

FOURTH ANNUAL ROUND TABLE DISCUSSION
ON
MATTERS PERTAINING TO RACING
HELD BY
THE JOCKEY CLUB
IN THE
NATIONAL MUSEUM OF RACING
AT SARATOGA SPRINGS, N. Y.
SUNDAY, AUGUST 19, 1956

PARTICIPANTS:

Ted Atkinson, Jockey
Marshall Bainbridge, Jr., Public Relations, Garden State Park
Clarkson Beard, Farm Manager, Greentree Stud
S. Tupper Bigelow, Chairman, Ontario Racing Commission
Alex Bower, Executive Secretary, Cromwell Bloodstock Agency
*James Cox Brady, Owner, Breeder
*Carleton F. Burke, Director of Racing, Santa Anita Park
John K. Carroll, Attorney, Davies, Hardy & Schenck
Edward A. Christmas, President, American Trainers' Association
Edmund P. Coffey, Vice President, T.R.P.B.
Ashley T. Cole, Chairman, New York State Racing Commission
L. P. Doherty, Breeder
Walter H. Donovan, Executive Vice President, Garden State Park
Francis P. Dunne, Steward, New York State Racing Commission; Racing Secretary
J. P. Ebelhardt, Farm Manager, Calumet Farm
William S. Evans, General Manager, Breeders' Sales Company
Humphrey S. Finney, President, Fasig-Tipton Co., Inc.
John M. Gaver, Trainer
Dr. M. A. Gilman, Veterinarian
Judge George H. Grinnell, Chairman, New Hampshire Racing Commission
Irving Gushen, National President, H. B. P. A.
*A. B. Hancock, Jr., Owner, Breeder
Charles Hatton, Turf Writer, The Morning Telegraph
George C. Hendrie, Managing Director, Ontario Jockey Club
*Howell E. Jackson, Owner, Breeder
Emmet J. Kelley, Chairman, N.A.S.R.C.
Robert F. Kelley, Publicity Director, The Greater New York Association Inc.
Edward L. Kilroe, Assistant Secretary, The Greater New York Association Inc.
Frank E. Kilroe, Racing Secretary
Pat Lynch, Turf Writer, New York Journal-American
John A. Manfuso, Legal Advisor, H.B.P.A.
Harry J. Millar, Secretary, New York State Racing Commission
Charles Nuckols, President, Thoroughbred Club of America
Frank Ortell, Turf Writer, New York World-Telegram & Sun
J. Samuel Perlman, Publisher, Triangle Publications
*Ogden Phipps, Owner, Breeder
Robert A. Pinkerton, President, Pinkerton's National Detective Agency
Calvin S. Rainey, Steward
John R. Ring, Secretary, Florida Racing Commission
Sol Rutchick, Trainer, President, New York Division H.B.P.A.
*E. P. Taylor, Owner, Breeder, President, Ontario Jockey Club
B. A. Tompkins, President, Administrative Division, The Greater New York Association Inc.
*George D. Widener, Owner, Breeder, Chairman, The Jockey Club
Dr. J. G. Woodcock, Veterinarian
Sterling Young, Secretary, Jockeys' Guild, Inc.

Moderator: Marshall Cassidy

GUESTS:

Edward Farrell, Service Bureau, The Greater New York Association Inc.
Charles Johnson, Publicity Department, Pimlico Race Course
William Bugg, Farm Manager for Mr. Widener

*Member of The Jockey Club

INDEX TO TOPICS

Bandages—elimination of unnecessary bandages in paddock	37
Cooperation between newspapermen and horsemen	7
Distance racing—how to encourage	40
Identification of mare at stud farm	8
Jockey's refusal of mount in last race	43
Late closing stakes	53
Maximum top weight vs. handicapper's judgment	21
Morning works—value of accuracy	31
Nominations for stakes—volume in respect to fees	16
Purse and stakes distribution—division of 1st, 2nd, 3rd and 4th moneys	28
Quinella—possible value	41
Stake nominations—to go with claimed horse	56
Stewards' Pool	47
Track conditions—terminology in respect to water content	35
Track superintendent—responsibility for track conditions	57
Uncoupling of entries	38
Uniformity of basic rules of racing	43
Wage and Hour Laws	12, 27
Report concerning present status of Racing Industry under the Fair Labor Standards Act	58

INTRODUCTION BY

GEORGE D. WIDENER

Chairman of The Jockey Club

It is with a great deal of pleasure that I welcome you to The Jockey Club's Fourth Annual Round Table Discussion. I am sure that once again we shall all benefit from hearing the other fellow's side of the story on the various topics that have been submitted. Mr. Tompkins has asked me to invite you all to be the guests of The Greater New York Association at luncheon which will be served in the Club House. We have quite a large number of questions and topics to cover and therefore I think it best to begin immediately by turning the proceedings over to Mr. Cassidy, who is our moderator.

MR. CASSIDY: It is going to be difficult to secure a good recording of this meeting because of the peculiar acoustics in this room. Therefore we hope each one will speak loudly and clearly and all others will remain very quiet. It will also be very helpful if you will signify your desire to speak by raising your hand and wait for me to call your name as in that way each voice will be properly identified. We have a great many questions and will not have sufficient time to present all of them, so except for a few that seem particularly important, the rest will be drawn by lot.

QUESTION NO. 1. IS THERE A NEED OF GREATER COOPERATION BETWEEN NEWSPAPERMEN AND HORSEMEN?

MR. CASSIDY: I read the question some time ago and found it hard to interpret. I imagine it means that horsemen should receive the press with cooperation when they come to them with questions, or if they want a story. If that is the case, I think it's good and it may possibly indicate a clearing house is needed so that the press could see someone in authority who would arrange a meeting with the horsemen they may wish to interview. Pat, do you have any idea of what this question may mean?

MR. LYNCH: As far as I am concerned I think that the relations between the press and horsemen have been better than I've ever found them. I have no complaint. I find everybody cooperative. They tell me whatever I want to know. The only time you run into any roadblocks, is in a question of personalities, but I've got absolutely no complaints.

MR. BAINBRIDGE: Mr. Cassidy, I've run into, Pat says "roadblocks", not necessarily roadblocks, but most of the trouble I've had is with horsemen not keeping appointments. You make an appointment with a television station, for instance, or a radio station and everything is arranged, but the horsemen don't show up.

MR. CASSIDY: Don't you think that could be eliminated by, as I said, a clearing house where the authorities at the track make arrangements for such programs?

MR. BAINBRIDGE: We try to do it, but sometimes we fail. We just come up with nothing.

MR. PERLMAN: I haven't had a single instance where horsemen have not been cooperative.

MR. ORTELL: Speaking of the New York circuit and Florida, I've found the horsemen to be very cooperative. If, as you say, the horsemen don't keep their engagements, of course that fouls you up.

MR. BAINBRIDGE: My trouble has not been lack of cooperation per se, as when you see the horsemen they will do most anything you ask them, particularly in the barn area. They'll bring a horse out for pictures, and that sort of stuff. But most of my trouble has been with radio and television programs.

MR. ATKINSON: I suppose Mr. Bainbridge has had some lack of cooperation from horsemen, but horsemen have lack of cooperation from television studios too. Many times they have a show scheduled for such and such a time, requiring your appearance many hours earlier. You could do the thing they want in sixty seconds and they want you there seven hours beforehand. I can readily understand why the horsemen don't cooperate well. I've had that experience so many times I can certainly understand why the horsemen just fluff it off.

MR. EBELHARDT: The Wide Wide World asked us to cooperate with them on putting on a television show on New Year's Day, and as Mr. Atkinson said, it was not the time that we were required to actually put the show on, but it was the set-up for rehearsal. I asked Dr. Charles Hagyard to be part of the program and they kept him at the barn from seven o'clock in the morning until noon one day, and all afternoon the next day. And I think they just ask for too much time for their rehearsals.

MR. CASSIDY: That was true when they had the Wide Wide World program in New York. They went from six o'clock in the morning right through the whole day.

QUESTION NO. 2. HOW IS A MARE'S IDENTITY ESTABLISHED WHEN SHE ARRIVES AT A STUD FARM TO BE BRED?

MR. CASSIDY: During the past year we have tried to establish proper identity so that there would be no chance of error and we have started to devise a plan that we think may be accurate. That is, to have a photostat of the Registration Certificate and a photograph of the horse and his night eyes, and the tattoo number, if the mare has been tattooed, to go with the mare and be shown to the attendant of the stud. At the same time, the attendant of the stud has the same kind of identification of the stud to show to the attendant of the mare. Mr. Hancock, could you offer any comment on this subject?

MR. HANCOCK: I don't think it makes a darn bit of difference whether you identify the mare there or not. What's to prevent the man who sends the proper mare there from taking her home and breeding her to his teaser. It's all done on faith and I don't think there's any reason in the world to worry about it. Unless I believed in people I wouldn't allow them to come to my barn to breed.

MR. CASSIDY: Don't you think there are innocent mistakes? You can have all the faith in the world in people, but they can send a number of mares to different stallions and the grooms get them mixed up.

MR. HANCOCK: The only thing I can say, sir, is that we breed on the average of ten mares a day at my place all through the breeding season, and I've never remembered a single mistake occurring in the last 25 years.

MR. CASSIDY: Have you heard of mistakes in other places?

MR. HANCOCK: Not that I know of, sir.

MR. EBELHARDT: I agree with Mr. Hancock.

MR. BEARD: I believe there have been some mistakes made. I know of some. We haven't any that I know of at Greentree, but I know of mistakes being made, perfectly innocent, of the wrong mare being sent to a horse, the identity not properly established.

MR. CASSIDY: Do you know what system of identifying was used?

MR. BEARD: The way it is now it's just on faith. That's all you've got. There isn't any way we can be sure of the mares coming to the shed now.

MR. CASSIDY: Are all of the mares that are presently used for breeding tattooed?

MR. BEARD: About two-thirds of the mares at our farm are tattooed now.

MR. CASSIDY: Would you think that the tattoo number would be sufficient identification?

MR. BEARD: No, sir, you can't read them all. There's about 25% of them that you cannot identify definitely.

MR. CASSIDY: Are those old tattoo numbers? Does the age affect them?

MR. BEARD: I think age does affect them, but the trouble we've run into more than anything else is the single digits just not showing at all, and then in some mares with rather dark lips, the tattoo just does not show up.

MR. CASSIDY: Do you know of any other system that would be better?

MR. BEARD: I think the work you're doing with the night eyes is the best I've seen.

MR. BOWER: In my limited experience of identifying mares for sales, it is rather frustrating. I find some tattoos that it is just impossible to read. In the case of a mare whose registration certificate has been lost, you haven't anything to go by and you

try to read the numbers to send them to The Jockey Club and you feel sort of foolish sending in wrong numbers. You just try to guess what's there.

MR. CASSIDY: Aren't there a lot of errors in the physical description of horses too?

MR. BOWER: Yes, but I don't run into that as much as other people do.

MR. NUCKOLS: I approve of the work you're doing now. The tattoo number is just not plain enough for the average man to read.

MR. CASSIDY: Mr. Coffey, what might be the cause of the inability to read the tattoo?

MR. COFFEY: The tattoo number is designed primarily for horses in training, the racing stock, and we haven't had any difficulty with it at all in identifying horses for racing. There's a bit of a different problem with the breeders, I believe. First of all, they are not trained in the skill of reading the tattoo brand and I can see they would have difficulty with it. In spite of the fact that it was designed primarily for horses in training, if there is any way we can help in using it in breeding, we will be very happy to cooperate. I went down to Kentucky a couple of weeks ago and talked with some of the breeders. We found that most of their trouble was that they didn't know our forms and shapes, our letter code, and when that was pointed out, many of the numbers that they thought they were having difficulty with, became quite clear.

MR. CASSIDY: Mr. Coffey, what is the difference between tattooing for racing purposes and tattooing for breeding purposes?

MR. COFFEY: There are several differences. First of all, the breeders seem to be desirous of identification of young foals, sucklings perhaps, and we have not been able to tattoo brand horses at that age, not for any technical reason—inks or dyes—but because the foals put up such a fight. We tried with ten of them several years ago and we didn't get any of them tattooed. Rather than see them hurt themselves, we just gave it up because we didn't need it. We now tattoo brand two-year-olds when they come to the track for the first time.

MR. CASSIDY: That isn't quite the problem the breeders have had. It is with the mares, the older horses, rather than the young horses, is that right, Mr. Beard?

MR. BEARD: Yes, sir. We realize the problem of getting the identification on young foals, but it is the older animals and their continued identity that we're interested in.

MR. CASSIDY: Have you had any occasion to need an expert to tell what the numbers are?

MR. BEARD: Yes, sir, Mr. Coffey came down to visit me in Lexington. We made up a list of the mares that were tattooed and went around to see them, and as I recall there were thirty mares on the list, and there were two that he couldn't read. He had another person with him, and there were two I think where there was a little question. There were four that were difficult for me to read from the layman's point of view. When Mr. Coffey showed how the digits were formed, the technical end of it, it was very helpful. And after I had gone around with him, I could read the tattoos better than before.

MR. GUSHEN: Personally I haven't had any experience with this problem. However, I just can't seem to understand the difference. Many broodmares at the farm now were tattooed when they were racing, so if it is very difficult to read the tattoo marks at the present time, it probably is because they weren't taken properly or for some other reason. Wouldn't that affect race horses in the same way? If a mare is six or seven years old and it is difficult to read the tattoo number, wouldn't the same thing apply to a race horse? I'd like to know whether anybody has found the same problem as far as horses that are racing are concerned. I assume that they are tattooed in the same manner because they were tattooed when they were racing, and now they are at the farm.

MR. CASSIDY: Aren't the horses that are tattooed for racing, identified by professional identifiers as opposed to men on the farm or horsemen?

MR. COFFEY: That's the entire difference, in my opinion. In the paddock you have a professional identifier with The Jockey Club certificate before him. That certificate contains the information as to the age, sex, color, breeding, marks and tattoo number. It's all on the certificate. And then he's presented with a horse in the paddock, and with his skill in reading marks, reading tattoo brands, we have no trouble at all.

MR. CASSIDY: You combine the marks and the description with the tattoo.

MR. COFFEY: Sure.

MR. DOHERTY: To go back to your original question, which we by-passed. I don't think many mares are identified when they come to the stud farm. There may be a tag on them, but I think that's about the only means of checking up on who they actually are. If you run a boarding farm, the owner never sends you the certificate, he doesn't send you a description. The only thing you may get is a name plate on the halter. You may have a mare ten years and not really know that that is the mare it is supposed to be. You will first encounter a minor difficulty when you try to register her first foal. With reference to the tattoo, when you were in Kentucky this spring we talked about it. For one week at the Stallion Station we checked the tattoo numbers, as a matter of curiosity. We are not trained to read tattoo numbers. During that week, roughly half the mares that came to our place were tattooed. Of the half I couldn't read about half. A professional identifier may have, but we are not professional identifiers. So there is no real way at the present time of identifying any animal that comes to my farm. This year I bred 387 mares. I had to do it on faith. I personally knew perhaps six of them, that I had had something to do with. But the others were simply sent to me, and that's the end of it as far as I was concerned.

MR. GAVER: If this is a matter of great importance, would it be practical to have the registration certificate accompany the mare to the breeding farm to which she is sent, just as the registration certificate must accompany a race horse where he is sent? If you send a horse out of New York, you must send his certificate with him. The same holds true of a horse coming into New York.

MR. CASSIDY: That's part of the plan we are working on now.

MR. GUSHEN: I think that would be very helpful, as Mr. Gaver said. How would that apply to mares sent to a farm where, as some of the people have said here, the tattoo numbers are not prominent and they can't be read? Then they would have to be identified simply by marks.

MR. HANCOCK: What difference does it make anyhow? I'm not sure the tattoo is a good thing. There's nothing in the world to keep a man who has two bay fillies with stars on their heads from tattooing both of them with the same number, if he's got a set of your machines. We think the tattoo has done away with ringers, and I'm sure it probably has, but as I said, it's based on faith. I could send a filly to Keeneland and have her tattooed for the first time, if I want to badly enough I can have that same set of dyes made up at a blacksmith's shop, and tattoo one of them at the farm with the same thing, if I want to cheat. I think the only thing you've got are these night eyes. I didn't believe they were all different until I started checking and I went over some 400 horses at home and I couldn't find two alike.

MR. CASSIDY: I don't think there is any doubt that they are all different. We've checked thousands and thousands of them.

MR. DOHERTY: In answer to Mr. Gaver that the certificate should accompany the mare, for some time we have required a veterinarian's certificate to accompany barren mares. In many cases they do not. Now, if we were to require that the registration certificates come with the mares, it frequently would not come with her. You

have made a date, say, with an expensive horse, stud fee \$5,000. I am quite sure that most of us would be forced to breed the mare and say, "Where are we going from here". I don't think you can make such an order effective.

MR. GAVER: They do at race tracks, Lou.

MR. DOHERTY: I know they do, but it's a little different.

MR. GAVER: You either have to turn in the certificate or you don't run. So you could have to have the certificate or you don't breed.

MR. CASSIDY: Well, John, that's under control at the tracks where the authorities require it. But at the farm, each person would have to establish his own control.

MR. DOHERTY: If I don't breed the mare, I'm liable to lose the \$5,000 stud fee, or whatever it happens to be. It's a little different on the race track. If you don't hand in your certificate, you don't have a chance to win the money. The burden is placed on you there and on me in the other place.

MR. GAVER: My question is based on an "if"—if this matter is of grave importance, and there seems to be a wide difference of opinion among the breeders that it is of such importance—Arthur and Paul seem to think it is not so important and you and Clarkson do—so I thought I would just throw in a question to confuse the matter.

DR. GILMAN: If all tracks identify horses the way we do in New York then it would be a simple procedure, when the mare goes to the breeding farm, to take that same identification card, with the life-size chestnuts and two-way photographs and the written description of the horse, and send that right along with the mare, because we don't need it anymore as the mare isn't on the race track. But they don't do that. So I think the best alternative then is to put that same description on the Jockey Club papers. You have the written description already on the Jockey Club papers, you have your tattoo, and then on the reverse side, have a two-way photograph of a horse and its night eyes, and let that follow the horse wherever it goes. Then everybody would be in a position to properly identify the horse wherever he goes.

MR. CASSIDY: How would you attach these photographs to the certificates?

DR. GILMAN: You'd have to take that up with a photographer. There has to be a way of attaching these photographs so they cannot become detached.

MR. CASSIDY: Of course they could be printed on sensitized paper.

DR. GILMAN: In that way you would be raising the standards of identification at all the race tracks and also wherever the horse goes, breeding farm or any place else.

MR. DOHERTY: I want to know how Dr. Gilman is going to attach the certificate to the mare.

DR. GILMAN: The certificate goes with the mare and anybody who has the mare just has to look at the certificate and can tell if it is the right mare or not.

MR. FINNEY: From a practical standpoint I have been handling registration certificates and checking against mares being sold for about 15 years. One of the biggest problems in our office is to locate certificates. The mares will be one place, the sale another and the certificates will be scattered from Maine to Mexico. In Kentucky where big farms are well operated and well regimented you could probably do something about it, but in the little farms all over the United States, I don't believe you'd ever get people to keep the certificates properly. In every sale of broodmares we have to get 20% replacement of lost certificates. What would happen if every time the mare was served, the breeder who had the certificate gave it to the van driver to give to the stallion manager? It would be an utterly hopeless proposition. Twenty percent of the horses sold over here this week have had a change in certificate. Then when they go to the race track there probably will be some more. But in the mares that come up for sale practically the last thing we bother about is the tattoo number, because if a mare is a bay mare with a stripe and her teeth have

the right angle, you look her over and there she is. You don't have to try to read the tattoo number. We find that practically all the mares under about seven or eight years old, most of which have raced, have the tattoo, but we seldom have to bother with it. I shudder to think what would happen if you required the certificate to stay permanently with every mare. I think it would be fine if you could get a photostat probably, and keep the certificate somewhere else, where it would be safe.

MR. CASSIDY: Don't you think the certificate is the same thing as a title and is a valuable part of the animal?

MR. FINNEY: It absolutely is, but you wouldn't think so if you had to handle the horses we do, and people don't know where the certificate is. You transfer a \$100,000 animal and no one knows where the certificate is.

MR. CASSIDY: I think you are going into the deep past when the certificates didn't mean so much. But during recent years it has become necessary to file the certificate every time you come to a race track. It means that the certificate is important and as the years go by it is going to be more important. I think if you would refuse to sell a mare without it, it would help the situation.

MR. FINNEY: We have a rule, sir, that no animal goes through our ring once his racing days are over, unless the certificate is in my hands before the animal comes in the ring. That's why every once in a while we throw a horse out of the race horse sale. We try and force that on them.

MR. NUCKOLS: With reference to a boarding farm, I think we might have mentioned this before, I've registered four or five foals out of the same mare, and never have seen a registration paper. There's nothing on your application for registration to transfer her number from her registration papers on to the application of registration for the foal. I've got any number of mares I don't have registration papers for and I'll never need them unless I sell the mares.

MR. CASSIDY: That of course is built up from the past, and we hope to correct it.

QUESTION NO. 3. HOW DO THE WAGE AND HOUR LAWS AFFECT RACING STABLES?

MR. CASSIDY: Mr. John K. Carroll, of the firm of Davies, Hardy and Schenck, The Jockey Club's attorneys, is present to talk to us about this question. I thought it might be of great value to the horse industry if we would get him to tell us some of the problems that exist and the way the Wage and Hour Laws affect racing stables, and probably breeding farms as well. In view of the fact that this is going to be printed, it might be the means of helping a great many horsemen get out of trouble. Mr. Carroll, you know the problems as well as I do and I think it would be easier if you would give us the benefit of your knowledge in any way you can to help racing stables and breeding farms.

MR. CARROLL: Thank you, Mr. Cassidy. Because of the nature of the subject I do not think it appropriate to go into it in too much detail. If I reach a point of irritation, please tell me to stop.

The point I would like to emphasize to this conference relates to current inspections by the Department of Labor of records maintained by trainers at the New York tracks. During 1955 and 1956 we have had approximately a dozen cases in which racing stables in New York have been inspected and there is a prospect of continuance of these inspections during the fall season. I don't believe the Department will disturb your peace of mind in Saratoga. At current rating they do intend to have additional inspections in the fall.

I think the most important point for this group to understand is that an inde-

pendent position taken by one of you may be inconsistent with the interests of the group. In certain cases the Department has requested voluntary payment of restitution of wages claimed to be due employees of the owners and trainers. In all the cases which have been referred to us, we have resisted payment of restitution because it would establish a precedent for the collection of what the Department estimates to be in excess of two and one-half million dollars for the industry. While that may be a picture book figure, Department inspectors are assuming that if they can work out settlements in a number of cases it will establish the basis for going further and collecting restitution by legal action.

While settlements by some employers would not be legally binding upon others, we are concerned that it would embolden the Department to go ahead and to file suit for collection of back wages claimed to be due.

Most of the employees of the stables with which we are familiar have, in the last few years, been placed under forms of wage contracts known as Belo contracts. These contracts were worked out in collaboration with Mr. Widener's attorneys a few years ago. They are forms of contracts which were approved by the United States Supreme Court, applicable to employees such as yours who operate on uncertain schedules. They permit a form of guaranteed wage or salary for a particular period of time covering both straight time and overtime wages.

We discovered, in our review of the employment problem in the industry some years ago, that the best way to accommodate the wage-hour problem in racing was to put into effect a method whereby you guaranteed your employees a bulk sum on a monthly or a bi-monthly basis. The Department of Labor has consistently attacked this Belo contract and sought to limit its application, since it was first approved by the Supreme Court. In brief, the Department's position is that most of the contracts in use do not establish a valid rate of pay or do not provide for a correct work week.

In the last few years we have succeeded in getting a change in the Federal regulations which has had the effect of extending the livestock handling exemption to employers of racing personnel. These exemptions do not cover all of the problems you have in making satisfactory wage arrangements with your employees, so the livestock handling exemption has been added to the Belo contract to extend protection from overtime claims throughout the year.

The Department's attack upon the Belo contract has extended to industries other than racing and has been before the courts in a number of recent cases. Last year the attack was successfully resisted in two cases which went to the Federal Circuit Courts of Appeal. There are other similar cases now pending in the District Courts but we don't think that the Department will be any more successful in these lower court cases.

In our own review of the use of Belo contracts in the racing industry, we have discovered that some employers have either not understood the method of applying the contract or, if you will forgive me for being frank, having understood it, they have disregarded it. In some instances we have been required to admit to the Department after inspection that the contracts (1) were never executed (although this does not render them invalid per se), (2) rates were improperly applied and (3) the minimum rate was not changed when the law required it to be changed. In March of this year, as many of you know, the law required that the minimum rate per hour be \$1. Some of the Belo contracts in effect among owners and trainers were pegged at 75 cents; hence, the Department had the right to say that the contract was invalid. In the event of the minimum wage not being paid the entire wage agreement between the parties would be in contravention of the law. In these cases, we have agreed that changes would be made to accommodate the minimum wage rate, so that a make-up payment would be required for the difference between 75 cents and \$1. That make-

up payment has been made in two cases among the current dozen inspections. So far as the contracts themselves are concerned, we have maintained that they are valid contracts under the Act and that they would be continued in their present written form. Some two or three years ago we secured an additional ruling from the Department which permits what I have roughly called the total yearly exemption from separate overtime payments; this ruling permits the suspension of the Belo contract during the 14 weeks overtime exemption for horse handling and the revival of the Belo contract at the expiration of the 14 weeks.

When you have a group of employees working in New York there is an exemption from overtime altogether during the first 14 weeks. When the 14 weeks are exhausted and additional weeks are required to be worked at that site, the Belo contract is revived and again you have no problem in overtime. Then when you come to another site, the 14-week period of exemption begins again and if the race meeting runs beyond 14 weeks the Belo contract again applies.

I suggested, Mr. Cassidy, that if I reach a point of irritation you stop me, and I think I'm beginning to get a little involved. What I am trying to suggest is that no matter how this schedule works out, whether by Belo or by horse handling exemption, it is our hope that if there are any further inspections conducted during the fall season no settlement be made with the Department of Labor upon the basis of claims of unpaid compensation. The reason for this is because we have now established a backlog of resistance to such claims which we hope will discourage further inspections or the start of litigation. Independent settlements on the basis of the Department's claim of invalid Belos will bring the industry into the position of appearing to concede the propriety of the Department's position.

MR. CASSIDY: I would like to give the people here the opportunity of asking questions.

MR. RING: I think for the benefit of those who are not familiar with this, it might be well for Mr. Carroll to point out the minimum provisions of the Act pertaining to the number of hours and time and one half provisions now required. I think that might have gone over our heads a little.

MR. CARROLL: In answer to your question, sir, the Act has not changed with respect to the point at which overtime begins. A man must be paid at the rate of time and a half his regular rate of pay after 40 hours in a work week. However, the Belo contract provides that a flat sum may be paid so long as that flat sum includes both straight time and overtime. A coefficient table has been supplied to many of your office people which indicates the method to be used in determining the appropriate straight time and the proper overtime rates in setting up a Belo contract pegged at a lump sum. I'm not good at accounting and my arithmetic is bad but this coefficient table will indicate the method to be used.

MR. MANFUSO: Maybe four or five years ago we appeared before the Department of Labor and had several hearings, and as I understood at that time, there was an exemption, it might have been the agricultural exemption, for the racing industry. I don't have the provisions of that exemption with me. However, I do think it is on file and should be known to the industry. I know there was an exemption for the racing industry which for practical purposes took care of the matter of overtime. I think we should know what this exemption actually was, and further education should be given to the industry so that horsemen will conform to the increase in the minimum wage law and also be re-educated in maintaining their records as is still required under the provisions of the exemption. Do you know of that exemption, Mr. Carroll?

MR. CARROLL: I wish that I could say it as optimistically as you do. It was a limited exemption applied first to farms and training farms. All of the employees of the racing industry who worked with the horses on farms or in activities which were

incidental to agriculture were declared to be exempt from both the overtime and minimum wage provisions of the Act. That exemption still applies today. The agricultural exemption did not extend and never has extended to the racing of horses at tracks or to the training of horses at training farms which were not connected with agriculture.

MR. MANFUSO: What we are talking about are two entirely different things. You are talking about an agricultural exemption. I am talking about a special exemption that was negotiated with the Department of Labor covering the racing industry, the racing of horses at various race tracks, in which a certain number of days were provided as a minimum for compliance with the Act. In other words, this is merely an example and I don't want to be held for its accuracy. If a racing meeting was conducted for forty days, there was no requirement to pay overtime if records were kept in the matter and showed that it was a forty day meeting. We had no problem therefore from the point of view of dollars and cents in the payments to employees. That was definitely accomplished. I know it to be a fact because I attended the meetings myself at the Department of Labor. It was handled by an attorney named Smith from Boston, and was during the administration of the gentleman from Massachusetts who has since died. You might know him. Mr. Tobin was then the Secretary of Labor. If the exemption is not known by you, I think we should very definitely investigate the situation in Washington to see whether this provision was actually put into effect and to see whether it still is in effect because it was brought about by the agitation of the Department of Labor in the New England area. It was after this agitation and the possibility of certain individuals being prosecuted for triple damages that we took the matter up with the Department of Labor and effected the regulation or the amendment, or whatever you might call it.

MR. CARROLL: I am familiar with that situation because it arose in connection with one of the tracks in Massachusetts, when Mr. Tobin was Secretary of Labor. No formal changes were made in the Regulations themselves but the Secretary decreed that the exemption related to handling of livestock could be extended to race tracks. Before that point, the livestock handling exemption did not apply to the racing industry. No formal decision was given by the Department but there was a letter written over Mr. Tobin's signature in which he agreed that the livestock handling exemption applied at the racing site itself.

MR. MANFUSO: I would therefore suggest that we go into this matter further for the exact details as they exist. There were at least three meetings that I personally attended at the Department of Labor. I was very definitely of the impression that it was the type of exemption that was given to the racing industry as such by the Department of Labor, under their prerogatives. It is merely a matter of recollection with me and I am derelict, because I didn't realize that this issue was so acute, in not checking the files and going into the matter further so that I would be prepared to give you definite information. I do know that this issue was taken up and it was settled to the satisfaction of the Department of Labor, and I am very definitely of the impression that it was a particular exemption covering days—I think that was the paramount situation—the number of days at a race meeting which provided the exemption from the overtime requirements.

MR. CASSIDY: Mr. Carroll, may I suggest that you look that up and submit a copy of your findings which will be incorporated in the transcription of this meeting.

MR. GAVER: I am certain that the New York Division of the Department of Labor is not familiar with the rule to which Mr. Manfuso refers. I hope the ruling to which he refers does exist, but so far it hasn't gotten as far as New York. I would like to ask Mr. Carroll two questions. Are these examinations and investigations carried out in other states?

MR. CARROLL: I would assume they are, but I don't know that as a fact.

MR. GAVER: Are these examinations and investigations carried out in the trotting horse industry?

MR. CARROLL: They will be in the fall, I have been so advised.

MR. GAVER: Did you attend the meeting here a few years ago when Mr. White was then the District Director of the New York Board? At that time he specifically stated that they would immediately start investigations and examination of the records of the trotting horses. So far that has never been done.

MR. CARROLL: I recall Mr. White's statement.

MR. GAVER: When you investigate this act or ruling to which Mr. Manfuso referred, would you mind finding out if these examinations are being conducted in other states and also with the trotters?

MR. CARROLL: I'll do that.

MR. MANFUSO: I might say to Mr. Gaver that it wouldn't be surprising if any one branch of the Department of Labor is not familiar with special activities in Washington. Actually, when this exemption was effected, the Department of Labor's representatives in New England were active at that particular time. Now you have a situation where the representatives of the Department of Labor in New York may be active. But certainly the matter should be referred to them for further reference to Washington before any action is taken, even the most minute type of action.

MR. GUSHEN: All I can say about this situation is that about a year or so ago Max Hirsch called and asked what sort of a ruling was made in regard to this labor law because he knew at that time we had negotiated this situation through Boston. We had a letter and I sent Max Hirsch a copy of it because he told me they were having difficulty in New York and he wanted to know what kind of a ruling we had. I don't know what effect it had at that time. If Mr. Carroll feels that the situation has been altered to some extent and that a contract, properly negotiated between the employer and employee, would help and if the trainers and the owners would refrain from making any deals with the Labor Department to pay back wages, then I think that is in order. I would like a copy of such a contract and then we would notify all of our members of the proper procedure. Maybe Mr. Carroll could find out exactly what kind of a deal we have had with the Labor Department and whether or not it still holds water.

MR. CASSIDY: There's one thing I would like to ask you, Mr. Carroll, that may be of help to someone and that is the liability of New York horsemen, residents or transients, for the payment of the City Sales Tax or the City Use Tax, and what is the practice. Do you know?

MR. CARROLL: I'm not prepared to answer that, Mr. Cassidy.

QUESTION NO. 4. STATISTICS INDICATE THAT DESPITE GENERAL OPINION TO THE CONTRARY HORSEMEN AND BREEDERS NOMINATE MORE HEAVILY FOR STAKES WHERE PAYMENTS ARE HIGHEST.

MR. CASSIDY: I'd like to ask a breeder about that first. Mr. Hancock, what do you think about it?

MR. HANCOCK: I don't agree with that at all.

MR. CASSIDY: Maybe the record may show what stakes are most fully subscribed to.

MR. HANCOCK: Frankly I couldn't tell you the cost of nomination to the Futurity or any other race. I think you nominate to the races for prestige and you're not interested in the amount it costs.

MR. FINNEY: We have a pretty good yardstick on that through the nominations

of yearlings that we sell, and I would say that practically every breeder who thinks something of his yearlings nominates for the Futurities, but each year there are less and less of those early stakes—not more than five or six—to which nominations before midsummer apply. As a rule consignors nominate to show faith in their horses, as far as the sales yearlings are concerned.

MR. PERLMAN: I have some statistics on this subject. I suggested this question. There has been some discussion, particularly inspired by the Thoroughbred Club of America, that stakes in which the nomination and subscription fees are too high should be discouraged. I think an atmosphere has been created leading to the inference that the owners and breeders are opposed to it. I do not wish to express an opinion on it, except to give you the statistics. As you probably know, I suggested The Garden State for the Garden State Race Track. At that time, Garden State was looking for an important race and it seemed a sort of paradox to me that with all the \$100,000 races being run, there wasn't a single one for two-year-olds in the fall of the year. This didn't seem to make any sense because they were almost three at that time, or getting close to it. I patterned the race on the Belmont Futurity Stakes, except that yearlings would be nominated instead of the mares. The total payments made to the Belmont Futurity are \$10 for nominating mares, \$75 on December 15th of the following year for yearlings, and a \$200 payment on July 15th, several months prior to the running of the race. This is a total cost of \$285 before starting. Now the idea was that we would approximately double everything; that the purse would be \$100,000 instead of \$50,000, and that the other fees would be approximately double, but actually less than that. The first nomination on December 15th would be \$35, there would be one the following March for \$100 and one in July at \$250, a total of \$385. That would be \$100 more than the subscription and nomination fees for the Belmont Futurity. Actually, if it had been doubled it would have been \$570 instead of \$385. I thought at that time that the number of nominations The Garden State would receive would be considerably less because it costs more money, and that whereas the gross value of the Belmont Futurity was \$125,000 The Garden State would eventually reach a value of about \$175,000. It just didn't turn out that way at all. I'll just give you the figures for the 1955 running as for foals of 1953. The Belmont Futurity had 460 nominations at \$10; 239 paid \$75 and 188 paid \$200. The Garden State had 712 nominations at \$35; 532 paid the following fee, and 241 were still eligible in July. The total amount of money paid before the running of the race was \$60,000 for the Belmont Futurity, and \$158,000 for The Garden State. Percentage-wise it should only have been about 50% more, actually it was 250% more. Additionally, we thought that the number of nominations would be far less for The Garden State because that race permits supplementary entries while the Futurity at Belmont does not. The final value of the Belmont last year was \$125,125 and The Garden State \$282,000. That was created entirely by the fact that the breeders and the owners continued to nominate at a rate for the New Jersey race entirely out of proportion to what you would expect. This seems to me to completely demolish the idea that races in which the subscription fees and nomination fees are quite high are not popular, because after all, for The Garden State a man doesn't have to nominate at all. He can wait and see whether he has a good horse and pay his fee, which, although it is \$10,000 is not so very much considering the purse is \$282,000, and fourth money amounts to something like \$30,000. Additionally, of course, the value of the race has in a very short period of time made The Garden State probably the outstanding two-year-old race in the country. I thought these statistics would be of interest as to how the breeders and owners react to the conditions and high nomination fees, which seems to me to be contrary to the general idea.

MR. GUSHEN: I don't believe that The Garden State can be a criterion because

first we would have to have figures showing how much of that money was paid by the breeders. If the last payment has to be made by July, which may be prior to the time the two-year-olds are sold at Keeneland, many of those \$35 payments or \$70 or \$100 are paid by breeders, because a breeder feels it is going to lend prestige to a colt. By the same token I don't think that if a man has a good horse, pays \$10,000 and makes a supplementary entry, that that would enter too much into it because after all, a man normally will gamble \$275 if he thinks he has some sort of a chance rather than wait and pay \$10,000 for a supplementary entry. I think the age at which the horse is running in a race like The Garden State as opposed to the Belmont, has a whole lot to do with values and the amount of money involved.

MR. EVANS: It has been our experience in the Kentucky sales that our consignors can nominate the yearlings for 12 stakes which are transferred to the purchasers. It is somewhat of a local situation really, so many of our people will nominate for the Kentucky races or the New York races as a group or possibly the Del Mar Debutante and the Del Mar Futurity, and we find very few breeders really who will nominate their horses for all the available stakes. We have a very large number of people who nominate in just the Kentucky Jockey Club Stakes and the Breeders' Futurity. Of course, The Garden State Stakes is not a yearling nomination stakes.

MR. EBELHARDT: It might be interesting to know that only 18% of the yearlings are sold at public auction. I would assume that about the same percentage are sold privately, which leaves the greater percentage of horses kept by the breeder, such as Arthur Hancock, Greentree, Calumet Farm, etc. In respect to future payment races the greater percentage of owners and breeders are almost matching racing associations dollar for dollar and we are putting on the show. I think it is asking the breeder to contribute a little too much money.

MR. BEARD: I would like to ask Mr. Perlman how much of the \$76,000,000 listed as the total distribution of purses for 1955 in the Racing Manual is breeders' awards and how does that fit in the picture?

MR. PERLMAN: I can't give you the exact figures, but we give the gross distribution and the net distribution which is paid by the race tracks. Actually I think that the amount of money contributed by horsemen and breeders in this country is very, very small, and I doubt that it would run much more than 1%. I may be entirely wrong in that because I am guessing now. I know in England last year 60% of the money was contributed by horsemen and only 40% by race tracks. I am not suggesting that that is healthy. As a matter of fact that is probably what is destroying English racing and why so many of those horses are winding up in this country.

MR. EBELHARDT: I think you have an entirely different condition in England. Hard times will make a monkey eat red pepper. Things are better here, and I think the Englishman is operating his race meeting just like we would if conditions weren't too good. Like the farmers getting together to help one another harvest the other's crop, I think in future type races, if conditions weren't good, American breeders would be willing to pitch in and pay large nominations and starting fees in order to build up the purse value to help one another. When conditions are such as they are today, the race tracks operate on a pretty good margin of profit. I don't believe breeders as a whole realize more than one-half of 1% on their investments, if that much.

MR. PERLMAN: I think Calumet would be a bad example. If you went over the record of what Calumet won over the last ten years it would destroy your average. But I think that is why racing in England is deteriorating. The race track doesn't get any revenue from the wagering, and unless they change it, racing in England will deteriorate further. I haven't studied the question of whether the payments are too high or not, but I do believe that there should not be a single rich race in the country without a supplementary entry. The purpose of having a race worth

\$50,000 or more is to bring together the best horses, and it seems ridiculous to have a \$100,000 race, like the Santa Anita Maturity, which last year grossed something like \$165,000, and have Swaps, the best horse on the grounds, not eligible. It makes the race look ridiculous—you're just giving away a lot of money. But that has been changed now. I think the Belmont Futurity should have the same clause. The Champagne should be 6½ furlongs and the Futurity a mile. It doesn't make sense to have a race for over \$100,000 at 6½ furlongs and then two weeks later expect your best two-year-olds to run for a \$25,000 purse. I think these statistics do prove the point, that as long as a purse is high enough it seems to appear particularly to the owners. The breeders are probably secondary in that particular situation.

MR. GAVER: At the outset I want to say to Mr. Perlman that I disagree with him 100% on supplementary nominations to early closing stakes. I think he has helped prove my point by stating that The Garden State has \$100,000 added and then goes on to say that it will gross \$282,000. Now, \$182,000 has come from the nominators. So, the race tracks depend for these huge purses on the nominators. You will find over the years that the people who buy yearlings and the people who breed their own are the supporters of early closing stakes. These same breeders and these same buyers build up these stakes and then they are opened up to let someone in who has never patronized the stake, or someone who has come up with a late developing horse. If people don't think enough of their weanlings or yearlings to enter when the nominations close, then let them stay out for good. And I might add here that Greentree Stable did not nominate anything for either of the two big two-year-old races at Garden State Park. If we have something good enough at the time, we will pay the supplementary entry. I am not speaking only for myself but also for Mr. Whitney and we discussed this at length when the nominations closed. I just think that it is not only wrong, but it is also ridiculous to have supplementary entries in early closing stakes.

MR. DONOVAN: Following through on what Irving Gushen said, so far as The Garden State is concerned, we find that there are very few of the horses nominated by December 15th but what are in the hands of the owners at that time. Of course, in many instances the owner at that time was the breeder, but they are in the hands of those who intend to race the horse. On Mr. Gaver's comment on the supplemental entry, that certainly is a debatable question. There are good arguments against it, and possibly the greatest argument for it could be on the part of the race track. Insofar as the differential between the \$100,000 we put up and the total value of \$282,000, or \$182,000 that is contributed by the owners of the horses, the value of the race is in the lap of the gods. The only reason it's \$182,000 is because the owners of that many horses elected to so nominate. As Mr. Perlman said, it was his and our thinking at the outset that the total value of the race could have been considerably less. It became considerably greater because of the interest on the part of those who own the horses; it was a voluntary action on their part. Getting back again to the supplemental feature, it so happens that this year in particular there is an individual instance where the supplemental entry might apply, not because the man who now owns the horse failed to exercise his right to nominate at the time the nominations closed, and I'm speaking about King Hairan. The fact is that at the time the nominations closed, King Hairan was still in the hands of the breeder and he did not elect to nominate. The horse has since been sold, and the man who now owns the horse did not have that opportunity. I do think there are factors involving, maybe, a matter of fairness or sportsmanship or whatever you might wish to call it, that argue against the supplemental entry. I do think, however, that in a case like King Hairan you might have an argument that might support the supplemental entry in the interests of the owner.

MR. CASSIDY: We have a question a little bit later on about supplemental

entries. Here is some data we have which I think may be important. In the Gardenia the percentage of added money given to the winner is only 24% and it is 40% to the second horse. That indicates anticipation of a great deal of the horsemen's money going to the winner. Then it is 24% to the third horse which is the same as the winner's share and 12% to the fourth.

MR. PERLMAN: I would like to make one point in reply to Mr. Gaver. Mr. Gaver is completely right, looking at it from his own standpoint, but you must never forget the public. If you are putting on a race that is worth a lot of money, such as the Maturity, and if the best horse on the grounds isn't eligible, it makes a joke of the race and the public is deprived of an opportunity to see the best horses perform. In the same way, The Garden State would be an absolutely ridiculous race if a purse was \$282,000 and the best horse was not eligible. They had the situation when Porterhouse wasn't eligible. Unfortunately, he was injured, otherwise Mrs. Lunn would have paid the supplementary fee. Last year Needles wasn't eligible, and if he hadn't started as a supplementary it would have been unfortunate indeed. This year King Hairan may be in the same position. But the owner is very important and you can't have racing without him. The prime purpose of having a rich and important race is to have the best horses meet. Two years in a row the winner of the Kentucky Derby was not eligible for the Belmont, which deflated the Triple Crown. Belmont Park finally changed the conditions.

MR. GAVER: May I say you have a simple solution to the whole thing in late closing stakes. Why close them early? Close them late and get everybody in. I understand about the closings, but I still feel as I did when I started out—I am opposed to supplementary entries in early closing stakes. I think the solution is late closing stakes.

MR. HANCOCK: I'm speaking from a different point of view, sir, but I instructed my secretary this past summer not to make any more entries in any race that had a supplementary clause.

MR. GUSHEN: As far as the late closings are concerned that John Gaver was talking about, of course if they had late closings this race that we are talking about wouldn't gross \$282,000, and the horsemen wouldn't have to contribute \$182,000 towards it. I'm worried about the fact that if this situation continues, in two or three years we are going to have a race that will gross \$482,000, and \$382,000 will have to be contributed by the horsemen, and \$100,000 by the racing association. Paul Ebelhardt very ably said that breeders probably don't get one-half of 1% on their investments. I'm sure that he will agree that owners lose 20% of their investment every year. So if that \$182,000 has to come out of their pockets, I think we are on very dangerous ground. I agree with John Gaver, I believe if we had late closings the pot wouldn't be so big, but nevertheless so much money wouldn't have to come out of the pockets of the horsemen. You will find that probably 95% of them contributed to it and only 5% of them collect anything.

MR. PERLMAN: In order that the position I'm taking should not be misconstrued, I think that what Mr. Gaver is doing and what Mr. Hancock is doing proves completely the point of supplementary entries. They can still name candidates for these races when they discover they have a good horse later on. So far as I am concerned, I would prefer that The Garden State should be worth \$150,000 instead of \$282,000 and bring together the best horses than have it worth \$282,000 and not bring together the best horses. The point is, of course, that nobody *HAS* to enter. Ten thousand dollars is a lot of money, but it isn't a lot of money if you can win a big pot.

MR. GUSHEN: In order to make myself clear on the situation just as Sam did, I'm not quarreling about supplementary entries at all, I'm not discussing that prob-

lem. I'm concerned with the fact that horsemen have to put too much money into that pot.

MR. CASSIDY: We have one more question I think we can complete before luncheon and it is on a very controversial subject. We have three questions on this subject which have been submitted.

QUESTION NO. 5.

(a) WHY CANNOT HANDICAP HORSES BE LIMITED TO A MAXIMUM WEIGHT OF 129-130 POUNDS? WOULD NOT THIS KEEP THE NAME HORSES LONGER BEFORE THE PUBLIC, INSTEAD OF DRIVING THEM INTO THE STUD BEFORE THEY HAVE ENTIRELY PROVED THEIR WORTH? IF THIS SHOULD ELIMINATE CERTAIN HORSES BECAUSE JOCKEYS COULD NOT BE HAD AT 98-105 POUNDS COULD WE NOT BETTER DISPENSE WITH SUCH HORSES THAN WITH THE TOP WEIGHT HORSES?

(b) IS IT NOT UNDERRATING GOOD HORSES TO FIX MAXIMUM TOP WEIGHT AT 130 POUNDS?

(c) RACING'S HOUSE IS DIVIDED ON SUCH A VITAL SUBJECT AS THE WEIGHTS IN HANDICAPS, INCLUDING SUCH POLICIES AS THE 130 POUND LIMIT. IS THE TIME NOT RIPE FOR: (1) A NATIONAL POLICY ON HANDICAP WEIGHTS; (2) A CENTRAL HANDICAPPING AGENCY TO ASSIGN WEIGHTS IN HANDICAPS, ITS MAIN PURPOSE TO DEFEAT THE GROWING TENDENCY TO SACRIFICE TRADITIONS FOR BOX OFFICE CONSIDERATIONS?

MR. CASSIDY: Let's start with the question on 129-130 pounds as the maximum amount.

MR. WIDENER: I am definitely opposed to putting restrictions on the handicapper as to the amount of weight he can put on any horse in any stake. I think if the horse is good enough he can carry it. It has been done in the past and there is no reason it shouldn't be done today.

MR. TAYLOR: I'm afraid I am opposed to keeping weights low. We haven't got enough good jockeys around to ride at the lower weight. I'd rather see it raised a bit to 132 or 134.

MR. CASSIDY: Do you mean to lift any restriction on them? To have the handicapper assign any weight he thinks the horse should carry?

MR. TAYLOR: I think there should be a top limit, but I would set it higher than 130 pounds, possibly 134 or 135 pounds.

MR. JACKSON: I agree with Mr. Widener. I think the Secretary should be allowed to make his own weights depending on the ability of the horse. The owner can either run or not run.

MR. BURKE: I don't think that there should be any limit. I don't think the handicapper should be restricted. You might have a horse, a top handicap horse that might last for three consecutive years. He might win the Santa Anita Handicap one year, the next year he's in at the same weight and the next year at the same weight—that would be no contest. I think it better to leave it alone, leave it the way it is.

MR. PERLMAN: Is there a top weight for the Santa Anita Handicap?

MR. BURKE: There is not.

MR. BRADY: I agree with Mr. Widener and Mr. Burke and Mr. Jackson. I think racing is much bigger than that.

MR. PHIPPS: I agree the same way. I think also the box office attraction of a good horse should not have any influence on the handicapper. The handicapper should not be forced to listen to that argument. I also don't think that high weight breaks a horse down.

MR. GAVER: I agree with Mr. Phipps. Weight might get a horse beaten but it won't break him down. The racing associations look with horror upon weight for age races. But still that is what they have been doing to the handicaps in some states this year with this arbitrary 130 pound top. To me there is a general trend among the race tracks to eat their cake and have it too. In other words, they will not have weight for age races or races of the type of "The Whitney." They want their handicaps, but then when the situation comes up when they want a particular horse to run, they arbitrarily set a maximum weight. I know we came here for discussion and not to hand out citations, but I would like to take this opportunity to congratulate Jimmy Kilroe for having weighted the horses in the Brooklyn Handicap as he conscientiously felt they should have been weighted, and also to congratulate The Greater New York Association for letting Jimmy's conscience be his guide. There's no question that in some other areas it is not the handicapper who places the weight on the horses, it is the director of racing, the owner of the race track or someone else, and I agree 100% with Mr. Widener. I've been through it, and so has the stable I work for, and we have carried high weights and have never complained about it. I think that if you can set up a propaganda campaign and get away with it, and get your horse in light, that's all right. But I don't see how people can conscientiously have an arbitrary top weight in a handicap and still have the nerve to call it a handicap.

MR. CHRISTMAS: I heartily agree with Mr. Gaver and these other gentlemen but it is a thing that should be taken up by the T.R.A. It is not fair to The Greater New York Association or any other racing association that does not put a limitation on what the handicapper can put on a horse. Some of these race tracks are promoting good horses by putting a limitation of 130 pounds on a horse to get him in there to draw a crowd—Mr. Perlman talks about the public—but that's not treating the public right. I think this should be taken up by the T.R.A. to make all the associations abide by the same rule. If they are going to put a limitation of 130 pounds, let everybody put a limitation of 130. Jimmy puts 132 on a horse, and he goes down to Jersey where he runs with a lot of bad horses with 129 on him. It's not fair to The Greater New York Association.

MR. CASSIDY: You think the association should set some limit?

MR. CHRISTMAS: I think the T.R.A. should take it up and there should be some definite stipulation of weight, either to go on and weight horses the way they always did, or let everybody put on a top of 130. It's not fair for The Greater New York Association to lose a horse like Nashua.

MR. CASSIDY: You're willing to have it either way, as long as it is consistent?

MR. CHRISTMAS: I think there should be no limitation put on a horse. I think it should be left to the judgment and discretion of the handicapper. If they don't do that, everybody should do it the same way.

MR. GUSHEN: If I had a horse that Jimmy Kilroe put 134 pounds on I'd send him a case of champagne. I've never had that kind of a horse. I certainly agree 100% with what has been said by Mr. Widener, Mr. Phipps, Mr. Jackson, and certainly Mr. Gaver. I think that if a handicapper is not allowed to use his own judgment it destroys something, because racing people as a whole today are very cognizant of racing matters and they understand. When people who come to the races see a horse with a limit weight on him, they understand that it is the intention of the racing association to have that horse in the race to draw the gate more than anything else. I am certainly against any racing association, director of racing, or

owner of a horse dictating to a handicapper as to how much weight a horse should carry. I think that is the prerogative of the handicapper. If he's not a capable handicapper, then they should get a new one. But as long as he holds that position, they should allow him to use his free judgment and put on as much weight as he thinks a horse should carry.

MR. MANFUSO: I was just thinking, what is the purpose of a handicap? If, as I understand, it is to bring horses together, I don't see how you can fairly or justly call a race a handicap if it doesn't do what it is supposed to do, and that is to bring them as close together as is possible by the handicapper. In my opinion, if a race track wants to run a race of that kind it should be a condition race and not a handicap. Racing, maybe because of the wagering element, has to do everything it possibly can to conduct itself on the highest level of integrity. When the tracks themselves employ what might appear to be a shady procedure to attract publicity, it is not in conformity with the fundamental best interests of the industry, as I see it.

MR. RUTCHICK: I agree with Mr. Widener.

MR. HANCOCK: From the breeder's point of view I believe a lot of us look at a handicap when we think about purchasing a mare. I looked at some yesterday. I bought Sunshine Nell. If you are going to get to the point where you just weight a horse arbitrarily at 130 pounds top every year how are we going to differentiate between the horses we use in the stud? We don't have enough distance racing. We can't develop our stallions from that point of view. I think if you are going to assign an arbitrary weight, you're going to have a hard time figuring out whether you want to breed to Swaps or Nashua or who.

MR. DOHERTY: My answer is only dictated by my memory. I've never had a horse that Mr. Kilroe had to put 130 pounds on. The horses that I remember are Discovery and Equipoise and horses like that who carried high weight. The good weight for age horses in the past twenty years I don't remember. Patently this is an industry that very few of us make any money in, and we are in it for the pleasure we get out of it given us by Tom Fool, Discovery, etc.

MR. CASSIDY: Before I get into other categories, I would like to read some weights carried by some horses: TOP O' THE MORNING carried 135; HE DID, 132; SEABISCUIT, 133; CHALLEDON, 133; SATION, 133; KAI-SANG, 133; ROSEBEN, 147 twice; CUDGEL, 132; SIR BARTON, 133; DISCOVERY, 139; GRAY LAG, 133; all of these run 133 and above. EQUIPOISE, 133; EXTERMINATOR in the Toronto Autumn Cup at Woodbine, 137; in the Ontario Jockey Club Cup, 134; 138 in the Kentucky Handicap; 135 in the Garden City Handicap. MAN O' WAR, 135, 138, 135, 136; 135 on Tom Fool; 140 on Harmonica; a great number of them run quite high.

MR. R. F. KELLEY: When you put a top weight of 130 pounds, it seems to me you do it for, let's use the word "advertising". So that you can advertise that you have a certain horse in your race. You get right up against the public who come out there to see a good horse run, and also to bet, and you get races termed, as some races in California are termed, "no contest", because of that top weight. I've had called to my attention what I consider to be a dangerous and bad editorial comment on that very point, the point being that the race is an exhibition, it isn't a contest because of that top weight. I think this concerns all of us. It is a very dangerous precedent.

JUDGE GRINNELL: I will preface my remarks by saying that I've only been connected with the thoroughbred industry in the racing commission since last July. I don't pretend to have the knowledge you gentlemen have, but I have been connected with other forms of racing, having trained and raced harness horses for 20 years. I think any box office factor or any other factor that aggravates the very

serious situation of bringing out good matches is a serious problem and maximum top weight is very detrimental.

MR. JACKSON: From the remarks I have heard here, we are all more or less in agreement that a good horse ought to carry the weight that an independent handicapper assigns to him. I feel sure from what I know of The Greater New York Association that that policy will always be in existence, but I do think that Mr. Christmas has made a good point that the T.R.A. is the right place for the next step because the T.R.A. is an organization of race tracks which should promote the best interests of racing for the public, the owner and the track operators. I think that if it is possible the suggestion should be made to the T.R.A. that they discuss this problem and try to get a uniform policy, first, that the handicapper is the most independent person and that he be allowed to assign his weights and that no publicity or box office attraction should influence him. I think that would be a constructive forward step.

MR. COLE: My position is based entirely upon an assumption, which may be erroneous. If it is a fact that the champion horses are being forced into the studs before they have ceased to be box office attractions, then in the interests of the public, which the racing commissions do to some extent represent, I believe that there should be some limitations on the weights that would keep those box office attractions before the public. That's to the advantage of the states which derive their taxes from the members of the public.

MR. EMMET KELLEY: I prefer not to comment as it might be interpreted as coming from me, as President of the National Association. As an individual, I think I would probably go along with the majority, but would be content to say I agree with all the comments I have heard.

MR. BIGELOW: Anything I would say would be in agreement with Irving Gushen who put the case much more eloquently than I could. If you have a good handicapper, let him do his job without any interference whatever from anyone. If he's not a good handicapper, get a better one.

MR. RING: I feel exactly like these other gentlemen do, that there should be no limitation. The only thing that enters my mind is that I think some consideration should be given to a minimum. I don't like to see a good race come up and some horse get in with 101 pounds. In my opinion if he is not good enough to carry a decent weight he hasn't any business in the race. I think something that could be agreed on as a minimum weight should be considered. Or a maximum spread, say 25 pounds between the high and low weight.

JUDGE GRINNELL: I feel that the racing commissions not only have a very important duty to protect the public but they also have a duty to protect the horsemen. In the situation where you have no contest, you force horses to race against a sure winner, you're not protecting the horsemen's interests. It is debatable whether you should go along and say the \$2.00 bettor ought to be protected and draw a big attraction to the track or whether you should force horsemen into the position where they are racing in no contest.

MR. YOUNG: I'd like to say the same thing Mr. Christmas said, that this problem should be brought before the T.R.A. That's the main thing I am concerned with in racing, and I think probably the T.R.A. could settle this problem.

MR. ATKINSON: I think Mr. Hancock's point was particularly well taken as well as those of a number of others. I don't think there should be a minimum or a maximum, it should be left entirely in the hands of the handicapper. I doubt very much that a horse remaining sound getting into the real high weights is forced into retirement by the weights. As long as he remains sound, and has the opportunities, he can carry the weights as long as his stable does good.

MR. COFFEY: I have no views. It's a bit out of my field.

MR. MILLAR: I agree with what all the gentlemen said, but I certainly would be interested to get the views from such gentlemen who don't happen to be here now, such as Mr. Haskell, Mr. Schapiro, Mr. Mori, and in view of what Mr. Perlman said, Dr. Strub. I'd certainly like to hear management's side of this.

MR. E. KILROE: I think the policy of The Greater New York Association has been established and I certainly hope it will not change, that there should be no arbitrary limit on high weight. The question on low weight horses I think takes care of itself, because the handicapper, by assigning a very low weight, indicates that he thinks the horse shouldn't be in the race because there are few jockeys to ride at that weight.

MR. PINKERTON: I don't feel qualified to comment.

DR. WOODCOCK: The only thing I can comment on, is that I don't believe weight ever broke a horse down. To me, the higher the weight the better the horse.

DR. GILMAN: I think the whole subject was brought up because of one horse race. That same horse carries 150 pounds in the morning and works just about as fast as he races in the afternoon.

MR. DUNNE: I agree with what Mr. Kelley says. It's a serious thing to have these things that are really more parades than they are handicaps. There's nobody here representing Hollywood Park but I used to work for them. They had a race out there this summer, The Sunset Handicap, and every horse in the race except Swaps was overweight. They only had straight betting and he was 1 to 10. There was an article about it in The Thoroughbred Record called "The Nomenclature is Misleading". And it certainly is misleading to call such races handicaps. I think something should be done about it, but I don't know what.

MR. F. KILROE: I'd like to get into the argument to this extent, that I think that's a multiple question you have there. One part was that the top horse was getting weighted out of his full career as far as the public is concerned, which could be a factor. I think what we should be criticizing is the stakes programs at tracks around the country because there is almost no such thing as a race that is not a handicap for older horses. If they are giving away that much money and if they are willing to take a beating, which they will take, if they run a handicap with a 1 to 5 shot as the top horse, they should be willing to take the same beating and run the race based on, say money conditions like our Maturity at Santa Anita, keeping the weight up to 126 pounds, or 130 pounds, based entirely upon what the horse has won. I think we have too many handicaps in the country. I'm not complaining about overwork, but if there were fewer, there would be less of this sort of debasement of handicaps. In sort of self-protection, management which is anxious to attract the best horse and keep him going, will hold the weight down and sometimes set a policy of arbitrary high weight. The handicapper himself wants to get the best horse and make a better race. I think too many of our races are handicaps.

MR. RAINEY: If a handicap is going to be a handicap there can't be any maximum or minimum on the weights. Anything you do to adjust it either way is a farce and I think the race that Mr. Dunne referred to on the coast got about the worst publicity that racing could probably stand. There are too many good horses that have run with high weights on them over too long a period to say that weight has ever forced them into retirement. Tom Fool, Devil Diver, Exterminator, all those horses who carried high weight disprove the argument that horses are driven into retirement by high weights.

MR. TOMPKINS: This is really for the record. Before Mr. Kilroe handicapped the Brooklyn, I didn't even discuss it with him then, nor have I since. In my book, that's his job and I don't care about the box office.

MR. LYNCH: As a fellow who writes about sports and loves them, I hate to see racing get into the situation where they are tampering with the values of perform-

ance. I think it is a sacred thing. I think other sports have made that mistake, baseball has made it, I think, and regretted it ever since. They took box office considerations over performance with the lively ball. Getting back to the racing part of it, it seems to me that the promoters of racing have usurped the privileges of the handicapper. It is all very well to sit here and commend Jimmy Kilroe, and I'm one who has, for the 132 pounds he put on Nashua, but meanwhile there are other associations who are willing to pander to the box office, winding up with the horse and good business. I'm not so sure that the T.R.A. is the proper agency to adjust this. I also think that perhaps The Jockey Club plan for a Stewards' Pool is too conservative. Maybe it should include racing secretaries.

MR. PERLMAN: I agree with the general viewpoint here that a handicap should be a handicap and nothing else. The opinions expressed here seem to be pretty unanimous, but I think the general feeling in racing is not nearly as unanimous. We have created an impression here that 130 pounds is simply nothing. The fact is that I think in the Santa Anita Handicap, where you don't have a top, and I may be wrong in this, Citation carried 132 pounds and it was the only time a horse ever carried more than 130 pounds in that race.

MR. BURKE: Seabiscuit did.

MR. PERLMAN: If Seabiscuit did, then it would be only twice in its whole history, because 130 pounds is a pretty fair package. I do think there is a general feeling among people who are interested in racing that if you are going to give a horse as much as he should carry, and it should be 140 pounds, what business has a horse with 100 pounds to be in there? I think that destroys something too. I think that places a premium on mediocrity. Frankly I don't think a horse should get 40 pounds or even 30 pounds if you're running for \$100,000. There's no doubt that Man o' War was forced to retire because of the weights he was forced to carry through the years. There are a number of weight for age races in New York and very few elsewhere. Suppose you are going to have a weight for age race where the top would be 126 pounds. It was said that the race at Hollywood Park was ridiculous, but how much more ridiculous would it be if the Hollywood Sunset Handicap was weight for age and Swaps got in with 126 pounds? Actually this thing is not quite as simple as it seems. I think that something can be said for race tracks which advertise their restrictions in advance, such as Atlantic City did last spring. They announced the race before they knew the quality of the starting field—that this would be an invitation race with a top weight of 130 pounds. Then every owner goes into the race knowing that the top weight is 130 pounds. But if a handicap is advertised as an open handicap, not to give the horse the weight he should carry is a form of fraud beyond any question of doubt.

MR. HATTON: I think horses ought to carry the weight they earn.

MR. ORTELL: I've seen a good many good horses run and I still think there should be no maximum weight.

MR. BAINBRIDGE: I second Charlie's idea—whatever they earn.

MR. BOWER: I don't think there should be any arbitrary weight.

MR. EVANS: I think that the whole question should definitely be left to the integrity of the handicapper. I think possibly that there might be a need for a minimum even though it might possibly taint the handicap I feel somewhat along the lines of Mr. Perlman that a horse should not have the advantage of 25 or 30 pounds in weight, but I do think that the decision should be left to the integrity of the handicapper.

MR. FINNEY: I believe you should hire the best handicapper possible, leave him alone and let the horses run.

MR. DOHERTY: I agree with Mr. Finney.

MR. EBELHARDT: I agree with Mr. Gaver. I think weighting a horse will stop

but won't break him down. We have a horse, Armed, at the farm who raced until he was nine. He broke twelve or thirteen track records and carried a lot of weight fast and far, yet he's still sound.

MR. HANCOCK: Mr. Cole brought up the point about forcing these horses into retirement. I don't think you are going to force any horses into retirement as long as you have \$100,000 handicaps. A pretty good old fellow down home when I was a boy told me that a handicap was the greatest race of all. "You either get some money or you get some weight off."

(Laughter)

MR. DONOVAN: I think the question has pretty much answered itself. I don't see how you can have a handicap with any sort of restriction either directly or indirectly on your top weights. One is in complete contradiction with the other and of course influencing the handicapper is defeating the purpose of the handicap. I think it's a question of omitting handicap races or letting them be handicaps.

MR. HENDRIE: I don't think track managements should have any part of any handicapper. If track management cannot produce a handicapper that is good, they shouldn't be track managers and if the handicapper goes off base, they should get themselves a new one.

MR. NUCKOLS: I agree with Mr. Widener and Mr. Gaver. I don't believe there should be a maximum or a minimum.

RECESS FOR LUNCHEON—MEETING RESUMED AT 2:00 P.M.

MR. CASSIDY: Will everybody be quiet, please? During the morning session you talked a little low during the last part of it and I don't blame you. Everyone is getting a little tired. But it is almost impossible to make a recording that we can reproduce if there is any noise. As I told you before, the room is not as good as it should be for picking up the recording, so please try not to talk while someone else is talking. If anyone wants any Saratoga Vichy, cigars or cigarettes, they will be passed around. Before we start on the next question, I would like Mr. Carroll to say a few words to supplement the topic on which we spoke earlier.

MR. CARROLL: Mr. Cassidy, I don't have to wait to clarify the question that arose this morning when Mr. Manfuso discussed this so-called Narragansett ruling. In going through my disorderly brief case I found specific references to the subject and I am glad to be able to advise you that this ruling of Mr. Tobin's was applied through The Jockey Club and the American Trainers Association as soon as it was released. We had made application for such relief before the House Committee on Labor some time before Mr. Tobin was Secretary. For reasons of his own, Mr. Tobin extended the horse handling exemption to race tracks. The Department had the grace to advise us before the ruling was issued. The relief secured by this ruling was to give an exemption from overtime for 14 weeks to employees handling horses at race tracks.

The charts which we prepared for the American Trainers Association outlined both the use of this exemption and the use of the Belo contract and constituted, in our view, a method of stabilizing wages in the industry on an annual basis. I have suggested to Mr. Gushen that I would send him the forms of contract, the forms of required notice and the method of applying the horse handling exemption, which were previously distributed to The Jockey Club and the American Trainers Association. We shall be pleased to accommodate members of Mr. Gushen's group when requested to do so.

MR. CASSIDY: Thank you, Mr. Carroll.

MR. MANFUSO: Just to clarify the record and certainly not to merely take the credit for the Horsemen's Benevolent and Protective Association, I don't know how that ruling is recorded. Apparently it is recorded as the Narragansett decision. But actually that decision was made as the outgrowth of action by the Department of Labor in the New England area. It might have been at Narragansett. The matter was taken up by the Horsemen's Benevolent and Protective Association. It was handled through their attorneys and the ruling was made as the result of the activities of those attorneys. I think the provisions of that ruling should be made very clear to the industry. I don't think that the industry as a whole is as cognizant of the exemptions provided in the ruling as they might be. If it would be possible in your report to Mr. Gushen, Mr. Carroll, I would request that a complete and detailed description of the exemption ruling for the racing industry be made available so that it can be publicized to all owners and trainers.

MR. CASSIDY: Mr. Carroll, we will make that part of this meeting so that it will be published in that way.

QUESTION NO. 6. THE ADVISABILITY OF ADJUSTING PURSE DISTRIBUTION TO CONFORM WITH THE PREVAILING POLICY IN CALIFORNIA WHERE FIRST MONEY IS 55%.

MR. CASSIDY: I have some figures here which I will read giving the purse distribution in various states and before I do I would like to tell you what our policy has been, always subject to change, I suppose. The winner's share in purses and stakes is small indeed compared with the obligations that go with winning. Our purse distribution is divided 65% to the winner, 20% to the second horse, 10% to the third and 5% to the fourth. Out of the 65% that goes to the winner, usually he pays 10% to the trainer, 10% to the jockey, 10, 15 or even 20% to his stable help and his employees. In addition his horse picks up weight the next time he runs in a handicap, or is penalized for having won a stake or a race of that value. When he gets through paying these percentages, he receives very little more than the man who finishes second. So normally it would be better to finish second and not have the horse penalized, than it would be to win. The various states we have listed are: Illinois gives 55% in stakes to the winner; in overnights they give 60%. California in stakes 55%, but in one stake they give 52% to the winner, in another stake, the Maturity, they give 26% to the winner, 30% to the second horse, 20% to the third and 10% to the fourth. And in overnight races they give 55%, 20%, 15% and 10%. In New Jersey in stakes they give 65%, 20%, 10% and 5%. In Florida, it is 65%, 20%, 10% and 5%. In Delaware, it is 65%, 20%, 10% and 5%. In Maryland it is 65%, 20%, 10% and 5%. In New England it is variable—60%, 22½%, 11½% and 6%. Now we will bring the question up for discussion.

MR. PERLMAN: The percentages you quoted on stakes is only for the added money, when the fact is that The Gardenia or The Garden State isn't based on that, it's based on the total value of the purse, which of course is what the owner gets. Actually the relation to overnights is what is important. In relation to stakes I don't think it matters too much because there's so much money involved. A lot of tracks are trying to make second money quite important in order to attract a good field when they have a horse that stands out too much. Purses have become so valuable generally speaking that in the overnight races particularly, the California system of 55% provides a more equitable distribution of the purse money. Years ago in New York State where most of the owners were people who raced for the sport, I think 65% was completely right. But today, when you have so many horses and horsemen and so much money distributed in purses, I think it would be healthier for racing

if second, third and fourth moneys were increased. What states now give 55% in overnight races?

MR. CASSIDY: California; in Illinois it's 60%.

MR. PERLMAN: I think that now minimum purses have gone up so much that you need a good field, for it's not only one horse that's going to win it. I think a more even distribution of the money would help a lot of horsemen because it is a difficult thing to break even. I would be interested to hear what Mr. Gushen or Mr. Manfuso, who are much closer to this situation, think about it.

MR. GUSHEN: I think I know how Mr. Manfuso feels about this situation, and at the risk of being impeached, I'm going to agree with Mr. Perlman. I do honestly think that in stake races, the problem is not too great. But I honestly believe 65% in overnights is a little bit too much. During the course of the season I finished second twenty times and third thirty times, and so forth, and the difference between that small percentage sometimes amounts to a considerable sum. I think that in overnights, I would be willing to compromise but I think 65% is too high. They ought to cut the 65% a little bit and give the fellow who finishes second a little more.

MR. CASSIDY: The percentage is the same for the second horse, whether it is 55% or 65% to the winner.

MR. GUSHEN: In most instances they give the second horse 20%, and 65% and 20% is 85%, which only leaves 15% to be divided between the third and fourth horses. I think an extra 5% would do the most good for the third and fourth horses.

MR. F. E. KILROE: I worked under all three scales of distribution. In California, of course, it is 55% all the way, and the Illinois scale which we started up at Mr. Lindheimer's suggestion was a sort of compromise. We set it at 60% in overnights and 55% in stakes on the theory that even in an ordinary stake the winner's share of fees would be about another 5%, so that would make them equal. I do think that the winner in a stake should get a lower percentage than the winner in an overnight.

MR. CASSIDY: I should think it would be the opposite.

MR. F. KILROE: Because the fees are going to add up and as I said, increase the percentage. The thinking in California was, as Sam Perlman says, to spread the money around a little more. You can carry that to extremes as Bill Kyne has done with his Bay Meadows eighth money. But we do have the problem of getting the money around to as many stables as possible. I think the winner should always get over half the pot, and as you say, those 10% will kill it anyway. I rather like a figure of 60%.

MR. DUNNE: At Tropical Park we increased second, third and fourth money at the request of the horsemen. I felt it didn't make much difference to us, we could divide the money up any way the horsemen wanted us to. We have the smallest track around there so we have to be very agreeable to everybody. It worked out fine, I thought.

MR. CASSIDY: What did you give? I see Florida has 65%, 20%, 10% and 5%.

MR. DUNNE: It wasn't that way at Tropical, I'm sure. You're talking about those northern tracks like Hialeah and Gulfstream Park.

(Laughter)

MR. CASSIDY: Do you subscribe to the 55 or 65 percentage? How do you feel about the difference in overnights and stakes?

MR. DONOVAN: In California, they have a considerable amount of money. Do they have a \$5,000 minimum, Frank?

MR. F. E. KILROE: \$4,000 minimum.

MR. DONOVAN: The more money you have to distribute, the less the per-

centage affects it. Generally speaking I would approve of a compromise. As Irving says, 65% is probably high and 55 is low.

MR. HANCOCK: I don't think it makes any difference. It will even up over a period of time anyhow. From the owner's point of view I don't see why winner-take-all wouldn't be just as good.

MR. GUSHEN: It looks like Mr. Hancock wants to be in business by himself.
(Laughter)

MR. DOHERTY: I remember having some horses with Charlie Whittingham in California and he called me up one night and said, "Damn it, we won a race today." I said, "What's the matter, what's wrong with that?" He said, "I'd just as soon run second." This wasn't a horse he was getting 10% on, we owned the horse together. I don't know anything about this other than that.

MR. TAYLOR: I agree with Mr. Hancock. I don't think it matters very much, but I do think in stakes it does matter. I don't think it matters in overnights very much whether it is 55 or 65 to the winner. In stakes, each one should be worked out in relation to the amount of fees and subscriptions. I think 65% to the winner in some of those stakes is too much.

MR. WIDENER: I approve of what we do here in New York. It suits me.

MR. JACKSON: I think we breed horses and race horses to win, and I think the winner should get the largest part of it.

MR. GAVER: Do you think that the 55% to the winner and the larger amounts to second, third and fourth, were put in for the welfare of the horsemen in those areas or for the welfare of the race tracks? Do you think California with its 55% does it for the poor, down-trodden horseman, or to get larger fields?

MR. CASSIDY: I think possibly to get larger fields. But they are also concerned with the horsemen.

MR. DUNNE: I know at Tropical Park, my favorite race track in Florida, it was done at the request of the horsemen. The way it seems to me, you're going to give away \$5,000, why are you going to get excited as to how it's divided up? If the horsemen want to have more for second, third and fourth, it doesn't seem unreasonable to me.

MR. CASSIDY: You mean the stakes and overnights?

MR. DUNNE: I'm particularly talking about overnights.

MR. DONOVAN: Before we leave this, Mr. Cassidy, you made some reference in connection with The Garden State and The Gardenia, I couldn't hear just what you said, and I might want to comment on it.

MR. CASSIDY: I said that the breakdown, percentagewise, of The Gardenia is 24% of the added money to the winner, and 40% to the second horse, 24% to the third and 12% to the fourth.

MR. DONOVAN: Of the added money or of the total distribution?

MR. CASSIDY: Of the added money.

MR. DONOVAN: You see, there's \$50,000 guaranteed in there. In The Garden State, and this might prevail in some other stakes, if it does I am not familiar with it, of course your distribution is always based upon the added money. But we did take into consideration the nominating and starting fees and distributed those also on a percentage basis so that there would not be, by reason of the great amount of money involved in that category, too much of an off-balance, trying to come up with a final distribution based upon the usual formula. Then of course the conditions of the race, in that particular instance and The Gardenia, have some bearing on applying the normal percentage method.

MR. CASSIDY: Of course the percentage of the added money in The Gardenia would be low if you didn't have many nominations or many starters. So it is a

variable amount that the winner would win, dependent to the great extent on the number of nominations and starters.

MR. CHRISTMAS: I can't see what difference it makes if it is 65% or 55%. Of course, I think a man wants to win races and is naturally entitled to more than the others. I'm heartily in favor of the 65% because the money is distributed among the horsemen anyhow. John Doe might win today and lose tomorrow. It's the same distribution, it all goes to the owners no matter what percentage you've got. It's the overall balance to the whole thing. There's so much money distributed, so much money goes to the horsemen. One stable might be doing good now, and next month the bottom falls out, and some other stable does good. I can't see where the change to 55% or anything else is going to help.

MR. CASSIDY: Ted, what do you think about it?

MR. ATKINSON: I'm rather selfish.

(Laughter)

After all, here in the east jockeys generally aren't paid a percentage on second, third or fourth money. I say, 75% to the winner.

(Laughter)

MR. CASSIDY: I suppose, Sterling, he speaks for you too, as you represent the jockeys. Is there anyone else who would like to comment on this question?

MR. MANFUSO: It occurred to me that, in opposition to my friend, Irving, we should keep a certain amount of the sporting element in racing. I know he doesn't think the sporting element from this point of view is too important, but to the victor belong the spoils. It might be that 65% is too high, we might have 60, 20, 12½ and 7½. Whatever is adopted I think it should be uniform from the sense of the values of uniformity. There are certain advantages in uniform purse distributions just as there is value in uniform rules, and it seems to me that if we could put purse distribution on the basis of 60, 20, 12½ and 7½, on a national basis, it would probably solve the problem. There are arguments on both sides and from the point of view of the second, third, and fourth horses, more money might create more stimulation for second, third and fourth endeavors.

MR. PERLMAN: In New York the most lopsided portion of the program is the fact that in stakes you give 65% plus all the added money so that actually in the Belmont Futurity I think the winner wound up with 85% or 90% of the money and I think that holds true in some of the others.

MR. F. E. KILROE: Sam, that doesn't apply to the Hopeful, the Spinaway or the Futurity.

MR. PERLMAN: I thought that in New York 65% of the added money was paid in all stakes.

MR. F. E. KILROE: In some of those big early closing stakes it has been modified a bit.

MR. PERLMAN: I just assumed that was the overall policy.

QUESTION NO. 7.

(a) SOME CRITICISM HAS BEEN LEVELED AT THE WITHHOLDING OF MORNING WORKS. IS IT WISE FOR TRAINERS TO WITHHOLD SUCH INFORMATION FROM THE PRESS AND PUBLIC?

(b) NEW YORK TRACKS SHOULD SET UP A SYSTEM SIMILAR TO THAT WHICH PREVAILS AT HOLLYWOOD PARK, TO AID CLOCKERS IN COMPILING OF WORKOUTS. AT HOLLYWOOD PARK, ALL HORSES MUST BE IDENTIFIED BEFORE THEY GO ON THE RACE TRACK AND MUST MAKE KNOWN THE DISTANCE THEY WILL WORK AND THE POINT FROM WHICH THEY WILL BREAK.

MR. CASSIDY: Mr. Gaver, how do you like that suggestion?

MR. GAVER: I don't like it at all. I don't think there are many works being withheld. I think that there are horses that are being missed while they are working. When you go to the track in the morning, you will find several clockers that work hard and do the best they can. The others seem more interested in baseball scores and in chatting with morning visitors. If the public is not getting works correctly, there should be more and better clockers, men of the type of Hal Kiser. The best way in the world to be sure your horse is even money when you run him is to work him real early in the morning, then everybody knows about it.

MR. CHRISTMAS: I'm heartily against anything like that because it doesn't accomplish anything. Nobody is trying to hide a horse, you can't hide them anyhow. The clockers have your horse's registration markings, and when you break a horse out of the gate you've got to give them the name and all the information anyhow. After all, these horses belong to the owners, and their investment far exceeds that of racing associations. We've got too many rules and regulations now. We can go back to what's happened in this country in the last twenty years—regimentation, and all socialization. An owner isn't going to have any control over his horses and the next thing you know they'll want to know how you fed him the night before. The clockers can get all the information. Suppose you do give them the horse's name and they time him wrong, what's going to be accomplished by that? We've got too much socialization and regimentation in racing now. Everybody walks around like he's carrying the world on his shoulders, and it's not the happy-go-lucky situation like it used to be. I'm wholeheartedly against it.

MR. GUSHEN: I really can't comment on it, as my horses don't work fast enough to even get in the paper.

(Laughter)

I'm not really qualified to speak about it, it's a matter for the trainers, who know more about it than owners.

MR. CASSIDY: I don't think this question is brought up just for trainers. I think it has something to do with public relations and values to racing.

MR. F. E. KILROE: First, being an easterner in California, I get a lot of complaints that probably Californians don't get, but I know the horsemen out there have a rather reasonable objection to the Hollywood Park system. A fellow like Buddy Hirsch would take his horse out on the race track and he wouldn't make up his mind what he was going to do until it was time to do it. He might not like the way the horse walked, or cantered, and he might send him back to the barn, but he's got to file a report at the track on exactly what his operations are going to be there.

MR. RUTCHICK: I raced at Santa Anita two years and I am sure that they had the most competent clockers there. They never missed a horse, they timed them all. New York has three tracks, they have clockers at each track, at Santa Anita they only race at one track. New York needs more competent men as clockers.

MR. DUNNE: I don't know anything about it.

MR. LYNCH: If you did get this Utopian concept where everybody had the works and everybody identified the horse—everybody knew all about it—what I'm wondering about is who is going to take a ball bat to the clockers to make sure that this information gets to the great American public?

MR. CASSIDY: Are you for it or against it?

MR. LYNCH: I think it is pretty good as it is.

MR. HATTON: I think the clockers do a very excellent job on the whole the way things are now.

MR. BAINBRIDGE: I think it would be rendering a definite service to the people who go to the race track if you provided that information.

MR. EVANS: No comment.

MR. FINNEY: It's out of my field.

MR. DOHERTY: No comment.

MR. EBELHARDT: No comment.

MR. NUCKOLS: No comment.

MR. HANCOCK: I agree with Mr. Christmas and Mr. Gaver.

MR. DONOVAN: I think the information the clockers have is somewhat of a problem so far as the public is concerned. I agree with Mr. Christmas that the horse belongs to the owner, but in a great degree that information does belong to the public. I wonder whether or not the Hollywood system is the answer to it because you have to go back to the clocker in the final analysis. He has the information. Somebody said whether he clocks accurately or not, I think it goes back to the quality and caliber of the clockers who are at the track.

MR. HENDRIE: Mr. Christmas said that if the information were made available to the clockers there might be some who would not pass this information along. On the other hand it seems to me with the interests of public relations at heart, perhaps a new horse comes down on the circuit, the identity of that horse and what the trainer is going to do with him that morning, if anything, certainly is beneficial to the association and the public, if that information is made known to the association clocker or the clocker representing the Form. It is then up to the association to make sure that their clocker is not withholding information.

MR. R. F. KELLEY: In New York, the track clocker, in addition to furnishing the works to the racing department also furnishes them to me, and those are made available to all newspapermen every day.

MR. CASSIDY: I think that's done most every place.

MR. TOMPKINS: I agree with Mr. Donovan, it depends on the competence of the fellow on the job.

MR. JACKSON: I'd even go further than Mr. Christmas and Mr. Gaver from the point of view of the owner. I do feel that there is a great deal of trend in track management to consider the \$2.00 bettor, and public information. I've been in General Motors and have had all of that to deal with. I know how important it is. But I don't think we can put aside the fact that the owner is the man who has an investment in this business. And if you will total up the dollars you will find that the owner is really of great importance. And if it weren't for the sporting element in the racing picture today there would be a great many owners who would be very discouraged. To stop and ask the trainers to go to the clocker's stand and tell the clocker what he is going to do with his horse and when, is beyond me, and it would be very discouraging if we got to that point.

MR. CASSIDY: I would like to make a comment about it at this time. I think there is a value. I think the people who object to it have logical reasons for objecting. But I think there is definitely a value that there should be no errors in these works, and that the proper identity of the horse that works should be known.

MR. JACKSON: I think if a clocker asks a trainer what horse he's working, he should tell him, there's no question about it.

MR. CASSIDY: That's what I mean. I don't mean I would favor the trainer going someplace and telling them how far he's going to work and where he's going to work from, just as Mr. Kilroe said, a trainer does not know when he goes out on the track just what he's going to do.

MR. DUNNE: Is that the only place they do it?

MR. CASSIDY: That's the only place I've heard of it.

MR. MANFUSO: Just how valuable is the information as to how fast a horse works? Practically, from the trainer's point of view, a lot of horses will break all kinds of stop watches, but that isn't going to assure them of victory in the afternoon. The horse's class, in my opinion, is not how fast he can run in the morning, or even

in the afternoon, it is his ability to carry weight in competition, not the time. While workouts might be a gimmick for public approval or appeal, the practical value is relatively nil. You can have \$2500 horses work $\frac{3}{8}$ of a mile in better than 35 seconds and you can have stake horses work $\frac{3}{8}$ of a mile in 38 seconds or 39 seconds. It isn't too important, and for the value received, merely additional public appeal with the clocker knowing what every horse is doing, I think it isn't worth the headache involved.

MR. ATKINSON: I would say that fully 50% of the first time starting two-year-olds that I ride have, according to their trainers, run one to three seconds faster than their works according to the newspapers. Somebody is fooling and I suppose that everybody else is being fooled too. I have to go along with Mr. Manfuso that there is not a great deal of importance to be attached to this.

MR. PERLMAN: Having listened to everybody I have a better opportunity to reply, which I think is as it should be. First of all, I agree that the horse belongs to the owner, but the workout belongs to the public and I think that is one of the points that pretty nearly everyone avoided here. The owner pays for the horse, but the public pays for everything. The least we can do is try to give the public the most accurate information that we possibly can. We spend a large amount of money gathering workouts. We don't do as good a job as I would like to do because of the many factors that are involved. We know one thing that has made this system worthy of use and that is that the results we have obtained have been very, very much better. It has also been adopted at Washington Park and the results have been phenomenal with exactly the same staff that we had last year. Whether workouts are valuable or not valuable is not the point. The point is that for the public and for the handicapper at the track it is very important for horses that have never started and for horses that have been out of training for a long while. We are very anxious to do a good job, and it does not work in the way that Mr. Jackson seemed to think it does. We don't expect the trainer to go up to the clocker's stand and tell him. The way it works at Hollywood Park and Washington Park is that there is one entrance to the race track which all the horses must pass through. They put the clocker's stand at the other end of the race track and they have a loudspeaker. When a horse comes out they announce the name of the horse and the distance he will work and where he will break from. I believe that the public is entitled to all the information they can possibly get. We are willing to do the job, but we can do a much better job when our clockers don't have to run around contacting trainers to find out who the horse was. The other day, I received a letter from a trainer who said that he had told his owner that his horse was not fit and would have to be laid up for quite a while. The next day we listed a workout for him because the clocker had not properly identified the horse and this trainer was in a serious situation with his owner, who thought he was not telling the truth. I think everything should be done to give the public the information and I think the race tracks should cooperate.

MR. LYNCH: We don't have that system in New York and Florida and I think the results are phenomenal, judging by some of those 6 to 5 first-time starters I've seen. I'd like to know, Mr. Perlman, in what way at Washington Park, and Arlington Park, where they've instituted this system, has this phenomenon manifested itself?

MR. PERLMAN: It has manifested itself because when you have about three or four clockers there at the same time instead of one it reduces the ratio of dishonesty.

MR. HANCOCK: Mr. Cassidy, may I ask Mr. Perlman if he's sure that system is in effect at Arlington and Washington?

MR. PERLMAN: That's what I understand.

MR. HANCOCK: Then they can put me in jail, because we haven't ever told anybody anything.

(Laughter)

MR. ATKINSON: Might I ask too, is there any penalty accruing to the exercise boy, or perhaps jockey, who has a horse break off with him a pole or two poles earlier than he was supposed to break off?

MR. PERLMAN: Actually I think the most important part of this is to identify the horses. The idea that the trainers always cooperate just isn't so. We have had many instances where the trainers have put white spots or white markings on the horse's head in order to make him look like another horse in the stable. It has happened many times.

MR. MILLAR: Mr. Cassidy, has it been established that there is a reluctance on the part of horsemen to cooperate with the clockers of late? I know it used to be but I just wonder has that been established?

MR. CASSIDY: The only thing that I have heard is occasionally in the spring when a stable arrives at Belmont Park, a couple of the trainers don't give the identification of their young horses until they get ready. It makes it a little inconvenient to identify them on the track, but whenever they have been asked to, they have given it right away.

MR. PERLMAN: This spring I wrote to you that we had great difficulty because horses weren't registered and were very difficult to identify and we had works on a number of horses that our clockers didn't know who they were.

MR. CASSIDY: I knew that, I sent them to you.

MR. PERLMAN: As far as times are concerned, it would help us a lot if they would notify us if they have a workout in which we have the horse slower than what he really worked.

MR. GUSHEN: Mr. Cassidy, if you are ready to close this, I would just like to say that Mr. Perlman said that the public pays for everything, and I would like him to be kind enough to give me the address, I've got a few bills to send them.

(Laughter)

QUESTION NO. 8. TERMING TRACK CONDITIONS AS FAST, SLOW, GOOD, ETC., IS CONFUSING. EVERYTHING IN THE RACING CHARTS EXCEPT THIS HAS BEEN IMPROVED. THE TRACK CONDITION IS GOVERNED BY ITS WATER CONTENT. WOULD IT NOT BE BETTER TO TERM TRACK CONDITIONS TO DESCRIBE THAT, SUCH AS "SLOPPY", "MUDDY", "DRYING", AND "DRY"?

MR. CASSIDY: I think whoever wrote this question has in the back of his mind something that might be valuable but I don't think it is expressed here. There does seem to be a difference between a fast track and a sloppy fast track. As we all know, Belmont Park and some other tracks are faster when sloppy than they are when they are dry. Maybe that is of importance, that we should have a classification to indicate it is sloppy but fast. That's the only way I can see it would be of much value.

MR. PERLMAN: That's not my question, but we of course would welcome any suggestion that would come from racing officials to improve the chart. It's very difficult to find any one term that would describe everything because a wet track at Belmont Park is always different than a wet track elsewhere. There is one improvement that could be made in the charts, if it is possible. I don't know if it is feasible. That is, when we say the track is fast, we can note at the top of the chart, "cushion 2 inches", or "cushion 2½ inches", or whatever it is. If that type of information were available, it would be a tremendous aid to handicappers because the cushions at various race tracks are not similar.

MR. CASSIDY: I think it might help some but it would need more information

than you indicate. You can have two tracks with the same depth cushion that would be entirely different. It's moisture, or different base.

MR. PERLMAN: You have had more experience in racing possibly in this respect than anyone else. Have you any ideas as to how we could improve this information?

MR. CASSIDY: No, as I say the only thing that you might do is to take each track separately and analyze it from performance, such as Belmont Park, and when it is fast but sloppy, say it's fast but sloppy.

MR. PERLMAN: If you can find some method of determining it for Belmont Park, why don't you post it right on the board? Actually, frequently our chart people have disagreed on the track condition. New York is more difficult than anywhere else. Just yesterday, here at Saratoga, when it started to sprinkle, it speeded up the track.

MR. WIDENER: May I interrupt a minute? I am sorry I have to go. I'm going to New York, but before I go I want to thank everyone for coming here and tell you how much we appreciate your cooperation. I hope that something beneficial will come out of this conference as it has in the past.

MR. PERLMAN: Mr. Widener, I want to say that you have done a great service to racing in bringing together what I believe to be the most representative gathering that has ever discussed racing's problems in the history of this country.

MR. WIDENER: All of you, in accepting our invitation and coming here, showing your interest, have made it possible. Mr. Jackson will take over for me.

JUDGE GRINNELL: I wonder if it would be possible to devise a mathematical formula whereby no matter what the condition of the track was. For instance, certain speeds would indicate that it was a Class 1 track, another speed indicate Class 2, and have four numbers indicate the degree. . . .

MR. CASSIDY: You mean the speed value of the track?

MR. PERLMAN: I would like to comment on that. We had that at one time. When we started speed ratings we classified them that way, and the following year everyone was different. The track may not be the same from one year to another. Look at Saratoga. They had a track record here at one time of 1:09 for six furlongs. Today 1:12 is an awfully fast race.

JUDGE GRINNELL: I don't mean a speed rating for every different track, I mean a number classification for the speed of that particular track in relation to fast and slow that day.

MR. PERLMAN: Yesterday you had an example, when it started raining the track became faster.

MR. ATKINSON: I would say that track variant from day to day and one track from another, would be predicated largely on the class of horses running that particular day, so you couldn't set it up that way.

MR. CASSIDY: Of course you could have a classification depending on the horse, too. But that would be too intricate.

MR. ATKINSON: I do think these designations, as outlined here are much better than "fast" and "slow". If they could be used at all tracks it would certainly be a help to the handicapper and to the race-going public to know that when Monmouth is sloppy, for instance, it is a much slower track than Belmont Park is when it is sloppy.

MR. LYNCH: As one who is confronted with the onerous task of handicapping, it is almost an impossibility to say that one track equals "x", because tracks change from day to day. There are many cases, for instance, where the owner of a race track or a general manager might look you up and say, "it looks like we're going to get rain for the stake tomorrow," and they'll roll the track. And the norm, your track speed, is just right out the window. Or they might decide that the rail is pretty

bad around the turn. And they might, in order to change that condition, get the rollers out and roll the track to try to make it uniform, or run the water trucks over it, and there goes the average player's calculations out the window, along with his money. In relation to the designation of individual type race tracks I think the Form does a very fine job. I believe that the man who has made the chart and has designated what type track it is, is best authorized to do it, because he compares the times of the races for the day. But the designation itself, like "sloppy" per se; can be a very misleading one because, as Mr. Cassidy said, New York tracks are quite unlike other tracks. Belmont, Aqueduct and Jamaica, when they get water on them, are actually faster than when they are dry. What I do in stories, trying to get across to the reader the condition of the track that day, I normally refer to it as a "wet fast" track. The ordinary person, seeing the designation "sloppy", or "muddy", automatically associates it with slower times, and at many tracks that isn't the case.

MR. GUSHEN: The horse player is so confused right now that if we try to do something else, you'll find every horse player with a man in a white coat at his side. I think we better leave it alone.

QUESTION NO. 9. SHOULD BANDAGES THAT ARE NOT NECESSARY BE PERMITTED ON HORSES ENTERING THE PADDOCK TO RACE?

MR. CASSIDY: This I imagine does not include the standing bandages that they wear coming into the paddock and which they immediately take off. This I suppose is the bandage that is put on to indicate there is something the matter with the horse, and then when it is almost time to leave the paddock they take the bandages off.

MR. DUNNE: I should think it is a very minor thing. Suppose you did do it and there's nothing the matter with the horse, somebody would claim him the next time.

MR. MILLAR: Who would determine what the necessary bandage is?

MR. CASSIDY: You could if you wanted to. A necessary bandage is used for a particular ailment or disability of a horse. If bandages were on which obviously were to protect his tendons, it would indicate there was something the matter with him. If he put bandages on and the horse didn't need it, it would be put on for the purpose of deceiving. Maybe he doesn't want the horse to be claimed or the public to bet. I'm just mentioning that as a possibility.

MR. PERLMAN: Do you need permission for that as you need permission for blinkers?

MR. CASSIDY: No.

MR. ORTELL: I think the man who wrote that question must have had a horse called "Navy" (?) in mind. This horse won four or five stakes one year, George Phillips trained him. They sent him out, I think right to the paddock gate, and all the clockers were saying, "This horse will get nothing, he's got heavy bandages on," and as soon as they got him to the paddock gate, off came the bandages.

MR. CASSIDY: Does anyone else want to comment on that?

MR. MILLAR: I just want to say that's the way the clockers get even with the horsemen, or the horsemen get even with the clockers.

DR. GILMAN: The only objection I have to the type of bandages they come into the paddock with is knee bandages. They can be cold water bandages or actually any type of knee bandages, the horse walks sore, he can't bend his knees, from the point of view of the public watching these horses walk around. What they do now, they put cold water bandages on first, then stand him in ice, then take him out of the ice the last minute and bring him over to the paddock with those same cold water bandages on, it keeps the legs colder longer, and then take the bandages off the last minute.

MR. RUTCHICK: I've seen many horses with knee bandages.

MR. CASSIDY: Not here.

MR. RUTCHICK: Yes, in New York. We've all used heat packs for a horse's knees, but we're not allowed to take them over to the paddock to help the horse. I don't see where there is any difference. As far as horses racing in bandages are concerned, Calumet races practically all their horses in bandages and they do pretty good with them. So they don't slow the horses up any.

QUESTION NO. 10. WHY COUPLE HORSES OWNED BY SEPARATE OWNERS AND TRAINED BY THE SAME TRAINER?

MR. CASSIDY: My brother has sent in some arguments in favor of uncoupling such entries and I would like to read his comments. He explains that this question has been important to him since 1949 when one of Hollywood's big stake races, The Sunset, would have been ruined because of coupled entries if they had not taken action. He writes, "For years I have thought that it was dangerous practice. Just recently at Hollywood Park the short price horse in an entry was scratched at the post, thereby leaving the long price to represent the entry alone. There was quite a demonstration by the public. Since that occurrence we have practiced the policy of uncoupling entries owned by separate owners and trained by the same trainer. We have eliminated the danger of the short price horse being scratched and have had no criticism." If a rule is established to uncouple such entries of different ownership what justification is there for not uncoupling entries of the same interests and for that matter entries in the field as well? It would appear to me that the rule was prompted for "house" purposes in order that the track could have more units to offer the public to bet on. A great deal of suspicion would be created in the minds of the public if the long priced horse in such an entry were to win. It would be hard indeed to convince those who bet on the short priced horse in such an uncoupling that stable management had not selected the other horse to win for greater odds. When this rule was adopted I understand that it was at the discretion of the stewards whether the entry should be uncoupled or not. Obviously it was to be used only when the number of entries had to be divided to provide more betting units.

MR. DUNNE: I do not like the suggestion at all. Your brother says they had a demonstration out there once. What kind of a demonstration would we have if one of those long-shots that Gaver's training wins and the short-priced horse that Gaver's training finishes up the stretch? We wouldn't have a demonstration, we'd have a riot. I think it is unsuitable.

MR. F. E. KILROE: Of course the proponents say, we do consider them separate interests as far as disqualifications go. If one of them becomes involved in interference, the other is not disqualified, and if they are owned by the same man, both horses go down. So we have been inconsistent on that basis.

MR. CASSIDY: I don't think it's quite the same. Not disqualifying both horses when they are not owned by the same interest—that has a different penalty. The penalty is punishment for the rider, the trainer, or whoever may be guilty of collusion. I think it is a different question.

MR. F. KILROE: I remember Mr. Campbell always used to tell us that the moment any large number of our customers became convinced that our game was on the level, they'd find something else to do.

MR. RAINEY: I think it is very dangerous. I don't think the disqualification rule really enters into it because the stewards certainly have a right to disqualify a

horse whether he was owned by the same owner or not, if they feel he was involved in the incident that occurred in the foul.

MR. GUSHEN: I think we discussed this Sunset last season, if I remember correctly. I'm concerned with the problem where two horses are entered and one is a good horse and is 3 to 5 and the other is 30 to 1. If something happens to the 3 to 5 shot, he is scratched at the gate, then the poor sucker who bet on the other one is forced to go ahead and let the 30 to 1 shot run, thinking that he bet on the other. I think that's stealing.

MR. CASSIDY: Mr. Gushen, you've changed the subject from one that it is possible to arrive at a conclusion on, to one that we've never been able to find a conclusion for.

MR. GUSHEN: I think that when horses are coupled, and one horse is scratched, they postpone the post time for five minutes, allowing the people the opportunity of getting their money back, those who want their money back on that particular entry. I think that should be done because if a man bets on a 3 to 5 shot, I think he should get a run for his money, and if he can't get the 3 to 5 shot to run for his money, he should have an opportunity to get his money back.

MR. GAVER: I think that horses trained by the same trainer were coupled originally to protect the public. Is that correct?

MR. CASSIDY: I don't know as it is to protect the public. I wouldn't say that at all.

MR. GAVER: That was my belief.

MR. CASSIDY: I think it was probably originally done to take suspicion out of the minds of the public.

MR. GAVER: Well, that was public relations. But now they want to uncouple them to protect the race tracks. I agree with Mr. Dunne, Mr. Kilroe and Mr. Rainey.

MR. CASSIDY: And me.

MR. ATKINSON: No comment.

MR. E. KILROE: I don't think that the proposal accomplishes the objectives that they set out to accomplish. They seem to forget entirely that there are forced couplings in the field horses where there is even less justification for it. There is possibly a stand-out in a late scratch in the field horses too. You might have a strong horse in the field knocked out.

MR. CASSIDY: This is only done I believe in a small field where they need more betting interests.

MR. E. KILROE: Well, it looks like a house rule.

MR. RING: I agree with these gentlemen who have previously spoken that such horses should remain coupled.

MR. BIGELOW: I agree with Francis Dunne.

MR. BURKE: I don't like the idea of uncoupling them. I think that in many, many cases it would lead to suspicion on the part of the public and would open up opportunities for bad practice on the part of unscrupulous horsemen. Naturally, you couldn't blame the public for being suspicious if you had two horses trained by the same trainer, one a 3 to 1 shot and the other a 30 to 1 shot, and the 30 to 1 shot would win. We've had a few experiences of that kind. On the other hand, one of our greatest problems in California now is trying to restrict the number of horses in some of these big public stables. They have some public stables out there that have fifty or sixty horses. If you let them all be uncoupled and let them all come in, that would take one of our greatest weapons away from us in cutting down the size of those things. I'd rather see it stay the way it is, I think that is better for everybody, the horsemen and everyone.

MR. TAYLOR: I think it should stay the way it is.

MR. JACKSON: I feel the same way.

MR. LYNCH: To me it's a basic thing. If two horses are trained by the same trainer his interest is basic, and I believe they should run as an entry.

MR. PERLMAN: I would be completely against it except in stakes. In stakes I would see no objection.

MR. CASSIDY: I can't see why you should have one rule for stakes and another for overnights.

MR. PERLMAN: Because stakes are valuable, and the suspicion in that respect is not as great. Even in stakes I don't know that it is really desirable. They had a situation there in Hollywood of four horses being owned by different people in a stake. I would see nothing wrong in uncoupling them if you're running for \$50,000. I think it is better if you don't do it, but I would have no serious objection to it.

MR. ORTELL: I think it would be unjust to uncouple the horses. I believe the rule should remain as it is.

MR. R. KELLEY: I think the purpose would be defeated because you might cure one evil and create another one.

MR. BAINBRIDGE: Status quo.

QUESTION NO. 11. WHAT CAN BE DONE TO ENCOURAGE DISTANCE RACING?

MR. CASSIDY: I would ask the racing secretary about this but I know he's trying to do it now. Have you any suggestions?

MR. F. E. KILROE: My suggestion would be to have more of it. I do think we should try to get a program set up around the country with at least one stake at a mile and a half at each meeting. You are never going to get distance racing until you have a continual stake program to encourage a man to train up to it. He won't do it for an overnight.

MR. CASSIDY: I think that's a very sensible suggestion and it would help a great deal if all the tracks could have at least one fair stake at a mile and a half.

MR. PERLMAN: There is no coordination between the various racing secretaries at the T.R.A. tracks. They frequently have stakes of the same type for the same horses, and I agree completely with Jimmy that if racing secretaries had more of them they would fill. We have had fair proof of that because a lot of horses that run in sprints all the time do much better when they stretch them out. Horses run much better at a distance than their trainers think they can.

MR. DUNNE: I don't think it is so easy to get long races. Take Belmont, how often do we have a race start in front of the stands? Not very often. I know Jimmy does the best he can, but he just can't fill them. There's just so much racing and people would rather run the shorter distances and get more races out of the horses.

MR. CASSIDY: I'm sure you all remember when Mr. Campbell tried to put on a series of distance races, increasing the purse for each added furlong, and building it up as far as he could. It didn't last. He couldn't keep them running. You would wind up with a very limited number of horses even though you had started out with a fair number.

MR. DUNNE: I remember back before the war when Alfred Vanderbilt was president of Belmont. Alfred wanted to have one race start in front of the stands every day. We wound up doing it but it was an awful job.

MR. EVANS: How were those races received by the public?

MR. R. KELLEY: I think from the public's standpoint, they liked it very much. Horace Wade, from Gulfstream, who I think all of us will agree is a pretty good promoter, was talking to me the other day here and he said, "I would like to move

that gate around as much as I can. The public get tired of having the gate stuck in one place, six furlongs, or five and a half. It's pretty dull." But it is a problem and probably the only answer is more money for longer races.

MR. MANFUSO: I would like to ask the New York Secretary what he considers a filled race—five horses, six horses, seven horses?

MR. F. E. KILROE: It depends on the race.

MR. MANFUSO: The reason I ask that, I think it is very obvious that if we had more distance racing, the better off we would be. I appreciate the problem involved from the point of view of economics for the race tracks, and what I am going to suggest may appear a bit revolutionary, but my good friend from Canada there might help substantiate my position. It would seem that we could get five or six horse fields going a distance of ground and then institute, what they have up there called the "quinella". I myself don't like the word "quinella". We could call it the "one-two ticket" or something else. It would eliminate the main objection of the race tracks, which is that those races don't command the mutuel play that other races do, but by supplementing the race with the quinella, I think statistics will show that with the use of the quinella, the mutuel play is increased approximately 30% and it will render that distance race, from the dollars and cents point of view, the best race on the program. I just bring this out as a thought in the interests of improving distance racing and encouraging the horsemen to participate in distance racing.

QUESTION NO. 12. WOULD THE QUINELLA BE THE SOLUTION TO THE PROBLEM OF INSURING THE CONDITION BOOK AS ORIGINALLY COMPILED TO BE CARDED IN ALMOST ITS ENTIRETY, THUS ELIMINATING THE NECESSITY OF POSTING SUBSTITUTE OR EXTRA RACES EXCEPT ON RARE OCCASIONS?

MR. TAYLOR: I would be glad to speak on that subject. We had formerly a deplorable condition in Ontario which we are now trying to rectify. There were three or four extra races posted almost every day and when we acquired all of the tracks in Ontario, and consolidated them, we set ourselves the task of seeing whether we could write condition books that would fill. I can give you the results on the year to date. In 102 days of racing, which means 816 races, we have only had two extra races. Now that doesn't mean that every race in the book filled. There were actually 39 of the 816 races that didn't fill, which is a very small percentage, but we had enough over-entries to enable us to split 37 races which resulted in our putting on only two extra races in 102 days. From my experience in New York and Florida, and other places where I have raced, I found that extra races are quite common. We know that they are here at Saratoga at the present time. It is very annoying to trainers to get a horse ready for a certain race, and for the owner who makes plans to come and then the horse doesn't run. It is also annoying too, to the Racing Secretary, the jockeys and the jockeys' agents, and it gives everybody extra work, so we went about it this way. We decided that we would be realistic about our condition books. The trouble in the past was that we were too ambitious. We wrote the books up too high and there were simply not the horses on the grounds to justify so many better class races. As every Racing Secretary does, we keep a record of all our horses and their past performances, and their eligibility. Knowing the horses in the area we now write our books down a little bit rather than up. That is why we have had good results. I think it is general all over the country that a high proportion of the better allowance and claiming races do not fill.

Now in regard to the point that Mr. Manfuso raised about our "Quinella", we don't like the name either, but the government wouldn't let us use the name

"Forcast". The Quinella is sold, of course, on the double machines and the rule is that you have to pick the first two horses in the order of finish, provided there are not more than eight in the race. Probably for our best race on a normal day when we haven't a stake we may only have four or five entries, and these are amongst the best allowance horses on the grounds. We now run such a race and we have practically taken no financial loss as a result of the Quinella. The public doesn't bet as much win, place and show on this race, but the Quinella practically makes up the difference at no extra cost to us. It has proved to be very popular and there have been some fantastic prices paid. For instance the favorite in the race wins and is on the boards at 1-4, yet the Quinella on this horse and another pays as much as \$10. Our public likes it. I think it is a device which enables a race track to run short fields. We are very happy about it. We have tried it for half our season and it has worked out very well. I don't know if there is anything in your laws here to prevent you adopting it at all, or using it for more than one race per day. In England they use it for nearly every race and that is where I got the idea. We are only allowed to use the Quinella for one race per day, but are hopeful that our government will permit us to use it more frequently in the future. In a four horse race with win, place and show betting there are 12 different ways to bet, but the Quinella adds another 12 so that you have 24 ways to bet in all. In a five horse race there are 15 different ways to bet win, place and show and the Quinella adds 20 more, so that you have 35 ways to bet the race. It also helps when you have an overwhelming favorite in a small field because the bettor who normally might sit there doing nothing will try and couple another horse with the favorite. We have found it very valuable and I think our Racing Secretary is very pleased that he has had only two extra races in 816 races, which I think you will agree is quite phenomenal. Also the owners and the public are delighted because the better horses are getting more chances to run.

MR. CASSIDY: I think Florida is considering the quinella as a means of keeping the public there for the last race. Is that right, Mr. Ring?

MR. RING: One of the tracks had that idea, as a matter of fact I think it was Horace Wade, at Gulfstream, and at our last Commission meeting, last Monday, Sunshine Park wrote in requesting consideration of quinella betting and we referred it back and said that if all the tracks came in and were interested in it, we would take it under consideration for an amendment to the rules. For the present, nothing has been done. In Florida, where we have dog racing, about 65% of the betting is on the quinella basis. Even though win, place and show betting is at all the tracks.

MR. CASSIDY: I think the law in New York probably would forbid it at present. Doesn't it say, Francis, that they can only bet through the totalizator except for the daily double? So it would probably mean changing the law as far as New York is concerned.

MR. LYNCH: I haven't any feelings one way or another on it, but I think the dramatic possibilities of this might rub off on such a problem as weight for age races, wherein we have champions like Tom Fool and Native Dancer, such as we have had in the past, and they are poor betting races, and are just exhibitions. Perhaps this would give some impetus to more weight for age races.

MR. TOMPKINS: I would like to ask Mr. Taylor what has been the effect, roughly, on daily double betting?

MR. TAYLOR: Mr. Hendrie will answer that. I don't think there would be any, myself.

MR. HENDRIE: It hasn't affected the first three pools of the afternoon's races. As far as we have so far placed it, there is no thought of using it to hold people at the track, or using it as a further means of revenue for the track. It is solely, as Mr. Taylor explained, to make the short fields go.

MR. CASSIDY: I should think the betting would only be affected in the race in which it is used.

MR. PERLMAN: I haven't given this subject much thought. In Western Canada, they had the quinella in the last race and it very definitely kept all the people there. And that used to be the biggest pool of the day. I think the point Pat Lynch brought out is the most important of all. I think the reason that many race tracks don't want to have weight for age races, which should be the solution for keeping champions in training, is the fact that when you get outstanding horses you can't handle any money. It would have particular merit in New York, more than any place else in America, where you permit short fields to run.

MR. F. E. KILROE: It has been suggested that in our allied sport, steeplechasing, it would help them a lot because they tend to come up with short fields anyway.

MR. BAINBRIDGE: I have a personal opinion, but I would like to get the reaction of the trainers. I haven't heard one trainer say anything about this.

MR. CASSIDY: Will one trainer please speak?

MR. GAVER: I'm all for it. If they can think up something else to get more money bet, I'm for that too.

MR. CASSIDY: And you would get more opportunities to start your horse.

MR. GUSHEN: No comment.

MR. MANFUSO: The only comment I want to add is that I don't think we want to overdo the so-called quinella, or whatever we might end up calling it, but I do think the racing industry could, for its own benefit, stand more than one. If they wanted to experiment with it, have it in the last race, that would be good too. But new things run out in merit. And speaking of new things in racing to keep the interest of the public or revitalize it, I think the experience with the daily double showed that there is a necessity of giving the public an opportunity of hitting the jackpot on occasions and when they don't get that opportunity, they aren't attracted as seriously as they would be otherwise.

MR. BAINBRIDGE: Scarborough is trying it this year, I understand, and they are having the best season they have ever had.

JUDGE GRINNELL: I just want to state in regard to Maine, that I've been to the races there at least a dozen times this year and there was more favorable comment about the quinella than any other feature.

QUESTION NO. 13. MANY OF OUR GOOD RIDERS ARE PRONE TO REFUSE MOUNTS IN THE LAST RACE, UNLESS ASSURED THAT IT IS AN OUTSTANDING MOUNT. WHAT SHOULD BE DONE TO GIVE THE PUBLIC AND HORSEMEN A FAIR SHAKE, BY STOPPING THIS PRACTICE?

MR. ATKINSON: I don't think that is so. When your agent takes the call he doesn't know it is going to be the last race. It does happen that the last race is usually for the poorer horses and maybe some of the jocks ordinarily don't want to ride in that particular race, but the fact that it is the last race hasn't much to do with it. I admit there are times when we have to catch a plane or something and we have to get off early, but basically it is just not so. I think you will find Guerin, or Arcaro riding in the last race about as often as not.

QUESTION NO. 14. SHOULD THE BASIC RULES OF RACING BE UNIFORM? IF SO, WHAT RULES SHOULD BE CONSIDERED AS BASIC? WHAT WOULD BE THE BEST MEANS OF ACCOMPLISHING THE ABOVE?

MR. CASSIDY: They have been trying for many, many years to make the rules uniform and without complete success. The difficulty is that each locality has its own peculiarities and legal problems and due to their geographic location there is a difference in some of the rules. When the National Association of State Racing Commissioners meet, and I think I have attended nearly all of their conventions, they invariably make an effort to make the rules uniform and they leave the convention with great intentions of doing it. When the various commissioners get back home they find local conditions prevent them from doing what they thought they could when they left the convention. The horsemen in the area may vote and demand different conditions than in another. Their area may be somewhat isolated from other racing so if they were to have open claiming, a man could pick up a stable of horses without having had to ship. Therefore that area would prefer a more closed claiming rule. The penalties on the winner as opposed to all horses in the way of increased claiming price if they are claimed is another problem. One group of horsemen may want every horse penalized, whereas another group of horsemen in another state may only want the winner penalized. So it is very difficult to have uniformity in all states in such rules. The basic rules of racing are the claiming rule, the apprentice rule, the scale of weights, partnerships and things like that.

MR. BIGELOW: In this connection, the whole problem would take two or three weeks to discuss at a session of this kind, but it seems to me that it may very well be left to the N.A.S.R.C. I have been attending the conventions for some years and that subject has been talked of many times without getting anywhere until this year. This year it is quite obvious the committee on uniform rules, under the able chairmanship of John Ring of Florida, got busy a year before the convention started with the result that he presented a report of that Committee on the three basic rules you mentioned, two of which were adopted unanimously by the Convention, and the other which was adopted unanimously with Rhode Island, I think, dissenting. The adoption of those three basic rules, plus the scale of weights, which I believe is virtually uniform anyway, has been accomplished in one short year. If John Ring continues as chairman of that Committee, I am perfectly certain that as time goes on the maximum degree of uniformity will be achieved by that body.

MR. CASSIDY: This question was presented to help Mr. Ring achieve his objective, I think. He would be very grateful for any assistance you could give him, is that right, Mr. Ring?

MR. RING: I believe progress can be made. One of the problems that faces us, from the racing commission's standpoint, is geographic. You appoint a committee, and one of them lives in Florida, someone else in California, some other member lives in Maine, so how are you going to get anything done? You just can't do it. Somebody has to take the bull by the horns, and he'll probably end up a one-man committee.

MR. BIGELOW: So much the better if it is someone like Mr. Ring.

MR. RING: Thank you, but I think a lot of places are just plain stubborn about it. They won't give in on certain things where it wouldn't affect their racing situation at all, and still help the overall picture if they would consent to go along with the majority. One rule that I think is basic and is not uniform, is the stimulation rule. You have a lot of problems along that line. I think some thought should be given to the penalties for the violation of the rule. In one state a man is ruled off for life, in another state they might give him 60 days. I think there should be a little more thought given to it.

MR. CASSIDY: Of course that rule primarily is a rule of the Commission itself. I think it is the Commission that determines the penalty. Usually the commissioners

are specifically directed by legislation to take such action as they deem proper to eliminate stimulation.

MR. RING: The commissions in some states are a little bit tougher than in others. On the other hand I, for one, prefer a rule that is entirely different from most of the states. I think the rule should be one in which justice can be administered. Nine-tenths of the states have a mandatory rule where a trainer, whose horse is found to have been administered a drug is automatically suspended for 60 days or whatever period of time is specified. I don't approve of that rule. I'm one of the group of people who have to enforce the rule and it is very unpleasant, very difficult to punish somebody who we don't feel is guilty.

MR. BIGELOW: Perhaps one solution of that would be if the various racing commissions could agree to start off the first offense at about 60 days, which seems to be about the universal penalty; the second offense three years; the third offense, banishment for life.

MR. CASSIDY: You mean on a conviction or the fact that the horse was found to have been administered a drug?

MR. BIGELOW: On conviction.

MR. CASSIDY: I agree with you completely, but I think that is the difference between most of the rules, it isn't on conviction, it is on the finding of evidence that the horse has had some medication. That is the part I object to and it is in most of the rules in the United States.

JUDGE GRINNELL: I think one of the most serious problems connected with stimulation is the fact that there are not many people who know what is stimulation and what isn't stimulation. A great deal more study should be put in on that. There may be all sorts of vitamins and antibiotics in the feed that a horseman buys and it requires more study so that an innocent person won't be subjected to one of these arbitrary rules. I agree with you that the administration of the stimulation rule should be very carefully handled so that the person who is obtaining his livelihood out of racing is not going to feel unduly prejudiced about that rule or the arbitrary enforcement of the rule, particularly when I don't think any of us is too well qualified to say when a horse has been stimulated. The evidence is never very strong. You just have some samples of urine, and who knows how it got there.

MR. CASSIDY: The authorities consider themselves very fortunate if they can find the guilty party when a positive case is reported.

MR. PERLMAN: I think that if we ever become lax in relation to stimulation we will get back to the days when it was the most serious problem that faced racing. If you ever create a situation where the trainer is not responsible for the stimulation, you will also have serious difficulties. I don't see how under any condition, a trainer can be absolved from the responsibility for his horse. I don't know of any condition that could exist under which a trainer could be completely absolved. If somebody gets to his horse he has not taken the proper precautions. If you ever become lax there would be a resumption of the situation that previously existed because it is a simple thing to have collusion between the trainer and someone else who would take the responsibility.

MR. CASSIDY: I think I can answer that in two ways. You say that the trainer should be held responsible and there should be no way he could be absolved of the responsibility. Some years ago we had a stimulation case in which a horse had been given heroin. The trainer was suspended for 60 days because of his responsibility, because at that time the rule in New York was mandatory. The groom was suspended, the owner lost the purse and he lost his prestige in racing. There was nothing we could do about it because the rule was mandatory. This happened on one of the tracks on Long Island, and two years later, we picked up a boy at the Empire City race track in Yonkers who was sleeping around the stables and in

questioning him, brought out some of the things that he had been doing. We finally got a confession out of him that two years before, he had passed the stable in which this horse was in and I don't remember whether he was paid for it, or whether it was to win a bet. Do you remember, Francis?

MR. DUNNE: No, I don't.

MR. CASSIDY: Anyway, he confessed that he had thrown a carrot into the stall with heroin on it. The trainer had been punished and he certainly wasn't guilty. We found he had hired a watchman to take charge of the horse, he had instructed the foreman not to leave the horse at any time unattended, the groom had never been over 20 feet from the stall before he left for the paddock, there was no evidence of the stable having been broken into, or any weakness where the horse could be reached, and the man was entirely innocent but he was punished. And you say that it breaks down the conditions to relieve the man of that penalty, irrespective of whether he is guilty or not. We have had that rule in New York for probably four or five years. I would like anyone to show me where racing failed to profit by it or if we haven't had better racing conditions than most any other place. I think it is fair.

MR. DUNNE: We had a case here a few years ago the reverse of that. A perfectly reputable trainer, a perfectly reputable stable, a very ordinary sort of a horse. The foreman stayed with the horse when the groom went to lunch, they had a night watchman. We didn't do anything to the fellow. It was Herbert Woolf's horse. A great many people thought it was a very good decision. Even Gaver said he liked it.

MR. EMMET KELLEY: With no thought of prolonging the discussion on this particular question, I just want to say that I am very much in accord with what Mr. Bigelow has said. I don't know if everybody here realizes all of the reforms that have been brought about through the medium of the National Association of State Racing Commissioners. I have served on the Commission for twelve years continuously and I have been in a position of course to see what it has meant in my state in administering the rules. I will agree with what Mr. Ring has said by virtue of the geographic locations and that recognition of all these various state laws makes it almost unworkable. Ten years ago we had much more success in adopting rules when we had hearings such as this, before a committee report was rendered. That practice was inaugurated at this last convention, which resulted in a much better consideration of everything and I am certain of definite action being taken on adoption in the several states. That, I hope, will be continued in the future. It is the aim now of the executive committee to continue that practice and of course if we get the cooperation of the various commissions it will be done. I can see that we have got along to the point in New England, where we meet in our four states, that our rules are nearly all uniform and almost identically numbered. A horseman can travel from one state to the other in New England and find exactly the same conditions prevailing. I don't know why it couldn't be pretty much universal, consistent with the laws, of course. One exceptional case in New England, was in Rhode Island where they opened very early this year, the claiming rule was suspended. In some instances the claiming rule is not uniform, by virtue of the fact that the racing season has just started and the horsemen are moving from a track that had another rule in operation. They appeal to the commission because they are not aware of it (the change) and it is really unfair to them as they have claimed a horse at another track. We'd probably accept them under the old rule for this particular meeting, but put the rule into effect the next. Therefore we have that situation where some of these rules that are being adopted now, will take two years actually before they are in effect everywhere. But I think we are moving forward steadily and I think very healthily, and as a matter of fact I am very proud of the record of the National Association on the uniformity of rules.

MR. CASSIDY: I think they are making wonderful progress, and as you say, it is now showing the effect of the efforts in this direction.

We have a number of questions yet, and we have a number of people who have some particular question they might have come here to have heard presented. If anyone wants to hear some particular problem discussed in the remaining time we have I will be glad to present it now. Mr. Kelley, it was very nice of you to have come here and you have a very important position in the National Association of State Racing Commissioners. Is there some question you would like to have discussed?

QUESTION NO. 15. TOPIC: STEWARDS' POOL.

MR. E. KELLEY: I see you have the Stewards' Pool listed here. That has interested the National Association to some extent. There was a study conducted last year and reports made to the last convention, and there is a continuing study which will be under way very soon. There's one member here who is one of this study group and I am sure he would be very interested in hearing the comments of anyone who makes up this conference.

MR. CASSIDY: As you remember, I spoke on the Stewards' Pool in Chicago. After I had spoken I heard a lot of information about it by other speakers who were there. Unfortunately I didn't have the chance of reviewing my own remarks and theirs to say again what I may have thought about it. I said I didn't know if I was for the Stewards' Pool or not. I wasn't for it if it would mean taking away from management their prerogative in the selection or appointment of stewards. I still definitely feel that way. You know it is within the province of the commission to reject or approve any official whose name is submitted to them. As far as the Association is concerned, the Stewards' Pool as I would see it, would be an advantage rather than a disadvantage. There shouldn't necessarily be any change in the stewards who had been employed if they were competent and efficient, and the association would not be required to take any steward or official that they didn't want. Three names would be submitted and they would make their selection from that group. It was suggested that The Jockey Club might be better fitted to provide these names as they would have a better knowledge of the efficiency of the stewards working throughout the country than any other organization. The Jockey Club has offered to contribute their time and effort free. As an individual, I would hate to see that happen as it would mean more work for me, and I've reached the point where I don't want to work any harder. The need for quality in stewards is emphasized by the fact that men are appointed as stewards without any experience whatsoever. It could be because they are friendly with management, or that they were honest and of good character, which is only a natural qualification for any official. By such an appointment they by-pass the men who have spent years learning the business and should be considered for the appointment. To be a good steward, a man should have experience in every branch of racing. As the stewards are responsible for the conduct and policy of racing, they should be sure of efficiency in all departments. In that way the Stewards' Pool would be wonderful, if it provided the most efficient stewards in the country. It would eliminate sectional influence, where associations want men from within their own state, rather than select the best man they can get. A horseman can't afford to race in one state. He must be free to race in all states to earn a living. If a clannish attitude existed for officials, it could be easily extended to restrict horsemen in their racing activities. The same with a jockey. If a jockey had to ride in one state he wouldn't do so well. I think it may be good for racing because then you would have the best people in the top posi-

tions. I've spent a lot of time talking about something that I am not interested in. I have no desire to work as a steward any place other than where I am. Nor do I ever intend to work as a steward anywhere else. The horsemen might feel interested in this subject, and I'd like to ask Mr. Gushen how the HBPA feel about it.

MR. GUSHEN: I don't think there is any secret around the stable how the HBPA feels about it. I've discussed this often and with so many people I am sure I can't be misunderstood. The horsemen are definitely for a Stewards' Pool and will continue to fight for it until we get it. We feel that a steward should be an independent person, and not have to worry about any pressure from the outside, whether it be from a racing association or from some politician. He should be able to make his decisions according to his own conscience. We also feel that a steward besides being honest and having integrity, should also be competent and should have experience and enough racing background to fit him for the position. I should like to say this at the present time, inasmuch as it has been mentioned, that recently a steward was appointed in Ohio whose greatest experience so far in life has been policing a race track. Now the horsemen do not feel that this man is qualified to be a steward on his past record. Let me go a little bit further and tell you that the person from the racing association who evidently appointed this man, called me on the telephone—I did not call him—about some matter between horsemen and his association. It had nothing to do with the Stewards' Pool. He was having a little difficulty with one of our divisions out there, and we straightened it out in a very short space of time, it didn't amount to anything, and then we got into a conversation about this Stewards' Pool. He asked me what I thought and I said, "Well, inasmuch as you opened the door, I'll give you my opinion. I don't think this man has had enough experience to be a steward." I said, "There's nothing against the man." He said, "Well, he's honest." I said, "If you want my opinion I will write you a letter to that effect and qualify that he is a very honest person." He said, "Well, he's intelligent." I said, "Yes, I'll buy that too, and I'll write you a letter to that effect, for as far as I know he is a very intelligent person." I said, "Is that all that you think is necessary? Would you say that I have normal intelligence?" He said, "Yes, I'd say so." "That my honesty has never been questioned?" He said, "No, not that I know of." I said, "Would you like to come into a court of law and like to have me sitting as judge and pass on a point of law with you being either the plaintiff or the defendant? Because I am honest and because I have normal intelligence doesn't qualify me to pass on a point of law, because I'm not a lawyer. I don't know anything about law." And for that reason I think a man who serves as a steward should have a great knowledge of his work. I point this out and again I want to say that it is no reflection on the person. We're always talking about the public. What kind of protection is there to the public when we have a man in the stewards' stand who is not experienced? I don't think we are offering any protection. What protection do the horsemen have? We don't have any protection. After all, the time may come when a decision has to be reached, and suppose there is a difference of opinion between the other two stewards, he has to vote with one of the two. He has no experience, he has no background. He would have to guess at the decision, and hundreds of thousands of dollars may be involved. We feel, and have felt for a long time, that the Stewards' Pool is the greatest contribution that racing can make to gain confidence not only from horsemen but from the public as well. As I have said so many times, and it bears repetition, racing is the only major sport in this country that does not operate with a pool of officials. Every other major sport operates with a pool of officials whether it is baseball, football, tennis or anything else. Umpires are assigned. Officials are assigned by an independent body, and you can imagine what would happen if baseball umpires were hired by the club owners and if they gave a decision that didn't meet with the approval of the fans, there would be a

riot there every day. I think it is better for the officials and better for the racing associations. That's why I can't understand why some racing associations object to it. If I owned a race track or had anything to do with managing a race track, I would be tickled to death to have that responsibility lifted from my shoulders, because I wouldn't have any pressure on me as the man who hired these officials. I wouldn't have any pressure from friends, or from politicians or anyone else to hire this man, or hire that man, because I'd have nothing to do with it. I think, and I am going to continue to think that way until somebody changes my opinion, and I don't think they will be very successful in doing it, that we should definitely, by all means, have a Stewards' Pool and I think it would function very nicely. I don't think we would take away any privileges or prerogatives from management or state racing commissions at all, because all we have to do, as Marshall said, is submit certain names to the racing commission to have them approve them. And when they approve these officials, if they have to be sent from one state to another, I don't think that's a terrible situation either. A lot of officials work in one state and then work in another. Horsemen move from one state to another and I can't see why officials can't do the same thing. I think it would be a wonderful thing for all concerned.

MR. DONOVAN: Like Irving I'm for a stewards' pool from the standpoint of making names available. I'm against the assignment of stewards and other officials from a central body. I don't go along with Irving that this is comparable with baseball because we do have jurisdictions that baseball doesn't have. As a matter of fact I don't see why we confine the list of qualified officials to stewards. There are other officials around a race track that are important too, and I'll start with your racing secretaries, who have the opportunity to do a lot in the interest of the public and the interest of racing generally. I'll go a step further and say this, that I don't think it necessarily follows that a man who has had experience in racing, whether it be from the standpoint of a trainer, or a lesser official is qualified as a steward. I think those qualifications have to come from the standpoint of the individual himself. There are other people who have spent a lot of time in racing, probably know many facets of the game, who might lack the judicial qualities that are required in the decisions of a steward. I don't think per se you can say that any man who has been around the race track a number of years automatically qualifies for that office. I still think we have to take into consideration the qualities of the individual himself. It is inconceivable to me that anybody could maintain that that is available. If it isn't, it should be made available. There are several organizations that do supply such names. New York has been extremely cooperative. I've called on Marshall Cassidy on several occasions to release some qualified man for a job. I think that is a desirable thing. I personally am opposed to having the official assigned. In the first place, I think it is impractical. I just don't think that any jurisdiction in racing would subscribe to it. I think it is purely academic. I do think having the names available is a useful thing, but the individual's qualifications and experience in racing have to rest with the racing commission on their approval and with management. In the initial instance it is their responsibility to select qualified officials.

MR. GUSHEN: I am sure Walter will agree that as far as I know, with all due respect to the racing commissions, I don't know of any official that was not okayed by a racing commission. If Walter Donovan would send in to the racing commission the names of the officials he wants to hire, I doubt very much if the racing commission in New Jersey or anybody else in any part of the country, would want to quarrel with him about the kind of officials they want. I did not say that a man who is qualified as a horseman, a trainer, or an owner should be a steward. I say this, that a man should have a racing background and with it the judicial qualities as well to be able to serve as a steward. The reason that I say stewards and not racing

secretaries is because the steward is the supervisor of all officials at the race track during racing hours. The steward is in charge of a racing secretary, placing judges, and anything else that goes on at a race track. They are the reigning body and they are at the top of the list. For that reason you've got to start at the top instead of starting at the bottom.

MR. JACKSON: I'd like to recall how this discussion came about. I remember that it came from a person, on his own initiative, who has been a long-time member of The Jockey Club, and probably one of its most active members. I think Mr. Donovan and Mr. Gushen will agree that this question of a central supply of trained officials is a good thing. I don't believe The Jockey Club wants any more work than it has, and he only put this suggestion forward because every other sport does have such a pool of officials. I think if you forget The Jockey Club and just try to get a pool it would be good for the industry.

MR. CASSIDY: Mr. Kelley, is there any group in racing that you would like an expression from, here?

MR. EMMET KELLEY: With respect to the Steward's Pool?

MR. CASSIDY: Yes.

MR. EMMET KELLEY: I would rather not select them. I was hopeful that they would voluntarily express some views on it. I think definitely there hasn't been enough interest among the racing commissioners to warrant a complete study of this. No doubt it will be more thoroughly done this year than in the past. At least the groundwork has been started and I think it will move forward much faster. The Commissioners, generally speaking, might have been somewhat lax in their own responsibilities with respect to stewards. Commissioners come into appointment on their various commissions with no racing background whatever in many instances. The Stewards are the ones that we look to for guidance. So inasmuch as they approve our licenses, subject of course to the commissions approval, and the employment of individuals at the track, which under the law we must approve, perhaps we have accepted that the stewards are untouchable by the commission. We don't look up their background, we don't ask them to fill in a questionnaire, we don't ask them the same things we ask those we license, although they approve all licenses. In many instances we have very little knowledge of the background of our own stewards. Unless we have problems with our people at the track, the stewards of course don't enter into it. But, I think many of the commissioners feel that the day they are asked as to why a decision was made, and it was not a proper decision—"Where did you get those stewards, and what is their background?"—they might not have the answers to it and some of us might be red-faced. I think that the national association of racing commissioners feel now that that is what they are faced with. There are cases cited of certain stewards that are in the stewards' box without racing background. With reference to the Stewards' Pool I don't think the commissioners want to attempt to tell them, they don't feel it's within their power, at least that's my own individual feeling. How can the stewards become organized in a central body as has been suggested, or as Walter Donovan has said, "How do you establish legal standing"? Assuming that they set up some sort of a thing on a voluntary basis among stewards, The Jockey Club has a list, as they pointed out here, can we go to our association and say, now you get in touch with The Jockey Club and get your steward from them? The Stewards' Pool would have to be something that was accepted as the authority and where each steward must come from. In discussing this there is another point involving the case of the state itself and the state steward in the box, many times a political appointee, perhaps a campaigner or ward leader or something. The problem is going to be the responsibility of the respective state commissions, if and when the other two stewards are of the certified type of steward, there would be no hesitation on my part if I served on the com-

mission to go to the Governor and say, this man just can't go on, he isn't qualified and we want to get our steward from the same source the association gets their steward. That would have to be handled as Item 2, that we should take the first two stewards who would be qualified before we could get the third one, because we're still going to have that third one approved. But it cannot be handled at one and the same time. I would like to hear a more general discussion of views, whether or not that problem is going to be faced; if the horsemen are going to take the position Mr. Gushen has expressed as spokesman for the horseman's organization, that they are going to fight for it until they see it done. The expression of The Jockey Club is that it is their feeling that there is something in the consideration of stewards that is quite essential. We feel the public must be protected and we as commissioners must be able to answer to the public as to where we get our stewards and what their qualifications are.

MR. MANFUSO: It is relatively simple, Mr. Cassidy. It resolves itself down to a matter of competence of the individual, actually an appraisal of that competence. At the present time the matter is handled in a rather loose manner by the commissions for the race tracks. I don't think anyone here hesitates to doubt the competence of a commission in appointing qualified competent officials in certain areas of the country. I think history will show that the race tracks have been derelict insofar as competence of the individual is concerned, and it would therefore appear to me that what we are doing is a step forward in racing. We are asking for an independent diagnosis of the competency of officials. You have that on horses, they have to be registered, they have to be thoroughbred. We have a special agency that takes care of that procedure. You came to a step in racing where you had the same thing in regard to participants, the people who race horses, the people who train them. You developed a system between the TRPB and the National Association of Racing Commissioners whereby you maintain a record of the qualifications of the individual participants as a step forward in the industry. You now come to where you find another short-coming in the industry. There isn't any question that it exists, there are plenty of examples available, and we are asking for a constructive step forward and that is on the competence of the individual involved. We want an expert diagnosis of the officials' competence to adequately perform his duties.

MR. DONOVAN: Mr. Cassidy, I don't want to get into any debate but I would like to ask Mr. Manfuso one question. How is it possible for anybody in one section of the country for instance, to qualify a man who has been functioning in another section of the country, excepting that they accept the opinion of those in that area in which he has been functioning as to his qualifications?

MR. MANFUSO: Mr. Donovan, I don't think there is anything so radically different in the various sections of racing, in the various parts of the country where specialized training would be required to carry out the performances of the officials. I do feel that there is a need for determining what the qualifications are of the various officials. I have always felt that we have been a bit derelict in our qualifications, of some stewards. After all, stewards are judges to a certain extent. I don't know of any race track that has ever examined the ability of that individual to render a decision, his competence in actually determining a logical conclusion. Sometimes we haven't had that. I don't think different sections of the country makes any difference at all, if a man is qualified to perform the official duties to which he is assigned. Who would be the qualifying body to actually do that, I'm not here to say, but I do think it could be established in the racing industry without a great deal of difficulty.

MR. DONOVAN: It so happens it is a matter of exercising individual judgment, as far as my judgment and my responsibility for selecting officials are concerned, I

know stewards—and I'll make it plural—who have been functioning for a lot of years and in my opinion are not qualified stewards.

MR. MANFUSO: Don't you think that supports the argument being presented that there are stewards functioning who are not qualified? And the regulatory bodies who are controlling them are not functioning, so that we have inadequate stewards.

MR. E. KELLEY: I have spent quite a number of years in the legislature and during the course of that time we have passed several laws to qualify engineers, qualify pharmacists, qualify different ones in the various professions, but each time that legislation was enacted, there was a period of grace of several years given. Where perhaps the previous practice had been that there were a lot of pharmacists serving under an apprentice system, or serving under some druggist until they became qualified, we insisted that they would remain in status quo until they could take the examinations under the existing regulations. I think some might be losing sight of what we are trying to achieve and are worrying more about the future than about the present. It is who is going to replace these stewards, and where are they coming from? Racing grew much faster than stewards probably developed. Perhaps the growth of racing in the future will not be on the same scale and there may be plenty of stewards available. There will be a difference in stewards, in qualifications, as Walter Donovan has pointed out, as there are in engineers or any other profession. We should go ahead differently. In setting up a central body, I don't think the track should possibly be assigned a steward and the agency say, "You must take this man, or that man." It would seem to me it would be done under something like a civil service system, probably qualify on the register so many men for a position and that list is sent and you select from that list. If a track needs two stewards, you might send them a list of four or five names six months in advance of their requirements, and they must make a choice within thirty days. I think that could be worked out but the mechanics of it is something else. The only thing I want to impress is that as far as putting the system into operation at the moment it could be all right and no damage would be done if everyone who is now serving as a steward was accepted as a steward right now. But the replacements would come, then, from the separate group. If they failed in their particular assignment at the moment, there was trouble at the track, a steward was removed for some reason or other, or maybe he wasn't rehired because the track didn't want to hire him, well, that's just the failure of the steward, it wouldn't spoil the system. I think that is the point probably that some of us might approve.

MR. CASSIDY: I think that is exactly the right approach. The Jockey Club during the past number of years has supplied officials for various racing associations throughout the country and has never attempted to name an individual. Whenever a racing association has requested an official from The Jockey Club, we've always given them three names with their record, their history, their experience, their age, marital classification, everything pertaining to them that is necessary. That association could select one of the three or come back and say they want somebody else, and we would send three more names.

MR. GUSHEN: I agree with Walter Donovan 100% in what he said about some stewards now serving who are not qualified. But we are not going to cure the situation by appointing more of them. Certainly if Mr. Walter Donovan was a horse owner, he wouldn't want to hire a trainer who owns a shoe store. I don't feel that he should expect me, as a horse owner, to place myself in the hands of a racing official who knows nothing about the sport that he was hired to supervise.

MR. CASSIDY: How about the jockeys? Ted, what do you think about it?

MR. ATKINSON: I really haven't formed any definite opinion on it. I just have an off-hand opinion that it would be a good idea, strictly on a free-lance basis, but

I don't think you do contemplate making direct assignments. I think an availability list would be a fine thing.

JUDGE GRINNELL: I would just like to say a word, Mr. Cassidy. I believe it is simple enough to find a steward now. If anybody wants a qualified steward the Racing Manual has a list of every steward in the country. You can check up on them and get a steward. I think the major problem is when this group of stewards gets older, these replacements, how are we going to determine the qualifications of the men that are working in other racing centers. Maybe a system of assistant stewards or something, or apprentice system could be provided. If they had an apprentice type steward who would not receive very high pay but who would serve in the steward's box as a sort of assistant, they could set up some system of qualifications for that man and determine his personality and judicial temperament and so forth so that new men could be picked out of the available men. Something like that has got to be devised. I don't see any other way to do it than to start an apprentice system or work them as an assistant, and you would have three qualified men, supposedly, overseeing that man who can give the central agency who is handling it their opinion of his qualifications.

MR. CASSIDY: Of course that is the procedure that has been going on in The Jockey Club for ten or twelve years, they have been training men just for that purpose, they've been serving as apprentices or juniors with the stewards, watching them operate and they have been placed in all positions to operate with other officials observing them. I'm not trying to sell The Jockey Club system but I just want to say that that does exist.

MR. E. KELLEY: I'd like to ask one question, Mr. Cassidy. I'd like to know what percentage of the practicing stewards in the United States today would comprise your list with respect to a complete knowledge of their background.

MR. CASSIDY: It is pretty hard to tell you the percentage. I think at the present time serving outside of New York, or within the next thirty days, there will be about five or six from The Jockey Club who will be serving temporarily for other racing associations. That continues through the year and we probably have made about 27 assignments this year.

MR. E. KELLEY: I guess I didn't make myself clear. Assuming that there were 100 stewards in the United States at the present time, how many of those 100 would you have the backgrounds on listed in your files?

MR. CASSIDY: It's hard to say in a percentage. There are a great number because a great number of the officials serving throughout the country have gone through the so-called Jockey Club school. They have come to us for three or four weeks for training while they were professional stewards in other places. I would say a very large percentage of them have been through our school.

MR. E. KELLEY: Well, we are better off than we thought. The whole situation is better than we thought if there is a large percentage of all the stewards in the box now that are listed.

MR. CASSIDY: It is now half-past four. Does anyone else want to bring up any question?

QUESTION NO. 16. LATE CLOSING STAKES.

MR. CHRISTMAS: I'd like to bring a question up that is very important to the owners and trainers, and that is the matter of closing of stakes. The policy now here is to close these stakes every Thursday and that hasn't worked so well. It is very confusing. It's happened to quite a few of the trainers here who race around New York that one time or other they miss one of these stakes. You have a closing every

Thursday and in the intervening time a stake closes at Garden State, Monmouth, Suffolk Downs, Narragansett, and any other place, and it has become so confusing. I think at least twice a month would be ample because no horse is going to improve that much. I know it saves the owners a lot of money, and that's what should be done, but twice a month wouldn't cause owners to put up any more money than once every week and then we'd cut out all this confusion. There are a lot of horses that don't race that should be in there. I've got one now, it wouldn't run anyhow, still he should have been nominated. I'm not the only one that's missed them. It has been very prevalent all summer, and I think Jimmy knows it.

MR. CASSIDY: Are you speaking about the late-closing stakes?

MR. CHRISTMAS: I'm talking about the stakes that close every Thursday in New York.

MR. CASSIDY: Those are the late-closing stakes. You would suggest that they close twice a month, or twice a meeting, is that it?

MR. CHRISTMAS: I wouldn't say any particular time. I'd like to hear the discussion from some of these other owners and trainers.

MR. CASSIDY: What is your suggestion?

MR. CHRISTMAS: I would suggest the 1st and 15th.

MR. CASSIDY: Twice a month.

MR. CHRISTMAS: Yes.

MR. CASSIDY: Jimmy, suppose you answer that.

MR. KILROE: I know it is true, it is a new system here in New York. In California it has been tested over a period of years. When we get used to it I think it will become less confusing, too. We were talking about it at lunch today, and one owner thought maybe it was better to stick to every Thursday and get Thursday set in the trainer's mind as the day to look out for stakes' closings, whereas if you made it twice a month, there's equally as much chance that they'd overlook it.

MR. CASSIDY: Of course we established this because we wanted to make the closings as late as possible to eliminate the early closings. Then in establishing the one day a week to close the stakes it was done with the idea of making it convenient and satisfactory to the trainers.

MR. CHRISTMAS: Jimmy says it has worked in California, but that is a different situation than what we have here. They are just racing in California in that particular meeting. Around here they're racing in Delaware, New Jersey, Massachusetts, Rhode Island, and other states, and you've got all those stakes. In California you've just got that one small locality where you race at one race track. That isn't the same situation.

MR. CASSIDY: It's different, it's true.

MR. DONOVAN: Some years back, remember there was that same discussion and horsemen asked before the commissioners' convention for uniformity and, to keep from this confusion that Mr. Christmas talks about, that the 1st and 15th of the month be established as the closing dates. That went on for a great number of years until recently we came to the new format where we have late closings which of course throws out the 1st and 15th idea. But that was advocated years ago, and followed rather religiously on the 1st and 15th so a man would know where to look on the calendar for the closing of every stake.

MR. GAVER: Walter, do you close your stakes all at one time?

MR. DONOVAN: The 1st and 15th.

MR. GAVER: I am opposed to this business of closing stakes every Thursday; it is utterly confusing. I can't see where anyone derives any benefit. I would think if you closed the stakes the 1st and 15th of each month, you would certainly get in all the horses you could get in if you closed them every Thursday.

MR. CASSIDY: What stakes would you embrace in closing the 1st and 15th, we'll say, of July? What dates would you have the stakes close?

MR. GAVER: There would be an overlapping of meetings.

MR. CASSIDY: No, I don't mean that. Say you close the stakes on the 1st and 15th of each month. On the 1st of June you would nominate for what dates, would it be for the dates between the 1st and 15th?

MR. GAVER: Not necessarily.

MR. CASSIDY: What dates would it be, then?

MR. GAVER: Well, they might run in three weeks. I think it would be up to the racing secretary, as to what dates he wanted to close. For instance the 15th of August might include the stakes run here the very last day and the 1st part of Belmont.

MR. CASSIDY: What I am trying to get at, is how far in advance of the race itself would you want the stakes to close, 15 days in advance, up to 30 days?

MR. GAVER: Yes, I think 15 days in advance.

MR. CASSIDY: Then you would close on the 1st for races run between the 15th and 30th, is that right.

MR. GAVER: Yes, that's right.

MR. JACKSON: I think what they mean is where you just pick up the two Thursdays on the 1st and 15th. All the trainers make their payroll. Every housewife does just the same, they all pay bills. It would be a uniform date.

MR. CASSIDY: I understand that part of it. That's perfectly clear. The question is what dates of stakes would be embraced in the separate closings. You know what I mean, Jim.

MR. F. E. KILROE: It would be two weeks to a month ahead of time.

MR. CASSIDY: That's what you mean, isn't it?

MR. GAVER: I hadn't thought about it in that light. I just thought it would be less confusing to close the 1st and 15th rather than every Thursday.

MR. CASSIDY: I think it would be a good idea if you would get an expression from the American Trainers Association and the owners and trainers in that respect because I am sure we would be most concerned with what they thought about it, and do whatever is better for them.

MR. GAVER: And it would give an opportunity to get to the horsemen the list of eligibles in these stakes. Now with the closing on Thursday you don't get this information until about the following Tuesday.

MR. CASSIDY: I think if it's too late it doesn't matter whether you got in or not. If you went in you'd find out that they were either in or they weren't.

MR. GAVER: But you can't get a horse ready in a week.

MR. CASSIDY: You mean it would give you an idea of whether you should go on and prep a horse for that race. I can see that. I think it has merit.

MR. F. KILROE: I think the 1st and 15th is the system they have become accustomed to.

MR. CASSIDY: I think it has merit and we'll look into it.

MR. CHRISTMAS: That's the consensus of opinion of the American trainers. I've talked to a lot of them, Bert Mulholland, and all of the fellows. They've all complained about this thing.

MR. RUTCHICK: I'm sure the HBPA would go along with the 1st and 15th.

MR. CASSIDY: Is there any other question anyone wants to bring up?

QUESTION NO. 17. SHOULD STAKE NOMINATIONS GO WITH CLAIMED HORSES?

MR. DUNNE: I don't remember if it was last year or the year before that mention was made of stake nominations, when a horse was transferred, sold or anything else, the stake nominations went with him. I think that's a good idea.

MR. CASSIDY: I think that was approved by everybody at the conference.

MR. DUNNE: But nothing ever happened about it.

MR. CASSIDY: I don't think that should come up here, Francis, I think it is our state that hasn't changed it. Does anybody here feel that the stake engagements should not go with a claimed horse?

MR. GAVER: I feel they should not go unless they're paid for.

MR. CASSIDY: You don't think they should go automatically?

MR. GAVER: No, they should not.

MR. CHRISTMAS: I don't think so either, because that owner has made those payments himself and I don't think that they should go to the new owner. If A claims a horse off B and A goes to B and says he wants those stake engagements, I think A should be made to pay for them. Otherwise, if he doesn't want to give them to him, I think that's his own business. They claimed that horse, they're not claiming stake engagements.

MR. CASSIDY: This was discussed very completely at one of the last meetings and I think it was almost the unanimous opinion that they should go. At first I thought as you did, but then I changed my mind after I heard the arguments.

MR. CHRISTMAS: I know a case at Pimlico where Max Hirsch had a horse. They claimed the horse for \$10,000 or \$12,000 and wanted to run him in the Preakness. He paid all the payments on the horse up to the Preakness. They wanted to run him in the Preakness and he wouldn't give them the stakes engagement. I think he was right.

MR. DUNNE: So the Preakness suffered.

MR. CHRISTMAS: No, the Preakness didn't suffer.

MR. DUNNE: It lost the horse. I don't see why the association should have to suffer. I remember around here years ago a fellow bought a horse from Sam Riddle, paid him whatever he asked him for it, and then Sam Riddle wouldn't sell him the stakes.

MR. CASSIDY: Let me read you the comments from the Round Table Conference of 1954. I said, "I think the stake engagements are a part of the horse, something that the man paid for and adds an additional value to the horse other than the horse itself. I think it would promote claiming, not that I object to that, but I think a man would claim a horse because of the fact he has other attractions aside from his ability to run. Talk about a man losing his horse before he has a chance to determine how good he is, that's an encouragement to anybody to take a horse away from the man as he has something more of value than racing qualities." I agreed with you there. Along came Mr. Vanderbilt. Mr. Vanderbilt said, "I disagree with you 100%." This is Mr. Vanderbilt talking to me. "I don't think that the stake engagement is an accessory. I think when you make a stake engagement you make a horse eligible for a race. I think it is sound thinking that the horse is then eligible for that race and can run in that race regardless of who owns him. I don't think there should be any question of a man's rights to stake engagements. I think it came about, the history of it was when we used to race under forfeits, when you had to charge a fellow for them. Now that you pay cash when you enter it, there shouldn't be any question about it. That horse is eligible and that's all there is to it." I thought that was a good argument, so I changed my mind. And that thought goes through

as expressed by the people who attended the meeting and I don't think you attended it. I know you didn't, Ed.

MR. GAVER: I know I didn't.

MR. CASSIDY: But that question was very thoroughly reviewed and it was the consensus of opinion that the stake engagements should go with the horse. In most of the rule books of the nation the stake engagements go with a claimed horse. It isn't so in New York.

MR. GILMAN: May I complicate it a little more? If there is a mare in foal that's running and the original owner paid the stud fee and the mare is claimed, can the new owner register that foal and he doesn't have to pay the stud fee or anything else?

MR. CASSIDY: We have a rule which requires a man who starts a mare in foal to state the name of the horse who has served her and a record is made and that's part of the animal and it goes to the new owner.

MR. GUSHEN: I think I expressed an opinion about that a couple of years ago, but I can't see what possible value that stake engagement is to the man who loses the horse. If I for example claimed a horse from John Gaver, what possible value does that stake engagement have to John Gaver? He has lost the horse so what good is the piece of paper to him? It's nothing.

MR. CASSIDY: He might sell it to you afterwards.

MR. GUSHEN: If he lost the horse he might just as well lose the piece of paper with it.

QUESTION NO. 18. THE TRACK SUPERINTENDENT SHOULD BE SOLELY IN CHARGE OF TRACK CONDITIONS INASMUCH AS THIS IS A FULL TIME JOB AND NO OTHER DUTIES SHOULD INTERFERE AT ANY TIME.

MR. RUTCHICK: The superintendent should be solely responsible for the condition of the track. We have track superintendents not only taking care of tracks but taking care of stalls and other things. The superintendent should be taking care of the track 24 hours a day. At Santa Anita, they take care of the track at all hours. It is very, very important, for the safety of horses.

MR. CASSIDY: That is true, Sol, because here, the track superintendent is the man who has overall charge of the grounds as well as the track itself. In some cases in New York they have a man who may be a foreman who is in charge of track maintenance. That's the man you refer to as the track superintendent. Certainly it is a full-time job. It is a big responsibility.

MR. GAVER: Here at Saratoga, Eddie Donahue is out on that track I think all hours of the day or night. That is not true at Belmont Park. They come to work there at 8 o'clock in the morning and they leave fairly early in the evening. If a horse is going to drop dead, he'll have to wait until after 8 o'clock to drop dead, otherwise you can't get him off the track.

MR. CASSIDY: I can assure you that that's on the way out.

MR. GUSHEN: I would like to say that it is the opinion of the horsemen, at least the members of the HPBA, that at least 50% or more of the race tracks today are entirely too fast. I think and many of my colleagues feel the same as I do, that too many racing associations are looking for headlines as far as track records are concerned, giving no consideration at all to the safety of the horse or the welfare of the horse. In many sections of the country, before a race meeting is over, you find a lot of horses that are sore and have to be laid up, and especially toward the latter part of the year you find where the racing secretaries have a very difficult job to fill races, and it's not due to the fact that there is lack of material, but due to

the fact that many of the horses have sore-d-up running. You can mention any number of race tracks throughout the country where cheap horses run $\frac{3}{4}$ of a mile in 10 and 3 and 10 and 2. I can show you charts throughout the country where \$2500 horses run in 10 and 3. I am sure everybody realizes that is entirely too fast. And what happens? The horse runs once or twice and then he is on the side lines. The same thing goes for better horses too. I think it is a very serious problem, and I don't think we are going to settle it here today. I can tell you this, that as far as the horsemen are concerned, it is very dangerous and something should definitely be done about it. I think that is a problem that should be taken up by the racing associations to try to work out some solution whereby the race tracks will be safe. We're interested in a safe race track. I know, and I am sure Mr. Gaver and Mr. Christmas will agree, that you cannot make all race tracks the same speed. Some horses will run over a safe race track and go $\frac{3}{4}$ of a mile in 12 and others will go in 11, and it will still be a safe race track. I think a committee of trainers, responsible people, horsemen, should be consulted insofar as the safety of the race track is concerned, for cushion and everything else, and if this committee thinks the cushion is satisfactory and safe, that's the way it should be kept. Right now, it is not being done and many horses suffer because of it. That's something that's very, very important and it is prevalent throughout the entire country.

MR. CASSIDY: I would suggest that you get that taken up before the TRA because I think that is the proper body to handle it. They are an association of race tracks and I think if you impress them as much as you do us, you will get results.

MR. GUSHEN: You know they won't pay any attention to me.

(Laughter)

REPORT TO ROUND TABLE CONFERENCE AT SARATOGA ON AUGUST 19, 1956, CONCERNING PRESENT STATUS OF RACING INDUSTRY UNDER THE FAIR LABOR STANDARDS ACT. BY JOHN K. CARROLL.

The Conference was advised of current inspections being conducted at several racing stables in New York by inspectors of the Wage and Hour and Public Contracts Divisions, U. S. Department of Labor. The Conference was informed that these inspections resulted in findings of minor violations of the minimum wage, overtime compensation and record keeping provisions of the Act. Such findings made it advisable that other employers engaged in the training and racing of horses review their payroll practices to insure compliance with the Act.

All employers involved in current inspections had taken advantage of the 14-week exemption from overtime pay for employees handling horses. Thus, the overtime and record keeping violations were confined to those weeks not within the exempt periods. The minimum wage violations were due to an oversight in complying with the recent statutory amendment requiring the payment of a minimum wage of \$1.00 per hour effective March 1, 1956. The record keeping violations were due to a failure to keep adequate records of hours actually worked by grooms, exercise boys and watchmen.

The importance of making no voluntary settlements with the Wage and Hour Division following inspections was impressed upon the Conference. In all of the current cases the restitution demanded by the Division has been withheld and the only payroll adjustments put into effect have been those related to the new minimum wage of \$1.00. Upon recommendation of The Jockey Club and the American Trainers Association the writer has appeared for individual members upon each inspection and has advised employers of their rights under the Act.

The advisability of employers maintaining a consistent position with respect to

inspections was also stressed. It was explained that failure to resist the Division's requests for voluntary payment of restitution might encourage wider activity by the Division in the hope of securing wage settlements in a substantial amount.

The Conference was alerted to the necessity for protecting the validity of so-called Belo contracts now in wide use by employers of racing personnel. It was noted that the Division has attacked the validity of such contracts upon the ground that the employees did not work beyond the guaranteed contract work week in a substantial number of weeks. This Government contention has been consistently opposed by the undersigned for the reason that it is not supported by the legislative history of the Act or by judicial interpretations of it. In this connection it was pointed out that to date four Federal Appellate Courts have overruled the Division's position. It was recommended to the Conference that any future attacks on the Belo contract be resisted in order that the advantage of such agreements be maintained by employers. It was explained that so long as Belo agreements meet the express requirements of the Act they cannot be successfully attacked by the Government.

The Conference was again advised that a Belo agreement to be valid under the Act must (1) apply to an employee whose duties require irregular hours of work, (2) specify a regular hourly rate of pay of not less than \$1.00, (3) provide for compensation at not less than time and one-half such rate for all hours worked in excess of 40 in any work week and (4) provide for a weekly guarantee of pay for not more than 60 hours based on the specified rate.

Employer members of the Conference were cautioned that whenever it is necessary to raise the regular hourly rate of an employee, the Belo contract with such employee should be rewritten and reexecuted to reflect this change. If the contract is not thus redrafted and reexecuted for each change in rate, it may be attacked by the Government as not setting forth the employee's true hourly rate of pay and hence not a bona fide Belo employment contract.

The writer's experience in the industry indicates that Belo contracts have been found most desirable for grooms and exercise boys whose hours of work fluctuate from week to week. The Belo arrangement assures such employees of a steady salary. It is this stability of weekly income which is desired by racing personnel; it also makes payroll record keeping easier for the employer because the computation of individual overtime compensation each week is thus avoided.

Under the Wage and Hour Act and the Administrator's regulations employers subject to the Act must maintain records which show the name of the employee, his address, his occupation, his regular working hours and regular rate of pay, the hours actually worked each day and each week, his total earnings in terms of both straight time and overtime as well as any required payroll deductions. The Wage and Hour Division's criticism of racing stable records has generally been directed at the failure to keep accurate records of the hours worked, and neglect to record the number of daily straight time hours and the number of weekly overtime hours worked.

While the difficulty of maintaining accurate records in relation to the operation of a racing stable is apparent, the employers were cautioned against practices of approximate hours worked or pre-preparation of an anticipated schedule of work. It was emphasized that the record must show actual hours of work.

In explaining the 14-week exemption for horse handling, it was pointed out that this exemption is available in each calendar year at each location where the employer is engaged in the training or racing of horses. The 14 weeks claimed need not be consecutive; weeks which have not been used at a particular place of employment during the early part of a year may be claimed for the same location at a later date during that year. Thus, when an employer moves into Belmont on June 1st the employees at that stable are exempt from the overtime provisions of the

statute for 14 weeks. If the stable is moved to Saratoga on August 1st another 14-week period is available at that location. If the stable then returns to Belmont, after the Saratoga season, the balance of the unused 14 weeks available at Belmont may be applied.

Charts showing the operation of the Belo agreement and the 14-week exemption, a form of Belo agreement and a form of notice required to be posted in claiming the 14-week exemption were previously distributed by The Jockey Club and the American Trainers Association. Additional copies are available to all members of the Conference through the above organizations or at the office of Davies, Hardy & Schenck.

The Conference was reminded that the 14-week exemption applies only to overtime and does not relieve the employer from either the minimum wage or record keeping provisions of the Wage and Hour Act during the exempt periods. The writer advised the Conference that as a result of a ruling obtained in October 1953 it has been possible for employers to chart a yearly employment plan which will correctly reduce overtime costs. The ruling made it possible for employers to take advantage of successive 14-week exemptions from overtime without affecting the validity of Belo contracts. Copies of this ruling are also available to conferees interested in having one in their files.

From expressions on the floor of the Conference it appeared to be the sense of the group that a consistent policy should be pursued in the treatment of inspections conducted by the Wage and Hour Division. For purposes of emphasis it is suggested again that no voluntary settlements be made in the face of the Division's demand for the payment of restitution.