

Pinball figure tells story

The first witness in the fourth day of the federal court pinball bribery trial was John Elmo Pierce.

Pierce, owner of Pierce Amusement Co., is one of the original 10 defendants in the case, but his trial has been severed.

He was questioned by U.S. Atty. Gerald J. Gallinghouse.

Pierce said he was engaged in the pinball gambling business for 36 years prior to June 30, 1971, the date of the arrests in the bribery case.

Q Are you still in the pinball machine business?

A. Flipper games.

Q. What is the difference between flipper games and gambling-type machines?

A. The Bingo game is a bad game. Flipper is a good game.

PIERCE SAID he bought the machines from New Orleans Novelty Co.

Gallinghouse asked if he made any adjustments on the machines before locating them.

Louis C. Lacour, attorney for Robert Nims, objected, claiming the question was irrelevant. He was overruled by Judge Christenberry.

Pierce said after he bought the machine, he used one meter to record the amount awarded to players and another machine to record the amount played into the machine.

He said his usual arrangement was to divide the net profit with bar owners after taking out the money awarded to players.

PIERCE SAID he personally collected the money from the owners of establishments. He said he occasionally installed duplicate "knockoff meters" behind bar counters "so the proprietor could tell how much money he paid out daily."

He said he owned an average of 20 to 30 machines at 15 to 20 locations during the four to five years prior to the 1971 raid.

Q. Did you ever percentage the play on these machines?

A. Yes, I did.

Gallinghouse asked him what he did to percentage the machines.

Pierce said there was a device on the machines allowing "medium, liberal and conservative" payoffs. He said he usually operated a fairly liberal payout of 73 to 78 per cent, counting games given back and payouts.

He said if the machines were percentageed correctly, the payout would usually amount to \$50 for every \$100 played.

Pierce admitted he knew his machines were being used for gambling purposes. He said he has not operated any gambling type machines since June 30, 1971, when federal agents seized five of his machines.

He also admitted he continued to collect money from the machines between Oct. 15, 1970, and June 30, 1971, even though there was a federal law preventing it.

Pierce said he appeared before a House committee on interstate commerce in Washington January, 1962, at the request of Louis W. Boasberg.

HE SAID he presented a statement to the committee on behalf of local pinball operators and said the statement was prepared by an attorney employed by Bally.

He said John Aruns Callery accompanied him on that trip.

Further questioning established Pierce's long relationships with Boasberg, Callery and Lawrence Lagarde. He said he knew John J. Elms Jr. about eight years, "but not very well."

He said New Orleans Novelty and TAC Amusement operated Bally gambling type machines.

Pierce alleged that pinball operators had agreed to form a protection fund in November, 1967.

He said Callery had called him to the meeting, which took place in Nims' office, 1700 St. Charles Ave.

PIERCE SAID Nims, Callery, Lawrence Lagarde Sr., a partner in TAC Amusement Co., and Emile Willy, owner of Broadmoor Music Co. and Algiers Amusement Co., were the others in attendance.

Gallinghouse asked him what happened at the November meeting.

"I arrived late, and Callery said that an arrangement had been made whereby TAC would contribute \$5,000; New Orleans Novelty, \$5,000; Santo DiFatta (of Palace Amusement Co.), \$1,300, and Willy, \$5,000."

Pierce said the money would be collected quarterly, three months in advance.

Gallinghouse asked him what the money was to be used for.

"TO PREVENT police from picking up the games," Pierce said.

Q. (by Gallinghouse) Who suggested the protection fund?

A. (by Pierce) Callery.

Q. Was it in the presence of the others?

A. Yes.

Q. Did they indicate they would participate?

A. They did.

Q. What was your role?

A. To arrange for me to meet Mr. Soule to arrange how I was to receive warnings about pending raids.

Q. What were you to do after you got this warning?

A. I was to call people who were putting up the money.

Pierce said Callery called him two days later and said he (Pierce) was to meet with Capt. Fred Soule Sr., the head of the Police Department's Vice Squad, at the Howard Johnson Motor Lodge in Gentilly.

Pierce said he met Soule over coffee and an arrangement was worked out whereby Soule would warn him of pending raids.

PIERCE SAID, "He would call me and tell me he was going out to look at some real estate." Pierce said this was a signal to let him know in which area a raid might take place.

Gallinghouse asked Pierce what he contributed.

Pierce said he was given "a free ride." He said his role was to collect the money quarterly from Nims, Willy and DiFatta and to make the warning calls.

He said he brought money to Callery at New Orleans Novelty Co. and, if Callery

was out of town, Pierce turned it over to Ralph Bosworth.

Gallinghouse asked Pierce if Nims' contribution eventually was raised from \$1,000 to \$2,000 every three months.

PIERCE SAID that Nims paid \$1,000 for about 18 months and then it was increased to \$2,000 for another 18 months.

Gallinghouse asked him why Nims' contribution was increased.

Pierce said, "I found out he had a great deal more games on the street than I thought he did."

Pierce said he told his findings to Callery, and he and Callery approached Nims to suggest that he pay \$1,000 more. Pierce said Nims agreed.

Pierce said none of the operators from whom he collected ever missed a payment.

HE SAID the payment was collected from Nims in his office and always was in cash. Pierce said Willy usually brought his cash contribution to Pierce's home.

Pierce said he continued collecting the \$1,300 from DiFatta until September, 1969, "when his route was sold to TAC Amusement Co."

Afterwards, Pierce said, Callery told him to see the people at TAC about picking up DiFatta's share of the contribution.

"I spoke to Mr. Lagarde Sr. and Mr. Elms, and they agreed to pick up the \$1,300 quarterly in advance."

GALLINGHOUSE asked Pierce if he later collected the money from TAC Amusement Co.

Pierce answered, "I did."

Returning to the tipoff arrangement, Gallinghouse asked Pierce who called him about the raids.

"Soule did and sometimes Callery," said Pierce.

Q. What did you do?

A. I would call Lucky Coin and a few times, I spoke to Nims. At Mr. DiFatta's office, I spoke to a Mrs. Leah. I spoke to Mr. Willie himself. I didn't call TAC because they got their information from Callery.

Gallinghouse then asked Pierce if Boasberg had spoken to him in November, 1970, about getting additional money from other pinball operators.

"IN THE latter part of November, 1970, he asked me to speak to Charles Pace," said Pierce. "I asked him to contribute \$500 but he said he had to check with someone and would talk to me about it later."

Pierce said the pinball machines were seized by the government shortly after that meeting and Pace never had time to give him an answer.

Pace is owner of Palace Amusement Co.

Pierce was grilled for 55 minutes by Gallinghouse after which there was a 15-minute recess and he underwent another 50 minutes of cross-examination by Louis C. LaCour, attorney for Nims.

LaCour brought out testimony from Pierce that he had lied when he appeared before a congressional committee considering banning the interstate shipment of Bally bingo pinball machines.

PIERCE SAID he was asked by Boasberg to appear before the House Interstate Commerce Committee to represent local pinball interests. He said his purpose was to try to convince the committee "that we had a legitimate business."

LaCour asked, "Did you tell the committee the truth?"

A. I did not.

Q. In other words, you lied under oath?

A. Yes.

Q. Tell me what lies you told under oath?

A. That I awarded prizes on the machines when I awarded cash.

Q. Why did you lie?

A. As I said before, sometimes when you are in an illegal business you have to lie to keep going.

Q. You lied to save your business, didn't you?

A. I did it for myself and others.

Q. What was your main interest?

A. Myself.

LACOUR ALSO brought out conflicting testimony from Pierce over what he said today and what he testified earlier this year in the Bally pinball gambling trial in the same courtroom.

For the first time, Pierce said today the payoffs were made three months in advance "because the police don't give credit."

Pierce was asked by LaCour if he testified before that the payments were in advance and Pierce said no.

Q. When did it occur to you to refer to them as being paid in advance?

A. It was something I thought I had left out.

Q. When did you think of it?

A. It has been on my mind and so help me God, I'm trying to tell the truth.

LACOUR CONTINUED with the same question.

Q. Now I ask you again, when did it occur to you that these were advance payments?

A. I just thought I should say they were in advance because I collected them in advance.

Pierce also gave conflicting testimony about the date when the payoff "deal" ceased to exist. On direct examination, he said it continued until June, 1971.

But on cross-examination, he said it ended in November, 1970, when the pinball machines were seized because they were not registered with the attorney general.

During the questioning by LaCour, Pierce said Gallinghouse had talked to him about his testimony before this trial.

Later, he testified, his attorney advised him he would be severed in this case and the Bally case if he agreed to be a government witness.

HE ACKNOWLEDGED he had testified before that he understood the charges against him would be dismissed.

Today, however, he said, "I thought it meant that, but that is apparently not the case. You sever someone's finger and it is off."

Pierce said he decided to become a government witness on the advice of an attorney. He said it would cost him \$25,000 and he could not afford it.

LaCour asked, "You figured that (testifying for the government) was cheaper than going to trial?"

A. Yes.

Pierce then was cross-examined by Callery's attorney, Virgil M. Wheeler.

He admitted Callery may not have personally told him

to attend the November, 1967, meeting at which arrangements allegedly were made for protection payoffs.

Pierce said he could testify that Callery was a partner in New Orleans Novelty only through 1968. He said Callery may not have been a partner in 1969 and 1970.

WHEELER ESTABLISHED there were two different business entities in the New Orleans Novelty organization, one handling sales and the other operation. Pierce said he did not believe Callery was a partner in the sales company.

Asked if he actually bought Bally pinball machines from New Orleans Novelty Sales Co., Pierce said he made checks out to New Orleans Novelty Co.

Regarding the November, 1967, meeting, Pierce told Wheeler he received a message that there was to be "an important meeting at Lucky Coin Co."

But Pierce then admitted that Callery did not personally ask him to attend the meeting.

Wheeler read Pierce's testimony from the Bally trial, in which Pierce said Callery had asked him to attend.

"I made a mistake," said Pierce. He said he assumed the call had come from Callery because Callery was in charge at the meeting.

Referring again to Pierce's prior testimony, Wheeler said Pierce had stated previously he had no recollection of what anyone other than Callery told him at the meeting.

PIERCE, SAYING he was "a little mixed up," said that earlier testimony was correct. "These men I collected from gave me this money, and they wouldn't have done that if they hadn't agreed."

From 1967 until September, 1970, Pierce testified, he collected money from Nims, Willy and DiFatta and gave it to Callery about two-thirds of the time. The other times, he said, he gave the money to Ralph Bosworth, an employee of the Callery firm.

Pierce said he did not know who decided Nims' share of the protection money should increase from \$1,000 to \$2,000. But Pierce said he told Callery he thought Nims should pay more "because he had more games on the street."

He said, however, no one complained to him about wanting more money.

REFERRING AGAIN to Pierce's testimony before the congressional committee in 1962, Wheeler asked the witness:

Q. Would you lie to save your own hide?

A. No. . . . I lied then, but I'm telling the truth now, so help me God.