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UNITED STATES BOARD OF PAROLE

Transcript of Minutes

Case of Thomas J. Pendergast
Register No 55295-L
Institution Leavenworth, Kansas
Date November 4, 1939
Present Arthur D. Wood, Chairman.

(Applicant called)

Judge Wood: Thomas J. Pendergast?

A. Yes sir.

Q. This is a member of the United States Board of Parole.

A. Yes, sir.

Q. To pass on your application.

A. Yes, sir.

Q. And if you have any statement to make this is your opportunity to make it.

A. Of course, I really don't know what I am to say; you mean in reference to a parole?

Q. Yes.

A. Well, the only thing that I can say is that I am not a very well man and I suppose you have those conditions there, I have a bad heart and I have a colostomy here and of course I think that I would like to have a parole; I just don't know what to say to you. I am 67 years old, and I have never been charged with any offense before.

Q. And you are a man with a family?

A. Yes, sir, I have a wife and three children, but my wife and one child live at home and the other two are married.

Q. How old is the youngest?

A. Twenty years old, and she is living with my wife there at home, and if I was out there, there would be a man in the family at least.

Q. And you state that for forty-six years you were President of the Ready-Mix Concrete Company?

A. No, sir, it hasn't been in existence any length of time like that.

Q. You will resume your duties there?

A. Yes, sir.

Q. And you have been a resident of Kansas City for forty-six years?

A. Yes, sir, I was born in St. Joseph, Missouri, and have been a resident of Missouri all my life.

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Q. And, at this time there is another indictment pending against you?

A. Yes, sir, but of course, there is a State indictment in Kansas City, I was just indicted sometime in the past week. Of course, I could go into that at some length if you wanted me to.

Q. No, that isn't necessary. Well, how did you happen to go wrong this time?

A. I don't know what to say to you Mr. Timmons.

Q. Wood is my name.

A. Oh, pardon me, Mr. Wood, I don't know, I evaded the income tax as I am charged with and I am guilty and that is about all I can say about it. How I come to go wrong I don't know, I have lived 66 years out there and didn't go wrong, at least I don't think I did, and I couldn't tell you how I happened to go wrong. There are a lot of other things about it.

Q. You entered a plea of guilty, did you?

A. Yes, sir, and I admit my guilt so far as the income tax evasion was concerned.

Q. And you are also wanted in St. Louis?

A. No, sir, I am not; that is a mistake Mr. Wood.

Q. And, is there anything further you would like to say?

A. I would like to say that I would like to get out of here if I could on a parole, but how to say it or how to do it, I don't know, except for my own condition, Mr. Wood, and that is about all I can say to you, that I would like to be home with my family.

Q. Very well, you will have to dispose of that pending indictment.

A. Well, I can't dispose of it and be in here.

Q. Well, you can do like others, you have a right under the Constitution to a speedy trial and there are ways and means to get it.

A. Well, when I see my lawyers I will explain that to them; I don't know anything about those things; I am to be on parole for five years you know.

Q. You mean probation?

A. Probation for five years and I don't think I would be apt to run away from an indictment in Kansas City. I don't know what to say to you, I am just at a loss, except that I would like to get out if I could.

Q. What about the \$10,000 fine?

A. That will be paid anytime, anytime. I wouldn't expect to get out until the \$10,000 fine is paid; the reason it hasn't been paid is because my lawyers have advised me that it is not necessary for me to pay it until I get out, and that could be paid anytime, Mr. Wood.

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Q. Well, that is a condition of the sentence you know.

A. Yes, sir, and that will be a condition that will be overcome.

Q. You are sure there is nothing more you want to say?

A. Well, I don't know any other thing that I could say that would be of any benefit to me except my health and my condition, and I suppose you have some record of that there. I don't know anything else to say except that I would like to be home with my wife and children.

Q. Well, that is true with every other married man in the institution.

A. It certainly is. I don't know what I could tell you, I could tell you a lot of things I suppose, but I don't know whether they would have much bearing on the case, they would be personal. There are a lot of things I could say but they wouldn't have any particular bearing; my health is the biggest thing and wanting to get home to my family; I have had several attacks in here and I suppose those are recorded, some record made of them, and I am liable to have an attack at anytime.

Q. All right, then, that will be all I guess.

A. Thank you, Mr. Wood.

(Applicant excused)

Judge Wood:

The applicant is a 66-year old white American, a native of Missouri, a married man with adult children, and at the time of his indictment in this case, was President of the Ready-Mix Concrete Company of Kansas City, Missouri. He has no prior criminal history. For some years last past he has been a political czar in his home city and state and has ruled with a ruthless hand the politics of his city and commonwealth. He gradually built up a political machine which corrupted public officials and debauched the franchise of the free voters of the city. When the law-abiding citizenry of Kansas City would attempt to overthrow the tentacles of his political octopus, citizens were way-laid, brutally beaten and murdered at the ballot boxes. His henchmen in the police department accepted graft and some of his satellites are sharing the roof of this penitentiary with him at the present time. Only yesterday the Director of Police checked in on a two year term for prostituting his oath of office. The case fairly reeks with low moral turpitude. It has been said that he has made governors, senators, and various other public officials, and that when once he made them they were his servants. Reference is made to

the statement of Maurice M. Milligan, United States Attorney, addressed to to the trial Judge in open court on May 22, 1939.

The history of this case dates back to the evening of April 1, 1936 when the applicant stood in the shade-drawn room of his home and

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presided over a ritual of dividing \$330,000 in cash. He dipped again and again into a Gladstone bag and out of it he built up three piles of greenbacks. If he had applied simple mathematical formulas to his division, it would have been something like "one for you, and one for you, and six for me." The money was the final instalment of a \$430,000 fee for settling a long standing rate dispute between 137 fire insurance companies and the State of Missouri. Out of the \$330,000 the applicant kept \$250,000 for himself and split \$80,000 between two others. But the boss made a fatal error. He neglected to cut-in a fourth party, the United States Government. Almost three years later to the day, Pendergast stood indicted by a Federal Grand Jury on charges of evading payment of taxes on his profits; charges to which he pleaded guilty and went to prison. It took Treasury Department agents nearly four years to trip up Boss Pendergast, so well was he shielded by his henchmen and his friends. That is the picture revealed by the confidential files of the Treasury Intelligence Unit. It is the inside, authoritative story of what brought about the downfall of Pendergast and his political machine, from official documents. The back drop for the scandal that wrecked Pendergast's Kansas City political machine really was lowered six years before the Federal operatives stepped into the picture. The story began in December 1929. Joseph B. Thompson, Missouri State Insurance Superintendent, had been informed by 137 insurance companies that they were increasing their fire rates in the state by 16-2/3%. Thompson opposed the boost. The insurance companies obtained a Federal injunction preventing him from interfering with the increased rates. The courts impounded that portion of the rates representing the increase, pending final outcome of the litigation. There the matter stood for four or five years. Neither side would give an inch. The impounded fund grew at the rate of \$3,000,000 a year. Then, in July 1933 Pendergast obtained the appointment of R. E. O'Malley, a loyal machine man, as State Insurance Superintendent. By spring, 1935, the insurance companies were beginning to weary of the rate fight. So Charles R. Street, vice-president of a committee representing all the interested companies, went to Kansas City for a round-table conference with O'Malley. Street was accompanied by R. J. Fologie, his lawyer. A. L. McCormack, a St. Louis insurance broker, sat in on that conference. In less than one full working day, a compromise settlement was reached. It provided that fifty per cent of the impounded \$9,000,000 fund was to be paid to the insurance companies, twenty per cent distributed to policy holders, and thirty per cent to be set aside in a trust fund with Street and Fologie as trustees. The trust fund was to be used to pay lawyers' fees and various expenses. The remainder, if any, was to go to the insurance companies. The deal finally got the court's approval. And soon the whispering began. Rumors of a big fee reached Elmer Lincoln Irey, soft spoken Chief of the Treasury's Intelligence Unit, who not many years before prepared the case that sent Al Capone to Alcatraz. Irey, curious to know whether the Government was

getting its full share of taxes, ordered his men to work. Right from the beginning, the investigators suspected that the deal couldn't have been put across without Boss Pendergast's blessing. Quietly they began to look into his

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affairs. They discovered Pendergast always paid in cash and usually was paid in cash. And cash was hard to trace. They were stymied. Then came the lucky break that changed the suspicion of Irey's men to conviction that Pendergast was chin-deep in the peculiar insurance settlement. An Internal Revenue agent made a routine examination of the books of Folonie's law firm in Chicago. He discovered that on May 9, 1935, Charles R. Street - the insurance settlement negotiator - had delivered to the law partnership fourteen checks totaling \$100,500. These checks came from several insurance companies, were endorsed and deposited in the partnership bank account. The same day, the books showed, the partnership issued three checks to Street; two for \$50,000 each and one for \$500. An Intelligence Unit agent questioned Street about the \$100,500. First, Street said it belonged to him. When it was pointed out to him that he would have to pay an income tax on it, he changed his story. Street said he had handed it to a person "high in the political ranks of Missouri but not a public official." Then he decided he had talked too much and refused to say another thing. The agent left Street with the stern reminder that he was dealing with the United States Government and that a more satisfactory explanation was expected. Apparently mindful of the agent's warning, Street wrote him on May 4, 1936:

"Leaving for South Dakota. On my return next week will take a run to Missouri on business anyway - and see what they have to say. Don't think can do anything at least before the Queen Mary comes in."

The agent was puzzled. But not for long. The giant British super liner was to start on its maiden voyage from England within a few days. The passenger list was checked and there among the P's were the names - Mr. and Mrs. Thomas J. Pendergast. It was the first definite indication that Boss Pendergast was the man behind the scenes in the insurance scandal. When this information reached Irey he reported the findings to his superior, Henry Morgenthau, Jr., Secretary of the Treasury. Pendergast was no small fry. He was a powerful figure in Missouri and in the democratic party. Morgenthau reminded Irey that politics was to be no consideration in matters of law enforcement. "You have carte blanche on this and any other case involving law violations," the Secretary said. That was enough for Irey. His men examined Pendergast's income tax returns. They contained no clue. So the agents turned back to Street. He lapsed into defiant silence. The Queen Mary had arrived. Pendergast had returned to his Kansas City domain. And Street had seen him. The Treasury agents informed Street that he would have to pay a tax on the \$100,500. He did. On March 8, 1937 he filed an amended income tax return for the year 1935. The additional tax was \$47,093. The Treasury tightened its screws a little harder, assessing a fifty per cent penalty for delinquency. Still Street remained silent. He appealed to the Internal Revenue Bureau against the penalty and the matter dragged

along still unsettled when he died on February 1, 1938.

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But the Treasury agents were moving along other trails. The once impounded premium fund was studied minutely. Everything seemed in order. The records of the trustees for the thirty per cent portion of the insurance fund were checked. No trace of wrong doing could be found there. The various expenses had been distributed among the insurance companies. Then the agents checked Street's bank account. In the City National Bank and Trust Company of Chicago they found an account in the name of Charles R. Street, Agent. Street used it occasionally for depositing small premiums. The Treasury men discovered that between March 23 and April 1, 1936, \$317,049 had passed in and out of the Street account. The withdrawals during those two months were made payable to Street and he converted everyone of those checks into cash April 1, 1936. The same day, the agents found, Street borrowed \$10,000 from the bank on his personal note. He issued a personal check for \$12,950 and cashed it. When he left the bank that day he was carrying \$330,000 in cash. With the \$100,500 previously unearthed by the Treasury operatives, that brought the total in cash handled by Street in less than a year to \$430,500. Irey's men turned for an answer to the deposit tickets that had popped into Street's bank account. The deposited checks, they discovered, had been issued by the 1937 fire insurance companies involved in the Missouri litigation. More investigators now were called in and began the terrific task of examining the records of each of the insurance companies. From this wholesale job emerged these developments. Treasury records show:

Each company, on receiving its share of the eleven per cent remaining in the thirty per cent trust fund, had remitted five per cent of its share of the total \$9,000,000 fund to Street. That explained the \$317,000 item in Street's account. The insurance companies' records also solved the mystery of the \$100,500 which Street had received earlier. Fourteen insurance companies had contributed toward that amount and were allowed to deduct their contributions from the five per cent later remitted to Street, the agents reported. On February 1, 1938, Street died of natural causes. With Street dead, the agents turned to an examination of his estate. Among his 1936 canceled checks they found two which they traced to A. L. McCormack, the St. Louis insurance broker. McCormack had been overlooked by the investigators. With the discovery of the canceled checks sent them prying into his affairs. McCormack offered them no help. The agents soon discovered that beginning in May 1935, the month of the rates settlement, and through September 1936, McCormack had handled at least \$87,500 in cash. They traced it to the purchase of securities, a home, reduction of bank loans and bank account deposits. He explained that the cash represented savings over a long period of years. It was an unconvincing explanation. It spurred the Treasury agents to go still deeper into his past life. They rooted out every financial transaction he had made since he was old enough to write his name. At the end, a computation showed that even if he had spent absolutely nothing for food, clothing and shelter in all those past years, he still couldn't have accumulated the \$87,500 in cash he handled

in eighteen months during 1935 and 1936. The agents decided to let McCormack alone for awhile; to let him stew into tractability. Then they thought it was time for another look at Pendergast. This time they found he was heavily in debt in 1934, largely because of his consistently bad luck in horse race betting. But during 1935 and 1936, it developed, he had paid up most of his back debts. And he paid in cash. Telegraphic money orders to debtor New York and New Jersey bookmakers were found. All this was interesting but not evidential. It was now time to turn again to McCormack. The agents hoped the six months he had dangled in uncertainty might loosen his tongue. Their hopes were fulfilled. They talked to him on March 17, 1939 and his resistance collapsed. With it went the seemingly impregnable wall around Pendergast. McCormack, according to the Treasury's confidential files, admitted he was the "pay-off" man in the insurance scandal and he named Pendergast the master mind. He repeated the full story to the United States District Attorney and to the Federal grand jury, which indicted Pendergast and his henchman, former Insurance Superintendent O'Malley. Here is the version taken down by Treasury agents:

On January 13, 1935 McCormack met O'Malley in the Coronado Hotel in St. Louis. During a conversation O'Malley casually suggested that the insurance companies might like to settle the rates controversy. McCormack replied affirmatively. When O'Malley asked how much the companies would pay someone to settle, McCormack replied he would have to talk with Street in Chicago. O'Malley authorized McCormack to tell Street that Tom Pendergast was the "someone" - the man to see. Two days later, on January 15, 1935, McCormack met Street in Chicago. He related his conversation with O'Malley and Street said he wanted to talk to Pendergast. A few days later Pendergast was Chicago bound. He went to McCormack's suite in the Palmer House. Street was there. He wasted no words, recounted the trouble the rate litigation had caused the insurance companies and wanted to know whether Pendergast could settle the whole thing. Pendergast said it could be arranged. Street then wanted to know how much it would cost. Pendergast insisted on an offer. Street suggested \$200,000. That wasn't enough for Pendergast. Street boosted the figure to \$500,000. Pendergast accepted. Several months passed and nothing happened. McCormack met Street on March 28, 1935 and found him worried. The insurance companies believed Street should have offered more than \$500,000. McCormack recalled that Pendergast happened to be in Chicago. He arranged a meeting between Pendergast and Street in the Stevens Hotel. There Street said he felt Pendergast should have \$750,000 for his trouble. The Boss said it was O.K. It developed later that Pendergast was paid only \$430,000. Treasury agents explained that the \$750,000 figure apparently was just conversation which was not lived up to in performance. McCormack was summoned to Chicago on May 8, 1935. There, Street gave him \$50,000 in cash and directed him to deliver it to Pendergast. McCormack flew to Kansas City and handed the cash - first instalment of the pay-off -

to Pendergast in the Boss's office at 1908 Main Street. Pendergast kept it all. The agreements, providing for distribution of the impounded insurance premiums was completed and signed between May 14 and May 18, less than a fortnight after Pendergast received the \$50,000 instalment. On May 20, McCormack was called back to Chicago. Street gave him another \$50,000 for delivery to Pendergast. This time Pendergast counted out \$5,000 for himself; \$22,500 for McCormack and \$22,500 for O'Malley. McCormack was told to deliver O'Malley's share. The court approved the compromise agreement on February 1, 1936 and freed the impounded fund. A few days later Street telephoned McCormack and told him to be in Chicago on April 1. McCormack kept the appointment. He went to Street's office. Street gave him \$330,000 in cash. He stuck the money into a Gladstone bag and headed back to Kansas City by train. He taxied to Pendergast's home at 5650 Ward Parkway. There the bag was opened and the portly boss personally split the cash - \$40,000 for McCormack, \$40,000 for O'Malley and the rest for himself. Those were the essential details of McCormack's story to the Federal grand jury which returned indictments against Pendergast and O'Malley on April 7 this year.

The applicant was committed to serve 15 months on condition that the fine of \$10,000 be paid, also on condition that income taxes due be paid. He was also committed to serve 5 years, which was suspended, and he is to be on probation to begin at the expiration of this sentence. The district attorney makes the following comments:

"This prisoner, according to our evidence, consistently violated income tax laws for many years, though our proof only goes back to 1927. Through political pressure he has corrupted many citizens. ***I think prisoner should serve the full term as given in the sentence. I recommend against parole. *** I concur in this recommendation, district Judge."

Both the trial Judge and the United States Attorney publicly stated that they are adverse to parole issuance in this case. The applicant is not in parole status at this time by reason of an indictment handed down in the State courts within the past few days, in which he is charged with bribery. He also may be wanted in St. Louis, Missouri on a bribery charge, his co-defendant O'Malley having been indicted. The applicant states that he is ready and willing to liquidate the fine at anytime. He makes a plea for parole because of his physical condition. It may be said that he has been in the hospital under treatment since his arrival. The medical report advises the Board that the applicant has been under constant medical care for the past 20 years. He is said to be suffering from a chronic heart condition and to have had one severe coronary attack since admission. He also has a colostomy, needing special care. He requires continuous observation and treatment for this condition and after his discharge it is said that it will be necessary for him to be placed under medical

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supervision. The report from the Internal Revenue Department, in addition to setting forth in some detail the circumstances surrounding the income tax evasion, makes the following

comments regarding this man's past history:

"Prior to his indictment on April 1939, Mr. Pendergast bore a good reputation among the majority of citizens in Kansas City. Although known locally and nationally as the leader of a political machine, whose henchmen committed many crimes, including vote frauds and were even at times suspected of murder, nevertheless, the personal integrity and honesty of Mr. Pendergast were never directly questioned. However, after his indictments, the appalling corruption in the civic affairs of Kansas City under his regime became known to the citizens. Following his plea of guilty, the greed of Mr. Pendergast for money became apparent. This greed for money was induced to satisfy his inveterate desire to wager on horse races, a desire which his attorneys characterize as a mania. He lost large sums of money on these horse races, it being alleged that in one year alone he lost approximately \$600,000, and to offset these losses it was necessary for him to obtain money from any source possible. After these disclosures became known to the public, the major portion of the leading citizens appeared to have changed their opinion of him."

The applicant's parole plan is to return home and take up his duties as President of the Ready-Mix Concrete Company.

The case is continued to Washington with the suggestion on the part of this examiner that an order of denial enter.

I hereby certify the foregoing to be a true and transcript of my notes and all thereof, taken at the time, place, and on the occasion indicated.

D. B. McMurray
11-15-39

DBMcM:ksw