

Concord Municipal Court,
No. 4998.

STATE *v.* GEORGE KACHADOORIAN.

Submitted December 6, 1961.

Decided January 29, 1962.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Maurice J. Murphy, Jr., Attorney General, *Frederic T. Greenhalge*, Assistant Attorney General and *Paul A. Rinden*, county attorney, for the State, furnished no brief.

Robert D. Branch for the defendant.

WHEELER, J. RSA 577:7 provides: "GAMING. No person shall gamble, or bet on the sides or hands of such as are gambling or playing at any game, or shall loan or advance any money or thing of value to any person to aid in gambling."

"A bet or wager on a horse race is a gambling contract which is prohibited by our statute (R. L., c. 447, s. 7 [now RSA 577:7]; *McQuesten v. Steinmetz*, 73 N. H. 9) except as pari mutuel horse racing and gambling is permitted and regulated by statute." *State v. Del Bianco*, 96 N. H. 436, 437.

Although the complaint appears to be sufficient on its face, the undisputed evidence was that the defendant bet the four dollars for Banks at the pari mutuel window at Rockingham Park on the particular horses in the particular races specified by Banks. Pari mutuel betting at Rockingham Park is permitted by statute (RSA ch. 284) and the evidence failed to establish any violation of RSA 577:7.

The defendant's motion to dismiss the complaint should be granted.

Remanded.

All concurred.

Sullivan,
No. 5001.

ELLIS R. SPAULDING & a.

v.

WALTER CLARK, JR. & a.

Argued December 5, 1961.

Decided January 29, 1962.