

Franzese Plea for New Trial Denied

By Manny Topol

Brooklyn—U.S. District Judge Jacob Mishler rejected yesterday a motion for a new trial for reputed organized crime figure John (Sonny) Franzese, who was convicted in 1967 on charges of conspiring to rob banks.

At a hearing on the motion Dec. 12, Mishler urged government attorneys to agree to lie detector tests for all four witnesses who had testified against Franzese and for the four remaining defendants in the case, including Franzese. In his 15-page decision, however, Mishler made no mention of the government's refusal to agree to the tests. During the hearing, Charles Zah-

er, one of the witnesses in the 1967 trial, testified that he and the other witnesses against Franzese had lied about his involvement in the conspiracy in disposition of bank robbery charges against themselves. Franzese was convicted and has served five years of a 50-year sentence in federal prison.

Also, during the hearing, Mishler accepted into evidence a letter that Zaher wrote to a friend in 1966, while in federal prison waiting to testify against Franzese. In the letter, written to Thomas Mattio of Central Islip, Zaher mentioned a "frame" of Franzese.

In his decision, Mishler said, "Motions for a new trial based on recantation testimony are viewed with

utmost suspicion. The court is reasonably well satisfied that testimony given by Zaher at the trial was true."

Mishler added, "If Zaher's recantation testimony were placed before the jury and he testified that [the other witnesses] had fabricated their testimony implicating Franzese, it would probably not produce a different verdict."

Results of lie-detector tests have never been allowed as evidence in trials in the federal court's Eastern District. However, Mishler said at the hearing that such tests, if given to Franzese and the others by experts, "might influence me."

Privately arranged lie-detector tests

had been given before the hearing to Franzese and a co-defendant, Nicholas Potere, who was released after serving five years of a 15-year-sentence for conspiracy. Results of the tests indicated that both were telling the truth when they said they had no connection with the bank robbery conspiracy.

Franzese's attorney, Michael Pollock, is expected to appeal. However, yesterday he would say only, "There will be further action."

In March, Mishler also turned down another motion in the case for a new trial. That motion was based on the affidavit of the wife of one of the four witnesses against Franzese who also said her husband and the others lied.



Newsday Photo by Stan Wolfson

DiSalvo: 'When the market was bad . . . they'd all be here'

The Bulls and Bars

By Ed Lowe

Garden City—John DiSalvo doesn't need any financial report or Dow Jones average to tell him that the stock market is going zonkers this month. He has his own over-the-counter booze index.

DiSalvo tends bar at the Grog Shop in Garden City, a combination restaurant-bar within a short walking distance of the major brokerage offices on Franklin Avenue. He has been there since 1958. "It took me a while to figure it out," DiSalvo said yesterday during one of an unusual number of lulls in his lunchtime trade. "But when there's a bull market, when the market's going crazy, that kills me, because the brokers stay by their desks. They stick near their phones. They hang around the office to . . . you know . . . to make sales, to make money.

"I have a lot of brokers here, normally," DiSalvo said. "The trade here is mostly lawyers, insurance men, bankers and brokers. There's five major brokerage houses right around here. This is a little financial district, you know? When the market was bad—like last year, it was terrible—they'd all be here for lunch, hanging around, telling me 'Don't worry, John. Things are gonna get better.' That was funny, because they were all here you know? I was saying to myself: 'Hey, I'm doing all right right now. I don't mind.'

"As soon as the market picked up again," said DiSalvo, 37, of Bay Shore, "especially the last week or so . . . the last couple of weeks, they're gone, the brokers. They're doing business, making sales. If they come in here at all it's to grab a

quick sandwich and run back to their desks. It's when people are callin' them up and screaming in their ears: 'Hey, what happened to my stocks?' That's when they leave the office and hang around here."

With only 21 days of 1976 under its belt, the New York Stock Exchange yesterday broke last year's record for the number of sessions during which 30 million or more shares were traded. Yesterday's total of 32,500,000 shares traded followed Tuesday's total of 36,690,000, second only to last Thursday's record 38,451,260 shares traded. When brokers are breaking records instead of going broke, they don't stop for lunch. (The day's trading, Page 39.)

Dennis Callahan, 30, is a stockbroker with Shearson Hayden Stone, in Garden City, a short walk from the Grog Shop. Yesterday at lunchtime, he was skipping lunch. "Normally, I would be in the Grog Shop at this time," he said. "I haven't been going there much lately. Brokers won't go out when the market is busy like this. Business is great. I've been skipping lunch, basically. This is the kind of business, when it's good, it's great. When it's bad, it's terrible. I could write a book about the last couple of years. I could tell you all kinds of war stories.

"But everybody is elated over this week," said Callahan, who has been selling stocks and bonds for nine years. "Brokers are edgy these days," he said. "They've been through so much in the last few years. It's hard to believe we're having a sustained market."

NY Finally Digs Into Mining Law

By Tom Demoretcky

Two years after New York's land-mining conservation law was enacted, the state has finally drafted rules and regulations to enforce the law, a spokesman for the state environmental conservation department said yesterday. Public hearings on the rules and regulations are set for next month.

The Mined Land Reclamation Law, enacted early in 1974, calls for guarantees from mining firms that the land—such as the sand pits in Port Washington—will be restored to near its original form. Although the law technically became effective April 1, 1975, the rules and regulations setting up application procedures for miners and outlining requirements for reclamation procedures and bonding have never been adopted.

The state law governs the mining of sand, stone, topsoil or minerals anywhere in the state and requires mining firms seeking permits to provide the conservation department with plans for minimizing environmental damage during mining and for restoring the land after the mining is done. A firm would have to pay for the restoration and post a bond to ensure that the work would be done whether or not the firm was still in business when the site was mined out.

The hearing for the Long Island area will be Feb. 18 at North Hempstead town hall, 220 Plandome Rd., Manhasset, with sessions at 2 PM and 7 PM, conservation department spokesman Robert McManus said yesterday. He added that a total of 10 hearings will be held at various locations throughout the state between Feb. 17 and 27, and that the department hoped to have the final rules ready by April 1.

McManus explained that even though the procedural rules were not ready by last year's effective date of the law, mining done during the past year would fall under requirements of the law. "In one sense we're a year behind but in another sense we are on time," McManus said.

The law and the reason for delay in establishing rules and regulations were the subjects of a hearing in Manhasset last July 16 called at the request of local environmentalists concerned about the Port Washington sand pits. The 1,200-acre North Shore area is among 20 sites in Nassau and Suffolk which are subject to the law. At the hearing, held by Assemb. Irwin Landes (D-Great Neck) and Assemb. Herbert Posner (D-Far Rockaway), two legislators who have been pressing for implementation of the law, a conservation department representative promised quick action on the rules and regulations.

According to McManus, the proposed rules and regulations would require applicants for permission to mine to advertise locally, and to inform neighboring property owners and local governments of their intentions. Applications for permission to mine, including the plans for reclamation, would be available to the public at regional offices of the conservation department, he said, but no public hearing would be required unless a local resident or governing body found substantial cause to request one.