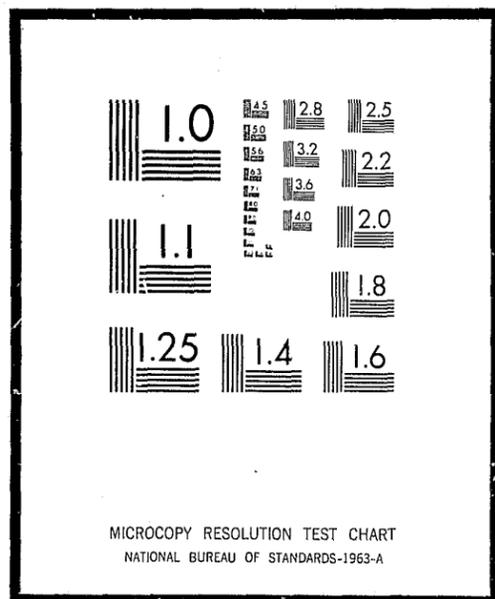


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# State of New York Commission on Gambling

Report to  
Honorable Nelson A. Rockefeller,  
Governor  
and  
The Legislature

LEGALIZED GAMBLING

February 1, 1973

013604

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TO: Honorable Nelson A. Rockefeller, Governor  
and the Legislature

Report

February 1, 1973

Laws of 1971, Chapter 1014, charged the New York State Off-Track Pari-Mutuel Betting Commission with the additional responsibilities of undertaking appropriate studies and investigations of the social, legal and fiscal aspects of expanding the scope of legalized gambling in this state. The Commission, to be known as the Commission on Gambling in the discharge of these responsibilities, was directed to report to the Governor and the Legislature not later than February first of each year. The Commission on Gambling respectfully tenders this, its second report.

The Basic Premises

Extensive public hearings conducted by the Commission throughout the state late in 1971 demonstrated that:

1. Illegal gambling, principally numbers (policy) and sports betting (both bookmaking and poolselling) is rampant in this state.

2. In control of the vast enterprises so engaged are elements of organized crime.

3. Through bribery and corruption and coincident breakdown of the processes of enforcement of our anti-gambling laws, those directing and participating in such illicit enterprises continue to operate and expand, relatively unimpeded.

4. Competitive forms of gambling, to be conducted under governmental auspices, might be devised which, if demonstrated to be feasible, could be instituted in an economic assault upon the fiscal base of organized crime. The design would be two-fold: (a) elimination of the principal source of its financial support and (b) diversion to public uses of its profits derived from illegal gambling.

5. Considerable public sentiment exists for the establishment of casinos in this state or the legalization of some, if not all, of the various forms of gambling attractions casinos customarily afford. The impetus for this is primarily economic, i.e. enhancement of the attractiveness of the state's waning resort areas and supplementation of public treasuries.

The Commission's 1972 Report

The Commission's first report, issued February 1, 1972, recommended first passage by the 1972 Legislature of a proposed amendment of Constitution, Article 1, Section 9. That section currently precludes any implementation of designs to expand the scope of legalized gambling in this state. We recommended that the Legislature be afforded the authority to consider and to implement such designs. We did not then recommend how that authority should be exercised.

The Legislature acted favorably upon our recommendation and passed 1972 Senate Bill No. 8634. That proposed amendment, if adopted, would retain the constitutional prohibition of gambling activities, other than pari-mutuel betting on horse races, bingo and the state lottery, except such "...as may be prescribed by the legislature and operated by the state or a public benefit corporation created for the purpose of operating such activities."

Recommendation No. 1.

We now recommend second passage of that proposal and its submission to the vote of the people at the general election to be held on November 6, 1973.

Studies and Investigations

The Commission deemed its principal function this year to be the preparation and presentation to the members of the 1973 Legislature and to the people, who may be asked to vote on the proposed amendment, of the reflections and results of in-depth

analyses of (a) the forms of existing illegal gambling, (b) the forms of legalized competition which might be devised and instituted under the authority and strictures of the proposed amendment, and (c) other forms of gambling the legalization and institution of which, under state auspices, the proposed amendment would also encompass.\*

1. The Hudson Institute Studies

Aided by appropriations in this year's budget (1972-73) the Commission in July of 1972 retained the services of the Hudson Institute of Croton-on-Hudson, N. Y. to undertake thorough research, study and analysis of existing gambling practices and to devise and evaluate the feasibility of potential legal systems which might successfully compete therewith. In addition, we asked the Institute to evaluate other forms of gambling not currently conducted in this state the legalization and institution of which the proposed amendment would also authorize, e.g., casinos.

Under Commission supervision the Institute undertook the assignment and, within the strictures of time and cost, produced a three volume Report, dated January 12, 1973, entitled "Increased Legal Gambling in New York, A Policy Analysis".

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\*The restrictions of the proposed amendment, that any additional gambling activities the Legislature might prescribe must be operated by the state or by a public benefit corporation created by the Legislature for that purpose, render moot those parts of the 1971 Legislature's directives to this Commission (L. 1971, c. 1014) "...to make recommendations as to whether such gambling activities should be directly operated by public agencies or by licensed private operators" and to recommend "methods of licensing, qualifications of licensees", etc. The 1972 Legislature chose prospectively to condone public agency operations only.

Volume I thereof comprises a Summary of the work product, including the Institute's conclusions and recommendations. We append a copy thereof to this report.\*

As the appended Summary evidences, the Institute concludes that the primary impetus for the legalization of additional forms of gambling in this state should be the design to impinge drastically upon the domain of organized crime and thereby to reduce, if not eliminate, the corruptive ramifications of its illegal gambling operations. Initially, at least, public revenue derivations -- though necessary -- should be deemed of secondary import. The Report depicts, in broad outline, feasible, promisingly profitable, governmentally operated activities in the fields of (a) numbers, (b) sports and (c) casinos. It then proceeds to recommend institution of the proposed operation in the first two areas, but not in the latter.

We accept and concur in the conclusions that state or public benefit corporation operation in each of the three fields is ~~feasible~~ promising of the accomplishment of the purposes ~~for which~~ such engagements might be designed. We neither endorse nor disavow the Institute's recommendations of which forms should be instituted. There is a vast difference between designs in outline form and the legislative and practical implementation thereof.

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\*Copies of the basic Report and its appendices (Volumes II and III) will be supplied to the Governor, the leadership of both Houses and made available in the legislative libraries and the offices of this Commission.

We are convinced that satisfactory legislative measures can be prepared covering each of these areas but prefer to await the preparation and submission thereof before recommending approval or disapproval of the specific proposals.

Recommendation No. 2.

We recommend that the leadership of your Honorable Bodies immediately designate a task force or agency to work with the Commission in the preparation of appropriate measures for your consideration and passage, in anticipation of the proposed amendment becoming effective on January 1, 1974.

2. Other Studies

(a) A private foundation, the Fund for the City of New York, undertook, simultaneously with our own studies, to analyze and consider the feasibility and implication of legalizing a numbers game and sports betting, the two largest illegal gambling enterprises in the City and State of New York. Its Report, released in November of 1972, reaches many of the same conclusions respecting the legalization of numbers and sports betting as do the Hudson Institute studies which we sponsored, namely:

- \* -

"In our opinion, legal gambling will be in the public interest only if it helps to solve some of the problems associated with illegal gambling. To us, the case for legal gambling as a contribution to the battle against official corruption and organized crime is worth a try."

\* \* \*

"By all our criteria, numbers and poolselling are more suitable for legalization than bookmaking."

The Fund sought and obtained very respectable legal advice that a competitive form of the "numbers game" could be instituted, upon legislative authorization therefor, under the authority of the existing constitutional provision for state lotteries. Both the illegal version, with the bettor selecting his own three-digit number, and the legal version, with state selection of the winning tickets from those pre-numbered and sold, are forms of lottery which the Constitution already authorizes, if operated by the state.

(b) On December 14, 1972 the Chairman of the Assembly Ways and Means Committee released a Report, prepared by the staff of that Committee, entitled "The Implications of Further Legalization of Gambling in New York State". It too emphasizes that the case for the institution of additional forms of gambling under state auspices reposes more strongly upon criminal law enforcement grounds than revenue derivation potentials, though it concedes prospects for the latter of considerable, though not panacean, magnitude.

(c) Since receipt of the assignment by the 1971 Legislature, each of us individually has devoted himself to the task of compiling data and information from which projections might be made of the ramifications of the institution in this state of legalized versions of all forms of gambling. One of our members, Commissioner Joseph J. Weiser, has been particularly assiduous in this pursuit. At no cost to the state,

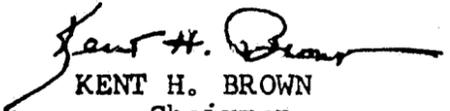
Commissioner Weiser has produced a Report, dated January 15, 1973, which recommends (a) establishment of a statewide system of off-track betting operation, (b) institution of a legal daily numbers betting system to be operated in conjunction therewith, (c) construction of two pilot jai alai frontons, (d) construction and start-up of a pilot casino, (e) slot machine installations in private clubs and resort area hotels and motels, (f) deferral of consideration of the institution of state operated sports betting systems or dog racing tracks.

Though drafted in the form of a Commission report, for the same reasons prompting us not to adopt the Hudson Institute report as our own, we do not adopt this one nor its specific recommendations either. We do, however, commend Commissioner Weiser's imaginative work product to all concerned with the subject.

Recommendation No. 3.

We commend each of these studies to your Honorable Bodies for serious consideration in the contexts of your vote upon second passage of the proposed constitutional amendment, your point of advocacy respecting the proposal upon its pendency for vote of the electorate this fall and your consideration of any legislative measures designed to exercise the authority which this amendment would confer.

Respectfully submitted,

  
KENT H. BROWN  
Chairman

INCREASED LEGAL GAMBLING IN NEW YORK  
A POLICY ANALYSIS

VOLUME I

SUMMARY

Report by Hudson Institute to:  
The New York State Gambling Commission

Max Singer, Project Leader  
Basil Candela, Associate Project Leader

HI-1736-RR

12 January 1973

HUDSON INSTITUTE, INC.  
Quaker Ridge Road  
Croton-on-Hudson  
New York 10520

TABLE OF CONTENTS

- ACKNOWLEDGMENTS. . . . . ii
- PREFACE. . . . . iii
  
- I. EXISTING GAMBLING. . . . . 1
  
- II. THE FEASIBILITY OF THE MAJOR FORMS OF POSSIBLE LEGAL GAMBLING
  - A. Numbers. . . . . 5
  - B. Sports Betting . . . . . 8
    - 1. Head-to-Head Betting . . . . . 8
    - 2. Pool Card Betting. . . . . 10
  - C. Casinos. . . . . 11
  
- III. FISCAL ISSUES
  - A. Revenue Potential. . . . . 15
  - B. Revenue Dangers. . . . . 17
  
- IV. RELATIONSHIP OF NEW LEGALIZED GAMBLING TO FIGHTING CRIME. . . . . 19
  
- V. ARGUMENTS FOR AND AGAINST VARIOUS FORMS OF LEGAL GAMBLING
  - A. General. . . . . 23
  - B. Numbers. . . . . 25
  - C. Sports Betting
    - 1. Head-to-Head Betting . . . . . 25
    - 2. Sports Pool Cards. . . . . 27
  - D. Casinos. . . . . 27
  
- VI. ORGANIZATIONAL ISSUES. . . . . 31
  
- VII. SUMMARY CONCLUSIONS AND RECOMMENDATIONS
  - A. Our Principal Conclusions are: . . . . . 33
  - B. Therefore we recommend: . . . . . 34

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Valuable assistance was also received from Ivan Annenberg, Peter Socolof, Laurie Rockett, Tom Schelling, Allan Weiss, and others. A number of people familiar with various aspects of gambling and law enforcement were particularly helpful, and we are grateful to them for their assistance. These include Sidney Cooper, Gregory Farrell, Clifford Goldman, Max Goldman, Theodore Hodge, Francis A.J. Ianni, Joseph Joyce, John G. Lauber, Jeremiah McKenna, Edward McLaughlin, Arthur Morse, Richard Poley, Joan Ransohoff, Elizabeth Reuss-Ianni, Irving Seidman, and Don Shuldiner.

We cannot list all the men of the Police and Justice Departments with whom we talked, but we extend our appreciation to them for their courtesy, consideration and patience. However, we do particularly acknowledge:

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 Commissioner Joseph Battaglia, Rochester  
 Chief Thomas Sardigno, Syracuse  
 Chief Edward McArdle, Albany  
 Superintendent William Kirwan, State Police  
 Deputy Superintendent George Infante, State Police  
 Dick Gannon, State Organized Crime Task Force

During the course of the study we consulted a number of people, many of whom did not wish to be quoted or mentioned, but we would like to take this occasion to thank those who were helpful. They include "Jimmy" and "Mike" who taught us something about bookmaking.

## PREFACE

The New York State Legislature has passed the first reading of a proposed constitutional amendment which would delete the constitutional prohibitions against gambling, provided that the new gambling activities are carried out by the State government or a Public Benefit Corporation. The Legislature directed that the State Gambling Commission produce a study for the use of the Legislature in its consideration of the second reading of this proposed constitutional amendment. This report was prepared to assist the New York State Gambling Commission in carrying out its responsibility to the State Legislature.

The point of view we have taken, therefore, is that of a hypothetical State Legislator, who in thinking about the proposed amendment asks, "What new kinds of legal gambling might we want to have if the proposed amendment were passed?" He needs to look at the various kinds of gambling in sufficient detail and depth so that they are not considered as mere generalities, but as reasonably concrete programs whose outlines are clear enough so that the implications can be fairly evaluated. But he is not concerned with details, or problems of implementation.

Like most policy studies, this one was done with a sharply limited budget and in a short space of time. For many of the questions that a thoughtful legislator would like to have answered, no reliable or precise answer is available. Our attempt has been to address all the important questions and to give as good an estimate or opinion as we could on the basis of our work and thought. We have tried to state our views clearly and forcefully so the reader can follow them easily, but we should

emphasize here that there is a great deal of uncertainty about many of the issues, facts, and projections.

This Summary Report contains the principal conclusions and basic background information presented in the Report. It necessarily omits some of the analysis, and other material necessary for a fuller understanding of the issues, much of which is in the Report with its Appendices, and accompanying Chartbook.

## I. EXISTING GAMBLING

Legal gambling in N.Y. State includes the lottery, on which about two-thirds of all adults bet, horse race betting with something like 16 million visits to the tracks annually and twice as many visits to OTB parlors, and bingo with 26 million players (including repeaters) last year. This betting amounts to over \$2 billion a year, over 90% on horse racing. In addition, New Yorkers gamble legally by betting among themselves on a non-commercial basis and by going to Nevada, the Caribbean, or elsewhere to play in casinos.

Altogether, legal gambling produces about \$200 million of revenue for the State and local governments, \$44,000,000 for the charities running bingo games, and most of the support for the racing industry.

The huge volume of legal gambling is nearly matched by illegal gambling, which may be engaged in by as many as a quarter of all adults. The most popular illegal game is the numbers (policy) on which perhaps 2 million New Yorkers bet as much as \$600 million a year. A smaller number of New Yorkers, perhaps half a million, bet perhaps twice as large a sum with bookies each year on sports and horse races. A much smaller amount, perhaps \$40-100 million, is bet on sports pool cards, mostly football cards. Other forms of illegal gambling, such as floating crap games, do not amount to much.

Illegal gambling is the principal livelihood or a major source of income for perhaps 25,000 people, and it generates on the order of \$50 million of net profits, a great part of which goes to members of organized crime families and organizations.

Illegal gambling also spends on the order of \$30 million a year in bribes, payoffs, political contributions and other techniques for securing political power and protection against law enforcement. Corruption efforts designed ostensibly or primarily to protect illegal gambling are the largest single components of corruption in the criminal justice system.

Altogether, therefore, New Yorkers probably bet something over \$4 billion a year (excluding personal betting) and lose, we estimate, about \$900 million of this. About 30% of the bettor's losses go to government or to charities. The State's share provides about 3% of State revenues. The almost \$1 billion of gambling expenditures by individuals, that is, their net losses, represent about 1% of personal income in the State and compares with \$10 billion spent on food or \$3 billion on other recreation. The table on the following page summarizes the existing gambling estimates for the State.

SUMMARY OF EXISTING ANNUAL GAMBLING IN NEW YORK  
(Estimated - Millions of Dollars)

	1.	2.	3.
	<u>GROSS VOLUME</u>	<u>AMOUNT LOST BY BETTORS</u>	<u>NET AMOUNT RECEIVED BY GOVERNMENT, CHARITIES, OR OPERATORS</u>
<u>LEGAL</u>			
Horse Tracks	1,600	290	170
OTB	300	54	18*
Bingo	150	57	44
Lottery	80	50	35
Total Legal**	2,130	451	267
<u>ILLEGAL</u>			
Numbers	600	300	30-50
Sports Betting (including horses)	1,200	120	30-60
Sports Pool Cards	50	25	10
Total Illegal	1,850	445	95
Grand Total-- Approximate	<u>4,000</u>	<u>900</u>	<u>360</u>

(The difference between Column 1 and Column 2 is the winnings paid back to the bettors. The difference between Column 2 and Column 3 is the expenses of operating the gambling activities, including commissions.)

\*This number is difficult to define, is changing, and is not significant in the total.

\*\*Excludes private betting and card playing which probably involves a gross transfer of over a billion dollars per year among private citizens. This also does not include that part of stock market and commodity exchange speculation which is essentially a form of legal gambling.

## II. THE FEASIBILITY OF THE MAJOR FORMS OF POSSIBLE LEGAL GAMBLING

A. Numbers

We define numbers as a daily lottery, in which the bettor is allowed to select his own number and make bets as small as fifty cents. In a numbers game the bulk of the prize money goes to payoffs in the range of \$600 for a \$1.00 bet, unlike the State lottery where most of the prize money is paid out in much larger sums at much higher odds.

The right of the bettor to choose the number he is betting on is absolutely critical to the appeal of this game. Many bettors feel that the number they choose has some particular significance. Others like to have "their own" number, which they will play every day for as much as a year. Without bettor selection there is probably no hope of taking away the customers from the illegal game.

It is clear that a numbers game could be operated by the State or by PBC's. It is not clear, however, how widely distributed a numbers game can be established offering true daily action.

The basic operating problem in providing daily action is the difficulty in getting the betting slips or other recording of the bets into central headquarters each day before the winning number is selected (in order to prevent false winning numbers being put into the system). Increasing the number of outlets in order to increase convenience to the bettor makes the task of getting all the betting slips in each day more difficult. This problem is eliminated if the betting information is originally entered into machines with secure communication to central computer facilities. However these machines are moderately expensive, and require fairly high volumes of usage before they are economically

justified. Thus, while it seems clear that the costs would be low enough and the usage high enough to justify at least a modest number of machine parlors providing real daily action, the exact number of such parlors that could be opened is very difficult to estimate until cost and usage are better known through experience or detailed study.

If there is to be a legal numbers game, we recommend that the first phase combine real daily action in a limited number of parlors (on the order of 50-200) and by telephone, and "pseudo-daily action" through something like 10,000-20,000 retail outlets. "Pseudo-daily action" means that a winning number would be chosen each day, that winners will be able to collect the following day, and a bettor can place a separate bet each day, but there is a lag between the day the bet is placed and the day the number is picked.

Pseudo-daily action would work as follows: The bets would be taken by authorized agents working much as the State Lottery agents do today. The betting slips would be collected Friday and Saturday night and processed by the central facilities before the first winning number was picked the following Monday afternoon. Winning numbers would be picked each afternoon. The player could either go in each day and bet on the winning number for the next week (that is on Tuesday he could buy next Tuesday's number, etc.), or he could wait until Saturday afternoon and buy numbers for each day of the following week, or he could visit or telephone one of the parlors providing true daily action and bet on the number that will be chosen the same day.

Such a system is feasible to operate and would cost about 5 to 10 cents a bet.\* The real question is whether the system can attract existing players away from the illegal numbers game. There are a number of reasons why a legal numbers game would have difficulty in competing, even if it offers better prizes than the illegal game. Probably the strongest reason is that many players will feel that they don't have to pay taxes on the winnings from the illegal game, but that they would have to on legal winnings. This is not completely true. Legal numbers winnings would have to be reported by the State to IRS only where winnings on a single bet are over \$600.00. This would not happen on a fifty cent ticket, and might or might not happen on a one dollar ticket. Furthermore, only net winnings are taxable. All winners will have substantial losses to deduct from their winnings and many will have no net winnings on which tax would be due. As a practical matter, it is possible that many numbers winners at the legal game will not pay more income tax than they do when they win the illegal game, although this is a difficult matter to understand and requires more study.

Despite the tax problem and others, we believe that if something like 75% out of the amount bet is returned to the bettors in prize money, the legal system described here combining "pseudo-daily" and true daily action can take away most of the business from the existing illegal operators and return approximately 10 to 15 percent of the amount bet to the government. Most bettors bet to make money and the attraction of more winnings we believe will dominate other issues if the game is intelligently promoted and the prize money well "packaged."

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\*The lottery is now operating at 7.5 cents total cost including commissions for 50 cent tickets.

We believe that if this system were operated it would not significantly increase the number of people betting on lotteries--legal and illegal--although it would increase the total amount bet on legal and illegal lotteries somewhat, perhaps by a factor of two and conceivably substantially more. Bettors' losses would not be increased nearly as much as the total amount bet because the proposed numbers lottery would only take 25 percent whereas the existing lotteries take out much more.

#### B. Sports Betting

There are two major kinds of sports betting. Either could feasibly be operated by the State or PBC's. The most important kind is betting on single events (head-to-head betting); the other kind is sports pools or pool card betting, in which the bettor picks the winner of a number of events and is paid only if a specified percent of his selections are correct. Depending on how they are set up, pool cards can either be somewhat similar to head-to-head betting or quite different from it.

##### 1. Head-to-Head Betting

The operational problem with head-to-head betting is that most events are more or less even money bets (or are made so by a handicapper) and thus the bettor cannot afford to give a big percentage to the operator. In fact, this group of bettors probably now loses only 8 to 12 percent of all the money they bet.\* This 8 to 12 percent must cover all costs and profits of the betting operation. Since the operating costs are the same

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\*The nominal percent of gross profit on a balanced book is 4-1/2% for large bets (over \$50). This is decreased by the risk of being "middled" if the line is shifted as described in the Report. However, it is increased on small bets, most combination bets, horse race bets, and by any net winnings of the bookie when he takes a position on events.

for any size bet, the problem of keeping operating expenses to a low percent of the bet can be solved by having high minimum bets. This is the way most of the bookmaking business is done. A better way for the State to operate would be to have a fixed service charge on all bets to cover all selling and operating expenses. This charge would be about 40 cents per bet.

The other problem of the State in conducting a betting operation is to make sure it does not lose. This can be solved simply by using a pari-mutuel system under which the winners are paid a percent of all the money bet, as in horse race betting. If this is to be done we recommend that a sports handicapping "line" be used to try to make all contests as close to an even bet as possible.

If the State is going to set up a legal sports betting operation, we would recommend a distribution system similar to that proposed above for the numbers. The system would include widely dispersed selling agents operating on a weekly basis\* and a limited number of betting parlors providing daily action. As with the numbers, which could use the same betting parlors, we would recommend starting out with a fairly small number of parlors--50 to 200 statewide. Experience would then show how strongly people preferred daily action to the weekly or pseudo-daily action available in widely distributed locations, and it would also show what the cost would be of creating more parlors so that they would be conveniently available for more people. On the basis of the experience with the dual system, it might also turn out to be desirable to develop a compromise system

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\*This would work very well for football and less well for other sports. Other compromises between daily action and wide distribution might be worked out for other sports.

Involving fairly widely distributed machines located in public facilities of some kind rather than in betting parlors. This would provide daily action on a fairly widely distributed basis (e.g., several thousand outlets).

For sports betting--like numbers--the real question is not feasibility but competitiveness (and desirability). We believe that although sports bettors are now used to betting on a fixed odds basis, the game described here could take a substantial share, (conceivably as much as half of the existing bookie betting business) if the pari-mutuel takeout (including breakage) were limited to two or three percent. The federal 10 percent excise tax would not apply. As at the race track, winners would have to fill out federal income tax reports (Form 1099) only if they win over \$600 at more than 299-1 odds.

## 2. Pool Card Betting

Pool cards now serve two purposes: providing a cheap way to bet on many games, and giving an opportunity for the sports bettor who likes to try for a high-odds payoff. The existing pool card business is believed to be fairly small, probably about \$50-100 million a year (although possibly more). Because profit margins and distribution costs are now extremely high it would be easy to take the bulk of the business away from the illegal operators, and probably to add substantially to the total volume. This is now mostly a weekly business and therefore easy to distribute through a lottery-type distribution system.

If, as we believe, head-to-head betting is thought to be undesirable, pool card betting could also be used as a kind of compromise which can be made to come reasonably close to head-to-head betting. This is achieved

by letting the pool card bettor bet on a relatively small number of games, and by providing payoffs in cases where the bettor is correct on a fairly low majority of his bets (e.g., four out of six).

Pool cards should also be operated on a pari-mutuel basis where they will be used to imitate head-to-head betting, but either fixed odds (which would include the payment of a 10% excise tax) or pari-mutuel payoff is suitable for providing high odds betting opportunities.

## C. Casinos

It is not practical for the State to operate casinos itself, but a PBC could effectively operate casinos. PBC casinos would almost certainly not be as attractive to gamblers as private casinos, but this would not prevent them from being popular and profitable as long as they would not have to compete with private casinos.

New York could build up a casino capacity big enough to handle all the business currently being done in Nevada with 30 casinos or less. This number of casinos could be opened over a period of 10 to 20 years. Sufficient experienced staff could be recruited so that the casinos could be operated efficiently and securely, although this certainly would require paying some salaries higher than civil service (each casino would probably require a manager in the \$60,000 to \$75,000 range and about three to six other executives earning over \$30,000).

Since about three-quarters of Nevada gamblers come from California, it is reasonable to think that the potential market for casinos in New York is 50 to 100 percent of the Nevada industry, if the New York industry were operated more or less the same way (i.e., appealing to all income levels). This assumes that in the long run the number of out-of-staters

attracted to New York by casinos will be partly balanced by New Yorkers or potential New York visitors attracted to casinos in other Eastern States.

If New York were one of the first states in the East to start casino gambling, it probably would at first attract more out-of-staters to New York than New Yorkers who would be going out-of-state. For long-range planning it is prudent to assume that other states would have attractions comparable to New York, and New York would not have a substantial competitive advantage over other states on the basis of casino gambling. (If other states authorized private casinos they could have a competitive advantage over New York casinos.)

On the basis of the Nevada-California experience it is reasonable to assume that if there is a full-scale casino industry in New York (even without casinos in or near New York City) the amount of casino gambling done by New Yorkers would increase many fold (perhaps five to ten times).

The primary feasibility question for casinos is not whether they can be operated profitably, but whether they will help the economy of the State. It seems clear that casinos can help the economy of the immediate localities where they are located (although they may well produce some costs and negative consequences for these localities as well). In general, however, economic benefits to the localities where the casinos operate will be more or less matched by losses to the rest of the state. For example, casino gambling might well hurt race tracks, and it will take business away from other parts of the entertainment business and other competitors for the consumer's dollar. Basically, most of the casino business and business stimulated by casinos will not be new money for the State, but will be money transferred from some other activity in the State.

If a casino industry is started in the State, the State will retain some part of the money now being spent by New Yorkers on gambling trips out of state. However, a big gambling industry in New York will almost certainly stimulate some New Yorkers who do not now make gambling trips to Nevada or the Caribbean to do so. So the amount of New York money going out of state to Nevada or other distant casino centers on gambling trips will not be reduced to zero, and might not even be substantially reduced.

It is theoretically feasible to operate casinos in such a way that people with low incomes represent a much smaller percent of the players than they do in Nevada. It is not possible to say how well a policy of discouraging small or poor bettors would work. There would be a substantial chance that the restrictions designed to do this would tend to erode over time as a result of pressures to make more money, or to be more "democratic." If small bettors were discouraged, the total volume in profits would be much lower than it would be with "Nevada-style" casinos, probably less than half as large. (Most casino winnings in Nevada come from small bettors.)

## III. FISCAL ISSUES

A. Revenue Potential1. Numbers

A legal numbers game returning 75 percent of the amount bet to the bettors in the form of winnings is likely to attract an annual volume between \$500 million and a billion dollars a year, beginning with the second or third year of operation. This should produce a net income of \$50 to \$150 million a year. We regard the prospects of profits above the level of \$100 million as highly speculative.

2. Sports Bettinga. Head-to-Head Betting

It is reasonable to estimate that a sports betting program along the lines described herein would be able to do between \$300 million and \$1 billion worth of betting a year, although it might take a few more years to seize a large share of the existing bookie business than to take over the numbers. Profits should be figured at about 3 percent which means that the State could reasonably expect to make about \$10 to \$30 million a year from head-to-head sports betting. After perhaps ten years the total volume of legal sports betting could rise to the \$1 to \$2 billion range.

b. Sports Pool Cards

Pari-mutuel sports cards, along the line of the British, German, and many other foreign pools, or fixed-odds pool cards like the illegal ones, probably could develop a volume of at least \$50 or \$100 million, and perhaps much more, appealing to sports fans who like to take a small chance on winning a large amount of money. The fixed-odds card probably

would make a more effective competitor than pari-mutuel cards (even with the 10% excise tax which would be paid by the betting agency), but either one would be a reasonable choice. Most of the objections to head-to-head betting do not apply to these pool cards. The percent profit to the State should be set so that the State game is clearly superior to the illegal cards. We believe that an average takeout of about 30 percent would be reasonable (high enough to be safe but low enough to be competitive and not exploitative)--with most of the money coming from the high odds bettors. This would net \$10-\$20 million after expenses.

### 3. Casinos

If New York State provides for casinos, we would propose opening large casinos to economize on management skills. Each of such large casinos, operated by PBC's, should be able to earn \$1-\$5 million profit per year if operated Nevada style. This would mean total profits, after 10 to 20 years of buildup, in the range of \$50-200 million per year. If the casinos tried to exclude or discourage small bettors, profits would be perhaps two to ten times smaller, depending on how strongly the policy was followed.

### 4. Wide-Open Gambling

If New York tried to maximize its gambling income by providing for as many kinds of gambling as would be profitable, it could do such things as providing jai-alai, dog racing, mouse racing (as in Australia), widely distributed slot machines, gambling pinball machines and other low-skill gambling devices. All such other forms of gambling might be expected to net the State an additional \$50 million to \$200 million. As the number

of forms of gambling increased, the problem of each one competing with the other would also increase.

### 5. Summary

We think that a prudently conservative estimate of total gambling revenues from a fairly broad but well-controlled program of increased legalized gambling would be within the range of \$100 to \$150 million a year without casinos and another \$100 million with casinos. Any sound gambling program would probably involve a number of controls and restrictions. If the policies behind these are to be protected, it is important that the revenue concerns not become dominant.

One way to keep down excessive pressures for revenue, and to avoid the speculative aspects of gambling revenue, would be to adopt a policy of only budgeting the gambling revenues actually received in the previous year so that the gambling operators do not have pressure to meet revenue quotas.

The gambling enterprises would be self-supporting and after a brief time self-financing. (The gambling enterprises should be charged with the costs of their own regulation.) The only type of gambling that would make a substantial increase in other costs would be casino gambling which would bring large numbers of visitors to the casino locations. However, since these locations would be in the resort and tourist areas, which desire these visitors, that should not be thought of as a major additional cost.

The principal revenue dangers concern the possibility that new forms of legal gambling would reduce State revenue from existing legal gambling.

Since it is being extensively studied elsewhere, we have not looked into the question of the extent to which off-track betting reduces revenue from on-track betting.

On-track betting might well be hurt by legal head-to-head sport betting, or by casinos, but probably would be only marginally affected by legalized numbers.

Existing lottery revenue would probably be hurt by a legal numbers business. But lottery revenue could probably be maximized by having both medium odds (numbers-type) and jackpot-type lotteries available, as well as mixed games, on a daily basis. As will be discussed below, numbers and lottery should be operated together.

#### IV. RELATIONSHIP OF NEW LEGALIZED GAMBLING TO FIGHTING CRIME

Organized crime is very damaging and dangerous to society, and illegal gambling is a critical part of organized crime's operations. By organized crime we do not mean a single national or state-wide organization. We are referring to a number of organizations of various degrees of cohesion, each of which operates over fairly long periods of time in a variety of enterprises, some criminal, some partly criminal, some legitimate, and which find it useful for their enterprises to purchase political power and corrupt influence over the criminal justice system.

It is clear that corruption in the criminal justice system is very extensive and is one of the reasons why the system is working as badly as it does. It is also clear that corruption comes from a number of sources, not just organized crime, and certainly not just gambling. On the other hand, gambling corruption is, in many if not all parts of the State, the heart of the problem.

The mere act of providing increased legal gambling need not do any significant damage to organized crime or reduce corruption. It might even prove easy to make substantial profit from additional legal gambling without diminishing the illegal market, if there is a strong emphasis on creating new bettors. However, if the State does not want this emphasis, then the goals of increasing State revenues from gambling and of fighting organized crime are very compatible. That is, both require taking the customers away from the illegal gamblers, and this is best done by offering them better odds. It may be that the most profitable payout ratio (odds) would not be the one that takes away the greatest percentage of the business from the illegal game. In a legal numbers game it is not

likely that raising the payout enough to take away the illegal business will reduce profits much below the maximum. It seems to us not unreasonable to expect that a well-designed numbers game, returning about 75% of the amount bet in winnings, could take three-quarters or more of the business away from existing numbers illegal operators, even if they try very hard to make their game competitive.

Therefore we believe that a legal numbers game of the kind we have described would lead to a significant reduction in the strength of organized crime and of corruption in the criminal justice system.

The extent to which the head-to-head betting program described herein would succeed in taking away the business of the existing sports bookies is more difficult to tell. (And it isn't clear whether the level of the State's takeout would be a critical factor, because it might be dominated by the effect of the parimutuel feature on the odds.) If offering a legal alternative is not accompanied by a law enforcement attack on the bookies --using primarily civil law--and a campaign to get their bettors away from them, we do not believe it will take away more than half of the bookie business and perhaps less. (A key feature of this campaign might be to have law enforcement and tax agencies give special attention to those people found to be betting with bookies instead of the legal game, on the assumption that they must have something they are trying to hide.)

A legal sports pool card operation, using conventional high odds games and a lower odds game that imitates head-to-head betting, might take 10-25% of the bookie business and close to half of organized crime's sports betting profits (because the card business is so much more profitable than bookmaking).

We think that the harm to organized crime from either level of legal sports betting would be a substantial accomplishment, but probably would not make a decisive difference in the amount of corruption in the criminal justice system or in the power of organized crime.

The attack on gambling to date has been limited and unimaginative. With the police resources available, plus perhaps an additional \$5 million for lawyers and supporting services, an important attack on the illegal gamblers using civil law could be made which, when combined with the legal competition, would stand a chance of having a real impact on their ability to do business. Without this attack, the mere provision of legal sports betting may well not have a great enough effect on illegal gambling to be worth the disadvantages.

There is some chance that bookmaking is more vulnerable than we have been assuming. It may be that either of the games we have described--parimutuel head-to-head betting or pool cards that simulate head-to-head betting plus the high odds pool cards--would be more successful than we estimate. The civil law attack on the bookies might also be more successful than we think. Together these policies might have some chance of really reducing the significance of gambling corruption in N.Y. politics and criminal justice operations.\* (Although sports pool cards are so easy

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\*In attempting to wipe out illegal gambling and gambling corruption, one of the best tools would be the criminal law. In 1965 the definition of a gambling felony was broadened so that gamblers could be given prison terms. However since that time only one person has gone to State prison under the law, despite thousands of indictments and a hundred convictions.

It would be very useful to put enough bookmaker employees in prison to increase substantially the bookmaker's cost of doing business. The bookies would have to pay the cost of trial defense, the cost of supporting their employees while in jail, and they would have to pay higher

and relatively harmless to do legally that they would be justified even if their impact on organized crime is limited.)

It is theoretically possible to destroy illegal bookmaking without offering a legal alternative, but it is not practical to do so today because of the disarray of our criminal justice system and the lack of political and popular motivation to do so. The chief value of a legal sports betting in fighting organized crime's sports betting business is not so much that it might take away customers but that it might take away the moral justification of its existence and the basis of much of its support and sympathy. This could be a key factor in developing a creative, persistent campaign against illegal bookmakers.

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salaries to get people who would be willing to face a substantial risk of jail. To get these effects, however, it is probably necessary to send something like a hundred bookmakers' employees a year to prison. This is entirely feasible from a police point of view, but the rest of the criminal justice system is not capable of this level of performance. It would require nearly the full time of between four and eight parts of the Supreme Court at a cost of \$2 to \$4 million in New York City. For New York City, if a hundred bookies were sent to jail a year, it would represent almost 15% of all criminal convictions after trial. While our system should be able to handle this load, it is not capable of doing so and so other tools will have to be used.

## V. ARGUMENTS FOR AND AGAINST VARIOUS FORMS OF LEGAL GAMBLING

### A. General

Objections to gambling are made on the following grounds:

1. It is immoral or bad for people's character because it involves getting something for nothing.
2. It is bad on practical grounds, because people spend money on it that they should more appropriately spend on other things, and/or because gambling leads to undesirable associates and other undesirable activities.

Many people would disagree with each of these arguments, and the issues are not resolvable by analysis.

Even if the moral, practical, or social undesirability of gambling is accepted, a major practical problem remains. There is now a tremendous amount of legal and illegal gambling. Theoretically New York could shut off the legal gambling, but that would be politically impossible. So far it has not been able to shut off the illegal gambling. Most people including the authors, think it is not possible to do so without providing more legal alternatives. Therefore, a realistic decision concerns the question of the balance between legal and illegal gambling. They are now about equal in dollar volume, and the question is, would it be a good idea to reduce the amount of illegal gambling and increase the amount of legal gambling?

Another major argument against increasing the amount of legal gambling is that doing so will increase total gambling. However, it is unlikely that the total number of persons who gamble can be substantially increased, because it already includes about two-thirds of the population (if playing the lottery is counted as gambling). The maximum possible increase in the dollar volume of gambling by further legalization of gambling is probably

not as much as 50%, unless casinos were opened. Casinos, on the other hand, could almost double the amount of gambling now going on in the State.\*

Another argument against increasing the amount of legal gambling is that given the social and political situation we are now in, every small reduction in controls by society is a step in the wrong direction, which should be resisted even if it is not important of itself. (See Appendix to Volume II of this report.)

The general arguments in favor of increasing the amount of legal gambling are

1. Gambling is an innocent form of entertainment, widely enjoyed by societies throughout history, which produces much entertainment and pleasure for New Yorkers.
2. If there are moral objections to gambling, they are a matter of individual conscience and it is not appropriate for the State to attempt to enforce them.
3. While gambling will lead some people to be imprudent with their money, it is either not right or not practical for the State to try to decide and enforce how individuals should spend their money. (The millions of dollars spent gambling might be spent in worse ways if they were not being spent on gambling.)
4. Increasing the amount of legal gambling would not significantly increase the number of "compulsive gamblers." Because of the typical character structure and behavior of compulsive gamblers, it is reasonable to think that most of them are already gambling, either legally or illegally.
5. If people are going to gamble, it is better to have them gambling legally.

\*If a full-scale casino industry were opened in New York the amount bet would probably be over twice as much as all gambling now going on, but since most casino games have a relatively small advantage for the house, the net amount lost by the bettors to a big casino industry would only be about half as much as is now being lost in all legal and illegal betting.

6. Reducing the amount of illegal gambling will reduce the amount of police corruption and the amount of profits for organized crime.
7. Increasing legalized gambling would produce money for the State which is otherwise going to criminals.
8. Increasing the amount of legal gambling would reduce the gambling losses of the State's citizens because the legal games would provide better returns to the bettor, at least in some cases.

#### B. Numbers

If there is to be any increase in legalized gambling the strongest case is for providing a legal numbers game. There is already a legal lottery. While some people may regard the numbers as more pernicious, because people get more interested in their number bet, it also provides more entertainment. Numbers is also the place where providing a legal alternative will (1) have the most impact on organized crime and corruption; (2) give the bettors a substantially better break than they are now getting, and (3) where (apart from casinos) the most money is to be made. (All of this is on the assumption the legal game will return something like 75% of the amount bet to the bettors.)

#### C. Sports Betting

##### 1. Head-To-Head Betting

Legalized head-to-head sports betting presents a much more doubtful case, because it will make small profits for the State, because it is likely to make a smaller dent in its illegal competitor, and, most importantly, because of its involvement with sports. Many associated in a formal way with organized sports, both amateur and professional, will oppose legal sports betting. They feel that it is bad for a sport to become known as a

betting game, and that legal betting will increase and emphasize the danger of fixed games. However, a very large number of sports fans now bet on games, either legally with each other, or illegally with bookies. The amount of betting would scarcely double (although it is possible that the number of bettors might double) if legal, commercial betting were established.\*

Although opponents of legal sports betting argue that it will increase the danger of fixed games, we think that the tendency in this direction is probably rather weak. We think that it is the responsibility of sports to protect their own events, rather than call upon society to force people to bet illegally in order to protect the games. We also do not think that the general viability of sports as a form of mass entertainment is threatened seriously by danger of increased fixes because of more legal gambling. Many sports do very well despite the knowledge of occasional fixes. Many people, however, legitimately prefer to be very cautious in this direction. We believe the questions of this kind justify a study in much greater depth before a decision is made to go ahead.

We don't believe that legal head-to-head betting is justified by its usefulness in fighting bookies, corruption, and organized crime. First we believe that most of the value for this purpose can be achieved by the two kinds of pool cards described above. Second we are skeptical that a sufficient attack on illegal gambling will be mounted to accompany the legal competition. Without such an attack legal head-to-head betting

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\*The Quayle survey indicated that in New York City something like half of all sports bettors bet only privately, and about 25% of all adults are now betting on sports.

will not be sufficient to make a decisive difference in the role of illegal sports-betting. We would start with the pool cards; if experience indicated that head-to-head betting would make a critical difference, then that would be the time to decide to go into head-to-head betting.

## 2. Sports Pool Cards

Whether or not legal head-to-head betting is established, there is a good case for selling pool cards, in which the bettor is given a chance to pick the winner of 10-20 games and get a large prize if he is correct on all of them. This is an almost unobjectionable way for people to make small bets on sports and appeals to people who like big jackpots. (There is not much basis for objecting to it.) It does not provide a good opportunity to profit from fixing games. It does not seem to have caused bad results in England, Germany, or the other countries with such games. It would take a profitable business away from illegal gamblers, give the bettor a better break, and make some tens of millions of dollars for the State.

If head-to-head betting is not legalized it probably would be a good compromise to experiment with parimutuel pool cards designed to simulate head-to-head betting. (There could be top limit of, say, \$100 on a single card.) These would be less objectionable than straight betting, would take some of the bookie business away (many bettors, relatively few dollars), and would be fairly simple to operate, although they would not be very profitable.

## D. Casinos

While it is quite feasible for New York to operate casinos profitably, and reasonably cleanly, we believe that it would be a mistake for the State to do so for the following reasons:

1. "Feasible" does not mean "easy." Most other types of gambling should be easier to develop and administer.
2. Even with reasonable management, revenues accruing to the State would not make a significant difference in the tax burden.
3. The general economic impact of casinos would be mainly money transfers within the State. Most of the business created by casinos would be matched by other business lost as a result of money being spent on casinos, rather than other things.
4. In the long-run, New York State could not expect to bring in much more outside money with casinos than the New York money that would go out of State. In fact, New York PBC casinos would be inferior attractions to private casinos in other states (although the private casinos represent a greater danger of corruption and political influence).
5. If New York opened casinos it is likely that a number of other states in the East will and it seems better for the country if casino gambling remains restricted.
6. Casinos are a particularly dangerous form of gambling because their fast action tempts people to bet more than they can afford and more than they intend.
7. While it is quite possible to keep casinos and their surroundings reasonably clean and uncorrupt, there are a number of ways in which controls over casinos can break down. There is a real risk that casino operation will have poor results or undesirable by-products, and that the State would ultimately regret that it had begun a casino program. Once such a program had built up momentum, it would be hard to reverse.

Some people argue that New York ought to provide for casinos because New Jersey is about to do so, and New York should try to get there first. Similar arguments are being made in New Jersey. If casinos are held to be undesirable, New York should take steps to avoid a "casino race." Such steps could include efforts by the governors of the various states to insure coordinated action, to jointly study the program, to agree not to act without warning the other states, etc. New York could also seek to

get federal legislation which would inhibit casino operations in all states that do not now have casinos, or at least coordinate decisions about where or whether casinos should be opened. It is not clear whether this is practical, but the possibility should be explored.

## VI. ORGANIZATIONAL ISSUES

If there is to be more legalized gambling, the control of gambling in the State probably ought to be reorganized. In particular, off-track race betting, the lottery, the numbers, pool cards, and straight sport betting, if it is started, ought to be operated together. They should all use the same distribution facilities; a combination of lottery-type distribution through part-time commission agents, and betting parlors more or less like those established by New York City OTB.

The numbers and the lottery are two related but different products. Their distribution and marketing ought to be coordinated so that the customer is able to buy that in which he is interested.

We believe it makes sense to have the agency which runs the coordinated gambling enterprises (which would not have to include on-track betting) be a PBC rather than a State agency. We believe that a PBC would be more appropriate because it would have greater flexibility of operations, because the function is more nearly business than governmental in character, and because there is slightly less moral affront to those citizens who object to gambling if it is conducted not by their government, but by a separate non-governmental agency (however, many of them will not care about this distinction). There are many detailed practical problems that would face the State government if it tried to conduct a variegated gambling enterprise itself, including provision for rapid and convenient payment of winnings, etc. While these problems are not insuperable, we see no particular reason to take them on. For these reasons we recommend the creation of a PBC to carry out the gambling program.

In terms of the division between local and State operation and control of the gambling PBC there are a great many possibilities, no one of which has outstanding advantages. It would be possible to have a single state-wide PBC operating out of branch offices in each locality, which could provide for local control of some operating practices, locations, etc., through representatives of local government. Another alternative would be to have local PBC's in any locality that wishes to have legal gambling and a State-wide PBC to establish the games, ensure necessary coordination, and provide centrally those services which the local PBC's did not want to provide for themselves.

The advantages of local control and of centralization, and the disadvantages of each, are well known from other state activities. Local option to exclude gambling, at least betting parlors or casinos, is obviously desirable.

## VII. SUMMARY CONCLUSIONS AND RECOMMENDATIONS

### A. Our Principal Conclusions are:

1. Legal gambling now involves about two-thirds of the adult population and a little over \$2 billion of betting. (Card playing and private betting are in addition to these numbers.)
2. Illegal gambling now involves perhaps a quarter of the adult population and probably a little under \$2 billion of betting.
3. Casinos could double the amount of gambling in the State. But other new forms of legal gambling could probably not increase total gambling by as much as 50%, and would not substantially increase the amount of harm to "compulsive gamblers."
4. There is no substantial possibility of greatly reducing the amount of gambling in New York.
5. Therefore, except for casinos, the only real choice is whether to change the current 50-50 balance between legal and illegal gambling in the direction of a higher percentage of legal gambling.
6. Profits of illegal gambling are a major source of income to organized crime.
7. Graft for protection of illegal gambling is a critical source of corruption of the criminal justice system, and other parts of the government.
8. The State could realize substantial revenues (perhaps \$100-150 million) from a legal numbers game and/or from a casino program, but this would be only a few percent of the State budget and so would not noticeably reduce the tax burden.
9. The economic effect of casinos would be primarily to redistribute money; any net gain would not be large enough to be significant for the State's economy.
10. A legal numbers game with a high payout to the bettors could largely destroy the illegal numbers racket, and significantly reduce corruption.
11. A legal sport betting program could hurt the bookies but probably not enough to produce a very important impact on corruption or organized crime.

B. Therefore we recommend:

1. The extension of legal gambling should be directed more toward hurting organized crime and ending corruption than maximizing revenue.
2. Legal systems should be attractive as possible to customers of illegal systems.
3. A legal numbers system should be established with daily and pseudo-daily action, small bets, better selection of number, many prizes, and a higher payoff than the illegal system.
4. A system of legal sports pool betting should be established using pool cards similar to the existing football cards-- providing primarily high odds betting on many games. In addition it probably would be a good idea to experiment with low odds pool cards designed to take away some of the bookie business.
5. The introduction of legal sports pool betting should be accompanied by a major attack against bookies using primarily the civil law. (The criminal justice system is in such bad shape that it is not available as a significant tool against gambling.)
6. Legal head-to-head sport betting, while feasible, should not be started without further study and very careful consideration.
7. The new legal betting systems plus the lottery and OTB should be operated together by a single PBC structure (possibly using local as well as state-wide PBC's).
8. N.Y. should not establish casinos and should work with officials in other states who are trying to prevent casinos from coming into this part of the country.

# END