue. In the case of *State* v. *Pennsylvania R. R. Co., supra,* the indictment was for a continuing nuisance, and all the court held was that great particularity in the allegations of time and place is not required in an indictment for continuing nuisance, and that such information could be obtained by demand for bill of particulars. In the *Hatfield* case, *supra,* it was held not erroneous to deny a motion for bill of particulars on an indictment for embezzlement, as it did not appear that the plaintiff-in-error suffered manifest wrong or injury

thereby. The court remarked, in its opinion, that the indictment was legally sufficient.

In its brief in the court below, the State cited *State* v. *Tuzenew,* 15 N. J. Misc. 584, as authority for the sufficiency of the indictment in the instant case. That the *Tuzenew* case is not in point is sufficiently indicated by the State's own comment in its brief that no point was raised therein on the sufficiency of the indictment, and there was no determination of the question in either the Supreme Court or in this court. Since the point was not raised, and it is not the practice of the courts to search the record for errors not called to their attention, the mere failure of the courts to criticize the indictment in the *Tuzenew* case cannot be considered an approval of the indictment.

The indictment in the instant case violates the above-stated rules that an indictment must set forth with certainty all of the essential elements of the offense charged, and that where the statutory language is not descriptive of the offense, it is not sufficient to indict in the language of the statute. The indictment is, therefore, fatally defective.

POINT II.

The case made by the State failed to establish the commission of the offense of making or taking a book, and thus the trial court erred (1) in failing to direct a verdict at the close of the State's case, and after the defendants rested, on the ground that the State failed to prove the charge alleged in the indictment, and (2) in denying the defendants' motion in arrest of judgment on the same ground. The trial court therefore also erred in admitting in evidence the various objects, paraphernalia and documents offered at the trial as proof of the charge of bookmaking, because they did not prove, or tend to proof, the commission of the offense charged.

The Court's rulings on the evidence are the subject of both Assignments of Error 5 to 60, inclusive (Case, pp. 40 to 49), and Specifications for Reversal 5 to 60, inclusive (Case, pp. 73 to 82) and 147 (Case, p. 104).

The Court's refusal to direct a verdict is the subject of Assignments of Error 126 to 136, inclusive (Case, pp. 63 to 65), and Specifications for Reversal 126 to 136, inclusive (Case, pp. 96 to 98) and 143, 144 and 146 (Case, p. 104).

The motion in arrest of judgment, the denial thereof, and exception, appear at Case, pages 462, 463.

One of the grounds urged in support of the motion in arrest of judgment was the insufficiency of evidence to support the conviction, and that is the subject of Specifications for Reversal 143 and 144 (Case, p. 104).

Taking the sum total of the exhibits and testimony, the State failed to show that the defendants, or any of them, "did make and take what is commonly known as a book * * *." Whatever other offense may have been committed by the defendants, it was not bookmaking.

To constitute the offense of making and taking a book, there must be proof of a written record of: (1) the name or other means of identification of the bettor; (2) the name of the horse selected; (3) the amount bet by the bettor; and (4) the odds which the bookmaker quoted and laid for or against the horse with any player or bettor in taking his bet so that at the time the bet was made, the record (book) would indicate the amount the bettor would receive in the event of the success of his horse in the race.

The exhibits and testimony are totally lacking in proof of any written or printed record that the defendants, or any of them quoted or laid any odds with anyone.

Bookmaking, as referred to in our Constitution and statutes.

The *New Jersey Constitution of 1844,* Article IV, Section VII, paragraph 2, provides simply that:

> "No lottery shall be authorized by this state; and no ticket in any lottery not authorized by a law of this state shall be bought or sold within the state."

This paragraph was amended on October 19th, 1897, and as amended, it reads as follows:

> "No lottery shall be authorized by the legislature or otherwise in this State, and no ticket in any lottery shall be bought or sold

> within this State, nor shall pool-selling, book-making or gambling of any kind be authorized or allowed within this State, nor shall any gambling device, practice or game of chance now prohibited by law be legalized, or the remedy, penalty or punishment now provided therefor be in any way diminished."

In 1898, Chapter 235, Section 65, page 812 (C. S. 1766, Section 65) was enacted. This statute is the source of the present R. S. 2:135-3, the statute under which the present indictment is founded, and which statute is set out in full under Point I, *supra.*

In 1939, Article IV, Section VII, paragraph 2, of our Constitution was further amended to read as follows:

> "It shall be lawful to hold, carry on, and operate in this State race meetings whereat the trotting, running or steeeplechase racing of horses only may be conducted between the hours of sunrise and sunset on week days only and in duly legalized race tracks, at which the pari-mutuel system of betting shall be permitted. No lottery, roulette, or game of chance of any form shall be authorized by the Legislature in this State, and no ticket in any lottery shall be bought or sold within this State, or offered for sale; nor shall pool-selling, book-making, or gambling of any kind be authorized or allowed within this State, except pari-mutuel betting on the results of the racing of horses only, from which the State shall derive a reasonable revenue for the support of government; nor shall any gambling device, practice, or game of chance, or pari-mutuel betting thereon now prohibited by law, except as herein stated and otherwise provided, be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished. As amended, election June 20, 1939. Proclamation July 11, 1939."

After this constitutional amendment of 1939, R. S. 2:135-3 was amended by adding, at the foot thereof, the following:

> "Nothing in this section contained shall be construed to apply to pari-mutuel betting at race meetings as authorized by the Constitution of this State and any statute passed in pursuance thereof." As amended, L. 1940, C. 205, p. 862, section 1.

Bookmaking is an ancient, though apparently not a very honorable, profession. It was not a crime at common law.

Our statute, R. S. 2:135-3, makes it a crime to make what is commonly known as a book. Bookmaking was known long before that term was used in our Constitution in 1897, and the term has been carried down to date, by amendments, in our present Constitution. Our statutes have carried that term since 1894. P. L. 1894, page 155.

We have no definition of what constitutes bookmaking, either in our Constitution or the statute. Hence, we must resort to authorities to determine what elements are necessary to constitute bookmaking.

Bookmaking must be construed in the light of what was meant by that term before, and at the time of the amendment of the Constitution in 1897 and the enactment of our statute in 1898, prohibiting the practice.

To practice the profession of bookmaking requires no telephone, nor even a table nor any of the numerous exhibits offered. The conduct which constitutes the making and taking of what is commonly known as a book upon the running of horses has for many years been well established by var-

ious courts in the United States, particularly New York, in which State there are many decisions on the subject.

What is bookmaking?

The following decisions are quoted by Corpus Juris as containing proper judicial definitions of bookmaking: 27 C. J. 979(c):

> " 'The business of book-making on horse races is a business in which the book-makers offer bets at certain odds on particular horses in the races, and take all such bets as persons may choose to make with them at the odds offered, and upon the receipt of the money from the persons willing to bet with them, the book-makers issue tickets to them, showing the terms of the bet, and if the horses backed by the book-makers lose, they pay the winners, and if the horses win they keep the money received from the customer and pay out nothing.' Spies *v.* Rosenstock, 87 Md. 14, 15, 39 A. 268."

27 C. J. 979(d):

> " 'To make "a book" as that term is understood by the gambling fraternity, there must be a sheet of paper on which is recorded the name of the horse, the odds to be given and either the name of the bettor, or a numbered card, by which the holder of the card could be designated and the bettor furnished with a card or ticket, and the amount which the book-maker bet against the same, which the player handed to the book-maker, and when the race was won this sheet would indicate, to the cashier or book-maker, the amount won by the player.' State *v.* Oldham, 200 Mo. 538, 557, 98 SW 497."

Standard Dictionary of the English Language (Funk & Wagnalls, 1899 Edition) defines it as follows:

> "Book: Horse-racing. A list made by a bookmaker of all of the horses entered in a given race, with the odds laid for and against them."

It will be noted that this edition of Standard Dictionary was published contemporaneously with the enactment of the bookmaking statute in this State (Laws 1898, Chapter 235, Section 65, p. 812), which statute is the source of our present bookmaking statute, R. S. 2:135-3.

Perhaps one of the most outstanding and helpful authorities is the already cited case of *People ex rel. Lichtenstein* v. *Langan,* 196 N. Y. Rep. 260, 89 N. E. 921. In that case, the contents of the information charging the offense are fully set forth, it having been alleged therein that Lichtenstein, et al., at a race course in Brooklyn, where horses raced, stated and published to many persons the terms upon which they were willing to bet with such persons on the result of the races, and did quote and lay odds and accept bets that certain horses would lose.

The Penal Code of New York made it a crime for any person to engage in bookmaking at any time or place. The question presented to the Court in that case was whether or not a person who offers to bet, and so announces to others orally, upon horses about to race, in which he lays odds on a horse or horses, is a bookmaker within the New York statute. The Court, in its opinion, not only disposed of that question by holding that a writing was necessary, but also defined what practices constitute bookmaking, and said:

> "* * * The provision relied upon by the district attorney is that he was engaged in bookmaking; that the laying of odds and orally announcing them constituted bookmaking within the meaning of the statute.

"The term 'bookmaking' originally indicated a collection of sheets of paper or other substances upon which entries could be made, either written or printed. But the term has been used in many ways, and in determining its meaning as used in this statute, we must consider the evident purpose and intention of the legislature in enacting the provision in question, giving to the term its ordinary and accepted meaning as it was understood at that time" (p. 264).

"* * * The ordinary bookmaker is a person who follows the races and becomes fully informed with reference to the skill, speed and endurance of the horses that are entered for races. These horses are taken from one meeting to another of the various racing associations, and thereby the bookmakers are enabled to prepare a list of the horses entered for a race, with the odds so arranged as to percentages as to give them a profit whichever the winning horse may be. These schedules are written out and either posted or circulated by the clerks or agents of the bookmaker among the persons in attendance upon the races and their bets solicited, and when a customer is found he is given a check indicating the horse and amount upon which he has placed his money. This was the scheme under which bookmakers were enabled to induce men, women and persons of immature years to part with their money, thus enabling the bookmaker to reap great profits out of the public and to become the chief supporters of the races. This is the evil which the legislature sought to prevent by the enactment of the Hart-Agnew bill, chapters 506 and 507 of the Laws of 1908. The making of the lists and the laying of the odds so as to make the percentages such as to give the bookmaker a profit has to be carefully figured, the maker taking into consideration the speed and endurance of the respective horses, and in order to make a practical use of the list and secure bets it of necessity has to be entered upon paper or some other material so that the odds

upon each horse may be posted or shown to the patrons of the races when their bets are solicited.

"It is perhaps true that a bookmaker may retain in his own mind the memory of the odds where three or four horses only are entered in a race so that he could state the odds orally to others, but it would be difficult for him or his customers to remember the precise amounts in many transactions and base their bets thereon, and consequently but very few bets could be taken under such circumstances. The masses could not be drawn into the scheme and their money obtained without some writing or entry that they could rely upon.

"* * * The laying of odds standing alone does not, therefore, constitute a crime. If a man should offer to bet the ladies of his party a pair of gloves to a box of candy, it would be the laying of odds and publishing the same. To hold him to be a bookmaker would, in my judgment, be a departure from the rule which gives to the terms of the statute their ordinary and accepted meaning, and would be a construction which was not within the contemplation of the legislature. The vice of bookmaking chiefly consists in soliciting and in the inducing the public to take chances in the carefully figured and planned scheme of the bookmaker, and this, in order to be profitable to him, requires the writing out of the list of the odds laid on some paper or material so that they can be seen by those who are solicited to invest.

"We, consequently, conclude that the information filed by the district attorney failed to allege acts which constituted the crime of bookmaking, and that, therefore, the order appealed from should be affirmed." Pages 265, 266.

In the opinion in the case of *People* v. *Laude, et al.,* 143 N. Y. Supp. 156, which was argued after the decision in the *Lichtenstein* case, *supra,* the New York court said, at page 157:

"The meaning of the term 'bookmaking' as it was understood at that time was this system or practice of gambling by writing or printing odds upon a slate or sheet of paper, soliciting bets from the general public, and recording the same, and it was the evident purpose and intention of the Legislature in enacting the Hart-Agnew Law to prohibit this particular practice. It was not the intention of the Legislature to prohibit the laying of odds and orally announcing them, for that was not considered *at that time* bookmaking. There being, therefore, in the *Lichtenstein* case no allegation in the information, or claim by the district attorney, that the defendant did prepare and write quotations of odds on paper or other substance, solicit bets, and record the same, the crime of bookmaking was not charged, within the meaning of that term as it was understood at that time."

And at page 158:

"Ordinary betting, even if repeated from day to day, is not bookmaking. The statutes and the decisions have made a clear distinction between the person who transacts business as a professional gamester, based upon a scheme and plan known as bookmaking, and the man who makes a bet or a series of bets in the ordinary way. People ex rel. Lichtenstein *v.* Langan, *supra.* In this case the scheme and the vice of bookmaking are pointed out. The words 'with or without writing,' inserted in the Penal Law by chapter 488 of the Laws of 1910, did not in any way change the fundamental requirement of the statute that, to constitute the offense, there must be bookmaking as it has always been understood. It may now be oral bookmaking, if that term may be employed; that is, bookmaking without writing. But the evidence must show that the accused belongs to the class of common gamblers, professional gamesters, whose operations are conducted upon the scheme known as bookmaking. 'Bookmak-

ing' is distinct from the mere making or recording of bets. People ex rel. Sturgis *v.* Fallon, 152 N. Y. 1, 46 N. E. 302, 37 L. R. A. 419."

For further authority on conduct which does or does not constitute bookmaking, see

People v. *Solomon, et al.,* 160 N. Y. Supp. 942 (1916);
People ex rel. Shane v. *Gittens,* 137 N. Y. Supp. 670 (1912);
People v. *Wilson,* 4 N. Y. Supp. (2nd) 592.

In its brief in the court below, the State argued that the Hart-Agnew law, referred to in the New York cases above cited, was enacted to stamp out the practice of bookmaking, which the State described as follows:

"* * * Prior to the enactment of the Hart-Agnew Law (New York Laws of 1908, Chap. 507) bookmaking was conducted upon the race tracks of New York State in the following manner: the bookmaker prepared a slate upon which was marked the odds he was willing to lay against the various horses entered in a race. He would then stand upon a platform, hold his slate in his hand so that it could be easily seen by the people who placed the bets. Those seeking to bet, if the odds quoted were to their liking, placed a bet upon a horse of their selection. The entry was placed with a bookmaker's clerk who stood or was seated next to him. The manner of entering such bets would be: the clerk would record upon sheets of paper the number of the admission tag held by the bettor, the amount of money bet, the odds quoted, and the position in which the horses played."

We maintain that the practice which the State has above described as constituting bookmaking in New York is also bookmaking as intended by the New Jersey statute, R. S. 2:135-3, whether

conducted on or off the track. The State has argued that the New York decisions cited by us on the subject of what constitutes bookmaking are inapplicable, but does not show that the practice of making book prohibited by the New Jersey statute was any different from the practice of making book prohibited by the New York statute, and discussed in the cited New York authorities.

In the court below, the State argued that the New York decisions cited by us are inapplicable because:

> "(1) That by constitution and by statute our State from early times has enjoined gaming in any form.
>
> "(2) That our State is not a Code state such as the State of New York, and bearing in mind that New York does not constitutionally enjoin all types of gaming."

It is submitted that the arguments are entirely fallacious. That New York criminal procedure is governed by a code has no bearing upon the substantive law, and in no way influenced the adjudications of what elements must be shown to constitute the crime of bookmaking as stated in the New York decisions relied upon by us, nor does the fact that the New York statute prohibiting bookmaking is contained in a Penal Code make any difference, inasmuch as the pertinent portion of the Penal Code is no different, in substance, from the provisions of the New Jersey statute under which these defendants were indicted.

Contrary to the assertion of the State in the court below, the New York Constitution contains prohibition against gaming, certainly as sweeping as that contained in New Jersey's Constitution. Article I, Section 9, of the New York Constitution, which has been unchanged since 1894, reads as follows:

> "Right to assemble and petition; divorce; lotteries; pool-selling and gambling; laws to prevent.
>
> "No law shall be passed breaching the right of the people to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling bookmaking, or any other kind of gambling hereafter be authorized or allowed within this state; and the legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section."

But any differences in the constitutional provisions would have no bearing on the fundamental question as to what constitutes bookmaking. Both the New York and New Jersey statutes prohibit bookmaking as such in the same language. All the elements necessary to constitute the crime of bookmaking under the New York law prior to 1910 must still be proved, both in New York and New Jersey, except that in New York, under the amendment, a writing is no longer necessary. In New Jersey, all the elements, including the writing, must still be proved.

The State, in its argument in the court below, makes the startling statement: "In other words, the presence or the absence of proof showing the laying or the non-laying of odds is not the gravamen of the evidence," and this, it is argued, is because: "The primary intention of the statutory prohibition was to enjoin anyone from betting on horses who was not authorized so to do," and that, therefore, "What the evidence was before the court and the jury was to show whether or not from the evidence adduced that the particular defendant had violated the law or not." In other words, it is argued that if the evidence showed that the defendants were engaged in any

kind of betting on horses, they were guilty under the indictment for bookmaking. Contrary to the State's assertion, the statute prohibits only certain designated practices. We have listed these on page 7 of this brief. The indictment in the instant case alleges only that a particular one of such offenses was committed. If, as we contend, the laying of odds is an element of the offense charged, it should have been proved. The fact that the numerous exhibits offered might show the defendants to have been guilty of some other offense relating to gaming, for which they were not indicted, did not make them admissable, since they did not show the defendants' guilt of making or taking a book.

One may search the numerous exhibits offered in this case in vain to find proof that the defendants, or any of them, were guilty of making or taking a book, within the meaning of the statute and the authorities. Nowhere do we find a record showing that the defendants quoted or laid odds. Nowhere do we find that the defendants, or any of them, offered or accepted odds. At best, the proofs can be said to show (Exhibit S-13, Case, Vol. II, p. 499; Exhibit S-23, Case, Vol. II, p. 515; Exhibit S-56, Case, Vol. II, p. 527; Exhibit S-59, Case, Vol. II, p. 529; Exhibit S-61, Case, Vol. II, p. 531), that on June 9th, 1944, the date alleged in the indictment, a number of persons bet fixed sums of money on certain horses to win, place or show, but there is no record that any defendant, on his part, quoted offered or laid odds, or that he made or accepted any bets based upon any odds quoted or offered. It is significant to note that nowhere in the State's brief in the court below was a single exhibit of the 96 offered and marked in evidence called to the Court's attention as indicating that odds were offered, quoted or laid by the defendants, or any of them.

It is submitted that unless an exhibit proves the laying of bets at quoted odds, it is irrelevant and immaterial to prove the charge laid in the indictment, and the admission of such exhibits in evidence was prejudicial to the defendants.

The exhibits, either alone or in combination, do not make up the required record which constitutes the making of a book.

The oral testimony offered to aid or supplement what is shown by the exhibits fails to prove the State's charge that the defendants did make or take what is commonly known as a book within the meaning of that term, as laid down in the cases cited. The following sums up such oral testimony:

State's witness, Ralph Dowgin (Case, pp. 143-145), was permitted, over objection, to express an opinion as to what the sheets making up Exhibit S-13 were.

(p. 145)

> "Q. What are these sheets. A. These sheets are racing sheets and used to accept bets for win, show and place, and the money that was paid on the races, as I understand it."

Officer Walter Heckmann, a member of the State Police, was also permitted to express an opinion, over objection, on said Exhibit S-13.

(Case, p. 215):

> "Q. What are these slips? A. They are slips on which the amount bet on horses is written down, and the amount bet and how it is bet."

And again (Case, pp. 215, 216), the witness was asked what certain figures on these exhibits meant:

"Q. What does 4 and 2 mean? A. That is marked for show and place.

Q. Show and place, what does that mean? A. I don't know that, sir."

Although it appeared that the witness' testimony was valueless as expert opinion, and a request was made that his testimony in that regard be stricken, the court (Case, p, 216), permitted it to stand.

Prosecutor Detective, Lieutenant James J. Mahoney, testified, over objection, insofar as material to the subject under discussion:

(Case, p. 377):

"Q. Can you tell us what these sheets (referring to S-13) are?

* * * * * *

The Witness: They are the account of individuals, showing the names of horses running at various tracks on June 9, 1944, the amount of money laid, and the account of the winning."

He then goes on to describe in detail what the sheets show, and states that they show the account of the bettor, giving his name or other identifying information, the names of the horses played on June 9, 1944, the amount bet by the bettor, and whether to win, place or show (Case, pp. 378-379).

(Case, pp. 382, 383):

"Q. I show you these sheets which are marked S-13 in evidence, and I ask you whether or not they are used in connection with taking or making a book?

* * * * * *

A. They are used for keeping accounts of bettors.

Q. And the bets received? A. Over the telephone."

Being shown Exhibit S-22, and asked what it is, and referring to and testifying particularly concerning the third sheet printed in the State of Case as Exhibit S-22, he said:

(Case, p. 384):

> "A. This type of sheet shows the entries in all of the races at Aqueduct track on June 9, 1944. On the lower half it shows the entries at Suffolk Downs Race Track on the same date,"

and pointed out what the various figures, names and markings under the heading "Aqueduct Park" on that sheet of the exhibit mean (Case, pp. 384-387); that under the heading of "Aqueduct Park", Fred Coty, the last name under the first column, is the name of a horse, and that the circle around that name indicates that he was the winner; that the horse, John's Bird, in the same column with the figure 2 written over that name, came in second, and that the horse, Victory Maid, named in the same column, with the figure 3 written over that name, came in third. He was asked:

(Case, pp. 387-389):

> "Q. On the bottom of that list (referring again to the third sheet of Exhibit S-22 in the record under the heading 'Aqueduct Park') of 9 names of horses or horses' names, there are three columns, in the first column, there is 25.50, 9.70 and 6.50. Can you tell me, please, what that indicates (referring again to the third sheets of S-22 in the record under the heading 'Aqueduct Park')? A. That means that Fred Coty paid $25.50 to win, $9.70 for second, and $6.50 for third.
>
> "Q. Now, that column which you just referred to was 25.50, 9.70 and $6.50—under there, there are 5.20 and 4.40; can you tell us what that indicates? A. 5.20 is the price on the second horse for place; and 4.40 is the price on the second horse for third.

Q. Now these two last figures that you have just given us, there is written after that $11.30. I ask you what that indicates? A. That is the show price on the third horse.

Q. That is the show price on the third horse? What do you mean? A. That is the price that he paid to run third."

It may be argued that the figures above referred to; namely: 25.50, 9.70, 6.50, 5.20, 4.40 and 11.30, which appear at the foot of the third sheet of Exhibit S-22 under the heading "Aqueduct Park," are the prices offered to the bettor at the time the bets were made. This is not the fact. If we examine the testimony of Mr. Mahoney on cross examination (Case, p. 398), it will be seen that these figures are not odds or prices quoted by the defendants at the time the bet was made, but are the prices paid at Aqueduct Park, which is a pari-mutuel track, after the horses were run.

(Case, pp. 398-399):

"Q. My recollection is that you said the first item 25.50 indicates what the horse paid? A. For two dollars.

Q. And that is on the winning horse? A. That is right.

Q. And the item 9.70 represents what he paid for what? A. Second place.

Q. And 6.50 what he paid at third position, show? A. Show, that is right.

Q. Aqueduct Park, that is a pari-mutuel track? A. Yes, sir.

Q. These figures are the result at a pari-mutuel track? A. Yes, sir.

Q. In other words, after the horses have run, if this horse did run at Aqueduct Park, the result of the race would be indicated at the track, and the winning or the price that the horse paid in whatever position he ran would be indicated there at the track? A. That is right.

Q. And these figures are the result of the pari-mutuel results at the track? A. Yes, sir."

The witness goes on to state that all the tracks to which he referred are pari-mutuel tracks.

(Case, pp. 399-400):

"Q. What a horse pays in a pari-mutuel track is indicated at the track at which the particular horse runs after all the betting is stopped?

The Witness: The price is not made until sometime after the race. There is some calculation made, and they don't usually show the price until after the race is stopped.

Q. In other words, no price on any horse's running is made until after the race is over? A. There are probable prices which are up there, because you can see the progress of the betting.

Q. The price paid, and I am speaking of what you have indicated in your testimony here as being represented by the figures as shown, which is a part of Exhibit S-22, you said was the price paid? A. That would be the price paid for a $2.00 ticket on the winning horse.

Q. And that would be the price announced at the track at which this race was run? A. Yes, sir."

On Case, pages 401-402, the witness describes the pari-mutuel system. There is an automatic calculating machine that records the sum total of all bets on any particular horse, and when all betting is concluded, the calculating machine determines what the track will pay on any horse that came in in either first, second or third place.

On further cross examination (Case, p. 404), (referring to the sheets Exhibit S-22), he was asked:

"Q. Those figures indicate, do they not, what the pari-mutuel actually paid on a particular horse for win or place or show on that particular day? A. Yes, sir.

Q. And that announcement comes over the radio? A. Yes, sir."

And on page 405, states: "The results of each winner are broadcast and the price paid upon them."

On page 406, the witness' attention is again called to the first page of Exhibit S-13 and the written in figure 25.50 after the name of the horse Fred Coty, and he was asked:

"Q. Now, in the far corner there is 25.50; is that the amount that the horse won by winning first place? A. Evidently, it is the same amount that the horse paid in pari-mutuel."

The witness, Peter J. Devine, again over objection, testified concerning what in his opinion Exhibits S-13 and S-22 are and what they indicate, and his testimony (Case, pp. 409-410-411-412-413-414) is substantially the same as the testimony of the witness, James J. Mahoney, above quoted with relation to said exhibits. Mr. Devine also testified (Case, p. 423), referring again to Exhibit S-13:

"Q. And the last column contains certain figures. Here it is, 25.50 at the top and then also there is 25.50 here in the amount at the top. Now that figure is the money which was paid to the winner on a horse, the amount of money paid to the winner on a horse at the pari-mutuel track; isn't it? A. That is right."

We believe that we have referred to all the important evidence, both documentary and oral, which throws light on the subject of what was actually proved by the State.

The only charge made by the State was that of bookmaking. This charge the State failed to prove. The cases cited under this Point demonstrate that in prohibiting bookmaking, the constitutional amendment and statutes contemplated,

not betting on horse racing generally, but a particular system of gambling known as bookmaking, then current, the vice of which consisted of inducing the public to wager at carefully figured and planned odds quoted by the bookmaker.

The exhibits and testimony together do not show that the defendants, or any of them, quoted, offered or laid any odds whatsoever, nor that any bets were made at any odds, nor that the defendants recorded any bets made at odds offered by them, as required by the cited decisions defining the offense of bookmaking.

In the court below, the State called the attention of the court to certain testimony of Detective Mahoney on the subject of insured bets, found on Case, pages 406 and 407. The State argued that that testimony proved the quoting or laying of odds by the defendants. It is submitted that the testimony does not bear out this construction. The most that such testimony shows is that a bettor who is not "insured" would not receive the full price paid by the pari-mutuel machine at the track if that price was over some maximum amount that the witness did not specify. The witness improperly substituted the word "odds" for the word "price." "Odds" implies a statement of relative amounts wagered against each other, agreed upon in advance of an uncertain event, not the amount paid after the event and determined by a pari-mutuel machine.

In the court below, the State undertook to argue that bookmaking at the present time is different from what it was at the time of the enactment of our statute, saying that prior to the legalization of pari-mutuel betting in New Jersey, the fixing of odds between the bookmaker and bettor at the time of the making of the wager was necessary, but that at the present time no

odds are set, but the bookmaker pays off at the price shown by the pari-mutuel machines at the track.

There is no evidence in the record that what the State has described as the current practice is, in fact, the practice of bookmakers. Assuming such practice to exist, it would not constitute bookmaking, but an entirely different species of betting upon horse races. The State begs the question, when it calls the person who engages in such new type of betting a bookmaker. Again, it cannot have been the intention of the legislature, when it enacted the law prohibiting the making of book in 1898, to prohibit a practice which did not exist in the State at the time. After pari-mutuel betting was legalized in New Jersey, the only change in R. S. 2:135-3 was to provide that nothing in the statute contained should be construed as applying to pari-mutuel betting at race meetings. Bookmaking as it existed prior to the recognition of pari-mutuel betting still remains the offense prohibited by the statute. The vice inherent in bookmaking which called for the enactment of the prohibitory laws against bookmaking was emphasized in the opinion in *People ex rel Lichtenstein* v. *Langan,* quoted earlier in this Point, and again in the opinion in *People* v. *Laude,* also quoted herein. This vice is the taking of bets at odds carefully figured by the bookmaker so as normally to produce a profit for him, regardless of the result of the racing. No type of betting on horses which does not possess this vice is bookmaking.

Again, the State relied on *State* v. *Tuzenew,* 15 N. J. Misc. 584 as supporting the sufficiency of its proof. It should be noted that the defendants therein were indicted not only for making or taking a book, but also for conducting the prac-

tices commonly known as bookmaking, and for keeping a place to which persons might resort for engaging in the practices prohibited by the statute. The betting records involved in that case were not considered by the appellate Court which, in its opinion, stated that the exhibits had not been printed in the state of case. It may be assumed that the betting records showed that bets were made in accordance with quoted odds. Furthermore, as appears from the opinion, those records were admitted in evidence without objection.

In the *Tuzenew* case, no issue was raised that the betting practices proved did not constitute bookmaking, the "categorical denial" of the defendants having been in the nature of a denial that they were in charge of the operations of the gambling room.

As we read the opinion of the court below in the instant case, we submit that that court failed to pass upon the following questions which were properly raised below, and again in this Point:

1. What are the elements which must be proved to establish guilt of the offense of making or taking a book?

2. Did the State prove all those elements?

3. Were the exhibits, the admission of which was assigned as error, relevant and material to prove that the defendants had made or taken a book?

The opinion of the Supreme Court gave only summary treatment of the questions raised under this Point. After confining its discussion exclusively to the sufficiency of the indictment, and finding that it was sufficient, the Court said (Case, p. "h," ll. 23-26):

> "The foregoing considerations dispose, we think, of the challenges to (1) the admission of exhibits, (2) refusal to direct an acquittal, or (3) refusal to arrest the judgment."

It is submitted that even if the indictment were sufficient, which we deny, it does not follow therefrom that the proofs offered by the State were sufficient to establish the charge of making book laid in the indictment; nor that the exhibits which were admitted over the objection of the defendants were properly admitted. It will therefore be seen that the points raised by the defendants, namely: that the evidence was insufficient to warrant a conviction and that therefore an acquittal should have been directed and the judgment arrested, were not considered or passed upon by the Supreme Court.

In its opinion, the Supreme Court said (Case, p. "g," ll. 14-19):

> "It is argued that there was no evidence in definition of the words 'making a book' or 'bookmaking'. No such evidence was required. We find the word adequately defined in the Webster International (specifically the making of a betting book')."

The learned court misapprehended our argument. We did not contend that the State should have offered evidence to *define* such terms. We argue that the terms were clearly defined in the New York cases which are cited under this Point, and that the proofs offered by the State did not establish the charge of making book within such definition, and required to be established in order to convict.

POINT III.

The Court erred (1) in its charge to the jury, and (2) in refusing to charge as requested.

Assignments of Error 137 (as to charges) and 138 (as to refusal of requests) (Case, pp. 65 to 70); Specifications for Reversal 137 and 138 (Case, pp. 98 to 103).

Charge of the Court (Case, pp. 447 to 455).

Defendants' Requests to Charge (Case, pp. 456 to 462).

The Supreme Court opined (Case, p. "h," ll. 26-27): "As to the charge, we consider that it was lucid and accurate." With all deference to the court below, we beg to disagree. As the statute under which the defendants were indicted does not describe the offense of making or taking a book, and considering the length of the trial, the great volume of testimony, and the mass of exhibits, the Court's charge was remarkable for its vagueness on the instructions to the jury as to what they would be required to find in order to convict the defendants of the charge laid in the indictment. The Court, although requested by the defendants to define the alleged offense and to state its elements (Requests to Charge 11 to 18, Case, pp. 458-460) entirely failed to do so, and refused all of defendants' requests. The Court contented itself with charging as follows (Case, p. 448):

> "Now, the statute of the State of New Jersey, Revised Statutes, Article 2:135-3, states as follows:
>
> " 'Any person who shall make or take what is commonly known as a book, upon the run-

ning, pacing or trotting, either within or without this state, of any horse, mare or gelding * * * shall be guilty of a misdemeanor.'

"Now, that is what the statute says.

"In the absence of any court decision in this state defining the meaning of the word 'bookmaking' or 'making or taking books' I shall read to you what Webster's new international dictionary, second edition, says:

" 'Bookmaking: The making of a book of bets.'

"At another place, 'Make a book: To record bets in a book. To make a business of accepting bets, as on horse races.'

"And in another place, on the word 'book': 'A record of bets; especially a record of bets on horse races.'

"Now, it is called bookmaking because the bets are booked, or a record of them is kept in a book or on sheets of paper."

This is the only portion of the charge in anywise dealing with the substance of the offense. The defendants not only took a general exception to the entire charge, but also called the Court's attention specifically to the foregoing portion of the charge (Case, p. 455, ll. 12 to 16).

It is submitted that after listening to this statement of the Court, the jury were left in entire ignorance of the elements of the offense with which the defendants had been charged. Although the Court went to considerable length in impressing the jury that the State bore the burden of establishing the truth of the facts to their satisfaction, beyond a reasonable doubt, nowhere were the jury instructed as to what facts the State must so prove in order to establish the defendants' guilt.

The failure of the Court to instruct the jury with reasonable clarity as to the elements of the offense required to be proved to support a convic-

tion was error, manifestly prejudicial to the defendants.

Roe v. *State,* 45 N. J. L. 49;
State v. *Gerolamo,* 83 N. J. L. 135;
State v. *Tanzarello,* 1 N. J. Misc. Rep. 375.

Defendants specifically assigned as error and as cause for reversal, the Court's refusal to charge any of the following requests (Case, p. 458, l. 20 to p. 460, l. 31):

11. Defendants request that the Court charge the jury as to what facts must be proved by the State to establish the defendants' guilt of the offense of making and taking what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment.

12. Defendants request that the Court charge the jury as to what is meant by the term "making and taking what is commonly known as a book upon the running of horses, mares and geldings," as charged in the indictment.

13. Defendants request the Court to instruct and charge the jury as to what constitutes the making of a book such as the defendants are charged in the indictment with making.

14. What is commonly known as a book upon the running of horses, mares and geldings is the making up of a written list of entries in a horse race or races, together with the odds at which the person who prepared the list is willing to accept bets in favor or against the success of such horses in the race or races.

If the State has failed to establish to your satisfaction, beyond a reasonable doubt, that such a "book" was prepared by the defendants, you must bring in a verdict of "not guilty."

15. The making or taking of a book, the offense with which the defendants are accused in the indictment, consists of the following elements:

First, the preparation of a written list of the entries in a horse race or races, and of the odds at which the person who prepared the list is willing to accept bets for or against the respective entries;

Second, the public offering to accept bets at the listed odds;

Third, the acceptance of bets at such odds from members of the public; and

Fourth, the written recording of such bets at such odds.

If the State has not established that the defendants did each and every one of the things just mentioned, to your satisfaction, beyond a reasonable doubt, it is your duty to bring in a verdict of "not guilty."

16. Unless the State has proved to your satisfaction, beyond a reasonable doubt, that the defendants accepted bets in accordance with a system of prepared odds, the State has not established that they made or took what is commonly known as a book upon the running of horses, mares and geldings, as charged in the indictment, and you must bring in a verdict of "not guilty."

17. Even though you should be satisfied beyond a reasonable doubt, that the defendants made and accepted bets with the public in the event of horse races, and recorded such bets, still, if it has not been proved to your satisfaction, beyond a reasonable doubt, that the bets so made were made in accordance with a system of odds prepared in advance, they are not guilty of the offense charged in the indictment, and you must acquit the defendants.

18. The defendants have been charged with having, on June 9th, 1944, made and taken what is commonly known as a book upon the running of horses, mares and geldings.

> If the State has not proved to your satisfaction beyond a reasonable doubt, that the fendants, on the day mentioned in the indictment, engaged in making and taking what is commonly known as a book, as it has been defined to you, even though it has proved that they engaged in a different type of betting, the guilt of the defendants of the offense charged in the indictment has not been established and you must bring in a verdict of "not guilty."

The Supreme Court criticized us for omitting to set out in full the foregoing Requests in our brief which was submitted to it, and stated that the failure to set them out might "well justify the inference that counsel themselves discern no error" (Case, p. "h," ll. 36-38). The sole reason that the Requests were not printed at length in the brief was to conserve space, inasmuch as the several Requests are set out at length in the Assignments of Error and Specifications for Reversal (Case, p. 66, l. 28 to p. 69, l. 8; p. 99, l. 28 to p. 102, l. 10), which were referred to at the outset of the Third Point of our brief in the Supreme Court, as they are at the outset of this Point. Surely, the defendants did not abandon the Assignments of Error and Specifications for Reversal relating to the Court's refusal to charge as requested, for in our brief in the Supreme Court, we argued that:

> "requests numbers 11 to 18, inclusive, not only specifically called upon the Court to charge the jury as to what facts must be proved by the State in order to establish the commission of the offense alleged in the indictment, but also contained definitions of the offense and statements of the elements thereof which must be proved to convict, founded upon the adjudicated cases referred to under Point II, *supra*.
>
> It is submitted that the refusal of the Court to charge any of the requests above mentioned constituted manifest and prejudicial error.

> Although the Court, in its charge (Case, p. 449, l. 5), referred to the fact that there was no decision in this State, nevertheless, he should have had recourse to the definitions of the identical offense, as found in the decisions of sister states, particularly where such decisions were those of authoritative courts whose opinions are generally looked upon with respect by the courts of this State. Defendants' requests to charge were based upon the pronouncements of the courts of our sister states, referred to under Point II, *supra,* which we submit are accurate statements of the law. Therefore, the Court should have charged such requests, instead of depriving the jury of any enlightenment as to the description and elements of the offense for which the defendants were being tried."

For convenience, the requests to charge, the refusal of which we particularly contend was error, may be divided into three groups:

Group No. 1—Requests Nos 11, 12 and 13 (Case, p. 458, ll. 20-36) call upon the Court to instruct the injury as to what facts must be proved to establish guilt of the offense charged in the indictment.

Group No. 2—Requests Nos. 14, 15 and 16 (Case, p. 458, l. 38 to p. 460, l. 6) call upon the Court to instruct the jury that the elements of the offense are as defined by the decisions cited by us under Point II, *supra,* emphasizing that bookmaking is a particular species of betting upon horse races in accordance with a system of calculated odds prepared by the bookmaker who lays bets at such odds and makes a written record of the bets and odds, and that unless the State established such elements beyond reasonable doubt, the jury should acquit.

Group No. 3—Requests Nos. 17 and 18 (Case, p. 460, II. 7-31) requested the Court to instruct

the jury that proof of any type of betting which did not involve the making of bets in accordance with a system of prepared odds would not be proof of bookmaking, and would not suffice to convict, and that the State must prove, beyond a reasonable doubt, guilt of the particular type of betting known as bookmaking.

It is respectfully submitted, as we argued in the court below, that the refusal of the Court to charge any of the requests above mentioned constituted manifest and prejudicial error. The statements of the necessary elements of the offense embodied in groups Nos. 2 and 3 of the above requests are in accordance with the pronouncements of the courts of our sister state set out at length under Point II and are, we submit, correct statements of the law. The crime of bookmaking interdicted by the New Jersey statute is the identical crime of bookmaking prohibited by the New York statute discussed in the cases cited. Therefore, we submit that the Court should have charged as requested instead of depriving the jury of any enlightenment as to the description and elements of the offense for which the defendants were being tried.

POINT IV.

The testimony fails to show that the defendant James A. Lewis was guilty of the offense charged in the indictment, and the Court should have directed a verdict in his favor.

Assignments of Error 126 to 136, inclusive (Case, pp. 63 to 65); Specifications for Reversal 126 to 136, inclusive (Case, pp. 96 to 98) and 143 and 144 (Case, p. 104).

We will endeavor to point out all the evidence in the case insofar as it may be said to implicate the defendant James A. Lewis.

The house at No. 1124 Garden Street, Hoboken, New Jersey, in which the alleged "wire room" was operated, is a three-story and basement private dwelling house (Exhibit S-3, Case, Vol. II, p. 481), and is laid out as shown on the sketches, Exhibits S-8, S-9, S-10 and S-11 (Case, Vol. II, pp. 491 to 497). The house is fully equipped as a private dwelling but for the rear room on the third floor, which was designated and referred to by the witnesses as the "wire room." The rear bedroom on the second floor was used and occupied by James A. Lewis as his bedroom (Case, pp. 260-261).

The raid took place on June 9th, 1944, at 3:30 P. M. (Case, p. 131, l. 21, to p. 132, l. 18). James Lewis was not among those found upon the premises at the time of the raid, and it was admitted by the Prosecutor that he was not in or about the premises at the time of the raid or thereafter on that day (Case, p. 192, ll. 10 to 37). A maid testified that while she was cleaning, James A. Lewis came in. She was on the first floor, and that was where she saw him. After she saw him, he went upstairs, but where she does not say. Because she was working, she did not see him leave. (Case, p. 266, l. 25, to p. 267, l. 22).

It was admitted that James A. Lewis occupied the rear bedroom on the second floor; that he occupied it as a bedroom on June 8th and 9th, 1944, and that he had lived in the house for twenty years. (Case, p. 260, l. 20, to p. 261, l. 21).

In its effort to implicate James A. Lewis, the State offered the following:

A steel cabinet was found in the "wire room" on the day of the raid, and in it was found an envelope marked or addressed to James Lewis (Case, p. 161, ll. 5-14; Exhibit S-27, Case, Vol. II, p. 518), which envelope contained copies of income tax returns of James Lewis, and also a bill for fuel, made to James Lewis (Case, p. 162, l. 12; Exhibit S-28, Case, Vol. II, p. 518). There was also found therein a book, designated as a journal (Case, p. 163, l. 15), together with papers therein contained, one of which was a receipted bill to J. Lewis, dated 1939, and the other a copy of a letter signed by James A. Lewis, dated 1940 (Exhibit S-29, Case, Vol. II, p. 518). The cabinet and its contents were offered by the Prosecutor for the purpose of showing that they were found in the "wire room," and that the papers bore the name of James A. Lewis (Case, p. 165, l. 30 to p. 167, l. 10).

Officer Schindler testified that he searched the second floor rear bedroom (which was the bedroom of James A. Lewis), and in a closet he found a blue gabardine suit, and therein found a diamond bracelet and $16,000.00 in bills (Case, p. 251, ll. 15 to 30; p. 252, ll. 25 to 30; p. 256, l. 35, to p. 257, l. 5); that during the search of the bedroom of James A. Lewis, some blank checks with the name "James A. Lewis" thereon were found in a drawer (Case, p. 257, l. 18; Exhibit S-77, Case, Vol. II, p. 539), and also a package of envelopes with the name "A. & B. Sales Company," and marked thereon "James A. Lewis Personal" (Case, p. 257, l. 35; Exhibit S-78, Case, Vol. II, p. 539). This exhibit also contained some sheets similar to Exhibit S-13, which is found on page 499.

There was also found in James A. Lewis' bedroom a leather kit with the initials "J. A. L." (admittedly that of James A. Lewis) (Exhibit

S-79, Case, Vol. II, p. 540; Case, p. 258, ll. 30 to 33), and a black leather case with his initials, "J. A. L.," thereon (Case, p. 259, ll. 1 to 2; Exhibit S-80, Case, Vol. II, p. 540).

It was admitted (Case, p. 263) that the blue gabardine suit in which the $16,000.00 was found belonged to James A. Lewis.

The maid, Anastasia Smerechniak, testified that she worked for James and Eugene Lewis as a maid (Case, p. 266, l. 1).

A number of bills were found in a steel vault (Exhibit S-49, Case, Vol. II, p. 522) located in a closet in the second floor passageway leading to James A. Lewis' bedroom (Case, p. 358, ll. 3 to 20). In the same box, other moneys were found (Exhibits S-84, S-85, S-86, S-87, S-88, Case, Vol. II, pp. 540, 541); $2,200.00 of United States Government bonds, some in the name of James A. Lewis, and some in the name of Eugene V. Lewis (Exhibit S-89, Case, Vol. II, p. 541); a promissory note dated April 19th, 1944, to the order of James A. Lewis (Exhibit S-90, Case, Vol. II, p. 541); a letter of indebtedness to James A. Lewis, dated November 19th, 1943 (Exhibit S-91, Case, Vol. II, p. 541), and a receipt made to James A. Lewis (Exhibit S-92, Case, Vol. II, p. 542).

$15,800.00 face value of United States Savings Bonds in the name of James A. Lewis (Exhibit S-96, Case, Vol. II, p. 542) were found in a tin box in a closet located in the third floor front bedroom (Case, p. 175, ll. 18 to 20; p. 430, ll. 27 to 39).

After giving full weight to the above proofs offered against James A. Lewis, the case is still barren of any evidence connecting him with the activities in the so-called "wire room," nor does it show that James A. Lewis made or took what is commonly known as a book.

The Supreme Court in its opinion (Case, p. "i," ll. 13-16), in discussing the guilt of the defendant James A. Lewis, says:

> "While it may be claimed that the evidence tending to connect him with the 'bookmaking' was somewhat scanty, there was enough to require the submission thereof to the jury."

In this connection, it said (Case, p. "i," ll. 9-13):

> "Beside his bed in a second floor room was a table holding a telephone directly connected with the so-called 'wire room' * * * "

This statement of the Court that the telephone connected directly with the so-called "wire room" is not supported by any evidence. In the court below, the State, after calling attention to the fact that there was a telephone at Mr. Lewis' bedside, quoted the only testimony in the case relating to this telephone as follows:

> "With respect to this particular telephone, attention is directed to the following testimony of Sergeant Ralph Dowgin:
>
> " 'Q. Now, I show you one telephone and ask you where you got that telephone from? A. This telephone was on the second floor.
>
> " 'Q. Will you indicate what room you found that telephone in and where it was at the time you saw it? A. It was on this night table between these two beds.
>
> " 'Q. Will you mark that telephone, please (indicating)?
>
> " 'Mr. Guiliano: I offer that one in evidence.
>
> " '(Accepted and marked as State's Exhibit S-34 of this date.)' " (C., p. 173, ll. 10-22).

Then the State argued:

> "Is it not a proper inference from this evidence that James A. Lewis, the defendant,

> was in constant touch with the wire room operated on the floor above, and actually participated in its operation?''

It is apparent that the Supreme Court fell into error in concluding from the foregoing statement of the State's brief that the telephone in question was connected with the so-called "wire room". It is a commonplace that a great many people have telephones in their bedrooms, and no inference of guilt can logically be drawn from that practice.

The Supreme Court also stated in connection with defendant James A. Lewis, "And in the wire room were found documents with his name therein." The fact that papers bearing the name of the defendant James A. Lewis were found in the so-called wire room does not tend to connect him with the activities in that room, especially since the papers were entirely innocent in themselves, and does not show that defendant James A. Lewis made or took what is commonly known as a book, as charged against him in the indictment.

In its brief in the court below, the State sought to bolster its argument that the proof was sufficient to sustain a conviction of James A. Lewis by referring to the testimony of a policeman (Case, p. 256, ll. 15-18) as to what another defendant, Eugene Lewis, told him about certain sums of money and a bracelet found in a suit of clothes belonging to defendant James A. Lewis which was in his bedroom closet (Case, p. 251, ll. 28-33). It is respectfully submitted that evidence of statements made by the co-defendant Eugene Lewis at the time of the raid, when James A. Lewis was not present, cannot be considered on the question of the sufficiency of proof against James A. Lewis, and the court so warned the jury (Case, p. 25).

The evidence against James A. Lewis was entirely circumstantial, and was certainly consistent with his innocence.

In such state of the proofs, the well-established principle of law is as stated, in *23 Corpus Juris Secundum,* Section 907, page 149:

> "To sustain a conviction, the circumstances proved must be consistent with each other, consistent with the hypothesis that the accused is guilty, and inconsistent with the hypothesis that he is innocent, and with every other reasonable hypothesis except that of guilt."

Under this text, *Corpus Juris* cites literally scores of cases.

Therefore, the Court should have directed a verdict of acquittal in favor of this defendant on his motion at the conclusion of the State's case, and again at the close of the entire case, and the verdict being against the weight of the evidence, should not be permitted to stand.

POINT V.

The Court erred in failing to direct a verdict in favor of all the defendants, because there was no proof as to which defendant, if any, made or took an alleged book.

Assignments of Error 133 to 135, inclusive (Case, pp. 64-65); Specifications for Reversal 133 to 135, inclusive (Case, pp. 97-98).

We have already argued, under Point II, *supra,* that the activities disclosed by the evidence did not amount to what is commonly known as bookmaking. But assuming, for the purposes of argument only, that the activities shown did consti-

tute bookmaking, it is submitted that none of the defendants, by his participation in the described activities, was shown to have made or taken a book.

There is no proof of any activities, so far as defendant James A. Lewis is concerned. As for the remaining defendants, there is no proof that they, or any of them, acted as principals in the making or taking of a book.

The Supreme Court dismissed this Point from consideration as frivolous (Case, p. "i," ll. 17-22). We think, however, that it merits serious consideration.

In order that a person may be convicted of making and taking a book, he must be a principal; that is, he must be the one who controls the business and makes the bets with members of the public, and is responsible for making good all bets. There is not the slightest proof that any of the defendants made or accepted any bets as principals, or had the responsibility, as bookmakers, of paying off any bets that were made. At best, the defendants merely aided, abetted or assisted in whatever operations were carried on in the premises, and for such conduct, they were not indicted.

The statute, R. S. 2:135-3, upon which the indictment in this case is founded, clearly makes one who aids, abets or assists in the act of bookmaking guilty of a separate and distinct offense as such, and only the principal may be charged with the offense of making book.

It is submitted that where a statute, such as R. S. 2:135-3, makes aiding, abetting or assisting in the commission of a misdemeanor a separate and distinct offense, the general rule that such aiders and abettors may be indicted as principals does not apply.

In *People ex rel Sturgis* v. *Fallon,* 152 N. Y. 1 (Court of Appeals) 46 N. E. 302, it was held that a clerk who attends his employer at a race track, and records in a book bets which his employer makes on the races, but makes no bets himself, is not guilty of bookmaking within the Penal Code, section 351, which, among other things, provided:

> "Any person who engages in * * * bookmaking at any time or place * * * or any person who aids, assists or abets in any manner in any of the said acts, which are hereby forbidden, is guilty of a felony. * * *"

In the court below, the State criticized the *Sturgis* case as being dependent upon the Penal Code of New York. But that fact does not detract from the applicability of the citation, inasmuch as Section 351 of the Penal Code above quoted is not substantially different in the respect referred to from R. S. 2:135-3. The proper practice in prosecutions against aiders and abetters under R. S. 2:135-3 is indicated in *State* v. *Flynn,* 76 N. J. L. 473, wherein this Court said at pages 474-475:

> "The indictment charges that Flynn 'did aid, abet or assist one C. W. in keeping, at his hotel on Ferry Street, in the borough of South River, in the township of East Brunswick, in the county of Middlesex, a place to which persons might resort for gambling in a certain form, namely, upon a slot machine, in this, that the said Wilbur J. Flynn did furnish, lease or loan to the said C. W. the said slot machine so used or to be used for gambling by persons upon said premises as aforesaid, against the form of the statute,' &c.
>
> "The section referred to provides that 'Any person or corporation that shall habitually or otherwise buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the

running, pacing or trotting, either within or without this state, of any horse, mare or gelding, or shall conduct the practices commonly known as bookmaking and pool selling, or either of them, or shall keep a place to which persons may resort for engaging in such practices, or either of them, or for betting upon the event of any horse race, or other race or contest, either within or without this state, or for gambling in any form, or aiding, abetting or assisting therein, shall be guilty of a misdemeanor, and punished.' &c.

"Two matters only require mention.

"Counsel for plaintiff in error, conceding that this statute makes it a misdemeanor to keep a place to which persons may resort for gambling in any form, insists that the section does not make it a misdemeanor to aid, abet or assist in the keeping of such a place. It is argued that by the literal reading of the section the words 'aiding, abetting or assisting' are conjoined to the phrase 'gambling in any form', so that the thing which is made a misdemeanor is the keeping a place to which persons may resort for bookmaking or pool selling, or for betting upon races, or for gambling in any form, or for aiding, abetting or assisting in such gambling. We deem it clear, however, that the words 'or aiding, abetting or assisting' are intended to be conjoined to the words 'any person or corporation' at the beginning of the section; and that, although the language lacks something of grammatical nicety, it sufficiently expresses the legislative purpose to render any person or corporation that may aid, abet or assist in doing any of the things that are by the section prohibited, guilty of a misdemeanor; in fact to make the aider and abettor a principal offender."

See also State v. Wilson, 79 N.J.L. 241, affirmed, 80 N.J.L. 467, in support of our argument under this point. Particular attention is called to page 244.

POINT VI.

The defendants suffered manifest wrong and injury in the admission of testimony by the trial court.

Specification for Reversal 147 (Case, p. 104).

As to the Exhibits:

Exhibits S-13, S-22, S-23, S-25, S-54, S-56, S-59 and S-61 are various memoranda seized by the arresting officers on the premises No. 1124 Garden Street, and offered for the purpose of proving the charge in the indictment. It is our contention that none of these exhibits is proof of that charge, as we have heretofore shown (in Point II, *supra*), because not a single one of said exhibits bore any indication of the laying and acceptance of bets at odds, which we maintain is the essence of the system of betting known as bookmaking with which the defendants were charged. In the court below, the State made no attempt to point out any reference to bets at odds in any of said exhibits, and we are convinced that the State will be unable to call this court's attention to any such reference. Therefore, the admission of said exhibits in evidence against all the defendants, over objection, was prejudicial error. Furthermore, by whom they were made or prepared was not proven, except as against one defendant, Halpin, who, when interviewed by the Attorney General after his arrest, stated that he was a clerk and that he wrote the betting sheets for racing bets in the "wire room" (Case, p. 331). (Assignments of Error and Specifications for Reversal 9, 18, 19, 21, 32 and 33, and Specification for Reversal 147.)

For the same reason, it was also prejudicial error to admit in evidence, over objection, in

proof of the charge, the various paraphernalia in the "wire room," such as a table, telephones, panel board, chairs, racing publications, newspapers and many other articles. The exhibits are numerous, and are listed in the Index to Exhibits. (Assignments of Error and Specifications for Reversal 13 to 17, 20, 22, 27 to 30, 35 to 39, 44, 56, 59 and 60, and Specification for Reversal 147).

It was also prejudicial error, for the same reason, to admit in evidence, in proof of the charge, the photographs marked "Exhibits S-1 to S-7", inclusive, in the absence of proof of bookmaking. (Assignments of Error and Specifications for Reversal 5 to 8, inclusive, and Specification for Reversal 147.)

It was also highly prejudicial error to admit in evidence, over objection, the exhibits which consisted of moneys, private papers, Government bonds, and jewelry of James Lewis which were found in his clothes, in his bedroom, and in the closet adjacent thereto (Exhibits S-39, S-40, S-76, S-77, S-78, S-79, S-80, S-90, S-91, S-92 and S-96), because the State failed to show that these various exhibits were used in the commission of the offense charged in the indictment, and could serve only to inflame the minds of the jurors against the defendants. The State argued in the court below that these articles belonging to James A. Lewis were relevant and material proof of the charge of bookmaking, because they showed that Lewis lived at the premises for a period of years, was possessed of wealth from which an inference could be drawn that he was a professional gambler, in a position to finance bookmaking operations, and that he had an interest in and was part of the operations going on at No. 1124 Garden Street. To this we reply that the fact that a person has resided in a house for a number of years and

is possessed of some wealth does not tend to prove that he had made or taken a book, as charged in the indictment.

Furthermore, these exhibits constituted property of certain of the defendants which had been seized unlawfully, without search warrant (Case, p. 366). Inasmuch as these exhibits did not, in themselves, constitute proof of the alleged offense, they should not have been admitted in evidence. (Assignments of Error and Specifications for Reversal 41, 40, 42, 52, 53, 54, 58, and Specification for Reversal 147.)

The law is settled that property unlawfully seized without search warrant which is not, in itself, proof of the offense charged, is not admissible in evidence.

State v. *MacQueen,* 69 N. J. L. 522;
State v. *Lyons,* 99 N. J. L. 301;
State v. *Haines,* 103 N. J. L. 534.

In the court below, the State cited *State* v. *Laster, State* v. *Morehouse and State* v. *Rusnak* to sustain its contention that the articles unlawfully seized were properly admitted in evidence. Those decisions, however, are not in point.

Thus, *State* v. *Laster,* 71 N. J. L. 586, held only that it was proper to admit in evidence certain articles which, at the time of his arrest, the defendant took from his person and voluntarily gave to the arresting officers; *State* v. *Morehouse,* 97 N. J. L. 285, was a prosecution for murder, in which the court held it was proper to admit in evidence articles identified as having belonged to the deceased which were found in the defendant's clothes in his room at the time of his arrest therein, and *State* v. *Rusnak,* 108 N. J. L. 84, was a prosecution for murder, in which the court held

it proper to have admitted in evidence bullets fitting the murder weapon, which bullets were found in the suit of clothes worn by the defendant at the time of the murder and were taken at the time of his arrest.

The articles discussed in the three cited cases were clearly evidential *per se* of the offense charged and were admissible only on that ground.

As to the Oral Testimony:

It was prejudicial error to permit the following police officers to testify as follows:

Lieutenant James J. Mahoney, of the Prosecutor's staff of detectives, was permitted to testify, over objection, as follows:

p. 396:

> "Q. I show you these slips and ask you whether or not these slips are used in connection with bookmaking?"

Discussion followed on objection to this question, and on page 397, the witness was again asked:

> "Q. Are they used in connection with bookmaking? A. Yes, sir, they are.
>
> Q. Now, Lieutenant, with what I have shown you here and from your experience and knowledge, and from what you see in this court room, this board marked S-12 in evidence, these telephones, these private telephones; can you tell us, in your opinion, what all this was being used for?
>
> * * * * * *
>
> A. Typical bookmaking equipment."

(Assignments of Error and Specifications for Reversal 103 and 104, and Specifications for Reversal 141 and 142.)

Chief Peter J. Devine, of the Prosecutor's detectives, was also permitted, over objection, to testify:

p. 416:

> "Q. Now, Chief, these exhibits that I have shown you, together with all of this paraphernalia that you see before you, the table and the telephone and the radio and these boxes; can you tell us whether or not they are used in connection with bookmaking? A. Yes, sir, they are."

Then, particularly identifying Exhibits S-13, S-22, S-17, S-20, S-59, S-54, and S-47, he was asked, with respect to each one, the leading question whether the particular exhibit was used "in taking and making a book," and in each case, his answer was, "They are," or "Yes" (Case, pp. 417 to 421). (Assignments of Error and Specifications for Reversal 111 to 118, and Specifications for Reversal 141 and 142).

It will not be denied that the issue to be decided by the jury was whether or not the defendants, or some of them, were engaged in making book on June 9th, 1944, at No. 1124 Garden Street, Hoboken. That was what the State was required to prove. Whether or not the conduct of the defendants constituted bookmaking was for the jury to decide, after the Court had properly instructed them on the legal meaning of the phrase used in the statute. It was not the subject of opinion evidence, and it was not for the police officers who were interrogated to answer the question for the jury.

The Court of Errors and Appeals, in *Taylor* v. *Kelvin,* 121 N. J. L. 142, condemned the practice of asking expert witnesses questions which go to the ultimate issue being tried by the jury, and which the jury must itself determine. In that case,

the issue was whether defendant was negligent in permitting a boy to do certain work, and the expert witness for plaintiff was asked the following question:

> "In your opinion, Mr. Storch, would it be proper to put a boy of eleven years and two months at work to clean a printing press, such as was in this school room?"

The court said, on page 146:

> "As framed, this question was not the proper subject of expert testimony. It embodied a question which might, under sufficient evidence, be submitted to the jury for its determination. Such a question cannot be asked an expert. In Krieg *v.* Timken, 102 N. J. L. 307, the late Chief Justice Gummere said:
>
> " 'The ground of objection to his testimony was that the facts concerning which he testified were not the subject of expert evidence; that it was for the jury, and not for an alleged expert, to say whether the fact that a gate opened inward instead of outward constituted a menace to the safety of people traveling along the street, without regard to the stability of its fastening. We think the objection was well founded, and for the reason upon which it was based.'
>
> "The late Chancellor Walker said (In Re McCraven, 87 N. J. Eq. 28):
>
> " 'This question states the gravamen of the proceeding, which is as to the mental capacity of the young man, and by no rule of evidence can that be made out by an omnibus question which would, in and of itself, permit a witness to establish the case.' "

See, also:

Krieg v. *Timken,* 102 N. J. L. 307;
In Re McCraven, 87 N. J. Eq. 28;
State v. *Steffen,* 210 Ia. 196, 230 N. W. 536, 78 A. L. R. 748, at 751.

In the light of the charge to the jury by the Court, and the refusal of the Court to charge as requested, the jury undoubtedly accepted the opinion evidence of the police officers as proof that the defendants had actually made a book.

Deputy Attorney General Simon L. Fisch was called as a witness by the State, and testified as to conversations with defendant James A. Lewis on June 13th, 1944, four days after the raid, on the occasion when he presented himself to the Attorney General's office for surrender. The witness was permitted to recount that he asked various questions of James A. Lewis; that he elicited no information other than the defendant's name, residence and occupation, and that the defendant refused to answer beyond that. The only purpose that could be served in submitting the testimony of Mr. Fisch was to inflame the minds of the jury against the defendant James A. Lewis; as, for instance, the question:

P. 433:

> "I said, 'Are you refusing to answer these questions because you are afraid that you will incriminate yourself?'
> "He said, 'Well I just refused to answer.' "

A motion was made to strike out this entire testimony of Mr. Fisch because it was incompetent, irrelevant and immaterial, and was used only to influence the jury adversely to the defendant, but the motion was denied, and an exception taken. (Case, p. 433, l. 39, and p. 434, l. 23). (Assignment of Error 119, Case, p. 61; Specification for Reversal 119, Case, p. 94).

Conclusion.

It is respectfully submitted that for the reasons above mentioned, and because plaintiffs-in-error suffered manifest wrong and injury, the judgment appealed from should be reversed, set aside and for nothing holden.

FREDERIC M. P. PEARSE,
JULIUS LICHTENSTEIN,
Attorneys for and of Counsel
with Plaintiffs-in-Error.

Oral argument by

FREDERIC M. P. PEARSE.

New Jersey State Library

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New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY, Defendant-in-Error, *vs.* FRANK MORANO, WALTER LAURENCE MULLINS, VINCENT PAUL HALPIN, FRANK X. J. MARNELL, WALTER A. LEWIS, EUGENE V. LEWIS and JAMES A. LEWIS, Plaintiffs-in-Error.	On Indictment for Bookmaking. On Writ of Error to New Jersey Supreme Court. Sat below: Brogan, C. J., Parker and Oliphant, J.J.

BRIEF OF DEFENDANT-IN-ERROR.

Statement of Facts.

(Italics ours unless otherwise indicated.)

On June 9, 1944 a detail of State Troopers headed by Sergeant Ralph Dowgin went to premises known as 1124 Garden Street, in the City of Hoboken, County of Hudson, New Jersey, at about 3:30 P. M., rang the door bell and upon being refused admittance, forced their way into the premises (C., pp. 131, 132). Ingress having been made, the police detail made its way forthwith to the third floor, where they found what they term to be "a wire room" (Ex. S-1, C., p. 477; C., pp. 132, 133).

The State Troopers, upon reaching the third floor, found there the following plaintiffs-in-error, hereinafter and at all times referred to as the defendants, viz., Frank Morano, Walter L. Mullins, Vincent P. Halpin, Frank X. J. Marnell,

Walter A. Lewis and Eugene Lewis (C., p. 135, ll. 11-20). The other defendant, James A. Lewis, was not found on the premises at the time of the raid (C., p. 135, ll. 1-25). The defendant Walter Lewis was apprehended as he was running downstairs (C., p. 140, ll. 1-10). The defendant Marnell was found and apprehended under a bed, which bed was situated in a room on the third floor, adjoining the wire room (Ex. S-5, C., p. 122, ll. 25-40).

After Marnell had dressed himself he was brought back to the wire room and asked to take his place where he customarily sat at the wire table with the remaining defendants, who already had had their photographs taken prior to the apprehension of Marnell (Ex. S-6, C., p. 486; Ex. S-4, C., p. 482; C., p. 122, ll. 25-40; C., pp. 125, 126). Prior to the taking of these photographs a photograph was taken of the wire room on the third floor as it appeared when it was left and deserted by the defendants (Ex. S-1, C., p. 476). Another photograph was taken of a section of the wire room showing a close-up of the clock and the telephone panel that was part of the equipment for the wire room (Ex. S-2, C., p. 478; C., p. 112). Several other photographs were taken showing various angles and reflecting the condition of the wire room, notably Ex. S-4, C., p. 482 and S-7, C., p. 488, all taken during the afternoon of the raid on the aforesaid premises.

All of the defendants, excepting James Lewis, were placed under arrest by the State Police and during the course of the apprehension, questioning and arresting of the aforesaid defendants, seizure was made of any and all articles which the State Troopers deemed evidentiary in proving the culpabilities of the parties arrested. Commencing at page 476 of the State of Case, up to and including page 542 (Vol. II), there are exhibited

and listed, pictured and otherwise designated ninety-six exhibits (S-1 to S-96) which were seized and turned over to the Acting Prosecutor of the Pleas for the County of Hudson.

Exhibits S-1, S-2, S-4, S-6 and S-7 are photographs taken of what throughout the case is known as the wire room on the afternoon of the raid at 1124 Garden Street, Hoboken (C., pp. 476-488).

Exhibit S-3 is a photograph of the exterior of the aforesaid premises, which is a dwelling house consisting of three floors, together with a basement (C., p. 480).

Exhibits S-8, S-9, S-10 and S-11 are drawings to scale of the layout of the different floors of the premises, including the basement (C., pp. 490-496).

All of the remaining exhibits, that is to say, from Exhibit S-12 to Exhibit S-96, compose in the main all the paraphernalia, electric equipment, including telephones and headphones and similar fixtures going to make up the physical equipment of the wire room itself, together with racing sheets, racing charts, betting sheets and the like that compose typical bookmaking equipment found in establishments of this kind.

In view of the fact that throughout their brief, defendants lay stress upon the fact that the laying of odds is essential in proving bookmaking or making of book, attention is specifically directed to Exhibit S-16 (C., p. 500); Exhibit S-13 (C., p. 498).

Again, reference shall be made specifically to other exhibits contained in the State of Case as occasion requires hereinafter in this Brief.

After the Police had arrested the defendants, all of the latter were brought to the office of the Acting Prosecutor of the Pleas at the Court House in Jersey City, Hudson County, at which place each and every one of them was interrogated by Attorney General Walter D. Van Riper, the Acting

Prosecutor of the Pleas in and for the County of Hudson (C., pp. 293, 294). The questions propounded by the Attorney General and the answers thereto were taken down by William Robert Price, who was and has been a court stenographer of twenty years' standing. At the time the questions and answers were taken down by the stenographer the room was peopled with photographers, some newspaper reporters and attaches of the Prosecutor's office (C., p. 294, ll. 10-20). No threats or promises were made to the parties interrogated and each and every one of them answered and spoke without any threat or hope of reward or promise given (C., p. 294). In other words, the statements were voluntary.

Before Mr. Price was questioned concerning any of the statements made by the various defendants a long colloquy ensued between the Court, counsel for the defendants and the State's attorney, and objections were made on many grounds as to the admissibility of the statements taken (C., pp. 299-304), with the result, as the transcript will show, the Court throughout all the testimony that was taken concerning the statements, admonished the jury time and time again that no statements made by any particular defendant could or would be binding on any of the other defendants and that the particular statement of each defendant would be only binding as to himself (C., p. 323, ll. 30-40; p. 340, ll. 20-30; C., p. 348, ll. 20-30; C., p. 356, ll. 10-20; p. 451, ll. 37-40; p. 452, ll. 1-14).

The first defendant questioned by the Attorney General was Frank Marnell (C., p. 305). He stated that he was found under a bed at 1124 Garden Street on the day of the raid (C., p. 306). He stated further that he had been working at the premises, taking bets over the wire for a period of six or seven years; that he usually went to work around three o'clock and worked until closing,

which would be about half past five, and that he received an average of $25.00 a week for so doing (C., p. 306, ll. 1-28).

The next defendant questioned by the Attorney General was Eugene V. Lewis (C., p. 310, ll. 38-40). He further stated that he owned premises 1124 Garden Street and that he owned the wire room (C., p. 312, ll. 10-12). He further stated that he furnished the capital in running the place (C., p. 313, ll. 20-24). He further stated as follows:

> "Q. You had an elaborate radio. You took in a lot of bets, didn't you? A. Yes.
> Q. You know they found a lot of money today, don't you? A. Yes.
> Q. Do you know how much? A. Well, a man called it out.
> Q. Around $17,000? A. Yes" (C., p. 314, ll. 10-19).

He further stated as follows:

> "Q. That is the bankroll for running the place? A. That is the bankroll" (C., p. 314, ll. 24-26).

He further stated as follows:

> "Q. In other words, if you had heavy losses today you would have to pay the losses tomorrow, and you would pay them out of that $17,000? A. Yes.
> Q. That was the business capital, wasn't it? A. Yes" (C., p. 314, ll. 27-33).

The defendant Eugene Lewis further stated that he had been running a wire room at the premises "within the last three years" (C., p. 315, ll. 1-7). He further stated that the place had been "knocked off" about three years ago (C., p. 316). The defendant Eugene Lewis further stated under questioning that he considered 1124 Garden Street his home and "my castle" (C., p. 319). The defendant further stated as follows:

"Q. * * * You were all working there on the wires today? A. Yes, sir.

Q. Why didn't you get out? Did they come in too fast? A. Oh, my God, I got stuck up once. I thought it was another one" (C., p. 323, ll. 13-20).

The next defendant examined by the Attorney General was Walter Mullins (C., p. 324). He testified that he was arrested at 1124 Garden Street on the day of the raid but that he just stopped in to see the boys (C., pp. 324, 325). He was asked the following questions:

"Q. You were working there on the phone, weren't you? A. I was sitting there, yes, sir, for a chance to go down to the track.

Q. You were taking bets over the phone. A. I did not take bets over the phone.

Q. You were taking messages over the phone? A. I did not take messages over the phone.

Q. You were working there? A. No, sir" (C., p. 325, ll. 27-39).

In short, this defendant when questioned by the Attorney General refused to admit that he had anything to do with the wire room, the betting or bookmaking or any other wrongdoing.

The next defendant interrogated by the Attorney General was Vincent Halpin, who stated that he was working at 1124 Garden Street as a clerk and that he wrote on sheets. He further stated as follows:

"Q. You wrote the betting sheets for racing bets? A. Yes.

Q. That was a wire room there, wasn't it? A. Yes, sir" (C., p. 331, ll. 28-32).

He further stated that he was paid $40.00 a week (C., p. 332). He stated further as follows:

"Q. That is a regular wire room where you take bets over the phone, is that right? A. Yes.

Q. You had several telephones there? A. Yes, sir.

Q. You had a radio? A. Yes.

Q. You had racing sheets? A. Racing Sheets.

Q. Racing charts, and everything that goes with it? A. Yes.

Q. You had a big business there, didn't you? A. Well, pretty big—I never—'' (C., p. 332, ll. 38-40; p. 333, ll. 1-14).

He further stated that he had received a year's suspended sentence from Judge Botti for stealing razor blades and brushes (C., p. 333, ll. 25-30).

The defendant further stated as follows:

''Q. You know they found a lot of dough there today, don't you? A. According to Mr. Giuliano, yes.

Q. $17,000 or $18,000? A. That is what I heard.

Q. Do you know whose money that was? A. They found it direct'' (C., p. 334, ll. 13-20).

The next defendant interrogated by the Attorney General was Frank Morano (C., p. 341). He stated that he was a violin instructor by profession. He stated that he was arrested at 1124 Garden Street in the course of the raid and that he was working on a wire sheet. He further stated as follows:

''Q. You were sitting there with a head phone, taking bets on the phone? A. That is right.

Q. How long have you been working there? A. About three or four years, about four years.

Q. How much do you get there? A. I get $35.

Q. A week? A. Yes, lots of times I do not put full time in there'' (C., p. 342).

The defendant further stated as follows:

"Q. You know they found a lot of dough there today? A. Yes" (C., p. 345, ll. 23-25).

He further stated as follows:

"Q. You knew everybody knew that was a wire room in there, didn't you? A. Surely.
Q. It was no secret, was it? A. No" (C., p. 346, ll. 1-10).

The witness further stated as follows:

"Q. You knew it would be what? A. Just taking in the business.
Q. Taking bets over the phone? A. Yes" (C., p. 347, ll. 26-31).

The next defendant interrogated by the Attorney General was Walter A. Lewis (C., p. 348, ll. 30-40). He stated that he had been arrested at 1124 Garden Street (C., p. 349, ll. 38-40). He further stated as follows:

"Q. And your room is on the top floor? A. That is right.
Q. And it is on the top floor where the wire room is. A. Yes.
Q. And of course you knew about this wire room? A. Naturally, I knew about that" (C., p. 350, ll. 9-18).

Again Walter Lewis further stated:

"Q. When your folks are not home. And if you can give them a little help around the back room, you will do it? A. Yes, once in a while, like today, I gave them a hand and answered a few phones.
Q. And make a few bets? A. Yes" (C., p. 351, ll. 11-17).

Again the defendant stated:

"Q. All you know is that you were, on occasions you took some bets there like you

did today? A. Just today * * *" (C., p. 355, ll. 38-40; C., p. 356, l. 1).

On information, evidence and documents gathered by the State Police on premises 1124 Garden Street on the day of the raid arrest was subsequently made of the defendant James A. Lewis, who gave himself up (C., p. 435, ll. 1-10). Subsequently all of the defendants, viz., Frank Morano, Walter Laurence Mullins, Vincent Paul Halpin, Frank X. J. Marnell, Walter A. Lewis, Eugene V. Lewis and James A. Lewis were indicted by the Grand Jury in and for the County of Hudson for wilfully and unlawfully making and taking what is commonly known as a book. Said indictment was presented on August 22, 1944 (C., p. 5).

On August 30, 1944 all the defendants were arraigned and held for bail, each and every one pleading not guilty to the indictment (C., pp. 27, 28). On October 30, 1944 the above named defendants were brought to trial before Judge Roberson and a jury. The trial of said defendants lasted from October 30, 1944 to November 3, 1944.

At the conclusion of the State's case on November 3, 1944 the State rested its case and immediately thereupon the defense also rested. *Not a single defendant took the witness stand in his own behalf* (C., p. 445, ll. 29-33).

On the last day named, the jury returned a verdict of guilty as charged against all the defendants (C., pp. 31-32).

As stated in the brief of the defendants (p. 2) this case was brought before the Supreme Court both on a strict writ of error and on a review of the entire record, under the provisions of R. S. 2:195-16. The Supreme Court affirmed the conviction (C., p. "c"). A Writ of Error was sued out by the plaintiffs-in-error filed December 15,

1945 (C., p. "a") and the Return to Writ of error was made accordingly (C., p. "b"). The opinion of the Supreme Court (Parker J.) in affirming the conviction of the Quarter Sessions is appended (C., pp. "e", "f", "g", "h" and "i"). The Assignment of Error and Joinder in Error are set forth in State of Case (pp. "j", "k" and "l").

POINT I.

The Trial Court did not err in (1) denying the motion to quash the indictment; (2) denying the motions to direct a verdict; and (3) denying the motion in arrest of judgment, upon the ground that the indictment was defective.

Defendants at pages 7 and 8 of their brief say:

> "It is our contention that the charge is insufficient in that it violates the requirement of our Constitution and of the law that indictments shall be framed with certainty. While it is undoubtedly a well-settled general rule that in an indictment charging the commission of a statutory offense it is sufficient to describe the offense substantially in the words of the statute, that rule does not apply here for the reason that the statute itself does not describe the offense or, rather, the acts which constitute the offense."

At the outset, it is deemed expedient that a brief résumé be given setting forth the origin and history of gaming, generally, and "bookmaking" or "making book", specifically.

At common law gambling, gaming, wagering and similar acts were not objectionable *per se* and gaming was unlawful only when it was tainted with fraud, or constituted a nuisance, or for some special reason ran counter to public policy. *Flagg*

v. *Baldwin,* 38 N. J. E. 219; *State* v. *Murzda,* 116 N. J. L. 219.

By the Constitution of the State of New Jersey, however, gaming is enjoined and our State Constitution of 1844, as amended in 1897, provided as follows:

> "No lottery, roulette, or game of chance of any form shall be authorized by the Legislature in this State, and no ticket in any lottery shall be bought or sold within this State, or offered for sale; nor shall pool-selling, *book-making,* or gambling of any kind be authorized or allowed within this State, except pari-mutuel betting on the results of the racing of horses only, from which the State shall derive a reasonable revenue for the support of government; nor shall any gambling device, practice, or game of chance, or pari-mutuel betting thereon now prohibited by law, except as herein stated and otherwise provided, be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished" (N. J. Const., Art. IV, Sec. VII, Par. 2, 4 R. S. of 1937, pp. 145, 146).

In 1939, Article IV, Section VII, paragraph 2, of our Constitution was further amended to read as follows:

> "It shall be lawful to hold, carry on, and operate in this State race meetings whereat the trotting, running, or steeplechase racing of horses only may be conducted between the hours of sunrise and sunset on week days only and in duly legalized race tracks, at which the pari-mutuel system of betting shall be permitted. No lottery, roulette, or game of chance of any form shall be authorized by the Legislature in this State, and no ticket in any lottery shall be bought or sold within this State, or offered for sale; nor shall pool-selling, *book-making,* or gambling of any kind be authorized or allowed within this State, except pari-mutuel betting on the results of

the racing of horses only, from which the State shall derive a reasonable revenue for the support of government; nor shall any gambling device, practice, or game of chance, or pari-mutuel betting thereon now prohibited by law, except as herein stated and otherwise provided, be legalized, or the remedy, penalty, or punishment now provided therefor be in any way diminished. As amended, election June 20, 1939. Proclamation July 11, 1939."

Pursuant to and in consonance with the above Constitutional amendment of 1939, R. S. 2:135-3 was amended to read as follows:

"2:135-3. Bookmaking and pool selling; keeping gambling resort; pari-mutual betting at race meetings excepted

"Any person who shall habitually or otherwise, buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this State, of any horse, mare or gelding, or shall conduct the practices commonly known as bookmaking or pool selling, or shall keep a place to which persons may resort for engaging in any such practices, or for betting upon the event of any horse race, or other race or contest, either within or without this State, or for gambling in any form, or any person who shall aid, abet or assist in any such acts, shall be guilty of a misdemeanor, and punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the State prison for not less than one year nor more than five years. Nothing in this section contained shall be construed to apply to pari-mutual betting at race meetings as authorized by the Constitution of this State and any statute passed in pursuance thereof."

Source: L. 1898, c. 235, section 65, p. 812 (C. S., p. 1766, section 65; as amended L. 1940, c. 205, p. 862, section 1.)

In other words, R. S. 2:135-3 was identical with the language of Chapter 235, Sec. 65, page 812 (C. S. 1766, Section 65) saving for the following amendment:

> "Nothing in this section contained shall be construed to apply to pari-mutual betting at race meetings as authorized by the Constitution of this State and any statute passed in pursuance thereof." As amended, L. 1940, C. 205, p. 862, section 1.

From this, therefore, it is obvious that by our Constitution since 1897 and related statutes, bookmaking has been prohibited in this State. As was said by Mr. Justice Heher, speaking for the Court of Errors and Appeals, in *State* v. *Murzda, supra,* the constitutional amendment was designed to strip the legislature of the power to permit lotteries or to authorize pool selling, *bookmaking,* or gambling in any form.

It is contended by the defendants throughout their brief that the word "bookmaking" is defined neither in the Constitution nor in the Statutes related thereto, and that therefore in order to draft a proper indictment charging bookmaking, it is incumbent upon the State to set out those elements in the indictment that go to constitute the meaning of the word "bookmaking" in order to apprize the defendants of the offense with which they stand charged. In answer to that contention, we submit that the word "bookmaking" has a meaning clear and sufficient within itself.

In support of this, attention is directed to the words of Mr. Justice Heher in *State* v. *Murzda, supra,* at page 222, wherein the learned Justice said:

> "But, in the quest for the intention and meaning of a constitutional limitation, its essence and nature must ever be kept in mind.

> The primary design of a constitution is to put the fundamentals of government beyond the control of 'the varying moods of public opinion', to borrow the language of Judge Cooley (*Cooley's Constitutional Limitations (8th ed. 124)*; *and it is therefore to be presumed that the words employed have been carefully measured and weighed to convey a certain and definite meaning, with as little as possible left to implication.*) *Wolcott* v. *Wigton,* 7 Ind. 44; *People* v. *Purdy,* 2 Hill 31, Cooley Const. Lim. 128."

While as earlier said herein, bookmaking and other forms of wagering were not offenses at common law, it is equally certain that various types of gaming were in existence, and as such had a definite meaning to the public at large, from earliest times. Even the defendants in their Brief concede this to be so, for at page 24 therein, they state as follows:

> "Bookmaking is an ancient, though apparently not a very honorable, profession."

It follows, therefore, and it is to be assumed that the framers of the Constitution, as well as the Legislature had this in mind when they used the word "bookmaking".

By way of illustrating and proving that the word "bookmaking" has a definite meaning in lay minds, resort is had to the ordinary dictionaries as differentiated from law dictionaries.

In *Webster's New International Dictionary, Second Edition,* the word "bookmaking" is defined as follows:

> "Bookmaking, n. 1. The making of books.
> 2. Specif., the making of a book of bets."

Again we have another definition of the word "bookmaker":

> "Bookmaker, n. One who makes books; specif.: A. Formerly, a printer and binder; now, esp., one skilled in printing and making up the format of books. B. A compiler of books from other books. C. One who makes a book of bets.—bookmaking, adj."

In *Funk & Wagnalls Practical Standard Dictionary* published by Funk & Wagnalls Company, New York and London, 1933, at page 144 therein, under a subdivision of the word book, there is found and printed the following:

> "B.maker, n. 1. One who compiles prints, or binds books. 2. A professional betting man, especially as connected with the turf."

With respect to legal authorities, we have the following in *Corpus Juris,* Vol. 27 at page 979:

> "Bookmaking is a species of betting on race horses. The term imports some method of recording bets."

Again in 38 *Corpus Juris Secundum,* Vol. 38, page 54, "bookmaking" is defined as follows:

> "A species of betting on races. The business of receiving and accepting of bets and wagers on the result of races, usually after quoting odds to the respective bettors and having them write out slips. The term imports some method of recording bets; and while analogous to pool-selling, strictly speaking, it is distinguished therefrom."

In Words and Phrases (Permanent Edition, West Publishing Co.), Volume 5 at page 686, we have the following:

> "The word 'bookmaking' imports some method of recording bets. New York *v.* Bennett, 113 F. 515, 516.
>
> "The term 'bookmaking' originally indicated a collection of sheets of paper or other

substances upon which entries could be made either written or printed. People on Complaint of Lennon *v.* Camio, 300 N. Y. S. 264, 267, 165 Misc., 134.

" 'Bookmaking' is the recording or registering of bets or wagers on any trial or contest of speed or power of endurance of man or beast, or selling pools. Murphy *v.* Board of Police, N. Y. 11 Abb., N. C., 337, 338, 63 How. Prac. 396, 399.

"The term 'Bookmaking' originally indicated the collection of sheets of paper or other substances on which entries could be made, either written or printed. People *ex rel.* Lichtenstein *v.* Langan, 89 N. E. 921, 922, 196 N.Y. 260, 25 L. R. A., N. S., 479, 17 Ann. Cas. 1081.

" 'Bookmaking,' as used with 'pool selling' in Act March 21, 1905, prohibiting bookmaking and pool selling, is germane to 'pool selling'; both terms having been always understood to refer to horse racing of some character. State *ex. inf.* Hadley *v.* Delmar Jockey Club, 92 S. W. 185, 190, 200 Mo. 34."

Again in Words and Phrases, Permanent Edition, (West Publishing Co.) Volume 5, 1945 Cumulative Annual Pocket Part, at page 74 we have the following:

" 'Bookmaking' is a euphemistic term for the illegal practice of taking wagers on a horse race. Armstrong Racing Publications *v.* Moss, 43 N. Y. S. 2d 171, 174, 181 Misc. 966."

It is because of the foregoing that the Supreme Court in affirming the conviction of these defendants stated in its opinion the following:

"It is argued that there was no evidence in definition of the words 'making a book' or 'bookmaking'. No such evidence was required. We find the word adequately defined in the Webster International, ('specifically, the making of a betting book')" (C., p. "g", ll. 13-18).

Continuing the Court says:

> "Applying the familiar maxim of '*noscitur a sociis*', the meaning of the word 'bookmaking' seems clear, and requires no explanation or definition, or particulars in the language of the indictment. If defendants were entitled to particulars of the accusation, they could have applied to the court for a bill of particulars" (C., p. "h", ll. 1-10).

With these fundamental concepts respecting the origin and history of the State's classification of bookmaking as a crime, we shall now advert to the particular cases that defendants rely upon in charging that the indictment fails to charge a crime under R. S. 2:135-3.

Defendants rely on *State* v. *Schmid,* 57 N. J. L. 625 (Brief, p. 8). Upon examination of the pertinent parts of the indictment quoted in the opinion, it is obvious that the indictment was defective in that case, for as the Court says at page 626:

> "In nowise is the defendant informed wherein the unlawfulness of his misconduct is supposed to lie. He is left to surmise whether it is because of his own lack of lawful qualification, or because of some undisclosed circumstance connected with the time or manner of such sale, or because of something in the age or condition of the person to whom it is said he unlawfully sold."

Again at the bottom of page 626, the Court says:

> "Unlawful sales of liquor differ entirely in their nature, as, for instance, sales without a license differ radically from Sunday selling or sales to an habitual drunkard. I fail to see how a defendant indicted in this vague fashion can either plead or prepare for trial."

In the case of *Linden Park Horse Association* v. *State,* 55 N. J. L. 557, relied upon by the defendants (Brief, p. 8), it is sufficient to say that an

inspection of that indictment, the germane parts of which are set forth in the opinion, discloses that it violates the prerequisites of proper pleading. In other words, as the Court says at page 557:

> "At the trial under this indictment the defendant was convicted of the offense of keeping a common gaming house—an offense, it will be observed, that is not among the specifications of misconduct that were alleged to have made the house of the defendant a disorderly one. The only disorder proved, or attempted to be proved to the jury, was the prevalence of habitual gambling on the premises of the defendant."

In *State* v. *Spear,* 63 N. J. L. 179, relied upon by the defendants (Brief, p. 9), an examination of the pertinent parts of the indictment set forth in the opinion again reveals that the indictment on its face is defective. The Court, at the bottom of page 180, says:

> "Under either statute the indictment is radically defective. It violates the requirement both of our state constitution and of the common law that indictments shall be framed with certainty."

In the indictment against Spear there appears to be a combination of several offenses set forth in the one indictment so as to preclude the defendant from understanding with any degree of certainty what the charge is to which he must stand to meet.

We submit, however, that the cases cited and quoted are not germane or relative to the particular indictment *sub judice.*

It is, undoubtedly, a well settled rule that in an indictment for an offense created by statute, it is sufficient to describe the offense in the words in which the statute describes it. An offense not defined by the statute *but created by some word of known meaning,* is bounded by the term itself.

The indictment *sub judice* is found at length on page 5 of the State of the Case. An examination of the language used in the particular count of the indictment and the instant statute shows that the pleader used the words of the statute, and we contend that in view of the fact that the word "bookmaking" or the phrase "making and taking what is commonly known as a book" have had from earliest times a meaning understood by all, and that it is not required to further define the meaning of the word "bookmaking" or "the making of a book".

Attention is specifically called to the following cases in support of these contentions:

In *State* v. *Lewandowski,* 121 N. J. L. 612, the defendant appealed from a conviction of conducting a lottery in violation of R. S. 2:147-1. The Court says at page 613:

> "The indictment charges the offense in the language of the statute and was, therefore, sufficient. *State* v. *Morris,* 98 N. J. L. 621, *affirmed,* 99 Id. 526."

In *State* v. *Caporale,* 85 N. J. L. 495, the Court at page 496 says:

> "We consider that the amendment was unnecessary. The ordinary rule is, of course, to follow the language of the statute in an indictment for a statutory crime. But if words of substantially similar meaning are used, the indictment will not be vitiated. *State* v. *Hickman,* 3 Halst. 299; 1 *Bish. Cr. Pro.,* § 612."

In *State* v. *Morris,* 98 N. J. L. 621 at page 623, the Court says:

> "The reason urged was to the effect that the counts were insufficient because indefinite. Not so. They each followed the language of the statute, and the rule is that an indictment for a statutory crime is sufficient if the offense

> be charged in the language of the statute. *State* v. *Caporale,* 85 N. J. L. 495; *State* v. *Brand,* 77 Id. 486."

In *State* v. *Lisena,* 131 N. J. L. 48, the Court at page 49 says:

> "This indictment is based upon R. S. 2:105-1. It follows the language of the statute in charging the offense. Obviously, a motion to quash the indictment was properly denied. *State* v. *Morris,* 98 N. J. L. 621; affirmed 99 Id. 526; *State* v. *Lewandowski,* 121 Id. 612."

Most important of all, is the case of *State* v. *Tuzenew,* 15 N. J. Misc. 584, a case exactly on point in that the indictment is the same as in the instant case respecting bookmaking. In that case, at page 584, the phraseology of the indictment is set forth. That indictment was based upon the statutory language of R. S. 2:135-3 as in the case *sub judice,* saving for the phrase "either within or without this State". While the case fails to reveal any attack by way of motion to quash being made on the indictment itself, it is to be assumed that if there were any error either at law or as a matter of fact, a reversal would have been had in view of the fact that "the entire record and proceedings, and transcript of the testimony, charge &c., is before us on the certification of the trial judge". This case went to the Court of Errors and Appeals and was affirmed *per curiam* for the reasons set forth in the opinion of the Supreme Court. *Vide,* 120 N. J. L., pp. 190-191.

In addition to the cases enumerated above in reference to the use of statutory words, charging the offense in the statutory words has been upheld in the following:

> Burning with intent to prejudice insurer —*State* v. *Brand,* 77 N. J. L. 486, 72 At. R. 131.

Common Burglar—*State* v. *Levine,* 110 N. J. L. 467, 166 At. R. 300.

Conversion—*State* v. *Reynolds,* 65 N. J. L. 424, 47 At. R. 644.

Embezzlement by public officials—*State* v. *Bartholomew,* 69 N. J. L. 160; 54 At. R. 231; *State* v. *Redfield,* 9 Misc. 751, 155 At. R. 757.

Illegal voting—*State* v. *Mohwinkel,* 6 Misc. 1072, 143 At. R. 802.

Lewdness and carnal indecency—*State* v. *Cohen,* 108 N. J. L. 216, 157 At. R. 437; *State* v. *Vliet,* 120 N. J. L. 23, 197 At. R. 894.

In *State* v. *Mohwinkel, supra,* our Supreme Court says at page 1073:

> "The application is based on the ground that the indictment is insufficient in law because it does not sufficiently inform the prosecutor . . . of the nature and cause of the accusation against her. Not so. The indictment is in the exact words of the statute. This has been held, not only in this court, but by the Court of Errors and Appeals, sufficient. The rule is, that an indictment for a statutory crime is sufficient if the offense is charged in the words or language of the statute." Citations.

Again, attention is directed to the opinion of the Supreme Court in this case wherein it says:

> "Our statute says (2:135-3) 'or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this State, of any horse, mare or gelding' etc. The statutory language, not here quoted in full, is comprehensive; and as already pointed out, is faithfully followed in the indictment. The statute itself dates from 1898, and is in line with the amendment

> of paragraph 2, Section VII of Article IV of the constitution proposed by the legislature in May, 1897 (P. L. 1897 at p. 462) adopted at a special election September 28, 1897, and proclaimed by the governor October 26, 1897 (P. L. 1898 at p. 973)'' (C., p. ''g'', ll. 20-34).

The defendants in their brief (pp. 13, 14, 15, 16 and 17) enumerate certain New York cases set forth therein, in support of their contention that it is essential to set forth in the indictment facts specifying what constitutes bookmaking, in the absence of which, the indictment, they say, is defective.

In view of the fact that the defendants again set forth these New York cases under Point II of their brief (pp. 26, 27, 28, 29 and 30) and in view of the fact that they quoted from them at length under Point II of their brief, for purposes of brevity and conciseness we shall answer the arguments based on those cases under Point II of this brief.

Again attention is directed to defendants' brief (pp. 5-6) wherein the defendants say:

> ''(3) It is defective because it fails to charge the place, either within or without this State, where the alleged running took place, or whether such place was within or without this State; (*we shall not argue this ground*).''

The defendants, as stated above, have abandoned this point before this Court, although it was closely pressed before the Court below.

In answering this point, the Supreme Court said:

> ''As regards the locality, within or without this State, where the 'running of horses' etc. took place, that is clearly immaterial. The gist of the offense is bookmaking bets on such running, and it is the locality of the bookmaking that matters. If the horses ran

> in California, and the 'bookmaking' took place in Hudson County, New Jersey, the statute was violated'' (C., p. ''h'', ll. 14-21).

The reason reference is made to this is to point out the captious endeavors on the part of the defendants to rest upon legal nuances and strain at legal technicalities in their efforts to set aside the convictions.

POINT II.

The case made by the State established the commission of the offense of making or taking a book, and the Trial Court did not err (1) in failing to direct a verdict at the close of the State's case, and after the defendants rested, on the ground that the State failed to prove the charge alleged in the indictment, and (2) in denying the defendant's motion in arrest of judgment on the same ground. The Trial Court did not err in admitting in evidence the various objects, paraphernalia and documents offered at the trial as proof of the charge of bookmaking, because they proved the commission of the offense charged.

The defendants urged the following (Brief, pp. 21-22):

> ''One of the grounds urged in support of the motion was the insufficiency of evidence to support the conviction, and that is the subject of Specifications for Reversal 143 and 144'' (Case, p. 104).
>
> ''Taking the sum total of the exhibits and testimony, the State failed to show that the defendants, or any of them, 'did make and take what is commonly known as a book * * *'. Whatever other offense may have been committed by the defendants, it was not bookmaking.

> "To constitute the offense of making and taking a book, there must be proof of a written record of: (1) the name or other means of identification of the bettor; (2) the name of the horse selected; (3) the amount bet by the bettor; and (4) the odds which the bookmaker quoted and laid for or against the horse with any player or bettor in taking his bet so that at the time the bet was made, the record (book) would indicate the amount the bettor would receive in the event of the success of his horse in the race.
>
> "The exhibits and testimony are totally lacking in proof of any written or printed record that the defendants, or any of them quoted or laid any odds with anyone."

In support of the above contentions the defendants resort and place reliance upon a series of New York cases dealing with "bookmaking" and the proofs necessary to support a charge of bookmaking (Brief, pp. 26-32; 41). The following cases are cited by the defendants:

People ex rel. Lichtenstein v. *Langan,* 196 N. Y. Rep. 260, 89 N. E. 921;
People v. *Laude, et al.,* 143 N. Y. Supp. 156;
People v. *Solomon, et al.,* 160 N. Y. Supp. 942 (1916);
People ex rel. Shane v. *Gittens,* 137 N. Y. Supp. 670 (1912);
People v. *Wilson,* 4 N. Y. Supp. (2nd) 592.

The defendants further cite in their brief (p. 33):

> "One may search the numerous exhibits offered in this case in vain to find proofs that the defendants, or any of them, were guilty of making or taking a book, within the meaning of the statute and the authorities.

> Nowhere do we find a record showing that the defendants quoted or laid odds. Nowhere do we find that the defendants, or any of them, offered or accepted odds. * * *''

An examination of these cases will show, and does show, that in New York State not every form of gambling is prohibited; in fact, the Constitutional Convention of 1894 by an overwhelming vote refused to make such a sweeping prohibition. The proceedings of the Constitutional Convention of 1894 Vol. VI, pp. 2585, 2601.

The term ''Bookmaking'' in New York State originally indicated a collection of sheets of paper or other substances upon which entries could be made, either written or printed. Prior to the enactment of the Hart-Agnew Law (New York Laws of 1908, Chap. 507) bookmaking was conducted upon the race tracks of New York State in the following manner: the bookmaker prepared a slate upon which was marked the odds he was willing to lay against the various horses entered in a race. He would then stand upon a platform, hold his slate in his hand so that it could be easily seen by the people who placed the bets. Those seeking to bet, if the odds quoted were to their liking, placed a bet upon a horse of their selection. The entry was placed with a bookmaker's clerk who stood or was seated next to him. The manner of entering such bets would be: the clerk would record upon sheets of paper the number of the admission tag held by the bettor, the amount of the money bet, the odds quoted, and the position in which the horses played.

In order to stamp out this practice of bookmaking, the Legislature enacted Chapter 507 of the Laws of 1908.

In the *Lichtenstein* case (196 N. Y. 264, 89 N. E. 922) the point was made that the statute did not cover the situation where odds were announced orally, instead of being written. The Court held that under the statute where the oral announcement of odds was made it did not constitute bookmaking.

To overcome the situation the New York Legislature enacted Chapter 488 of the Laws of 1910, which prohibits a person from engaging in bookmaking with or without writing. This situation is discussed at length in the case of *People* v. *Laude, et al.*, 143 N. Y. Suppl., p. 156.

The two main distinctions that this Court has to concern itself with are these:

> (1) That by constitution and by statute our State from early times has enjoined gaming in any form.
>
> (2) That our State is not a Code state such as the State of New York, and bearing in mind that New York does not constitutionally enjoin all types of gaming.

The difficulty with the argument of the defense is that they seek to make this State follow the code of New York. Under the Code of Criminal Practice in New York, where bookmaking is the offense, it is required that the information or indictment contain a brief description of the statutory crime, and in this particular type of case charging defendants with engaging in bookmaking, and stating that he did "lay odds" by publishing the terms upon which he was willing to bet odds on the result of horses, etc. See *People ex rel. Jones* v. *Langan, supra.* The reason why the Code of New York requires this brief description of the defendant is because New York

State recognizes or at least fails to include certain types of gambling in the State; and, therefore, when a person is charged with a type of gaming in New York it becomes necessary to describe more minutely the offense charged so as to apprise the defendant accordingly. But in our State we have no code, and in our State our constitution and our statutes prohibit all forms of gaming as earlier hereinbefore set forth.

With respect to this, it is again important to direct attention to the language of the Supreme Court in its opinion wherein it states as follows:

> "*Certain New York cases are cited; but it is properly pointed out* (*i. e.* by the State's brief—parenthesis ours) *that the New York statute and code are different from ours*" (C., p. "g", ll. 18-20).

It is again important to recall that our constitution prohibits "bookmaking" and uses no qualifying phrase in any wise descriptive of bookmaking. Our statute, however, of 1898 uses the phrase "or shall conduct the practices commonly known as bookmaking". This statute, that is Laws of 1898, Chapter 235, has been again reiterated and stated in the Laws of 1940, Chapter 205, which act is identical with that of the Laws of 1898, with the exception that provision is made to apply to pari-mutuel betting at race meetings as authorized by the constitution of this state as amended in 1939.

In the case of *McClean* v. *State* (E. and A., March Term 1887) reported in 9 Atl., p. 681 and 49 N. J. L. 471, the plaintiff in error was indicted for Maintaining a Public Nuisance. The form of the indictment was an ordinary one for Keeping a Disorderly House, and he was convicted of the crime. The facts further show that the defendant during the racing season of the Monmouth Park

Association conducted the business of bookmaking or betting upon horses to take place upon the race course of that association there. He carried on the business in a box or booth within the covered enclosure of the association under what is called "the grandstand". He was authorized by the association to carry on the business there and paid a rent or fee to them for the privilege. The Court then went on to say: "The defendant thus kept a place of public resort for the purpose of betting upon the result of horse races * * *. The place kept by McClean was kept in order that the public might resort thereto and engage in the unlawful practice of betting upon horse races and such practices were habitually carried on there." The primary intention of the statutory prohibition was to enjoin anyone from betting on horses who was not authorized so to do. What the evidence was before the Court and the Jury was to show whether or not from the evidence adduced that the particular defendant had violated the law or not. Paraphernalia, such as racing sheets, keeping a book, the use of telephones, and any and all racing data are concerned merely with showing that the defendant had violated the law. In other words, the presence or the absence of proof showing the laying or the non-laying of odds is not the gravamen of the offense.

In *Commonwealth* v. *Carr,* 10 Atl. (2d), p. 133, the evidence in that case was sufficient to justify most of the defendants in being found guilty for pool-selling bookmaking on race horses. See also case of *Nolan* v. *State,* 146 Atl. 268.

In *Corpus Juris,* Vol. 27, at p. 979, Bookmaking is defined:

> "Bookmaking is a species of betting on race horses. The term imports some method of recording bets." (See also footnotes thereunder.)

In 38 *Corpus Juris Secundum,* Vol. 38, p. 54, Bookmaking is defined as follows:

> "A species of betting on races. The business of receiving and accepting of bets and wagers on the result of races, usually after quoting odds to the respective bettors and having them write out slips. The term imports some method of recording bets; and while analogous to pool-selling, strictly speaking, it is distinguished therefrom." (See also footnotes thereunder.)

But assuming, without conceding, the laying of odds is essential to prove, it is important to remember, as the testimony hereinafter set forth indicates, that with the recognition of pari-mutuel betting in this state, bookmakers have used a different system in recording bets and making book. It is no longer necessary to place the odds or quote the odds, because it is the practice of the bookmakers to pay off on the horses the odds given at a mutuel track where the horses actually run. Some bookmakers pay no higher than 20-to-1 on horses; others pay as high as 30-to-1. Unless, therefore, a winner in a race goes higher than either of the two odds aforementioned; that is, 20-to-1 or 30-to-1, the bettor does not name his odds, nor does the taker of the bets or the bookmaker name the odds; but the odds are understood to be the odds paid off at the end of the race. In other words, before pari-mutuel betting was recognized as a matter of law in this State, the bookmaker or the bettor fixed the odds when the wager was made. Now the practice is, for neither one to set the odds, but for the mutuel track itself (upon which the horse actually runs) to reflect and pay off the odds.

Defendants say in their brief (p. 33):

> "If, as we contend, the laying of odds is an element of the offense charged, it should have been proved."

As stated above, assuming, without conceding, the laying of odds is essential to proof, the State submits that there was sufficient evidence that odds were laid and paid.

Adverting now to the testimony of some of the State's witnesses attention is directed to the testimony of James J. Mahoney, a Prosecutor's Detective, whose qualifications are set forth at length in the testimony (C., pp. 373-375). He testified as follows:

> "Q. Now, referring to Exhibit S-13, in the second column is $2; is that right? A. That is right.
>
> Q. What does that $2 indicate? A. $2 to win.
>
> Q. And the name in the large column, which would be the fifth column, that name is Fred Coty? A. That is the name of the winning horse in the first race at Aqueduct on June 9, 1944.
>
> Q. And as you have told me, in this column, that is the total bet, $2? A. Yes, sir.
>
> Q. Now, in the far corner there is 25.50; is that the amount that the horse won by winning first place? A. *Evidently it is the same amount that the horse paid in pari-mutuel.*
>
> Q. Now, I show you another slip and we see a bet here on this Exhibit S-13, one of these sheets, a $3 bet there, $3 in the first column, nothing in the second column, nothing in the third, nothing in the fourth, on Josephine $3.30, total amount bet; can you tell us what that means? A. *That is insurance.*
>
> Q. *Insurance on what?* A. *On the bet.*
>
> Q. On the bet; what does that mean? A. *Well, that means that a bookmaker has a certain price, and that the mutuel pays more; you must insure the bet to make the mutuel payoff.*
>
> Q. In other words, a person can make a bet for a dollar, and if he pays a dollar and ten cents for that bet, he will get track odds? A. That is right.

Q. *And track odds may be more than what the bookmaker would pay, in the event that the horse won?* A. *Yes, that is true.*

Q. The pari-mutuel, I think you said, took its calculations after the race? A. Yes, sir.

Q. And then it is announced over the radio? A. Yes, sir.

Q. And that is a radio that anybody can listen to? A. A broadcast.

Q. It is a general broadcast? A. Yes, sir.

Q. And this general broadcast is from the racetrack or from a newspaper wire room which broadcasts the result of the race immediately after the race is completed? A. It is a broadcast from the radio station, I suppose; I don't know where they get their information.

Q. And they broadcast what the horses paid at the race track, as a result of pari-mutuel results, after all the betting was made? A. Yes, sir.

Q. And then the announcement is made over the radio? A. Yes, sir.

Q. And you and I and anybody that listens in, would know how much that horse paid? A. Naturally.

Q. There is first place, second place and third, and that is what these figures are; that is, the result is heard over the radio and the figures that appear in the three lines, underneath the particular race, at that particular track that you have just testified to? A. That is the winning price of the horse.

Q. As announced over the radio? A. Yes, I imagine they announced all of them'' (C., pp. 406, 407).

Again attention is directed to the testimony of Peter J. Devine, who had been connected with the Office of the Hudson County Prosecutor of the Pleas for over twenty-eight years and who had been Chief of Prosecutor's Detectives for the past fifteen years, and who further testified that he had conducted many raids on bookmaking estab-

lishments amounting to well over a hundred (C., p. 408, ll. 10-25).

He testified that Exhibit S-13 was a tabulated list of bets "covered by these different agents here" (C., p. 409). He was asked about Exhibit S-22 and he testified that those sheets are what are known as "racing charts" (C., p. 412, ll. 1-10). Again the witness testified as follows:

> "Q. Now, I show you a sheet marked Ralph in Exhibit S-13 and I call your attention to these figures, one and one, Johns Bird, two. Two sixty and I ask you what that two sixty represents? A. *That means the bettor who made this bet has insured his bet.*
>
> Q. In that column; I imagine this is the last column? A. That is the winner, that is the odds that they paid on this two dollars" (C., p. 414, ll. 30-38).

From this testimony it cannot be doubted but that the State proved that not only odds were bet, laid and accepted, but that also insurance was paid to pay the bettor the exact odds that were paid at the track regardless of the amount.

The defendants in their brief (pp. 34, 35, 36, 37, 38 and 39) say that the testimony, both the direct and cross-examination of Mr. Mahoney and Mr. Devine negatived any proof that odds were laid. We do not deem it necessary minutely to examine the testimony above set forth in the defendants' brief and in this brief at these pages, for the simple reason that a cursory examination of this testimony clearly, obviously and demonstratively proves what they seek to negate.

By way of conclusion as to this point we submit at length the language used in *State* v. *Tuzenew, supra* (pp. 585-586):

> "*The case is one essentially of fact.*
>
> "The 'bookmaking' which the plaintiffs in error are charged with conducting, took place

on premises known as the Log Cabin Inn, Monmouth County, between Lakewood and Freehold, on the state highway. The Log Cabin Inn, as such, was a building used as a restaurant and bar, consisting of two and one-half stories. To the rear of this building was a smaller structure, perhaps thirty feet square, wherein it is charged the bookmaking was carried on. Admittedly Suckow and Tuzenew owned the Log Cabin Inn. The liquor license was in the name of Suckow or a nominee, one Crosby. Electricity for lighting and a 'pay station' telephone was installed on the application of Suckow. Additional telephone service, described as 'regular subscribers' service,' was installed in the small rear building on the application of Tuzenow on April 9th, 1935. Bills for the circuit lines were cleared through the New York Telephone Company. The indictment charged that the gambling was in operation on May 9th, 1935.

"It is apparent from the record that the place was under suspicion and under surveillance for some days prior to May 9th, 1935.

"From the testimony of the witnesses produced by the state, two from the state department of alcoholic beverage control, and four from the office of the prosecutor of the Pleas of Monmouth County, the jury might readily and properly find that at or about the time in question from forty to fifty automobiles were parked on the premises during the afternoon from two to five o'clock; that on the day in question, when the establishment was raided, the investigators found on the wall, inside the small building, 'a blackboard with the names of horses;' that a platform was erected, whereon defendant Koffman was stationed 'with ear phones'; that a cashier's booth was being operated in the premises by the two defendants McKelvey and Suckow, the former acting as cashier.

"All defendants, except Tuzenew, were identified as being present in the gambling room under circumstances from which the

jury might readily infer that they were in charge of the bookmaking operation. One of the witnesses testified that he had placed a bet on a horse race the day preceding the raid. No witness was able to testify that Tuzenew was present on the day of the raid, the only testimony concerning him indicating quite clearly that he was not present but that on the day in question his arrest occurred in the yard outside of the building.

"The detectives from the county prosecutor's office confiscated the money found in the cashier's desk, amounting to $254.90, as well as slips and racing sheets, which apparrently were found at the table where plaintiff in error McKelvey sat. These slips and racing charts were offered in evidence without objection, although we do not find them reproduced as exhibits in the state of case. This was the evidence at the end of the state's case.

"The defense was a categorical denial of the charge laid in the indictment."

This case, as hereinbefore pointed out, was affirmed *per curiam* in our Court of Errors and Appeals.

A comparison of the evidence in that case with the evidence adduced in the case *sub judice* leaves little or nothing to be said.

As pointed out in the opening part of this brief, there were some ninety-six exhibits which are set forth in the State of Case, Volume 2. Each and every exhibit, together with the admissions of certain defendants, hereinbefore set forth, can leave no doubt that there was sufficient evidence to warrant the jury in finding the defendants guilty.

Directing attention again to the phraseology of the Court in *State* v. *Tuzenew, supra,* wherein the Court says—"The defense was a categorical denial of the charge laid in the indictment"—it

must be repeated, *the defendants never took the stand,* in the case *sub judice.*

On pp. 34, 35, 36, 37, 38 and 39 of the defendants' brief, excerpts are taken from the testimony of police officers who were allowed to express their opinions as to the characterizations of the several exhibits. The defendants urge that these characterizations were without merit and were in fact illegally admitted in evidence.

By way of answer, reliance is had upon the case of *State* v. *Czarnicki,* 124 N. J. L. 43, wherein the Court at pp. 47 and 48 (Mr. Justice Heher) says:

> "The alleged lottery slips, sixteen in number, were introduced into evidence without objection. They were identified as 'lottery slips' by a detective of long experience, whose qualifications in this regard were not challenged. See *State* v. *Arthur,* 70 N. J. L. 425. As stated, the character of the papers was not in issue; prosecutor denied they were found in his possession. But the arresting officer testified that he took him into custody as 'he was placing in his right-hand pocket an envelope containing' the 'lottery slips', and that he admitted ownership and asked for 'a break'. Shortly thereafter, upon the arrival of a superior officer, so the latter testified, the accused directed this appeal to him: 'Chief, will you give me a break? You got me right. Will you please give me a break?' And he also admitted to the officer that 'he had nineteen runners under him, number runners.' It was reasonably inferable from all the evidence that the slips pertained to an existing lottery. They bore evidence on their face of an interest in a lottery still to be concluded on the very day of prosecutor's arrest. They were *prima facie* evidential of an existing lottery."

Again in *State* v. *Arthur,* 70 N. J. L. 425, the Court at page 427 says:

> "An expert may be qualified by study without practice, or by practice without study,

but mere observation without either is insufficient. *Wheeler & Wilson Company* v. *Buckout,* 31 *Vroom* 102.

"The question whether a given witness has the necessary special experience to qualify him to give opinion evidence is a question of fact for the determination of the trial court. The authorities agree that the admission of a witness thus to testify as an expert is largely in the discretion of the trial court, and that its decision is final unless shown to be erroneous in law. If there be any legal evidence to support it the finding is not erroneous in law, and is not reviewable on common law writ of error. *Castner* v. *Sliker,* 4 Vroom 95; *New Jersey Zinc Co.* v. *Lehigh Zinc Co.,* 30 Id. 189, 194; *Elvins* v. *Delaware and Atlantic Telephone Co.,* 34 Id. 243, 247; 8 *Encycl. P. & Pr., tit. 'Expert Witnesses,'* 749. The decisions in *Pennsylvania Railroad Co.* v. *Root,* 24 *Vroom* 253, and *Laing* v. *United New Jersey Railroad and Canal Co.,* 25 Id. 576, are not opposed to the rule just stated. There being evidence from which the trial court could fairly decide that the witness Hayes had the requisite experience to qualify him, the first exception is unfounded."

In conclusion and in refutation of defendants' arguments (Brief, p. 22) as set forth above in the beginning of Point II, we submit there has been proved the following:

1. Identification, if not identities, of bettors;

2. The names of horses selected;

3. The amounts bet by bettors;

4. The laying and accepting of odds.

POINT III.

The Trial Court's charge was proper and it was not obliged to charge as requested by the defendants.

The defendants in their brief (pp. 46-47) set forth in full Specifications of Error which again appear at length in pages 458-460 of the State of Case.

The defendants then go on to say:

> "The Supreme Court criticized us for omitting to set out in full the foregoing Requests in our brief which was submitted to it, and stated that the failure to set them out might 'well justify the inference that counsel themselves discern no error' (C., p. "h", ll. 36-38). The sole reason that the Requests were not printed at length in the brief was to conserve space, inasmuch as the several Requests are set out at length in the Assignments of Error and Specifications for Reversal (C., p. 66, l. 28 to p. 69, l. 8; p. 99, l. 28 to p. 102, l. 10), which were referred to at the outset of the Third Point of our brief in the Supreme Court, as they are at the outset of this Point. Surely, the defendants did not abandon the Assignments of Error and Specifications for Reversal relating to the Court's refusal to charge as requested, for in our brief in the Supreme Court, we argued that:
>
> > 'requests numbers 11 to 18, inclusive, not only specifically called upon the Court to charge the jury as to what facts must be proved by the State in order to establish the commission of the offense alleged in the indictment, but also contain definitions of the offense and statements of the elements thereof which must be proved to convict, founded upon the adjudicated cases referred to under Point II, *supra*.

> 'It is submitted that the refusal of the Court to charge any of the requests above mentioned constituted manifest and prejudicial error. Although the Court, in its charge (C., p. 449, l. 5), referred to the fact that there was no decision in this State, nevertheless, he should have had recourse to the definitions of the identical offense, as found in the decisions of sister states, particularly where such decisions were those of authoritative courts whose opinions are generally looked upon with respect by the courts of this State. Defendants' requests to charge were based upon the pronouncements of the courts of our sister states, referred to under Point II, *supra*, which we submit are accurate statements of the law. Therefore, the Court should have charged such requests, instead of depriving the jury of any enlightenment as to the description and elements of the offense for which the defendants were being tried' '' (Brief, pp. 48-49).

It is respectfully submitted that the Supreme Court did not "criticize" the defendants, but did say as follows:

> "The brief asserts in general terms that there was error in refusing some eight requests to charge none of which is specifically treated or even reproduced in the brief; and, as already noted, there was no oral argument. It is elementary that a reviewing court is not required to search for error not pointed out at the argument or in the brief; *A. Makray, Inc.* v. *McCullough,* 103 N. J. Law 346; and the absence of any such specification may well justify the inference that counsel themselves discern no error."

The Supreme Court apparently had in mind when it referred to *Makray, Inc.* v. *McCullough, supra,* the following:

> "The rule is well settled that, in addition to specifying the alleged errors complained

> of, briefs should state reasons to show why the rulings are erroneous. 3 C. J. 1428 § 1591, and cases cited. This is the equivalent of the doctrine of this court that we need not, and ordinarily will not, consider a question not raised and argued in the court below, unless it goes to jurisdiction or involves public policy. *Allen* v. *Paterson,* 99 N. J. L. 489. And this doctrine applies equally when a case is here on appeal from the trial court as it does when it is here on appeal from an intermediate appellate tribunal. And this court, for the same reason, will not consider questions not argued before it. Neither jurisdiction nor public policy is involved in the case at bar."

In other words, it was not the failure of the defendants to set out at length and reproduce in the brief the specific assignments of error relied upon, that the Supreme Court stresses, but because as said in *Makray, Inc.* v. *McCullough, supra,* "briefs should state reasons to show why the rulings are erroneous * * * This is the equivalent of the doctrine of this court that we need not, and ordinarily will not, consider a question not raised and *argued* in the court below, unless it goes to jurisdiction or involves public policy."

Defendants on pages 44 and 45 of their brief in the main reproduce almost word for word the exact arguments used in their briefs in the Supreme Court. By way of answer to those arguments, the State herewith reproduces word for word the answer of the State in its brief in the Supreme Court thereto as follows:

"The defendants allege that the 'Court's charge was remarkable for its vagueness on the instructions to the jury as to what they would be required to find in order to convict the defendants of the charge laid in the indictment'

(Brief, p. 30). See present brief of defendants pp. 44-45-46.)

We submit the Court's charge was clear, certain, fair and easily understandable by the jury. An examination of the entire charge reveals the following:

(1) A reading of the entire indictment to the jury (C., p. 448, ll. 1-25).

(2) A reading of the statute upon which the indictment was predicated and upon which the defendants were tried for the violations thereof (C., p. 448, ll. 35-40).

(3) An explanation of the ordinary meaning of the words and phrases—"bookmaking" and "making or taking books". A recital of Webster's Dictionary with respect to the definition pertaining thereto. Again, the Court says as follows:

> "Now, it is called bookmaking because the bets are booked, or a record of them is kept in a book or on sheets of paper." (C., p. 49, ll. 1-20)

(4) A charge of presumption of innocence and the burden of the State to prove defendants guilty beyond a reasonable doubt (C., p. 449, ll. 20-30).

(5) A legal explanation to the jury of what is known and understood to be the meaning of the phrase "reasonable doubt" (C., pp. 449, 450). The analysis of the phrase "reasonable doubt" is based upon that language employed in the topical case of the state, viz., *State* v. *Donnelly,* 26 N. J. L. 615, which follows the definition contained in *Commonwealth* v. *Webster,* 5 Cush. 296.

(6) An admonishment to the jury that motions made and determined as a matter of law was in no wise to affect them (C., p. 450, ll. 20-30).

(7) A proper instruction with reference to the defendant's right not to offer himself as a witness if he so desires; together with a brief statement of a fact presumption on the part of the jury that they failed so to do (C., p. 450, ll. 32-40). *State* v. *Callahan,* 76 N. J. L. 685, AFF, 77 L. 685.

(8) An admonition or charge to the jury with reference to the statements made by several of the defendants taken at the time of the raid and introduced into evidence in which the Court admonishes the jury that only those parts of the statements taken could be binding upon the particular defendant who made the statement (C., p. 452, ll. 3-14).

(9) A careful instruction to the jury concerning circumstantial evidence, which charge is in consonance with the recognized charges used in the leading cases of this state. (C., p. 452, ll. 20-40; C., p. 453, ll. 1-3). *State* v. *Glass,* 12 N. J. Misc. 235; *State* v. *Corrado,* 113 N. J. L. 53.

(10) The remaining part of the charge consists in advising the jury that they were to be the sole judges of the facts in the case and the general admonitions given to a jury in all criminal cases.

The defendants insist that the definitions of "bookmaking" and the phrase "making or taking books" were deficient in extent and analyses and that the Court was obliged to dwell at length on what they consider the elements of the offense with which the defendants had been charged (Brief, p. 31). They allege further and in particular that when they submitted their written requests to charge, Nos. 11 to 18 (C., pp. 458-460) that the Court was obliged so to do. In answer

to that we again urge that the definitions and decisions concerning bookmaking in the State of New York are not applicable in this state in the instant case or similar cases. With respect to the requests to charge other than those charges Nos. 11 to 18, an examination will show that the Court in effect had already charged what was latterly requested. In other words, the Court is not required to adopt the language of the request so long as it is given in substance. It is elemental that a defendant has no right to choose the language to be employed by the Court in instructing a jury. *State* v. *Rusnak,* 108 N. J. L. 84; *State* v. *Nardella,* 108 N. J. L. 148; *State* v. *Grosso,* 107 N. J. L. 295; *State* v. *Juliano,* 103 N. J. L. 663; *State* v. *Burrell,* 112 N. J. L. 330."

POINT IV.

The State produced sufficient evidence to warrant the Trial Court in allowing the jury to pass upon the guilt of the defendant James A. Lewis.

The defendant James A. Lewis in the brief of the defendants sets forth, on pages 51-53, certain facts and exhibits pertaining to the charges made against him that appear in the State of the Case. Insofar as the statements go it may be said that they are accurate but it is deemed advisable to dwell upon them at greater length.

In the course of the trial Sergeant Schindler testified that he was a member of the State Police and that on June 9th, he, together with several other troopers, arrived at 1124 Garden Street, Hoboken, some time after the original detail had gotten there. He further stated that immediately upon his arrival he and the other

troopers went to the third floor, where the wire room was situated (C., p. 250). After he reported to the wire room he was directed by Sergeant Dowgin to go with Trooper Green and check the second floor bedroom (C., p. 250, ll. 1-10; Ex. S-10, p. 495). During the course of the trial the State's attorney (Mr. Giuliano) sought to show in the first instance that defendant James A. Lewis lived at 1124 Garden Street, Hoboken, at the day and date of the making of the raid and, in fact, had lived there for many years prior thereto. After many attempts, the defendant James A. Lewis, through his attorney, finally admitted that not only did James Lewis live there, but that he occupied and slept in the rear bedroom on the second floor, as indicated in Exhibit S-10 (C., pp. 260, 261).

Continuing the testimony of Sergeant Schindler, he went on to state that he made a search in the aforesaid bedroom on the second floor and he testified that he found in a closet a diamond bracelet and a roll of money in a blue gabardine suit (C., p. 251, ll. 28-33). He further testified that he found money, together with the diamond bracelet, in the inside pocket of the gabardine suit (C., p. 252). Thereafter he further testified that he and the other policemen returned to the wire room and that when he returned there Eugene Lewis, another defendant, was questioned concerning the "bank roll" (C., p. 253, ll. 9-11; C., p. 256, ll. 14, 15). He then was asked the following question on the witness stand:

> "Q. What else, did he say what it was the bank roll for? A. The bets taken in on the wire room." (C., p. 256, ll. 18-20).

The money was then offered into evidence and is designated as S-39; C., p. 521.

The witness further testified as follows:

> "Q. And is that the suit from which you took this $16,000 and the bracelet? A. Yes, sir."

The suit of clothes was offered into evidence and marked Exhibit S-76.

Again, a steel cabinet was found in the wire room (third floor) on the day of the raid and in it was found an envelope marked or addressed to James Lewis (C., p. 161, ll. 4-14; Ex. S-27; C. Vol. 2, p. 518) which envelope contained copies of income tax returns of James Lewis and also a bill for fuel made to James Lewis (C., p. 162, l. 12; Ex. S-28, Vol. 2, p. 518).

Attention is specifically directed to Exhibit S-62, which was a letter addressed to James Lewis, Aleutian Cafe, 10th and Washington Streets, Hoboken, New Jersey, which letter was found by Corporal Heckmann in the *wire room*. Concerning this letter, Corporal Heckmann testified as follows:

> "Q. I show you a letter addressed to James Lewis, dated April 21, 1944, Aleutian Cafe, 10th and Washington Streets, Hoboken, New Jersey, and I ask you where you got that letter from? A. From one of the shelves in the wire room on the third floor.
>
> "Q. Did you place it in this box? A. I did.
>
> "Mr. Giuliano: I offer that in evidence.
>
> "Mr. Lichtenstein: I object to the offer. It is addressed to Mr. James Lewis, Aleutian Cafe, 10th and Washington Streets. This is not the place mentioned during the course of the examination which is this Garden Street house, and it is a letter and a card which has nothing whatever to do with racing or any allied or kindred subjects. It is an invitation.
>
> "Mr. Giuliano: I have no objection to the letter and the card being left out of the envelope.

"Mr. Lichtenstein: I am objecting to the whole thing.

"Mr. Giuliano: I withdraw the contents of it. I just want to get the letter in evidence.

"Mr. Lichtenstein: You still want to have the envelope in?

"Mr. Giuliano: That is right.

"Mr. Lichtenstein: I call your Honor's attention to the fact that the envelope is addressed to a cafe on Washington Street and not to the house in question.

"Mr. Giuliano: But it was found in that room.

"The Court: It was found in the house?

"Mr. Giuliano: Yes, sir.

"The Court: I will permit it."

(C., p. 230, ll. 16-40; p. 231, ll. 1-16).

In addition there was also found in the bedroom on the second floor a black leather kit with the initials "J. A. L." (C., p. 258, ll. 30-40; Ex. S-79, C., p. 540).

Sergeant Schindler further testified that he also found in a drawer of the aforesaid bedroom a package of envelopes with the name "A & B Sales Company, 501 Garden Street" marked "James A. Lewis, personal" (C., p. 257, ll. 35-40).

With these envelopes, it is important to observe were found sheets similar to Exhibit S-13; this is admitted by the defendant, James A. Lewis. (See defendants' brief at the top of page 52; see also Exhibit S-13, C., p. 499.) *Since these sheets were found among the personal effects of the defendant, James A. Lewis, which sheets are similar to Exhibit S-13 and were dated June 1st, 1944 to June 8th, 1944 inclusive, there is a strong presumption that the defendant, James A. Lewis, was connected and associated with the nefarious trade of taking and making book.*

It was also admitted that the gabardine suit in which was found the $16,000 and the diamond

bracelet belonged to the defendant James A. Lewis (C., p. 263, ll. 30-36).

Again attention is directed to Exhibits S-32, S-33, and S-34 (C., pp. 172-173). Fourteen telephones all told were found in the wire room and one, Exhibit S-34, was found in the bedroom on the second floor, which is the bedroom admittedly of the defendant, James A. Lewis, as indicated on Exhibit S-10 (C., p. 494). In that Exhibit which was drawn and offered into evidence, attention is directed to the night table (22) which was situated between two beds marked 21 and 23 in the bedroom aforesaid, upon which night tables was a telephone. With respect to this particular telephone, attention is directed to the following testimony of Sergeant Ralph Dowgin:

> "Q. Now, I show you one telephone and ask you where you got that telephone from? A. This telephone was on the second floor.
>
> "Q. Will you indicate what room you found that telephone in and where it was at the time that you saw it? A. It was on this night table between these two beds.
>
> "Q. Will you mark that telephone, please (indicating)?
>
> "Mr. Giuliano: I offer that one in evidence.
>
> "(Accepted and marked as State's Exhibit S-34 of this date.)" (C., p. 173, ll. 10-22).

Is it not a proper inference from this evidence that James A. Lewis, the defendant, was in constant touch with the wire room operated on the floor above, and actually participated in its operation?

Again while speaking of telephones, is it not novel to observe that none of these telephones

was listed under the names of any of the defendants, particularly the defendant, James A. Lewis, even though he had resided there for over twenty years?

Mrs. Anastasia Smerechniak was called as a witness in behalf of the State. She testified that she was working at the premises on June 9th, that she was employed by the defendants, Eugene Lewis and James Lewis, to work there for some seven or eight years and that it was her duties to dust and clean up. She further testified that she never was in the wire room on the third floor, that the door to the same was always closed. She further testified that on June 9th she had seen the defendant James Lewis at the premises some time in the afternoon, either around one or two o'clock, and that it might have been after two (C., pp. 265-267).

The defendants in their brief (p. 54) in discussing the opinion of the Supreme Court, charge that there was no evidence to justify the language of the Court when it said:

> "Beside his bed in a second floor room was a table holding a telephone directly connected with the so-called 'wire room'."

They further state that this language was not supported by any evidence. As earlier set forth herein under this point, the State in its brief nowhere said that there was any direct evidence that the telephone of James A. Lewis was directly connected with the so-called wire room. There is nothing in the testimony that evidences it was or was not. The words of the Supreme Court, therefore, are tantamount merely to a conclusion from the evidence, and which conclusion may have been similarly reached by the jury that convicted James A. Lewis and the others.

Moreover, attention is directed to the entire language of the Supreme Court respecting James A. Lewis, to wit:

> "Point IV in the brief relates to an individual defendant named Lewis, who was not present at the time of the raid. Lewis was shown to be, and admitted that he was, in substance a permanent resident of the house on the fourth floor of which was the room containing many telephone and other appliances used in the 'bookmaking' business, and that beside his bed in a second floor room was a table holding a telephone directly connected with the so-called 'wire room', and in the 'wire room' were found documents with his name therein. While it may be claimed that the evidence tending to connect him with the 'bookmaking' was somewhat scanty, there was enough to require the submission thereof to the jury" (C., p. "h", ll. 37-40; p. "i", ll. 1-15).

In the brief of the defendants submitted to the Supreme Court referring specifically to James A. Lewis, it stated:

> "The evidence against James A. Lewis was entirely circumstantial."

Again in their present brief (p. 56) they reiterate that statement. In reply to this, the State answered in its brief to the Supreme Court the same as it answers now, that is to say:

> "Whether circumstantial or otherwise, we submit it was for the jury to weigh the evidence."

POINT V.

The Court did not err in failing to direct a verdict in favor of all the defendants as there was ample proof against each and every defendant of making book.

The defendants urge under this point that assuming there was evidence of bookmaking that "at best the defendants merely aided, abetted or assisted in whatever operations were carried on in the premises and for such conduct, they were not indicted." In other words, they contend that they were merely aiders and abettors and as such they should have been indicted and tried for a distinct and separate offense. (Brief, pp. 57-58-59). In support of this contention the defendants rely upon the case of *People ex rel. Sturgis* v. *Fallon,* 152 N. Y. 1 (Court of Appeals) 46 N. E. 302. It is to be noted that this again is a New York case and is dependent upon the Penal Code of that State. (Brief, p. 58).

Whatever the law may be in New York State, our Court of Errors and Appeals has decided the matter exactly in point. In *State* v. *Flynn,* 76 N. J. L. p. 473, the Court at pages 474 and 475 says:

> "This writ of error brings under review a judgment of the Supreme Court, affirming a conviction in the Middlesex Quarter Sessions for a violation of section 65 of the Crimes act. *Pamph.* L. 1898, p. 812.
>
> "The indictment charges that Flynn 'did aid, abet or assist one C. W. in keeping, at his hotel on Ferry Street, in the borough of South River, in the township of East Brunswick, in the county of Middlesex, a place to which persons might resort for gambling in a certain form, namely, upon a slot machine, in this, that the said Wilbur J. Flynn did fur-

nish, lease or loan to the said C. W. the said slot machine so used or to be used for gambling by persons upon said premises as aforesaid, against the form of the statute,' &c.

"The section referred to provides that 'Any person or corporation that shall habitually or otherwise buy or sell what is commonly known as a pool, or any interest or share in any such pool, or shall make or take what is commonly known as a book, upon the running, pacing or trotting, either within or without this state, of any horse, mare or gelding, or shall conduct the practices commonly known as bookmaking and pool selling, or either of them, or shall keep a place to which persons may resort for engaging in such practices, or either of them, or for betting upon the event of any horse race, or other race or contest, either within or without this state, or for gambling in any form, or aiding, abetting or assisting therein, shall be guilty of a misdemeanor, and punished,' &c.

"Two matters only require mention.

"Counsel for plaintiff in error, conceding that this statute makes it a misdemeanor to keep a place to which persons may resort for gambling in any form, insists that the section does not make it a misdemeanor to aid, abet or assist in the keeping of such a place. It is argued that by the literal reading of the section the words 'aiding, abetting or assisting' are conjoined to the phrase 'gambling in any form,' so that the thing which is made a misdemeanor is the keeping a place to which persons may resort for bookmaking or pool selling, or for betting upon races, or for gambling in any form, or for aiding, abetting or assisting in such gambling. We deem it clear, however, that the words 'or aiding, abetting or assisting' are intended to be conjoined to the words 'any person or corporation' at the beginning of the section; and that, although the language lacks something of grammatical nicety, it sufficiently expresses the legislative purpose to render any person

> or corporation that may aid, abet or assist in doing any of the things that are by the section prohibited, guilty of a misdemeanor; *in fact, to make the aider and abettor a principal offender.*"

With respect to this point similarly urged in the Supreme Court, we quote from the opinion:

> "The fifth point, claiming error in the court's refusal to direct an acquittal of all the defendants, seems to be frivolous. There was proper proof that all, substantially in concert, were engaged in this illegal business. That was enough to bar a directed acquittal" (C., p. "i", ll. 15-21).

POINT VI.

The defendants suffered no manifest wrong or injury in the admission of testimony by the Trial Court, nor in the admission of certain exhibits in the trial of the case.

Defendants in their brief (p. 60) recite that Exhibits S-13, S-22, S-23, S-25, S-54, S-56, S-59 and S-61 were illegally admitted into evidence and therefore constitute prejudicial error. It is deemed expedient to dwell at some length on these exhibits and the testimony concerning the same.

Exhibit S-13.

Sergeant Ralph Dowgin testified as follows:

> "Q. What are these sheets? A. These sheets are racing sheets and used to accept bets for win, show and place, and the money that was paid on the races, as I understand it.
>
> "Q. How do you know that? A. We have picked up people before on the highway and so on, and I have been on gambling raids before" (C., p. 145, ll. 20-30).

New Jersey State Library

Exhibit S-22.

Concerning this exhibit, Sergeant Ralph Dowgin of the State Police testified as follows:

"Q. Sergeant, I show you 17 sheets with printing on and ask you where you saw these sheets for the first time? A. June 9, at 1124 Garden Street, rear room, top floor, on the table.

"Q. And do you know what these sheets are? A. Results of races for that particular day at the various tracks.

"Q. What tracks, where were they printed, that is, where do you find the tracks named? A. On the top.

"Q. And that is, you refer to this sheet, for instance, Detroit? A. Yes, sir.

"Q. And then here you find Lincoln Field? A. Yes, sir.

"Q. Then Detroit again? A. Yes, sir.

"Q. Lincoln Field? A. Yes, sir.

"Q. Aqueduct Park? A. Yes, sir.

"Q. You say these are tracks, racing tracks?

"Q. These names that you refer to, what are they, in your opinion?

"Q. Do you know?

"Q. What are they? A. Race tracks" (C., p. 155, ll. 25-40; pp. 156-157).

Exhibit S-23.

Sergeant Ralph Dowgin of the State Police testified further:

"Q. I show you, Sergeant, one sheet, dated June 7, 1944, and ask you where you saw that sheet for the first time? A. At 1124 Garden Street, the day of the raid, top floor, rear room, on this table" (C., p. 158, ll. 1-5).

Exhibit S-25.

Sergeant Dowgin testified as follows:

"Q. I show you a pad with some writing on it and ask you where you got that pad from

and where you saw it for the first time? A. At 1124 Garden Street, top floor, in the wire room on June 9th'' (C., p. 159, ll. 22-26).

Exhibit S-54.

Trooper Walter Heckmann, a witness for the State, testified that he found an envelope marked ''Eugene Lewis'' containing $70 and that he found it under the sheet of a bed upon which Eugene Lewis was sitting; that there were a fifty dollar bill and two tens, together with a slip of paper; and that he, Heckmann, asked Lewis if this slip and the money belonged to him and Lewis replied that it did (C., p. 209). He then asked Eugene Lewis to write his signature on the slip annexed to the money, and that Eugene Lewis did (C., p. 210).

Exhibits S-56 and S-59.

Concerning these Exhibits, Trooper Walter Heckmann, testifying for the State, stated as follows:

''Q. Did you also take from other persons certain amounts of money? A. Yes, sir.

''Q. I show you an envelope, V. P. Halpin, $117; was that taken from him? A. Yes, sir.

''Q. I show you an envelope Walter Mullins $4. A. That is right.

''Q. You took that from him? A. That is right.

''Q. Frank Marnell, $16? A. That is right.

''Q. And Frank Morano, $163? A. That is right.

''Mr. Pearse: I ask that all this testimony be stricken with reference to these last named defendants on the same ground that we objected to the questions with respect to what happened so far as Eugene Lewis was concerned.

''The Court: Your objection will be overruled. The testimony will not be stricken.

"Mr. Pearse: Your Honor will allow us an exception?

"I now make the same objection to the introduction of these papers which have been identified, on the same grounds advanced in reference to the question.

"The Court: The objection will be overruled and they will be admitted into evidence.

"Mr. Pearse: Exception.

"(Accepted and marked as State's Exhibits S-55, S-56, S-57 and S-58 respectively.)

"Q. Now, Corporal, this envelope containing $163, also seven slips, can you tell me where these slips came from, and the envelope with the name Frank Morano? A. They came from the person of Frank Morano.

"Q. Did you ask him to sign these slips? A. I did.

"Q. Did he sign them? A. He did.

"Mr. Giuliano: I offer them in evidence.

"Mr. Pearse: We object to this on the grounds already advanced with reference to the other exhibits which have just been introduced, and also on the ground that they are not material to this issue in any respect.

"Mr. Lichtenstein: I object, if the court please, for the further reason that these papers all bear dates which are dates which antedate the date alleged in the indictment, some of them as much as a month prior to the date alleged in the indictment, and further upon the ground that they are incompetent, irrelevant and immaterial, and do not in anywise indicate that they have anything to do with the issues involved in this case, namely a charge of bookmaking on the ninth of June, 1944, against the defendant, or any of them.

"The Court: I will allow them.

"Mr. Lichtenstein: Your Honor will grant us exceptions?

"The Court: Yes.

"Mr. Lichtenstein: I also ask that the admission of any evidence relates only to the defendant on whose person it was found.

"The Court: That is so; they would only affect Mr. Morano, the particular slips.

"Mr. Giuliano: That is right.

"The Court: I will instruct the jury that they are not to regard this as evidence against any of the other defendants.

"(Accepted and marked as State's Exhibit S-59 of this date)" (C., p. 210, ll. 33-40; p. 211; p. 212, ll. 1-34).

Exhibit S-61.

Trooper Walter Heckmann testified that he found a batch of slips on a shelf in the wire room, some 283 in number. After a protracted discussion between the Court and defendants' counsel and after cross examination of the witness on the part of the defendants, Exhibit S-61 was placed into evidence (C., pp. 222-229). While an attempt was made on the part of the State's attorney to have the witness characterize the particular batch of slips, that part of the testimony sought was not obtained. However, reference is made to the testimony of these slips by James J. Mahoney, a detective connected with the Prosecutor's office for Hudson County for a number of years.

He testified as follows:

"Q. I am taking one of these slips, . . . from this batch of slips marked S-61 in evidence, which reads: 'Watch Henry 100, Alca Girl 110.' Can you tell us what that means, if you know? A. That is one dollar bet on Watch Henry if he wins; one dollar win and one dollar place on Alca Girl" (C., p. 395, ll. 35-40; p. 396, ll. 1-10).

He testified as follows:

> "Q. Are they used in connection with bookmaking? A. Yes, sir, they are" (C., p. 397, ll. 8-10).

We submit with reference to all these exhibits that each and every one was germane, relevant and competent to prove that the defendants, and each and every one of them, were guilty of bookmaking, and that the Court in overruling the objections to the admission of the Exhibits ruled properly and correctly.

> *State* v. *Arthur,* 70 N. J. L. 425;
> *State* v. *Czarnicki,* 124 N. J. L. 43;
> *State* v. *Collins,* 63 N. J. L. 316.

Defendants allege in their brief (p. 61) that the various articles and exhibits taken from the clothes in the bedroom of the defendant, James A. Lewis, were admitted into evidence without legal sanction, and that the introduction of them into evidence served only to inflame the minds of the jurors against the defendants.

In answer to that, we reply that the articles were introduced into evidence to show the following:

1. That James A. Lewis lived at the premises raided over a period of years;

2. That the possession of this vast wealth was a fact from which an inference could be drawn that he was a professional gambler and that he was in a position to finance the operations of this type of gambling which requires at times vast sums of money so to do.

3. That all the articles seized indicated that he had an interest in and was part of the operations going on at 1124 Garden Street, Hoboken.

It is further urged (Brief, pp. 61-62) that the articles seized belonging to James A. Lewis, being unlawfully seized and without search warrant, were not admissible in evidence. We maintain the law in this State is definitely to the contrary. *State* v. *Laster,* 71 N. J. L. 586; *State* v. *Morehous,* 97 N. J. L. 117; *State* v. *Rusnak,* 108 N. J. L. 84.

Defendants in their brief (pp. 62-63-64-65) contend that Lieutenant James J. Mahoney of the Prosecutor's Office and Chief Peter J. Devine of the Prosecutor's Office were permitted to give certain testimony by way of characterizing certain exhibits. An examination of the testimony will reveal that Lieutenant James J. Mahoney has been connected with the Prosecutor's Office of Hudson County for many many years and that he had experience in similar cases and that he was fully capable and qualified to give his opinion as to the various exhibits in the case. With respect to Peter J. Devine, the record discloses that he is Chief of Detectives of the Prosecutor's Office in and for the County of Hudson and has been connected with that office for over a period of twenty-eight years, that he has been familiar with this type of police work and from his experience was quite qualified and capable of characterizing the various exhibits set forth in the case.

The defendants rely upon the case of *Taylor* v. *Kelvin,* 121 N. J. L. 142 (Brief, p. 62). We concur in the conclusions of the Court with respect to the particular question asked in that particular case.

With respect to this last point, attention is called to the opinion of the Supreme Court, to wit:

> "Lastly, there is a general claim of error in the receipt of testimony and admission of exhibits, amounting as claimed, to 'manifest

wrong and injury', in the language of the statute. Our examination fails to satisfy us of the commission of any such error." (C., p. "i", ll. 21-30.)

Conclusion.

It is respectfully urged that on the foregoing reasons there is no error and that the judgment of the Supreme Court in all things should be affirmed.

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Attorney General of the State of New Jersey and Acting Prosecutor of the Pleas of the County of Hudson.

James R. Giuliano,
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