

The Government's Case: XIV

Pinball Bribery Affidavit Text

(Editor's Note: The States-Item continues today with the 14th installment of the text of the affidavit charging pinball bribery filed against Dist. Atty. Jim Garrison and others by Floyd D. Moore, special agent for the Internal Revenue Service.

(The affidavit will be quoted verbatim, except that obscene terms will be deleted.

(Another installment will be printed tomorrow.)

(49) ON March 13, 1971, Louis Boasberg met with Pershing Gervais in Room 376 of the Fontainebleau Motor Hotel in New Orleans. Boasberg said he has talked to attorneys about the new federal law (Organized Crime Control Act of 1970 :

BOASBERG: Now look — I talked to Bally's attorneys from Washington and Chicago, they are afraid of the federal law.

GERVAIS: (cough)

BOASBERG: Guy Johnson's given me one opinion, I've got 10 opinions, Jake Martin gave me another one, my man Foto gave me another one—look—here's what I'm afraid of, Pershing, I'm afraid that in this law, it states that a Federal officer, any FBI man, any federal officer can do the same thing that a city policeman or a state policeman can do or a member of the District Attorney's office, can go out and get a payoff, a cash payout on a machine, and charge the operator, not the location, the location doesn't come under that federal law because he doesn't take in 2,000 dollars a day or he hadn't got that many employees, so what they'll do to make an example, a test case, they may do this before the legislature—they may charge some operator, you know who the operator's going to be, it's going to be me, probably going to be one of the Marcellos, probably TAC . . . see—

Boasberg also discussed how he is attempting to build a legal defense for himself if he's charged with violating the federal law:

BOASBERG: Sent them let-

ters, to the locations stating all the laws in favor of merchandise, tell them, don't pay anything but merchandise, pay off at your own risk. I've, I've given written instructions to my collectors to tell everybody to pay merchandise. Now, my lawyer wrote up some form and I'm, uh, have each . . . —

GERVAIS: Any merchandise or whatever they happen to sell in the particular location.

BOASBERG: Anything but money.

GERVAIS: Anything but money.

BOASBERG: Anything but money, I'm telling them that. Operate legally, no pay outs. Now, my attorney's written up a thing I'm going to get all

GERVAIS: Let me interrupt a minute though. Isn't merchandise the same as money.

BOASBERG: Not under the law, Pershing.

GERVAIS: Under the federal law, too?

GERVAIS: Uh-huh, I see.

BOASBERG: Under our law we can pay merchandise, it's legal to pay merchandise, you understand?

BOASBERG: So to protect myself, now look, let's say that you got, you got one of my machines in your place—

GERVAIS: Right.

BOASBERG: All right, so you get, Pershing, you get caught—

GERVAIS: I got a barroom.

BOASBERG: You got a barroom. And, and—

GERVAIS: Ah, guy give you 5 dollars

BOASBERG: Now, wait, now, the FBI man comes in there and he catches you and, uh, who, who owns your machines? New Orleans Novelty Company. Bam! They charge Boasberg, New Orleans Novelty Company with conspiring, you understand, with conspiracy to break the state laws. So we go to court and, uh, uh, my attorney gets up and says, well, your honor, Mr. Boasberg has warned these people repeatedly, look, here it is, letters to, to, to Mr. Gervais here, Mr. Gervais was warned and he puts Mr. Gervais on

the stand, you get on the stand, he'll say, Mr. Gervais, didn't, didn't they, did you receive letters, did you receive copies of this letter, you have to admit you did, is this your signature on this, where they warned you and that you pay off at your own risk. Yes, you have to admit that. So, I got to have some defense. If you break, if you break the law, Pershing, it's not my fault, I can't help it.

GERVAIS: But, you said they don't charge me, they charge you.

BOASBERG: Yes, Yes, but I got to have some defense. They're not gonna charge you, gonna charge me.

GERVAIS: I think you have to go a step further than that. Uh, so a guy hits five dollars on my machine, now he entitled to get five dollars of whiskey or beer, right?

BOASBERG: If you paying, whiskey or beer, if you pay the FBI man, he can't do you a thing.

GERVAIS: Nothing.

BOASBERG: Nothing.

GERVAIS: Course you and I know, No (()) location's going to do that.

BOASBERG: We know that. (laughter) We know that.

GERVAIS: Right. So they're going to order them money.

BOASBERG: Of course, we know that. But I don't know it, I don't know—look, that I told the grand—I told the grand jury, the, the state grand jury—

GERVAIS: Yeah.

BOASBERG: The one Volt (phonetic) had going, I said, I

said, I'm not going to insult your intelligence by saying that a lot of these locations don't pay cash, I said, look, they would pay the chief of police, the district attorney, I said, they need the money, so, so much, but I said, I don't know it and my collectors don't know it. I said, I can't swear that any one of my locations pay in cash, I said, lot of times, somebody hits some games and they pay them double—merchandise or cash or anything else.

GERVAIS: Well, let me ask

you this now. How long ago did you send the letter out?

BOASBERG: Oh, I sent the letter out even before the law was passed. I been sending them out. I sent 3 or 4 of them in the past year or two

GERVAIS: Don't you get people calling you up and saying what the (()) are you talking about?

BOASBERG: Yes, I do, and over the phone I say, well, you, you better, you better, you better positively pay merchandise only, and so, of course, one of my men says, well, you know—

GERVAIS: They go back—

BOASBERG: Got to protect him.

GERVAIS: Yeah, right. They go back and pave the road, sure.

BOASBERG: So far as I know—

GERVAIS: In other words, you rely on your route man?

BOASBERG: Far as I'm concerned, I'm operating legally.

GERVAIS: (cough)

BOASBERG: Nobody better say when, when, when—

GERVAIS: But how many route men you got? You can't hardly trust them all?

BOASBERG: Four collectors.

GERVAIS: Four? Oh, well

BOASBERG: I'll, I tell you what we're doing, on the, on the four collectors. We give them a piece of business, we put them in the partnership.

GERVAIS: Ohhhhhh—

BOASBERG: See?

GERVAIS: So then they got out and they can smooth—

BOASBERG: They can get the Fifth.

GERVAIS: They can smooth out—

BOASBERG: They could take the Fifth, they couldn't take the Fifth, uh, uh, uh, if they were employees, you understand—

GERVAIS: Right, not only that though, they, they're protected . . . they can go out to the location—

BOASBERG: Pershing, when, when, when one of my collectors go to a location and the location has got . . . 50 dol-

lars, he's paid off 50 dollars, ostensibly that was for merchandise, we reimburse them for merchandise—

GERVAIS: Right.

BOASBERG: See?

GERVAIS: Right, but I mean, you got your machines in my () joint, and you tell me, I can only pay merchandise, if I get in trouble, I'm in trouble by myself, I'm going to tell you, next time you come here, the () machine is going to be on the sidewalk—

BOASBERG: Oh—

GERVAIS: You know.

BOASBERG: You tell, if I tell you, if you did pay merchandise, you're taking, you taking at your own risk—you understand?

GERVAIS: Uh-huh.

BOASBERG: Now TAC's got a sign on his machines, tokens or merchandise, he's got a sign on the top of his—

GERVAIS: They have tokens, too?

BOASBERG: They, TAC operates tokens—yeah, they operate tokens.

GERVAIS: And they let you buy a bunch.

BOASBERG: If you go, you can—yeah, we get slips. We have little yellow slips that state, uh, so-and-so free, a number of free games, you can—you know, on our games you can play 'em off later, the proprietor can put them back on the machine, see—

GERVAIS: He can.

BOASBERG: Yeah.

GERVAIS: He can rig that—

BOASBERG: I got a key to put them back on. If you go hit 50 free plays and you say, well, I'll come back later, and you — so he gives you a slip.

GERVAIS: Oh, oh.

BOASBERG: But now here's what we're facing, we're facing the federal . . . and of course the state ()

GERVAIS: (cough) But first you got to—

BOASBERG: I'll tell you if we, but we —

GERVAIS: (cough) But the () letters are going to kill the business though, I mean, if you really (()) toed the line with them (()) locations, and, and don't give them no help at all . . . (()) — I think the

business would just die off.

BOASBERG: Most people would pay — if, if, if Garrison (District Attorney), Giarrusso (Superintendent of Police) and Aaron Kohn (Executive Director, New Orleans Metropolitan Crime Commission) walked in together they would pay them off. Those people are desperate for money, Pershing.

GERVAIS: They going to pay regardless.

BOASBERG: They can't exist —

GERVAIS: No matter what you tell them.

BOASBERG: Do you, do realize how many places have got games in the city right now that are starving to death?

GERVAIS: (cough)

BOASBERG: There are no loans being made available—

TOWARD the end of the conversation, Gervais was assured by Boasberg that the latter's employee, Harby S. Marks Jr., (who had delivered the March 8, 1971, payoff to Gervais) could be trusted:

BOASBERG: Say, don't forget now, uh, uh, Harby anything you do, well, he's all right.

GERVAIS: Oh, yeah.

BOASBERG: Aruns —

GERVAIS: Huh?

BOASBERG: He's my right hand man and he's Aruns' man—

GERVAIS: Both of them, huh?

BOASBERG: () anything he'll do—

GERVAIS: You know I never saw that man before, heard his name a thousand times—

BOASBERG: One of the finest, most trustworthy persons that you'll ever—

GERVAIS: Yeah.

BOASBERG: He is.

GERVAIS: He came up and knocked ()

BOASBERG: Well () next time you see Callery, you ask him about Harby.

GERVAIS: Yeah, yeah.

BOASBERG: You can trust him with your life.

GERVAIS: Yeah, right, right, yeah. That's the first time I'd ever laid eyes on him. Well, Freddie (Soule) talks well about him, Freddie likes him.

BOASBERG: Oh, yeah, sure. Everybody, everybody, everybody that knows him talks well about him —

GERVAIS: Yeah, I don't know the guy, had never saw him before. And I asked him if I ever had and he told me no.

BOASBERG: No, no, he never has.

GERVAIS: We talked a few minutes and then he left.

BOASBERG: Uh-huh.

GERVAIS: But, uh—

BOASBERG: I, I trust him in anything, anything at all.