

The Origins of the Saratoga Guarantee

Section 241 of the Racing, Pari-Mutuel Wagering, and Breeding Law [Racing Law] sets forth what is generally known as the “Saratoga guarantee.” Under this provision a minimum of 24 racing days shall be assigned exclusively to the “second zone” unless the governor finds that there is an emergency which would cause a reduction in the exclusive dates.

The “second zone” is further defined in Section 240 of the Racing Law to mean all the judicial districts other than the first second, ninth, tenth eleventh and twelfth districts. Judicial districts are determined pursuant to Section 140 of the Judiciary Law. The districts that are not part of the second zone are the counties constituting the City of New York,¹ the Long Island suburbs, and the suburban and ex-urban counties north of New York City.²

The Saratoga guarantee came to be established as a result of changes in the structure of racing in New York in the mid-1950’s. For years, New York thoroughbred tracks had been run by small privately held for-profit corporations. For example, the Saratoga racetrack had been owned and operated by the private Saratoga Association. At that time, the attendance and handle was far better downstate than upstate, and the Saratoga Association chose to run part of its assigned dates at Jamaica Racetrack. Nonetheless, a minimum of four weeks of racing were held each year at Saratoga. The only exception to this four week period of Saratoga racing were the war years of 1943-1945 where gasoline shortages made it impractical to race at Saratoga. In those years, the Saratoga dates were assigned to Belmont Park.³

In 1955, all the State’s racetracks were purchased by the non-profit Greater New York Association.⁴ The association announced plans to close Jamaica and to create a state-of the art facility at a new Aqueduct Racetrack. This was at a time in 1956 when the

¹ Bronx County constitutes the 12th judicial district. At the time the Saratoga guarantee was enacted in 1957, Bronx County was part of the first judicial district. The 12th judicial district was established pursuant to L. 1981, Ch. 1006. Section 240 of the Racing Law was not initially amended to reflect this change in the locations of the judicial districts, and from 1981 until the passage of L. 1985, Ch. 286, the Bronx was in the second zone.

² Besides Rockland and Westchester Counties, the less suburban counties of Orange, Dutchess, and Putnam are included in the 9th judicial district.

³ The decision of the Racing Commission not to assign dates in 1945 to Saratoga was deeply resented by the Saratoga community. After the war in Europe concluded in the spring of 1945, many non-urban racetracks outside New York reopened, but the Racing Commission decided to keep the Saratoga dates at Belmont. The Saratoga Chamber of Commerce stated, “We upstaters are looked upon by certain politicians and racing associations as pure hicks or rubes.” “Saratoga Meeting at Belmont Again,” New York Times, June 6, 1945 pg. 25.

⁴ In 1958, the Greater New York Association changed its name to the New York Racing Association.

average attendance at Saratoga was 13,649, while the average attendance at Belmont was approximately 23,000 and the average attendance at Jamaica was 24,000.⁵

State revenues from downstate racing were far in excess of revenue from Saratoga. There was a new racing association in charge of racing that, unlike the former Saratoga Association, was not exclusively devoted to the interests of Saratoga Springs. That association was about to assume a significant debt to rebuild Aqueduct. There was some potential that New York needed some competitive protection from racing in New Jersey during August.⁶ While the Greater New York Association claimed that it did not wish to run a concurrent downstate meeting against Saratoga,⁷ the Saratoga community was worried that financial pressures might eventually force the Greater New York Association to run a downstate meeting at the same time as the Saratoga meeting.⁸

The Saratoga community “sought a legal safeguard”⁹ to preserve the status quo of no concurrent racing. There was no concern that the Greater New York Association or anyone would seek to close Saratoga; there was a fear that simultaneous racing would weaken the Saratoga racing product and perhaps eventually lead to the eventual demise of Saratoga racing.

As a result, the Chamber of Commerce in Saratoga Springs caused to be introduced a bill to guarantee 24 days of exclusive racing to Saratoga. The bill proposed by the Chamber of Commerce was introduced by the local legislators from the Saratoga area, Assemblyman Ostrander (A. 2903) and Senator Seelye (S.2872).

There was relatively little political opposition to the Saratoga guarantee. Indeed, it eventually passed the Assembly by a vote of 146-0 and the Senate by a vote of 57-0. Instead, the principal source of opposition to the legislation was from Ashley T. Cole, the

⁵ Tom Durkin, the track announcer for the New York Racing Association stated there were “5,500 people on weekdays and 12,000 people on weekends.” Paul Daley, “Smart Remarks of Bright Future,” Lowell Sun, August 12, 2006. A different article indicated that Durkin stated that “Saratoga drew an average of 5,500 during the 1950’s.” David Filkins, “Three Join the Hall,” Albany Times Union, August 8, 2006. The numbers indicate otherwise. The average attendance at Saratoga from 1954 -1959 was between 12,871 and 14,919. In 1956, on almost every weekday, the Saratoga attendance exceeded 10,000, and on every Saturday (There was no Sunday racing in New York until the 1970’s.) the attendance exceeded 20,000. While the betting was heavier downstate, the handle for the 24 day 1956 Saratoga meeting with eight races per day (and only win, place, and show betting plus one daily double) was \$22.68 million. All cumulative attendance and handle figures are from the annual reports of the New York State Racing Commission. Factoring in the cost of living, \$22.68 million in August of 1956 translates into \$169 million in current (July 2006) dollars. That is far more than the approximate \$115 million that was wagered on track at Saratoga in the 35 day 2006 meeting.

⁶ Memorandum of Saratoga Chamber of Commerce, in Governor’s Bill Jacket, L. 1957 Ch. 801.

⁷ Budget Report on Bill, April 5, 1957 in Governor’s Bill Jacket, L. 1957 Ch. 801.

⁸ It is plausible to believe that the Greater New York Association was using the threat of a concurrent meeting as part of its legislative campaign to increase its share of the revenue from the State takeout. In short, the Greater New York Association might have been telling lawmakers that unless they granted the Association a greater share of the takeout, the Association might be forced to consider running a concurrent downstate meet against Saratoga. The track share of the takeout was, in fact, increased in 1957 by L. 1957, Ch.355.

⁹ Associated Press, “Saratoga Bill Backed,” New York Times, April 20, 1957 pg. 14.

Chairman of the State Racing Commission.¹⁰ Chairman Cole had been in favor of simultaneous downstate racing during August,¹¹ and he launched a series of attacks against the bill.

His first attack was that the bill, as initially introduced,¹² was technically defective. He claimed that bill would not allow the Racing Commission to take into account any emergencies that might prevent the assignment of racing dates in the second zone. Thus, even in the event of a fire, federal emergency, or a communicable equine disease at a racetrack, the Commission would remain obligated to assign 24 dates to the second zone.¹³ The bill was amended by Assemblyman Ostrander to authorize the Governor to declare an emergency that would allow the Racing Commission to assign a lesser number of dates to the second zone.¹⁴

As amended, the legislation passed the Assembly on March 25, 1957 and the Senate on March 26, 1957 without any dissenting votes. While Governor Harriman played no role in the drafting or legislative passage of the bill, he announced on April 19th that he planned to sign the bill.¹⁵ He signed it on April 23, 1957, and it became chapter 801 of the laws of 1957.¹⁶

The bill was signed despite a veto recommendation from Ashley Cole. Chairman Cole found that the bill – even as amended – was technically defective.¹⁷ He believed that even in the event of a gubernatorial declared emergency, some dates would still technically need to be assigned to the second zone. He also believed that with the possibility of additional tracks being constructed in the second zone,¹⁸ there was no longer any assurance that the dates in the second zone would or could be exclusively awarded to Saratoga. Perhaps most significantly, Cole seemed to be affronted by the limitation placed on the discretion of the Racing Commission in awarding dates. He wrote, “It is respectfully urged that the assignment of racing dates within the second zone, as well as within the first zone, be still entrusted to the discretion of the State Racing Commission. Its judgment in the assignment of these dates has never been questioned and the Commission’s actions in such matters has contributed materially to the success of racing in New York...”¹⁹ A similar statement recommending a veto came from the State Division of the Budget finding that the bill “limits the discretion of the Racing Commission in assigning racing dates on the basis of conditions that exist in both

¹⁰ Cole had been the chairman of the Racing Commission in 1945 when it voted against awarding dates for Saratoga racing.

¹¹ See note 7 supra.

¹² Pr. 3015.

¹³ Memorandum of Ashley T. Cole, February 28, 1957 in Governor’s Bill Jacket, L. 1957 Ch. 801.

¹⁴ Pr.4850. An earlier amendment, Pr.4440, had corrected a technical grammatical mistake in the bill.

¹⁵ See note 9 supra. Harriman had said earlier in the year that he would block any attempt to discontinue racing in Saratoga. United Press, “Governor Backs Racing,” New York Times, January 25, 1957 pg. 25.

¹⁶ See Governor’s Bill Jacket, L. 1957 Ch. 801 and “Saratoga Track Assured of Dates,” New York Times, April 24, 1957 pg. 40.

¹⁷ Memorandum of Ashley T. Cole, April 3, 1957, in Governor’s Bill Jacket, L. 1957 Ch. 801.

¹⁸ There was increasing talk that groups planned to build a racetrack near Canandaigua, New York. This was the genesis of the current Finger Lakes Race Track.

¹⁹ See note 17 supra.

zones in particular years.”²⁰ The Commissioner of Taxation and Finance also recommended veto stating that if there was a public demand for a New York City track to meet New Jersey competition during the 24 day exclusivity period, that demand could not be met under the proposed law.²¹

On the other hand, support for the bill came from Assemblyman Ostrander, the Saratoga Chamber of Commerce, the Mayor of Saratoga Springs, and the Saratoga County Central Labor Council.²²

While the Saratoga guarantee may have helped to stabilize business conditions in Saratoga Springs, it is hard to see any impact on attendance at the racetrack. In the 1957 season, Saratoga average attendance did increase from 13,649 in 1956 to 14,919 (including 27,173 for the Travers), but this attendance increase did not last. Attendance at Saratoga did not reach the 1957 level until 1964 when average attendance reached 14,935. From 1958 -1963, average attendance ranged from a low of 13,674 in 1961 to a high of 14,592 in 1963. Saratoga did not break its own attendance mark of 15,380 per day set in 1952 until 1966 when the average attendance reached 16,017.

If anything, the increased attendance in Saratoga for the 1960’s is most likely due to the construction of the Northway which provided a direct highway route from the State Thruway exit in Albany to the Saratoga track. Before the Northway construction during the administration of Governor Nelson Rockefeller reached Saratoga in 1963, automobile traffic had to go through the City of Albany and suburban towns along heavily congested US Route 9. Additional activity by the Rockefeller administration to benefit Saratoga Springs in the 1960’s included significant improvements at the Saratoga Springs State Park and the construction of the Saratoga Performing Arts Center [SPAC]. SPAC, which opened in 1966, not only received significant State support, but the Rockefeller family (including Governor Rockefeller) contributed sizeable funds to insure the construction of the center.²³ While Governor Rockefeller is often viewed as an enemy of horse racing for his role in creating the off-track betting system in New York State, actions taken during his administration strongly helped racing at Saratoga. Governor Harriman simply signed a Saratoga guarantee bill which had was locally popular and had no political opposition. By completing construction of the Northway, SPAC, and improving the local state park, the Rockefeller administration created the conditions for the growth in attendance and handle at Saratoga. If any governor can ever be credited for deserving a hallelujah for boosting racing at Saratoga it is Nelson Rockefeller.²⁴

²⁰ See note 7 supra.

²¹ Memorandum of George M. Bragalini, Commissioner of Taxation and Finance, April 15, 1957, in Governor’s Bill Jacket, L. 1957 Ch. 801.

²² Governor’s Bill Jacket, L. 1957 Ch. 801.

²³ Theodore Strongin, “Saratoga Arts Center Gets \$1.1 Million,” New York Times, January 12, 1965 pg. 33.

²⁴ See note 5 supra in the remarks of Tom Durkin contained in the Lowell Sun article.